

**ACHIEVING ELECTORAL INTEGRITY THROUGH TECHNOLOGICAL
INNOVATIONS IN NIGERIA: THE ROLE OF LEGAL REFORM**

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DECLARATION

I hereby declare that this essay is a product of my own research efforts; undertaken under the supervision of Dr. J.A. Aimienrovbiye, and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged in strict accordance with the NALT's uniform format and citation guide.

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CERTIFICATION

This is to certify that the research work for this dissertation and the subsequent preparation of this dissertation by RAPHAEL OCHUKO-OGO, were carried out under my supervision.

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DEDICATION

This work is dedicated to my Family, the Ochuko-Ogoh Family, and all who have made meaningful contributions in my life in one way or the other.

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I am grateful to GOD the creator for His mercy, grace and love towards my life, for without Him I am nothing. In my darkest days I called to Him and he answered, for as it is written in Jeremiah 33:3, 'call to me and I will answer thee, and show thee great and mighty things which thou knowests not.'

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Electoral Act, 2022 (Act No 13), subsequently referred to as the Electoral Act 2022.

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Riigikogu Election Act RT I, 2024, 07 05.

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President of the Republic Election Act RT I, 1996, 30, 595.

Local Government Council Election Act, RT I 2002, 36, 220.

Constitution of the Republic of Namibia Act, 1990 (Act No 2)

Electoral Act, 2014, Act No 5 (as amended by the Electoral Act No 17 of 2023 and Act No 8 of 2024)

ABBREVIATIONS

AI.....	Artificial Intelligence
AU.....	African Union
BVAS.....	Bimodal Voter Accreditation
BVR.....	Biometric Voter Registration
CFRN.....	Constitution of the Federal Republic of Nigeria
CSOs.....	Civil Society Organizations
ECN.....	Electoral Commission of Namibia
ECN.....	Electoral Commission of Namibia
e-ID.....	Electronic Identification
EU.....	European Union
EVM.....	Electronic Voting Machine
EVM.....	Electronic Voting Machine (Namibia’s system)
EVR.....	Electronic Voter Register
EVR.....	Electronic Voter Register
ICCPR.....	International Covenant on Civil and Political Rights

IFES.....	International Foundation for Electoral Systems
INEC.....	Independent National Electoral Commission
IReV.....	INEC Result Viewing Portal
IVED.....	INEC Voter Enrolment Device
i-Voting.....	Internet Voting
LFN.....	Laws of the Federation of Nigeria
NALT.....	Nigerian Association of Law Teachers
NEC.....	National Electoral Commission
PIN.....	Personal Identification Number
PVC.....	Permanent Voter's Card
SCR.....	Smart Card Reader
SEO.....	State Electoral Office
SIEC.....	State Independent Electoral Commission
UDHR.....	Universal Declaration of Human Rights
USB.....	Universal Serial Bus
VVPAT.....	Voter-Verifiable Paper Audit Trail

ABSTRACT

Election as a democratic instrument is a means to an end. The import of this statement is that in a democratic society like Nigeria, the people express their ability to elect the candidate of their choice from competing political parties in an election. This is in tandem with Abraham Lincoln's perception of democracy, as a government of the people, by the people and for the people. The aim and objective of this essay is to examine the electoral system in the democratic republic of Nigeria, in the context of persistent electoral malpractices, and challenges to result credibility. The study particularly emphasizes the weaknesses of traditional voting process used in Nigeria, against the background of technological models in digitize democracies in contemporary times. As a case study, this essay examines the 2023 Presidential election in light of the allegations of vote manipulation, delays in casting votes, challenges in the transmission of election result by the commission (INEC), and other electoral discrepancies manifested in the election. This essay uses a doctrinal research methodology, by analyzing primary sources like the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Electoral Act 2022, court judgments from election petitions, and other sources like INEC regulations, articles in newspapers, articles in journals, statistical reports, blogs and other periodicals. Furthermore, it undertakes a comparative analysis of technological models adopted in elections in Nigeria, against the backdrop of other jurisdictions like Estonia, and Namibia. It identifies specific gaps in the Electoral Act 2022, regarding the use of electoral technology, its regulations and the discretion given to the Independent National Electoral Commission (INEC), in the deployment of said technology. Thus, the study concludes by proffering viable recommendations for the legal, technological, and institutional reforms, aimed at strengthening Nigeria's electoral processes and enhancing public trust in election outcomes.

CHAPTER ONE

GENERAL INTRODUCTIONS

1.1 Background of Study

Nigeria is regarded as a democratic state because it provides for a system whereby its citizens get to choose who makes up the government, through voting for the candidate of their choice in elections. This right is enshrined under section 77(2) of the Constitution of the Federal Republic of Nigeria¹ which provides that any citizen aged 18 or above, living in Nigeria during the registration time, is entitled to be registered as a voter. Section 132 of CFRN 1999,² is to the extent that persons that are registered to vote in an election of a member of the house of legislative are entitled to vote in any election to the offices of president. Section 178³ provides that persons that are registered to vote in an election of a member of the house of legislative are entitled to vote in any election to the offices of governor. Again, the Electoral Act 2022,⁴ via Section 12, legally defines who can register and vote. In the case of ANPP & anor v. Osiyi,⁵ it was stated that ‘The word election as used in Section 137(1) (b) of the Constitution entails a process of choosing a candidate for a political office, in a democratic system of government via popular votes. It is not restricted to activities at the polling station on the day of an election.’ The word ‘vote’ on the other hand is seen as an expression of one's preference or one's opinion in a meeting or election via ballot, a show of hands, or some other type of communication.⁶ Electoral integrity means adherence to the

¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), Cap C23 Law of the Federation 2004, subsequently referred to as CFRN 1999 (as amended).

² *ibid*, s 132(5).

³ *ibid*, s 178(5).

⁴ Electoral Act, 2022 (Act No 13), subsequently referred to as the Electoral Act 2022.

⁵ *ANPP & anor v Osiyi & ors* (2008) LPELR-3781(CA).

⁶ Bryan A Garner, *Black's Law Dictionary* (11th edn, Thomson Reuters 2019)1024.

principles of democracy throughout the electoral process. It is the benchmark for democratic norms and standards.⁷

In light of the above, it is safe to say that elections remains a major pillar of representative governance, allowing the electorate to choose leaders and hold them accountable. For such elections to have meaning, it must be free, fair, and credible. However, credible elections have always been an abstraction. This is because, a system meant to be used for a peaceful transition of government, has been a cause for great strife against the realization of true democracy in Nigeria. In prior times, the democratic system in Nigeria suffered a great hit from the incessant *coup d'état* from the military, and this lasted for 29 years. However, since the reinstatement of democracy in 1999, Nigeria has enjoyed an uninterrupted operation of government without any military usurpation of power. Despite this fact, democracy and the whole idea behind conducting credible elections still appears to be a fiction. The lack of transparency, coupled with allegations as to result manipulation, and the incredulous way of conducting elections in Nigeria, seems to defeat the whole purpose of democracy and elections. To this end, there are varying questions surrounding electoral credibility in Nigeria expressed in various publications and journals, some of which include: How well does INEC fulfill its logistical duties ?⁸ How can we say we are a democratic society if the means through which the people elect representatives of government is ridden with public dissatisfaction and distrust at every turn? Do Votes Count?⁹ How is it that most of the times, after every election comes a petition against it? why is electoral violence rife in

⁷ Hilbert College, 'Electoral Integrity: Challenges, Goals and Resources' *Hilbert College Global* (New York, 30 November 2023) <<https://online.hilbert.edu/blog/electoral-integrity/>> accessed 9 November 2025.

⁸ John Campbell, 'What to Watch for in Nigeria's Election' *Council on Foreign Relations* (New York, 14 February 2019) <<https://www.cfr.org/blog/what-watch-nigerias-election>> accessed 9 July 2025.

⁹ Adigun Agbaje and Said Adejumo, 'Do Votes Count? The Travails of Electoral Politics in Nigeria' *Africa Development* (2006) (31) (3)25–44.

election season?¹⁰ How can voter apathy be ameliorated if not eradicated?¹¹ What are the implications and consequences of the BVAS failure on Nigeria's electoral process and democratic governance?¹² It is as a result of these questions that the objective of this study is to proffer viable solutions through technological innovations, using the instrumentality of the law. This becomes important in that it will help reduce citizen's apathy towards participating in election in Nigeria when properly implemented, thereby reinstating public trust in elections. It will also reduce electoral malpractices such as vote-buying, result manipulation, electoral violence, ballot-box looting, and to a considerable degree, ensure electoral integrity and credibility in the Nigerian electoral system.

1.2 Statement of Research Problem

Despite successive amendments to the Electoral Act,¹³ Nigeria continues to face widespread allegations of electoral issues including vote manipulation, inconsistent results, and disputes challenging election outcomes. This study contends that technological limitations in election management, actively hinder the realization of a truly credible elections. The highly contemplated 2023 presidential election vividly illustrates these challenges. The continued reliance on traditional ballot boxes and limited use of electoral technology in elections in Nigeria, creates vulnerabilities that undermine electoral credibility, and this has contributed to the ever degrading claims of the corrupt practices in country's electoral system. Such vulnerability can be seen in reports and surveys by GeoPoll on the 'Nigerian 2023 Presidential Post-Election

¹⁰ Abdulkadir Salaudeen, 'Electoral Violence in Election Season: An Examination of the 2023 Gubernatorial Election in Nigeria' in Fatai A Aremu and others (eds) *The 2023 General Elections in Nigeria: Issues, Challenges, and Prospects* (Department of Political Science, University of Ilorin 2024)184-206.

¹¹ Stephen C Chukwuma, 'The Role of Moral Education in Curbing Voters Apathy' *ICRPC Journal of Crisis Resolution and Building (IJCPB)* (2024) (1) (1)114-119.

¹² Alfred Olushola Fregene, Bimodal Voters Accreditation System and Election Integrity, *ICRPC Journal of Crisis Resolution and Building (IJCPB)* (2024) (1) (1) 139-156.

¹³ Electoral Act, 2022 (n 4).

Survey'¹⁴ which stated that 21% of voters claimed their polling station opened more than 2 hours behind schedule. Also, the National Human Rights Commission Reports¹⁵ recorded cases ranging from ballot box snatching, attacks on voters, and the shooting of a party agent by some individuals and thugs during the 2023 Presidential General Election. This gap has prompted this essay to delve into the potential for a fully based electronic voting system, which is tailored to Nigeria's social and political context. As such, the research questions are:

1. How does the current traditional ballot voting system affect the transparency of election outcomes in Nigeria?
2. What are the current type of electoral technological solutions that can be complimentary or substitutional to the current voting system to improve electoral integrity?
3. What are the relevant infrastructural and legal challenges to implementing a fully electronic voting system in Nigeria?
4. How can real-time vote auditing, as well as visualization mechanisms be integrated into the Nigerian electoral process to improve public confidence?
5. What legal reforms would be necessary to support a speedy transition to a fully digitized electoral system?

¹⁴ Fran Bodine, 'Nigeria Elections 2023: Geopoll Post-Election Survey' *Geopoll Survey Report* (Denver, 28 March 2023) <<https://www.geopoll.com/blog/nigeria-post-elections-survey/>> accessed 6 July 2025.

¹⁵ NHRC, 'NHRC Raises Alarm over Electoral Violence and Vote Buying during Saturday Elections' *National Human Rights Commission News and Events* (Abuja, 28 February 2023) <<https://www.nigeriainights.gov.ng/nhrc-preliminary-statement-on-the-2023-general-elections/>> accessed 6 July 2025.

1.3 Aims and Objectives

The aim of this study is to examine the Nigerian electoral system against the background of continuous electoral malpractices and challenges to result credibility, particularly as regards the disadvantages in using ballot box, papers and traditional manual voting systems as a means of casting votes, and it does this by examining the 2023 Presidential Election, and draws lessons from other jurisdictions like Estonia and Namibia, to propose viable recommendations for achieving electoral integrity through technological innovations in Nigeria.

The objectives of this Study are:

1. To examine existing electoral laws governing elections in Nigeria and their effectiveness in promoting electoral integrity.
2. To examine the role and performance of electoral institutions, especially the Independent National Electoral Commission (INEC), in ensuring free and fair elections.
3. To assess the impact of technological innovations like BVAS, IReV, and server based storage systems, on transparency and credibility in elections in Nigerian.
4. To identify the major challenges as well as limitations affecting the implementation of electoral reforms and technologies in Nigeria.
5. To compare the electoral systems in Nigerian to that of other jurisdictions.
6. To design a road map for strengthening electoral processes and institutions in Nigeria.

1.4 Scope and Limitation of the Study

This study focuses on achieving electoral integrity in Nigeria through technological innovations, particularly in light of persistent electoral malpractices such as looting of ballot-box, violence in elections, as well as credibility issues in the collation and announcement of election results.

Geographically, the study is primarily concerned with the electoral system of the Federal Republic of Nigeria, with specific attention given to the conduct and outcomes of the 2023 Presidential Election. This study also makes comparative references to countries such as Estonia and Namibia, where technological innovations in elections have been significantly utilized in their various electoral systems. These comparisons are included to draw out best practices for legal reforms in Nigeria.

The content of this study is restricted to analyzing the use of electoral technology in the Nigerian electoral process, including but not limited to the Bimodal Voter Accreditation System (BVAS), and INEC Result Viewing Portal (i.e. IReV), which was introduced under the Electoral Act 2022. It focuses on how these tools have been used in the conduct of elections, its limitations and how to improve utilization of electoral technology. Although references may be made to them, the study does not particularly cover electoral violence, campaign methods, vote-buying, political violence, or media bias in detail. The reason for excluding these areas in this research is because of the verbosity of these areas, to avoid going extremely beyond the page limitation as prescribed by the Nigerian Association of Law Teachers (NALT) uniform format and citation guide for legal research writing in Nigeria, and also because of the limited time frame for the conduct of this study.

With respect to subject matter, the research is predicated on electoral laws and technology. It examines the legal provisions backing technological innovations in elections, such as the Electoral Act 2022,¹⁶ INEC guidelines,¹⁷ and relevant sections of the 1999 Constitution (as amended).¹⁸ It also explores comparative legal insights from jurisdictions where electoral technology such as electronic voting or result transmission has been successful.

The limitation of the study arises primarily from the ever evolving nature of election technologies and the rapid pace of digital innovation. Due to time and resource constraints, the study does not include an empirical evaluation of voter attitudes or technicality of the performance of electoral machines and devices. Rather, it adopts a doctrinal and analytical approach, relying on legal texts, reported election processes and outcomes, judicial decisions, and secondary sources.

1.5 Significance of the Study

The importance of ensuring electoral integrity in Nigeria cannot be overemphasized. In fact it has not been given the genuine attention it needs. When Nigeria gets its electoral system right, then it gets democracy right, and the concept of credible election is no longer mere theoretical statements but actualized in practice. This study is significant because it addresses the persistent challenges undermining electoral integrity in Nigeria. By focusing on technological reformations, the study provides practical insights into how electoral credibility can be improved.

¹⁶ Electoral Act, 2022.

¹⁷ *ibid*, s 148; Independent National Electoral Commission (INEC), Regulations and Guidelines for the Conduct of Elections, 2022.

¹⁸ CFRN 1999 (as amended).

The research will be of immense value to the National Assembly and the Independent National Electoral Commission (INEC), electoral reform advocates, and indeed Nigeria as a nation. If the means of electing representatives of government is truly free and fair, then Nigeria will get the leaders it deserve; the leaders chosen by the majority; the leaders of the people. Once this is achieved, it will be a great step toward progress in the right direction. This study seeks to achieve this by identifying legal loopholes in the Electoral Act 2022 and suggesting reforms that can enhance enforceability and efficiency as regards the conduct of Nigerian elections.

The study contributes to existing literature by examining electoral integrity not just from a traditional legal standpoint of conducting elections, but also from a technological and comparative perspective. It bridges a knowledge gap by drawing on international best practices from countries such as Estonia and Namibia, whose reformations in electronic voting and real-time result publication are reference models for Nigeria.

The direct beneficiaries of this research include the Independent National Electoral Commission (INEC), the judiciary, civil society organizations, legal scholars, and Nigerian voters. For INEC and lawmakers, it provides actionable legal and institutional reforms. For voters and civil society, it offers a framework for advocacy and civic engagement on electoral integrity issues.

1.6. Research Methodology

There are two principal approaches to legal research. The first is the doctrinal or library based approach, and the second is the non-doctrinal, empirical or field-based approach. The doctrinal approach involves the review and analysis of legal rules, statutes, case law, and regulations. It is primarily qualitative in nature and relies on primary legal sources.

In contrast, the non-doctrinal approach (also called empirical legal research) is based on fieldwork. It involves the collection of data through interviews, surveys, observations, or questionnaires, and is used to examine how law interacts with society in practice. This research adopts the doctrinal approach, as it involves a legal analysis of the constitutional and statutory frameworks governing Nigeria's electoral process, with particular emphasis on the role of technology in ensuring electoral integrity. The doctrinal method is most suitable for examining statutes such as the Electoral Act 2022, INEC regulations, and case law. It also allows for a critical comparative analysis of legal frameworks from other jurisdictions like Estonia and Namibia, where electoral technology has been more effectively implemented.

It is noteworthy that there are different types of legal research methods, it ranges from historical, analytical, descriptive, to comparative analysis and more. This study applies an analytical method, which is used to interpret and evaluate provisions of the 1999 Constitution (as amended),¹⁹ Electoral Act 2022,²⁰ and relevant case law. This method helps to assess the extent to which the law supports or hinders electoral transparency and integrity. The descriptive method is employed to describe the current electoral legal framework in Nigeria, including the structure and functions of INEC, and how technologies like BVAS and IReV are utilized under existing laws. It also uses a historical method to trace the irregularities that has ridden the Nigerian electoral system from the 1959 general election, to recent elections as seen in the 2023 presidential election. And lastly, it employs a comparative method, used to draw insights from countries such as Estonia (which has successfully implemented internet voting) and Namibia (which has a history of using electronic voting machines). This method highlights gaps in Nigerian law and suggests reforms based on international best

¹⁹ CFRN 1999 (as amended).

²⁰ Electoral Act, 2022.

practices. In all, these methods are adopted to ensure that the research provides a comprehensive and balanced legal assessment, grounded in both domestic and international contexts.

In legal research, sources of data are classified into primary and secondary sources based on their authority. The primary sources used in this study includes the Constitution of the Federal Republic of Nigeria 1999 (as amended),²¹ the Electoral Act 2022,²² subsidiary legislation and regulations such as INEC Regulations and Guidelines (2022), as well as cases from Nigerian courts. Primary materials also include laws and court decisions from Estonia and Namibia, where applicable. The secondary sources entails textbooks on electoral and constitutional law, journal articles, law reviews, legal commentaries, academic monographs, electoral observer reports, official INEC publications, the News reports and other periodicals, Merriam-Webster's Collegiate Dictionary (11th edn) and Black's Law Dictionary (11th edn) for legal definitions. These sources help examine primary legal rules and doctrines in this study. It is important to state that all sources used in this study are cited in accordance with the NALT Uniform Citation Guide, ensuring scholarly accuracy, and legal relevance.

1.7 Synopsis of Chapter

Chapter One introduces the background of the study on the achievement of electoral integrity in Nigeria. It provides the meaning of certain keywords that are significant in proper comprehension of this study. It also gives a brief insight on the hardship faced in the Nigerian electoral system since independence and from the onset of conducting elections in Nigeria. The background stated the research aims and objectives. It

²¹ CFRN 1999 (as amended).

²² Electoral Act, 2022 (n 4).

articulates the research problem by providing questions that are in desperate need of answers, and shows the relevance of ensuring electoral integrity in Nigeria. As such, it provides suggestions and relevant approaches on how the issue is to be addressed. The next subheading states the research problem and objectives. This aspect states the situation that warrants the problem, by illustrating the gaps in the Nigerian electoral process, and stating relevant questions relating to the research problem.

The next aspect of this chapter clearly states the aim of this study, which in essence gives cognizance to the purpose or goal of the study. This area also outlines the objectives of the research. Thereafter, the next facet provides the scope and limitations of the study. Thus stipulating the geographical coverage, content coverage and subject matter coverage. It states the areas not included in the study, giving reasonable justifications, thereby avoiding going into areas that are too broad or too narrow to address the research problem and objectives already identified. The proceeding component of the chapter illustrates the significance of the study, by stating its beneficiaries, importance, benefits, and practical contribution of the research results or findings to the segment of the Nigerian electoral process. Next in the outline of chapter one is the research methodology. This serves as a compass, stating the approach, methods and techniques used, as well as the procedure of using them to achieve the aim and objectives.

Chapter two entails the conceptual, theoretical frameworks and literature review of the electoral system in Nigeria. The first part of this chapter is all about conceptual Clarification. This aspect provides an elaboration or definition of the major words of the topic of the work. The second part of this chapter is the theoretical framework. This area goes beyond concepts or meanings, in that it includes historical foundation of elections, as well as principles and ideas upon which election is premised. Another aspects of this

chapter synthesizes and evaluates the significance of previous studies on elections in Nigeria, thereby buttressing the importance of this study in addressing existing knowledge gaps of achieving electoral integrity in Nigeria.

