

**ANALYZING THE IMPACT OF THE 2022 ELECTORAL ON DEMOCRATIC
PROCESSES**

BY

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FACULTY OF LAW

UNIVERSITY OF BENIN

BENIN CITY

APRIL, 2024

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**A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW,
UNIVERSITY OF BENIN IN PARTIAL FULFILMENT OF THE REQUIREMENT FOR
THE AWARD OF THE DEGREE OF BACHELOR OF LAWS (LL.B) OF THE
UNIVERSITY OF BENIN, BENIN CITY.**

APRIL, 2024

CERTIFICATION

I, **Destiny Evbaguehita EHIGIATOR**, with Matriculation Number **LAW1805923**, hereby certify that apart from references to other persons' works which have been duly acknowledged, the entire work is a product of my research, and this project has neither in whole nor in part been presented for another degree elsewhere.

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APPROVAL

We certify that this project was written and completed by **Destiny Evbaguehita EHIGIATOR** with Matriculation number **LAW1805923** in partial fulfilment of the requirements for the award of a Bachelor of Laws (LL.B) degree.

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DEDICATION

This project is dedicated to God Almighty, my source and inspiration.

ACKNOWLEDGEMENT

I would like to express my heartfelt gratitude to all those who have supported and guided me throughout the completion of this undergraduate long essay. I extend my sincere thanks to my supervisor, Dr. Folarin Dimowo, for his invaluable insights, fatherly patience, and unwavering support, which were instrumental in shaping this work.

I also want to acknowledge the contributions of my family, The Patricks, for their encouragement, understanding and financial support during this academic journey. Their unwavering belief in my abilities has been a constant source of motivation. I must particularly mention my mother, Mrs. Josephine Ehigiator, your support and prayers greatly helped me.

I'm grateful to "Master AY..." For his encouragement and support throughout the completion of this essay. Your advice and cues are deeply appreciated.

My gratitude also goes to my friend, Peace Odosamanmwen Ewansiha, whose guide and recommendations are fundamental to this work.

My profound appreciation goes to my dear friend, David Osawaru Iyasere, for his unflinching support during this academic journey. I also want to acknowledge the support and encouragement of my friends: Progress Ikuero, Joshua Alabi, and Glory Oghogho Obasuyi. Your friendship and support has been a strong pillar to rest on. I appreciate the undiminishing support

and encouragement of my dearest friend, Adaobi Christabel Onuora, throughout the completion of this work.

Lastly, I am grateful to the institution and the Faculty of Law for providing me with the resources and knowledge that made this research possible.

This long essay would not have been achievable without the collective support and encouragement of these individuals, and for that, I am truly thankful.

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LIST OF ABBREVIATIONS

CAP: Chapter

LFN: Laws of the Federation of Nigeria

Ibid: Ibidem (Same author and same authority)

EMB: Electoral Management Bodies

INEC: Independent National Electoral Commission

AG: Action Group

NPC: Northern People's Congress

NCNC: National Council of Nigeria and Cameroon

ERC: Electoral Reform Committee

TVC: Temporary Voters Card

IRev: INEC Result Viewing Portal

PVC: Permanent Voters Card

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ABSTRACT

Free and fair elections are the genuine hallmark of democratic governments as they allow citizens to choose their representatives in governmental positions. As a democratic state, Nigeria has conducted well over eight General Elections since its severance from British hegemony in 1960. These elections conducted in 1999, 2003, 2007, 2011, 2015, 2019 and 2023, have all been marred by severe electoral irregularities. Observers report that malpractices such as vote buying, ballot snatching/stuffing, electoral violence, and multiple registration/voting characterized these elections. Owing to the spate of these malfeasances, policymakers embarked on legislative reforms to consolidate the extant electoral laws. Subsequent legislative revisions in 2010, 2015 and 2019 birthed the Electoral Act 2022 which was enacted on February 25, 2022. Broadly, the Act aimed to enhance the capacity of Electoral Management Bodies (EMBs) to conduct free and fair elections. The innovations pioneered by the Act abound thereby theoretically enhancing democratic consolidation in Nigeria through its 153 sections. As a disruptive legal framework, the Act legalized the deployment of technology in the conduct of elections under section 47 – 50. Further, it mandated the prompt release of funds to the Independent National Electoral Commission (INEC) to conduct the elections. It also prohibited political appointees from acting as candidate/delegate in a primary election during the subsistence of their appointment. These groundbreaking provisions were expected to radically reform electoral practice in Nigeria, solving the litany of problems plaguing the Nigerian electoral system. This, in turn, it was envisaged, would culminate in democratic consolidation and accord legitimacy to the emerging governments. However, in retrospect, these laudable aspirations and lofty expectations of the Electoral Act 2022 were scarcely fulfilled. Almost two years after its enactment, the Nigerian electoral system is largely unchanged with electoral malpractices as prevalent as ever. The unforgettable 2023 Presidential elections and the petitions that followed brought to the fore, the issues that lay with the new Act. Likewise, the pockets of gubernatorial and legislative elections revealed certain gaps in the Act that were antithetical to democratic consolidation. All of these

necessitate a holistic critique of the provisions of the Electoral Act 2022 and their resulting impact on democratic consolidation in Nigeria. Hence, this research will intricately examine the impact of the Act on the democratic process in Nigeria, from a legal standpoint. It is envisaged that this research will shed a green light for policymakers, practitioners, and researchers in this area.

CHAPTER ONE

GENERAL INTRODUCTION

1.1. BACKGROUND TO STUDY

An election, the focal point of this study, is a democratic platform for leadership succession in a nation, organization, or institution.¹ It is a procedure that allows the members of a state, organization or community to choose representatives who will hold positions of authority. As an appendage of democracy, it promotes public accountability, confers legitimacy on government, and ensures participatory governance.² However, the elections envisaged by the founders of democracy were free and fair elections, where the interests of the majority are represented. A

¹ O. Agbu, 'Election Rigging and the Use of Technology: The Smart Card Reader as the Joker in Nigeria's 2015 Presidential Election' (2021) 15(2) *Journal of African Elections*, 90.

² F. Aborisade, 'A Case for Credible Elections in Nigeria: Proposed Agenda for Electoral Reform' (2006) 6(1) *The Constitution*, 115.

free election is one that is devoid of unnecessary and unlawful inhibitions to the exercise of political franchise. A fair election denotes the impartial process of choosing representatives of governance, without fear or favour to any person, party or side.³ Bereft of free and fair elections, democracy is a caricature, a ridicule, and no better than a dictatorship.⁴

Since free and fair elections are the genuine hallmark of democratic governments, it is expected that Nigeria, as a democratic state, will imbue the same, however, this is not the case. Nigerian elections are everything except free and fair, and historical antecedents coupled with recent statistics vividly illustrate this.⁵ The antecedent of Nigeria's electoral system is replete with instances of electoral malpractice, irregularities, and malfeasances. Dating back to the First Republic, in 1963 and the General elections of 1964, vagaries in the Nigeria electoral system has been evident.⁶ The 1964 General elections between the Action Group (AG), Northern People's Congress (NPC) and National Council of Nigeria and Cameroon (NCNC) was bedeviled by electoral irregularities, rigging, fraud,

³ A.O. Okoh, 'The Independent National Electoral Commission (INEC) and election management in Nigeria: The 2003 General Election in perspective' (2005) 5(4) *The Constitution*, 24.

⁴ S.O. Ogwu, 'Electoral Reforms and Democratic Stability in Nigeria' (2016) 2(2) *International Journal of Democratic and Development Studies*, 23-30.

⁵ J.D. Abutu, A.B. Onumadu, O.C. Adetarami, and B.C. Onyeke, 'The Electoral Act 2022: Implications for Democratic Development in Nigeria' (2022) 2(2) *International Journal of Education, Research and Scientific Development*, 12-23.

⁶ D.A. Falade, 'Political Participation in Nigerian Democracy' (2014) 14(8) *Global Journal of Human- Social Science for Political Science*, 11.

electoral violence, marginalization, etc. This led to the first military coup d'état in January 1966, and the Biafran Civil war, a year after.⁷

Continuing unabated, electoral malfeasances occurred in the elections of 1979, 1999, 2003, 2007, 2011, 2015, and 2019.⁸ These elections were marred by severe electoral irregularities, with the 199, 2003, and 2007 elections standing out for their corruption. Observers report that malpractices such as vote buying, ballot snatching/stuffing, electoral violence, and multiple registration/voting characterized these elections. Owing to the spate of these malfeasances, policymakers embarked on legislative reforms to consolidate the extant electoral laws. Subsequent legislative revisions in 2010, 2015 and 2019 birthed the Electoral Act 2022 which was enacted on February 25, 2022.⁹ The Act, which was signed into law by President Muhammadu Buhari, repeals the Electoral Act, 2011 (as amended). Broadly, the new Act aims to enhance the capacity of Electoral Management Bodies (EMBs) to conduct free and fair elections.

The innovations pioneered by the Act abound, thereby theoretically enhancing democratic consolidation in Nigeria through its 153 sections. As a disruptive legal framework, the Act legalized the deployment of technology in the conduct of elections under section 47 – 50.¹⁰ Further, it mandated the prompt release of funds to the Independent National Electoral Commission (INEC) to conduct the

⁷ A.O. Sulaiman, 'Electoral Reforms and Democratic Stability in Nigeria: A Critical Review of the 2022 Electoral Act' (2022) 2(2) *NILDS Journal of Democratic Studies*, 9.

⁸ Agbu (n1), 96;

⁹ Electoral Act 2022.

¹⁰ *Ibid*, ss. 47–50.

elections.¹¹ It also prohibited political appointees from acting as candidate/delegate in a primary election during the subsistence of their appointment.¹² These groundbreaking provisions were expected to radically reform electoral practice in Nigeria, solving the litany of problems plaguing the Nigerian electoral system. This, in turn, it was envisaged, would culminate in democratic consolidation and accord legitimacy to the emerging governments.

Conversely, the Act contains some controversial provisions, which are deemed antithetical to democratic consolidation in Nigeria, especially section 84(12). The section provides that, ‘no political appointee at any level shall be a voting delegate or be voted for at the Convention or Congress of any political party for the purpose of the nomination of candidates for any election’.¹³ This provision has been derided as a disenfranchisement of serving political office holders [or political appointees] from voting or being voted for at Conventions and Congresses.¹⁴ The practical application of this provision will deprive serving political office holders from being nominated for elections where party Convention holds earlier than 30 days to the national election. It is also regarded as an affront to the sacred provisions of the Constitution particularly sections 66(1)(f), 107(1)(f), 137(1)(g) and 182(1)(g) of the CFRN 1999.¹⁵

¹¹ Ibid, s. 3(3).

¹² Ibid, s. 84(12).

¹³ Ibid.

¹⁴ Buhari’s Full Speech at the Signing of Electoral Act Amendment Bill, *Channels Television* (25 February 2022) <https://www.channelstv.com/2022/02/25/buharis-full-speech-at-signing-of-electoral-act-amendment-bill/> accessed 31 January 2024.

¹⁵ CAP. C23 LFN 2010.

Sequel to the 2023 General elections, the Electoral Act 2022 can be regarded as a dead-letter law, akin to a toothless bull dog; all barks and no bite. Almost two years after its enactment, the Nigerian electoral system is largely unchanged with electoral malpractices as prevalent as ever. The unforgettable 2023 Presidential elections and the petitions that followed brought to the fore, the issues that lay with the new Act. Likewise, the pockets of gubernatorial and legislative elections revealed certain gaps in the Act that were antithetical to democratic consolidation. For example, despite the elaborate provisions mandating the infusion of technology in the Nigerian electoral process, the Presidential Election Tribunal, per Haruna Simon Tsammani, JCA held that the electronic transmission of results by INEC is not mandatory. This decision defeats the whole intendment of the digitization of the electoral system, and runs contrary to democratic consolidation. Premised on the foregoing, there is a need to critically appraise the import of the Electoral Act, 2022 on the democratic regime in Nigeria. Does it contribute to democratic consolidation? Or does it impede the attainment of democracy? These questions will be answered by a succinct recapitulation of the provisions of the Electoral Act 2022, as well as a critical analysis of their import on democratic consolidation in Nigeria. Based on this analysis, we will extricate the causal and contributory factors of electoral malpractice in Nigeria. We will also examine the deleterious ricochets of electoral malpractice on democratic consolidation in

Nigeria. In winding up, we will propose recommendations to bolster the Nigerian electoral system, and rid it of the inherent defects.

1.2. STATEMENT OF PROBLEM

The Nigerian electoral landscape is marred by a spate of irregularities and malpractices, thwarting democratic consolidation in Nigeria. This has been the case since the introduction of the elective principle in 1923, and it has extended to subsequent elections. Appalled by the state of things, poignant legislative efforts have been made to cure the Nigerian electoral system of its many defects. This ultimately resulted in the enactment of the Electoral Act, 2022, which was signed into law by President Muhammadu Buhari. The new Act sought to intensify safeguards against electoral malpractice by digitizing Nigeria's electoral system among other innovations. However, the 2023 General elections and subsequent gubernatorial and legislative elections did not reflect the broad objectives of the Act. This has necessitated a critical assessment of the provisions of the Act vis-à-vis its objective of democratic consolidation.

1.3. RESEARCH QUESTIONS

Stemming from the identified research problem, a series of questions have been curated to anchor this discourse and steer this research in the right direction. The following questions have been raised:

- a. What are factors undergirding democratic consolidation in Nigeria?
- b. What are the provisions of the Electoral Act 2022?
- c. How has the Act exterminated electoral malpractice and its ancillary issues in Nigeria?
- d. What are the factors causing and contributing to the occurrence of electoral malpractice notwithstanding?
- e. What are the recommendations that can strengthen democratic processes in Nigeria?

