

**“ELECTION PETITIONS: TOWARDS CURBING  
ELECTORAL MALPRACTICE IN NIGERIA”**

**A Dissertation Submitted in Partial Fulfillment of the Requirements for the**

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## **Certification / Consent.**

This is to certify that this dissertation titled:

**“ELECTION PETITIONS: TOWARDS CURBING ELECTORAL MALPRACTICE  
IN NIGERIA”**

was carried out by **CHRISTIAN EDEDHOR**, Matriculation Number **PG/LAW2415935**,  
under my supervision. This work meets the requirements for the award of the Master of Laws  
(LL.M) degree in the Faculty of Law, University of Benin.

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## **Dedication**

This work is dedicated to Almighty God, the giver of wisdom and strength, and to my beloved family for their unwavering support, encouragement, and prayers throughout this academic journey.

## **Acknowledgement**

I wish to sincerely appreciate God Almighty for the grace, wisdom, and perseverance that enabled me to complete this research.

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## **Abstract**

This study, titled *Election Petitions: Towards Curbing Electoral Malpractice in Nigeria*, critically examines the role of election petitions in promoting electoral integrity within Nigeria's democratic framework. Elections, though indispensable to representative government, have been persistently undermined by malpractice, including vote buying, ballot stuffing, intimidation, and falsification of results. The study interrogates whether Nigeria's system of election petitions is adequate to address these challenges. Using a doctrinal and comparative methodology, the study reviewed constitutional and statutory provisions, judicial decisions, and scholarly works. It analysed the jurisdiction of tribunals and courts, procedures, grounds, timelines, and remedies in electoral adjudication. It also examines electoral offences under the Electoral Act 2022 and how election petitions and criminal prosecution in Nigeria have helped to curb electoral malpractice in Nigeria, and its challenges. The study found that while election petitions are indispensable for resolving disputes and legitimizing elections, they are constrained by heavy evidentiary burdens, strict timelines, judicial technicalities, and high litigation costs. There is also the issue of weak enforcement of electoral offences. Comparative analysis revealed best practices such as Kenya's emphasis on technology and transparency, as well as Romania and Ghana's electoral commission accountability, and India's robust judicial sanctions. The study concludes that Nigeria's system requires reform to strengthen judicial independence, ease evidentiary burdens, improve INEC's accountability, and establish an Electoral Offences Commission. Such reforms will enhance the deterrent effect of election petitions, curb malpractice, and consolidate democratic governance.

# **CHAPTER ONE**

## **1.0 GENERAL INTRODUCTION**

Elections are the foundation of representative democracy. They provide the constitutional mechanism through which citizens exercise their sovereign right to choose leaders and hold them accountable.<sup>1</sup> In Nigeria, elections are constitutionally guaranteed under the 1999 Constitution (as amended), which prescribes periodic elections into executive and legislative offices.<sup>2</sup> Ideally, elections should reflect the genuine will of the electorate. However, the Nigerian experience since independence reveals a consistent pattern of electoral malpractice, including vote buying, ballot stuffing, falsification of results, intimidation of voters, and abuse of state resources.<sup>3</sup>

To address these challenges, the legal system provides for **election petitions** and judicial proceedings that allow aggrieved candidates and political parties to challenge electoral outcomes. Election petitions are distinct from ordinary civil claims; they are sui generis and governed strictly by constitutional and statutory provisions.<sup>4</sup> The judiciary, therefore, plays a central role in safeguarding the legitimacy of elections, as seen in landmark cases such as *Awolowo v. Shagari* (1979) 6–9 SC 37, *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1, and *Oshiomhole v. INEC* (2009) 4 NWLR (Pt. 1132) 607.<sup>5</sup> The legal system also makes provisions for electoral offences aimed at prosecuting electoral offenders in Nigeria. Electoral offences may occur before, during, and after elections. The Electoral Act, 2022, makes elaborate provisions covering all forceable election offences.

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<sup>1</sup> B.O. Nwabueze, *Democracy in Africa: Constitutionalism, Authority and Accountability* (Ibadan: Spectrum Books, 2003) p. 97.

<sup>2</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), ss. 76, 116, 132, 178.

<sup>3</sup> J.S. Omotola, “Elections and Democratic Transition in Nigeria under the Fourth Republic” *African Affairs* Vol. 109, No. 437 (2010) p. 536.

<sup>4</sup> *APM v. INEC & Ors* (2021) LPELR-54296(CA) Page 67 Paras C-D.

<sup>5</sup> *Awolowo v. Shagari* (1979) 6–9 SC 37; *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1; *Oshiomhole v. INEC* (2009) 4 NWLR (Pt. 1132) 607.

Yet, despite these interventions, questions remain as to whether the system of election petitions is capable of curbing malpractice. Election Petitioners often face heavy evidentiary burdens, strict timelines, and political pressures.<sup>6</sup> In comparison, other jurisdictions such as Kenya and Ghana have shown stronger judicial assertiveness in electoral disputes.<sup>7</sup> This study, therefore, interrogates the effectiveness of election petitions in Nigeria, asking whether they truly deter malpractice or merely legitimize flawed elections.

## 1.1 Background to the Study

Nigeria's post-independence history has been marked by flawed elections. The disputed 1979 presidential election, decided in *Awolowo v. Shagari*, raised interpretive questions about constitutional thresholds.<sup>8</sup> The annulment of the June 12, 1993, presidential election remains one of the darkest episodes in Nigeria's democratic journey. Since 1999, general elections have repeatedly attracted criticism for irregularities. The 2007 elections, described by observers as one of the most violent and manipulated, produced numerous petitions, some of which altered electoral outcomes at the state and legislative levels.<sup>9</sup>

Election petitions have thus become central to Nigeria's democratic practice. They determine not just the rights of candidates but also the legitimacy of governance itself. For example, in *Oshiomhole v. INEC*, the Court of Appeal nullified the declared result and installed the rightful winner of the Edo governorship election.<sup>10</sup> Similarly, in *Fayemi v. Oni (2010) 17 NWLR (Pt. 1222) 326*, the Court of Appeal overturned an election due to widespread irregularities.<sup>11</sup> These cases demonstrate the judiciary's power to correct electoral wrongs.

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<sup>6</sup> Festus Okoye, *Judicial Protection of Democracy in Nigeria* (Enugu: Fourth Dimension, 2011) pp. 141–145.

<sup>7</sup> *Nana Addo Dankwa Akufo-Addo v. John Dramani Mahama* [2013] SC (Ghana); *Raila Odinga & Another v. IEBC & Others* (Presidential Petition No. 1 of 2017) (Kenya SC).

<sup>8</sup> *Awolowo v. Shagari* (1979) 6–9 SC 37.

<sup>9</sup> Transition Monitoring Group (TMG), *Final Report on the 2007 General Elections in Nigeria* (Abuja: TMG, 2007) p. 31.

<sup>10</sup> *Oshiomhole v. INEC* (2009) 4 NWLR (Pt. 1132) 607 (CA) at 688.

<sup>11</sup> *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326 (CA) at 419-420.

Ancillary to election petitions are election offences and prosecution. This is the state's mechanism for curbing electoral malpractices. In Nigeria, the prosecutors are the legal unit of the Independent Electoral Commission. Of course, arrests of election offenders are to be carried out by the various security agencies, particularly the police.

Nonetheless, persistent malpractice raises doubts about deterrence. The persistence of vote buying, technological manipulation, and weak enforcement of electoral offences undermines confidence in both INEC and the courts.<sup>12</sup> Comparative examples such as the Kenyan Supreme Court's annulment of the 2017 presidential election in *Raila Odinga v. IEBC & Others* show that courts can act decisively to uphold constitutional standards.<sup>13</sup> Nigeria's framework must therefore be assessed critically to determine whether it adequately curbs malpractice.

## 1.2 Statement of the Problem

Despite the availability of election petitions, electoral malpractice continues to undermine Nigeria's democratic process. The key problems include:

1. The **heavy evidentiary burden** on petitioners, who must prove irregularities and that they substantially affected results (*Buhari v. Obasanjo*).<sup>14</sup>
2. **Strict constitutional timelines** 21 days for filing and 180 days for trial often forcing rushed litigation.<sup>15</sup>
3. **Judicial technicalities**, with petitions dismissed for procedural defects rather than decided on merit.<sup>16</sup>
4. **High cost of litigation**, limiting access to justice.
5. **Weak enforcement of electoral offences**, allowing perpetrators to act with impunity.

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<sup>12</sup> Centre for Democracy and Development (CDD), *Analysis of the 2019 Elections and Electoral Reform Agenda* (Abuja: CDD, 2019) p. 22.

<sup>13</sup> *Raila Odinga & Another v. IEBC & Others* (2017) eKLR (Kenya SC).

<sup>14</sup> *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1 at 222, paras A-C; 182, paras D-E.

<sup>15</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 285(5)–(7).

<sup>16</sup> *ANPP v. Goni* (2012) 7 NWLR (Pt. 1298) 147 at 207-208.

These challenges question whether election petitions genuinely deter malpractice or merely offer limited post-election remedies.

### **1.3 Objectives of the Study**

The objectives are to:

1. Clarify the concepts of election, election petition, and electoral malpractice in Nigeria.
2. Analyse the jurisdiction, procedure, parties, grounds, timelines, and remedies of election petitions.
3. Identify challenges faced by the judiciary in adjudicating petitions.
4. Identify the various electoral offences and the challenges of prosecuting electoral offenders
5. Compare Nigeria's system with other jurisdictions (Kenya, Romania, South Africa, India, Ghana).
6. Recommend reforms to strengthen election petitions as tools against malpractice.

### **1.4 Research Questions**

1. What is the meaning of election, election petition, and electoral malpractice under Nigerian law?
2. How do courts exercise jurisdiction over petitions?
3. What are the grounds and procedures for questioning an election?
4. What challenges limit effective adjudication of petitions?
5. What are the electoral offences
6. How effective has the prosecution of electoral offenders been?
7. What lessons can Nigeria learn from comparative jurisdictions?

### **1.5 Scope of the Study**

The study focuses on Nigeria’s constitutional and statutory framework for election petitions, as interpreted by Nigerian courts and electoral offences. Comparative references to Kenya, South Africa, India, and Ghana are included, but the emphasis remains Nigerian.

## 1.6 Significance of the Study

The study is significant because:

- It contributes to academic literature on electoral justice.
- It provides insights for reform to lawmakers, judges, INEC, and civil society.
- It enhances public understanding of how petitions can curb malpractice and strengthen democracy.

## 1.7 Operational Definition of Key Terms

- **Election:** A constitutionally and statutorily regulated process by which citizens select leaders through voting. Under the Electoral Act 2022, it is defined as “any election held under this Act and includes a referendum”.<sup>17</sup>
- **Election Petition:** A sui generis judicial proceeding to challenge the conduct or result of an election.<sup>18</sup>
- **Electoral Malpractice:** Any illegal act or omission, such as fraud, vote buying, intimidation, or falsification that undermines electoral integrity.<sup>19</sup>

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<sup>17</sup> Electoral Act, 2022, s. 152.

<sup>18</sup> *CPC v. INEC* (2011) 18 NWLR (Pt. 1279) 493 at 541-542.

<sup>19</sup> Electoral Act, 2022, ss. 121–127.

- **Electoral Offence:** Any conduct or action which is prohibited by the constitution or the Electoral Act and a breach of which attracts punishment is called an electoral offence.<sup>20</sup>
- **Electoral Justice:** Legal and institutional mechanisms ensuring that elections are conducted in conformity with democratic principles.<sup>21</sup>

This chapter introduced the study, presenting its background, problem, objectives, scope, and significance. It established that while election petitions and prosecution of electoral offenders are indispensable in Nigeria's democracy, their effectiveness in curbing malpractice is undermined by systemic challenges. The next chapter reviews the relevant literature and conceptual framework, laying the theoretical foundation for deeper analysis.

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<sup>20</sup> <https://www.igi-global.com/dictionary/electoral-umpires-and-the-task-of-tracking-political-campaign-funds/77959> (accessed 27/01/2026)

<sup>21</sup> S.Y. Omotola, "Electoral Governance and the Challenge of Electoral Justice in Africa" *Africa Development* Vol. 34, No. 3 (2009) p. 47.

# CHAPTER TWO

## 2.0 CONCEPTUAL CLARIFICATION AND LITERATURE

### REVIEW

The review of existing literature is a critical component of academic research. It provides a foundation for situating a study within established knowledge, identifying gaps, and offering clarity on the concepts and theories that inform the research. For a study on *Election Petition: Towards Curbing Electoral Malpractice in Nigeria*, the literature review is especially important because the subject lies at the intersection of law, politics, and governance, each of which has generated substantial scholarly debate and judicial interpretation.

This chapter is divided into three major sections. The first is the **conceptual clarifications**, which examine the meaning and scope of the key terms central to the study: *election*, *election petition*, and *electoral malpractice*, as well as the inter-relationship between these concepts in promoting electoral integrity. The second is the **empirical review of literature**, which evaluates existing studies, reports, and judicial experiences on elections and petitions in Nigeria, to highlight patterns, challenges, and knowledge gaps. The third is the **theoretical framework**, which situates the study within broader intellectual traditions, including Electoral Justice Theory, Rule of Law Theory, Democratic Legitimacy Theory, and Accountability Theory, thereby providing an analytical lens for examining the petition process.

By engaging with conceptual, empirical, and theoretical perspectives, this chapter provides the academic and jurisprudential background necessary to assess how election petitions can be utilized as a tool for curbing electoral malpractice and strengthening democratic governance in Nigeria.

## 2.1 Conceptual Clarifications

Every scholarly inquiry requires clarity of concepts to avoid ambiguity and ensure precision of analysis. In legal research, where terms often carry both political and juridical implications, conceptual clarification is indispensable. The subject of this study *Election Petitions: Towards Curbing Electoral Malpractice in Nigeria* brings together ideas drawn from constitutional law, electoral jurisprudence, and democratic theory. Concepts such as *election*, *election petition*, and *electoral malpractice* are central to the discourse, yet each has diverse meanings depending on the perspective adopted.

In Nigeria's legal framework, these concepts are not merely descriptive but normative, having direct consequences for democratic governance and electoral legitimacy. For instance, while "election" in its ordinary sense may simply connote the act of choosing representatives through voting, in law it extends to the entire process regulated by constitutional and statutory provisions. Similarly, an "election petition" is not just a complaint about electoral misconduct but a *sui generis* proceeding governed by strict procedural rules. "Electoral malpractice," on the other hand, encompasses both the factual realities of fraudulent practices and their legal prohibition under the Constitution and Electoral Act.

Clarifying these concepts is particularly important because they form the bedrock of election petition jurisprudence. Without a proper understanding of what constitutes an election, what qualifies as a petition, or what amounts to malpractice, the analysis of how petitions can serve as mechanisms for curbing electoral fraud would lack coherence. As the courts have repeatedly emphasized in cases like *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493* and *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1*, disputes in electoral law turn largely on the proper interpretation of these core terms.<sup>22</sup>

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<sup>22</sup> *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493; Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1* at 280-281.