Chapter three is the re-statement of the main research topic or the subject matter of research, for thorough examination of the legal frameworks and institutions governing elections in Nigeria. It does this by giving an exposition of the relevant sections of the Electoral Act 2022, and also the Independent National Electoral Commission (INEC). It provides an overview of what is wrong with the conduct of elections in Nigeria, as well as the effectiveness of the law in this regard. It talks about the voting method used in the conduct of elections in Nigeria, i.e. the ballot box voting system and its effectiveness in election credibility. Another component of this chapter talks about the 2023 presidential election in Nigeria. BY giving cognizance to relevant articles and publications on other aspects of elections, it makes references to areas like electoral offences, electoral violence, vote manipulation in elections, etc.

Chapter four is a continuation of the subject matter under chapter three. It particularly focuses on an examination of fully institutionalized electronic and technological voting mechanisms employed in other jurisdiction, particularly Estonia and Namibia. This chapter also focuses on the problems and challenges associated with the achieving electoral integrity in Nigeria.

Chapter five which is the final chapter of this study contains the summary of findings, recommendations, contribution to knowledge, suggested areas for further research and conclusion.

1.8 Conclusion

This chapter provides for the background to the study, statement of research problems, aims and objectives, scope and limitations, significance of the study, methodology and synopsis of the chapters in this study. The relevance of this study begins to take form in the proceeding chapters which illuminates the core content of this research. Chapter two provides for conceptual clarification, theoretical framework, historical foundation and literature review.

CHAPTER TWO

CONCEPTUAL FRAMEWORK, THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 Introduction

One of the core foundations upon which democracy is predicated is election. This is the means through which the people express their will in a representative government. Thus, Election remains a major feature in democratic governance. If such form of government is to be considered a democracy, then the people must have their voices heard and their opinions valued when it comes to their leadership.¹ According to Rufus,² ‘...Election goes to the root of democratic governance as it forms the foundation upon which the government stands. It is also the mandate and legitimacy of government, which is determined by the will of the people, as expressed at the polls.’ This provides conceptual clarifications and definitions of the key terms that are important for proper comprehension of this study. It provides theoretical frameworks and principles governing elections in Nigeria, and also gives an exposition into the historical foundation of elections. Thereafter it synthesizes and evaluates the significance of previous studies on elections in Nigeria.

2.2 Conceptual clarification

This aspect of this study is concerned with providing clarification to key concepts in relation to achieving electoral integrity in Nigeria, through technological innovations. It

¹ Osabiya, Babatunde Joseph, ‘Nigeria and Democratic Elections’ *Journal of Good Governance and Sustainable Development in Africa (JGGSDA)* (2) (3) 53-64.

² Rufus Aisedion, ‘Election Security and Voters Intimidation in 2023 Senatorial and Presidential General Elections in Edo South’ *ICRPC Journal of Crisis Resolution and Building (IJCPB)* (2024) (1) (1) 1-14.

explains relevant terms associated with the Nigerian electoral system in general. Comprehensive expositions as to these terms are provided here under.

2.2.1 Concept of Election and Voting in Nigeria

Election can be seen from the broad sense and a narrow sense. In its broad sense, it is termed 'Electoral Process' and this refers to the democratic process in its entirety, through which citizens participate in selecting leaders or making decisions on public matters. It encompasses not just voting, but also voter education, registration, political campaigns, nomination of candidates, result collation, declaration of election results, as well as the institutions responsible for carrying out electoral functions. In the narrow sense, election simply refers to the act of casting votes by qualified citizens, to choose among candidates contesting for a particular public office or position.

It is important to state that there is no express definition of the word election in the Constitution.³ However, definitions and expositions on the term are replete, both scholarly and judicially. The Electoral Act⁴ on the other hand provides under section 152, that 'election means any election held under this Act and includes a referendum.' It cannot be overemphasized that the integrity of the election process is fundamental to the integrity of democracy itself.⁵ Thus in the case of *ANPP & Anor v. Osiyi*,⁶ it was stated that 'The word election as used in Section 137(1) (b) of the Constitution entails a process of choosing a candidate for a political office, in a democratic system of government via popular votes. It is not restricted to activities at the polling station on the day of an election.' According to the Black's Law dictionary, it is defined as the exercise of a choice; especially the act of choosing from several possible rights or

³ CFRN 1999 (as amended).

⁴ Electoral Act, 2022.

⁵ Oladotun Olusola Okediran and Rafiu Adesina Ganiyu, 'A Framework for Electronic Voting in Nigeria' *International Journal of Computer Applications* (2015) (129) (3) 12-15.

⁶ *ANPP & anor v Osiyi & ors* (2008) LPELR-3781(CA).

remedies in a way that precludes the use of other rights or remedies.⁷ It is stated in Merriam Webster⁸ that election is the act or process of choosing a person for office, position, or membership by voting. It is an instance of the electorate exercising its functions. Jeff Fischer,⁹ puts it that elections are the major mechanisms by which public questions are settled and political contests are determined peacefully. Elections allow the populace to choose their representatives and express their preferences for how they will be governed.¹⁰

The term election and voting are closely related but technically not the same. This is because, while election entails the process conducted by a sovereign state, for the purpose of changing government in a representative democratic setting, voting on the other hand is the decision making power or choice of the citizens in selecting their preferred candidate in an election. To vote is to express ones view in response to a poll or to express a political franchise.¹¹ The Black's Law Dictionary,¹² provides that the word vote means the expression of one's preference or opinion in a meeting or election by ballot, show of hands, or other types of communications. It was stated in the case of *Buhari v INEC*¹³ that voting is the foundation of democratic governance, and any election of which the genuine choice of the people is not reflected is a mockery of democracy. Similarly in the case of *Fayemi v Oni*,¹⁴ the court emphasized that every vote counts, and must be protected. The court defined voting as the act of making a choice in an election, which must reflect the true will of the electorate. Voting is a

⁷ Bryan A Garner, *Black's Law Dictionary* (11th edn, Thomas Reuters 2019) 1024.

⁸ Philip Babcock Gove, *Webster's Third New International Dictionary of the English Language, Unabridged* (Merriam-Webster Inc 1993) 731.

⁹ Jeff Fischer, *Electoral Conflict and Violence: A Strategy for Study and Prevention* (IFES White Paper 2002) 2-36.

¹⁰ Oladotun (n 5).

¹¹ Philip Babcock (n 8).

¹² Bryan (n 7).

¹³ *Muhammadu Buhari v INEC* (2008) 19 NWLR (Pt 1120) 246.

¹⁴ *Fayemi v Oni* (2009) 7 NWLR (Pt. 1140) 223.

method by which a group of people express their opinion over who will lead them for a specific period of time through electoral processes.¹⁵

Again, voting can be better understood when it is used to mean suffrage. Suffrage is the right to vote. It is a right that accrues from an individual membership of a state. As such, it is the right granted through the process of enfranchisement. It is safe to say that Nigeria operates a system of universal adult suffrage, and as long as the statutory qualifications are met, a citizen is entitled to vote and partake in the decision-making power of the state in electing representatives of government.

Voting is the very foundation of election. Citizens participate in elections by voting for their preferred candidate, but it cannot be overemphasized that it goes beyond mere political participation. This is because it is the major decision making power of the nation at the instance of changing government in a representative democracy. It is the decision making powers of the voters, that will determine and shape the new government. Thus, the whole process of voting must not only be free and fair, it must be protected. This was the view expressed in the case of *Re Electoral Boundaries Commission*,¹⁶ where the court stated that voting is not merely symbolic, it is a meaningful exercise in democratic participation, and every vote must carry equal weight.

The primary legislations governing elections in Nigeria are the Constitution,¹⁷ the Electoral Act 2022,¹⁸ INEC Guidelines.¹⁹ After a series of military usurpation of power for many years, Nigeria fully returned to a democratic system of government in 1999. Ever since then, it has held elections for various political positions at different levels of

¹⁵ Oladotun (n 5).

¹⁶ *Re Electoral Boundaries Commission (Saskatchewan Reference)* (1991) 2 SCR 158 (Canada)

¹⁷ CFRN 1999 (as amended).

¹⁸ Electoral Act, 2022.

¹⁹ Independent National Electoral Commission (INEC), Regulations and Guidelines for the Conduct of Elections 2022.

government, ranging from the office of the president of the Federal Republic of Nigeria, political positions in the national assembly, to state governors, members of the House of Assembly of a state, and even elections at the local government levels. However, while INEC has jurisdiction over conduct of general elections for the federation and the states, it does not have constitutional authority to conduct local government elections in the states in Nigeria.²⁰ This is a position which has been expressed by Prof. Mahmood Yakubu, the recent chairman of INEC. In a report made by the vanguard newspapers, Yakubu stated that ‘The same section of the constitution that establishes INEC also establishes the State Independent Electoral Commission (SIEC) and we cannot take over their duties.’²¹ The types of election in Nigeria include primary elections, general elections, run-off elections, supplementary elections and rerun elections.

Primary elections are those conducted within political parties by themselves; hence they are called intra-party elections. According to the Act,²² “primaries” or “primary election” means intra-party election by voters of a given political party to nominate candidates for elective offices in accordance with a political party’s constitution and the law. This is basically to narrow down the numbers of party members vying for political positions, to prevent imposition of candidates. This is to ensure internal democracy within parties, and to meet statutory requirements. Once a member comes out victorious in the primary election, they become the nominee representing that political party, and then compete with candidates from other political parties for the various political offices in the general election.

²⁰ CFRN 1999 (as amended), s 197(1)(b).

²¹ Vanguard, ‘INEC has no Power to Conduct Elections—Yakubu’ *Vanguard Newspapers* (Lagos, 1 July 2024) <<https://www.vanguardngr.com/2024/07/inec-has-no-power-to-conduct-lg-election-yakubu>> accessed 5 August 2025.

²² Electoral Act 2022, s 152.

Under section 29 of the Electoral Act 2022,²³ every political party must in the prescribed form submit a list to the commission on the number of candidates that they propose to sponsor at the election. It must be done not later than 180 days before the date appointed for a general election. It is important to state that this is not for contemplation by political parties, hence the conduct of primary election is mandatory under the Act.²⁴ It is to the extent that a political party seeking to nominate candidates for elections under the Act shall hold primaries for aspirants to all elective positions which shall be monitored by the Commission. Furthermore, the procedure for the nomination of candidates by political parties for the various elective positions shall be by direct, indirect primaries or consensus.²⁵ The commission must publish on its website, and at its relevant office or offices, statements showing the full names and addresses of all candidates standing nominated by their political parties.²⁶ It is also noteworthy that under the Act,²⁷ a political party is not allowed to change its candidate whose name has already been submitted under section 29 of this Act, save in the instances of death or withdrawal by the candidate, however the caveat for this exception is that the political party affected shall, within 14 days of the occurrence of the event, hold another primary election to produce a fresh candidate to the Commission. Furthermore, where a candidate with his knowledge, allows himself to be nominated by more than one political party or in more than one constituency, his nomination must be void.²⁸ Where a political party fails to comply with the provisions of this Act as it relates to primaries, its

²³ *ibid*, s 29(1).

²⁴ *ibid*, s 84(1).

²⁵ *ibid*, s 84(2).

²⁶ *ibid*, s 32.

²⁷ *ibid*, s 33.

²⁸ *ibid*, s 35.

candidate for election will not be included in the election for the particular position in contemplation.²⁹

In Nigeria, general elections are known as nationwide election with respect to executive and legislative offices. It entails an all out contest among political parties that seek to control government. These are regularly scheduled elections conducted simultaneously throughout the country or within a state every four years to elect the president,³⁰ governors,³¹ also to elect members to the legislative house of the federation, i.e. the National Assembly as provided for in the constitution,³² as well as members to the house of assembly of a state.³³ It also applies to local government system which is guaranteed under the constitution.³⁴ In essence, general elections confer legitimate authority on the government.

Bye-elections are election held to fill vacant seats in the legislature or local government council to complete the term of the member whose seat is vacant. The vacancy may be due to death, resignation, or disqualification by a competent court. It is noteworthy that it only affects the constituency that any such vacancy relates.

Run-off election occurs in a situation where no candidate meets the requirements under the law to win a general election. A run-off election or a second ballot may be organized between the two leading candidates in the first election. Thus, they are called second ballot elections where there is no clear winner in the first round of election.

Re-run elections are conducted when the results of an initial election is declared as not credible. This could be by reasons of electoral violence or malpractice. Thus, where the

²⁹ *ibid*, s 84(13).

³⁰ CFRN 1999 (as amended), s 132.

³¹ *ibid*, s 178.

³² *ibid*, s 76.

³³ *ibid*, s 117.

³⁴ *ibid*, s 7.

court determines that a candidate elected was not validly elected on any ground, the tribunal or court shall nullify the election and order the Commission to conduct a fresh election not later than 90 days after the decision if an appeal is not filed against the decision or nullification of the election by the court having final appellate jurisdiction in respect of the said election.³⁵ In the case of presidential elections, where no candidate meets the requirements of the majority of votes cast and the electoral two-thirds, as provided in INEC Regulations and Guidelines, a run-off election is then organized by the Commission within 21 days in line with the provisions of Section 134 (2) to (5) of the 1999 Constitution (as amended).³⁶ Similarly, in the case of gubernatorial elections, where no candidate meets the requirements of the majority of votes cast and the electoral two thirds, as provided for in INEC Regulations and Guidelines, a run-off election will be organized by the Commission within 21 days in line with the provisions of Section 179(2) to (5) of the 1999 Constitution (as amended).³⁷

It is also important to state that supplementary elections are conducted where an election is declared null and void in one or more polling units for over voting. Where this is the case, another date is fixed for supplementary election in the affected polling units, and returns for the affected constituencies is not made until polls are conducted in the affected polling units.³⁸ This differs from rerun election in the sense that while supplementary elections are a continuation of an election that was inconclusive due to cancellation in some polling units, amounting from irregularities like over-voting, violence etc. Re-run elections on the other hand entails a fresh election ordered by a tribunal or court in part or whole of a constituency. Thus supplementary election are

³⁵ Electoral Act, 2022, s 136.

³⁶ Independent National Electoral Commission (INEC), Regulations and Guidelines for the Conduct of Elections 2022, para 65.

³⁷ Independent National Electoral Commission (INEC), Regulations and Guidelines for the Conduct of Elections 2022, para 81.

³⁸ *ibid*, para 56.

only conducted in affected polling units, in which case results are added to original tally before final declaration. But in rerun elections, a completely new election is conducted in the affected area, and all previous result is nullified.

Flowing from the definitions above, it is safe to say that election is the process through which citizens change the government of a state or the nation at large, by choosing the candidate of their choice from the various political parties that seeks to control or attain governmental powers. In a democratic system like Nigeria, every citizen is entitled to vote in an election once the statutory requirements under the constitution³⁹ and the Electoral Act⁴⁰ are met. They are free to choose candidates from the various political parties duly registered under the commission, as provided under section 75 of the Electoral Act 2022.⁴¹

The Constitution⁴² provides that ‘Every citizen of Nigeria who has attained the age of eighteen years residing in Nigeria at the time of the registration of voters for the purposes of election to a legislative house shall be entitled to be registered as a voter for that election.’ Similarly, it is safe to say that by virtue of the Electoral Act,⁴³ all qualified citizen is entitled to be registered to vote. Thus, it is by virtue of these provisions that qualified citizens get to partake in elections. However, it is paramount to note that it goes beyond mere participation in electing candidates for political or administrative offices. This is because from the various definitions above, we get to see that election is one of the primary essence of democracy. Without election which guarantees the will of the people, democracy loses its meaning, for how can one says a nation is democratic if the will of the people in choosing their representative government is discarded? Does it

³⁹ CFRN 1999 (as amended).

⁴⁰ Electoral Act, 2022.

⁴¹ *ibid.*

⁴² CFRN 1999 (as amended), s 77(2).

⁴³ Electoral Act 2022, s 12(1).

not become a mere cloak for authoritarian rule? And is the principle of the “Rule of Law” not betrayed? If any government is said to be for the people, then it must be seen that it is was chosen by the people in the first place. As such, the importance of election cannot be overemphasized, for if Nigeria gets election right, it gets democracy right, and it gets the leaders it deserves.

The role of election and its function vary from one political system to another. This is because, while it play major role in any system that is termed democratic, its role in other system is not as significant. However, in a democratic system like Nigeria, election is not only a competition between the political parties contesting for political positions, it is also a competition between the voters and candidates. In Nigeria, election plays a key role in the transfer of power from erstwhile government to a newly elected government. The major law governing elections in Nigeria is the Electoral Act 2022, which repealed the old Act and owes its existence to the Constitution. However, despite numerous amendments and the eventual repeal in 2022, one would expect a shift from the various electoral ill that has plagued the Nigerian election system, and see good demonstrations in the recent 2023 presidential election. However this was not the case. As such, it is deplorable that elections in Nigeria have been replete with allegations of numerous electoral ills as seen in details in chapter three of this study.

It is therefore safe to say that election being one of the pillars of democracy in Nigeria, should be credible. It should be transparent to debunk any doubt as to electoral malpractice and incredibility. For the purpose of this study, it is based on the expositions above that the word election refers.

2.2.2 Electoral Process

The main purport of this aspect of this study is to look at election in the broad sense, i.e. the Nigerian electoral system in its entirety. Thus, it entails the meaning of electoral process, method of voting in Nigeria, political parties and election in Nigeria, types of electoral system and how elections are organized.

The terms "election" and "electoral system" are often used interchangeably, but as already noted above, they maintain some form of distinction. Thus it is noteworthy that electoral system is a much broader concept than election, and the later is subsumed under the former.

The Nigerian electoral system entails electoral laws, procedures and constitutional provisions on how elections are carried out. It is the framework upon which the concept of election is built. Thus it entails votes counting, declaration of election results, requirements for winning elections, qualifications of voters and candidates contesting in elections, as well as voting mechanisms. It deals with the procedures to be taken when there is no clear winner in an election, also covers all the constituencies. It encompasses how voters and parties to an election are registered, and the punishments expressed in the relevant electoral laws when the rules and regulations guiding the electoral system are not followed. It has been numerously stated that the primary body saddled with the responsibilities of conducting elections in Nigeria is the Independent National Electoral Commission (INEC).⁴⁴ This body carries out its duties as provided in the CFRN 1999 (as amended), the Electoral Act 2022, and the INEC rules and guidelines. This means that INEC is responsible for announcing election dates; voters and party registration; counting and recording of votes; as well as the announcement of election results.

⁴⁴ CFRN 1999 (as amended), s 153(1)(f); Electoral Act 2022, s 1.

Every society adopts best practices, suitable for its political framework. In Nigeria, a two round system is adopted for presidential elections. The president is elected via a majority system (I.e. an absolute majority) to serve a term of four years. However, where there is no clear winner, a second election is held between the top two candidates leading the polls. It is this same logic that is applied to gubernatorial elections.⁴⁵ Furthermore, a plurality system or simple majority system is adopted for elections into the legislative house. This is all about a first-past-the post system where the winner takes all, in that candidate who secure the highest number of votes in a particular constituency is declared the winner, regardless whether they secure an absolute majority or not. It is however worthy of note that as already stated in the preceding chapters of this study, that a preliminary election is mandatory for all political parties for the nomination of candidates representing them.⁴⁶ Furthermore, a campaign for all political party is to commence 150 days before the election day and ends 24 hours prior to that day.⁴⁷

By virtue of section 44,⁴⁸ the commission must publish the day and hours for the poll, the location of the polling units, and the persons entitled to vote, in not later than 14 days before the day of the election. Part three of the Electoral Act⁴⁹ provides for the national registration of voters and voters registration. By virtue of the constitution,⁵⁰ every citizen of Nigeria, that has attained the age of 18 years, and resides in Nigeria at the time of registration of voter for the purpose of election to a legislative house, is entitled to be registered as a voter for that election. As stated in section 132,⁵¹ any person who is registered to vote at an election of a member of legislative house is also

⁴⁵ CFRN 1999 (as amended), s 179.

⁴⁶ Electoral Act, 2022, s 84.

⁴⁷ *ibid*, s 94.

⁴⁸ *ibid*, s 44.

⁴⁹ *ibid*, Part III.

⁵⁰ CFRN 1999, s 77(2).

⁵¹ *ibid*, s 132(5).

entitled to vote at an election to the offices of president. Similarly, Section 178⁵² provides that any person who is registered to vote at an election of a member of legislative house shall be entitled to vote at an election to the office of governor of a state.

It is also important to state that by the provisions of section 50,⁵³ the primary voting method used in the Nigerian electoral system is the ballot box system done by open secret ballot, and by the extension of section 41,⁵⁴ the commission may use electronic voting machine or any other voting device for the conduct of elections, thereby recognizing the use of BVAS and IReV. The collation of election result is done at the registration ward, the local government, state and federal constituency.⁵⁵ The final declaration of election results and the winner thereof is done by the INEC chairman in the case of presidential elections. That of the state is done by the state INEC collation/returning officer in the case of gubernatorial elections,⁵⁶ and an INEC constituency returning officer is responsible, in the case of senatorial election for the National Assembly and the House of Assembly of a State.⁵⁷ The Act provides for the grounds upon which a petition can be made, such as non qualification of a candidate or electoral malpractice.⁵⁸ Furthermore, the Act makes provisions for electoral offenses and the sanctions associated with them.⁵⁹

Elections are one of the most critical functions of democracy, ‘When conflict or violence occurs, it is not a result of an electoral process; it is the breakdown of an

⁵² *ibid*, s 178(5).

⁵³ *ibid*, s 50.