1.4. RESEARCH AIMS AND OBJECTIVES

This research aims to critically examine the impact of the Electoral Act 2022 on the democratic process in Nigeria from a legal standpoint. By conducting a thorough analysis of the Act's provisions and their implementation, the study seeks to elucidate the extent to which the Act has contributed to democratic consolidation and electoral integrity in Nigeria.

Distilled from the aim of this research, the specific objectives are five-fold, to wit:

- a. To identify factors undergirding democratic consolidation in Nigeria.

- b. To examine the provisions of the Electoral Act 2022.
- c. To assess the extent to which the Act has addressed systemic issues such as vote buying, ballot manipulation, and electoral violence.
- d. To extricate the causal and contributory factors to electoral malpractice in Nigeria
- e. Propose recommendations to strengthen democratic processes in Nigeria.

1.5. SIGNIFICANCE OF THE STUDY

Legal research is often undertaken to impact theory, policy or practice, or to address an existing knowledge gap, besides its contribution to the existing body of literature.¹⁶ Bearing this in mind, the research findings have distinct benefits and impacts within the existing body of literature on the impacts of Electoral laws on democratic process in Nigeria. Specifically, this research examines the impact of the Electoral Act, 2022 on democratic consolidation in Nigeria. Furthermore, it notes the rising trend of electoral malpractice in Nigeria despite the elaborate legal framework. It also proposes solutions to enhance the novel Electoral Act, 2022 to meet the demands of democratic consolidation. The research findings will undoubtedly be of great benefit to legislative draftsmen, policymakers, electoral management bodies, politicians, and government institutions.

¹⁶ Bhat Ishwara, *Idea and Methods of Legal Research* (Oxford Academic 2020). <<https://doi.org/10.1093/oso/9780199493098.001.0001>> accessed 6 December 2023.

1.6. SCOPE AND LIMITATIONS

The scope of this study will be constricted geographically and topically. The geographical boundary of this research is Nigeria, where we will holistically review the provisions of the Electoral Act 2022. Admittedly, several other electoral regulations exist in Nigeria, to complement and consolidate the Electoral Act 2022. Notable among these regulations are the electoral guidelines of 2023, and the various electoral by-laws. However, these regulations and guidelines bodies are outside the scope of this work, and will not be incorporated into this research, save for reference sake. Furthermore, this research will be confined to the jurisdiction of Nigeria and the democratic processes therein. Similar electoral laws exist in neighboring jurisdictions; however, they will not be examined within the breadth of this disquisition as they are outside the scope of this study

Touching on limitations, the researchers' major limitations were insufficient time and paucity of research materials. The length of time given to the researcher is grossly limited; hence this research report is not as detailed as it would have been if greater latitude of time was afforded to conduct the study. Also, lack of access to relevant materials was a limitation that was encountered by the researcher. Because the subject of research is largely novel, there were scarcely any peer-reviewed articles on the subject, and most of the available ones were priced. Hence, the consulted sources are limited in number, totalling 29 journal articles

with no book. With access to a wider array of literature sources, this researcher is convinced that a more intelligent argument, reflecting recent occurrences could have been produced.

1.7. RESEARCH METHODOLOGY

The research methodology provides a construct against which the research topic is investigated and the findings of the research are extricated.¹⁷ This, in turn, highlights the importance of objectively selecting a proper methodology that fits the contextual setting of the research. It is apt to note, that the choice of a research methodology is not purely scientific, rather it requires discretion. No ‘one-size-fits-all’, hence the researcher must examine the research topic, identify the research objectives, and choose the most suitable methodology. Premised on the foregoing, this section identifies the myriad of existing legal research methodologies and selects one of the multitudinous research methodologies. Thereafter, the chosen methodology shall be justified against the backdrop of the proposed aims and objectives with reference to literature sources.

There are principally three broad legal research methodologies: doctrinal or library-based research, empirical or socio-legal research, and integrated or mixed-

¹⁷ Mauthner Natasha., ‘Research Philosophies and Why They Matter’ In Keith Townsend *et al.* (eds.), *How to Keep your Doctorate on Track* (Edward Elgar Publishing 2020), 76–86. <https://doi.org/10.4337/9781788975636.00018> accessed 6 December 2023.

method research methodology.¹⁸ The doctrinal method of legal research concentrates on doctrines which are syntheses of rules, principles, norms, or interpretive guidelines and values, and proceeds with both locating the sources of law and interpreting or analysing the text. In contrast, non-doctrinal or empirical legal research connotes an interface with a context within which law exists, be that sociological, historical, economic, geographical, or other context. Integrated methods of legal research also known as multi-method research combine two or more methods or use a concerted application of different techniques within a method. This research employs the **doctrinal method of legal research**.

Under the doctrinal method of legal research, there exists a plethora of research approaches: historical, analytical, philosophical, comparative analysis, etc.¹⁹ Analytical legal research analyses what the law is, by relating the legal norm in the hierarchy to the Constitution or international norms, by finding its meaning through the application of principles of statutory interpretation, by understanding the rule laid down in decisional law, and by synthesizing the overall principle coherently. Historical legal research studies the historical evolution of a particular concept, system, institution, or practice in response to social context. Philosophical study takes the discussion to higher levels of value exploration. The comparative method enables us to draw inferences about similarities and differences amidst the laws and legal systems of various jurisdictions under comparison and develop a

¹⁸ Terry Hutchinson, 'Doctrinal Research' In Dawn Watkins and Mandy Burton (eds.), *Research Methods in Law* (Routledge 2013), 7–33.

¹⁹ Bhat Ishwara (n13), 29.

substantive theory. This research combines analytical and historical research approaches to effectively appraise the impact of the Electoral Act, 2022 on democratic processes in Nigeria, and proffer recommendations to bolster the same.

In arriving at the findings of this research, a wide array of legal sources was consulted. These sources can be categorized into primary sources and secondary sources. Primary sources generically refer to the constitution, statutes enacted by federal, state or local authorities (including subsidiary legislation such as regulations, orders, rules and practice directions), case law, treaties/international agreements; etc. Whereas, secondary data or source materials denote journals, case reviews, books, treatises, restatements, dictionaries, encyclopaedias, monographs, lecture notes, projects/thesis/dissertations, conference papers, inaugural and distinguished lectures, dailies, periodicals, etc.²⁰ The primary sources consulted were predominantly statutes, regulations, guidelines, and policies. Secondary sources utilized consisted mainly of peer-reviewed journal articles and books.

1.8. SYNOPSIS OF CHAPTERS

This research is structured into five chapters, each addressing crucial aspects related to the legal framework of Internet banking and electronic transfers in Nigeria. The following is a brief overview of the content covered in each chapter:

²⁰ NALT, Nigerian Association of Law Teachers (NALT) Uniform Format and Citation Guide for Legal Research Writing in Nigeria (NALT 2021), 39.

Chapter One: General Introduction

This introductory chapter sets the stage for this research by providing a robust backdrop to understand the research report. It includes a background to the study containing a brief description of the ideas and variables of the study. It also contains a concise statement of the problem warranting the research. It outlines the research questions raised by the statement of problem which the researcher seeks to answer, as well as the corresponding aim, and objectives of the research. Additionally, it discusses the significance of the study, outlining the benefits and beneficiaries of the findings of this research. It further sets the geographical and topical boundaries of the research and makes a report on the barriers encountered by the researcher under the sub-heading, scope and limitations. It states the research methodology and concludes with a synopsis of subsequent chapters.

Chapter Two: Conceptual, Theoretical Framework, and Literature Review

In the second chapter, the research delves into the conceptual framework, intricately defining the concepts of election, electoral law, democracy, and democratic consolidation. The historical context is meticulously unravelled, providing a nuanced perspective on the electoral system of Nigeria over time. Transitioning to the theoretical framework, the chapter explores the theories underpinning this research work: the Sociological theory, the Legal positivism theory, and the Critical Realism theory. A comprehensive literature review traverses previous research landscapes, pinpointing gaps and inconsistencies, thereby setting the stage for this study's unique

contribution. The integration of these frameworks and reviews establishes a robust foundation for the subsequent chapters, ensuring a holistic understanding of the complexities surrounding elections and democratic processes in Nigeria.

Chapter Three: Analysis of the Electoral Act 2022

This chapter delves into a detailed analysis of the provisions of the 153-section Electoral Act 2022, and the import of same on democratic processes in Nigeria. It begins with an introduction to the overall landscape, followed by a meticulous examination of the legal framework and policy responses in place. Additionally, the chapter identifies and analyzes challenges faced in the implementation of this Act, shedding light on practical obstacles in the digitization of the Nigerian electoral system.

Chapter Four: Analysis of the Causal and Contributory Factors of Electoral Malpractice of Nigeria

The fourth chapter unfolds with an analysis of the causal and contributory factors of electoral malpractice in Nigeria. It may be enthused that the existing electoral laws are inept owing to the spike in electoral malpractice in Nigeria novelty of e-banking in Nigeria. Thus, it is apposite to outline and enunciate the causal and contributory factors of electoral malpractice in Nigeria.. The assessment and analysis in this chapter will serve as a crucible, from which the recommendations to be proffered in the concluding chapter emerge.

Chapter Five: General Conclusion

In the final chapter, the cumulative findings of the research are distilled into a cohesive summary, offering a panoramic view of the electoral landscape in Nigeria, and the attendant challenges. Recommendations emerge organically from the synthesis of research outcomes, providing actionable insights for policymakers, scholars, and practitioners. The chapter underscores the unique contributions the study makes to knowledge, both in academic and practical spheres. Moreover, it identifies potential avenues for further research, recognizing the evolving nature of the issue. The comprehensive conclusion not only ties together the threads of the study but also provides a springboard for continued exploration and discourse on the multifaceted challenges inherent in the Nigerian electoral system of Nigeria.

This structured approach is in accord with the Nigerian Association of Law Teachers Guidebook on Legal Research and ensures a comprehensive exploration of the complex issues surrounding Internet banking and electronic transfers and their legal implications under the extant legal framework.

CHAPTER TWO

CONCEPTUAL CLARIFICATION, THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1. INTRODUCTION

All good research proceeds from a thorough exposition and elucidation of the conceptual terminologies associated with the research topic.²¹ This research is not an exception, as it consists of several legal concepts that must be holistically and contextually clarified. However, the hallmark of every conceptual clarification is a holistic definition of the terms recurrently employed in the research work. This is due to the ambivalent nature of words, making them susceptible to multifarious interpretations, depending on the given context.²² Thus, this chapter is devoted to intricately analyzing the concepts embedded in this research by clarifying their meaning and purport. To begin, we will extricate the terms in this research that are recurrently used within the breadth of this work. Thereafter, we will clarify these concepts by detailing their historical trajectory, and defining them with reference to leading scholarly articles.

It is also customary in research endeavors to identify and explain the ideologies or philosophies that underpin the research exercise. Jurisprudential theories usually

²¹Bhat Ishwara, *Idea and Methods of Legal Research* (Oxford Academic 2020). <<https://doi.org/10.1093/oso/9780199493098.001.0001>> accessed 23 December 2023.

²²E. Chianu, *Law of Trespass to Land and Nuisance* (3rd edn, Ambik Press, 2014), 81.

undergird every legal research endeavor by providing a theoretical lens to understand and address the research problem.²³ They act as a linkage between the research aims and objectives, and pre-existing theoretical postulations in the field of discourse.²⁴ They equally serve to highlight the antiquity of the research problem, and to underscore the importance of addressing the same.²⁵ In the light of the foregoing, this research is undergirded by several jurisprudential theories building up into a theoretical framework. They will be enumerated and explained in this chapter, with emphasis on their origin, proponents, propositions and contribution to the research work. These theories will serve as a scaffold to the study, linking the proposed aims and the thoughts of giants.

Lastly, in this chapter we will review the findings of prior literature sources, written by scholars in the research field. The problem underpinning this study is not novel, but has been researched by several scholars in the public law domain. The findings of their meticulous inquiry into the Nigerian electoral system have been documented in articles, textbooks, case commentaries, etc. However, these prior existing literature sources admit of several gaps and limitations, as perfectionism is indeed not a human virtue.²⁶ Nonetheless, it will be a grave research error, leading to unnecessary repetition, to feign ignorance of these

²³ C. Kivunja, 'Distinguishing between Theory, Theoretical Framework, and Conceptual Framework: A Systematic Review of Lessons from the Field' (2018) 7(6) *International Journal of Higher Education*, 46. <https://doi.org/10.5430/ijhe.v7n6p44> accessed 12 February 2024.

²⁴ L. Varpio, E. Paradis, and S. Uijtdehaage, 'The Distinctions Between Theory, Theoretical Framework, and Conceptual Framework' (2020) 95(7) *Academic Medicine*, 989 – 994. <https://doi.org/10.1097/ACM.0000000000003075> accessed 12 February 2024.

²⁵ N.G. Lederman and J.S. Lederman, 'What is a Theoretical Framework? A Practical Answer' (2015) 26 *Journal of Science Teacher Education*, 593–597. <https://doi.org/10.1007/s10972-015-9443-2> accessed 12 February 2024.

²⁶

scholarly materials and disquisitions. Thus, this chapter will systematically review the existing literature sources on the subject, extricating their limitations, and addressing same.

Comprehensively, this chapter is devoted to a succinct elucidation of the conceptual terminologies that occur frequently in this research work. It will also embody the identification and explanation of the theoretical frameworks that underpin this research exercise. Finally, it will systematically and critically engage with the leading literature sources on the subject, aiming to improve on these efforts.