Accordingly, this section undertakes a conceptual clarification of the three key notions underpinning this study: *election*, *election petition*, and *electoral malpractice*, and explores their inter-relationship in the Nigerian context. The aim is to establish a clear theoretical foundation for assessing the role of election petitions in curbing electoral malpractice and enhancing democratic integrity.

### **2.1.1 The Concept of Election and its Meaning in Nigeria’s Legal Context.**

The concept of election is central to constitutional democracy. Etymologically, the term “election” derives from the Latin *eligere*, meaning “to choose or select.” In its ordinary sense, election denotes the process through which a community selects individuals to occupy positions of authority. Black’s Law Dictionary defines an election as “**the process by which a person is chosen by vote for public office or other position of responsibility.**”<sup>23</sup>

In political theory, elections are regarded as the institutionalized means by which the consent of the governed is ascertained. Nwabueze describes elections as the “**lifeblood of democracy**” because they operationalize the principle that sovereignty belongs to the people.<sup>24</sup> Thus, an election is not merely a mechanical voting exercise but an essential process that legitimizes governance and fosters accountability.

### **2.1.2 Legal Framework of Elections in Nigeria**

In Nigeria, elections are regulated by the **1999 Constitution (as amended)**, the **Electoral Act, 2022**, and guidelines issued by the Independent National Electoral Commission (INEC).

- **The Constitution** guarantees the conduct of elections at regular intervals and prescribes qualifications and disqualifications for candidates. For instance, **sections 76, 116, 132, and 178** provide for the periodic conduct of elections into legislative, presidential, and gubernatorial offices.

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<sup>23</sup> Bryan A. Garner (ed.), *Black’s Law Dictionary*, 11th ed. (St. Paul: Thomson Reuters, 2019) p. 636.

<sup>24</sup> B.O. Nwabueze, *Democracy in Africa: Constitutionalism, Authority and Accountability* (Ibadan: Spectrum Books, 2003) p. 97.

- **The Electoral Act, 2022** elaborates on the conduct of elections, covering accreditation, voting procedures, collation, and announcement of results.<sup>25</sup>
- **INEC guidelines** provide administrative directions, such as the use of the Bimodal Voter Accreditation System (BVAS) and electronic result transmission.

The Supreme Court has repeatedly emphasized that elections in Nigeria must be conducted strictly in accordance with these legal frameworks. In *INEC v. Musa (2003) 3 NWLR (Pt. 806) 72*, the Court held that the conduct of elections must adhere to constitutional and statutory prescriptions, as electoral rights are fundamental to democracy.<sup>26</sup>

### 2.1.3 **Judicial Interpretation of Election in Nigeria**

Nigerian courts have provided authoritative guidance on the meaning of “election.” In *Akinfosile v. Ijose (1960) SCNLR 447*, the Supreme Court held that an election encompasses the entire process of choosing representatives, not just the act of voting.<sup>27</sup> Similarly, in *Ngige v. Obi (2006) 14 NWLR (Pt. 999) 1*, the Court of Appeal affirmed that an election is a comprehensive exercise covering accreditation, voting, collation, and declaration of results.<sup>28</sup> In *Awolowo v. Shagari (1979) 6–9 SC 37*, the Supreme Court emphasized that for an election to be valid, it must substantially comply with constitutional and statutory requirements.<sup>29</sup> This principle has since been codified under **section 137 of the Electoral Act, 2022**, which provides that an election shall not be invalidated by reason of non-compliance unless such non-compliance substantially affects the result.

More recently, in *Atiku Abubakar & Anor v. INEC & Ors. (2023) LPELR-60392(SC)*, the Supreme Court reiterated that an election is not an abstract event but a structured legal

<sup>25</sup> Electoral Act, 2022, ss. 47–66.

<sup>26</sup> *INEC v. Musa (2003) 3 NWLR (Pt. 806) 72* at 200.

<sup>27</sup> *Akinfosile v. Ijose (1960) SCNLR 447*.

<sup>28</sup> *Ngige v. Obi (2006) 14 NWLR (Pt. 999) 1* at 158, 185-186.

<sup>29</sup> *Awolowo v. Shagari (1979) 6–9 SC 37*.

process. It stressed that petitioners alleging malpractice must demonstrate how identified irregularities tainted the integrity of the election.<sup>30</sup>

#### **2.1.4 Scholarly Debates on the Nature of Elections in Nigeria**

Scholars are divided on the adequacy of Nigeria's electoral framework in securing democratic legitimacy.

- On one hand, scholars like Jega argue that elections in Nigeria, despite flaws, remain the only viable mechanism for leadership selection and democratic accountability.<sup>31</sup>
- On the other hand, Omotola contends that elections in Nigeria often degenerate into rituals of democracy rather than genuine expressions of popular will, given the prevalence of malpractice and weak enforcement.<sup>32</sup>

This tension between the ideal of democratic elections and the reality of flawed practices explains the proliferation of election petitions in Nigeria. The courts thus play a decisive role in bridging the gap between the normative framework and factual realities.

#### **2.1.5 Distinctive Features of Elections in Nigeria's Legal Context**

From the foregoing, certain features define the meaning of elections within Nigeria's legal framework:

1. **Legal Centrality:** Elections derive their authority from constitutional and statutory provisions, not from informal political practices.
2. **Comprehensive Process:** Elections encompass pre-election activities (nomination, qualification, and primaries), voting day procedures, and post-election collation and declaration.

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<sup>30</sup> *Atiku Abubakar & Anor v. INEC & Ors.* (2023) LPELR-61556(SC). Page 54-55 paras F-E

<sup>31</sup> Attahiru Jega, *Democracy, Good Governance and Development in Nigeria* (Ibadan: Spectrum Books, 2007) p. 88.

<sup>32</sup> J.S. Omotola, "Elections and Democratic Transition in Nigeria under the Fourth Republic" *African Affairs* Vol. 109, No. 437 (2010) p. 536.

3. **Public Interest Dimension:** Elections are not merely private contests but matters of public law, affecting governance and sovereignty.
4. **Judicial Oversight:** Courts act as arbiters to ensure elections comply with the law, nullifying results tainted by malpractice.

These features distinguish elections as legal-constitutional events, rather than merely political occurrences.

In Nigeria's legal context, elections represent more than the physical act of casting votes. They are constitutionally mandated processes through which the people exercise sovereignty by selecting their representatives. Elections are circumscribed by law, subject to judicial interpretation, and infused with public interest. While elections remain indispensable to democracy, their legitimacy often depends on judicial scrutiny through petitions, especially in an environment prone to malpractice. Thus, the meaning of "election" in Nigeria cannot be divorced from its legal, doctrinal, and jurisprudential foundations.

## **2.2 Conceptual Clarification of Election Petition and the Legal Regime**

### **Governing It**

#### **2.2.1 Concept of Election Petition**

An election petition is the primary judicial mechanism through which grievances arising from elections are ventilated in Nigeria. It is a specialized legal action filed before an election tribunal or court to question the validity of an election result on recognized legal grounds. Unlike ordinary civil or criminal proceedings, election petitions are **sui generis**, governed by strict timelines, technical procedures, and substantive electoral laws.

In *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493*, the Supreme Court emphasized that election petitions are not conventional disputes but "a special proceeding strictly regulated by

the Constitution and Electoral Act.”<sup>33</sup> Similarly, in *APC v. Marafa (2020) LPELR-49565(SC)*, the apex court reiterated that election matters must be approached within the strict confines of enabling statutes, as tribunals lack inherent jurisdiction to depart from such statutory provisions.<sup>34</sup>

Nigerian scholars underscore that election petitions serve dual functions: first, they protect the integrity of the electoral process by ensuring that irregularities and unlawful acts are redressed; second, they promote democratic legitimacy by affirming that electoral mandates must be lawfully obtained. As Uwais CJN (Rtd) notes, election petitions embody the constitutional promise that “political power derives from the will of the people expressed through valid electoral choices.”<sup>35</sup>

The standing to present an election petition is strictly regulated. Under **section 133 of the Electoral Act, 2022**, only a candidate in the election or a political party that participated in the election may bring a petition. This ensures that petitions are not frivolously filed by individuals or organizations with no direct stake in the contest.

### **2.2.2 The Legal Regime Governing Election Petitions in Nigeria**

The legal framework for election petitions in Nigeria is founded upon three key pillars: **the Constitution of the Federal Republic of Nigeria (1999, as amended), the Electoral Act, 2022, and judicial precedents.**

#### **(a) Constitutional Framework**

The Constitution makes express provisions for the adjudication of election disputes:

- **Section 285(1)–(2)** establishes the National and State Houses of Assembly Election Tribunals, Governorship Election Tribunals, and the jurisdiction of the Court of Appeal in presidential election petitions.

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<sup>33</sup> *CPC v. INEC* (2011) 18 NWLR (Pt. 1279) 493 at 546-547.

<sup>34</sup> *APC v. Marafa* (2020) LPELR-49565(SC).

<sup>35</sup> Mohammed Uwais, *Electoral Adjudication in Nigeria* (Lagos: NIALS Press, 2010) p. 13.

- **Section 285(5)** requires that petitions be filed within 21 days from the date of the declaration of results.
- **Section 285(6)** mandates that election tribunals deliver judgment within 180 days from the date of filing.
- **Section 285(7)–(8)** provides that appeals in election petitions be concluded within 60 days.

The constitutional timelines reflect the public interest dimension of election disputes, ensuring that controversies over electoral mandates do not linger indefinitely.

**(b) Statutory Framework under the Electoral Act, 2022**

The **Electoral Act, 2022** operationalizes constitutional provisions and provides substantive grounds and procedures for election petitions. The key provisions include:

1. **Grounds for Petition:**

- **Section 134(1):** An election may be questioned if:
  - (a) the candidate was not qualified to contest;
  - (b) the election was marred by corrupt practices or non-compliance with the Act;

Or

  - (c) the respondent did not score the majority of lawful votes.<sup>36</sup>

2. **Burden of Proof:**

- The petitioner bears the onus of proving allegations of malpractice or non-compliance. In *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1, the Supreme Court held that mere allegations of irregularities are insufficient;

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<sup>36</sup> Electoral Act, 2022, s. 134(1).

petitioners must show how such irregularities substantially affected the result.<sup>37</sup>

3. **Effect of Non-Compliance:**

- **Section 135 of the Electoral Act, 2022** provides that an election shall not be invalidated by reason of non-compliance unless it is shown that the non-compliance substantially affected the outcome. This codifies the long-standing principle from *Awolowo v. Shagari (1979) 6–9 SC 37*.<sup>38</sup>

4. **Procedure and Parties:**

- **Sections 133–151** of the Act regulate who can file petitions, filing procedures, service of processes, evidence admissibility, and tribunal powers.

(c) **Judicial Precedents**

Nigerian courts have, over time, clarified the principles governing election petitions:

- In *Akinfosile v. Ijose (1960) SCNLR 447*, the court held that election encompasses the entire process of selection, not merely the voting exercise.<sup>39</sup>
- In *Ojukwu v. Yar'Adua (2009) 12 NWLR (Pt. 1154) 50*, the Court of Appeal affirmed that election petitions are central to the maintenance of electoral justice, and where substantial malpractice is proven, the courts are empowered to nullify results.<sup>40</sup>
- In *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607*, the Court of Appeal nullified a gubernatorial election on grounds of proven irregularities, underscoring the readiness of courts to uphold electoral integrity.<sup>41</sup>

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<sup>37</sup> *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1 at 222, paras A-C; 182 paras. D-E.*

<sup>38</sup> *Awolowo v. Shagari (1979) 6–9 SC 37.*

<sup>39</sup> *Akinfosile v. Ijose (1960) SCNLR 447.*

<sup>40</sup> *Ojukwu v. Yar'Adua (2009) 12 NWLR (Pt. 1154) 50 at 113, 149.*

<sup>41</sup> *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607 at 688.*

- In *Atiku Abubakar v. INEC (2019) LPELR-49473(SC)*, the Supreme Court emphasized that petitioners must not only plead but also prove with credible evidence, the specific polling units affected by alleged irregularities.<sup>42</sup>

These cases reveal that while the courts recognize the importance of election petitions as democratic safeguards, they also insist on rigorous evidentiary standards to prevent frivolous or destabilizing challenges.

### **2.2.3 Distinctive Features of Election Petitions in Nigeria**

Election petitions exhibit peculiar features that distinguish them from ordinary legal proceedings:

1. **Sui Generis Nature:** They are unique, governed by electoral statutes, and not by ordinary civil rules.<sup>43</sup>
2. **Strict Timelines:** Constitutionally and statutorily bound periods ensure speedy adjudication.
3. **Restricted Standing:** Only candidates and parties directly involved in the election may file petitions.
4. **Public Interest Dimension:** Beyond individual grievances, petitions safeguard democratic legitimacy.
5. **Heavy Burden of Proof:** Courts require petitioners to establish both irregularities and their substantial impact on results.

### **2.2.4 Election Petitions, Electoral Malpractice and Democratic Stability**

Election petitions in Nigeria exist to checkmate electoral malpractice. Without them, irregularities such as ballot stuffing, falsification of results, vote-buying, and intimidation of voters would go unchecked. In *Fayemi v. Oni (2010) 17 NWLR (Pt. 1222) 326 (CA)*, the

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<sup>42</sup> *Atiku Abubakar v. INEC (2019) LPELR-49473(SC)*.

<sup>43</sup> *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493 at 546-547*.

Court of Appeal invalidated the gubernatorial election on account of substantial non-compliance, reinforcing the judiciary's role as guardian of electoral justice.<sup>44</sup>

Yet, scholars such as Omotola argue that while the petition system ensures accountability, its effectiveness is often undermined by judicial delays, technicalities, and the high evidentiary burden placed on petitioners.<sup>45</sup> Thus, while the legal regime provides an avenue for redress, structural and procedural reforms are still required to ensure that election petitions adequately curb electoral malpractice.

In sum, an election petition is the statutory vehicle through which electoral grievances are redressed in Nigeria. It is rooted in the 1999 Constitution, Electoral Act 2022, and developed through judicial interpretation. Election petitions are *sui generis*, time-bound, and central to the enforcement of electoral integrity. While they offer an indispensable safeguard against malpractice, challenges such as evidentiary burdens and procedural technicalities continue to limit their efficacy. Nonetheless, the Nigerian legal regime reflects a conscious attempt to balance individual rights, public interest, and democratic stability.

## **2.3 Conceptual Clarification of Electoral Malpractice**

### **2.3.1 Meaning and Scope of Electoral Malpractice**

Electoral malpractice refers to unlawful acts or irregularities that undermine the credibility, fairness, and legitimacy of elections. In its simplest sense, it covers acts that distort the will of the electorate either by manipulating the process or falsifying its outcome. Factually, electoral malpractice manifests in ballot stuffing, multiple voting, voter intimidation, vote-buying, falsification of results, and the disenfranchisement of legitimate voters. Legally, it is conduct prohibited by the **1999 Constitution (as amended)**, the **Electoral Act, 2022**, and the **guidelines of the Independent National Electoral Commission (INEC)**.