⁵⁴ *ibid*, s 41(1).

⁵⁵ Independent National Electoral Commission (INEC), Regulations and Guidelines for the Conduct of Elections 2022, para 47.

⁵⁶ *ibid*, para 78.

⁵⁷ *ibid*, para 84.

⁵⁸ Electoral Act, 2022, s 134.

⁵⁹ *ibid*, s 114-129.

electoral process.’⁶⁰ Thus, the Nigerian electoral system must be sufficiently robust to withstand various fraudulent activities prevalent in elections, and it must not only be sufficiently transparent but also coherent and comprehensible that candidates and voters can accept the results of an election. It is material to stipulate that engaging in fully electronic means in relation to the conduct of elections in the Nigerian electoral system will only help to promote this. As such, INEC should make full utilization of the act which permits the use of technology in the conduct of elections and not limit itself to BVAS and IReV. Details as to the Nigerian electoral process and the challenges inherent in the Nigeria electoral system will be examined in chapter three.

2.2.3 Secret-ballot

Voting via ballot system can be done openly or secretly, hence we have open ballot and secret ballot. Open ballot is where the voters signify their choice openly by queuing behind the candidate or the party of their choice. According to Ozovehe,⁶¹ ‘This refers to a system of voting that is done openly or publicly, voters will stand in line according to their political parties and counting is done by the presiding officer before everybody present.’ On the other hand, secret ballot is when the voters cast their votes discretely, thereby preventing persons in the open from knowing their choice of candidate. By the provisions of section 50,⁶² the primary voting method used in the Nigerian electoral system is the ballot box system done by open secret ballot. It is important to state that the wordings of the Act are clear and indicate ‘open secret ballot.’ This is not to say that it a combination of open ballot and secret ballot system *stricto sensu*. The wordings in the Act means that while the process of voting is done openly to promote transparency, the casting of votes is done in secret to ensure that voters’ choice or decision remains

⁶⁰ Jeff Fischer (n 9).

⁶¹ Aliyu Ozovehe Ilias, ‘Interrogating the Contradictions of Secret and Optional Balloting in a Multi-party Democratic System: A Path to Reform’ *Benue Journal of Social Sciences (BJSS)*(2024) (10) (1) 52-58.

⁶² Electoral Act, 2022, s 50(1).

confidential. In Merriam Webster dictionary, secret-ballot is referred to as Australian ballot.⁶³ The later means an official ballot printed at public expense on which the names of all the nominated candidates appear and which is distributed only at the polling place and marked in secret.⁶⁴

As provided in the Act,⁶⁵ after accreditation, voters are given ballot papers bearing the prescribed mark given by the commission,⁶⁶ and the ballots are thereafter deposited in the ballot box in view of the public.⁶⁷ The Commission is responsible for prescribing the format of the ballot papers to include the symbol adopted by the political party of the candidates and such other information as it may require.⁶⁸ Furthermore, any ballot paper without the official mark prescribed by the commission is not counted.⁶⁹

Section 41⁷⁰ is of utmost importance in this study. This is because, by virtue of this provision, the commission is able to utilize electronic voting machine and devices for the conduct of elections. However, it is submitted that the commission has not taken full advantage of this provision. The earliest instance of increased utilization of electronics in elections in Nigeria is traced from the 2011 to the 2015 general elections. This period saw the emergence of the use of a combination of various technologies for electronic voters register, permanent voters card and smart card readers for authentication of voters. Thus, INEC introduced Permanent Voter's Card (PVC) and Smart Card Reader (SCR). These technologies have to an extent, reduced electoral irregularities, but there is still more to be done. Ballot casting is still by manual means, and as we will get to see in more details in the proceeding chapter, this has been mostly a cause for concern in the

⁶³ Philip Babcock (n 8).

⁶⁴ *ibid*, 145.

⁶⁵ Electoral Act, 2022.

⁶⁶ *ibid*, s 50(3).

⁶⁷ *ibid*, s 50(4).

⁶⁸ *ibid*, s 42.

⁶⁹ *ibid*, s 63.

⁷⁰ *ibid*, s 41(1).

Nigerian electoral process. In essence, the words ‘secret ballot’ as used in this study, means ‘open secret ballot’ as provided in the Act.⁷¹

2.2.4 Electoral Technology

The term electoral technology is used interchangeably with election technology. Thus for the purpose of this study, they mean the same thing. Election technology comprises all electronic election management systems.⁷² Election technology means all technological tools and devices used in organizing and administering the electoral process, from voters’ registration to results transmission and declaration of the winners of an election.⁷³

The use of electoral technology globally as a mechanism for ensuring electoral credibility, has become widespread and gained significant attention. Electoral technology is said to involve a wide range of technological solutions adopted in the electoral sphere, which covers voting, registration, collation etc.⁷⁴ Thus, It includes electronic voting machines (EVM); real-time auditing and visualization for monitoring election and transparency; electronic transmission of results; blockchain; artificial intelligence; biometric technology, such as fingerprints and facial recognition; and statistical methods for result evaluation and fraud detection.

The use of technology in electoral system is no new concept. In the early 1980s, a computer scientist called David Chaum introduced what we now know as electronic voting. It provided the framework for voters anonymity, integrity and verifiability. This meant firstly, that votes cannot be traced to the voters after voting. Secondly that votes

⁷¹ *ibid*, s 50(1).

⁷² Utibe Titus and Bayode Aluko, ‘Election, Technology and Political Participation in Nigeria: A Theoretical Review’ *Journal of Digital Art & Humanities* (2024) (5) (2) 3-15.

⁷³ Peter Thank God Oyinmiebi and Preye Kuro Inokoba, ‘Electoral Technology and Credible Elections in Nigeria: A Study of the 2023 Presidential Election’ *Kenneth Dike Journal of African Studies* (2023) (2) (1) 56-69.

⁷⁴ *ibid*.

cannot be altered after it is made, and lastly that voters can verify that their votes are included in the total vote count in an election. In modern times, systems like blockchain are built on the ideas proposed by David Chaum. Over the years, the use of technology has not been limited to the actual act of how votes are casted, but has been used in other voting processes like voters registration, voters accreditation, vote counting, vote documentation, vote collation, transmission of results and announcements of election results.

It is safe to say that Nigeria has embraced the use of electoral technology without any limitations by virtue of the new Electoral Act 2022.⁷⁵ Even though technological innovations like BVAS and IReV has been used in the past in conducting elections in Nigeria, however, it is important to state that section 41⁷⁶ is not fully utilized by INEC in achieving electoral integrity in Nigeria. More details on the use of these technological methods and its effect thereof in the Nigerian electoral system will be seen in the proceeding chapters of this study.

2.3 Theoretical Framework

This aspect provides certain theories and concepts which form the foundation of this study. These principles are justifications with respect to the relevance of election in a democratic system. These principles are discussed hereunder.

2.3.1 Theory of Representative Democracy

The word democracy has its origin from two Greek words, *demos* which means people, and *kratis* which means rule. According to Abraham Lincoln, democracy is the government of the people by the people and for the people.⁷⁷ A major influencer of the

⁷⁵ Electoral Act, 2022, s 41(1).

⁷⁶ *ibid.*

⁷⁷ Oyeleye Oyediran and others, *New Approach Government* (Revised edn 2009, Longman Nigeria Plc)

principle of democracy is John Locke, a natural law jurist who made a proposition that the whole essence of government is predicated on the social contract theory. This means that it is the people that surrender certain freedom to the government in exchange for protection. The works of *Baron de Montesquieu* has also influenced democracy. His principle of separation of power as a means to prevent tyranny has become one of the major pillars of modern democracy. Another promoter of this concept is Jean Jacques Rousseau who emphasized the concept of general will. This means that the laws of a society must be a reflection of the will of the people.

Flowing from the above, it is noteworthy that the early stages of democracy which started in Greece was one where every individual directly took part in government. However, through a series of modification overtime, it has evolved into the modern democracy we have today, and this is termed 'Representative Democracy.'

Representative democracy is a system in which the citizens of a particular society, express their sovereignty by indirectly electing representatives to handle the decision making responsibilities of the state on behalf of the citizens. It is because of this indirect way of participating in government that it is also referred to as 'Indirect Democracy.'

Representative democracy is considered as the best form of government by most societies in modern time.⁷⁸ This is because in every society today there is always one form of representation in government, on behalf of the people, and Nigeria is no exception to this. Furthermore, it has been identified that some of the fundamental features of democracy include sovereignty, popular consultation, political equality, majority rule, and the rule of law.⁷⁹ Without these elements it becomes difficult to say that such representation is for the people.

⁷⁸ *ibid.*

⁷⁹ *ibid.*

Nigeria operates a representative form of democracy by virtue of the provisions of the relevant laws. Under section 14 of the Constitution,⁸⁰ it provides that ‘Nigeria shall be a State based on the principles of democracy and social justice.’ Furthermore, it states that sovereignty belongs to the people and the participation by the people in their government shall be ensured in accordance with the provisions the Constitution.⁸¹ By an interpretation of this section, it is safe to say that the primary method for the participation stated in the Constitution is by electing candidates in an election who control powers of government as representatives of the people. There is a regulatory body (INEC) saddled with the responsibility of conducting elections in Nigeria, and it is regulated by the Electoral Act.⁸²

For democracy to be upheld, the people’s choice must be heard and represented accordingly. Thus, it is submitted that if the electoral process of Nigeria is not credible, it becomes a violation of the provisions expressly stipulated in the Constitution. The means of electing representative via elections should be protected, free and credible. When this is not the case, it is safe to conclude that representation is not legitimate.

2.3.2 The Theory of Electoral Integrity

The approaches to defining the concept of electoral electoral integrity is replete. It can be defined in terms of conformity with international standards, national laws or normative democratic theories.⁸³ Thus, it is defined as an election that is predicated on the democratic principles of universal suffrage and political equality, which conforms

⁸⁰ CFRN 1999 (as amended), s 14(1).

⁸¹ *ibid*, s 14(2)(a).

⁸² Electoral Act, 2022.

⁸³ Toby S James and Holly Ann Garnett, ‘Electoral integrity resilience: protecting elections during global risks, crises, and emergencies’ *Taylor and Francis Group* (London, 5 September 2025)1-28 < <https://doi.org/10.1080/13510347.2025.2551075>> accessed 21 September 2025.

with international standards, and is transparent in its preparation and administration throughout the electoral process.⁸⁴

James and Garnett⁸⁵ defines it as ‘a set of principles to be achieved in elections which empower the everyday citizen, and helps to realize the ideals of democracy.’ Thus, this definitive approach holds four principles of electoral integrity. The first principle is contestation. This principle emphasizes the importance of all individuals and parties, competing in an election in a free and fair environment. The second principle is participation, and it goes against the background of voters apathy. In essence, it encourages wide and even participation across the country. The third principle is the principle of deliberation, which upholds the view that democracy is not all about voting, in that it also covers political campaigns and discussion. As such, Political debates is based on facts; it seeks consensus and is free from propaganda or discrimination. The fourth principle is adjudication. This principle upholds that elections are conducted in accordance with the law, which provides the grounds for resolving electoral disputes.

Similarly, one of the major approaches towards defining electoral integrity as classified by Sarah Birch is when it is viewed from the legalistic perspective.⁸⁶ This approach determines electoral integrity within the context of the existing electoral laws in a particular state. Electoral integrity strengthens the trust in democratic institutions like INEC as we have in Nigeria, and legitimizes political authority. However, where integrity in the electoral system is absent, it only increases electoral violence, electoral apathy, vote manipulation, and public disillusionment.

⁸⁴ ACE, ‘Electoral Integrity’ *ACR Project* (New York, 18 December 2018) < https://aceproject.org/ace-en/topics/ei/explore_topic_new > accessed 18 September 2025.

⁸⁵ *ibid.*

⁸⁶ Sarah Birch, ‘Electoral Integrity as Political Equality’ *King’s College London* (London, 30 June 2023) 20-44.

Flowing from the above, it is therefore safe to say that the theory of electoral integrity is predicated on the assertion that elections should be free, fair and in conformity with the principles of democracy and existing legal frameworks.

2.3.3 Sovereignty

According to Merriam Webster Dictionary, sovereignty means supreme power over a body politic; and freedom from external control.⁸⁷ The Black's Law Dictionary defines sovereignty state as a state that possesses an independent existence, being complete in itself, without being merely part of a larger whole to whose government it is subject.⁸⁸ Sovereignty can be seen from two angles, i.e. internally and externally.⁸⁹ Internally, it denotes the supremacy of a state over its people and within its territory or jurisdiction, while externally, it denotes autonomy and freedom from any form of imposition or direct political control by another state.

The principle of sovereignty is attributed to philosophers of old. They include Jean Bodin, Thomas Hobbes, John Austin, John Locke, and Jean Jacques Rousseau.⁹⁰ This principle was used for the first time in 1576 by Jean Bodin, who was a French political philosopher and ardent supporter of the king of France over feudal lords who were deemed rebellious. According to Bodin, the term denotes 'absolute, indivisible and perpetual power.'⁹¹

Thomas Hobbes, an English philosopher gave a more refined exposition as to the term sovereignty and it is based on his proposition that shaped the modern meaning of the word. He argued that in every true society, ultimate and absolute authority is always traced to some person or some body of persons who have the power to make law.

⁸⁷ Philip Babcock (n 8).

⁸⁸ Bryan (n 7).

⁸⁹ Oyediran (n 77).

⁹⁰ *ibid.*

⁹¹ *ibid.*

Further expansion was made by John Locke (an English philosopher) and Jean Jacques Rousseau (a French philosopher). They proposed a social contract theory which entails a setting where the people entrust powers to the government for protection. This led to the development of the doctrine of popular sovereignty. Further development was made by John Austin, an English jurist. According to Austin, sovereignty is exercised in the name of the people, as such he deemed sovereignty to be vested in the parliament of a nation. All of these expositions made by various philosophers has amounted to various types of sovereignty. Thus they include legal sovereignty, political sovereignty, popular sovereignty, *de facto* sovereignty and *de jure* sovereignty.⁹²

In modern societies today, popular sovereignty has taken dominance, and it has become the standard measure for legitimacy. The whole idea of popular sovereignty is predicated on the assertion that the people are the primary source of all political and governmental powers in a state. It is safe to say that Nigeria is no exception to this.

Flowing from the above, in Nigeria, sovereignty belongs to the people as provided in the Constitution.⁹³ Furthermore, it is provided that ‘the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.’⁹⁴ By virtue of this provision, the mantle of governance exercised by the executives and legislators is granted by the people, and the people exercise this sovereignty through their decision making power of electing representatives of government in elections to the various positions and offices. However, in light of the realities in Nigeria, it is difficult to unswervingly say that the people’s sovereignty is upheld. Thus, for voting to be a true expression of sovereignty, elections must be free,

⁹² *ibid.*

⁹³ CFRN 1999 (as amended), s 14(2)(a).

⁹⁴ *ibid.*, s 14(2)(c).

fair, and credible, and the constant rigging of elections in Nigeria undermines this principle of sovereignty.

2.3.4 The Rule of Law and Constitutionalism

According to the Black's Law Dictionary, the 'rule of law is the doctrine that every person is subject to the ordinary law within a jurisdiction. It is the equal subordination of all citizens and classes to the ordinary law of the land.'⁹⁵

The doctrine of the rule of law can be traced back to the time of Aristotle, and was greatly influenced by philosophers like John Locke, Montesquieu, however it was greatly modified and popularized by A.V. Dicey. Aristotle was of the opinion that it is more appropriate when law governs all in a society. John Locke was of the view that the whole essence of freedom is guaranteed when laws made by parliament applies to everyone in a society. The 'World Justice' postulates that the rule of law is predicated in four principles, i.e. accountability, accessibility, impartial justice, open government and just laws.⁹⁶

The rule of law denotes the supremacy of the law, equality before the law, and inalienable legal rights.⁹⁷ To this end, the constitution⁹⁸ is supreme in Nigeria. It guarantees certain legal rights that are fundamental to citizens,⁹⁹ and it is by virtue of the Constitution that the Electoral Act was promulgated. The constitution ensures the rights of the citizens to vote, thereby upholding the decision making powers of the citizens in deciding who controls governmental powers.

⁹⁵ Bryan (n 7).

⁹⁶ William H Neukom, 'What is the Rule of Law'? *World Justice Project* (Washington, 23 October 2024) <<https://worldjusticeproject.org/about-us/overview/what-rule-law>> Accessed 18 September 2025.

⁹⁷ Johnson Ugoji Anyaele, *Comprehensive Government* (3rd edn, A Johnson Publishers Ltd 2003) 184-191.

⁹⁸ CFRN 1999 (as amended), s 1(1).

⁹⁹ *ibid*, s 33-46.

In essence, the rule of law is paramount in a democratic society. This is because It ensures that electoral laws are subordinate to the constitution and conform with the existing legal framework. It guarantees that electoral disputes are resolved through legal means, and not political means. The electoral system should be clearly defined and not subject to last-minute changes that could disenfranchise voters or favor a specific political party. As such, it creates a fair stage where party candidates and voters participate in championing a new government for the country.

2.4 Existing Literature

It is safe to say that much ink has been expounded on the literature of the Nigerian electoral system over the years. Existing literature regarding the institutional and administrative process of election in Nigeria seems to suggest that the recourse that has been made to the utilization of electoral technologies since 2011 election has strengthened INEC's credibility. As stated by Professor Mahmood Yakubu, the application of technology to elections in Nigeria is able to eliminate or greatly reduce acts of rigging.¹⁰⁰ Thus, INEC has made and is still making efforts regarding the application of Technology to the Nigerian election process. He went further to state that between 2015 and 2019, a total of 15.7 million registrations of voters has been made, with a total of 1 million records removed due to duplication. Thus, technology has to be involved to ensure that these duplication are prevented and registration is done successfully.¹⁰¹ However, it is noteworthy that other authors are of the view that despite integration of technology in the conduct of elections by the commission, INEC still remains compromised. To this end, Godwin states that INEC's lack of transparency was revealed in its failure to electronically transfer results and its refusal to upload results in

¹⁰⁰ Mahmood Yakubu, *Technological Innovation as Antidote to Election Rigging* (Lecture Note prepared for the Blueprint Newspaper's Lecture & Award Ceremony at Abuja on the 3rd of June 2021).

¹⁰¹ *ibid.*

real-time as promised, thereby undermining the integrity of the 2023 presidential election.¹⁰²

Literature regarding the legal framework for election in Nigeria is constituted by different positions, as expressed by different authors. Some authors believe that the laws regulating the conduct and process of election in Nigeria are formidable for the safeguard of electoral integrity, others are of the position that the strong laws by itself does not sufficiently protect the credibility of elections in Nigeria. According to Professor Edoba B. Omoregie, SAN, the Electoral Act, 2022 is novel on innovative provisions which conjure hope that Nigeria is getting closer to an electoral process that guarantees free, fair and credible polls.¹⁰³ However he noted that it is still not without challenges, particularly regarding judicialization of politics and election security.¹⁰⁴

According to Wasiu,¹⁰⁵ the integration of technology in the administration of elections has been a pivotal factor in reshaping the democratic system in many developing countries such as Nigeria since the 1999 election. This is exemplified by the use of the Biometric Voter Authentication System (BVAS), and has had profound implications for transparency of elections in the country. The use of BVAS has helped reduce electoral fraud, enhance voter registration accuracy, and has generally contributed in the quest for credible election in the Nigerian electoral system.¹⁰⁶ Shaibu stated that the use of election technology like electronic voting systems ensures that voters prevent the

¹⁰² Daniel Godwin, 'Technology, Electoral Malpractice and the Crisis of Election Administration in Nigeria' *The Thinker journal* (2024) (101) (4) 20-30.

¹⁰³ Edoba B Omoregie, 'Legal Framework of Election and Election Security in Nigeria' (a presentation delivered at the Nigeria Police Force Election Security Management Workshop, held at the International Conference Centre, Abuja on August 5, 2022) 1-51.

¹⁰⁴ *ibid.*

¹⁰⁵ Bello, O Wasiu, 'Technology and Conduct of Election in Developing Countries: A Study of Nigeria's Fourth Republic' *Tuijin Jishu Journal of Propulsion Technology* (2023) (44) (6) 6947-6958.

¹⁰⁶ *ibid.*

common mistakes of votes remaining uncounted.¹⁰⁷ Furthermore, generating election result in Nigeria is characterized with alterations and manipulation of votes casted, and this is because the entire election process is not automated.¹⁰⁸ It was also stated that an application of electronic voting technology in Nigeria over traditional voting system will ensure votes casting convenience; efficiency and effectiveness of the election process; reduction of the cost of organizing the election, increase in election participation and improving the overall integrity of the electoral process in general.¹⁰⁹

From the forgoing, it is clear that there are existing literatures on the Nigerian electoral system, its challenges and to a degree its relationship regarding the use of technology. However, some gaps remains. The gaps that this study intends to fill includes firstly, that while many studies examine INEC's challenges, fewer explore the interaction between electoral technology and Nigeria's broader constitutional and statutory framework. As such, it is submitted that the Act should be clear and avoid broad words. Thus it should create a degree of certainty regarding the use of electoral technology and not leave its utilization to full discretion of the commission. Secondly that while comparative literature exists, however, very few have been geared towards drawing lessons for Nigeria from jurisdictions such as Estonia and Namibia. Lastly, that the discretion and powers granted the commission so far has not really provided Nigeria with a truly free and fair election, as such it is submitted that with the full utilization of technology in the electoral process, it reduces delays and complications in elections, thus allowing other agencies to be established, to acts as watchdog on the commission.