2.2. CONCEPTUAL CLARIFICATION

2.2.1. Election

The historical background of elections in Nigeria is as ambivalent as the concept itself, dating back to the colonial era. Under the traditional systems of government predating the colonial era, accession to leadership was by conquest, primogeniture or by appointment.²⁷ The annexure of Lagos by the British colonialists and its subsequent colonization heralded the introduction of elections into Nigeria. The British officially introduced elections into the Nigerian jurisprudence in 1923 via

²⁷ O.E. Amah, 'Precolonial Governance in Nigeria' In O.E Amah (ed.), *Resolving the African Leadership Challenge*, (Emerald Publishing Limited 2023), 77-87. <<https://doi.org/10.1108/978-1-80262-677-320231018>> accessed 12 February 2024.

the 1922 Constitution drafted by Sir Hugh Clifford.²⁸ The Constitution introduced a restrictive elective principle, limiting political franchise to male residents in Lagos and Calabar worth € 100.²⁹ The iterations of this principle led to the universal adult suffrage recognized under the Constitution and relevant electoral laws today.

A succinct definition of the term, ‘election’ is difficult to proffer owing to the ambivalence and superfluity of the concept.³⁰ However, electoral laws, legal texts, scholarly articles and judicial decisions have helped to smoothen the definitional contours around this subject. In her legal article, Aborishade defined elections as a democratic platform for leadership succession in a nation, organization or institution.³¹ Similarly, Onah defined elections as a formal decision-making process by which a population chooses an individual to hold public office.³² Abutu et al., define elections as the periodic and lawful process that allows citizens to choose their representatives in governance.³³ Cohesively integrating these definitions, elections can be defined as the democratic process of leadership

²⁸ Nigeria (Legislative Council) Order in Council, 1922 (Hereinafter “Clifford Constitution”). Available at: [https://commons.wikimedia.org/wiki/File:1922_Constitution_of_Nigeria_\(Clifford_Constitution\).pdf](https://commons.wikimedia.org/wiki/File:1922_Constitution_of_Nigeria_(Clifford_Constitution).pdf) accessed 12 February 2024. See also O. Agbu, ‘Election Rigging and the Use of Technology: The Smart Card Reader as the Joker in Nigeria’s 2015 Presidential Election’ (2016) 15(2) *Journal of African Elections*, 90–111 at 92.

²⁹ Ibid, Section XX. See also M.E. Nwogbaga, ‘Retrospect in Nigeria’s Elections, 1923-1993’ In A. Ituomo and J.O Nkwede (eds), *Democracy and Electoral Studies: A Reader* (Kenny and Brothers 2015).

³⁰ B. Mesfin, ‘Democracy, Elections and Political Parties: A Conceptual Overview with Special Emphasis on Africa’ (2008) 166 *ISS Paper*, 1–11 at 1.

³¹ F. Aborishade, ‘A Case for Credible Elections in Nigeria: Proposed Agenda for Electoral Reform’ (2006) 6(1) *The Constitution*, 115.

³² A.C. Onah, ‘Electoral Act 2022, Nigeria’s General Elections 2023 and the Role of the Media’ (2022) 4(2) *International Journal of Comparative Law and Legal Philosophy*, 1–7 at 1.

³³ J.D. Abutu and Others, ‘The Electoral Act 2022: Implications for Democratic Development in Nigeria’ (2022) 2(2) *International Journal of Education, Research and Scientific Development*, 12–23 at 13.

transition through the process of voting. It occurs broadly in two forms: direct elections and indirect elections.

2.2.2. Electoral Law

Electoral laws developed contemporaneously with the concept of elections and both concepts have a similar legal odyssey, particularly in Nigeria. The Electoral Act of 2002 was the harbinger of electoral laws in Nigeria, regulating the 2003 general elections in Nigeria. The Act was succeeded by the Electoral Act 2006 which sought to consolidate the provisions of its predecessor.³⁴ The new Act expanded the functions of INEC, replaced the INEC certificate with election tribunals, and introduced campaign funding ceilings.³⁵ Impelled by the proliferation of electoral malpractice in the 2007 General elections, further reviews were made to the 2006 Act.³⁶ The reforms were made to provide an effective bulwark against the malaise of electoral irregularity ahead of the 2011 General elections. Series of subsequent legal reforms led to the enactment of the Electoral Act 2022 on 25 February 2022.

Specifically, electoral law refers to the branch of public law that regulates the democratic process of a country.³⁷ It refers to the set of rules that must be adhered to in the conduct of elections in a country. Electoral laws do not just govern the day of election, but the campaigns preceding, and the declaration of results

³⁴ Electoral Act, 2006.

³⁵ Ibid. See also A.O. Sulaiman, 'Electoral Reforms and Democratic Stability in Nigeria: A Critical Review of the 2022 Electoral Act' (2022) 2(2) *NILDS Journal of Democratic Studies*, 11.

³⁶ This led to the enactment of the Electoral Act 2010.

³⁷ Abutu (n13), 14.

subsequently.³⁸ In summary, it is the set of rules that regulate the conduct of presidential, gubernatorial, and by-elections in the country.³⁹ Whereas the Constitution provides for the qualification and tenure of public offices, electoral laws provide a framework for these provisions. Thus, it may be inferred that the Constitution is the substantive law regulating elections, whereas electoral laws provide the procedural rules. The intractable features of an electoral law include the establishment of an election management body and a national voter's register.

2.2.3. Democracy

As a concept, democracy hails from the Greek city-state, Athens, and it is attributed to Cleisthenes around 508–507 BC. Etymologically, the term "democracy" originates from two Greek words, 'demo' which means people, and 'kratias' which means force or power. Athenian democracy was characterized by direct participation, where citizens, excluding women, slaves, foreigners, and youths, made decisions in the legislative assembly. Though only a fraction of residents qualified as citizens, land ownership wasn't a prerequisite. The exclusion stemmed from the association of citizenship with military duty. Athenian democracy was unique for its direct engagement of citizens in governance through assemblies, councils, and courts. While ancient Greeks didn't conceptualize individual rights, Athenian citizens enjoyed liberties within the city-state's autonomy.

³⁸ Onah (n12), 1.

³⁹ O. Oklobia and D.A. Maikasuwa, 'Electoral Act 2022: A Vehicle for Effective Leadership Recruitment in Nigeria' (2022) 25(6) *African Scholar Journal of Arts and Sociological Research*, 124–142.

There is no consensus on the definition of democracy, but the definitions of learned scholars are insightful in understanding the concept. Schumpeter explained the concept of democracy as a system that gives citizens the power to choose their representatives in government.⁴⁰ In tandem, Rousseau and Rivero define democracy as the power of the people exercised through elections that enhance political participation.⁴¹ Former American president, Abraham Lincoln, defined democracy as “the government of the people, by the people and for the people”. Igwe and Amadi define democracy as the possibility of citizens to choose and unseat, peacefully, and regularly, those who govern them.⁴² In summary, democracy is a political system where citizens choose their leaders through fair, honest, and periodic elections.

2.2.4. Democratic Consolidation

Originally, the expression “democratic consolidation” refers to the challenge of making new democracies secure against the threat of authoritarian repression. It arose from the falterization of democracies in developing countries, and their eventual reversion to authoritarian systems of government. This instability and effluxion was rampant among developing countries whose political trajectory was marred by civil wars and violent coup d’états. The reverse waves that usually followed brought to the fore, the need to strengthen the foothold of democracy in

⁴⁰ J.A. Schumpeter, *Capitalism, Socialism and Democracy* (Harper & Brother Publishers 1947).

⁴¹ D.M. Rousseau and A. Rivero, ‘Democracy, a way of Organizing in a Knowledge Economy’ (2003) 12(2) *Journal of Management Enquiry*, 115 – 134. <https://doi.org/10.1177/1056492603253041> accessed 12 February 2024.

⁴² P.I. Igwe and L. Amadi, ‘Democracy and Political Violence in Nigeria since Multi-Party Politics in 1999: A Critical Appraisal’ (2021) 4(1) *Open Political Science*, 101–119. <https://doi.org/10.1515/openps-2021-0011> accessed 12 February 2024.

these nations. A systemic reform was therefore initiated, addressing conditions such as leadership succession, civilian supremacy, military powers, party building, etc. Over time these efforts crystallized into a body of knowledge, aptly labeled as the “conditions of democratic consolidation”.

Democratic consolidation means the deliberate political process in a polity by which democracy is “so broadly and profoundly legitimized among its citizens that it is very unlikely to break down”.⁴³ It is the process by which a new democracy matures, such that it is unlikely to revert to authoritarianism. It is hinged on the presupposition that, the polity already operates a democratic system of governance, and this democracy needs to be reinforced.⁴⁴ The consolidation of democracy warrants institutionalization of democratic processes and is measured by the ‘two-election test’ and the “simple longevity test” among other metrics. The ‘two-election test’ posits that democracy is consolidated when a ruling political party or class hands over power to an opposition party after losing the contest. The “simple longevity test” measures democratic consolidation by continuous and regular elections.⁴⁵

2.3. THEORETICAL FRAMEWORKS

⁴³ A.A. Akinola, *Party Coalitions in Nigeria: History, Trends and Prospects* (Safari Books Ltd. 2014) <<https://doi.org/10.2307/j.ctv9c61dz/>> accessed 11 February 2024.

⁴⁴ L.O. Akudolu, ‘Understanding Philosophical Analysis using Nigerian Democracy as a Case Study’ (2020) 5(2) *International Journal of Humanities, Art and Social Studies*, 11.

⁴⁵ D.A. Yagboyaju, ‘Nigeria’s Fourth Republic and the Challenge of a Faltering Democratization’ (2011) 12(3) *African Studies Quarterly*, 93–106.

2.3.1. Sociological Theory

The sociological theory of law or sociological law school was propounded by two American jurists, Eugene Ehrlich and Roscoe Pound. The theory posits that law evolves to regulate human behaviour, thus, effluxion of man's behavior directs the development of law.⁴⁶ The sociological school argues that the fulcrum of legal development lies not in laws, theories or cases, but societal behavior.⁴⁷ Thus, the extant legal rules are codification or crystallization of the generally accepted societal values and conduct. Seminally, espousing this theory, A.O. Sanni stated that:

There are many examples of Ehrlich's view that conduct determines the law in Nigeria. For instance, despite the legal and administrative structures established by Federal Government of Nigeria to combat corruption and corrupt practices, there is yet to be a substantial change in the orientation of public officers and an average Nigerian in this regard.⁴⁸

The sociological theory has been criticized for tainting laws as merely legislative rubber-stamps of customary practices, with no creative power. This is quite untrue, as laws have the power to influence changes in human behavior via the threat of sanctions.⁴⁹ Again, the theory has been criticized for justifying the breach of legal rules because of the pervasiveness of customary practices. This flimsy excuse is reminiscent of the Biblical story, where the first man, Adam, blamed his

⁴⁶ R.K. Merton, 'Sociological Theory' (1945) 50(6) *American Journal of Sociology* <https://doi.org/10.1086/219686> accessed 11 February 2024.

⁴⁷ G. Ritzer and J. Stepnisky, *Sociological Theory* (Sage Publications 2017).

⁴⁸ A.O. Sanni, 'Law in Social Context' in A.O. Sanni (ed), *Introduction to Nigeria Legal Method* (2010), 7.

⁴⁹ *Ibid.*

disobedience on his wife.⁵⁰ Also, the “go-with-the-flow approach” advocated by the proponents of the theory has been derided for being antithetical to law and order. It encourages people to behave in accordance with the popular conduct, without any regard for the rules of law. Such reasoning, will be highly inimical to holistic legal development, and will revert the society to the state of nature.⁵¹

The relevance of the sociological theory of law to the present research work has been bifurcated, to wit: (1) to explain the persistent occurrence of electoral malpractice in Nigeria, and (2) to explain the digitization of the Nigerian electoral system. On the first ambit, the theory provides a nuanced perspective for understanding the endogenous nature of electoral malpractice in Nigeria. As the school suggests, there is a nexus between customs and human behaviour, and this belies electoral malpractice in Nigeria. On the second ambit, the sociological theory explains the necessity of the deployment of technology in the Nigerian electoral system. The theory argues that laws tilt in the direction of societal behaviour, following it as the shadow follows the man. Thus, the theory will be used to explain how the ongoing global digitization impelled the infusion of technology in elections.

2.3.2. Legal Positivism

⁵⁰ Genesis 3:11–12 [KJV]

⁵¹ T. Hobbes, *Leviathan* (Barnes & Noble Publishing 2004).

The theory of legal positivism originates from the seminal work of veteran jurist, John Austin, *The Province of Jurisprudence Determined*.⁵² It was expounded by Francis Bacon, Auguste Conte and the early twentieth-century group of scientists known as the Vienna Circle. The theory posits that law, in sum, is a validly made legislative response on any subject, backed up by sanctions. Hence, it posits that the validity of legal principles is not dependent on their ethical or moral content or otherwise. It differentiates law from morality, and argues that once a clear-cut rule of law has been established, it warrants obedience. Explicating further, its proponents argue that it contributes to research by providing an objective approach to analyzing and critiquing laws.⁵³ It equally enables researchers to identify gaps or inconsistencies in the extant legal framework and propose targeted amendments or improvements.⁵⁴

Like all other theoretical frameworks before it, the legal positivism theory admits of its own gaps and limitations. Its critics argue that this theory may overlook the intrinsic connection between law and morality. This is because, in areas where legal norms clash with universally accepted ethical standards, the customs have always prevailed. For example, despite repeated prohibition of spraying of money via regulations, policy directives, statutory enactment, and even a constitutional

⁵² J. Austin, 'The Province of Jurisprudence Determined'. (Cambridge University Press 1995). <https://doi.org/10.1017/CBO9780511521546> accessed 12 February 2024.