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<sup>44</sup> *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326 (CA) at 419-420.

<sup>45</sup> J.S. Omotola, "Judicialization of Politics and the Electoral Process in Nigeria" *African Studies Quarterly* Vol. 10, No. 2 (2008) p. 62.

The Supreme Court in *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1 acknowledged that elections are the foundation of democracy, and malpractices which substantially affect the result will render such elections invalid.<sup>46</sup> Similarly, in *Ojukwu v. Yar'Adua* (2009) 12 NWLR (Pt. 1154) 50, the Court of Appeal emphasized that electoral malpractice strikes at the heart of representative government and constitutes a basis for nullifying election results when proven.<sup>47</sup>

### 2.3.2 Legal Dimensions of Electoral Malpractice

The **Electoral Act, 2022** criminalizes a wide range of malpractices, thereby giving the concept concrete legal expression. For instance:

- **Bribery and Corrupt Practices:** Section 121 prohibits offering money or material inducement to influence voters. Conviction attracts fines or imprisonment.<sup>48</sup>
- **Undue Influence and Threats:** Section 128 criminalizes intimidation or threats aimed at voters.<sup>49</sup>
- **Personation and Multiple Voting:** Section 117 makes it an offence to impersonate a voter or vote more than once.<sup>50</sup>
- **Falsification of Results:** Section 120 penalizes returning officers or officials who falsify election results.<sup>51</sup>
- **Disorderly Conduct at Elections:** Section 125 & 126 makes it unlawful to disrupt voting or collation centers.<sup>52</sup>

Beyond statutory provisions, the courts have also elaborated on the legal scope of electoral malpractice. In *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326, the Court of Appeal held

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<sup>46</sup> *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1.

<sup>47</sup> *Ojukwu v. Yar'Adua* (2009) 12 NWLR (Pt. 1154) 50 at pages 160-164, 175-176

<sup>48</sup> Electoral Act, 2022, s. 121.

<sup>49</sup> *Ibid*, s. 128.

<sup>50</sup> *Ibid*, s. 117.

<sup>51</sup> *Ibid*, s. 120.

<sup>52</sup> *Ibid*, s. 125-126.

that evidence of widespread violence, intimidation, and ballot stuffing constituted substantial non-compliance, warranting the nullification of the gubernatorial election.<sup>53</sup>

Furthermore, *Atiku Abubakar v. INEC (2019) LPELR-48488(CA)* illustrates that allegations of malpractice must be supported by credible, cogent, and direct evidence. The Supreme Court stressed that courts cannot rely on speculation or conjecture; factual proof of malpractice must be adduced in respect of identified polling units.<sup>54</sup>

### **2.3.3 Factual Manifestations of Electoral Malpractice in Nigeria**

Factually, electoral malpractice in Nigeria has assumed diverse and sophisticated forms, including:

1. **Vote-Buying and Material Inducement:** Distribution of cash, food, or gifts to voters at polling units, often referred to as “stomach infrastructure.”
2. **Ballot Box Snatching and Stuffing:** Criminal acts aimed at distorting the number of lawful votes.
3. **Manipulation of Voters’ Register:** Inclusion of fictitious names or under-age voters to inflate voting figures.
4. **Intimidation and Violence:** Deployment of thugs, armed groups, or security operatives to prevent voters from freely exercising their rights.
5. **Collation Fraud:** Alteration of results at collation centers, sometimes with the connivance of electoral officials.
6. **Misuse of Technology:** In the new electoral landscape, malpractice may involve bypassing or disabling technological devices such as the **Bimodal Voter Accreditation System (BVAS)**.

These factual practices, while often illegal under the Electoral Act, persist in the Nigerian electoral environment due to weak enforcement mechanisms and political desperation.

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<sup>53</sup> *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326 (CA) at 418-420.

<sup>54</sup> *Atiku Abubakar v. INEC* (2019) LPELR-48488(CA) Pages 227-316, 233-251.

### **2.3.4 The Relationship between Electoral Malpractice and Election Petitions**

Electoral malpractice often provides the foundation for election petitions. Under **section 134(1) (b) of the Electoral Act, 2022**, a petition may be brought on the ground that an election was invalid by reason of corrupt practices or non-compliance with the Act. The success of such a petition depends on proving both the occurrence of malpractice and its substantial effect on the result. This was emphasized in *Ucha v. Elechi (2012) 13 NWLR (Pt. 1317) 230*, where the Court of Appeal held that a petitioner alleging corrupt practices must demonstrate how the acts materially affected the declared outcome.<sup>55</sup>

Thus, while malpractice is regrettably common in Nigerian elections, the legal system places a heavy evidentiary burden on petitioners to distinguish between irregularities that are merely procedural lapses and those that fundamentally alter the election result.

Electoral malpractice, both legally and factually, represents unlawful interference with the electoral process. It undermines the free expression of the electorate and calls into question the legitimacy of democratic governance. The Nigerian legal system recognizes and criminalizes a wide spectrum of malpractice, ranging from bribery, intimidation, multiple voting, to falsification of results. Nevertheless, the persistence of such practices underscores the weakness of enforcement and the high evidentiary threshold in election petitions. Electoral malpractice, therefore, remains both a legal and factual challenge to Nigeria's democratic development.

### **2.4 The Inter-relationship between Election Petitions and Curbing Electoral Malpractice**

Election petitions occupy a central position in the quest to curb electoral malpractice in Nigeria. While the **Electoral Act, 2022**, and related statutes criminalize various electoral offences, it is through the petition process that the judiciary enforces compliance and

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<sup>55</sup> *Ucha v. Elechi (2012) 13 NWLR (Pt. 1317) 330 at 359, 363.*

sanctions malpractice in contested elections. Election petitions thus serve as both a corrective and deterrent mechanism in the electoral system.

#### **2.4.1 Election Petitions as a Corrective Mechanism**

When malpractice distorts electoral outcomes, petitions provide a legal avenue for correction. Courts and tribunals have nullified elections where malpractice was proven to have substantially affected the results. In *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607*, the Court of Appeal nullified the gubernatorial election on account of widespread irregularities, thereby correcting the illegitimate return of a candidate.<sup>56</sup> Similarly, in *Fayemi v. Oni (2010) 17 NWLR (Pt. 1222) 326*, the tribunal corrected electoral injustice by invalidating a flawed election and affirming the lawful winner.<sup>57</sup>

Through such decisions, petitions ensure that political power is not acquired by fraud or unlawful means, but rather reflects the genuine will of the electorate.

#### **2.4.2 Election Petitions as a Deterrent to Malpractice**

Election petitions also play a deterrent role by signaling that electoral fraud, once proven, will not be allowed to stand. In *Ojukwu v. Yar'Adua (2009) 12 NWLR (Pt. 1154) 50*, the Court of Appeal stressed that electoral justice demands the nullification of elections tainted by malpractice.<sup>58</sup> The awareness that tribunals can overturn flawed elections discourages politicians and electoral officers from engaging in fraudulent acts, thereby strengthening compliance with the law.

Though deterrence is sometimes weakened by the high evidentiary burden placed on petitioners, as seen in *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1*<sup>59</sup> judicial intervention remains a critical safeguard against electoral misconduct.

#### **2.4.3 Promoting Electoral Integrity and Democratic Stability**

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<sup>56</sup> *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607 (CA)* at 688.

<sup>57</sup> *Fayemi v. Oni (2010) 17 NWLR (Pt. 1222) 326 (CA)* at 418-420.

<sup>58</sup> *Ojukwu v. Yar'Adua (2009) 12 NWLR (Pt. 1154) 50* at 175-176.

<sup>59</sup> *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1* at 306, 308, 311

The inter-relationship between petitions and curbing malpractice ultimately lies in their shared goal of promoting electoral integrity. As the Supreme Court observed in *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493*, election petitions are **sui generis**, designed to preserve the sanctity of elections and the stability of governance.<sup>60</sup> By invalidating fraudulent results and upholding lawful ones, the petition process strengthens public trust in elections and in democratic institutions.

Indeed, without a credible petition system, malpractice would go unchecked, eroding voter confidence and threatening democratic legitimacy. The petition process therefore functions not merely as a dispute-resolution mechanism but as a cornerstone of electoral accountability in Nigeria.

From the foregoing analysis, three interlinked concepts emerge as crucial to understanding Nigeria's electoral jurisprudence: **election**, **election petition**, and **electoral malpractice**. An election provides the constitutional means through which the people exercise sovereignty; an election petition offers the legal channel to contest electoral irregularities; and electoral malpractice represents the unlawful practices that undermine democratic legitimacy.

The inter-relationship between these concepts is particularly evident in the role of election petitions in curbing malpractice. By providing corrective and deterrent functions, the petition process strengthens electoral integrity, ensures that mandates are lawfully obtained, and promotes democratic stability.

Thus, while Nigeria's electoral system continues to grapple with malpractice, the petition mechanism remains indispensable in the pursuit of free, fair, and credible elections. This conceptual foundation sets the stage for a deeper review of existing literature on electoral justice and the effectiveness of petitions in Nigeria, which follows in the next sections of this chapter.

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<sup>60</sup> *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493* at 546-547.

## 2.5 **Empirical Review of Literature**

The empirical review of literature is necessary to situate this study within the body of existing research and to identify patterns, debates, and gaps in knowledge. A considerable amount of scholarly work has been undertaken on elections, electoral malpractice, and election petitions in Nigeria. These studies reveal the extent to which election petitions have functioned as a corrective tool against malpractice, while also exposing persistent weaknesses in the system.

### 2.5.1 **Empirical Studies on Electoral Malpractice in Nigeria**

Several empirical studies confirm that elections in Nigeria have often been marred by malpractice. Omotola's research shows that electoral fraud has become institutionalized in Nigeria, with practices such as ballot-box snatching, vote-buying, and manipulation of results undermining public trust.<sup>61</sup> Similarly, a study by Jega highlights that electoral malpractice persists due to weak institutional enforcement, complicity of electoral officers, and political desperation of candidates.<sup>62</sup>

Independent monitoring reports also provide empirical insights. The Transition Monitoring Group (TMG), in its post-election report of 2019, observed widespread cases of vote-buying, intimidation of voters, and interference by security agencies, all of which compromised electoral integrity.<sup>63</sup> The Centre for Democracy and Development (CDD) equally reported in 2023 that despite the introduction of technology like the Bimodal Voter Accreditation System (BVAS), incidents of malpractice such as delayed transmission of results and localized violence persisted.<sup>64</sup>

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<sup>61</sup> J.S. Omotola, "Judicialization of Politics and the Electoral Process in Nigeria" *African Studies Quarterly* Vol. 10, No. 2 (2008) p. 65.

<sup>62</sup> Attahiru Jega, *Democracy, Good Governance and Development in Nigeria* (Ibadan: Spectrum Books, 2007) p. 88.

<sup>63</sup> Transition Monitoring Group (TMG), *Post-Election Report on the 2019 General Elections in Nigeria* (Abuja: TMG, 2019) p. 24.

<sup>64</sup> Centre for Democracy and Development (CDD), *Report on the 2023 General Elections in Nigeria* (Abuja: CDD, 2023) p. 17.

From a judicial perspective, the numerous election petitions that flood Nigerian tribunals after each election cycle serve as empirical evidence of the prevalence of malpractice. As Nwokedi notes, the high volume of petitions filed after elections underscores the endemic character of electoral irregularities in the Nigerian polity.<sup>65</sup>

### **2.5.2 Empirical Studies on Election Petitions as a Corrective Mechanism**

Election petitions have been studied empirically as mechanisms for correcting flawed elections. The work of Suberu observes that judicial intervention through petitions has altered Nigeria's political landscape, as evidenced in landmark cases where tribunals overturned fraudulent results and restored legitimate winners.<sup>66</sup> For instance, the petitions that produced *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607* and *Fayemi v. Oni (2010) 17 NWLR (Pt. 1222) 326* demonstrate empirically that election petitions can safeguard the electoral mandate.<sup>67</sup>

However, other empirical studies caution that while petitions have corrected injustices in some cases, they have not been uniformly effective. Okoye argues that the heavy evidentiary burden placed on petitioners, coupled with judicial technicalities, often prevents substantive justice.<sup>68</sup> For example, in *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1*, despite overwhelming public perception of malpractice, the Supreme Court upheld the election because the petitioner failed to prove that irregularities substantially affected the result.<sup>69</sup>

### **2.5.3 Empirical Challenges of Election Petitions**

Empirical findings also reveal challenges inherent in the petition system. First, the **time-bound nature** of petitions (180 days for tribunals and 60 days for appeals under section 285

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<sup>65</sup> G.C. Nwokedi, "Election Petitions and Electoral Integrity in Nigeria" *NIALS Journal of Law and Democracy* Vol. 4, No. 1 (2015) p. 113.

<sup>66</sup> R. Suberu, *Federalism and Electoral Politics in Nigeria* (Ibadan: IFRA, 2007) p. 54.

<sup>67</sup> *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607* at 688 (CA); *Fayemi v. Oni (2010) 17 NWLR (Pt. 1222) 326* (CA) 418-420.

<sup>68</sup> Festus Okoye, *Judicial Protection of Democracy in Nigeria* (Enugu: Fourth Dimension, 2011) p. 141.

<sup>69</sup> *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1* at 318.

of the Constitution) has been criticized for rushing complex cases without adequate investigation.<sup>70</sup> Second, the **cost of litigation** makes it difficult for smaller parties and candidates to pursue petitions, thereby limiting access to justice.<sup>71</sup> Third, the **influence of political pressure** on the judiciary has been cited as a factor that undermines the independence of tribunals.<sup>72</sup>

Studies by Ajayi and Fagbadebo further show that many Nigerians perceive the petition system as reactive rather than preventive, since it only addresses malpractice after it has occurred.<sup>73</sup> Thus, while petitions help correct some wrongs, they do little to deter initial misconduct, especially when electoral offenders are rarely prosecuted.

#### **2.5.4 Empirical Link between Election Petitions and Electoral Integrity**

Empirical evidence nonetheless suggests that election petitions contribute positively to electoral integrity. According to Ibrahim, election petitions have promoted accountability among electoral officials and candidates by ensuring that elections are subject to judicial review.<sup>74</sup> The annulment of the 2007 elections in several states, following petitions that exposed massive irregularities, underscores the judiciary's role in sustaining democratic integrity.

More recently, the 2019 and 2023 presidential election petitions though unsuccessful in overturning results generated important jurisprudence on the use of technology in elections, the standard of proof for electronic transmission of results, and the scope of substantial compliance under the Electoral Act.<sup>75</sup> These developments show that petitions, beyond their

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<sup>70</sup> Constitution of the Federal Republic of Nigeria, 1999 (as amended), s. 285

<sup>71</sup> O. Agbaje, "The Cost of Justice in Nigeria's Electoral Jurisprudence" *Journal of African Elections* Vol. 9, No. 2 (2010) p. 49.