¹⁰⁷ Mohammed Tiyumtaba Shaibu and others, 'Making Votes Count in Election Technology Era: A Proposed Framework for Nigeria's Future Elections to Enhance Global Standing' *Wukari International Studies Journal* (2024) (8) (1) 242-254.

¹⁰⁸ *ibid.*

¹⁰⁹ *ibid.*

This study seeks to address these gaps by emphasizing the use of technology and the place of the law, as well as institutional frameworks and agencies in attaining electoral integrity in Nigeria.

2.5 Historical Foundation of Election in Nigeria

In Nigeria, the history of election can be divided into two major era. The first is the colonial ranging from 1900-1959, and the second is the post-colonial which started in 1960. The post-colonial period is further divided into the First Republic (1960-1966), the Second Republic (1979-1983), the Third Republic (1993-1999), and the Fourth Republic (1999-date).¹¹⁰ To understand the history of elections, it is important to note its development under the various constitutions in Nigeria. This is because the electoral process was greatly shaped by the laws promulgated under these constitutions.

The first instance of election can be traced back to the Clifford Constitution of 1922, when Nigerians were elected into the legislative house for the first time. prior to this time, Nigerians were appointed into Nigerian Council established by Lord Lugard. However, after Sir Hugh Clifford became governor, He established a new legislative council and executive council, which introduce elective principles for the first time. The legislative council consisted of 46 members. It was constituted by 27 official members and 19 non-official members. Ten of the 19 non-officials were Nigerians, four of which were elected. Three were representing Lagos and one representing Calabar. This meant that Nigerians can now contest to occupy the seats available in the legislative council, and such political parties were gradually created. As a result, the Nigerian National Democratic Party (NNDP) was founded by a Herbert Macaulay in 1923 and it became the first political party in Nigeria. The NNDP was also launched in 1925, which

¹¹⁰ The Electoral Hub, 'A Brief History of Elections in Nigeria' *The Electoral Hub Research Papers* (Abuja, February 2022) 1-25.

dominated and won all the three seats allocated to Lagos in the Legislative Council in 1923, 1928 and 1933. The NNDP controlled political power in Lagos for 15 years because it was the only political party that was formed at the time. However, in 1935 the Nigerian Youth Movement (NYM) was created. This new party challenged the NNDP for political control of power in Lagos, and eventually won all three seats allocated to Lagos in the legislative council in 1938, thereby defeating the NNDP. It became a nationalist movement after Nnamdi Azikiwe joined in 1937. Again, in 1944, a new political party called the National Council of Nigeria and the Cameroon (NCNC) was created to seek total independence for Nigeria. This constitution was the first step for self government in Nigeria. However, the system was still majorly lacking in that *inter alia*, the constitution isolated the Northern Province. Thus, this newly established elective principle was limited to the legislative house (and not extended to the executive house), and the legislative council was majorly dominated by Europeans. Furthermore, only adult male that had resided in the area for 12 months, and has earned a gross income of a hundred pound yearly, constituted the electorate.

Flowing from the above, because of the defect in the Clifford Constitution, it was replaced by the Richards Constitution of 1946. This Constitution widened the scope of representation in the legislative council, and Nigerian unofficial members became the majority for the first time in the legislative council in Lagos. It divided Nigeria into three regions, i.e. Northern, Eastern and Western region, and the NCNC became the first regional government of the Eastern region. It provided the framework for bicameral legislation. It therefore created a House of Chiefs and a House of Assembly in the Northern region and a Houses of Assembly in the Eastern and Western regions, thus under this constitution, there was a Central Legislative Council and Regional Assemblies. However The NCNC sent delegations against the 1946 constitution to

London. This is because the constitution had major shortcoming in the electoral process in that inter alia, members of the Regional Assembly were select by the native authorities, and it created nominated majority rather than elected majority by the people. By implication, this meant that they were not elected, thus limiting the full operation of the elective principle established under the Clifford constitution. Furthermore, it limited franchise to Lagos and Calabar to the exclusion of other areas. Franchise was still limited to adult male but for those with an annual income of fifty pounds.

Due to the shortcomings of the Richards Constitution of 1946, there was a conference held in Ibadan in 1950 which lead to the Macpherson Constitution of 1951. This constitution greatly expanded representation and elected majorities in Regional Legislature and the Central Legislative Council, and bicameral legislation was expanded to western region. During this time, many political parties were created and participated in the election to the Regional House of Assembly in 1951. The election marked a major landmark in the history of the Nigerian electoral process.¹¹¹ This was because it brought a new wave and evolution of political parties that contested elections into the regional Assemblies. This election marked the beginning of a new era, in that Nigerians were allowed to participate in the democratic process and elect their leaders.¹¹² One of the prominent parties at the time was the Action Group (AG) which was created in 1951. Its main aim was to win elections and control political power in the Western Region. During the election to the western house of assembly, the situation was that five seats in Lagos were won by the NCNC. However, the Action Group, had the majority of seats in the house. This meant that they had the power to choose from the candidates contesting

¹¹¹ Abubakar Sodeeq Suleiman and others, 'The Historical evolution of Nigeria's present model of election and its unique features' *IEEE-SEM*(2021) (9) (8) 185-193.

¹¹² Science Education and Social Issues Blog, 'History of Nigeria Election: The Struggles and Wins' *Asaolusam blog* (Wordpress, 18 December 2022) <<https://asaolusam.wordpress.com/2022/12/18/the-history-of-nigeria-election-the-struggles-and-wins>> accessed 25 September.

for the two seats allocated to Lagos. As such, when Nnamdi Azikiwe won his seat in Lagos, the Action Group had the power to exclude him from the House of Representatives and used its majority to get Olorunnimbe and Adedoyin elected. This pushed the representatives in eastern region, threatened to boycott the house. This political party (AG) eventually won elections in the Western Region and became the opposition party, thus had the role of watchdog at the central level. Another prominent political party was the Northern People's Congress (NPC) also created in 1951. It quickly seized political power over the Northern Region. However this constitution was criticized because of lack of uniformity of the electoral system throughout the country. This is because while the Northern region used male adult suffrage, the Western region used tax payers suffrage, and the Eastern region used universal adult suffrage. Furthermore, it greatly influenced emergence of political parties on regional bases. Thus, it safe to say that it is as a result of loyalty to the various political parties by their regions, that contributed to the eastern region crisis and Kano riot of 1953. In 1953, a motion for self-government for Nigeria in 1956 was moved by Chief Anthony Enahoro, a member of the Action Group (AG). On the other hand, the leader of the Northern People's Congress (NPC), together with the Sardauna of Sokoto, made a counter-motion stating that self government should be attained as soon as it is practicable. Because of this dispute, the motion was adjourned, but the northern delegates were met with hostility in Lagos before they left the meeting. Later on when tour, aimed at campaigning for self-government by the AG and NCNC was being carried out, it was met with riot in Kano.

The Constitutional Conference of 1953 lead to the Lyttleton Constitution of 1954. This is said to be the first Federal Constitution of Nigeria. It introduced the offices of the Speakers and Deputy Speakers for regional legislatures excluding the North. During this

time, the 1954 elections was conducted. The NPC won 79 seats in the North, and formed a coalition government in the centre with the NCNC (that won 65 seats in the East and the West). The A.G. which won 27 seats became an opposition party. Under this constitution, direct elections were introduced into the federal and regional legislature in Nigeria. As such, members of the Eastern and Western Houses of Assembly were directly elected through universal adult suffrage, while the North combined direct and indirect elections. The leaders of the majority party in the Regional Assembly was appointed as Regional Premier by the Governor, and the regional Governors (who presided over the Executive Council meetings) also appointed Regional ministers as advice by the Premier.¹¹³ In each region, smaller parties like NEPU and UMBC were formed by people in the minority areas of those regions. It is however noteworthy that this constitution like its predecessors still failed to provide a uniform electoral system throughout the whole country.

The London Constitutional Conference of 1957 was held to make discussions on filling the gaps of the Lyttleton Constitution. It was scheduled to hold in 1956 but was shifted to 1957 because of the riots and crisis in the various regions. The decision reached thereof include *inter alia*, that members of the Federal and Regional Legislatures be elected via universal adult suffrage in the east, west, and Lagos, while it should be via adult male suffrage in the north.

Another conference was held in 1958, followed by a General election in 1959, all of which ushered in the Independent Constitution of 1960. During this time, the major political parties were getting prepared to contest in the 1959 election. However, the result of the 1959 election was that none of the major political parties won a clear majority of seats. As such, the NPC and the NCNC formed a coalition that constituted

¹¹³ Johnson (n 97).

the government of Nigeria in 1960 when Nigeria declared independence. it is noteworthy that the body responsible for overseeing the conduct of the 1959 general election was the Electoral Commission of Nigeria (ECN).¹¹⁴

Following from the above, it is clear how the elections worked in Nigeria before independence, and electoral technology were not in use at the time, and were not recognized under any law in force pre independence. The Nigeria electoral process post-independence was ridden with major challenges that hinder electoral integrity in the electoral system. One of the major problems during this time was the military usurpation of governmental powers and control, from the ruling party which started in 1966.

In the First Republican Constitution of 1963, Nigeria operated a parliamentary system of government, and it increased the number of seats in the Federal Senate from 44 to 56. This was because of the creation of Mid-West Region since each region was allocated 12 representatives. During this time, the parliament was supreme, and the president was elected by the National Assembly rather than the majority of the electorates. From 1963-1966, the NNDP formed the Western Regional government. In this First Republican system of Nigeria, the Electoral Commission of Nigeria was renamed the Federal Electoral Commission (FEC) under the administration of late Sir Abubakar Tafawa Balewa.¹¹⁵ The Commission conducted the controversial General Elections of 1964 and the Western Regional election of 1965.¹¹⁶ The election held in 1965 in the Western Region is said to be one of the worst elections ever conducted in Nigeria.¹¹⁷

¹¹⁴Abubakar (n 111).

¹¹⁵ *ibid.*

¹¹⁶ *ibid.*

¹¹⁷ Oyediran (n 77).

In contemplation of the 1964 General election, the political parties in Nigeria formed two major alliances. On one hand was the UPGA, which was created in June 3 1964. It was made up of NPF, NEPU, UMBC and members of the AG. On the other hand, the NNNDP, NPC, MDF, NDC, formed the Nigerian National Alliance (NNA) on August 20 1964. This two major political parties contested the 1964 general elections. However, the allegations against the parties were replete. This was because the election saw a great number of irregularities during the campaign period. Unconventional methods of nominating candidates for the election were alleged when the Federal Electoral Commission declared the nomination of candidates open. The failure of the UPGA candidates to get nomination papers was reported, further allegations was that some electoral officers hid themselves from UPGA candidates that wanted to file their nomination papers. Cases of violence and kidnapping in the Northern and Western Regions were also alleged. Thus, in December 21, 1964, 78 candidates of which members of NNA were the majority had been returned unopposed, and as such implying that the election was rigged in favour of the Nigerian National Alliance. During this time, the then chairman of the FEC, Mr. Eyo, in a broadcast had admitted that there were irregularities concerning the nomination of candidates.¹¹⁸ Eventually when the election started on December 30, 1964, the UPGA boycotted it. Furthermore, there was no voting in the Eastern Region, but there were voting in Northern Region, Western Regions, and parts of Mid-Western Region and Lagos. Thus, the votes were counted, and the NNA won a good margin of seats. What followed was a situation where the country did not have a government for three days because of the dissatisfaction with the outcomes of the election. However, the government was eventually formed by the outgoing Prime Minister who was a member of the NNA. It is noteworthy that because

¹¹⁸ Johnson (97).

of the dissatisfaction expressed nationwide as regards the election, the newly formed government was made up of members of NNA and the NCNC in a bid to create an all-party inclusive government, however, this was done to the exclusion of all members of the AG from the cabinet.

The next election was the regional election of the Western Region in 1965. The Action Group (AG) which represented the United Progressive Grand Alliance (UPGA), saw this as an opportunity to seize control of the Western Region since none of its members was included in the cabinet of the newly formed National Government. However, the election was marred by irregularities. The UPGA could not file their nomination papers in some areas because electoral officers abandoned their posts to avoid receiving the nomination papers, and in areas where the UPGA managed to file their nomination papers, the NNDP candidates were still found to be unopposed for some reason. As a result of all of these instabilities of civilian rule and lack of electoral credibility, the country plummeted into military rule in 1966.

Nigeria went through 13 years of military rule before eventually returning to a Republican state in 1979. This led to the Second Republican Constitution of 1979, under which Nigeria operated a presidential system of government, and it became a norm that elections would be held in Nigeria every four years. In contemplation of the return to civilian rule in 1979, political parties were formed to contest for power in the 1979 election. The body responsible for conducting and regulating the affairs of the election was the Federal Electoral Commission (FEDECO) which was created under the regime of General Obasanjo, and was then headed by Chief Michael Ani. The political parties that were created and registered during this period include the Great Nigeria People's Party (GNPP); the National Party of Nigeria (NPN); the Nigeria's People's Party (NPP); the Unity Party of Nigeria (UPN); and the People's Redemption Party

(PRP).¹¹⁹ The presidential election held in that year (1979) is said to be the most controversial election ever held.¹²⁰ This was because no candidate was able to win 25% in two-thirds of the states of the Federation. While the calculation provided by FEDECO was accepted by the NPN, it was refused by the UPN, and the results were therefore petitioned. However the NPN was declared winner by judicial interpretation in the case of *Awolowo v Shagari*,¹²¹ of the meaning of 25% of two-third majority of states. In 1983, another election was held, of which the Federal Electoral Commission (FEDECO) also conducted. The political candidates contesting in the elections were pretty much the same as that of the 1979 election, only the PRP replaced their candidates. Alhaji Shehu Shagari, who was the candidate representing the NPN was declared the winner. However, like all the elections before it, there were also great allegations of traces of large scale rigging, especially pertaining to the gubernatorial election where the NPN won 10 states. There were allegations of violence, looting, rioting etc in Ondo and Oyo States. The consequence of the 1983 election was one that led to another military usurpation of governmental power on the 31st of December 1983.¹²²

On assumption of office on 27th August 1985, General Babangida made a commitment for a return or transition to civil rule.¹²³ To this end the National Electoral Commission (NEC) was established, and it was responsible for conducting the elections held in 1993. NEC conducted elections in local levels, state levels and that of the national assembly, the presidential election in June 1993 was however annulled, despite the fact that this election was declared the freest and fairest election so far at the time. This annulment therefore posed a great controversy as to the integrity of the promised transition

¹¹⁹ *ibid.*

¹²⁰ *ibid.*

¹²¹ *Chief Obafemi Awolowo v Alhaji Shehu Shagari & 2 Ors* (1979) All NLR 105.

¹²² Abubakar (n 111).

¹²³ *ibid.*

program, and it was said to be a violation of the sanctity of choice of the people, the ballot box and the electoral system. Thousands of lives were lost due to poor management of the elections.¹²⁴ The result of this was another military usurpation of governmental powers in 1993 by Abacha.

Again, the National Electoral Commission of Nigeria (NECON) was formed replacing the former body responsible for overseeing the affairs of the Nigerian electoral process under the new regime. However, this little efforts made by General Sani Abacha in November 1993 to revive the Nigerian electoral system was thwarted by General Abdusalami Abubakar, who recreated the electoral commission, and renamed it the Independent National Electoral Commission (INEC).¹²⁵ This new regime was dedicated to a full transition to civilian rule, and eventually lead the country into its Fourth Republican Constitution of 1999. A presidential election was held on February 27, 1999, and General Olusegun Obasanjo, a member of the People's Democratic Party (PDP) won that election. He was inaugurated on May 29, 1999, and this election under the Fourth Republic was a major milestone in the Nigerian democracy.¹²⁶ It marked the beginning of the current Fourth Republic. Another election was held in April 19, 2003, and Olusegun Obasanjo (PDP) was reelected for a second term.¹²⁷ This election as alleged, was massively rigged by the PDP and tended to destroy the growth and emergence of opposition parties in Nigeria's democracy.¹²⁸

In 2007, another general election was conducted in April 21 of that year. This election signified the first step toward integration of electoral technology in the Nigerian electoral system. During this time, electronic voters register (EVR) was used in digital

¹²⁴ Ugo Jim-Nwoko, 'Nigerian Election: A History and Loss of Memory' *Cable Media and Publishing Ltd* (Abuja, 18 May 2019) <<https://www.thecable.ng/nigerian-elections-a-history-and-a-loss-of-memory/>> accessed 25 September.

¹²⁵ Abubakar (n 111).

¹²⁶ The Electoral Hub, 'A Brief History of Elections in Nigeria' *The Electoral Hub Research Papers* (Abuja, February 2022) 1-25.

¹²⁷ Media Nigeria, 'History of Nigeria Elections' *Media Nigeria* (Lagos, 26 April 2018)

¹²⁸ Ugo (n 124).

registration of voters via direct data capture (DDC). However, voters verification and accreditation were still done manually. The outcome of the Presidential Election was that Umaru MusaYar'Adua (PDP) won and became president. This election like it's predecessors was also met with great criticism by international and domestic observers as being deeply flawed. It was reported that the election was rigged massively because it was dubbed a "do or die" election by Olusegun Obasanjo.¹²⁹ It was reported that the European Election Observer Mission in Nigeria reported that Nigerian leaders had deceived their people, and the election petition that followed was of monumental proportion among the three major political parties.¹³⁰

In April 16, 2011, another Presidential Election was conducted, thus bringing in Goodluck Jonathan (PDP) as new president-elect. INEC made further advancements in the use of electoral technology in conducting elections. Thus, improvements were made on the DDC machines for voters registration which was introduced in the 2007 elections. Furthermore, permanent voters card was introduced, containing personal data of voters for the verification process. However, INEC generally still relied on paper register for said verification process. Though this election was generally considered credible compared to elections in prior times, it was however followed by severe electoral violence in the North.¹³¹

In March 28, 2015, when the Presidential Election was conducted, Nigerians witnessed a situation, where for the first time in the history of elections, an incumbent president lost to the opposition party. Thus, the opposition candidate, Muhammadu Buhari of the All Progressives Congress (APC), defeated Goodluck Jonathan in the presidential election. The country made further advances towards integration of electoral technology in its electoral system. Thus, smart card reader (SCR) was utilized for the first,

¹²⁹ *ibid.*

¹³⁰ *ibid.*

¹³¹ *ibid.*

signifying a transition from manual voters verification to electronic voters registration. It made verification, using biometric and chips embedded on the PVC of voters. This election was widely acknowledged and the electoral crisis experienced in prior times was significantly reduced. Nigerians eagerly looked forward to a peaceful and prosperous tenure, but by the end of said tenure, their expectations were had not been met.¹³² The Presidential election held in February 23, 2019, amounted in Muhammadu Buhari (APC) to be re-elected for a second term, thereby defeating Atiku Abubakar of the PDP. This election was also plagued with numerous electoral irregularities. The 2019 election saw little technological innovations. However, Z-Pad was introduced for testing the transmission of election results electronically.

On the 25th of February, 2023, Bola Ahmed Tinubu of the APC was declared the winner of the Nigerian Presidential election. The election was hotly contested, with opposition parties claiming massive rigging, and taking their cases to court. Before the results were declared, the election had been denounced as flawed by some political leaders.¹³³ The Supreme Court ultimately upheld Tinubu's victory. This election witnessed significant utilization of electoral technology, which was now fully recognized under the new Electoral Act 2022. To this end, bimodal voters accreditation system (BVAS) and INEC result viewing portal (IREV) were introduced.

From the history of election as we have seen so far, it is clear that the Nigerian electoral system via relying on manual system of conducting elections like ballot boxes, ballot papers, physical counting of votes and collation of results etc, has only helped increased the rate of electoral irregularities. It promotes result manipulations and loss of lives. Efforts have been made to correct this historical flaw in our electoral system by leaning towards the application of electoral technologies. Making proper use of electoral

¹³² *ibid.*

¹³³ Nic Cheeseman, 'Was the Nigerian election rigged'? *The Africa Report* (Paris, 24 March 2023) <<https://www.theafricareport.com/294834/was-the-nigerian-election-rigged>> accessed 25 September.

technology will only serve in the best interest of conducting elections in Nigeria in attaining electoral integrity. Nigeria has already taken steps to this end since elections held in 2007, to current times. Though electoral technology like BVAS, IReV, smartcard readers etc, has been partially used in conducting election in Nigeria. However, it is submitted that the leeway provided in the act,¹³⁴ should be fully utilized in the efforts to attaining electoral integrity. This provides the reason for examining the Nigerian electoral system not just as a legal and institutional framework, but also as one that gradually depends on technological innovations to gain electoral integrity.

2.6 Conclusions

In conclusion this chapter has covered conceptual clarification, theoretical framework, existing literature and the history of election in the Nigerian electoral system. It clarifies key terminologies that are necessary for understanding this study. The theoretical framework explores necessary concepts like electoral integrity, democracy etc, which are inherent principles that are necessary for a successful operation of the electoral process in a country. It provides an exposition on existing literature which highlights the gaps still present in the Nigerian electoral system despite numerous attempts to curb electoral irregularities. Finally it provides an exhaustive foundation of the history of elections dating back to colonial rule in Nigeria and the various constitutional influence on election policies, and the evolution of electoral technology in Nigeria. The next chapter will give detailed expositions on the legal framework of the Nigerian electoral system, detailing the provisions and the place of the law in the various stages of elections as well as the relevant provisions for electoral technology. It will also provide an exposition on the utilization of technology in the 2023 presidential election; and also provide the institutional framework of the Nigerian electoral system.