⁵³ N.J. Petty *et al.*, 'Ready for a paradigm shift? Part 2: Introducing qualitative research' *Manual Therapy*. <https://doi.org/10.1016/j.math.2012.03.004> accessed 12 February 2024.

⁵⁴ M. Ketokivi and S. Mantere, 'Two Strategies for Inductive Reasoning in Organizational Research' *The Academy of Management Review* (2010) 35(1), 315-333. <https://doi.org/10.5465/AMR.2010.48463336> accessed 12 February 2024.

provision, the practice still occurs. This highlights the unique power of culture and customs as a driver of human behavior. Additionally, legal positivism may fail to take into cognizance, critical sociological issues, such as economic, societal, and environmental factors. As a result, legal rules may often be dead on arrival, with practically no possibility of compliance due to sociological factors.⁵⁵

In this research, legal positivism serves as a lens through which to critically examine the extant legal framework regulating copyright protection in Nigeria. The focus is on the Electoral Act, 2022 which regulates the conduct of presidential, gubernatorial, and legislative elections in Nigeria. The research evaluates the clarity, enforceability, and effectiveness of the Act, in combating the prevalent malaise of electoral malpractice. By adopting a legal positivist approach, the research avoids moral debates and concentrates instead on the authoritative sources of law. It identifies the multi-dimensional challenges impeding the implementation and enforcement of the Act, and proposes recommendations for enhancing its efficacy. The research will also uncover the gaps and inconsistencies in the Act's provisions, and call for the amendment of same.

2.3.3. Critical Realism

⁵⁵M.N. Saunders, P. Lewis, and A. Thornhill, *Research Methods for Business Students* (8th edn, Pearson Education Limited 2019).

Critical realism was propounded by Roy Bhaskar, in response to the perceived defects of positivist views.⁵⁶ As a theoretical framework, it seeks to understand the underlying structures and mechanisms that shape the social world. It acknowledges the existence of an external reality while recognizing that our knowledge of this reality is mediated by various factors. It goes beyond the positivist approach by examining the diverse socio-cultural factors that influence the creation of legal rules.⁵⁷ critical realism encourages researchers to delve into the social, economic, political and technological factors that combat the extant laws. This framework facilitates a nuanced understanding of how legal norms are influenced by political, economic, and technological factors, allowing for a more comprehensive analysis.

While critical realism enriches research and practice, it is not without limitations. The framework's emphasis on context and complexity may pose challenges in providing clear-cut solutions to legal issues. Additionally, the subjective interpretation of social structures may lead to varying analyses among researchers. Moreover, critical realism may be criticized for its potential to prioritize certain perspectives over others, raising questions about objectivity and neutrality.

Applying critical realism to the analysis of the Electoral Act, 2022 involves examining not only the legal texts but also the broader social, economic, political

⁵⁶ J.V. Maanen, J.B. Sørensen, and T.R. Mitchell, 'The Interplay between Theory and Method' *Academy of Management Review* (2007) 32(4), 1145–54.

⁵⁷ D.E. McNabb, *Research Methods in Public Administration and Nonprofit Management: Quantitative and Qualitative Approaches*. (3rd edn, Routledge 2013).

and technological factors shaping these norms. The research explores the diverse socio-cultural factors that catalyze and incentivize electoral malpractice in Nigeria. It also seeks to uncover hidden structures and mechanisms that contribute to the persistence of the issue despite existing legal frameworks. The critical realist approach allows for a nuanced critique of the extant legal framework, considering the endogenous factors that cause electoral malpractice in Nigeria. It encourages the identification of underlying causes and the development of more holistic interventions that address not only legal gaps but also the complex social realities contributing to the problem.

2.4. LITERATURE REVIEW

The principal legal framework legitimizing the application of technology in elections in Nigeria is the nascent Electoral Act 2022. The Electoral Act 2022 was signed into law on February 25, 2022 by President Muhammad Buhari, after a protracted dispute between the National Assembly and the Presidency. The Act came into force prior to the 2023 presidential elections, and it repealed the Electoral Act, 2010 (amended 2015). As a disruptive framework, the Act legalized the deployment of technology in the conduct of elections pursuant to section 47(2) and 50(2). Section 47(2) provides that:

to vote, the presiding officer shall use a smart card reader or any other technological device that may be prescribed by the commission, for the accreditation of voters, to verify, confirm or authenticate the

particulars of the intending voter in the manner prescribed by the commission.⁵⁸

This section provides the requisite legislative imprimatur for the deployment of technology in the registration and accreditation of voters, consolidating past efforts. The system utilized in bringing to life the provisions of this Act, is the Bimodal Voter Accreditation System (BVAS). BVAS is an electronic device designed by INEC's in-house engineers and used in reading Permanent Voter Cards (PVCs) and authenticating voters using the voters' fingerprints in order to confirm that they are eligible to vote at a particular polling unit. BVAS usage entails either scanning the barcode/QR code on the PVC/Voter's register or entering the last six digits of the Voter Identity Number or typing in the last name of the voter by the Assistant Presiding Officer (APO 1). The BVAS compact device was designed to verify the genuineness of the PVCs and the fingerprint or facial authentication of voters during accreditation.

The Independent National Electoral Commission (INEC) stands at the forefront of modernizing Nigeria's electoral processes by embracing technological solutions. The Commission has been actively involved in the integration of technology in Nigeria's electoral system since 2011. Sequel to the findings of the report of the 23-man Electoral Reform Committee (ERC), led by Justice Muhammed Uwais in 2007, the Commission introduced Temporary Voters Card (TVC) in the 2011 elections, which was subsequently replaced with Permanent Voters Card (PVC) in

⁵⁸ Electoral Act 2022, s. 47(2).

the 2015 elections. It also introduced Biometric voter registration captures unique physical or behavioral attributes of voters, such as fingerprints or facial features, providing a more reliable means of verifying voter identity compared to traditional methods. The introduction of biometric registration system has significantly streamlined the voter verification process, reducing instances of identity-related fraud. INEC also introduced smart card readers during elections to facilitate the authentication of voters and minimize the risks associated with manual verification processes.

Another brainchild of the Commission is the electronic transmission of election results via INEC Result Viewing Portal (IREV). INEC announced the introduction of the Election Result Viewing Portal (IREV) on August 6, 2020. The purpose of the IREV is to provide an opportunity for real-time transmission of a photo of the election results sheets from polling units to the central collation centre; the portal allows members of the public to view pictures of the election result sheets (Form EC8A) as compiled, recorded and endorsed at the polling units, upon the conclusion of voting at an election. After results are counted and announced at the polling unit, a duly completed and signed copy of the polling unit election result sheet (called Form EC8A), indicating the number voters accredited and the number of votes cast for each candidate and the percentage of total votes cast at the polling unit will be uploaded to the INEC portal. This procedure is designed to

enhance the transparency of the electoral process and reduce the incidence of vote-rigging and election-result manipulation, thereby improving Nigeria's elections.

Despite these advancements, challenges persist, and INEC's regulatory role becomes crucial in addressing them. Technical glitches during elections, cybersecurity concerns surrounding electronic systems, and the need for continuous training of electoral personnel on technology usage are areas where INEC's oversight and regulatory framework must evolve. The commitment of INEC to overcome these challenges and further leverage technology for transparent and credible elections remains pivotal for the future of Nigeria's electoral landscape.

The judicial perspective on technology in Nigerian elections is paramount, especially highlighted by the landmark decisions of the 2023 presidential election tribunal. In the tribunal, one of the issues for determination (Issue 2), revolved around the satisfaction of the requirements of electronic transmission of results as required by the INEC Regulations and Guidelines for the conduct of elections, 2022. Rather disappointingly, the Presidential Election Tribunal per Haruna Simon Tsammani, JCA held that the electronic transmission of results by INEC is not mandatory.

In conclusion, despite the initial optimism surrounding the Act's implementation, its effectiveness in curbing electoral malpractices and fostering democratic consolidation has been called into question. The 2023 Presidential elections and

subsequent petitions highlighted lingering issues within the Act, underscoring the need for a critical examination of its provisions and their impact on Nigeria's democratic process.

CHAPTER THREE

ASSESSMENT OF THE IMPACT OF THE ELECTORAL ACT 2022 ON DEMOCRATIC PROCESSES IN NIGERIA

3.1. INTRODUCTION

Free and fair elections are the genuine hallmark of a democratic government, as they foster political participation.⁵⁹ Their critical role in leadership succession necessitated the enactment of an overarching regulatory framework to oversee the conduct of elections in the country. The iteration of legal reforms in Nigeria's electoral landscape climaxed on February 25, 2023 with the enactment of the Electoral Act 2022.⁶⁰ The new Act embodies several groundbreaking provisions that seek to enhance democratic consolidation in Nigeria. As a disruptive legal framework, the Act legalized the deployment of technology in the conduct of elections under section 47 – 50.⁶¹ Further, it mandated the prompt release of funds to the Independent National Electoral Commission (INEC) to conduct the elections.⁶² It also prohibited political appointees from acting as candidate/delegate in a primary election during the subsistence of their appointment.⁶³

Notwithstanding these elaborate provisions, the Nigerian electoral system is largely unchanged with electoral malpractices as prevalent as ever. The February 2023 General elections recorded the lowest voter turn-out since the turn of the Century, coupled with electoral malpractice.⁶⁴ All of these necessitate a critical

⁵⁹ O. Agbu, 'Election Rigging and the Use of Technology: The Smart Card Reader as the Joker in Nigeria's 2015 Presidential Election' (2021) 15(2) *Journal of African Elections*, 90

⁶⁰ EA 2022. Available at: <http://loyalnigerianlawyer.com/wp-content/uploads/2022/04/Electoral-Act-2022.pdf> accessed 11 February 2024.

⁶¹ Electoral Act 2022, ss. 47–50.

⁶² *Ibid*, s. 3(3).

⁶³ *Ibid*, s. 84(12).

⁶⁴ C. Ndujihe, 'Voters Turnout: 2023 presidential poll worst but keenest in Nigeria since 1979' *Vanguard News* (4 March 2023). <https://www.vanguardngr.com/2023/03/voters-turnout-2023-presidential-poll-worst-but-keenest-in-nigeria-since-1979/> accessed 11 February 2024.

and incisive assessment of the provisions of the 2022 Act in a bid to ascertain its effect on democratic consolidation in Nigeria. We will also identify the hurdles besetting the implementation of the Act as a forerunner to the analysis that will be conducted in the subsequent chapter. In winding up, we submit that *prima facie*, the Electoral Act 2022 contributes immensely to democratic consolidation, and its well-rounded provisions, if enforced, will guarantee the stability of Nigeria's ambivalent democracy.

3.2. INCISIVE ANALYSIS OF THE ELECTORAL ACT 2022

The framework for electoral governance in Nigeria is primarily anchored on two instruments: the 1999 Constitution⁶⁵ and the 2022 Electoral Act.⁶⁶ These two documents contain rules and regulations that drive electoral governance in Nigeria. These regulations are aimed at protecting the integrity of the electoral process. Section 153 of the Constitution established the Independent National Electoral Commission with the mandate to conduct elections in Nigeria for the offices of President, Vice President, Members of the National Assembly (both the Senate and House of Representatives), Governors, Deputy Governors, and members of state Houses of Assembly.⁶⁷ However the details relating to the electoral process is

⁶⁵ CAP. C23, LFN 2004.

⁶⁶ EA 2022.

⁶⁷ CAP. C23, LFN 2004, s. 153.

contained in the 2022 Electoral Act. We shall proceed to highlight some of the salient innovations of the Act.

3.2.1. Funding

Section 3(3) of the Act specifies the time frame for the Federal Government to disburse the Independent National Electoral Commission Fund to the Commission.⁶⁸ The provision states that funds for general elections must be disbursed to the Commission no later than one year prior to the election. The 2010 Act did not include a time limit.

3.2.2. Voter Register

Section 9 of the Act states that the Commission must maintain the Register of Voters at its National Headquarters and other designated places.⁶⁹ The register will be kept in electronic mode in its central database, as well as in manual or hardcopy version.⁷⁰ The Register was only maintained in a manual or hardcopy manner under the previous Act. This provision would enhance openness and efficiency in the Commission's record-keeping and in monitoring the number of registered voters participating in the future elections, thus preventing illicit voting by unregistered individuals.

3.2.3. Election Timelines

⁶⁸ EA 2022, s. 3(3).

⁶⁹ Ibid, s. 9.

⁷⁰ Ibid, s. 9(2).

Section 28 of the Act mandates the Commission to publish a notice in each State of the Federation and the Federal Capital Territory at least 360 days before an election, specifying the election date and the location for submitting nomination papers.⁷¹ This improves on the 90-day period stipulated in the 2010 Act. The time extension is meant to provide the Commission and political parties with additional time to prepare for the election.

Political parties are mandated under Section 29(1) to hold primary elections and provide their candidate list no later than 180 days before to the general elections.⁷² This improves on the 60-day period mandated by the 2010 Electoral Act. Examining other parts of the Act will show the advantages gained from the time extension implemented by this section. According to sub-section (2) of the Act, each candidate must submit a list or information along with an affidavit sworn at the Federal High Court, High Court of a State, or Federal Capital Territory, confirming that they have met all the constitutional requirements for the election to that office.⁷³ The Commission must publish the candidate's personal information in their constituency within seven days and has the authority to provide certified true copies of the documents with the details. Participants can file a lawsuit in court to disqualify a candidate who supplies false information as per sub-section (5).⁷⁴ The time extension allows everyone, particularly the media,

⁷¹ Ibid, s. 28.