<sup>72</sup> A. Olurode, *Election Security and Judicial Independence in Nigeria* (Lagos: Friedrich Ebert Stiftung, 2016) p. 37.

<sup>73</sup> A.I. Ajayi and O. Fagbadebo, "The Judiciary and Electoral Disputes in Nigeria" *Journal of Politics and Law* Vol. 10, No. 5 (2017) p. 101.

<sup>74</sup> J. Ibrahim, "The Role of the Judiciary in Electoral Disputes in Nigeria" *Nigeria Social Science Review* Vol. 15, No. 2 (2013) p. 78.

<sup>75</sup> *Atiku Abubakar & Anor. v. INEC & Ors.* (2023) LPELR-61556(SC). Pages 54-55, 56-58

immediate outcomes, shape the evolving legal and institutional framework of Nigeria's democracy.

### **2.5.5 Gaps Identified in Empirical Literature**

Despite these contributions, existing empirical literature reveals certain gaps:

1. **Overemphasis on Outcomes Rather than Process:** Many studies focus on whether petitions succeed or fail, with limited attention to how the petition process itself influences political behavior and institutional reform.
2. **Limited Analysis of Deterrence:** While petitions correct malpractice retrospectively, little empirical research has explored whether the fear of annulment deters politicians from engaging in fraud in the first place.
3. **Underexplored Role of Electoral Offences Tribunal:** Empirical literature has paid scant attention to the proposed but largely unimplemented idea of electoral offences tribunals, which could complement petitions in curbing malpractice.
4. **Technology and Malpractice:** With the introduction of BVAS and electronic result transmission, empirical research has not sufficiently examined how petitions can adapt to emerging technological dimensions of malpractice.

The empirical review of literature shows that electoral malpractice remains widespread in Nigeria despite reforms. Election petitions have emerged as the principal mechanism for correcting malpractice, though their effectiveness is constrained by procedural hurdles, cost, and limited deterrent capacity. Nonetheless, petitions continue to play a vital role in strengthening electoral integrity and shaping jurisprudence on democratic governance. These gaps in the empirical literature highlight the necessity of further study such as the present research to evaluate the extent to which election petitions can be reformed to better curb malpractice and advance democratic consolidation in Nigeria.

## **2.6 Theoretical Framework**

A theoretical framework provides the intellectual lens through which a research problem is examined. It explains the assumptions and principles that underpin the study, offering a structured guide for analysis and interpretation. For a study on *Election Petitions: Towards Curbing Electoral Malpractice in Nigeria*, the theoretical framework must be rooted in democratic and legal theories that justify elections, the petition process, and mechanisms for curbing electoral irregularities. Four theories are particularly relevant: the **Electoral Justice Theory**, the **Rule of Law Theory**, the **Democratic Legitimacy Theory**, and the **Accountability/Checks and Balances Theory**.

### **2.6.1 Electoral Justice Theory**

Electoral Justice Theory is premised on the idea that elections must not only be conducted but must also be credible, free, and fair. It asserts that electoral processes must guarantee the protection of political rights, effective remedies for violations, and impartial adjudication of disputes.<sup>76</sup>

In the Nigerian context, electoral justice is entrenched in the Constitution and the Electoral Act, which provide mechanisms for election petitions. *Awolowo v. Shagari (1979) 6–9 SC 37* established that elections must substantially comply with legal provisions, while *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493* emphasized that petitions are sui generis proceedings meant to preserve electoral justice.<sup>77</sup> Thus, the petition system represents a practical manifestation of electoral justice theory, ensuring that the will of the people is not supplanted by malpractice.

### **2.6.2 Rule of Law Theory**

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<sup>76</sup> S.Y. Omotola, “Electoral Governance and the Challenge of Electoral Justice in Africa” *Africa Development* Vol. 34, No. 3 (2009) p. 47.

<sup>77</sup> *Awolowo v. Shagari (1979) 6–9 SC 37; CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493.*

The Rule of Law, famously articulated by A.V. Dicey, emphasizes equality before the law, supremacy of the law, and legal remedies for wrongs.<sup>78</sup> In electoral jurisprudence, the rule of law demands that electoral processes be conducted according to law and that violations be remedied through lawful procedures.

In Nigeria, the judiciary plays a pivotal role in upholding the rule of law in elections. The courts have consistently maintained that irregularities must be proven with credible evidence. For instance, in *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1, the Supreme Court underscored that petitioners must establish both the occurrence of malpractice and its substantial effect on the election result.<sup>79</sup> The very existence of tribunals under **section 285 of the 1999 Constitution (as amended)** is a constitutional guarantee that the rule of law governs electoral disputes.

### **2.6.3 Democratic Legitimacy Theory**

Democratic legitimacy theory holds that government derives its authority from the consent of the governed, expressed through periodic, free, and fair elections.<sup>80</sup> Malpractice undermines legitimacy by distorting the will of the people, while petitions serve as a corrective mechanism to restore that legitimacy.

This theory is particularly relevant in Nigeria, where the prevalence of malpractice has often eroded confidence in elections. In *Oshiomhole v. INEC* (2009) 4 NWLR (Pt. 1132) 607, the court nullified a manipulated election, thereby restoring legitimacy to the democratic process.<sup>81</sup> Similarly, *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326 demonstrated that judicial intervention can reaffirm the genuine choice of the electorate.<sup>82</sup>

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<sup>78</sup> A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, 10th ed. (London: Macmillan, 1959) p. 187.

<sup>79</sup> *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1 at 259-260.

<sup>80</sup> B.O. Nwabueze, *Democracy in Africa: Constitutionalism, Authority and Accountability* (Ibadan: Spectrum Books, 2003) p. 102.

<sup>81</sup> *Oshiomhole v. INEC* (2009) 4 NWLR (Pt. 1132) 607 (CA) at 688.

<sup>82</sup> *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326 (CA) at 418-420.

By aligning the electoral process with democratic legitimacy, petitions enhance the credibility of governance and strengthen public trust in democracy.

#### **2.6.4 Accountability and Checks and Balances Theory**

The theory of accountability posits that institutions and officeholders must be subject to oversight and correction when they act unlawfully or contrary to public interest. Within democratic systems, checks and balances ensure that no arm of government wields unchecked power.

Applied to Nigeria's elections, this theory explains the role of election petitions as a check on both political actors and electoral bodies. As Ibrahim argues, tribunals serve as instruments of accountability by holding electoral officers and politicians answerable for malpractice.<sup>83</sup> Judicial oversight through petitions ensures that INEC and political parties operate within legal bounds. This resonates with the broader constitutional principle that sovereignty belongs to the people and can only be exercised through lawful elections.

#### **2.6.5 Relevance of the Theoretical Framework**

Together, these theories Electoral Justice, Rule of Law, Democratic Legitimacy, and Accountability provide a coherent basis for this study. They explain why election petitions matter, how they function to curb malpractice, and the extent to which they contribute to democratic consolidation in Nigeria. The theoretical framework therefore serves as both a justification for the petition process and a yardstick for assessing its effectiveness.

This chapter examined the conceptual, empirical, and theoretical dimensions of election petitions and electoral malpractice in Nigeria. The **conceptual clarifications** established the meaning of election, election petition, and electoral malpractice, and explored their inter-relationship in promoting electoral integrity. The **empirical review** analysed existing studies, monitoring reports, and judicial outcomes, revealing that while petitions play a corrective role,

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<sup>83</sup> J. Ibrahim, "The Role of the Judiciary in Electoral Disputes in Nigeria" *Nigeria Social Science Review* Vol. 15, No. 2 (2013) p. 83.

malpractice remains endemic due to weak enforcement and procedural challenges. The **theoretical framework** situated the study within broader intellectual traditions Electoral Justice, Rule of Law, Democratic Legitimacy, and Accountability theories showing how they illuminate the role of petitions in curbing malpractice.

Overall, the literature reviewed underscores both the promise and limitations of election petitions in Nigeria. They remain essential for correcting flawed elections and deterring malpractice, yet their effectiveness depends on judicial integrity, robust enforcement, and broader institutional reforms. The next chapter builds on this foundation by examining the **legal framework of election petitions in Nigeria**, analysing constitutional provisions, statutory instruments, and judicial precedents.

# CHAPTER THREE

## 3.0 ELECTION PETITIONS

Disputes are an inevitable aspect of electoral democracy, particularly in societies where elections are highly competitive and often marred by malpractice. In Nigeria, electoral contests frequently result in grievances arising from alleged irregularities, fraud, violence, or non-compliance with the law. The legal framework, through the Constitution and the Electoral Act, provides for the adjudication of such disputes by specialized tribunals and courts in order to preserve the integrity of the democratic process. There also exists the criminalization of certain acts aimed at disrupting electoral processes. This serves as an alternative to election petitions in deterring electoral malpractices in Nigeria.

Election petitions are, therefore, a critical component of Nigeria's electoral jurisprudence. They serve as the principal mechanism for questioning election results, correcting malpractice, and ensuring that mandates are derived from lawful votes. However, because of their peculiar nature, election petitions are subject to strict jurisdictional limits, procedural rules, statutory timelines, and evidentiary burdens. The way in which these disputes are managed by the judiciary has significant implications for electoral justice, political stability, and public confidence in democratic institutions.

This chapter examines the legal and practical dimensions of election petitions in Nigeria and criminal prosecutions for election-related offences. It begins by analysing the **jurisdiction of courts and tribunals** to entertain petitions, followed by the **procedure for questioning an election**. It then discusses the **parties to election petitions**, the **statutory grounds for challenging election results**, and the **timelines for resolving petitions**. The chapter further reviews the **remedies available to successful petitioners**, **electoral offences in Nigeria**, **curbing electoral malpractice in Nigeria**, **challenges to curbing electoral malpractice**

**through election petitions, and challenges to curbing electoral malpractice through criminal prosecution.**

By exploring these issues, this chapter provides a comprehensive understanding of the dynamics of election dispute resolution in Nigeria, highlighting both the strengths and weaknesses of the current system, and laying the foundation for the reform-oriented discussion in the subsequent chapter.

### **3.1 Jurisdiction of Courts to Entertain Petitions**

Jurisdiction is the foundation upon which judicial authority rests. It refers to the legal capacity of a court or tribunal to hear and determine a matter. The Supreme Court in *Madukolu v. Nkemdilim (1962) 2 SCNLR 341* laid down the classic test of jurisdiction, holding that a court is competent when: (a) it is properly constituted, (b) the subject matter falls within its jurisdiction, and (c) the action is initiated by due process and in compliance with statutory conditions.<sup>84</sup> This principle applies with peculiar force in election petitions, which are sui generis and governed strictly by constitutional and statutory provisions. In *GTB v. Toyed (Nig) Ltd & Anor*<sup>85</sup> the court held that *the law is well settled, and it no longer admits of any argument that jurisdiction is the very basis and the life wire of every matter, and on which any Court tries or hears a case. It is, metaphorically speaking, the lifeblood of all trials, whether it be at the Court of trial or on appeal, and without which all such trials and hearings are a nullity, notwithstanding how well or meticulously such a trial or proceeding had been conducted or how sound or profound the resultant judgment. It is simply a nullity*

The **1999 Constitution of the Federal Republic of Nigeria (as amended)** is the primary source of jurisdiction in election petitions. **Section 285** specifically provides for the establishment of election tribunals and allocates jurisdiction as follows:

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<sup>84</sup> *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341.

<sup>85</sup> (2016) LPELR-4181 (CA)

- **Section 285(1)** establishes the National and State Houses of Assembly Election Tribunals with jurisdiction to hear and determine petitions concerning membership of the National and State Assemblies.
- **Section 285(2)** establishes the Governorship Election Tribunals, empowered to hear petitions relating to the election of state governors.
- **Section 285(5)–(8)** prescribes timelines: petitions must be filed within 21 days of the declaration of results, determined within 180 days, and appeals resolved within 60 days.<sup>86</sup>

For presidential elections, **section 239(1)(a) of the Constitution** vests exclusive original jurisdiction in the Court of Appeal to hear and determine disputes as to whether any person has been validly elected as President or Vice President. Appeals from such decisions lie only to the Supreme Court.<sup>87</sup>

Thus, the Constitution not only establishes the fora for election disputes but also imposes strict timelines, reflecting the public interest in the speedy resolution of electoral contests.

Election tribunals are special courts of limited jurisdiction. Their competence is confined to matters expressly provided for under the Constitution and Electoral Act. In *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607*, the Court of Appeal emphasized that tribunals cannot assume jurisdiction beyond the statutory limits.<sup>88</sup> Similarly, in *Ogboru v. Okowa (2016) 11 NWLR (Pt. 1522) 84*, the Supreme Court reiterated that the jurisdiction of an election tribunal is not inherent but must be derived strictly from the Constitution and Electoral Act.<sup>89</sup>

Tribunals generally have jurisdiction over petitions challenging elections into the National Assembly, State Houses of Assembly, and Governor's offices. Their powers include

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<sup>86</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 285(5)–(8).

<sup>87</sup> *Ibid*, s. 239(1)(a).

<sup>88</sup> *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607 (CA)* at 635.

<sup>89</sup> *Ogboru v. Okowa (2016) 11 NWLR (Pt. 1522) 84* at 141, 127-128, 150-151.

determining whether a candidate was duly elected, whether an election was invalid by reason of malpractice, and whether a candidate was lawfully returned.

### **3.1.1 The National and State Houses of Assembly Election Tribunal**

The tribunal, to the exclusion of all other courts, has the power to determine petitions as to whether a person has been validly elected as a member of the National Assembly or State House of Assembly. Each tribunal is composed of a chairman and two other members. A quorum is formed by the chairman and a member.<sup>90</sup> The Chairman shall be a Judge of a High Court, and two other members shall be appointed from among Judges of a High Court, Kadis of a Sharia Court of Appeal, Judges of a Customary Court of Appeal, or other members of the judiciary not below the rank of a Chief Magistrate.<sup>91</sup> Their appointment is by the President of the Court of Appeal in consultation with the Chief Judge of the State, the Grand Kadi of the Sharia Court of Appeal of the State, or the President of the Customary Court of Appeal of the State.

### **3.1.2 Governorship Election Tribunal**

This Governorship Election Tribunal is to the exclusion of any court or tribunal, has the jurisdiction to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Governor of a State. The composition and mode of appointment are the same as those of the National and State Houses of Assembly Election Tribunal.<sup>92</sup>

It is noted, however, that although it is the President of the Court of Appeal who has the power to appoint members of the election tribunals, it is the Chief Justice of Nigeria who swears them in as the head of the National Judicial Commission.