¹³⁴ Electoral Act, 2022, s 41.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORKS FOR ELECTIONS IN NIGERIA

3.1 Introduction

This chapter examines the institutional and legal framework of the Nigerian electoral system in its entirety. The chapter therefore gives an exposition as to the stages of conducting elections in Nigeria, in relation to the provisions of the relevant laws regulating the Nigerian electoral system. This therefore establishes the place of the law in shaping the Nigerian electoral system, and how the law has provided for the use of electoral technology. This is demonstrated in this chapter by providing an exposition as to the role of technology in the recent 2023 general election.

3.2 Legal Framework of the Nigerian Electoral Process

The Nigerian electoral system entails electoral laws, procedures and constitutional provisions on how elections are carried out. It is the framework upon which the concept of election is built. Thus it entails how votes are counted, declaration of election results, requirements for winning elections, qualifications of voters and candidates contesting in elections, voting mechanisms and methods applied in conducting election in Nigeria. It also deals with the procedures to be taken when there is no clear winner in an election, as well as the relevant constituencies in the electoral system. It encompasses how voters and parties to an election are registered, and the punishments expressed in the relevant electoral laws when the rules and regulations guiding the electoral system are not followed.

The primary body saddled with the electoral responsibilities of conducting elections in Nigeria is the Independent National Electoral Commission (INEC).¹ This body carries out its duties in accordance with the relevant legal frameworks for elections in Nigeria, i.e. the Constitution,² the Electoral Act 2022³, and the INEC regulations and guidelines. Some of the relevant provisions of these laws regarding the various stages in the conduct of elections in Nigeria are provided hereunder.

Part three of the Electoral Act⁴ provides for the national registration of voters and voters registration. By virtue of section 9 of the Act,⁵ the Commission shall compile, maintain, and update, on a continuous basis, a national register of voters. Furthermore, the Act,⁶ provides that a person shall be qualified to be registered as a voter firstly, if such a person is a citizen of Nigeria. Secondly if they have attained the age of 18 year. Thirdly if the person is ordinarily resident, or works in, or originates from the Local Government, Area Council or Ward covered by the registration centre. Fourthly, if any such person presents himself to the registration officers of the Commission for registration as a voter, and lastly if they are not subject to any legal incapacity to vote under any law, rules or regulations in force in Nigeria.

By virtue of the constitution,⁷ every citizen of Nigeria, who has attained the age of 18 years residing in Nigeria at the time of registration of voters for the purpose of election to a legislative house, shall be entitled to be registered as a voter for that election. By Section 132,⁸ any person who is registered to vote at an election of a member of legislative house shall be entitled to vote at an election to the offices of president.

¹ CFRN 1999 (as amended), s 153(1)(f); Electoral Act 2022, s 1.

² CFRN 1999 (as amended).

³ Electoral Act, 2022.

⁴ *ibid*, Part III.

⁵ *ibid*, s 9.

⁶ *ibid*, s 12.

⁷ CFRN 1999 (as amended), s 77(2).

⁸ *ibid*, s 132(5).

Similarly, Section 178⁹ provides that any person who is registered to vote at an election of a member of legislative house shall be entitled to vote at an election to the office of governor of a state. By virtue of section 44,¹⁰ the commission shall, in not more than 14 days before the stipulated day of the election, publish said day and hours for the poll, the location of the polling units, and all persons entitled to vote.

As seen in section 50,¹¹ the primary voting method used in the Nigerian electoral system is the ballot box system, which is done by open secret ballot. Citizens get to partake in this by going to the various polling units designated in each state. Each polling unit is regulated by a presiding officer¹² or a clerk. In the absence of the presiding officer,¹³ and by extension of section 41,¹⁴ the commission may use electronic voting machine or any other voting device for the conduct of elections. As such, Nigeria conducts voters accreditation via smart card reader (BVAS) in accordance with section 47¹⁵ which is to the extent that any person or persons who intends to vote in an election must present themselves with their voter's card to a presiding officer for accreditation at the polling unit in the constituency in which their names are registered. This accreditation is done via biometric, i.e. fingerprint authentication or facial recognition. After a voter is deemed qualified to vote for the election, it is followed by paper ballot, which is cast into a ballot box. By section 46,¹⁶ the ballot box is placed in full view of everyone present and is maintained in this way until the close of poll. At the prescribed hour for the close of poll, the presiding officer then declares the poll closed and no more person is admitted into the Polling unit and only those already inside the polling unit shall be

⁹ *ibid*, s 178(5).

¹⁰ Electoral Act, 2022, s 44.

¹¹ *ibid*, s 50.

¹² *ibid*, s 58.

¹³ *ibid*, s 58(5).

¹⁴ *ibid*, s 41(1).

¹⁵ *ibid*, s 47(2).

¹⁶ *ibid*, s 46(2).

allowed to vote.¹⁷

After the voting, the presiding officer is saddled with the responsibility to count and announce the result at the polling unit,¹⁸ and by section 64¹⁹ the announcement is subject to the verification that the votes and number of accredited voters stated on the collated result are consistent with the number of accredited voters recorded and transmitted directly from polling units under section 47 (2). The Act²⁰ further provides that candidates or polling agent present at a polling unit when counting of votes is completed by the presiding officer, may demand to have the votes recounted. By the provision of Section 62,²¹ the register of election results shall be kept in electronic format by the Commission at its national headquarters.

After the vote is counted, the presiding officer fills out a form (form EC8A) prescribed by INEC.²² The presiding officer then signs and gets the signature from party agents,²³ after which, the BVAS is used to take pictures of the result sheet from that particular polling unit and is then uploaded to IReV.²⁴ IReV is a web portal where scanned result sheets from the various designated polling units are uploaded. This is done by an extension of section 60,²⁵ and also by Section 64²⁶ which provides the legal basis for the electronic transmission of accreditation data and election results directly from the polling unit to a central server of the commission, subject to INEC's discretion. Through IReV, citizens, media observers and party agents can view results in each polling unite.

¹⁷ *ibid*, s 59.

¹⁸ *ibid*, s 60(4).

¹⁹ *ibid*, s 64(4).

²⁰ *ibid*, s 61.

²¹ *ibid*, s 62(2).

²² *ibid*, s 60(1).

²³ *ibid*, s 60(2).

²⁴ Independent National Electoral Commission (INEC), Regulations and Guidelines for the Conduct of Elections, 2022, para 38(ii).

²⁵ Electoral Act, 2022, s 60(4).

²⁶ *ibid*, s 64(4) and (5).

After the recording and announcement of the result, the presiding officer is to deliver the results along with election materials under security and accompanied by the candidates or their polling agents, where available, to any person as may be prescribed by the Commission (usually a collation officer).²⁷ Any ballot paper that does not bear the official mark prescribed by the commission will not be counted,²⁸ and the decision of the returning officer is final on any question arising from or relating to unmarked ballot paper; rejected ballot paper; and declaration of scores of candidates and the return of a candidate.²⁹

The collation of election result is done at the registration ward, the local government, state and federal constituency.³⁰ And this is only done if the Collation Officer ascertains that the number of accredited voters is in accordance with the number recorded in the BVAS, and that the votes scored by political parties on the result sheet is in conformity with the result electronically transmitted or transferred directly from the Polling Unit.³¹ The commission clearly stipulates the principles to be followed regarding collation of results.³²

The final declaration of election results and the winner thereof is done by the INEC chairman in the case of presidential elections. This is provided in the INEC regulations and guidelines which is to the extent that the Chief Electoral Commissioner and Returning Officer for the Presidential election (which is INEC chairman) is responsible for completing Form EC8E (which is the official result declaration form for the presidential election) and return the candidate who has the majority (highest number) of

²⁷ *ibid*, s 62(1).

²⁸ *ibid*, s 63.

²⁹ *ibid*, s 65(1).

³⁰ Independent National Electoral Commission (INEC), Regulations and Guidelines for the Conduct of Elections, 2022, para 47.

³¹ *ibid*, para 48.

³² *ibid*, para 91.

votes cast at the election; and not less than one-quarter of the votes cast at the election in at least two-thirds of all the States in the Federation and the Federal Capital Territory, Abuja.³³ That of the state is done by the state INEC collation/returning officer in the case of gubernatorial elections,³⁴ and an INEC constituency returning officer is responsible, in the case of senatorial election for the National Assembly and the House of Assembly of a State.³⁵ Part V of the Act³⁶ makes the general provisions for political parties. It provides in details, the procedures for the nomination of candidates by political parties, and allowing for direct primaries, as well as indirect primaries or consensus.³⁷ It imposes a strict timeline for political parties to submit their list of candidates.³⁸ It also provides for the withdrawal of a candidate³⁹ and what happens in a situation of a candidate's death.⁴⁰ It also provides that any aspirant who believes a candidate submitted false information in their affidavit can challenge it at a Federal High Court.⁴¹ It is also noteworthy that Part VIII⁴² provides for the determination of election petitions. The Act provides for the grounds upon which a petition can be made, such as non-qualification of a candidate or electoral malpractice.⁴³ Furthermore, the Act makes provisions for electoral offenses and the sanctions associated with them.⁴⁴

Elections are one of the most critical functions of democracy, 'When violence or conflict occurs, it is not because of the electoral process; it is the breakdown of an

³³ *ibid*, para 55.

³⁴ *ibid*, para 78.

³⁵ *ibid*, para 84.

³⁶ Electoral Act, 2022.

³⁷ *ibid*, s 84.

³⁸ *ibid*, s 29.

³⁹ *ibid*, s 31.

⁴⁰ *ibid*, s 34.

⁴¹ *ibid*, s 29.

⁴² Electoral Act, 2022, s 130-140.

⁴³ *ibid*, s 134.

⁴⁴ *ibid*, s 114-129.

electoral process.’⁴⁵ Thus, the Nigerian electoral system must be sufficiently robust to withstand various fraudulent activities prevalent in elections, and it must not only be sufficiently transparent but also coherent and comprehensible that candidates and voters can accept the results of an election. It is only material to stipulate that engaging in fully electronic means in relation to the conduct of elections in the Nigerian electoral system will only help to promote this. As such, INEC should make full utilization of the relevant provisions of the Act, in permitting the use of technology in the conduct of elections and not limit itself to BVAS and IReV. Details as to the challenges inherent in the Nigeria electoral system will be examined in chapter four.

However, it is noteworthy that investigations show that neither of the technologies like Electronic Voters Register (EVR), Biometric Voter Accreditation System (BVAS), Automatic Fingerprints Identification System(AFIS) and Smart Card Reader (SCR), nor the electoral reforms developed by the government have reduced the incidences of election rigging in Nigeria. Political scholars have argued that the problems with elections in Nigeria are weak institutions, the inability of the election umpire (INEC) to be truly independent, and the inability of the government in power to stop interfering with INEC.

3.3 Institutional Framework of the Nigerian Electoral System

This aspect deals with the various institutions and bodies concerning the conduct of elections in Nigeria, some of these institutions are elaborated hereunder.

3.3.1 Independent National Electoral Commission (INEC)

This is the primary institution responsible for overseeing the conduct of elections in Nigeria. Looking at the history of election in Nigeria as exhaustively expounded in

⁴⁵ Jeff Fischer, *Electoral Conflict and Violence: A Strategy for Study and Prevention* (IFES White Paper 2002) 2-36.

chapter two of this study, the origin of this institution is traced to the time before Independence, at a time when Nigeria as a colony under the British rule was preparing for the 1959 election, in anticipation of self governance in 1960. Thus, In 1959, the body responsible for conducting elections was the Electoral Commission of Nigeria (ECN).⁴⁶

In the First Republican system of Nigeria, the Electoral Commission of Nigeria was renamed the Federal Electoral Commission (FEC) under the administration of late Sir Abubakar Tafawa Balewa.⁴⁷ The Commission conducted the controversial General Elections of 1964 and the Western Regional election of 1965.⁴⁸ The election held in 1965 in the Western Region is said to be one of the worst elections ever conducted in Nigeria.⁴⁹

In contemplation of the 1964 General election, the political parties in Nigeria formed two major alliances. On one hand was the UPGA, and on the other hand, there was the Nigerian National Alliance (NNA) in August 20 1964. This two major political party contested the 1964 general elections. However, the election saw a great number of irregularities during the campaign period. Unconventional methods of nominating candidates for the election were alleged when the Federal Electoral Commission declared the nomination of candidates open. The failure of the UPGA candidates to get nomination papers was reported, and further allegations was that some electoral officers hid themselves from UPGA candidates that wanted to file their nomination papers. Cases of violence and kidnapping in the Northern and Western Regions were also alleged. The result of all of these was that in December 21, 1964, 78 candidates of

⁴⁶ Abubakar Sodeeq Suleiman and others, 'The Historical evolution of Nigeria's present model of election and its unique features' *IEEE-SEM*(2021) (9) (8) 185-193.

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ Oyeleye Oyediran and others, *New Approach Government* (Revised edn 2009, Longman Nigeria Plc).

which members of NNA were the majority had been returned unopposed. During this time, the then chairman of the FEC, Mr. Eyo, in a broadcast had admitted that there were irregularities concerning the nomination of candidates.⁵⁰ Eventually when the election started on December 30, 1964, the UPGA boycotted it. Similarly, the western region election of 1965 was met with numerous electoral irregularities. One of which was the instances where the UPGA could not file their nomination papers in some areas because electoral officers abandoned their posts to avoid receiving the nomination papers, and in areas where the UPGA managed to file their nomination papers, the NNNDP candidates were still found to be unopposed for some reason. Because of all of these instability of civilian rule and the lack of electoral credibility, the country plummeted into military rule in 1966, which lasted for 13 years before eventually returning to a Republican state in 1979.

In 1979, a new commission called the Federal Electoral Commission (FEDECO) was created under the regime of General Olusegun Obasanjo. and was then headed by Chief Michael Ani. The election conducted by FEDECO ushered in the Second Republic which brought in Alhaji Shehu Shagari as president elect. The presidential election held in that year (1979) is said to be the most controversial election ever held.⁵¹ This was because no candidates was able to win 25% in two-thirds of the states of the Federation. While the calculation provided by FEDECO was accepted by the NPN, it was refused by the UPN and the results were therefore petitioned. However the NPN was declared winner by judicial interpretation in the case of *Awolowo v Shagari*⁵² of the meaning of 25% of two-third majority of states. This commission also conducted the 1983 election, and like all the elections before it, there were also great allegations of traces of large

⁵⁰ Johnson Ugoji Anyaele, *Comprehensive Government* (3rd edn, A Johnson Publishers Ltd 2003)184-191.

⁵¹ *ibid.*

⁵² *Chief Obafemi Awolowo v Alhaji Shehu Shagari & 2 Ors* (1979) All NLR 105.

scale rigging, especially pertaining to the gubernatorial election where the NPN won 10 states.

On assumption of office on 27th August 1985, General Babangida made a commitment for a return or transition to civil rule.⁵³ To this end the National Electoral Commission (NEC) was established, and it was responsible for conducting the elections held in 1993. in local levels, state levels and that of the national assembly. However, the presidential election in June 1993 was annulled, and thousands of lives were lost due to poor management of the elections.⁵⁴ The result of this was another military usurpation of governmental powers in 1993 by Abacha.

Again the National Electoral Commission of Nigeria (NECON) was formed replacing the former body responsible for overseeing the affairs of the Nigerian electoral process under the new regime. Soon after, General Abdusalami Abubakar recreated the electoral commission, and renamed it the Independent National Electoral Commission (INEC).⁵⁵ A presidential election was held on February 27, 1999, and General Olusegun Obasanjo, a member of the People's Democratic Party (PDP) won that election. He was inaugurated on May 29, 1999, and this election under the Fourth Republic was a major milestone in the Nigerian democracy.⁵⁶

It becomes important to state that the Independent National Electoral Commission (INEC) was established by virtue of the current Nigerian Constitution.⁵⁷ It also conducted elections in April 19, 2003, and Olusegun Obasanjo (PDP) was re-elected for

⁵³ Abubakar (n 46).

⁵⁴ Ugo Jim-Nwoko, 'Nigerian Election: A History and Loss of Memory' *Cable Media and Publishing Ltd* (Abuja, 18 May 2019) <<https://www.thecable.ng/nigerian-elections-a-history-and-a-loss-of-memory/>> accessed 23 September 2025.

⁵⁵ Abubakar (n 46).

⁵⁶ The Electoral Hub, 'A Brief History of Elections in Nigeria' *The Electoral Hub Research Papers* (Abuja, February 2022) 1-25.

⁵⁷ CFRN 1999 (as amended), s 153(f).

a second term.⁵⁸ This election as alleged, was massively rigged by the PDP and tended to destroy the growth and emergence of opposition parties in Nigeria's democracy.⁵⁹ The current commission (INEC) has conducted elections in 2007, 2011, 2015, 2019 and 2023 respectively. It has deployed various technology devices in the conduct of elections from the 2011 election to the 2023 elections which saw increase in the adoption of electoral technology.

From 1959, Nigeria has conducted 12 elections under the various electoral commissions. However as we see from the expositions above that it has failed to attain credible elections. In light of current realities concerning elections in Nigeria, it is clear that INEC is faced with many challenges. The consistent reliance on the traditional means of voting via ballot boxes and papers has proved inadequate. It merely leads to delays and queue up in elections as well as violence and loss of lives by thugs who risk their lives in trying to loot these boxes. More danger is met by innocent citizens that come out to vote, in that they get caught up in these thuggery and violence. The situation becomes one where citizens fear for their lives and risk danger when contemplating coming out to vote in an election. As a means to reducing if not completely eliminating electoral irregularities, this study emphasizes the need for mass adoption of technology unlike never before in all process of elections. Details on the recommendations on resolving electoral irregularities is discussed in chapter 5.

3.3.2 Election Tribunals

Electoral tribunal as well as appellate courts are set up to resolve electoral disputes when it arises. To this end, the constitution vest judicial powers on the courts system⁶⁰

⁵⁸ Media Nigeria, 'History of Nigeria Elections' *Media Nigeria* (Lagos, 26 April 2018).

⁵⁹ Ugo (n 54).

⁶⁰ CFRN 1999 (as amended), s 6(1).

in Nigerian in interpreting the law and resolving disputes between individuals, and between individuals and the state. Election disputes are no exception to this. Thus, the constitution provides that only the court of appeal shall have original jurisdiction to determine election petition as it concerns the office of the president or vice president.⁶¹ Generally, the constitution provides for an election tribunal for the States and for the Federal Capital Territory, which have original jurisdiction to determine election petitions.⁶²

Furthermore, the Act provides that no election or return at an election shall be questioned unless via a competent court or tribunal, and that tribunal or court means the court of appeal in case of presidential election or any election tribunal duly established under the Act and the Constitution.⁶³ However it should be stated that it was provided in the case of *Buhari v. Obasanjo*⁶⁴ that the court of appeal does not sit as a tribunal in the determination of an election petition regarding presidential elections. Similarly, the Act also makes provision for an Area Council tribunal.⁶⁵

3.3.3 Security Agencies

In light of the realities of conducting elections in Nigeria, it is only logical that ensuring security of voters is emphasized in the electoral system. It is one of the primary duties of state to proceed security for its citizens as provided in the Constitution.⁶⁶ Furthermore, it vests the functions of the defense of the country and its citizens on the armed force, and it performs all other actions prescribed by an Act or the National Assembly.⁶⁷ It is

⁶¹ *ibid*, s 239(2).

⁶² *ibid*, s 285(1).

⁶³ Electoral Act, 2022, s 130(1-2).

⁶⁴ *Buhari v Obasanjo* (2003) 17 NWLR (Pt 850) 423.

⁶⁵ Electoral Act, 2022, s 131(1).

⁶⁶ CFRN 1999 (as amended), s 14(2)(b).

⁶⁷ *ibid*, s 217(2).

by virtue of these provisions that the Act and the Constitution deploy various security agencies in citizens protection and conducting a smooth election.

The Constitution puts the police force at the forefront of security agencies in the conduct of elections in Nigeria.⁶⁸ They are responsible for ensuring order in the various polling units and collation centers. They do this by carrying out the directions of the presiding officer. Other agencies includes the Army, Department of State Services (DSS), Nigeria Security and Civil Defense Corps (NSCDC), National Intelligence Agency (NIA), all of which play significant roles before elections, during elections and after elections.⁶⁹

The INEC Regulations and guidelines provides that the primary role of security agents *inter alia*, is to prevent violence or any threat to disrupt the elections; to ensure security and safety of all election personnel and materials; upon the precision by the presiding officer, to arrest any person disturbing the proceedings at the polling unit; organize the queuing at the polling units; escort the predating and collation officer upon delivery of ballot boxes and election results, etc.⁷⁰ The returning or collation officer is authorized to request the assistance of a security officer to remove any person who disrupts the conduct of election.⁷¹

It is however important to state that it questionable if the duties of the security agencies are duly performed in that cases of electoral violence, looting, voters vulnerability etc. These electoral irregularities are still increasingly present in elections in Nigeria, thus emphasizing the relevance of this study in utilizing electoral technology in eliminating said irregularities.