⁷² Ibid, s. 29(1).

⁷³ Ibid, s. 29(2).

⁷⁴ Ibid, s. 29(5).

more time to question or check the contents in a candidate's submitted affidavit during an election.

Section 94 prolonged the duration for political parties to campaign in public, starting 150 days before polling day and concluding 24 hours before that day.⁷⁵ The campaign season will now begin 150 days before Election Day and conclude 24 hours prior to the election, as stipulated in this article. This violates the 90-day term stipulated in section 99 of the 2010 Act. This enables the media to scrutinise the operations of political parties and their candidates through debates, press briefings, interviews, and other means over an extended period.

3.2.4. Registration of Political Parties

Associations must submit their application to INEC for registration as a political party at least 12 months before an election. Under the Electoral Act 2010, the timeline was six months. Associations meeting registration requirements must be registered promptly. Pursuant to section 75(4), if after 60 days of submitting their application, the association is not registered by the Commission, it will be considered registered by default unless informed otherwise by the Commission. Under section 75(3), the Commission has 90 days from the date of application to notify associations that do not meet the registration requirements of their non-registration and the reasons for this decision.⁷⁶ Also, by virtue of section 76, organizations have the option to contest INEC's choice of not registering them by

⁷⁵ Ibid, s. 94.

⁷⁶ Ibid, s. 75(3).

filing a lawsuit before a Federal High Court after 14 days of receiving the rejection letter from INEC.⁷⁷

3.2.5. Candidate Nomination and Qualifications

Section 29(2) of the Act, provides that each candidate must submit a list or information along with an affidavit sworn at the Federal High Court, High Court of a State, or Federal Capital Territory, confirming that they have met all the constitutional requirements for the election to that office. The Commission must publish the candidate's personal information in their constituency within seven days and has the authority to provide certified true copies of the documents with the details. Participants can file a lawsuit in court to disqualify a candidate who supplies false information as per sub-section (5).

Section 34 allows political parties to hold a primary election to select a new candidate if the original candidate dies during a legislative election. It also permits a running mate to become the main candidate in elections for the executive branch of government. If a candidate dies after the polls have started but before the final result is announced, the election will be suspended for up to 21 days. In the case of a legislative House election, the election will begin again and the political party of the deceased candidate must hold a new primary within 14 days and submit a new candidate's name to the Commission. In a presidential, gubernatorial, or Federal Capital Territory Area Council election, if a candidate's running mate is unable to

⁷⁷ Ibid, s. 76.

continue, the candidate may select a new running mate to proceed with the election. The Act implies that the 'Kogi event' is unlikely to happen again. In such a situation, the running mate would become the main candidate and then select a new running partner.

3.2.6. Election Conduct

Section 41 discusses the Independent Electoral Commission's responsibility to supply appropriate Ballot Boxes and Voting devices, such as electronic voting machines, for conducting elections. This is an enhancement from past elections where voter accreditations and ballot paper counting were done manually. This allows for electoral fraud and manipulations, enabling unpopular candidates to appear as the victors. If this provision in this part is correctly executed, it will provide prudent, transparent, equitable, and trustworthy election results in 2023. In the 2019 general elections, the PDP candidate won the presidential election, but the Supreme Court annulled the result in favour of the APC candidate due to the Electoral Act not being signed by the President at that time.

Section 47 has authorised the use of smart card readers and other voter accreditation equipment by the Independent National Electoral Commission (INEC) for accreditation purposes. Analysis of the Election Petition cases following the 2019 general election shows that many overturned elections were based on the absence of provisions in the 2010 Act for the use of card readers or other voter accreditation technology, only allowing manual accreditation. This

reality is nearly universally recognised by most Nigerians. The Media should disseminate and educate the general public about the validation of accreditation processes by the 2022 Act to restore their confidence in the voting process.

3.2.7. Result Transmission and Dispute Resolution

Section 50 authorises INEC to oversee voting and communicate results based on the procedure established by the Commission. This encompasses the electronic broadcast of election results when interpreted literally. This clause can be referenced as giving legal support for electronically transmitting election results. Section 52 of the 2010 Act explicitly banned the use of electronic voting machines.

Section 65 grants INEC the authority to reassess the decisions made by returning officers regarding elections. According to the 2010 Electoral Act, the returning officer's decision is conclusive on any issue regarding unmarked or rejected ballot papers, candidate scores disclosure, and candidate return. The decision could only be reviewed by an election tribunal or a court with proper jurisdiction in an election petition action under the 2022 Act.

Section 92 (1-3) prohibits specific behaviour during political campaigns. Section 92 (1) prohibits political campaigns or slogans from containing offensive language that could harm religious, ethnic, tribal, or sectional sentiments. Section 92 (2) prohibits the use of offensive, disrespectful, defamatory, or provocative language in political campaigns. Section 92 (3) states that places like religious sites, police stations, and public offices cannot be used for political activities or to promote,

criticise, or attack political parties, candidates, or their beliefs. Section 92 (4) prohibits political parties and candidates from using Masquerades, aspirants, or candidates during political campaigns or for any other political purposes.

Section 95 (1a-b) prohibits campaigning that is based on religion or tribe. Section 95 (1) specified that any candidate, individual, or group involved in campaigning or broadcasting. Engaging in activities that support or oppose a political party or candidate for reasons related to religion, tribe, or region is considered a violation of this Act. Upon conviction, the offender may face a fine of up to one million naira, imprisonment for up to 12 months, or both. Political parties may face a fine of up to ten million naira.

3.2.8. Election Petition Process

The Act includes provisions for repercussions in cases where INEC declines, omits, or disregards its obligatory duties and responsibilities as outlined by the legislation. The Electoral Act states that a judgement made by the returning officer can be reviewed by an election tribunal or a court with the necessary authority during election petition proceedings as per this Act. The process of disputing an election outcome before an election tribunal is known as an Election Petition. According to the Act, any challenge to an election or its results must be done through a "election petition" filed with the appropriate tribunal or court, as

outlined in the Constitution or the Act. The individual elected or returned must be included as a party in the petition.

The 1999 Constitution of the Federal Republic of Nigeria establishes different types of Election Tribunals to handle election disputes, based on the specific election in question. The Court of Appeal serves as the election tribunal for presidential elections. Each State in Nigeria has a Governorship Election Tribunal for governorship elections. Additionally, National and State Assembly Election Tribunals will be formed in each State and the FCT Abuja to resolve disputes that may arise from elections for the national assembly and state houses of assembly in Nigeria. Submitting an election petition to the appropriate tribunal seems to be the sole legal method for contesting election results in Nigeria once the seven-day period provided by INEC for result review has passed.

A candidate or political party can contest election results by submitting a petition to the appropriate election tribunal as permitted by the Act. An election petition contesting election results under the Act must be submitted to the appropriate Tribunal within 21 days of the election results being declared. The respondents in an election petition consist of the candidate declared winner by the INEC, the INEC itself, and any other individual or entity accused by the petitioner(s) regarding the election. An electoral tribunal must hear, determine, and issue its verdict within 180 days from the date of the petition filing.

An appeal can be made to an appellate court following a decision by an election tribunal. The Court of Appeal is the highest court for National and State Assembly election petitions, while the Supreme Court is the highest court for gubernatorial and presidential elections. An appeal in an election petition must be submitted within 21 days of the ruling by the electoral tribunal or court of appeal, and each appeal must be resolved within 60 days from the lower court/tribunal's ruling. One can dispute or challenge election results under the Act if the election was illegal due to corrupt practices or non-compliance with the Electoral Act 2022.

An election tribunal may dismiss a petition if the petitioner fails to prove their case or strike out a petition if it is withdrawn or deemed incompetent due to non-compliance with the law. If it is proven before the tribunal that an election is invalid due to corrupt practices or non-compliance with the Electoral Act, the tribunal must invalidate the election and call for fresh elections within 90 days.

3.2.9. Political Appointees and Party Primaries

Section 84 (4-9) of the Act permits political parties to pick or nominate candidates by choosing the primary method that they consider most suitable. This clause allows for direct, indirect, and consensus candidature. All political parties' primaries must be overseen by the Independent Electoral Commission (INEC). Any primary not supervised by INEC would be deemed invalid. All candidates for a certain job must agree to the political parties' primaries.

Section 84 (12) states that political appointees are not allowed to participate as voting delegates or be candidates for nomination at any political party's Convention or Congress for selecting election candidates. The foregoing clause implies that individuals in political office, such as ministers, commissioners, special advisers, and others, must step down from their post before they can take part in the electoral process as a candidate or delegate. This service is a recent development and has sparked debate among individuals from various social levels.

Section 84 (13) states that if a political party does not follow the rules outlined in this Act during its primary, the party's candidate will not be allowed to participate in the election for that specific position. The section is currently under review in the Supreme Court for clarification by the affected lawmakers. These Sections aim to reduce electoral manipulation by the ruling party utilising state resources and machinery for personal benefit.

3.2.10. Inclusion of Persons with Disabilities

This section provides that the INEC register of voters will be disaggregated by disability status, and type of disability.

Section 54(2) of the 2022 Act, similar to the 2010 Act, includes provisions for individuals with disabilities and special needs. The Media's responsibility is to initiate discussions that will deliver information to the target audience and also educate them on how to enjoy the benefits provided by the provision.

3.2.11. Campaign Funding

Section 88(2-7) introduces new maximum limits on election expenses as follows:

- Presidential election – N5,000,000,000 (Five Billion Naira)
- Governorship election – N1,000,000,000 (One Billion Naira)
- Senatorial election – N100,000,000 (One Hundred Million Naira)
- Federal House of Representatives election – N70,000,000 (Seventy Million Naira)
- State Assembly election – N30,000,000 (Thirty Million Naira)
- Area Council Chairmanship election – N30,000,000 (Thirty Million Naira)
- Area Council Councillorship election – N5,000,000 (Five Million Naira)

Section 88(9) provides that candidates will face a fine of 1% of the amount permitted as the limit of campaign expenditure or imprisonment for a term not exceeding 12 months or both.

Section 88(11) provides that an accountant who assists a candidate in falsifying election expenses documents is liable to a fine of N3,000,000 or 3 years' imprisonment or both. Section 88(11)

3.2.12. Miscellaneous Provisions

Section 64 (1) allows the Presiding Officer to mark the word "rejection" on a ballot paper that has been rejected under Section 52 (1) of the Act or for any other reason. The ballot paper should not be counted unless the Returning Officer decides otherwise and overrules the Presiding Officers

3.3. CHALLENGES IN IMPLEMENTATION

Despite these prospects, it is pertinent to note that beyond the Electoral Act 2022 coming into force, implementation of the Act to the latter is germane to achieve the desired result of democratic stability. As such, there are concerns about the effectiveness and efficacy of the Electoral Act 2022. Conditions which may undermine the effectiveness of the Act include: persistent logistics challenges besetting the INEC; the doubt over INEC's total independence; the challenge of electoral security, coupled with the obnoxious role of some security personnel during elections; lack of inclusivity and participation, especially of the women's gender, etc.

In the area of technological deployment for election administration, the fact that those technologies are still going to be operated by humans gives a cause for concern about the chances of continuous manipulations. Also, the extension of the campaign period means that political parties and political candidates will now have to spend more resources on political campaigns. While some political parties

may be capable to finance a longer campaign window, others may not have the financial wherewithal to do the same. This creates room for some inequality, especially in terms of how well political parties are able to equally sell themselves, their candidates and their policies to the electorate, which in turn, can influence the electoral outcome.

Furthermore, the attitude and behaviour of the Nigerian elites are a cause for concern as far as the effective implementation of the Electoral Act 2022 is concerned. The desperate tendencies of Nigerian political elites to win an election by all means possible, makes them one of the greatest threats to the effectiveness and efficacy of the Electoral Act 2022. Therefore, while the provisions of the Electoral Act 2022 are good enough to significantly improve the electoral process, the character of the Nigerian political elites to always find means to beat the system may constitute a huge challenge. Albeit, while these challenges call for concern, there is no doubt that indeed, “Notwithstanding ‘banana peels’ strewn on the path of the electoral process, the 2022 Electoral Act offers a great opportunity and hope in our [Nigeria] quest for free, fair, transparent and credible polls.” The Electoral Act 2022 thus, provides an opportunity, and charts a path towards democratic stability in Nigeria, via its various provisions.

3.4. IMPACT ON DEMOCRATIC CONSOLIDATION

Having presented the concept of electoral act and the democratic development, it is imperative to examine the relationship between the two concepts. In all nations, Nigeria inclusive, electoral act remain the instrument for achieving credible elections. Democratic development is said to be championed through credible electoral process which is often assumed to depend largely on the effective implementation of the electoral act. Electoral act as described is a policy document or a branch of public law that relates to the democratic processes of a country, it is a set of rules that determine how elections are to be conducted in a country and how their processes should be determined.⁷⁸ A credible electoral act therefore, is the foundation of every democratic pursuits, which is expected to confer legitimacy on elected representative and provides opportunities for citizens to freely determine who and which political party can govern on their behalf in a democratic system.

Democratic development is associated with a positive change in the condition of either individual groups, communities or even a country as a whole, the ultimate purpose of democratic development is to achieve sustainable governance and positive change in the quality of life of citizens who inhabit a certain social space, usually a nation state. The relationship between Electoral act and Democratic development are closely interconnected. While on the one hand democratic development is geared towards producing or creating a sustained improvement in

⁷⁸ A.C. Onah, 'Electoral Act 2022, Nigeria's General Elections 2023 and the Role of the Media' (2022) 4(2) *International Journal of Comparative Law and Legal Philosophy*, 1–7 at 1.

the democratic factors such as: inclusiveness, accountability and civil liberties of the citizens of a country.⁷⁹ On the other hand, electoral act is a tool which can enhance the attainment of the desired sustainable improvement. Abutu therefore, affirmed the electoral act and democratic development as two sides of the same coin.