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<sup>90</sup> Section 285(4) 1999 Constitution of Nigeria (as amended)

<sup>91</sup> Par A (2), Sixth Schedule, 1999 Constitution of Nigeria (as amended)

<sup>92</sup> Par B, Sixth Schedule, 1999 Constitution of Nigeria (as amended)

### 3.1.3 The Court of Appeal

The Court of Appeal has a dual role in election disputes. First, under **section 239(1) (a)** of the Constitution, it has original jurisdiction to hear and determine petitions relating to the office of the President and Vice President. Second, it serves as an appellate court for decisions of governorship and legislative election tribunals. The Court of Appeal has original jurisdiction to hear and determine any question as to whether any person has been validly elected to the office of President or Vice-President under this Constitution.<sup>93</sup> The composition of the Court of Appeal in hearing an election petition to which Section 239 (1) (a) of the Constitution relates shall be at least three Justices.<sup>94</sup> In *Atiku Abubakar & Anor v. INEC & Ors. (2023) LPELR-60392(SC)*, the Court of Appeal exercised its original jurisdiction over the presidential election petition, demonstrating its central role in adjudicating the most sensitive electoral disputes in the country.<sup>95</sup>

The Court of Appeal also has exclusive jurisdiction to hear appeals from the National and State Houses of Assembly Election Tribunal, and the Governorship Election Tribunal.<sup>96</sup> By Section 246 (3) of the Constitution, the decisions of the Court of Appeal in respect of appeals arising from the National and State Houses of Assembly election petitions shall be final.

The case of **ABDULRAHMAN ABUBAKAR & ANOR v. SENATOR AIDOKO ALI USMAN & ORS**<sup>97</sup> presents a unique situation. At the Election Tribunal, the 1st and 2nd respondents herein contended that, having obtained the second highest votes in the result of the election as announced by the 3<sup>rd</sup> and 4th respondents, the 1st and 2nd respondents were entitled to be declared and returned as the winners of the election. The trial Tribunal gave judgment in favour of the Petitioners and nullified the election of the 1st appellant. The Tribunal consequently proceeded to declare the 1st respondent herein (as 1<sup>st</sup> petitioner) the

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<sup>93</sup> Section 239 (1) (a), 1999 Constitution of Nigeria (as amended)

<sup>94</sup> Section 239 (2), 1999 Constitution of Nigeria (as amended)

<sup>95</sup> *Atiku Abubakar & Anor v. INEC & Ors. (2023) LPELR-61556(SC)*, pp. 28-30, paras. D-B.

<sup>96</sup> Section 246 (1) (b)-(c), 1999 Constitution of Nigeria (as amended)

<sup>97</sup> (2017) LPELR-41915(SC)

duly elected Senator representing Kogi East Senatorial District. Being dissatisfied with the Tribunal's decision, the appellants appealed to the Court of Appeal.

In a well-considered judgment delivered on 2/12/2015, the Court of Appeal agreed with the decision of the Tribunal that no evidence was given to show that APC held any primary election for the nomination of the 1st appellant. Accordingly, the Court of Appeal upheld the nullification of the election of the 1st appellant but set aside the decision of the Tribunal which declared the 1st respondent as duly elected. In its initial Enrolled Order, the Registry of the Court below mistakenly captured Order No. 2 thereof as follows:-

**“2. THE ELECTION OF THE 1ST RESPONDENT IS HEREBY NULLIFIED.”**

Upon realizing the above mistake, the Registry of the Court below promptly issued another Enrolled Order wherein the orders of the Court of Appeal were correctly captured as follows:-

**“1. THE ELECTION OF THE 1st APPELLANT IS HEREBY NULLIFIED.**

**2 THE INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) IS HEREBY ORDERED TO CONDUCT FRESH ELECTION FOR KOGI STATE EAST SENATORIAL DISTRICT WITHIN 90 (NINETY) DAYS FROM TODAY.”**

The Appellant, by a motion inter alia, sought an order correcting or varying the consequential orders in the judgment by deleting the 3rd consequential order therein and replacing same with consequential order affirming the election and return of the 1st Applicant as Senator representing Kogi East Senatorial District, the order nullify the election of the 1st applicant and ordering for fresh election within 90 days having been made without jurisdiction. In response to the Reliefs sought by the appellants, the respondents argued that the Court of Appeal lacked jurisdiction to sit on appeal over its judgment, citing Section 246 (3) of the Constitution. The Court, in agreement with the argument of the counsel for the respondent,

ruled that since it lacks jurisdiction to sit on appeal over its own judgment, the application lacked merit and it was struck out.

On appeal to the Supreme Court, the court held that the appeal constituted an abuse of court process as it contravened the clear provisions of Section 246(3) and that the Court of Appeal acted correctly in refusing to revisit the case.

### **3.1.4 The Supreme Court**

The Supreme Court's role in election petitions is limited to appeals from the Court of Appeal in presidential and gubernatorial election matters. This is expressly provided in **section 233(2) (e) (i)** of the 1999 Constitution.

In *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1, the apex court affirmed the presidential election after reviewing the decision of the Court of Appeal, illustrating its final say on presidential petitions.<sup>98</sup>

Unlike for legislative election petitions, where the Court of Appeal is the final court, presidential and gubernatorial election disputes terminate at the Supreme Court, reflecting the higher national stakes attached to the office of the President/Vice President and the Governor/Deputy Governor.

### **3.1.5 Limitations on Jurisdiction**

Several limitations circumscribe the jurisdiction of courts and tribunals in election matters:

1. **Time Limits:** Election petitions are bound by strict timelines. **Section 132(7 & 8)**<sup>99</sup> provides that an election petition shall be filed within 21 days after the date of the declaration of the result of the elections. It is submitted that setting 21 days as the time limit within which to file all kinds of election petitions in Nigeria is very ridiculous. Take, for example, the Presidential election; the totality of the country is its constituency. How can a petitioner gather all the needed evidence to successfully

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<sup>98</sup> *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1 at 318.

<sup>99</sup> Section 285(5) 1999 Constitution of Nigeria (as amended).

challenge a presidential election within the time frame? It is likewise not an easy task even for gubernatorial elections. The law allows the petitioner, who is the loser, 21 days to gather his/her materials and articulate his grievances in a form that can be prosecuted before the tribunal within 21 days, and does not give room for amendment of the petition. It is recommended that this provision should be amended to accommodate the In **Atiku vs. INEC (No.2)**,<sup>100</sup> the court held thus:

**“A combined reading of section 285(5) of the 1999 Constitution (as amended) and paragraph 4(5) of First Schedule to the Electoral Act, 2022 shows that the time-limit for filing written statements on oath of witnesses in election petition proceedings is 21 days from the date of declaration of results, and due to the sui generis nature of election proceedings, amendment to the petition or calling of additional witnesses would not be entertained after the statutory time-limit for the filing of the petition has expired.”**

Failure to comply deprives the tribunal or court of jurisdiction. The was affirmed in **ANPP v. Goni (2012) 7 NWLR (Pt. 1298) 147**.<sup>101</sup> It follows that an election tribunal must deliver its judgment 180 days after the filing of an election petition.<sup>102</sup> It is noted, however, that by Section 285 (13A) of the Constitution<sup>103</sup> where there is a natural disaster, war, or any State or national emergency, or any other “force majeure” that prevents the filing of an election petition, the period of the natural disaster, war, State or national emergency, or any other “force majeure” shall not be reckoned with in the computation of time.

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<sup>100</sup> [2023] 19 NWLR Pp. 853-854, paras. C-A

<sup>101</sup> **ANPP v. Goni (2012) 7 NWLR (Pt. 1298) 147** at 207-208.

<sup>102</sup> Section 285 (6), 1999 Constitution of Nigeria (as amended)

<sup>103</sup> Section 285 (13A) is inserted by the Constitution of the Federal Republic of Nigeria, 1999 (Fifth Alteration) (No. 10) Act, 2023]

2. **Sui Generis Nature:** Election petitions are unique and cannot be treated as ordinary civil suits. This restricts the application of general procedural doctrines. *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493* established that electoral petitions must follow special rules.<sup>104</sup> A party cannot, midway, amend his/her list of witnesses or bring in additional evidence not envisaged at the beginning of the proceedings. Usually, after filing the petition, the Election Tribunal holds a pre-hearing session to determine any question as to its jurisdiction, address preliminary objections, and set the stage for the subsequent proceedings. This pre-hearing session often occurs within a few weeks of the petition being filed. The Tribunal thereafter sets timelines for the exchange of evidence and presentation of the respective cases of the parties. These whole processes must be concluded within 180 days from the date of the filing of the petition. As earlier suggested, time is one of the constraints in election petitions.
3. **Pre-Election Matters:** By virtue of **section 285(14) of the Constitution**, pre-election matters fall within the jurisdiction of the Federal High Court, not election tribunals. The Supreme Court clarified this distinction in **Odedo v. PDP & Ors (2015) LPELR-24738(SC)**.<sup>105</sup>

The jurisdictional structure of Nigerian courts in election petitions ensures that disputes are resolved within constitutionally guaranteed forums and timelines. This promotes certainty, prevents endless litigation, and safeguards democratic stability. However, it also poses challenges: strict timelines may compromise thorough fact-finding, and the finality of decisions (especially at the Court of Appeal in governorship petitions) may foreclose further review, even in controversial circumstances. Nevertheless, jurisdiction remains the bedrock of electoral adjudication. Without clear jurisdiction, no tribunal or court can pronounce on the validity of an election, and the petition process itself would be rendered meaningless.

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<sup>104</sup> *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493* at 546-547.

<sup>105</sup> *Odedo v. PDP & Ors (2015) LPELR-24738(SC)*.

### 3.1.6 Rationale for Strict Timelines

The strict timelines serve several purposes:

1. **Certainty and Stability:** They ensure that disputes do not drag on indefinitely, thereby allowing elected officials to govern without prolonged legal distractions.
2. **Public Confidence:** Quick resolution of disputes strengthens trust in the judicial process and in electoral democracy.
3. **Prevention of Abuse:** They discourage frivolous petitions filed merely to stall governance.

However, scholars argue that strict timelines may sometimes sacrifice substantive justice on the altar of procedural speed. Okoye, for example, observes that the 180-day limit often compels tribunals to rush proceedings, potentially compromising thorough fact-finding.<sup>106</sup>

### 3.1.7 Implications for Electoral Justice

While the rigidity of timelines enhances political stability, it also creates challenges. Petitions involving complex allegations of widespread malpractice may require more time than permitted. In *Atiku Abubakar v. INEC & Ors. (2019) LPELR-49473 (SC)*, the Supreme Court noted the difficulty of proving electronic irregularities within the narrow statutory window.<sup>107</sup>

Thus, the timelines reflect a delicate balance between two competing interests: the need for expeditious resolution of electoral disputes and the imperative of achieving substantive justice.

Timelines are a defining feature of Nigeria's electoral adjudication system. Anchored in **section 285 of the Constitution** and the **Electoral Act, 2022**, they require petitions to be filed within 21 days, heard and concluded within 180 days, and appeals resolved within 60

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<sup>106</sup> Festus Okoye, *Judicial Protection of Democracy in Nigeria* (Enugu: Fourth Dimension, 2011) p. 145.

<sup>107</sup> *Atiku Abubakar v. INEC & Ors. (2019) LPELR-49473(SC)*

days. The courts have interpreted these limits as absolute, reinforcing certainty and stability but sometimes at the cost of exhaustive inquiry. Ultimately, the timelines underscore the sui generis nature of election petitions, reflecting Nigeria's determination to resolve electoral disputes swiftly and preserve democratic governance.

## **3.2 Parties to an Election Petition**

Under **section 133 of the Electoral Act, 2022**, only a candidate who contested in the election or a political party that participated in the election has locus standi to file a petition.<sup>108</sup> This rule was affirmed in *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493*, where the Supreme Court held that election petitions are limited to candidates and political parties, excluding other stakeholders.<sup>109</sup>

In election jurisprudence, determining the proper parties to a petition is crucial because it affects the competence of the action and the jurisdiction of the tribunal. Election petitions, being sui generis, are strictly governed by the **1999 Constitution (as amended)** and the **Electoral Act, 2022**. Only those specifically recognized by law may institute or be joined in such proceedings.<sup>110</sup>

### **3.3.1. Petitioners**

Under **section 133(1) of the Electoral Act, 2022**, only two categories of persons are entitled to present an election petition:

1. **A candidate** in the election; or
2. **A political party** that participated in the election.<sup>111</sup>

Thus, an individual voter, an observer group, or any organization without direct participation in the election lacks locus standi to bring a petition. This position was affirmed in *CPC v.*

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<sup>108</sup> Electoral Act, 2022, s. 133.

<sup>109</sup> *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493* at 578 paras. E.

<sup>110</sup> *Madukolu v. Nkemdilim (1962) 2 SCNLR 341*.

<sup>111</sup> Electoral Act, 2022, s. 133(1).

*INEC (2011) 18 NWLR (Pt. 1279) 493*, where the Supreme Court emphasized that only candidates and political parties have the legal standing to file petitions.<sup>112</sup>

Furthermore, a political party cannot file a petition on behalf of a candidate who has withdrawn from challenging the result. In *APC v. PDP (2015) LPELR-24349(CA)*, the court clarified that the candidate's personal decision not to pursue a petition cannot be overridden by the political party.<sup>113</sup>

### **3.3.2. Respondents**

The Electoral Act also prescribes who may be joined as respondents. **Section 133(2)** provides that:

- The **person whose election is being questioned** (i.e., the declared winner) shall be a necessary respondent.
- The **Electoral Commission (INEC)** that conducted the election is also a necessary respondent.
- Where the petition complains of the conduct of an electoral officer, presiding officer, returning officer, or any other official of INEC, that officer may not necessarily be joined as a party.<sup>114</sup>

This rule ensures that parties directly affected by the election outcome or accused of irregularities are allowed to defend themselves. In *Ojukwu v. Yar'Adua (2009) 12 NWLR (Pt. 1154) 50*, the Court of Appeal emphasized that the declared winner is an indispensable party without whom the petition cannot be properly determined.<sup>115</sup>

### **3.3.3. Misjoinder and Non-Joinder of Parties**

Because election petitions are strictly regulated, misjoinder or non-joinder of necessary parties is often fatal. In *Buhari v. Yusuf (2003) 14 NWLR (Pt. 841) 446*, the Supreme Court

<sup>112</sup> *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493* at 578, para. E.

<sup>113</sup> *APC v. PDP (2015) LPELR-24349(CA)* Pages 110-125 paras E-B.

<sup>114</sup> Electoral Act, 2022, s. 133(3).

<sup>115</sup> *Ojukwu v. Yar'Adua (2009) 12 NWLR (Pt. 1154) 50* at 110-111.

held that failure to join a necessary party, such as the person returned as the winner, rendered the petition incompetent.<sup>116</sup>

However, the law also recognizes that not every misjoinder defeats a petition. Under **section 134(2) of the Electoral Act, 2022**, a petition will not be dismissed merely for misjoinder or non-joinder unless the omission relates to a necessary party.<sup>117</sup>

### **3.3.4. Implications of Restricting Parties**

The strict limitation on who may be parties to an election petition serves multiple purposes:

1. **Prevents frivolous litigation** by excluding voters and civil society groups who may not have a direct stake.
2. **Ensures fairness** by restricting petitions to those directly involved in the election.
3. **Maintains orderliness** in electoral adjudication by clearly defining necessary respondents.