⁶⁸ *ibid*, s 214(1).

⁶⁹ ZO Alayinde, 'An Examination of the Institutional Framework of Administration of Election in Nigeria' *Journal of Law, Policy and Globalization* (2016) (45) (1) 214-226.

⁷⁰ INEC Regulations and Guidelines for the conduct of Elections 2022, para 104.

⁷¹ *ibid* para 98.

3.3.4 Civil Societies

Civil societies organizations (CSO) are known as the third aspect of the society that is different from the government and business.⁷² By virtue of the Constitution,⁷³ every person is entitled to freedom of association and assembly. They are free to form any union, political party or other type of association to protect their interests.⁷⁴ Furthermore, it also provides for the freedom of expression; to hold opinions, and to receive and impart information/ideas without interference.⁷⁵ Again, the Constitution further provides that the press and other agencies of the mass media are entitled to hold the government accountable to the people and direct their attention to affected areas of the society.⁷⁶

These provisions are the most important basis for which civil societies like the Transition Monitoring Group (TMG), YIAGA Africa, Centre for Democracy and Development (CDD) etc, can be formed to pursue electoral integrity and hold government accountable. Furthermore, INEC Guidelines provided for the recognition of election observers both national and international.⁷⁷ These are usually in form of the media and civil societies. It provides *inter alia*, that accredited media organizations and foreign and domestic observers have access to distribution and collation centres, polling units, and polling station.⁷⁸

The primary function of civil society is that they function as election observers and watch-dog to political parties, voters and electoral institutions. They are seen as observers of election, actively paying attention to all the stages of elections like the distribution of election materials, conduct of the voting, sorting and counting of ballots,

⁷² ZO Alayinde (n 69).

⁷³ CFRN 1999 (as amended), s 40.

⁷⁴ *ibid*.

⁷⁵ *ibid*, s 39(1).

⁷⁶ *ibid*, s 22.

⁷⁷ INEC Rule and Guidelines for the Conduct of Elections 2022, para 103.

⁷⁸ *ibid* para 101(v) and (vi).

collation of results and announcement and declaration of results.⁷⁹ They advocate for credibility at Polling units by calling the attention of the commission to any irregularities.⁸⁰ They ask questions where necessary⁸¹ and criticize unfair practices.⁸²

Civil societies also acts as advisory bodies to all governmental institutions in the electoral system.⁸³ Furthermore, they take active steps in curbing voters apathy by carry out programs and seminars for enlightening voters on relevance of participating in the electoral processes.⁸⁴ In essence CSO play a crucial role in the electoral system, and they sometimes work with the electoral commission in debating best practices and strategies in attaining free and fair elections.

3.4 Electoral Technology in The 2023 Presidential Election

The National Assembly, and presidential election were held on 25th February 2023,⁸⁵ while the state governors and House of Assembly elections was scheduled 11th March but was held on the 18th March of same year. This postponement was because of the judgment obtained by INEC for the reconfiguration of the BVAS machines.

Following the new Electoral Act,⁸⁶ which provides that the commission shall provide electronic voting machines and devices for the conduct of elections, INEC introduced new set of technologies in the 2023 general elections, that varied from previous electoral technologies.⁸⁷ Thus, INEC introduced a three in one device, which includes

⁷⁹ Para 103(I), INEC Rule and Guidelines for the Conduct of Elections, 2022.

⁸⁰ *ibid*, para 103(ii).

⁸¹ *ibid*, para 103(iii).

⁸² ZO Alayinde (n 69).

⁸³ *ibid*.

⁸⁴ *ibid*.

⁸⁵ INEC, *2023 General Election Voting Procedures* (Independent National Electoral Commission, 2023) 1-7.

⁸⁶ Electoral Act 2022, s 41(1).

⁸⁷ Toba Paul Ayeni and others, 'The Role of Technology in Nigerian Election 2019 and 2023 Genral Elections' *Global Scientific Journals* (2023) (11) (12) 267-280.

IVED, BEVAS, and IReV.⁸⁸ IVED means INEC voters enrollment device. This was used at the registration stage of voters, for registering all eligible voters and capture of biometric. BEVAS means Bimodal Voters Registration, which was used at the various polling units on election day, for accreditation of voters via fingerprints or facial recognition.⁸⁹ The same device was further used to scan and send election results to the INEC viewing portal known as IReV.

Concerning IVED, a voter provides their photograph and basic information which were linked to INEC's main database. Thereafter, a biometric capture was scheduled for each voters, and once the biometric capture was done, this information was also saved and a slip was generated automatically, which was used to collect permanent voters card (PVC) at INEC offices ahead of election day. Furthermore, voters could utilize the platform for functions like voter transfer from one polling units to another, by using facial authentication. It was also used by voter to report loss of permanent voters card and the replacement thereof. In essence, IVED was primarily used pre-election day.

On election day, all voters present were guided to the accreditation desk, after presenting their PVCs.⁹⁰ Thereafter, BVAS was used to ensure that only eligible voters who have their PVCs' and whose names appear on the register of voters in that polling unit are allowed to vote at said polling unit. This is done by the presiding officer who uses the last six digits of the voters identification numbers (VIN), the surname of voters, coupled with the barcode on the permanent voters card, or QR Code on the Electronic Voters Register (EVR), to look up the names of voters on the BVAS. Then, an authentication check is made by scanning faces and fingerprints of voters. If the BVAS machine fails to recognize a voter via their fingerprints as well as facially, then they are

⁸⁸ *ibid.*

⁸⁹ *ibid.*

⁹⁰ INEC, *2023 General Election Voting Procedures* (Independent National Electoral Commission, 2023) 1-7.

not allowed to vote. However, where they are duly verified, a ballot paper that is stamped, dated and signed is issued to them. It a device that updates itself automatically, as accreditation is ongoing, thereby preventing manipulations. BVAS was a replacement to the Smart Card Reader (SCR) used in previous elections. The SCR used in the 2015 election witnessed high rate of failure in verification of fingerprint of voters. Similar reports were made in the 2019 election, though at a lesser rate than the 2015 election because of the upgrade in the SCR devices. Thus BVAS was introduced to solve the issue of accreditation, and to meet the statutory requirements of voters accreditation⁹¹ and result transmission.⁹²

After the ballot paper has been issued to a voter as already stated above, voters are to ensure that ink does not smear other areas of the ballot paper, so their votes are not rejected.⁹³ Thereafter, they enter the voting cubicle to mark their choice of party and candidate on the ballot paper in secret. The voters proceeds further to drop their marked ballot paper into the ballot box which is placed in full view of all present in accordance with the provisions of the Act.⁹⁴ Furthermore, BVAS was used to upload election result, and sending same electronically as directed by INEC. In essence, BVAS was primarily used on election day for the confirmation of the identity of voters, via fingerprints or facial recognition, and also for result transmission.⁹⁵

Once the voting in the polling units has been completed, the presiding officer electronically transfers the results, by scanning form EC8A which contains the scores of each candidates, and sending same to IReV, which is known as INEC's viewing portal.

⁹¹ Electoral Act, 2022, Section 41.

⁹² Independent National Electoral Commission (INEC), Rules and Guidelines for the Conduct of Elections 2022, Para 38.

⁹³ *ibid*, para 26.

⁹⁴ Electoral Act 2022, section 46(2).

⁹⁵ INEC (n 90).

Regarding collation of results, INEC, together with the International Foundation for electoral System (IFES), used a Collation Support and Results Verification System (CSRVS). The collation officer manually enters figures into form EC8A and uses Microsoft Excel for CSRVS. After which, the CSRVS officer and collation officer verify the calculations.

It is important to note that before the election day, INEC conducts a pre-testing process to ensure the functionality of these devices, and also to ensure that staffs and officers on election day would have known how to use these machines for accreditation of voters. This process makes for a smooth transition of the whole election process to the final stage of declaration of results.

So the exposition above shows how electoral technology was used in the 2023 election. However, regardless of the optimism shown by the Nigerian citizens and INEC on the belief that electoral technology would be a game changer in Nigeria's electoral system, the manner in which the technology was used during election stage has drastically weakened public perception of credibility of the electoral process.⁹⁶

On the election day, it was only in 36.7% of cases, that officials of INEC were present at polling units before 8:30 (the time at which the election was to start).⁹⁷ according to Centre for Democracy and Development-Election Analyst, 32.5% of INEC officials arrived an hour or more after the scheduled voting time.⁹⁸ In other cases, they arrived shortly before 14:30, which is the time polls for the official close of voting at the various polling units.⁹⁹

⁹⁶ CDD-EAC Analysts, 'Understanding the 2023 Presidential and National Assembly Elections' *Centre for Democracy and Development-Election Analyst* (Abuja, 2 March 2023) 1-15.

⁹⁷ *ibid.*

⁹⁸ *ibid.*

⁹⁹ *ibid.*

When voting began, despite the training given to INEC's ad-hoc staff, technical issues were reported by election observers, who witnessed BVAS machines malfunctioned.¹⁰⁰ This was recorded by 42.7% of observers in northeast areas, while 28.7% in the northwest.¹⁰¹ again, instances of accrediting voters were recorded with the BVAS machine even though said voters were not verified with the BVAS machine.

The irregularities in these devices lead to delays for voters queuing to vote. An example of this was seen in Ile-Bale polling unit in Ajase-Ipo ward, Irepodun local government area (LGA), Kwara state, where prospective voters waited for more than three hours due to these malfunctions in BVAS machines.¹⁰² other persons unable to vote, left the polling unit after waiting for several hours.

Regarding IReV, issues on result transmission and access by the public. These issues were due to technical glitches. at 21:00, it was reported that there were no results uploaded to IReV for presidential election. This eventually lead to allegations that the IReV and BVAS machines were deliberately manipulated to disrupt the presidential election process.¹⁰³

There were instances of insecurity in all the six geopolitical zones, coupled with fuel and Naira scarcity, all of which promoted tension in the 2023 elections. Another issue was ethnic disunity, which was predominant in shaping the preferences of voters.

The Presidential election result declared by INEC showed that 24,055,878 valid votes were cast out of the total 93,469,008, registered voters. Asiwaju Bola Ahmed Tinubu of the All Progressive Congress scored 8,794,726 votes. Alhaji Atiku Abubakar of the Peoples Democratic Party (PDP) scored 6,984,520. Peter Obi of Labour Party (LP)

¹⁰⁰ *ibid.*

¹⁰¹ *ibid.*

¹⁰² *ibid.*

¹⁰³ *ibid.*

scored 6,101,533 votes. While Rabiun Kwankwaso of NNPP scored 1,496,687 votes. The candidates of the APC, PDP, and LP, won 12 states each, while Rabiun Kwankwaso of the NNPP won only Kano state. In all, Tinubu attained 25% of the votes cast in 29 states, Atiku also attained 25% in 21 states, while Obi attained 25% in a total of 16 states.

3.5 Conclusion

The position of the law in the Nigerian electoral system is clear from the exposition above. In a bid to achieve electoral credibility, Nigeria has deployed various means to curb the cloud of doubt hovering its electoral system. The much anticipated 2023 election witness a surge of hope from the Nigerian citizens for a better future and trustworthy government, however just like the preceding elections, this too was met with series of waves of electoral malfunctions. The Act already mandates the display of ballot boxes in full view of all present, surely in light of the trajectory of electoral violence and political thuggery from prior elections, ballot boxes will be looted by those who risk their lives at the instance of having clashes with security agencies, and innocent citizens who come out to perform their civic duties of voting end up in the cross fire. There are bound to be delays from queuing to vote as evidenced in the 2023 election and prior elections. There are bound to be error from manual calculation which results in vote manipulations. Thus making use of electoral technologies as that seen in jurisdiction like Estonia as will be discussed in chapter four, completely eliminates these election irregularities. If there is no need to queue up to vote, then voters lives will not be at risk. If there is no need for ballot boxes and papers, then there will be no violence and looting of ballot boxes. Details on the recommendations on achieving these results are provided in chapter five. However the next chapter (chapter four) provides a comparative analysis of electoral technologies in jurisdictions like Estonia and Namibia.

CHAPTER FOUR

COMPARATIVE ANALYSIS

4.1 Introduction

Internationally and locally, e-voting is now considered as one of the primary pillars of Estonia's digital republic.¹ Estonia is widely recognized as an international pioneer in digital governance, being one of the foremost countries to successfully carry out a nationwide internet voting system. A great number of political scientists have attributed Estonia's digital democracy system as a by product of technological development.² This chapter provides a comparative analysis on the electoral technologies in other jurisdictions like Estonia and Namibia, against the background of elections in Nigeria. The exposition focuses on Estonia's and Namibia's electoral framework. It looks at the various electoral technologies currently used in elections in Estonia and those previously used in elections in Namibia, and also provides the legal basis for its use. This analysis is geared towards achieving electoral integrity in Nigeria, as the lessons taken from Estonia's and Namibia's experience will later inform certain recommendations to be applied in Nigeria in the proceeding chapters.

4.2 Legal Framework of Estonia's Electoral System

Estonia operates a parliamentary democratic system, with the *Riigikogu* as the primary legislative body. The National Electoral Committee (NEC) as well as the State Electoral Office, are responsible for conducting elections in accordance with the relevant laws. Estonia as a country has its capital in Tallinn, with a population estimated to be over 1.3

¹ Aro Velvet, 'Free to Choose: E-voting, Infrastructure and the Origins of Estonia's Digital Republic' *Contemporary European History* (Cambridge, 21 April 2025) 1-18.

² *ibid.*

million people. It is recognized worldwide as one of the most digitally developed democracies in the world. The electoral system of Estonia entails the conduct of elections at the supranational level, which entails the conduct of European parliamentary elections. It also conducts elections at national level, which entails firstly, the conduct of elections for the *Riigikogu* as the main legislative body of the country, secondly it covers elections for the President, and thirdly for local councils. Hence it is governed by the 1992 Constitution of Estonia,³ the *Riigikogu* Act,⁴ the European Parliament Election Act,⁵ President of the Republic Election Act,⁶ the Local Government Council Election Act,⁷ and other legislations.

According to the constitution of Estonia, the ‘Supreme political authority in Estonia is vested in the people who, through citizens eligible to vote, exercise it in elections of the *Riigikogu*; and in referendums.’⁸ Furthermore, the *Riigikogu* is a unicameral legislature constituted of one hundred and one members, who are elected in accordance with the principles of proportional representation.⁹ Elections in Estonia are general, uniform and direct, and voting is done secretly.¹⁰ A citizen of Estonia can stand in an election of the *Riigikogu* if they have attained the age of 21 and are eligible to vote. Regular elections of the *Riigikogu* are to be held on the first Sunday of March of the fourth year counting from the year of the preceding election of the *Riigikogu*.¹¹

³ Constitution of the Republic of Estonia 1992(as amended), RT I, 26 349, Subsequently referred to as the Constitution of the Republic of Estonia 1992 (as amended) .

⁴ Riigikogu Election Act RT I, 2024, 07 05.

⁵ European Parliament Election Act RT I, 2003, 4 22 .

⁶ President of the Republic Election Act RT I, 1996, 30, 595.

⁷ Local Government Council Election Act, RT I 2002, 36, 220.

⁸ Constitution of the Republic of Estonia 1992 (as amended), Article 56.

⁹ *ibid*, Article 60.

¹⁰ *ibid*.

¹¹ *ibid*.

The Constitution also states that the procedure for the conduct of elections of the *Riigikogu* are provided in the *Riigikogu* Election Act.¹² The mandate of members of the *Riigikogu* starts on the very day the election results are announced, and the mandate of members of the preceding *Riigikogu* is terminated on the same day.¹³ Again voting in the *Riigikogu* is open, and secret ballots are taken only for election/appointment of officials in the instances provided in the Constitution or the *Riigikogu* Rules of Procedure Act.¹⁴ Under the Estonian electoral system, voters vote for a candidate that is listed under a political party, and parliamentary seats are proportionally allocated based on the total number of votes received by each party. Local government councils are also elected every four years, while European Parliament elections are held every five years since Estonia's accession to the European Union in 2004. Members of the local authority are to be elected for a term of four years, the election is uniform, general and voting is done secretly.¹⁵

The President of Estonia is elected by the *Riigikogu*.¹⁶ this is done via secret ballot in the *Riigikogu*, and each member is entitled to one vote. In order to win, a candidate must have secured two-thirds majority.¹⁷ In instances where no candidate attains this in three rounds of voting, the two leading candidates proceed to a third round to secure said two third majority of votes. If it is still not attained by any candidate, an Electoral College is convened within one month to elect the President.¹⁸ it noteworthy that the right to nominate a candidate for the election of the President is done with not less than one-fifth of the members of the *Riigikogu*.¹⁹ By virtue of Article 78,²⁰ the president

¹² *ibid.*

¹³ *ibid.*, Article 61.

¹⁴ *ibid.*, Article 72.

¹⁵ *ibid.*, Article 156.

¹⁶ *ibid.*, 79.

¹⁷ *ibid.*

¹⁸ *ibid.*

¹⁹ *ibid.*

being the head of state of Estonia can call regular elections of the *Riigikogu*, and also call for an extraordinary election of the *Riigikogu*, pursuant to Article 89, 97, 105 and 119 of the Constitution. These early elections are held before the expiration of the normal four-year. They are elections held due to political or constitutional crises. The president is to stay in office for a five year term and may be re-elected for a second time, making it two tenure.²¹ The president is to be elected 60 days before the end of his tenure but must not go beyond ten days before his tenure ends.²² The procedure for the election of the President of Estonia is provided in the President of the Republic Election Act.²³

The Constitution and *Riigikogu* Act of Estonia places the legal voting age at 18 years,²⁴ save persons of unsound mind,²⁵ and persons serving a sentence in a penal institution.²⁶ This applies to national and European elections, however, as at 2017, persons in the age of 16 and 17 are now eligible to participate in elections in local government elections, following the constitutional amendment made in 2015. Voter registration in Estonia is not done manually. This is because the list of eligible voters accrues from the population register, and acts as the official civil registry. Thus voters are registered based on the information entered in the population register, which includes name, date of birth, personal identification code, information of citizenship and divestment of active legal capacity, residential address and place of stay.²⁷ Thereafter, the list of total number of voters is compiled by the controller of the population register and is sent to the SEC.²⁸

²⁰ *ibid*, Article 78.

²¹ *ibid*, Article 80.

²² *ibid*.

²³ *ibid*, Article 79.

²⁴ *ibid*, Article 57; *Riigikogu* Election Act 2002, Section 4.

²⁵ Constitution of the Republic of Estonia 1992 (as amended), Article 57.

²⁶ *ibid*, Article 58.

²⁷ *Riigikogu* Election Act 2002, Section 20.

²⁸ *ibid*, Section 22.

This list is accessible to both the voters and representatives of political parties.²⁹ In the instance where a voter finds the need for correction on any information concerning them on the list, they may make an application for any such correction.³⁰ The voters are entitled to notification on voting possibilities not more than ten days prior to the election, which is sent electronically by the controller of the population register.³¹

A political party that is participating in the *Riigikogu* election, nominates their candidate before the 45th day prior to the election, and then they submit an application for the registration of candidates, as well as the list of candidates at the national level and all electoral district, they also submit a copy of order of the payment certifying payment deposits and an application to stand as candidate, all of which are submitted to the SEC.³² The political parties sends a written notice to the SEC after nominating their candidate.³³ The SEC then generates the PIN, and sets out the name, telecommunication number and address of said candidate.³⁴ Furthermore, any person who has the capacity to stand as a candidate may stand as an independent candidate after nominating themselves.³⁵ All persons standing as candidate either as an independent candidate or under a political party must submit to the SEC, their names, PIN, residential address, telecommunication numbers, contact details, place of work and positions held thereof, as well as their academic information.³⁶

As already stated, the National Electoral Committee is responsible for conducting elections in Estonia, and they are to operate for a term of four years.³⁷ It is responsible for determining results of elections across the country, to supervise the functions of

²⁹ *ibid*, Section 23.

³⁰ *ibid*, Section 24.

³¹ *ibid*, Section 21.

³² *ibid*, Section 30.

³³ *ibid*, Section 26.

³⁴ *ibid*.

³⁵ *ibid*, Section 27.

³⁶ *ibid*, Section 28.

³⁷ *ibid*, Section 10.

election managers, and to resolve complaints arising from elections.³⁸ NEC has the power to annul the results of electronic votes and order another voting be made.³⁹ The NEC works hand in hand with and supervise the activities of the State Electoral Office,⁴⁰ in ensuring the general success of every election. While NEC plays the primary decision making and supervisory role, the SEC plays the executive role by carrying out the conduct of the election itself and ensuring its uniformity throughout. The SEC *inter alia*, is responsible for ensuring that elections are in compliance with the relevant laws, it organizes electronic voting and its ascertainment thereof, it also supervises the functions of election managers, and is responsible for providing election equipment and the training of election managers.⁴¹ The SEC drafts the budget for the election and upon approval by the National Electoral Committee, they distribute the funds to the various municipalities for the purpose of conducting elections.⁴² They operate the hardware and software for generating encrypted keys for electronic voting.⁴³ They include competent persons to develop and administer election information and voting systems, as well as providing cyber security measures in ensuring a smooth transition of the election.⁴⁴

Thus the agencies responsible for managing elections in Estonia are the State Electoral Office, Rural Municipalities and City Secretaries responsible for municipal council elections, Vote Counting Committees and Voting District Committees.⁴⁵ The *Riigikogu* election is held in 12 designated district. In essence, the system is structure to the extent that NEC supervise the SEC, while the SEC gives instructions to election mangers

³⁸ *ibid*, Section 9.