The Electoral Act 2022 is poised to contribute significantly to democratic consolidation in Nigeria by enhancing the credibility, transparency, and fairness of the electoral process.⁸⁰ The Electoral Act 2022 introduces new maximum limits on election expenses for various positions, thereby curbing excessive spending in campaigns. By enforcing stricter regulations on campaign finances, the Act aims to reduce the influence of money in politics and promote a level playing field for all candidates. This fosters greater trust in the electoral process among citizens, which is crucial for democratic consolidation. Furthermore, the Act contains provisions aimed at promoting inclusivity and broadening political participation. By ensuring that electoral processes are accessible to all eligible citizens, regardless of physical and socio-economic status, the Act helps to strengthen the democratic fabric of the country.

The Electoral Act 2022 also includes provisions to combat electoral fraud and malpractice, thereby upholding the integrity of the electoral process. By imposing

⁷⁹ A.O. Sulaiman, 'Electoral Reforms and Democratic Stability in Nigeria: A Critical Review of the 2022 Electoral Act' (2022) 2(2) *NILDS Journal of Democratic Studies*, 11.

⁸⁰ J.D. Abutu and Others, 'The Electoral Act 2022: Implications for Democratic Development in Nigeria' (2022) 2(2) *International Journal of Education, Research and Scientific Development*, 12–23 at 13.

penalties for electoral offenses and establishing mechanisms for the resolution of electoral disputes, the Act reinforces the rule of law and ensures that elections reflect the genuine will of the electorate. This fosters public confidence in the electoral system and reinforces democratic norms and values. Finally, the Act contains provisions to enhance accountability and responsiveness in the electoral process. By stipulating clear rules and procedures for the conduct of elections, the Act holds electoral officials and political actors accountable for their actions. Transparent electoral administration and oversight mechanisms help to prevent electoral manipulation and ensure that electoral outcomes accurately reflect the preferences of the electorate.

3.5. CONCLUSION

In conclusion, the Electoral Act 2022 stands as a pivotal instrument in Nigeria's quest for democratic consolidation and stability. Its enactment represents a significant step towards enhancing the credibility, transparency, and fairness of the electoral process in the country. By introducing groundbreaking provisions and reforms, the Act addresses critical areas of concern such as funding, voter registration, election timelines, candidate nomination, election conduct, result transmission, dispute resolution, campaign funding, and inclusion of persons with disabilities.

Through its provisions, the Electoral Act 2022 aims to curb electoral malpractices, promote inclusivity, foster public confidence, uphold the rule of law, and enhance

accountability in the electoral process. By imposing limits on campaign expenditure, enforcing regulations on campaign finances, and introducing penalties for electoral offenses, the Act seeks to reduce the influence of money in politics and level the playing field for all candidates. Furthermore, the Act emphasizes the importance of inclusivity by ensuring that electoral processes are accessible to all eligible citizens, including persons with disabilities.

Despite its comprehensive provisions and potential impact, challenges remain in the effective implementation of the Electoral Act 2022. These challenges include logistical issues, doubts over INEC's independence, electoral security concerns, lack of inclusivity, and the desperate tendencies of political elites to manipulate the electoral process. Addressing these challenges will require concerted efforts from all stakeholders, including the government, electoral bodies, civil society organizations, and the media.

In essence, while the Electoral Act 2022 offers a promising framework for democratic consolidation in Nigeria, its success ultimately hinges on the commitment of all stakeholders to uphold its provisions, ensure transparency and accountability, and safeguard the integrity of the electoral process. With sustained efforts and collective action, the Act has the potential to strengthen Nigeria's democracy, promote good governance, and advance the welfare of its citizens. Thus, while the Electoral Act 2022 provides a framework for progress, its true impact on democratic consolidation will depend on the collective commitment of

Nigerians to uphold democratic values, safeguard electoral integrity, and ensure that the voices of all citizens are heard and respected in the political arena.

CHAPTER FOUR

ANALYSIS OF THE CAUSAL AND CONTRIBUTORY FACTORS OF ELECTORAL MALPRACTICE IN NIGERIA

4.1. INTRODUCTION

As noted in the introductory chapter, Nigerian elections are everything except free and fair, and historical antecedents vividly illustrate this.⁸¹ Nigeria's electoral system has been consistently marred by several forms of electoral irregularities ranging from vote buying to electoral violence. As far back as the 1964 General Elections, instances of electoral malpractices in the Nigeria electoral system has been evident.⁸² The election was between the Action Group (AG), Northern People's Congress (NPC) and National Council of Nigeria and Cameroon (NCNC).

⁸¹ J.D. Abutu, A.B. Onumadu, O.C. Adetarami, and B.C. Onyeke, 'The Electoral Act 2022: Implications for Democratic Development in Nigeria' (2022) 2(2) *International Journal of Education, Research and Scientific Development*, 12–23.

⁸² D.A. Falade, 'Political Participation in Nigerian Democracy' (2014) 14(8) *Global Journal of Human- Social Science for Political Science*, 11.

Official reports indicate that the election was bedeviled by electoral irregularities such as rigging, fraud, electoral violence, voter suppression, etc. This led to the first military coup d'état in January 1966, and the Biafran Civil war (1967-1970), a year after.⁸³ Continuing unabated, electoral malfeasances occurred in the general elections of 1979, 1999, 2003, 2007, 2011, 2015, 2019, and 2023.⁸⁴ These elections were marred by severe electoral irregularities, with the 1999, 2003, and 2007 elections standing out for their corruption.

The concurrence of this malaise vis-à-vis the enactment of the Electoral Act 2022 on February 25, 2022,⁸⁵ raises pungent questions. Almost two years after its enactment, the Nigerian electoral system is largely unchanged with electoral malpractices as prevalent as ever. This makes one wonder, what exactly are the factors catalyzing the proliferation of electoral malpractice in the Nigerian electoral landscape? This chapter will be devoted to outlining and intricately examining the causal and contributory factors of electoral malpractice in Nigeria. Although holistic, the list herein does not encompass all the factors, but is a representation of the more prominent factors. For ease of analysis, the identified factors were subsumed under two broad categories, to wit: causal factors and contributory factors. The causal factors represent the legal, institutional, infrastructural, socio-economic, religious, and ideological deficiencies that directly

⁸³ A.O. Sulaiman, 'Electoral Reforms and Democratic Stability in Nigeria: A Critical Review of the 2022 Electoral Act' (2022) 2(2) *NILDS Journal of Democratic Studies*, 9.

⁸⁴ Agbu (n1), 96;

⁸⁵ Electoral Act 2022.

cause electoral malpractice in Nigeria. On the other hand, contributory factors refer to the remote causes that undergird the ubiquity of electoral irregularities in Nigeria.

4.2. CAUSAL FACTORS

As explained above, causal factors represent the legal, institutional, infrastructural, socio-economic, religious, and ideological deficiencies that directly cause electoral malpractice. These factors include: weak political institutions, inept electoral laws, poverty, impunity, nepotism, corruption, electoral violence, false information, and judicial inefficiencies.

4.2.1. Weak Political Institutions

Despite the multiplicity of legal and political studies, there is no consensus on the definition of the term, political institution. There are various conceptualizations of the term, and each of these conceptual approaches depend on the paradigm of the researcher. Adherents to the rational school posit that institutions are the byproduct of a system of rules, designs, structures, and incentives.⁸⁶ Utilitarian's conceptualize political institutions from the viewpoint of advantage, equating institutions to corporate structures that provide advantages to its parties.⁸⁷

Sociologists define political institutions as exogenous norms and cultures that

⁸⁶ K.A. Shepsle, 'Rational Choice Institutionalism' In R.A. Rhodes, S.A. Binder, and B.A. Rockman (eds), *The Oxford Handbook of Political Institutions* (Oxford University Press 2008), 23–38. <https://doi.org/10.1093/oxfordhb/9780199548460.003.0002> accessed 15 February 2024.

⁸⁷ T. Moe, 'Political Institutions: The Neglected Side of the Story' (1990) 6 *Journal of Law, Economics, and Organization*, 213–53.

stand independently of the evolving vagaries in the political landscape.⁸⁸ Overall, political institutions are the byproduct of a collection of organized practices that are embedded in structures which are unchanging.⁸⁹ They have also been defined as organizations which create, enforce and apply laws; and otherwise provide representation for the people. Seminal examples of political institutions include political parties, trade unions, governmental organs like the legislature, the executive, and the judiciary.⁹⁰

Weak political institutions demonstrably contribute to the rampancy of electoral malpractice in Nigeria by failing to uphold the democratic process. One example of this was the controversial Supreme Court's decision, declaring APC's Hope Uzodinma as the governor of Imo State. There, the Supreme Court, rather than order a rerun, declared the 3rd runner up at the polls, as the Governor.⁹¹ This decision tarnished our democratic ideals, and exemplified how the weakness of political institutions causes a spate of electoral irregularities. Also, weak political institutions fail to provide the much-needed regulatory oversight in our electoral landscape thereby inadvertently catalyzing electoral irregularities. One notable instance is when APC forwarded Ahmed Lawan as its Senatorial Candidate for

⁸⁸ P. Hall and R. Taylor, 'Political Science and the Three Institutionalisms' (1996) 44 *Political Studies*, 936-57.

⁸⁹ J.G. March and J.P. Olsen, 'Institutional Perspectives on Political Institutions' (1996) 9(3) *Governance*, 247-264. <https://doi.org/10.1111/j.1468-0491.1996.tb00242.x> accessed 15 February 2024.

⁹⁰ R.E. Ahmad, A. Eijaz, and B.H. Rahman, 'Political Institutions, Growth and Development in Pakistan (2008–2013)' (2014) 21(1) *Journal of Political Studies*, 257 – 269.

⁹¹ *Uzodinma v Ihedioha* (2020) 5 NWLR (Pt. 1718), 529 (SC).

Yobe North, though he never contested.⁹² It avidly displayed the weakness of the party, and its inability to check the despotic political ambitions of its members.

4.2.2. Inept Electoral Laws

There is no doubt that laws are the principal regulators of human conduct, and they provide direction for human behavior. Electoral laws, are no different, as they exist to provide a legal framework within which electoral activities may be conducted. Specifically, electoral law refers to the branch of public law that regulates the process of conducting elections in a country.⁹³ It refers to the set of rules that must be adhered to in the conduct of elections in a country. Electoral laws do not just govern the day of election, but the campaigns preceding, and the declaration of results subsequently.⁹⁴ It consists of the 1999 constitution,⁹⁵ the Electoral Act 2022, and the spate of regulatory guidelines issued by the INEC. Whereas the Constitution provides for the qualification and tenure of public offices, the Electoral Act 2022 provides the procedural framework. In summary, electoral laws are the set of rules that regulate the conduct of presidential, gubernatorial, by-elections, and legislative elections.⁹⁶

Loopholes in electoral laws, such as unclear voter registration processes or ambiguous procedures, can create opportunities for manipulation and fraud.

⁹² *APC v Bashir Machina* (2023)

⁹³ J.D. Abutu and Others, 'The Electoral Act 2022: Implications for Democratic Development in Nigeria' (2022) 2(2) *International Journal of Education, Research and Scientific Development*, 12–23 at 14.

⁹⁴ A.C. Onah, 'Electoral Act 2022, Nigeria's General Elections 2023 and the Role of the Media' (2022) 4(2) *International Journal of Comparative Law and Legal Philosophy*, 1–7 at 1.

⁹⁵ Cap. C23, LFN 2004.

⁹⁶ O. Oklobia and D.A. Maikasuwa, 'Electoral Act 2022: A Vehicle for Effective Leadership Recruitment in Nigeria' (2022) 25(6) *African Scholar Journal of Arts and Sociological Research*, 124–142.

Exploiting these loopholes, sleazy politicians tend to pervert the electoral process through rigging, vote-buying, multiple voter registration, ballot-box snatching, etc. The BVAS and IRev saga that trailed the 2023 elections, is still very fresh in the memory of many Nigerians. The INEC Result Viewing Portal (IREV) was invented to provide real-time transmission of a photo of the election results sheets. This technology alongside other technological innovations like BVAS was supposed to be deployed by INEC in the 2023 Presidential elections.⁹⁷ However, the IREV portal crashed repeatedly during the period of the election, and many Form EC8A's were not uploaded there.⁹⁸ The absence of any specific provision in the Electoral Act mandating INEC to upload the results spurred multiple result manipulations.⁹⁹

4.2.3. Widespread Poverty

Poverty is a significant causal factor undergirding the rampancy of electoral irregularities and electoral violence in Nigeria in armed conflicts. Poverty, a nebulous concept, can be best understood from the lens of the observer; its

⁹⁷ C. Okocha, 'INEC Reviews Bimodal System, Unveils Electoral Innovations' *This Day Live* (22 December 2021) <https://www.thisdaylive.com/index.php/2021/12/22/inec-reviews-bimodal-system-unveils-electoral-innovations/> accessed 21 February 2024.

⁹⁸ S. Omolaoye, 'INEC says technical hitches responsible for delay in uploading results' *The Guardian* (26 February 2023) <https://guardian.ng/news/inec-says-technical-hitches-responsible-for-delay-in-uploading-results/> accessed 21 February 2024.