Nevertheless, some scholars argue that excluding voters and independent monitors from filing petitions reduces public accountability and leaves enforcement solely in the hands of candidates and parties, who may be complicit in malpractice.<sup>118</sup>

Parties to an election petition are strictly defined by the Constitution and the Electoral Act, 2022. Petitioners must be either candidates or political parties that contested the election, while respondents include the declared winner, INEC, and relevant electoral officers. Nigerian courts have consistently enforced these limitations, holding that failure to join necessary parties renders petitions incompetent. While this framework ensures clarity and order, it also raises questions about whether broader participation might strengthen electoral accountability.

## **3.4 Statutory Grounds for Challenging an Election**

<sup>116</sup> *Buhari v. Yusuf* (2003) 14 NWLR (Pt. 841) 446.

<sup>117</sup> Electoral Act, 2022, s. 134(2).

<sup>118</sup> G.C. Nwokedi, "Election Petitions and Electoral Integrity in Nigeria" *NIALS Journal of Law and Democracy* Vol. 4, No. 1 (2015) p. 119.

The procedure for questioning an election in Nigeria is firmly rooted in the **1999 Constitution (as amended)** and the **Electoral Act, 2022**. Unlike ordinary civil claims, election petitions are sui generis and are governed by a special set of rules designed to ensure speedy and conclusive resolution.<sup>119</sup> The Electoral Act prescribes not only the grounds upon which an election may be questioned but also the manner in which such petitions must be initiated, processed, and determined.

The Constitution guarantees the right to question an election. **Section 285 (5) – (9)** provides the timelines within which petitions must be filed and concluded, while **section 134 of the Electoral Act, 2022**, sets out the substantive grounds upon which an election may be challenged.<sup>120</sup>

- (1) An election may be questioned on any of the following grounds—**
- (a) a person whose election is questioned was, at the time of the election, not qualified to contest the election;**
  - (b) the election was invalid by reason of corrupt practices or non-compliance with the provisions of this Act; or**
  - (c) the respondent was not duly elected by majority of lawful votes cast at the election.**

These grounds have been judicially applied in cases such as *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1 and *Awolowo v. Shagari* (1979) 6–9 SC 37.<sup>121</sup> Save for petitions founded on grounds of non-qualification, there is a consensus that the burden placed on the shoulders of petitioners in an election matter is too heavy, making it practically impossible for them to discharge the required onus probandi. This accounts for the high failure rate of election

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<sup>119</sup> *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341.

<sup>120</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 285; Electoral Act, 2022, s. 134.

<sup>121</sup> *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1; *Awolowo v. Shagari* (1979) 6–9 SC 37.

petitions, which has emboldened politicians to brazenly indulge in electoral malpractices, knowing full well that the legal process is impotent to bring them to book<sup>122</sup>.

### **3.4.1 Lack of Qualification**

A candidate's eligibility to contest elections is primarily determined by the Constitution. For instance, **sections 131, 177, 65, and 106 of the 1999 Constitution (as amended)** prescribe qualifications for President, Governor, National Assembly, and State House of Assembly members, respectively. Disqualification grounds include age, citizenship, criminal conviction, bankruptcy, and membership of secret societies.<sup>123</sup>

In *Shinkafi v. Yari* (2016) 7 NWLR (Pt. 1511) 340, the Supreme Court affirmed that qualification is a threshold issue, and once a candidate is constitutionally disqualified, the election cannot stand regardless of votes obtained.<sup>124</sup> Similarly, in *Abubakar v. Yar'Adua* (2008) 19 NWLR (Pt. 1120) 1, the Supreme Court held that qualification issues are fundamental and go to the root of the election.<sup>125</sup>

### **3.4.2 Corrupt Practices or Non-Compliance**

Another ground for challenging elections is that the process was marred by corrupt practices or substantial non-compliance with the provisions of the Electoral Act. **Section 137 of the Act** further provides that non-compliance must be shown to have substantially affected the result before an election can be invalidated.

This principle was established in *Awolowo v. Shagari* (1979) 6–9 SC 37, where the Supreme Court held that an election will not be voided by reason of non-compliance unless it is substantial and affects the result.<sup>126</sup> In *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1, the

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<sup>122</sup> S.N. PIATE & I. Effiong, "An Appraisal of the Grounds and Burden of Proof in Election Petition in Nigeria" page 54, *Socialscientia Journal of the Social Sciences and Humanities*  
<https://journals.aphriapub.com/index.php/SS/> accessed 23/12/2025

<sup>123</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), ss. 65, 106, 131, 177.

<sup>124</sup> *Shinkafi v. Yari* (2016) 7 NWLR (Pt. 1511) 340.

<sup>125</sup> *Abubakar v. Yar'Adua* (2008) 19 NWLR (Pt. 1120) 1.

<sup>126</sup> *Awolowo v. Shagari* (1979) 6–9 SC 37.

court reiterated that mere irregularities are insufficient; the petitioner must prove both the non-compliance and its impact on the outcome.<sup>127</sup>

Corrupt practices under the Act include bribery, undue influence, vote buying, intimidation of voters, falsification of results, and ballot box stuffing. In *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326, the Court of Appeal nullified the Ekiti State governorship election on the basis of widespread violence, intimidation, and ballot manipulation, holding that these amounted to corrupt practices and substantial non-compliance.<sup>128</sup>

### **3.4.3 Lack of the Majority of Lawful Votes**

A candidate may also challenge an election on the grounds that the person declared the winner did not score the majority of lawful votes. This ground goes to the heart of democratic legitimacy by ensuring that the declared winner reflects the genuine choice of the electorate.

The Supreme Court in *Ojukwu v. Yar'Adua* (2009) 12 NWLR (Pt. 1154) 50 emphasized that only lawful votes count in determining the majority.<sup>129</sup> In *PDP v. INEC* (2014) 17 NWLR (Pt. 1437) 525, the Court of Appeal stressed that unlawful votes, once proven, must be excluded from the computation, and if the exclusion alters the result, the declared winner loses legitimacy.<sup>130</sup>

### **3.4.4 Exclusion of Other Grounds**

It is important to note that Nigerian courts have consistently rejected attempts to expand the statutory grounds. In *CPC v. INEC* (2011) 18 NWLR (Pt. 1279) 493, the Supreme Court held that election petitions must be strictly confined to the grounds expressly provided by law, and any additional grounds are incompetent.<sup>131</sup>

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<sup>127</sup> *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1.

<sup>128</sup> *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326 (CA) at 418-420.

<sup>129</sup> *Ojukwu v. Yar'Adua* (2009) 12 NWLR (Pt. 1154) 50.

<sup>130</sup> *PDP v. INEC* (2014) 17 NWLR (Pt. 1437) 525.

<sup>131</sup> *CPC v. INEC* (2011) 18 NWLR (Pt. 1279) 493 at 578 para F-G.

The grounds for election petitions in Nigeria are narrowly defined to include lack of qualification, corrupt practices, or substantial non-compliance, and lack of majority of lawful votes. These grounds reflect the balance between electoral stability and accountability. Nigerian courts have strictly interpreted them, ensuring that petitions are not frivolously instituted outside statutory confines. While this strictness promotes certainty, critics argue that it sometimes limits access to justice, especially where malpractice is evident but does not fall neatly within the enumerated grounds.

### **3.5. Burden and Standard of Proof**

In election petitions, the standard of proof is generally the preponderance of evidence (balance of probabilities), common in civil cases, meaning the petitioner must show their version of events is more likely true than not; however, if criminal allegations (like bribery or violence) are made, the higher criminal standard of beyond reasonable doubt applies, creating a significant hurdle for petitioners who lack state power to gather evidence, leading to calls for reform to a more consistent, lighter standard. The burden of proof lies on the petitioner, who must establish not only that irregularities occurred but also that they substantially affected the result. This principle was laid down in *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1 and reaffirmed in *Atiku Abubakar v. INEC & Ors.* (2019) LPELR-49473(SC).<sup>132</sup> In *AUGUSTINE & ANOR v. INEC & ORS*,<sup>133</sup> the 1st Appellant, Ovie Augustine, contested the results, claiming widespread electoral malpractice, including non-compliance with the Electoral Act, 2022. After their petition was dismissed by the Governorship Election Petition Tribunal, the Appellants sought redress at the Court of Appeal, which upheld the Tribunal's decision. Dissatisfied, they escalated the matter to the Supreme Court, asserting

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<sup>132</sup> *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1; *Atiku Abubakar v. INEC & Ors.* (2019) LPELR-49473(SC).

<sup>133</sup> (2024) LPELR-61876(SC)

that the lower courts wrongly dismissed their claims. The Supreme Court, presided over by Justice Okoro, dismissed the appeal, ruling that the Appellants failed to prove their allegations of non-compliance with the Electoral Act, particularly regarding the failure to fill prescribed forms before the election, and that charges of corrupt practices were not substantiated beyond reasonable doubt, as they lacked credible evidence linking the 2nd Respondent to any unlawful acts.

### **3.6. Remedies in Election Petitions**

The ultimate purpose of filing an election petition is to obtain legal redress against electoral malpractice or irregularities. Remedies in election petitions refer to the reliefs that a tribunal or court is empowered to grant after adjudicating on the validity of an election. Unlike ordinary civil remedies, which may include damages or injunctions, remedies in election petitions are unique and limited to those expressly provided by the **1999 Constitution (as amended)** and the **Electoral Act, 2022**.<sup>134</sup>

The remedies available in election petitions are derived from **section 134 of the Electoral Act, 2022**, and judicial interpretation of constitutional provisions.<sup>135</sup> Because petitions are sui generis, tribunals and courts are not at liberty to fashion equitable remedies outside the scope of the law. This was emphasized in *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493*, where the Supreme Court held that election petitions are strictly regulated and reliefs must align with statutory provisions.<sup>136</sup>

#### **3.6.1. Types of Remedies in Election Petitions**

##### **(a) Nullification of an Election**

A common remedy is the nullification of an election where substantial non-compliance or corrupt practices are proven. In *Fayemi v. Oni (2010) 17 NWLR (Pt. 1222) 326*, the Court of

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<sup>134</sup> *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341.

<sup>135</sup> Electoral Act, 2022, s. 134.

<sup>136</sup> *CPC v. INEC (2011) 18 NWLR (Pt. 1279) 493* at 546-547.

Appeal annulled the Ekiti State governorship election due to widespread irregularities.<sup>137</sup>

Similarly, in *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607*, the Court of Appeal nullified the declared result and upheld the actual winner.<sup>138</sup>

#### **(b) Affirmation of Election Result**

Where a petition fails, the tribunal or court may affirm the return of the declared winner. In *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1*, the Supreme Court upheld the return of Chief Olusegun Obasanjo as President, having found insufficient evidence of malpractice to overturn the election.<sup>139</sup>

#### **(c) Declaration of Petitioner as Winner**

Another remedy is for the tribunal to declare the petitioner as the duly elected candidate if evidence shows that he or she actually secured the majority of lawful votes. In *Ngige v. Obi (2006) 14 NWLR (Pt. 999) 1*, the Court of Appeal declared Peter Obi the rightful governor of Anambra State after recalculating valid votes.<sup>140</sup>

#### **(d) Ordering of a Fresh Election**

Where malpractice or irregularities make it impossible to determine a clear winner, tribunals may order a fresh election. This remedy was applied in *Audu v. INEC (No. 2) (2010) 13 NWLR (Pt. 1212) 456*, where the Court of Appeal directed INEC to conduct a rerun due to pervasive irregularities.<sup>141</sup>

#### **(e) Disqualification of a Candidate**

Where it is established that a candidate was not qualified at the time of the election, the tribunal may nullify the election and disqualify the candidate. In *PDP v. Degi-Eremienyo (2020) 9 NWLR (Pt. 1729) 24*, the Supreme Court disqualified the Bayelsa State deputy

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<sup>137</sup> *Fayemi v. Oni (2010) 17 NWLR (Pt. 1222) 326 (CA) at 418-420.*

<sup>138</sup> *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607 (CA) at 688.*

<sup>139</sup> *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1 at 318.*

<sup>140</sup> *Ngige v. Obi (2006) 14 NWLR (Pt. 999) 1 at 241.*

<sup>141</sup> *Audu v. INEC (No. 2) (2010) 13 NWLR (Pt. 1212) 456 (CA).*

governorship candidate for presenting false documents, which invalidated the entire joint ticket.<sup>142</sup>

### **3.6.2. Limitations on Remedies**

Remedies in election petitions are subject to important limitations:

1. **Exhaustiveness of Reliefs:** Tribunals cannot grant reliefs outside those permitted by the Electoral Act.
2. **Time Constraint:** Remedies must be delivered within the 180-day limit under **section 285(6) of the Constitution.**<sup>143</sup>
3. **Proof Requirement:** Petitioners must provide credible evidence; remedies cannot be granted on speculation. In *Atiku Abubakar v. INEC & Ors. (2019) LPELR-49473(SC)*, the Supreme Court dismissed the petition for lack of credible proof of electronic irregularities.<sup>144</sup>

### **3.6.3. Importance of Remedies**

Remedies in election petitions are central to electoral justice. They serve both corrective and deterrent functions by:

- Restoring the genuine mandate of the electorate when elections are tainted by malpractice.
- Upholding the credibility of democratic institutions.
- Deterring future electoral fraud by demonstrating judicial willingness to overturn fraudulent results.

Remedies in election petitions are limited but powerful tools for protecting electoral integrity in Nigeria. They include nullification of elections, affirmation of results, declaration of the petitioner as the winner, ordering of fresh elections, and disqualification of candidates. The

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<sup>142</sup> *PDP v. Degi-Eremienyo* (2020) 9 NWLR (Pt. 1729) 24.

<sup>143</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 285(6).

<sup>144</sup> *Atiku Abubakar v. INEC & Ors. (2019) LPELR-49473(SC)*.

courts have consistently insisted that such remedies must be grounded in law and proven by credible evidence. While limitations such as strict timelines and evidentiary burdens sometimes constrain their effectiveness, remedies remain vital for ensuring that elections reflect the will of the people and that electoral malpractice does not go unpunished.

### **3.7. Electoral Offences in Nigeria**

Whereas a party can file a petition relating to election malpractice, criminal prosecution for electoral offenders is reserved for the state, another way to curb electoral malpractice in Nigeria. The primary enactment that criminalizes electoral offences in Nigeria is the Electoral Act 2022. Electoral offences are prosecuted in the same way as regular offences. The Act seems to cover all aspects of fraud and malpractice foreseeable in election-related matters.