³⁹ *ibid*.

⁴⁰ *ibid*, Section 14(5).

⁴¹ *ibid*, Section 15.

⁴² *ibid*.

⁴³ *ibid*.

⁴⁴ *ibid*, Section 18.

⁴⁵ *ibid*, Section 13.

and municipal authorities, then the municipal authorities gives instructions to the committees of voting districts and counties. Voting starts at 9:00 and ends at 20:00.⁴⁶ Voting boot,⁴⁷ ballot papers⁴⁸ and ballot boxes⁴⁹ are provided for those who want to vote manually. A member of the district committee gives ballot paper to the voters after checking the list of voters.⁵⁰ The voters complete the ballot paper in the boot for voting, and hands it to said member of the district committee who then puts a seal of the committee on it.⁵¹

Every person is entitled to observe the procedures of the election, and may put in writing the numbers of security devices that was used in sealing the election equipment.⁵² However, they are to introduce themselves before the proceeding with the observation, and they are not to interfere with the votes of citizens and the work of the NEC.⁵³

Regarding electronic voting, the NEC provides schemes for electronic identification of voters as well as technical requirement for internet voting.⁵⁴ The SEC makes sure the system is up to date, to ensure that only those with the right to vote can vote, and that all votes cast are correctly stored or properly canceled respectively.⁵⁵ The SEC organizes a public testing of the electronic voting systems. It approves the protocol suite for electronic voting, guidelines and results of test voting of systems of electronic voting, and thereafter publish a report of said results.⁵⁶ The SEC also provides auditors for auditing the test voting of electronic voting systems. They also ensure that they act in

⁴⁶ *ibid*, Section 38.

⁴⁷ *ibid*, Section 35.

⁴⁸ *ibid*, Section 37.

⁴⁹ *ibid*, Section 36.

⁵⁰ *ibid*, Section 39.

⁵¹ *ibid*.

⁵² *ibid*, Section 19⁴.

⁵³ *ibid*.

⁵⁴ *ibid*, Section 48².

⁵⁵ *ibid*.

⁵⁶ *ibid*.

accordance with electoral laws and electronic voting documents.⁵⁷ The SEC is to ensure that the electronic voting systems are usable in not more than ten days before the election.⁵⁸ The SEC creates an application for voting and verification for operating systems (mobile operating systems included).⁵⁹ it configures the application for voting and verification, and publicly provides an encryption key for electronic votes encryption and decryption of votes. This key is then made accessible to the members of the NEC and SEC.⁶⁰ it also provides necessary data for the integrity and authenticity of election website.⁶¹

The electronic voting machine is comprised of components that allows voter to chose their candidate via the voter application, that provides encryption and digital signature.⁶² It also include components that allows voter verification, and processors for electronic votes and verification of digital signature.⁶³ It provides for the annulment of duplicate votes, as well as ensure anonymity of voters.⁶⁴

The first procedure for voting electronically is going through voter identification, which is done via prescribed digital identification documents or other prescribed electronic means.⁶⁵ Thereafter, a list of consolidated candidate is displayed to voters, upon which the voters select their preferred candidates.⁶⁶ The votes are then encrypted and is confirmed via a digital signature, and a confirmation of acceptance is issued to the voter.⁶⁷ Encryption ensures secrecy of voters by making sure that the voter is

⁵⁷ *ibid.*

⁵⁸ *ibid.*, Section 48³.

⁵⁹ *ibid.*

⁶⁰ *ibid.*

⁶¹ *ibid.*

⁶² *ibid.*, Section 48⁴.

⁶³ *ibid.*

⁶⁴ *ibid.*

⁶⁵ *ibid.*, Section 48⁵.

⁶⁶ *ibid.*

⁶⁷ *ibid.*

anonymous and it is impossible to know who the voter has voted for.⁶⁸ Thus the logs of the voters are not known, and those logs that are not anonymous are destroyed. The vote is done in a way that in instances where a voter votes more than once, they cannot prove which electronic vote is taken into account.⁶⁹ Again, it is organized in such a way that any link between the voter and the opened vote cannot be proved.⁷⁰

For security, the electronic voting is made to comply with the cybersecurity Act, the algorithm of the system is made up to date, pre testing activities are carried out as well, and a system auditor is present throughout the whole process.⁷¹ The authenticity of the vote results is verified based on cryptographically mixed votes.⁷² To verify the integrity of electronic votes, an information systems auditor carries out a process and data audit, which verifies creation of vote-opening key, vote testing, and transfer of the electronic ballot boxes to the SEC.⁷³ Voting for voters temporarily and permanently residing in the foreign state is carried out by the foreign missions of Estonia.⁷⁴ section 52 provides for voting by post.

Concerning the ascertainment of votes, more than half of the total members of the district committee must be present before manual votes are opened, and all non issued ballot paper are destroyed, thereafter the numbers of votes cast are ascertained and recorded.⁷⁵ Where a ballot paper has two seals or registration number; or no registration number; or where said number is not found in the district where the voting is carried out; or where said number has been corrected or illegible, then it will be declared invalid.⁷⁶

⁶⁸ *ibid.*

⁶⁹ *ibid.*, Section 48⁶.

⁷⁰ *ibid.*

⁷¹ *ibid.*, Section 48⁷.

⁷² *ibid.*

⁷³ *ibid.*

⁷⁴ *ibid.*, Section 49.

⁷⁵ *ibid.*, Section 57.

⁷⁶ *ibid.*

Thereafter, the votes are transferred from the district committee to municipal or election committee. After all votes done by voters residing within and outside the country are determined, the votes are then ascertained publicly.

For electronic votes, all of internet votes are ascertained at the time 20:00 on the day of the election.⁷⁷ All votes are sent to the SEC who then invalidates all electronic votes that were changed by ballot papers, it discards earlier electronic votes cast and retains the last one, and also separates the personal information of all voters.⁷⁸ Then the SEC carries out audit and verification processes on it to ensure its authenticity, and not less than three persons must be present before the vote is counted.⁷⁹ The numbers of electronic voting participant and invalid votes are counted publicly, and it's immediately entered into the election information system.

Every voting district makes calculation on a simple quota. This is done by dividing the total votes by the number of available seats.⁸⁰ Then, a candidate who attains votes that is above or equal to said quota wins a seat.⁸¹ Any political party that gets at least 5% of the total national vote also wins additional seats.⁸² In every district, the total votes for a candidates of a political party are added up to determine how many seats that party gets, including the extra seats where their remaining votes are close to the quota,i.e. 75% at least.⁸³ Those seats that are not yet filled at the district level are shared among the qualifying parties nationwide via a modified formula, one that ensures that proportional representation is fair.⁸⁴ Candidates that are higher on the party list as well as those with

⁷⁷ *ibid*, Section 60¹.

⁷⁸ *ibid*.

⁷⁹ *ibid*.

⁸⁰ *ibid*, Section 62.

⁸¹ *ibid*.

⁸² *ibid*.

⁸³ *ibid*.

⁸⁴ *ibid*.

high personal vote shares are given priority for those compensation seats. Then the NEC finalizes, and announces the results publicly.⁸⁵

4.2.1 Evolution of Electoral Technology in Estonia

In late 1990s, two paramount decisions were made which later became the major pillars of the Estonian digital system.⁸⁶ This decision resulted in the creation of the X-Road data exchange middleware, and a national Public Key Infrastructure (PKI) together with a strong cryptographic authentication token, i.e. the Estonian ID-card.⁸⁷ Both of these were first deployed in early 2000s when Estonian government restructured their electoral laws to include the use of electoral technologies like internet voting systems. The government of Estonian declared the idea to use electronic voting in 2001, thereafter, a security analysis conducted in 2003. This lead to the country's national electoral committee to award a contract to a company Cybernetica in Estonia based in software development, for the development of an internet voting system.⁸⁸

In the tenth month of 2005, Estonia conducted its first local elections in a way that voters could cast their vote online. In 2007, the country took this procedure to the national level, where it made voting via the internet available in the country's parliamentary elections. By conducting a nationwide internet voting process in local government elections and parliamentary elections, it institutionalized voting over the internet, thereby becoming the first and only country in the world at the time, to provide online voting mechanism at the national levels.⁸⁹

⁸⁵ *ibid.*

⁸⁶ Piret Ehin and others, 'Internet voting in Estonia 2005–2019: Evidence from eleven elections' *Government Information Quarterly* (2022) (39) (4) 1-14.

⁸⁷ *ibid.*

⁸⁸ *ibid.*

⁸⁹ Aro Velmet (n 1).

In 2009, internet voting was used in local elections as well as in the European Parliament, where participation in electronic voting saw a 15.80% increase in local elections, and a 14.70% increase in European elections. It further saw a 24.30% increase in the 2011 Parliamentary election, and 21.20% in the Local government election of 2013. this increase continued from 2014 to the recent 2023 parliamentary elections in which 51.10% of the votes were cast online. Many political scientists have seen Estonia's digital democracy projects as a natural by product of technological progress, driven with the hope to increase voter turnout, attract younger voters, and make voting more convenient.

The primary factor that explains the success of Estonia's internet voting system is their system of digital identification; it is compulsory, universal and is linked to a physical identity card.⁹⁰ This ensures that every eligible voter can make authentications online, unlike other countries like Switzerland, where internet voting is carried out via passwords, which is sent through a postal system, or Norway, which relies on voters' mobile phone numbers for authentication. Estonia's voting infrastructure is built on an already trusted, compulsory and universal digital identity card which is recognized by law for carrying out all forms of electronic transactions, like voting, healthcare, banking, and tax filings. In other words, this digital ID card provides not only a secure gateway for accessing electronic services, but also a means for cryptographically verifying eligibility of voter. It is worthy of note that this whole system was not initially created through any grand policy, but rather came to be as a result of gradual evolution, through the combined efforts of business and corporate interests, reformers of public sector, and

⁹⁰ *ibid.*

computer scientists who together generally promoted electronic governance as a means for transparency, and administrative efficiency.⁹¹

The way the whole system work is that after voters casts their ballots online through the voter application, their choices are encrypted immediately,i.e. it is converted into a digital code which prevents it from being viewed or altered. Thereafter, the voters verifies their identity and authorizes their votes via their digital identification card and also with series of personal identification numbers (PIN), which serve as a legally recognized electronic signature. After it is submitted, this encrypted votes are then transmitted to the primary election server, where it is securely stored. From this point, the system checks whether the voter has also casted a vote via physical ballot. If this is the case, the physical vote takes precedence over the online vote. However, where no physical vote is made, the vote made online retains its validity. Before the votes are counted and decrypted, all information that can be used to identify the voters are removed by the system thereby ensuring the anonymity of voters. Thereafter, all ballots are decrypted via a private key that is stored in a hardware security module, and then added to the total result. For further transparency, voters can independently confirm whether their votes were properly received by the election server via an application used for verification. Furthermore, all votes are recorded into offline computers and audit trails are preserved, while ensuring that cryptographic keys are still protected.

Over the past two decades, internet voting has been made in five elections for national parliament, four European parliamentary elections, and five nation-wide elections at local levels.

⁹¹ Aro Velmet (n 1).

4.3 The Electoral System of Namibia.

The Republic of Namibia attained Independence on the 21 day of March 1990. According to georank statistical report, it has an estimated population of over 3.1 million people, thus amounting to 0.04% of the population of the world.⁹² It has its Capital in Windhoek, and English as its national language. Though it does not use electoral technology like internet voting used in Estonia, however it is the first country in Africa to use other forms of electoral technology like electronic voting machines (EVM) in its national elections.

4.3.1 Legal Framework of Namibia's Electoral System

The *grundnorm* is the Constitution of the Republic of Namibia (1990),⁹³ upon which the unitary system of government operated in Namibia gets its validity. The country is divided up into 14 regions. The regions are in turn subdivided into smaller constituencies. It operates the principle of separation of powers among its organs of government, i.e. the legislature, executive and judiciary. The Constitution is the primary source and bases for its electoral system. Thus, elections are conducted for the executive and legislative arm. It operates a bicameral legislation consisting firstly, of the National Assembly which is the main legislative body. This National Assembly is comprised of the principal legislative chamber and the lower house, which is made up of the president and his cabinets. Secondly, there's the National Council which has the upper house for regional representation. The country operates a proportional representation system, and the National Assembly has 96 seats predicated on election and additional 8 seats based

⁹² Georank, 'Namibia Population: Current Counter, Chart, Ranking' *Georank Org* (New York, 22 October 2025) <<https://georank.org/population/namibia#:~:text=The%20current%20population%20of%20Namibia%20is%203%2C141%2C364%20people%2C,by%20population%20and%20was%20ranked%20143rd%20in%202005>> accessed 8 October 2025.

⁹³ Constitution of the Republic of Namibia Act, 1990 (Act No 2), Subsequently referred to as Constitution of Namibia 1990 (as amended).

on appointment. The National Council is made up of 42 members, with three representatives from each of the 14 regions. There are also Regional Councils in each of the 14 regions, that carry out regional legislations, and also local authorities for the various towns and villages.

For the executive branch, the president who is elected via popular vote is not only the head of states but also the head of government for the Republic. The president in turn elects the cabinet members.

The relevant laws for the electoral system of Namibia is its Constitution, the Electoral Act,⁹⁴ and other subsidiary legislation. The body saddled with the responsibility of conducting election and all related election activities is its Electoral Commission (ECN).

It operates a multi party system with the South West Africa People's Organization being the dominant and ruling party since independence. The main opposition party is the Popular Democratic Movement (PDM), Independent Patriots for Change (IPC) and the Landless People's Movement (LPM). It also has other smaller and emerging parties. The provisions of the relevant statute regulating the Namibian electoral process are discussed hereunder.

The Constitution establishes the country as a sovereign state and vests all powers in the people who exercise their sovereignty via institutions of the state.⁹⁵ It designates its main organs as the executives, legislature and the judiciary.⁹⁶ A citizen that has attained age 18 can vote, and can stand as a candidate for public office at age 21,⁹⁷ save the

⁹⁴ Electoral Act, 2014, Act No 5 (as amended by the Electoral Act No 17 of 2023 and Act No 8 of 2024), Subsequently referred to as Electoral Act 2014.

⁹⁵ Constitution of Namibia 1990 (as amended), Article 1.

⁹⁶ *ibid.*

⁹⁷ *ibid.*, Article 17(2).

exceptions prescribed by parliaments like infirmity, unsound mind etc,⁹⁸ or those under the relevant laws.

The Constitution provides for the office of the president and the vice president, who are elected by universal, direct and equal suffrage.⁹⁹ A candidate is deemed president elect where he attains more than 50% of the total vote cast.¹⁰⁰ Where this is not attained by any candidate in the first ballot, a second is held between the two leading candidate with the most vote, and the candidate with the most vote in the second ballot is declared the winner of the election and the president thereof.¹⁰¹

The vice president upon appointment is to resign as a member of the National Assembly, to serve at the pleasure of the president and is to help the president in performing his/her duties.¹⁰² the vice president takes the oath contained in Article 30, where the president elect dies or fails to carry out their function for any reason.¹⁰³ A person may stand as candidate for presidential election if they are citizens of Namibia by birth or decent, and they are above 35 and eligible to be a member of the National Assembly. The procedure for the election of the president and any matter incidental to it, is prescribed by an Act of Parliament.¹⁰⁴ In instance where the National Assembly is dissolved by the president under Article 28, an election for president is held not more than 90 days from the date of the dissolution.¹⁰⁵ However, the president continues to functions as the president pending the election. The president can also be removed if two third majority of the National Council makes a resolution of impeachment.¹⁰⁶

⁹⁸ *ibid*, Article 17(3).

⁹⁹ *ibid*, Article 28.

¹⁰⁰ *ibid*.

¹⁰¹ *ibid*.

¹⁰² *ibid*.

¹⁰³ *ibid*.

¹⁰⁴ *ibid*.

¹⁰⁵ *ibid*, Article 29(5).

¹⁰⁶ *ibid*, Article 29(2).

An election for members of the National Assembly is done based on the principle of proportional representation.¹⁰⁷ The tenure for a member of the National Assembly is 5 years, and the National Assembly may be dissolved by the president under relevant provisions,¹⁰⁸ i.e. in instances where the government is unable to function effectively.¹⁰⁹ The National Assembly is composed of 96 members who are elected by registered voter via secret and direct ballot.¹¹⁰ Every Namibian citizen that is eligible under Article 17 can vote in an election into the National Assembly, and may stand as candidate for said election if they are eligible under Article 47.¹¹¹ Members of the National Assembly referred to in this Article are elected via the procedures prescribed by parliament.¹¹² A person cannot stand as a candidate for National Assembly if they have been convicted within and outside Namibia (for act that are also classified as criminal or offensive in Namibia) for more than twelve months without the option of fine, unless via a pardon by the president or in instances where their imprisonment is more than 10 years preceding the date of the election.¹¹³

The National Council is created under Article 68 of the Constitution of Namibia (as amended). It is comprised of 3 members from each of the 14 regions, who are elected by the Regional Councils from among their members,¹¹⁴ in accordance with the procedure stated by parliament. Members of this body hold office for 5 years, subject to re-election upon death or expiration of terms via procedures prescribed by parliament.¹¹⁵

¹⁰⁷ *ibid*, Article 49.

¹⁰⁸ *ibid*, Article 50.

¹⁰⁹ *ibid*, Article 57.

¹¹⁰ *ibid*, Article 46(1)(a).

¹¹¹ *ibid*.

¹¹² *ibid*, Article 46(2).

¹¹³ *ibid*, Article 47(1).

¹¹⁴ *ibid*, Article 69(1).

¹¹⁵ *ibid*, Article 70.

The Constitution also provides for a Regional Council, which is comprised of designated members who are subject to the qualification for being elected as members of the National Assembly.¹¹⁶

An independent body known as the Electoral Commission is established for the conduct of election in Namibia.¹¹⁷ Each region is divided into not more than 12 constituencies and not less than 6,¹¹⁸ and they are to elect one representative to the Regional Council.¹¹⁹ The election shall be done via secret ballot in conformity with an Act of parliament.¹²⁰ The election is held on the same day for all the Regional elections,¹²¹ on a day prescribed by the president.¹²² The Regional Council creates its management committee from among its members, who are elected for two years.¹²³ There is also provisions for local authorities to govern localities.¹²⁴

The Electoral Act provides for the continued existence of the Electoral Commission of Namibia, also to be referred to as ECN.¹²⁵ The commission is headed by a chief electoral officer. The commission is to report back to the National Assembly on matters of election which it deems necessary to report as it concerns public interest, not later than 60 days after the end of June.¹²⁶ The commission is to create regional offices for each region headed by a chief regional officer appointed by the commission.¹²⁷ They are to register voters in their regions and report back to the chief regional officer.¹²⁸

¹¹⁶ *ibid*, Article 105.

¹¹⁷ *ibid*, Article 94B(1).

¹¹⁸ *ibid*, Article 106(1).

¹¹⁹ *ibid*, Article 106(2).

¹²⁰ *ibid*, Article 106(3).

¹²¹ *ibid*, Article 106(4).

¹²² *ibid*, Article 106(5).

¹²³ *ibid*, Article 109.

¹²⁴ *ibid*, Article 111.

¹²⁵ Electoral Act 2014, Section 2.

¹²⁶ *ibid*, Section 15.

¹²⁷ *ibid*, Section 19(1).

¹²⁸ *ibid*, Section 19(3).

The Act places voting age as that stated in Article 17 of the Constitution, i.e. 18 years, with the exception for person convicted of crime, persons below 18 years, person not being a citizen of Namibia and persons of unsound mind.¹²⁹ Persons outside Namibia temporarily, may register via diplomatic missions designated in the country where they reside or at other designated points.¹³⁰

Registration of voters is done by a registration officer appointed for that purpose.¹³¹ The practice with respect to registration of voters in the Namibian electoral system is quite different from that seen in most jurisdictions of the world today. This is because it provides for three distinct type of voters registration. The first is the ten-years rule, which is to the extent that the ECN must carry out a general voter registration every ten years, at a time prescribed by the president in the official gazette.¹³² The 2023 amendment to the Act now provides in the newly added subsection 1A of Section 25, that the registration of voters is to take place on the 31st of August 2024 as determined by the president.¹³³ In essence this means that generally, the general voter registration is done every ten years.

However, in light of the second type of voter registration, which is supplementary voter registration rule, the ECN is to carry out supplementary registration of voters as may be prescribed by the president.¹³⁴ These type of votes are usually carried out before any immediate election, just to ensure that the voter register is up to date. The third type of vote is the continuous voter registration, in which the ECN is to conduct voter registration for those voters that were not registered during the general registration

¹²⁹ *ibid*, Section 22.

¹³⁰ *ibid*, Section 23.

¹³¹ *ibid*, Section 24.

¹³² *ibid*, Section 25.

¹³³ *ibid*, Section 25(1A).

¹³⁴ *ibid*, Section 25(2).

under the ten year rule, or the supplementary vote under supplementary rule.¹³⁵ This is done upon application for registration by these persons and it is usually for those that newly gets to 18 years or in instances of change of address of a voter, which needs to be updated and in other similar or related circumstances.