⁹⁹ S. Udemezue, 'Fifteen Critical Questions towards Determining Whether Results E-Transmitted Directly From Polling Units are not a Mandatory part of the Collation Process under the Electoral Act 2022' *LawPavilion* (19 April 2023) <https://lawpavilion.com/blog/fifteen-critical-questions-towards-determining-whether-results-e-transmitteddirectly-from-polling-units-are-not-a-mandatory-part-of-the-collation-process-under-the-electoral-act-2022/> accessed 20 February 2024.

definition depends on who asks.¹⁰⁰ Notwithstanding the divergent definitions of the concept, it may be understood from twelve clusters of meaning; twelve paradigms; twelve viewpoints.¹⁰¹ These twelve paradigms of poverty can be further subsumed under three broad sub-heads: economic circumstances; social position; and material conditions.¹⁰² As a byproduct of economic circumstances poverty can be defined as ‘the inability to attain a minimal standard of living’.¹⁰³ As a social position, poverty refers to a situation of dependence on State resources, owing to the lack of means.¹⁰⁴ Poverty as a material condition refers to a severe deprivation of basic human needs, including food and safe drinking water.¹⁰⁵ In sum, poverty refers to the perpetual lack of the basic necessities for living such as food, clothing, and shelter.

According to 2022 statistics, a vast majority of Nigerians wallow in abject poverty, earning less than a dollar per day.¹⁰⁶ Worst still, and according to the same authority, it was reported that the greater proportion of Nigerian youths are unemployed.¹⁰⁷ The conflation of poverty and unemployment induces many Nigerians, especially youths, to resort to illegal activities to make a living. One of

¹⁰⁰ R. Chambers, ‘What is Poverty? Who asks? Who answers?’ In D. Ehrenpreis (ed) *Poverty in Focus* (UNDP International Poverty Center 2009), 3. <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/120/rc145.pdf?s> accessed 6 February 2024.

¹⁰¹ P. Spicker, S.A Leguizamón, and D. Gordon (eds), *Poverty: An International Glossary* (2nd edn, Zed Books 2007) 230. <https://www.crop.org/Publications/CROP-Book-Series/Poverty-An-International-Glossary.aspx> accessed 6 February 2024.

¹⁰² Ibid, 239-240.

¹⁰³ World Bank, *World Development Report 1990: Poverty* (World Bank 1990).

¹⁰⁴ G. Simmel, ‘The Poor’ (1908) 13 *Social Problems*, 118–139.

¹⁰⁵ United Nations, *The Copenhagen Declaration and Programme of Action* (United Nations 1995).

¹⁰⁶ S.J. Ichedi, ‘Nigeria launches its most extensive National Measure of Multidimensional Poverty’ (2022) <https://nigerianstat.gov.ng/news/78> accessed 20 February 2024.

¹⁰⁷ A. O’Neill, ‘Nigeria: Youth Unemployment Rate from 1999 to 2022’ *Statista* (2 February 2024). <https://www.statista.com/statistics/812300/youth-unemployment-rate-in-nigeria/> accessed 20 February 2024.

the illegal vices that youths engage in to make a living nowadays is political thuggery for corrupt politicians. As political thugs, these youths are used to perpetuate electoral malpractices such as rigging, ballot box snatching and electoral violence. Ahead of the 2015 elections, thugs in Edo State were used to vandalize the State House of Assembly residential quarters.¹⁰⁸ Again, in the 2023 elections, more than 50 political thugs stormed the collation centre, Ogoja constituency, claiming lives and properties.¹⁰⁹

4.2.4. Culture of Impunity

The Nigerian political landscape is characterized by a culture of impunity towards breach of electoral laws thereby triggering electoral malpractice. The word impunity is derived from the Latin word *impunitas*, which literally means ‘freedom from punishment’ or ‘omission of punishment’.¹¹⁰ Lexically, it refers to an attitude of acting in blatant disregard for the law and state institutions however, without punishment.¹¹¹ Some authors have defined it as unchecked freedom; an unmitigated and an uncontrolled emancipation, freewill and free choice without restraint.¹¹² system. It has also been defined as disobedience to the rule of law,

¹⁰⁸ O. Agbu, ‘Election Rigging and the Use of Technology: The Smart Card Reader as the Joker in Nigeria’s 2015 Presidential Election’ (2016) 15(2) *Journal of African Elections*, 90–111 at 97.

¹⁰⁹ Metro, ‘Violence that Marred 2023 Elections’ *Vanguard* (25 March 2023). <https://www.google.com/amp/s/www.vanguardngr.com/2023/03/violence-that-marred-2023-elections/amp/> accessed 20 February 2024.

¹¹⁰ Merriam-Webster, ‘Impunity’ *Merriam-Webster.com Dictionary*. <https://www.merriam-webster.com/dictionary/impunity> accessed 20 February 2024.

¹¹¹ F. Ekanem, ‘Culture of Impunity and the Ambivalence of Nigeria’s Political Class’ (2012) 2(2) *American Journal of Social Issues & Humanities*, 11.

¹¹² S.T. Akindele, ‘Corruption and Economic Retardation: A Retrospective Analysis of Nigeria’s Experience since Independence’ In O.A. Bamisaye (ed.), *Readings in the Political Economy of Nigeria since Independence* (Ventures 1996).

abdication of due process/procedure, and lack of patriotism.¹¹³ It is marked by words such as, ‘nothing go happen’, ‘nothing dey’, ‘go to court’, ‘only in my country’, etc. It manifests in diverse forms such as electoral misconduct, fiscal impropriety, self-aggrandization, recalcitrance to judicial orders, and other forms of lawlessness. In sum, it is the attitude encouraged by an unlawful liberty from retribution or recrimination among citizens and governments

The culture of impunity demonstrated in Nigeria’s electoral landscape sends a message that electoral irregularities are tolerated and even rewarded. It is seen as though, those who choose the legal route are fools, and those who rig elections are celebrated. Brazen acts of electoral malpractice, traceable to individual candidates are overlooked by the electoral management bodies (EMBs) and the courts. This silence breeds a culture of impunity in Nigerian politics reverting electoral malpractice from the exception to the status quo. Describing impunity, Buhari noted that results were written in party offices and aggrieved parties were asked to ‘go to court’.¹¹⁴ This culture of impunity reared its ugly head in the 2015 elections with the Rivers State PDP candidate, Nyesom Wike.¹¹⁵ Also, the 2023 elections

¹¹³ B. Owasanoye, ‘Rule of Law and National Development’ In E. Azinge and B. Owasanoye (eds.), *Rule of Law and Good Governance* (Nigeria Institute of Advance Legal Studies 2009).

¹¹⁴ A. Abuh and M.J. Azimazi, ‘Buhari links credible 2015 polls to PVC, card-reader’ *The Guardian* (Lagos, 7 May 2015). <https://guardian.ng/news/buhari-links-credible-2015-polls-to-pvc-card-reader/> accessed 20 February 2024.

¹¹⁵ Victor Azuibuike, ‘Rivers Election: Wike says he cannot be Defeated’ *Daily Post* (29 July 2014). <https://dailypost.ng/2014/07/29/rivers-2015-wike-says-defeated/> accessed 20 February 2024.

started on this note, with the APC presidential candidate declaring, ‘Emilokan’ (i.e. it is my turn).¹¹⁶

4.2.5. Ethno-religious Divisions

Pre-existing ethnic or religious tensions can be exploited by political actors to mobilize supporters and incite violence against opposing groups. Nigeria is home to over 350 ethnic groups and a multiplicity of religions, making it one of the most heterogeneous countries.¹¹⁷ Politicians often manipulate these divisions to mobilize support along ethnic and religious lines, thereby deepening societal fault lines and exacerbating tensions during elections. One example of how ethno-religious divisions contribute to electoral malpractice is the phenomenon of "ethnic voting blocs," where certain ethnic groups predominantly support candidates from their own ethnic background. This tendency can lead to the marginalization of minority groups and create a winner-takes-all mentality, where the interests of the majority ethnic group are prioritized at the expense of others. In such an environment, politicians may resort to tactics such as vote buying, intimidation, and even violence to secure the support of these crucial voting blocs.

The 2019 general elections in Nigeria provide a stark illustration of how ethno-religious divisions can fuel electoral malpractice. In several regions of the country,

¹¹⁶ Tayo Oke, ‘Emi L’okan: Tinubu’s turn to do What?’ *Punch* (Lagos, 13 September 2022). <https://punchng.com/emi-lokan-tinubus-turn-to-do-what/> accessed 20 February 2024.

¹¹⁷ O. Agbajileke, ‘Losing our Identities to Major Ethnic Groups in Nigeria’ *The Cable* (26 August 2022). Retrieved from <<https://www.thecable.ng/losing-our-identities-to-major-ethnic-groups-in-nigeria/amp>> accessed 20 February 2024..

including the Middle Belt and the North-East, ethno-religious tensions were exploited by politicians to manipulate the electoral process. Incidents of violence and voter intimidation were reported in areas where ethnic and religious identities were particularly salient, leading to allegations of electoral fraud and irregularities. To address this issue, efforts must be made to promote national unity and social cohesion, while also implementing electoral reforms that foster inclusivity and representation for all ethnic and religious groups. Additionally, civic education programs should be intensified to promote tolerance and discourage the instrumentalization of ethno-religious identities for political gain. By addressing the root causes of ethno-religious divisions and promoting a more inclusive political environment, Nigeria can mitigate the risk of electoral malpractice and strengthen its democratic institutions.

4.2.6. Lack of Public Trust in Electoral Bodies

The lack of public trust in electoral bodies is a significant contributing factor to electoral malpractice in Nigeria. When citizens perceive electoral institutions as biased, corrupt, or ineffective, they are less likely to have confidence in the electoral process and its outcomes. This lack of trust can undermine the legitimacy of election results and lead to widespread disenchantment with the democratic process. One prominent example of public distrust in electoral bodies is the controversy surrounding the Independent National Electoral Commission (INEC) in Nigeria. Over the years, INEC has been accused of bias, inefficiency, and

incompetence in conducting elections. Allegations of voter manipulation, ballot stuffing, and collusion with political elites have further eroded public confidence in the electoral process, leading to widespread skepticism about the integrity of elections.

The 2007 general elections in Nigeria serve as a stark reminder of the consequences of public distrust in electoral bodies. The elections were widely condemned as flawed and fraudulent, with widespread reports of voter intimidation, ballot box snatching, and vote rigging. The outcome of the elections was marred by allegations of widespread irregularities, leading to protests, violence, and calls for electoral reforms. To address this issue, electoral bodies must demonstrate transparency, impartiality, and accountability in their operations. Measures such as the use of technology to enhance the transparency of the electoral process, the establishment of independent oversight mechanisms, and the prosecution of electoral offenders can help rebuild public trust in electoral institutions. Additionally, efforts should be made to engage citizens in the electoral process and educate them about their rights and responsibilities as voters. By restoring public confidence in the integrity of elections, Nigeria can mitigate the risk of electoral malpractice and strengthen its democratic institutions.

4.2.7. Use of Security Personnel

The use of security personnel in elections can significantly contribute to electoral malpractice when security forces are politicized or manipulated by political actors.

Instead of maintaining law and order impartially, security personnel may be deployed to intimidate voters, disrupt opposition activities, or even facilitate vote rigging. This misuse of security forces undermines the credibility of the electoral process and erodes public confidence in the fairness of elections. One example of how the use of security personnel can exacerbate electoral malpractice is the militarization of elections in Nigeria. During elections, security personnel, including the police and military, are often deployed to maintain law and order and ensure the security of the electoral process. However, there have been numerous reports of security personnel being used to intimidate voters, harass opposition candidates, and disrupt opposition rallies. This abuse of power undermines the democratic process and violates the rights of citizens to participate in free and fair elections.

The 2019 general elections in Nigeria witnessed widespread allegations of security personnel being used to intimidate voters and suppress opposition voices. In several states, including Rivers, Akwa Ibom, and Kano, security personnel were accused of colluding with political elites to manipulate the electoral process and tilt the outcome in favor of ruling party candidates. Incidents of violence and voter intimidation were reported in areas where security forces were heavily deployed, leading to calls for electoral reforms and greater accountability for security personnel. To address this issue, measures must be taken to depoliticize security forces and ensure their impartiality in elections. Security personnel should receive

adequate training on their role in maintaining law and order during elections, with a focus on respecting the rights of citizens and upholding the principles of democracy. Additionally, mechanisms should be put in place to hold security personnel accountable for any abuses of power or violations of electoral laws. By promoting professionalism and integrity within security forces, Nigeria can mitigate the risk of electoral malpractice and strengthen its democratic institutions.

4.2.8. Proliferation of Small Arms

The proliferation of small arms and light weapons (SALW) in Nigeria poses a significant challenge to the integrity of the electoral process. Small arms are readily available and easily accessible, making them attractive tools for political actors seeking to manipulate elections through violence, coercion, and intimidation. The presence of armed groups and criminal organizations exacerbates this problem, as they may be enlisted by politicians to influence electoral outcomes in their favor.

The 2019 general elections in Nigeria witnessed instances of violence and insecurity linked to the proliferation of small arms. In states such as Zamfara, Kaduna, and Kogi, armed groups and bandits disrupted the electoral process, leading to voter intimidation, ballot box snatching, and even loss of lives. The widespread availability of small arms made it difficult for electoral authorities to ensure the safety and security of voters and election officials, undermining the credibility of the electoral process. To address this issue, concerted efforts are

needed to curb the illicit proliferation of small arms and strengthen arms control measures. This includes improving border security to prevent the smuggling of weapons into the country, enhancing law enforcement efforts to dismantle arms trafficking networks, and implementing disarmament and demobilization programs to remove illegal weapons from circulation. Additionally, political leaders must refrain from inciting violence or using armed groups to advance their electoral interests, and instead promote peaceful and inclusive electoral processes.