Offences under the Act are triable either at the Magistrate Court or the State High Court where the offence was committed and the prosecutor. **Section 145** provides that:

**(1) An offence committed under this Act shall be triable in a Magistrate Court or a High Court of a State in which the offence is committed, or the Federal Capital Territory, Abuja.**

**(2) A prosecution under this Act shall be undertaken by legal officers of the Commission or any legal practitioner appointed by it.<sup>145</sup>**

As it pertains to courts with jurisdiction, it is either the high court of a state or a magistrates' court that has jurisdiction. Breaches or violations of some of these provisions of the Electoral provisions often attract penalties, which on conviction may be a fine, a term of imprisonment, or both. Any conduct, action, or inaction that is prohibited by the Constitution or the Electoral Act and a breach of which attracts punishment is called an electoral offence. Electoral

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<sup>145</sup> Electoral Act, 2022

offences may be committed by INEC or Security Officials, Political Parties and their officials, Candidates, Observers, Journalists/Media Houses, or the general public<sup>146</sup>

Below is a table of some offences under the Electoral Act, and their punishments:

<b>OFFENCES</b>	<b>PENALTY</b>	<b>REFERENCES</b>
VOTER REGISTRATION: Destroys materials meant for registration, double or multiple voters' registration, false publication on voters' registration, makes or keeps false voters' registration records, obstructs or prevents officers carrying out registrations, impersonation of a voter registration officer, forgery of a voter's card, and/or carries out registration or revision in places not designated	A maximum fine of ₦1,000,000.00 or imprisonment for a term of 12 months or both	Section 114 EA
NOMINATION: Forgery of nomination papers, destruction of nomination papers, delivery of forged nomination papers to an electoral officer, forgery of ballot papers, certificate, or result, destruction of polling booth or ballot boxes, signing nomination papers or result without authority.	A maximum of two years' imprisonment	Section 115 (1) EA
BALLOT PAPERS: Printing of ballot papers without the authority of the commission, printing more than authorized by the commission, unlawful possession of ballot papers, manufacture, importation into Nigeria of any voting material, such as ballot boxes, etc.	A Maximum fine of N50,000,000 or imprisonment for a term of 12 months or both	Section 115 (2) EA

<sup>146</sup> INEC, "Electoral Offences and Penalties" <https://www.inecnigeria.org/wp-content/uploads/2024/04/ELECTORAL-OFFENCES-AND-PENALTIES-latest-FEBRUARY-2019.pdf> (accessed 15/01/2026)

Disorderly behaviour at political meetings	Maximum fine of N50,000,000 or imprisonment for a term of 12 months or both	Section 116 EA
IMPROPER USE OF VOTERS CARDS: giving the same to a third party for election purposes, receives voters' card not being an officer for fraudulent purposes, unlawful possession of more than one voters' card, buys, sells, or procures voters' card	A maximum fine of N1,000,000 or imprisonment for a term of 12 months or both	Section 117 EA
IMPROPER USE OF VEHICLES: No person shall provide mobility in respect of election process, officers or materials unless in respect of a person who is ordinarily entitled to use such vehicle or boat and in emergency in respect of an electoral officer.	A maximum fine of N500,000 or imprisonment for a term of six months or both	Section 118 EA
Impersonation and voting when not qualified	A maximum fine of N500,000 or imprisonment for a term of 12 months or both.	Section 119 EA
DERELICTION OF DUTY: <ul style="list-style-type: none"> <li>• Any officer without lawful authority acts or omits to act in breach of his duty, failure to report at polling unit wilfully, conspires to falsify results.</li> <li>• Any officer who publishes or announces false election results</li> <li>• Any returning officer or collation officer who delivers or causes to be delivered a false certificate of return, knowing the same to be false.</li> </ul>	<p>A maximum fine of N500,000 or imprisonment for a term of 12 months or both</p> <p>Imprisonment for a term of 36 month</p> <p>Imprisonment for a maximum term of three years without an option of fine.</p>	<p>Section 120 (1) – (3) EA</p> <p>Section 120 (4) EA</p> <p>Section 120 (5) EA</p>

<ul style="list-style-type: none"> <li>Any person who delivers or causes to be delivered a false certificate of return, knowing the same to be false, to any news media</li> </ul>	Imprisonment for a term of three years.	Section 120 (6) EA
<b>BRIBERY AND CONSPIRACY</b>	A maximum fine of N500,000 or imprisonment for a term of 12 months or both	Section 121 EA

Other provisions of electoral offences are also contained in the Electoral Act 2022.

In **JAMES V STATE**<sup>147</sup>, the appellant was charged with the offence of threatening violence against a group of voters during a local government election. The prosecution presented evidence that the Appellant, along with others, had gone to a polling station where voters were lined up to cast their ballots. He threatened them with violence if they did not vote for his preferred candidate. The threats included verbal warnings of physical harm and destruction of property. Several voters testified that they felt intimidated and coerced by these threats, leading some to leave the polling station without voting or to change their votes out of fear.

The trial court convicted the Appellant of the offence of threatening violence under the electoral laws, emphasizing that such conduct undermines the integrity of the electoral process. On appeal, the Appellant argued that the evidence against him was insufficient and that the prosecution failed to prove the elements of the offence beyond a reasonable doubt. However, the Court of Appeal upheld the conviction, ruling that the evidence clearly demonstrated an intent to intimidate and influence voters through threats, which is prohibited under the law. This case serves as a critical precedent in understanding the offence of threatening within the context of Nigerian electoral law. The case highlights the legal system's commitment to maintaining the integrity of the electoral process by punishing those

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<sup>147</sup> 8 (2014) LPELR-23001(CA).

who attempt to influence elections through threats and intimidation. The offence of threatening is addressed under Section 128 (a-c) of the Electoral Act 2022, which criminalizes the use of threats, violence, and coercion to influence electoral outcomes. The section prescribes penalties for individuals who, either directly or indirectly, use threats to compel voters to act against their will during an election.<sup>148</sup>

In **NWAFOR V STATE**<sup>149</sup> the Appellant was charged with threatening a returning officer during an election, demanding that the election results be altered in favor of his preferred candidate. The Appellant was armed and made verbal threats to the returning officer, leading to a significant disruption of the electoral process. The trial court found the Appellant guilty of the offence, emphasizing the need to protect electoral officials and the integrity of the election process from intimidation and coercion. On appeal, the Court of Appeal upheld the conviction.

In **OMOWARE V STATE**,<sup>150</sup> the Appellant was established to have threatened a group of election observers who were monitoring the conduct of an election. The threats were made to discourage the observers from reporting irregularities at certain polling units. The Appellant was convicted by the trial court. Dissatisfied, he appealed to the Court of Appeal. The Court of Appeal held that such threats undermined the transparency and credibility of the electoral process and upheld the decision of the trial court.

### **3.8. Curbing Electoral Malpractice in Nigeria**

Electoral malpractice means going against the laws guiding the conduct of elections. It can also be defined as an illegal interference with the electoral process of a country. It is also

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<sup>148</sup> UBANYIONWU, “Appraisal of the Electoral Offence of Threatening under the Electoral Act 2022.” African Journal of Law and Human Rights (AJLHR) 8 (2) 2024, page 103

<https://www.journals.ezenwaohaatorc.org/index.php/AJLHR/article/download/2997/3130> (accessed 18/01/2026)

<sup>149</sup> (2010) 12 NWLR (Pt 1216) 344

<sup>150</sup> (2004) 18 NWLR (Pt 904) 275.

known as electoral fraud.<sup>151</sup> Electoral malpractice are illegal/irresponsible act performed by the electoral body, political parties, candidates, or the electorate that can influence the smooth conduct of elections in a country.<sup>152</sup>

The judiciary plays a pivotal role in electoral governance, particularly through the adjudication of election petitions and criminal charges on election-related offences. By nullifying flawed elections, affirming valid outcomes, and sanctioning malpractice, courts serve as guardians of electoral integrity. Also, by convicting electoral offenders, the populace is deterred and discouraged from election malpractice. There, however, exist impediments in Nigeria in curbing electoral malpractices. These impediments and more will be the next focus of this paper.

### **3.9. Challenges to Curbing Electoral Malpractice Through Election Petitions**

Election petitions serve as a civil remedy to electoral malpractice in Nigeria. As earlier highlighted, there exist various courts set up to hear election-related complaints by way of election petitions and complaints/decisions of such tribunals at times border on electoral malpractice in most cases. In Nigeria, the judiciary faces formidable challenges that hinder its effectiveness in combating electoral malpractice through petitions. These challenges are structural, legal, political, and socio-economic, and they directly impact the ability of courts to ensure that elections reflect the will of the people.

Despite being an indispensable mechanism for safeguarding electoral integrity, the adjudication of election petitions in Nigeria is fraught with several impediments that

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<sup>151</sup> Electoral Malpractice in Nigeria: Causes, Forms, and Prevention Strategies, <https://www.studocu.com/row/document/federal-college-of-education-technical-gombe/political-science/electoral-malpractice/63445180> accessed 15/01/2026

<sup>152</sup> Tsetimtheo, "ELECTORAL MALPRACTICES." <https://www.tansicollege.edu.ng/content/week-7-9-electoral-malpractices> accessed 15/01/2026

undermine their effectiveness. These impediments range from structural limitations imposed by law to practical challenges arising from the socio-political environment in which tribunals and courts operate. The cumulative effect of these obstacles has often been to limit the extent to which election petitions serve as reliable checks on electoral malpractice. This study will examine these impediments as its next focus.

### **3.9.1. The Burden and Standard of Proof**

One of the most significant impediments is the heavy evidentiary burden placed on petitioners. The general principle, as laid down in *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1*, is that the petitioner must prove not only the occurrence of irregularities but also that such irregularity **substantially affected the result of the election**.<sup>153</sup> This requirement is notoriously difficult, especially where malpractice is widespread but hard to document.

Festus Okoye observes that the burden of proof is so onerous that many genuine grievances fail for lack of sufficient documentary and statistical evidence.<sup>154</sup> Given Nigeria's electoral terrain, where violence and destruction of electoral materials are common, the insistence on strict proof often deprives petitioners of substantive justice.

In practice, proving electoral fraud requires access to thousands of polling unit records, witness testimony from scattered locations, and technical evidence such as biometric or electronic data. The difficulty of securing and presenting such evidence within statutory timelines significantly impairs the judiciary's capacity to address malpractice. The other arm of the challenge is the fact that allegations of fraud or malpractice are quasi-criminal in nature and require proof beyond reasonable doubt, up and above the civil litigation standard. See **SUNMONU & ANOR v. FOLARIN & ORS**<sup>155</sup> The Court of Appeal held thus:

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<sup>153</sup> *Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1* at 222, 182.

<sup>154</sup> Festus Okoye, *Judicial Protection of Democracy in Nigeria* (Enugu: Fourth Dimension, 2011) p. 143.

<sup>155</sup> (2019) LPELR-48664(CA)

**“Concerning allegations of electoral malpractices which learned counsel for the appellant sought to make heavy weather of, the record show that the Tribunal is very cognizant of that requirement and the requisite ingredient of proof because at page 1181-1182 of the record, the Tribunal citing Mark v. Chukwuemeka & Ors (2015) LPELR 40708 CA the trial Tribunal stated thus: "The law is settled that allegation of corrupt practices in an election petition being in the nature of criminal charge must be proved beyond reasonable doubts." Again, see Omisore v. Aregbesola (2015) LPELR-24803 (S.C). In all the evidence led, the Petitioners failed to prove the allegations of Electoral Malpractices or corrupt practices which are criminal in nature. Also, the Petitioners did not show that the 1st or 2nd respondent authorized the corrupt practices or electoral malpractices. They also failed to show that they would have won the election if there were no such corrupt practices. So, the Tribunal held that the ground of the petition in that respect fails." The Tribunal went on to show that the appellant failed to prove the allegations of electoral malpractices as required by law. Having failed to prove the essential elements of their petition, the lower Court was left without any option than to dismiss the petition as it did."**

The above dictum shows the attitude of the court regarding allegations of malpractice and fraud, but also the legal requirement. The above position was reiterated by the Supreme Court in **MAGAJI v. APC & ORS**<sup>156</sup> The court held inter alia thus:

**"As shown in the leading judgment, falsification of the results was the foundation of the appellant's claim at the trial Court. By that state of affairs, he brought himself under the severe embrace of Section 135 (1) of the Evidence Act. In one word, he had the burden of proving his allegation beyond reasonable**

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<sup>156</sup> (2023) LPELR-60356(SC)

doubt. In *Nwobodo v Onoh* (1983) LPELR - 8049 (SC) 6-7, F-A, this Court held that: "...all the allegations complained of are crimes, and although, under Electoral Act 1982, election petition is a peculiar type of civil proceedings the proof of a crime, requisite or burden of where alleged, is that provided under Section 137(1) of the Evidence Act, that is proof beyond reasonable doubt. The onus of proof is therefore on the petitioner, and this has not been discharged. Having so decided, I hold at this stage that the petitioner has not proved all his relevant complaints beyond all reasonable doubt against any of the respondents." Others include *Ucha v Elechi* (sic.) [2012] 3 SC (pt 1) 26, 363, *Aregbesola v Oyinlola* (2011) 9 NWLR (pt 1253) 458, *Omoboriowo v Ajasin* [1984] 1 SCNLR 108, 152 -153." Per CHIMA CENTUS NWEZE, JSC (Pp 48 - 49 Paras E - E)

The evidential challenge is the most challenging aspect of curbing electoral malpractice through election petitions.

### **3.9.2. Technicalities and Procedural Rigidity**

Election petitions are sui generis, governed by strict procedural rules. Courts have repeatedly held that non-compliance with procedural requirements is fatal, no matter how meritorious the petition. In *ANPP v. Goni*<sup>157</sup>, the Supreme Court dismissed a petition filed outside the 21-day window, holding that the tribunal lacked jurisdiction.<sup>158</sup>

This procedural rigidity has led to what Nwabueze describes as the "judicialization of technicalities," where tribunals prioritize compliance with procedural minutiae over the delivery of substantive justice.<sup>159</sup> As a result, many petitions fail not because they lack merit

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<sup>157</sup> (2012) 7 NWLR (Pt. 1298) 147

<sup>158</sup> *ANPP v. Goni* (2012) 7 NWLR (Pt. 1298) 147.

<sup>159</sup> B.O. Nwabueze, *Judicialism in Commonwealth Africa* (London: C. Hurst, 1977) p. 211

but because of procedural missteps, such as defective service, misjoinder of parties, or late filing of witness statements.

In the case of **DIAH v. BONGO & ORS**<sup>160</sup> the court refused an application for the amendment of the election petition. The court held that amendments, while still grantable in election matters, must be granted within the time period limited for the filing of Briefs in the Election Petitions and Court Practice Directions, and the court therefore has no power to extend the time specified therein.

### **3.9.3. Strict Timelines**

The Constitution imposes strict deadlines: petitions must be filed within 21 days, determined within 180 days, and appeals concluded within 60 days.<sup>161</sup> While these timelines ensure quick resolution, they also pose serious impediments. Complex cases involving allegations of systemic fraud, manipulation of technology (such as BVAS and electronic result transmission), or widespread irregularities often require more time for evidence gathering.