Subsection 4 of Section 25 is of utmost importance in this study.¹³⁶ It provides that the ECN can conduct voter registration via digital or electronic voting systems. This is one of the primary legal basis for using electoral technology. It entails the capture of voters information, printing of voters card and the storing of the data thereof. Upon registration, voters are given an application form, they are to appear in person before the registration officer, they are also to give all necessary information required for to complete the form, sign and affirm the declaration on the form via oath.¹³⁷ Where any of these requirement is not done to complete the application form, the registration officer may reject said form.¹³⁸

The chief electoral officer is to prepare a national and local authority voter register, which must contain the names, address, registration number of all registered voters, and it must be published in the official gazette.¹³⁹ It is kept at the office of the commission for inspection by the public.¹⁴⁰ Any voter duly registered may ascertain if their names appear in the register, and take necessary steps where it is not.¹⁴¹

The commission must provide for the appointment of returning officers for various constituencies, presiding officers for controlling the various polling stations, polling officers who takes the polls on election day, and a counting officers, who are well

¹³⁵ *ibid*, Section 39.

¹³⁶ *ibid*, Section 25(4).

¹³⁷ *ibid*, Section 26(2).

¹³⁸ *ibid*, Section 27.

¹³⁹ *ibid*, Section 31.

¹⁴⁰ *ibid*, Section 37.

¹⁴¹ *ibid*, Section 45.

trained before the election day.¹⁴² polling booths and ballot boxes are provided on election day where voting is to be done manually. Polls is to start at the polling station at 7:00 and close at 21:00.¹⁴³

The Act provides that the chief electoral officer is to provide electronic or digital voting machines for the purpose of election.¹⁴⁴ the commission may adopt voting machines for voting, registration, counting, and recording of votes via procedures prescribed by parliament.¹⁴⁵ The presiding officer is to ensure that all voting machines are in functional and are cleared of all votes prior to the election day.¹⁴⁶ The presiding officer and other electoral officer together with the police officer are to ensure order at polling stations on election day. Voting is to be done via secret ballot.¹⁴⁷ After verification has been done by the counting and presiding officer, the returning officer verifies it, collates it, announces the result of the regional council election and the local authority election and delivers it to the chief electoral officer.¹⁴⁸ Election observers are provided for in Section 56.

4.3.2 How EVMs works in Namibia

Flowing form the above, it becomes important to state how electoral technology like electronic voting machines are used in the election process in Namibia. So before the election, voters are registered manually and via electoral technology by presenting the necessary information to the relevant electoral officers as already stated above. Thereafter, the EVMs are programmed to contain all the list of all the competing political parties and their various candidates, as well as the symbols for the respective

¹⁴² *ibid*, Section 65.

¹⁴³ *ibid*, Section 93.

¹⁴⁴ *ibid*, Section 90.

¹⁴⁵ *ibid*, Section 97.

¹⁴⁶ *ibid*.

¹⁴⁷ *ibid*, Section 99.

¹⁴⁸ *ibid*, Section 108.

parties in a particular constituency in an environment that is well organized and conducive, thereafter, the electronic machines are tested and also sealed to prevent any form of tampering. The hardware and software used for the machines go through series of verification by experts, party agents and electoral officers as already stated above.

On the day of the election, the voting is done offline, but before the actual voting, the electronic voting machines are transported physically to various polling units, where they remain standalone units, and all eligible voters go to their respective polling units where they cast their votes by pressing a button which is placed next to the name of candidates and the symbol of their political party. A digital ballot sheet is displayed on the EVMs, and every vote is recorded immediately and scored internally on the internal memory chip of the EVMs, which is usually in form of a memory card, stored internally. So in essence these machines are called standalone machines because they are not connected to any internet source,¹⁴⁹ and are stored locally via memory cards.

The machine usually comes with a button that is pressed at the close of the election. Upon the close of the polls, the presiding officer also ensures the display of the votes for the candidates in its totality, via the press of a button coupled with a secret. This eliminates manual counting of votes at polling units.

However when the votes are to be officially counted, the counting depends on the type of system. Thus the memory card is removed from the machines and is transported to the central location for counting, where they are inserted into a central computer, which provides an aggregate of the total results from all the machines.

On other systems, a paper slip with the final tally is printed from each machine. This slip is then submitted to the chief electoral officer for official counting. In Namibia, this

¹⁴⁹ Nangula Shejavali, 'Electronic Voting Machines' *IPPR* (London, October 2014) 1-16.

electronic vote can be counted manually in, especially in instances of dispute on the electronic count. This is done via the voter verifiable paper audit trail (VVPAT) which serves as back up to the electronic counting of votes.

So after voters cast their vote, the machine then prints a paper, i.e. a slip shows the name of the candidate and their party symbol. This slip can be seen for seven seconds by the voter from the sealed transparent space of the machine, but it cannot be touched by voters. This is done to ensure the voter can verify their vote and that it is properly recorded. Thereafter, it drops automatically into a closed storage box that is attached to the machine. The use of paper trail became relevant after the popular case of *Itula and Others v Minister of Urban and Rural Development and Others*¹⁵⁰ in the 2019 presidential elections, where election was conducted without verifiable paper trail and the result was challenged by Itula who was an independent candidate in said election. The court held that the ECN has discretion to use or not to use paper trails in conducting elections for the 2019 election but affirmed its compulsory use in future elections.

So after the close of the polling unit, the results are downloaded from each of the memory card of the machines which is physically transported via USB drive to a central tallying location.

However, it is important to note that in light of current realities, the Namibian government has departed from the use of electronic technology in its electoral system. Hence it went back to the traditional voting system with the use of ballot papers and boxes, manual counting of votes and collation of results. The chaos of this reversion

¹⁵⁰ *Itula and Others v Minister of Urban and Rural Development and Others* (2020) NASC 6.

was demonstrated in the recent 2024 election.¹⁵¹ The results of the election was highly

contested, issue of the Namibian electoral legitimacy was raised, there was also reports of delays and extension of voting periods.¹⁵² 11% of the polling stations ran of election material like ballot boxes and ballot papers, thereby elucidating the weaknesses of traditional voting systems.¹⁵³ Hence it is submitted that Namibia has already taken steps in becoming one of the most advanced democracies in Africa via its use of electoral technology, hence its aim should be moving forward on its improvement of this electoral foundation and not going back on traditional voting practices. Nigeria as a progressing democracy only has a lot to learn from this structure of electronic voting system already built by Namibia.

4.4 Electoral Technologies used in Namibia and Estonia and their Benefits

Flowing from the exposition above, it becomes important to give particular recognition to the electoral machines used in these jurisdictions. The various electoral technology used in Estonia includes:

4.4.1 ID Cards

From the exposition above, it is clear that the of citizens in Estonia is the foundation for its technological democracy. Hence all citizens of Estonia have a digital identification card, which also contains encryption but in form of digital certificates that allows ease and secure verification, and also provides digital signatures. This voter identification cards are utilized together with PIN codes, which is used to access official websites or

¹⁵¹ Movin Omondi and others, 'Election in Africa: A case Study of Namibia' *GoVote* (Nigeria, 11 December 2024).

¹⁵² *ibid.*

¹⁵³ *ibid.*

platforms for electronic voting. It is secure and makes sure that it is only the voters who are eligible that can access it and cast votes.

4.4.2 I-Voting System

This is the major technological innovative systems in modern democracies like Estonia. This system allows citizens to vote regardless of where they are in the world. Thus voters can cast their votes remotely through the internet during the period designated for on the day of election. The votes are subject to encryption for security purposes, and are transferred to a secure central server, which is maintained by the NEC. As further protection to voters, they can cast their votes again and again before the expiration of the voting period, thus preventing situation of them being forced or intimidated to vote for candidates not of their choice. They can also invalidate their vote online via manual ballot in designated polling units, thus preserving traditional voting rights.

4.4.3 Electronic Voter Register (EVR)

In Estonia, a centralized register for electronic voting is maintained. This system records and stores information about all the voter that are eligible for voting, including their residency and demographic data. This register is updated continuously via the information provided in the database of the national population. It synchronizes with the digital identification system, thereby providing a foundation for verification of voter eligibility in real time for voting done online and in person.

4.4.4 Electronic Ballot Box

In Estonia, the votes that are cast are stored via an electronic ballot box, which is separated from the identity of eligible voters to preserve the anonymity of the voters, thus ensuring that the principle of secret ballot is upheld. When the voting period is closed, all the decryption keys are then released under strict supervision, and the results are scored electronically.

4.4.5 Real Time Auditing and Blockchain

This is one of the pillars for security in internet voting systems. In elections and the data systems of Estonia, this system of blockchain is applied, to secure electoral digital records and to prevent illegal tampering. The real-time auditing mechanism allows the public and also technical experts to verify that the votes are received correctly, and are counted without revealing the identities of voters. This is part of what creates public trust in the Estonian electoral system.

4.4.6 Standalone EVMs: as already stated above, this is the primary voting system in Namibia. The system is one where the voters cast their votes by pressing a button which is placed next to the name of candidates and the symbol of their political party. A digital ballot sheet is displayed on the EVMs, and every vote is recorded immediately and scored internally on the internal memory chip of the EVMs, which is usually in form of a memory card, stored internally.

4.5 Challenges in the use of Electoral Technologies

Electoral technology in elections as we have seen so far, enhances efficiency, transparency, and public participation in the electoral process. However, it also comes

with its own downsides like increase threats in security of voters information and anonymity, integrity of machines used in elections, hacking, and poor auditability.¹⁵⁴

The electoral system will be in constant Cybersecurity risks.¹⁵⁵ Errors can be created

from lagging on these machines, thus eroding the credibility of vote counting and election results in general.

In Nigeria, electoral technology like BVAS and IReV were introduced to address three major electoral problems.¹⁵⁶ The first is voters registration, the second is voter accreditation and the third is result management. It became a major driving factor, that pushed citizens (especially the youths) who have been disappointed on the outcomes of previous elections, to participate in the 2023 presidential elections.¹⁵⁷ Malfunctions of BVAS kits were reported in instances of voters accreditation and real-time transmission to the IREV portal. Despite the use of electoral technology, reports on over voting were still made, and instances where numbers of votes exceeds the total number of registered voters and accredited voters in certain polling units.

Some writers have raised other factors hampering a smooth deployment of electoral technology in elections Nigeria, like weak internet connections. cost in using electoral technology, and weak cybersecurity susceptibility to hacking.¹⁵⁸ Other researchers argued that internet voting has more risk management than paper voting.¹⁵⁹ The continuous pattern of corruption in the Nigerian electoral system and irregularities

¹⁵⁴ Peter Thank God Oyinmiebi and Preye Kuro Inokoba, 'Electoral Technology and Credible Elections in Nigeria: A Study of the 2023 Presidential Election' *Kenneth Dike Journal of African Studies* (2023) (2) (1) 56-69.

¹⁵⁵ *ibid.*

¹⁵⁶ *ibid.*

¹⁵⁷ *ibid.*

¹⁵⁸ *ibid.*

¹⁵⁹ Aro Velvet (n 1).

demonstrated in the 2023 election has further dampen citizens trust in the use of electoral technology. Thus the use of electoral technology has only culminated doubts borne out of corrupt practices and the competency of electoral institutions in conducting credible elections.

4.6 Conclusion

Nigeria has a lot to learn from electoral system like Estonia and Namibia. These countries have already taken steps and laid the foundation of digital democracy. It is submitted that Nigeria gets on board and to build on this foundation to suite and promote its electoral system. Electoral technology has its own difficulties just like traditional ballot system of voting, however it has more pros than cons.¹⁶⁰ Internet voting is being gradually embraced in more jurisdictions all over the world. Thus it has been used periodically in counties like Switzerland, Norway, Germany, Canada etc.¹⁶¹ It is submitted that in Nigeria, the support of the law in the use of traditional voting system has not been able to create electoral credibility in Nigeria, and this is why our laws keeps adjusting to accommodate news ways to promote electoral integrity. Thus provisions of the Act should be utilized to its fullest and our laws should embrace full digital democratization in modern governance. in the long run the use of technology will ensure electoral integrity and credibility in our country's electoral process.

¹⁶⁰ Peter (n 154).

¹⁶¹ Aro Velvet (n 1).

CHAPTER FIVE

5.1 Summary of Findings

In the preceding chapters, the conceptual, theoretical and legal framework of the Nigerian electoral system has been examined. The function and the role of INEC has also been looked at, and a comparative analysis of Estonia's and Namibia's electoral system has been discussed. It is found that while the Nigerian Electoral Act 2022, provides for the use of electoral technology, it does not provide for clear regulations of said technology. Furthermore, there is an absence of definition as to the scope and nature of electoral technology, it leaves the provisions of these technology to the full discretion of INEC. It has also created a situation for selective use of these technology in certain areas of election to the exclusion of other important areas, thus leaving voters to risk their lives in coming out to vote on election day, in light of the history of electoral violence and political thuggery. Hence drawing lessons from Estonia and Namibia, the use of electoral technology provided under the Act must mandate the full deployment of said technology in all stages of the electoral process, and provide standardize measures to ensure consistency in its deployment in Nigerian elections.

5.2 Recommendations

1) INEC Discretion and Solid Legal Framework for Electoral Technology:

Relevant laws must not only state that electoral technology is to be utilized in elections in Nigeria, it must also specify the nature of the particular device/machines to be used, the scope of said technologies and its use, as well its safeguards. The words such as 'other voting devices' used in section 41¹ of the Act gives no definition as to the nature or scope of the technology to be used. Section 47 provides for the use of smart card reader, but INEC through the words 'any other technology' ended up using BVAS. Now

¹ Electoral Act, 2022, Section 41.

some would argue that BVAS as a new technology provided ease in voter registration, accreditation and result transmission. This argument is totally lucid, but with this same provisions, who is to stop INEC from returning to older models not as effective? What would result from it would be endless litigation, parliamentary debates and civil society debates. All of this can be prevented on the recommendation that Parliament should regularly adjust electoral laws based on recommendations from special committees, consisting of technological expert well versed in electoral process, who makes regular recommendations on key technologies to be used at all stages of elections by the commission.

In light of the failure of INEC to conduct credible elections in Nigeria, it is submitted that while it needs discretion to function properly, it must be regulated. The Act must be clear in its wording and not use broad or undefined language as to how INEC is to conduct elections through its use of electoral technologies. Thus, the words in section 50(2)² which is to the extent that voting at an election and result transmission are to be done in the procedures to be prescribed by INEC, promotes too much discretionary powers. While it is commended that the Act now mandates the use of electoral technology, however, leaving the use of said technology to the full discretion of the commission without lucid provisions for its scope and nature, amounts to arbitrariness and inconsistency in its application. What we see in Nigeria is a constructive and selective use of electoral technologies, in that it is used in some areas but it is not in others. If the reason for utilizing technology in areas of voter registration is for ease, to reduce errors and delays, so also does the same benefit applies when it is used in the actual act of casting votes. As such, it is these same benefits that

² *ibid.*

prompt countries like Estonia, to provide for internet voting system, and the use of technology in all stages of election.

Regulating the use of said technologies cannot be overemphasized. In Namibia, some form of regulation had to be made on the use of EVMs as seen in the case of *Itula v Minister of Rural and Urban Development*³ (as already discussed in chapter four). In this case, the court had to mandate the use of paper trail where electoral technology is used in conducting future elections in Namibia, to ensure further verification measures on EVMs used by the ECN in conducting elections.

2) Internet Voting and Blockchain Technology: This is the major technological innovative system in modern democracies like Estonia. This system allows citizens to vote regardless of where they are in the world. Thus voters can cast their votes remotely through the internet during the period designated for voting, on the day of election. The votes are subject to encryption for security purposes, and are transferred to a secure central server, which is maintained by NEC. As further protection to voters, they can cast their votes again and again before the expiration of the voting period, thus preventing instances where voters will be forced or intimidated to vote for candidates not of their choice. They can also invalidate their vote online, via manual ballot in designated polling units, thus preserving traditional voting rights (for those who still prefer that method). Blockchain can be used for further security to address the concern of hacking and ensuring voters anonymity, voters privacy, and verifiability.⁴ It can be used together with algorithms of artificial intelligence to prevent rigging. Internet voting can be complementary if not substituted for traditional ballot, i.e. just like in Estonia, it can be

³ (2020) NASC 6.

⁴ Toba Paul Ayeni and others, 'The Role of Technology in Nigerian Election 2019 and 2023 General Elections' *Global Scientific Journals* (2023) (11) (12) 267-280.

partially used while also maintaining traditional ballot for those citizens who still prefers it. As population increases, traditional ballot voting system will no longer be feasible. The world is heading to a future where internet voting algorithms will become an indispensable tool in electoral process. Nigeria will be no exception to this, and getting onboard the moving train already started by Estonia and Namibia, will not only improve the Nigerian electoral system, but will make the country a primary pioneer in the digital democracy of the new world.

3) Digitalized Identity Infrastructure: creating secured and digitalized National identification system is foundational for an advanced electronic voting systems. The Nigerian National ID should be upgraded to emulate that of Estonia. Thus it should be redesigned to include digital signature and cryptographic functions for authentications in all transactions in private and government sector. It should not be limited to verification in areas of banking, registration of SIM, records of government and public services in general. This should be backed by a digital signature law just as in Estonia. It is upon this structural and legal framework that internet voting systems can be legalized and built. The success of Estonia's electoral system has become a model of reference not only to Nigeria but the world at large.

4) Diasporal Voting: Nigeria has strongly held the position that only citizens residing in the country and duly registered are allowed to vote. If the technological infrastructure, and the internet voting system recommended in this study is adopted, this issue can be resolved. The National Assembly has expressed its concerns on allowing Nigerian citizens outside the country to vote.⁵ Hence it has rejected multiple bills proposed to the House. However, as at November 20, 2024, a Bill on diasporal voting passed the second

⁵ PLAC, 'Bill on Diaspora Voting Passes Second Reading' *Policy And Legal Advocacy Centre* (Abuja 20 November 2024) <<https://placng.org/Legist/bill-on-diaspora-voting-passes-second-reading/>> accessed 20 November 2024.

reading in the house of Representatives. Much is still needed to be done for this Bill to become law. It proposed that Section 77 (2) of the constitution be amended to state that ‘Every citizen of Nigeria, who has attained the age of eighteen years, residing within or outside Nigeria at the time of the registration of voters for purposes of election to a legislative house, shall be entitled to be registered as a voter for that election.’⁶ Also, that Section 117 (2) state that ‘Every citizen of Nigeria, who has attained the age of eighteen years, residing within or outside Nigeria at the time of the registration of voters for purposes of election to any legislative House, shall be entitled to be registered as a voter for that election.’⁷ Furthermore, that the Electoral Act 2022, be amended to make specific provisions for diaspora voting, and the Regulations and Guidelines revised to specify the procedures for voting by Nigerians in the diaspora. If these recommendations are integrated in the Nigerian electoral system, it will promote its digitized democracy.

5) Namibia’s EVMs: If parliament feels Nigeria is not yet ready for internet voting systems, then it can be substituted for electronic voting systems previously used in Namibia. As already discussed in chapter four, it entails a standalone voting machine that is not connected to any internet server thus eliminating the risk of hacking, eliminating delays, while also recording and counting votes electronically. This will serve as a means leading to the eventual use of internet voting systems. This speeds up the gradual progression of digitalized democracy in Nigeria. Even Estonia operated a gradually sped up incremental process leading to its now internet voting systems. Hence it is submitted that Nigeria is at least ripe enough to try out the electronic voting systems used in Namibia if not that in Estonia.

⁶ *ibid.*

⁷ *ibid.*

6) Security and Transparency: For sustainability, there should be regular upgrades on cybersecurity and protection of real-time auditing mechanisms against manipulation.

Regular auditing and public reports, coupled with open communication help build trust.

7) Expert Electoral Officers: governments should invest in training programmes for IT professionals on maintaining and securing the technology infrastructure, and also for election officials responsible for voter registration, ballot counting, and result transmission to foster expertise in electronic voting systems.

5.3 Contribution to Knowledge

The study contributes to existing knowledge by providing a comparative framework of technological advances in Estonia and Namibia, thereby offering best practices of contemporary digital democracies as a foundational step for Nigeria's advancement in digital electoral democracy. It provides a rationale upon which the Nigerian electoral laws may be strengthened in areas of certainty, clarity and also, regulatory wise.

5.4 Area for Further Research

These areas includes perception of voters on the use of electoral technology, an examination of digital literacy, detailed analysis of the use of blockchain technology and AI algorithms on electoral technologies, attitudes of the judiciary on electoral technology disputes, cybersecurity protections in African democracies etc.

5.5 Conclusion

There are various voting systems adopted all over the world with each of them having its peculiar problems. Electronic voting is not an exception. however, the continuous utilization of the traditional manual voting system (paper ballot) which still appears

prominent among developing nations like Nigeria, has been inefficient in our electoral process. Allegations of electoral violence, political intimidation, looting and stuffing of ballot box, underage and multiple voting, incoherence in vote counting, and the absence or late arrival of election materials are all characteristics of elections conducted using this method. Hence the regulatory and technological recommendations suggested in this study. However, it is important to note that the effectiveness of these technologies is majorly predicated on proper implementation against potential vulnerabilities and building public trust.⁸

⁸ Peter ThankGod Oyinniebi and Preye Kuro Inokoba, 'Electoral Technology and Credible Elections in Nigeria: A Study of the 2023 Presidential Election' *Kenneth Dike Journal of African Studies* (2023) (2) (1) 56-69.

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