4.2.9. Social Media Misinformation

The rise of social media platforms has transformed the landscape of political communication in Nigeria, presenting both opportunities and challenges for the electoral process. While social media provides a platform for citizens to engage in political discourse, mobilize support, and hold leaders accountable, it also facilitates the spread of misinformation, fake news, and hate speech, which can undermine the integrity of elections. During the 2019 general elections, social media platforms were flooded with false information, inflammatory rhetoric, and propaganda aimed at influencing public opinion and manipulating electoral outcomes. Political actors, including candidates, parties, and their supporters, exploited social media to disseminate misleading information, smear opponents, and incite violence, contributing to a toxic and polarized online environment.

Addressing the issue of social media misinformation requires a multi-pronged approach that involves collaboration between government agencies, social media

companies, civil society organizations, and the media. This includes implementing measures to combat fake news and hate speech, promoting digital literacy and critical thinking skills among citizens, and enhancing transparency and accountability in online political advertising. Social media companies must also take proactive steps to curb the spread of misinformation on their platforms, such as enforcing community standards and fact-checking policies.

4.2.10. Dysfunctional Justice System

The dysfunctional justice system in Nigeria undermines efforts to combat electoral malpractice and hold perpetrators accountable for their actions. A weak and inefficient judiciary, plagued by corruption, delays, and political interference, fails to effectively prosecute electoral offenders or adjudicate electoral disputes in a timely and impartial manner. This impunity emboldens political actors to engage in electoral malpractice with little fear of consequences, perpetuating a cycle of lawlessness and impunity. The 2019 general elections in Nigeria highlighted the shortcomings of the justice system in addressing electoral grievances and ensuring accountability for electoral malpractice. Despite numerous petitions and legal challenges filed by aggrieved parties, many cases remained unresolved for months or even years, undermining public confidence in the judiciary and the electoral process. Politicians accused of electoral offenses often exploit legal loopholes,

procedural delays, and political influence to evade justice, further eroding the rule of law and the credibility of elections.

To address this issue, urgent reforms are needed to strengthen the independence, efficiency, and integrity of the justice system. This includes enhancing the capacity and resources of judicial institutions, improving access to justice for marginalized groups, and safeguarding the independence of the judiciary from political interference. Additionally, specialized courts or tribunals should be established to expedite the adjudication of electoral disputes and ensure swift and impartial justice for electoral offenders. By reforming the justice system, Nigeria can deter electoral malpractice, uphold the rule of law, and strengthen its democratic institutions.

4.3. CONCLUSION

In conclusion, the analysis of causal factors contributing to electoral malpractice in Nigeria reveals a complex interplay of legal, institutional, socio-economic, and cultural dynamics. Weak political institutions, inept electoral laws, widespread poverty, a culture of impunity, ethno-religious divisions, lack of public trust in electoral bodies, misuse of security personnel, proliferation of small arms, social media misinformation, and a dysfunctional justice system all converge to undermine the integrity of the electoral process.

Weak political institutions fail to provide the necessary oversight and regulation needed to ensure free and fair elections, while inept electoral laws create loopholes that can be exploited by unscrupulous actors. Widespread poverty, coupled with a culture of impunity, incentivizes individuals to engage in electoral malpractice as a means of securing power and influence. Ethno-religious divisions further exacerbate tensions and create fertile ground for manipulation by political elites seeking to mobilize support along ethnic and religious lines.

Moreover, the lack of public trust in electoral bodies undermines the legitimacy of election outcomes, while the misuse of security personnel and the proliferation of small arms contribute to violence and coercion during elections. Social media misinformation further complicates the electoral landscape, spreading falsehoods and inciting division among the populace. Finally, a dysfunctional justice system fails to hold perpetrators of electoral malpractice accountable, perpetuating a cycle of impunity and undermining the rule of law.

Addressing these challenges will require concerted efforts from government institutions, civil society organizations, political actors, and the international community. Strengthening political institutions, reforming electoral laws, addressing socio-economic inequalities, promoting social cohesion, enhancing transparency and accountability in electoral processes, and improving access to justice are all essential steps towards ensuring free, fair, and credible elections in Nigeria.

Ultimately, the quest for electoral integrity in Nigeria must be guided by a commitment to democratic principles, respect for human rights, and the rule of law. Only through collective action and genuine reform efforts can Nigeria overcome the scourge of electoral malpractice and build a more inclusive and democratic society for all its citizens.

CHAPTER FIVE

RECOMMENDATIONS AND CONCLUSION

5.1. SUUMMARY OF FINDINGS

Chapter one introduced the research project on the impact of the Electoral Act 2022 on democracy in Nigeria. The background trailed Nigeria's long history of electoral malpractices and how the Electoral Act 2022 was predicted to be the harbinger of stability in Nigeria's turbulent electoral landscape. It further highlighted the inefficiencies of the new Act, rendering it ineffective in curbing the rampancy of electoral malpractice in Nigeria. The chapter set out the research aims and objectives which included an examine the Act's provisions and how effective they have been in tackling electoral malpractice. The identification of the causes of electoral malpractice and recommendations to strengthen Nigeria's

democratic processes, were also identified aims. A synopsis of subsequent chapters, was also provided.

Chapter Two analyzed the provisions of the Electoral Act 2022. It examined how these provisions address electoral malpractices in Nigeria. The chapter looks at key concepts like "election," "electoral law," and "democracy" to understand the context of the Act. It also explored different theoretical frameworks to analyze the Act. These frameworks include sociological theory, legal positivism, and critical realism. Each theory offered a different lens to examine the strengths and weaknesses of the Act. Finally, the chapter reviewed the existing literature on the topic. This included legal documents, scholarly articles, and judicial decisions.

Chapter three examined the impact of the Electoral Act 2022 on democratic processes in Nigeria. It found that the Act is a significant improvement over the previous legislation and has the potential to strengthen Nigeria's democracy. The Act introduced a number of new provisions, including timelines for key electoral processes, funding for the Independent National Electoral Commission (INEC), regulation of campaign financing, and requirements for candidate nomination. It also strengthened measures to combat electoral malpractice and improve dispute resolution. The chapter analyzed these provisions in detail and explained how they are designed to address longstanding problems in Nigerian elections. It found that the Act's requirement for INEC to release funds well in advance of elections is intended to reduce the risk of manipulation by the government. Similarly, the new

rules on campaign financing are aimed at levelling the playing field for all candidates. The chapter also found that several challenges existed in implementing the Act effectively. The challenges include logistical issues, doubts about INEC's independence, and the potential for political elites to find ways to circumvent the new rules. Overall the chapter concludes that the Electoral Act 2022 is a positive development for Nigerian democracy. However, it emphasizes that the Act's success will ultimately depend on the commitment of all stakeholders to uphold its provisions and ensure that elections are conducted in a free, fair, and transparent manner.

5.2. RECOMMENDATIONS

Electoral malpractice is a significant challenge facing the Nigerian electoral system, posing a threat to the integrity of the democratic process. To strengthen democratic processes and ensure free, fair, and credible elections, it is imperative to implement robust measures to combat electoral malpractice. This recommendation section outlines comprehensive strategies aimed at addressing electoral malpractice in Nigeria.

i. Electoral Reforms

Firstly, there is a pressing need for electoral reforms. These reforms should encompass a thorough review of electoral laws, regulations, and procedures to

eliminate loopholes and weaknesses. Additionally, an independent electoral commission should be established with sufficient autonomy and resources to oversee electoral processes effectively.

ii. Voter Education and Awareness

Voter education and awareness campaigns are essential. These campaigns should empower citizens with knowledge of their rights and responsibilities during elections. By educating voters on how to detect and report electoral malpractices, such as voter intimidation and ballot stuffing, citizens can actively contribute to the integrity of the electoral process. Utilizing various platforms, including traditional media, social media, and community outreach programs, will ensure widespread dissemination of information on electoral processes and the importance of free and fair elections

iii. Technological Solutions

Incorporating technological solutions is crucial in enhancing the integrity and transparency of the electoral process. Introducing technology-enabled solutions, such as biometric voter registration systems and electronic voting machines, and blockchain technology can help secure the integrity of election results. Measures should also be implemented to safeguard electronic voting systems against cyber threats and ensure the reliability and accuracy of electronic voting processes.

iv. Strengthening Electoral Security

Strengthening electoral security is paramount to protecting electoral infrastructure, polling stations, and election officials from violence, intimidation, and external interference. Collaboration with law enforcement agencies is essential to deploying adequate security personnel and deterring criminal activities such as voter intimidation, harassment, and election-related violence.

v. Monitoring and Oversight Mechanisms

Robust monitoring and oversight mechanisms are necessary to ensure compliance with electoral laws and regulations. This includes deploying independent election observers to monitor the conduct of elections and report any irregularities or malpractices. Civil society organizations, non-governmental organizations, and the media should be empowered to independently monitor and scrutinize electoral processes, hold electoral authorities accountable, and advocate for electoral reforms.

vi. Legal Accountability and Enforcement

Legal frameworks and institutions responsible for investigating and prosecuting electoral offenses must be strengthened. Establishing specialized electoral tribunals or courts with the mandate to adjudicate electoral disputes and prosecute electoral offenders is crucial. Also, swift and impartial justice must be ensured through transparent and fair legal processes. The pace of election petition tribunals and subsequent appeals should be expedited to resolve electoral disputes and hold perpetrators of electoral malpractice.

vii. Political Party Reforms

Political party reforms are also essential in enhancing internal democracy and accountability. Transparency in party financing, candidate selection processes, and internal decision-making mechanisms should be promoted. Regulations governing campaign financing should be enforced to prevent the undue influence of money in politics and curb vote buying and electoral manipulation.

viii. International Cooperation and Support

Engagement with international partners, regional organizations, and election assistance agencies is vital in garnering technical assistance, capacity-building support, and best practices in electoral management. Collaboration and information-sharing among countries in the region can address transnational challenges such as electoral interference, disinformation campaigns, and cyber threats to electoral integrity.

5.3. CONTRIBUTIONS TO KNOWLEDGE

This research contributes to the existing body of knowledge on electoral malpractice in Nigeria by providing a comprehensive analysis of the causal factors, legal frameworks, and institutional mechanisms that perpetuate electoral irregularities. By critically examining the provisions of the Electoral Act 2022 and its impact on democratic processes, this study offers insights into the strengths and

limitations of current electoral reforms in Nigeria. Moreover, the identification of key recommendations for addressing electoral malpractice presents practical strategies for policymakers, electoral authorities, civil society organizations, and other stakeholders to enhance the integrity and transparency of the electoral process.

Furthermore, the analysis of socio-economic, cultural, and technological factors influencing electoral malpractice contributes to a nuanced understanding of the complex dynamics shaping Nigeria's electoral landscape. By highlighting the role of poverty, ethno-religious divisions, social media misinformation, and the proliferation of small arms in undermining electoral integrity, this research underscores the need for holistic approaches to electoral reform that address systemic challenges beyond legal and institutional frameworks. Overall, this study contributes to advancing knowledge on electoral governance, democratic consolidation, and conflict resolution in Nigeria and other contexts grappling with similar electoral challenges.

5.4. AREA FOR FURTHER STUDIES

While this research provides valuable insights into electoral malpractice in Nigeria and offers practical recommendations for reform, there are several areas for further studies that warrant exploration. Firstly, future research could delve deeper into the socio-economic determinants of electoral malpractice, including the impact of

poverty, unemployment, and income inequality on electoral behavior and political participation. Understanding the underlying drivers of electoral malpractice within the broader context of socio-economic development can inform targeted interventions aimed at addressing root causes and promoting inclusive democratic processes.

Secondly, there is a need for more empirical studies examining the effectiveness of specific electoral reforms and interventions in mitigating electoral malpractice. By conducting rigorous impact evaluations and comparative analyses of different electoral systems, legal frameworks, and institutional arrangements, researchers can identify best practices and lessons learned for enhancing electoral integrity and democratic governance. Additionally, longitudinal studies tracking electoral trends over time can provide valuable insights into the evolving nature of electoral malpractice and the efficacy of policy responses in addressing emerging challenges.

Furthermore, future research could explore the role of technology in improving electoral transparency, accountability, and citizen engagement. With the growing use of digital tools and platforms in electoral processes, there is a need to assess the opportunities and risks associated with e-voting, online voter registration, and electronic results transmission. Research on innovative technological solutions, such as blockchain technology and biometric authentication, can contribute to

designing more secure and resilient electoral systems that safeguard against manipulation and fraud.

Lastly, comparative studies examining electoral malpractice in other contexts beyond Nigeria can offer valuable insights into common patterns, underlying drivers, and effective strategies for reform. By drawing on comparative perspectives from different regions and countries, researchers can enrich our understanding of the global challenges and opportunities in electoral governance and contribute to the development of evidence-based policy responses that promote democratic resilience and inclusive political participation.

5.5. CONCLUSION

Combating electoral malpractice in the Nigerian electoral system requires a multi-faceted approach encompassing legal, institutional, technological, and social reforms. By implementing the recommendations outlined above, Nigeria can strengthen its democratic processes, uphold the rule of law, and ensure that elections truly reflect the will of the people. It is imperative for all stakeholders, including government institutions, civil society, political parties, and the international community, to collaborate effectively in safeguarding the integrity and credibility of the electoral process. Only through concerted efforts and

sustained commitment can Nigeria overcome the challenges posed by electoral malpractice and advance towards a more inclusive and democratic society.

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