As Ajayi and Fagbadebo argue, the “fetishization of speed” in electoral adjudication frequently sacrifices substantive justice on the altar of procedural efficiency.<sup>162</sup> Petitioners are compelled to rush investigations, while tribunals are forced to truncate hearings to meet deadlines. The fulcrum of attention will revolve around the automatic and enshrined helplessness of the petitioner who, for no fault of their own, may lose out on a well-articulated and presented case, only because the tribunal or the Court, as the case may be, was either deliberately or not deliberately hamstrung from crossing the finish line before the 180 days’ mark.<sup>163</sup>

### **3.9.4. High Cost of Litigation**

<sup>160</sup> (2015) LPELR-26037(CA)

<sup>161</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 285(5)–(7).

<sup>162</sup> A.I. Ajayi and O. Fagbadebo, “The Judiciary and Electoral Disputes in Nigeria” *Journal of Politics and Law* Vol. 10, No. 5 (2017) p. 103.

<sup>163</sup> CLP Legal, “Analyzing The Election Petition Procedure in Nigeria: Is the System Rigged Against the Petitioner? Part 1” <https://clplegal.com.ng/analyzing-the-election-petition-procedure-in-nigeria-is-the-system-rigged-against-the-petitioner-part-1/> (accessed 15/01/2026)

Another impediment is the prohibitive cost of prosecuting election petitions. Legal fees, expert witnesses, forensic analysis of election materials, and logistical expenses often run into millions of naira. O. Agbaje notes that the high cost of electoral litigation effectively limits access to justice, particularly for candidates of smaller parties.<sup>164</sup> This financial barrier reinforces the dominance of wealthy politicians and undermines the inclusivity of the petition system.

### **3.9.5. Political Pressure and Judicial Independence**

The judiciary is constitutionally mandated to act as an impartial arbiter, but in practice, political interference is a recurring challenge. High-profile election petitions often involve powerful political actors who exert pressure on judges and tribunals. Jega observes that the perception of judicial compromise in election petitions has eroded public confidence in electoral justice.<sup>165</sup>

Cases such as *Buhari v. INEC (2008)*<sup>166</sup> highlight the tension between judicial independence and political realities, where courts are accused of bending to political expediency rather than upholding justice.<sup>167</sup>

### **3.9.6. Logistical and Administrative Challenges**

Election petitions are document-intensive, requiring access to voters' registers, result sheets, and electronic records. Delays in accessing these materials from INEC often impede petitioners. In *Atiku Abubakar v. INEC & Ors*<sup>168</sup>, the petitioners complained of difficulties

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<sup>164</sup> O. Agbaje, "The Cost of Justice in Nigeria's Electoral Jurisprudence" *Journal of African Elections* Vol. 9, No. 2 (2010) p. 49.

<sup>165</sup> Attahiru Jega, *Democracy, Good Governance and Development in Nigeria* (Ibadan: Spectrum Books, 2007) p. 91.

<sup>166</sup> 19 NWLR (Pt. 1120) 246

<sup>167</sup> *Buhari v. INEC* (2008) 19 NWLR (Pt. 1120) 246.

<sup>168</sup> (2019) LPELR-48488(CA)

in accessing electronic server records, which undermined their ability to prove alleged irregularities.<sup>169</sup>

Furthermore, poor record-keeping, missing documents, and delays in certifying electoral materials create bottlenecks that hinder the effective prosecution of petitions.

### **3.9.7. Public Perception and Legitimacy**

The credibility of election petition adjudication is also undermined by negative public perception. When courts uphold results widely believed to be fraudulent, the judiciary risks being viewed as complicit in electoral malpractice. Omotola observes that public trust in Nigeria's electoral justice system has been repeatedly eroded by controversial judgments that appear inconsistent with popular opinion.<sup>170</sup> This legitimacy crisis undermines both the courts and democracy.

Election petition adjudication in Nigeria faces numerous impediments. These include the heavy evidentiary burden on petitioners, excessive reliance on procedural technicalities, rigid constitutional timelines, prohibitive costs, political pressure, weak enforcement of electoral offences, logistical challenges, and legitimacy crises. While these obstacles are partly designed to ensure efficiency and stability, their cumulative effect has been to limit the effectiveness of petitions as tools for curbing malpractice. Addressing these impediments requires reforms that balance speed with substantive justice, strengthen judicial independence, reduce litigation costs, and enhance enforcement of electoral laws

## **3.9. Challenges to Curbing Electoral Malpractice Through Criminal Prosecution**

Despite the elaborate provisions covering malpractice-related offences, there seems to be no serious deterrence to electoral malpractice in Nigeria. In fact, the 2023 elections had an

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<sup>169</sup> *Atiku Abubakar v. INEC & Ors.* (2019) LPELR-48488(CA) Pages 227-316.

<sup>170</sup> J.S. Omotola, "Judicialization of Politics and the Electoral Process in Nigeria" *African Studies Quarterly* Vol. 10, No. 2 (2008) p. 67.

overwhelming incidence of electoral malpractices. What could be the reason behind this shortfall? This will be the next focus. Since the commencement of the fourth Republic and the coming into force of the 1999 Constitution, there has been a low record of prosecution and conviction of electoral offenders. The reasons are not that the laws are not there. This study will now examine some key factors that have affected the criminal prosecution of election offenders in Nigeria.

### **3.9.1. Security Agencies' Complicity in the Arrest and Prosecution of Electoral Offenders**

The arrest and prosecution of offenders have been fraught with challenges. The police and other security agencies are charged with providing security and safeguarding the electoral process, before, during, and after voting. Nigerian security agencies are poorly trained, unequipped, erratically paid, or politicized, which in turn exacerbates electoral violence through forceful tactics and incompetence. In the 2007 general elections held in April, the National Human Rights Commission monitored the conduct of security personnel in each of the six (6) geopolitical zones and the Federal Capital Territory. In the main, the report, indicates that in several states, some security personnel were indifferent to various electoral offences like multiple voting, under aged voting, impersonation and snatching of ballot boxes. For instance, a police officer watched helplessly while ballot boxes were being stuffed by a party in Rivers State. In Ibadan, Oyo State, men, and women of the Nigeria Police Force were reported to have colluded with party agents and electoral officers to rig election and intimidate voters. In one of the polling stations in Anambra State, it was also reported that one Festus Eze of the Nigerian Police Force was seen thumb-printing ballot papers in favour of one of the political parties.<sup>171</sup> The security agencies hardly ever arrest any suspect, but rather arrest

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<sup>171</sup> Oluchi Grace Nwosu, "Law Enforcement Agencies and Electoral Security in Nigeria: Insights from the Fourth Republic" FUUWUKARI JOURNAL OF POLITICS AND DEVELOPMENT (FUWJPD) VOLUME 7 NUMBER 2, November 2023. ISSN: 2636-5081, page 405

opposition leaders or agents. In 2023, the Lagos State Police Command allegedly arrested individuals for election-related offences.<sup>172</sup> There was no further step taken by the Police to prosecute or hand them over to be prosecuted.

### **3.9.2. Shortage of Prosecutors:**

Most electoral offenders are also not prosecuted because the Independent National Electoral Commission has less than 100 Legal Officers serving the Headquarters and the 36 State Offices including the Federal Capital Territory, Abuja and do not have the capacity and resources to prosecute offences committed in 119, 973 polling units, 8, 809 wards, 360 Federal Constituencies, 109 Senatorial Districts and 774 Local Governments in Nigeria. It is more difficult to see how legal officers of the Commission will prosecute about 870,000 cases of multiple registrations detected by the Independent National Electoral Commission during the 2011 voters registration exercise. Because offenders are hardly prosecuted and some get away with impunity on account of their political affiliation, impunity is recycled, people disengage from the electoral process on account of electoral fraud and violence, and the credibility of the electoral process is called into question.<sup>173</sup> A special vehicle ought to be set up to prosecute election-related offences against the haves.

### **3.9.3. Societal Perception of Electoral Malpractice:**

Electoral malpractice is largely perceived as a political culture in Nigeria rather than an offence. If someone is seen stealing, for example, there is the consciousness that an offence is being committed. But when someone goes about distorting election results or snatching ballot boxes or destroying them, it is at best seen as political extremism and not a crime. This is why more individuals engage in election malpractice. In Nigeria, people plan and celebrate

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<sup>172</sup> <https://www.channelstv.com/2023/02/26/ballot-box-snatching-over-20-thugs-arrested-in-lagos-police/>

<sup>173</sup> Festus Okoye, "The Prosecution of Electoral Offenders in Nigeria: Challenges and Possibilities." Friedrich-Ebert-Stiftung (2013) ISBN: 978 978 8449 29 4, Pg. 2, <https://collections.fes.de/publikationen/ident/fes/10405> (Accessed 16/01/2026)

electoral malpractice. In a nutshell, electoral offences in Nigeria are not viewed as offences and are not even treated as such.

#### **3.9.4. Government and Public Officers' Participation:**

Prosecution of election offenders has become a normative affair in Nigeria, largely because of the role of the Government and government officials in enabling the same. Government officials openly sponsor acts of thuggery and openly suggest the same as a political strategy. A one-time governor of Edo State, a one-time national chairman of the All Progressive Congress, and a sitting senator of Nigeria, Senator Adams Oshiomole, in a press briefing, stated that “... **for democracy to flourish, only people who can accept the pain of rigging (sorry, defeat) should be allowed to participate in an election.**”<sup>174</sup> There is a popular statement amongst politicians about delivering to their constituency. That is impliedly rigging elections. It becomes difficult for the government and its agencies, which ought to be in charge of criminal prosecution of electoral offenders, to do so when they are in active participation of election malpractice.

What we can see, therefore, from this study is that on both fronts, be it through election petitions and criminal prosecution, it is practically impossible to curb electoral malpractice in Nigeria. This is a result of both institutional weaknesses and legal bottlenecks. Since malpractice has become uncheckable through the instrumentality of the Court, it has now become a key determinant of who wins an election in Nigeria. The court no longer checks the acts of INEC or the electoral fraudsters: things fall apart.

## **CHAPTER FOUR**

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<sup>174</sup> <https://web.facebook.com/share/v/1J6zMWwhAN/>

## 4. COMPARATIVE ANALYSIS

Comparative analysis is an essential component of legal scholarship because it enables researchers to evaluate domestic legal systems against experiences from other jurisdictions. Election petitions, though sui generis in every country, share common challenges relating to credibility, timelines, evidentiary burdens, and judicial independence. The tendency to disrupt a democratic process, as with elections are globally frowned upon and criminalized. By examining how other countries address these issues, it becomes possible to identify practices that can enhance the Nigerian system while also recognizing the limitations of transplantation. This chapter situates Nigeria's election petition and offence framework within a comparative perspective. It begins with an examination of the Kenyan Electoral laws, using the **Kenyan Supreme Court's 2022 Presidential Election Petition** as a case study, which has attracted international attention for its emphasis on technology, transparency, and speedy adjudication. A look at Europe, using **Romania** as an example. The discussion then extends to other jurisdictions, including **India and Ghana**, each of which offers distinctive approaches to electoral dispute resolution. India illustrates the judiciary's willingness to sanction even the most powerful candidates, while Ghana emphasizes electoral commission accountability. The purpose of this comparative analysis is not to suggest wholesale adoption of foreign models but to identify **lessons and best practices** that can inform reforms in Nigeria. In particular, attention is paid to the balance between speed and fairness, the integration of technology, the enforcement of institutional accountability, and the maintenance of public confidence in democratic processes. By drawing on these comparative experiences, this chapter provides a broader framework for assessing how Nigeria's election petition system can be strengthened to more effectively curb electoral malpractice and consolidate democratic governance.

### 4.1. The Kenyan Electoral Dispute Resolution

The Kenyan laws relating to elections vary. They include the Kenyan Constitution, 2010, the Election Act 2011, the Election Offences Act, 2016, the Political Parties Act, 2011, the Independent Electoral and Boundaries Commission Act, 2011, the Election Campaign Financing Act, 2013, and the Leadership and Integrity Act, 2012.

The Constitution establishes the Independent and Boundaries Commission and also guarantees citizens' right to participate in elections. Article 88(4)(e) of the Constitution of Kenya<sup>175</sup> vests in the Independent Electoral and Boundaries Commission the responsibility for the settlement of electoral disputes, including disputes relating to or arising from nominations, **but excluding election petitions and disputes after the declaration of election results**. Such disputes within the Commission's resolution mandate are to be resolved within seven days of lodging the dispute with the Commission. The foregoing notwithstanding, where the dispute relates to a prospective nomination or election, the dispute should be determined before the date of the nomination or election, whichever is applicable.<sup>176</sup>

A petition to challenge the presidential election is lodged at the Supreme Court of Kenya.<sup>177</sup>

While a petition to determine the election of a member of Parliament or a seat of a member of Parliament has become vacant is determinable by the High Court.<sup>178</sup> Except for petitions concerning a presidential election, all other petitions challenging election results must be filed within twenty-eight days after the declaration of the election results by the Independent Electoral and Boundaries Commission. A petition to challenge the election of a President-elect is to be filed within seven days after the date of declaration of the results of the

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<sup>175</sup> Constitution of Kenya, 2010

<sup>176</sup> O.Z. Elisha & W. Otieno, "A Handbook On Kenya's Electoral Laws And System", Electoral Institute for Sustainable Democracy in Africa (EISA), 2012, ISBN No. 978-9966-21-148-4, page 64 <https://aceproject.org/ero-en/regions/africa/KE/kenya-handbook-on-kenyas-electoral-laws-and-system> (accessed 19/01/2026)

<sup>177</sup> Article 140(1) of the Constitution of Kenya 2010

<sup>178</sup> Article 105 of the Constitution of Kenya 2010

Presidential election.<sup>179</sup> A petition to challenge the election of a president-elect is to be constitutionally heard and determined within fourteen days after the filing of the Petition, while a petition to determine the questions whether a person has been validly elected as a member of Parliament or a seat of a member of Parliament has become vacant is determinable within six months of the date of lodging the Petition.<sup>180</sup>

#### **4.1.1. Constitutional and Institutional Architecture**

Kenya's 2010 Constitution vests **exclusive and original** jurisdiction over presidential election disputes in the **Supreme Court of Kenya**, not in an ad hoc tribunal. Under **Article 140(1)–(2)**, any person may file a petition **within seven days** of the declaration of presidential results; the Supreme Court must **hear and determine** the petition **within fourteen days**, and its decision is **final**.<sup>181</sup> This constitutional design centralizes legitimacy control in a single apex forum and marries **speed** with **finality**, a striking contrast to Nigeria's multi-tier structure and longer timelines.

The constitutional framework is operationalized by the **Supreme Court (Presidential Election Petition) Rules, 2017** (rev. 2022), which govern filings, consolidation, scrutiny, technology audits, amici, and interlocutory reliefs.<sup>182</sup> Statutory pillars include the **Elections Act, No. 24 of 2011** (notably ss. 39, 44, 55B & 83), the **Independent Electoral and Boundaries Commission (IEBC) Act, No. 9 of 2011**, and subordinate legislation such as the **Elections (General) Regulations, 2012** and **Elections (Technology) Regulations, 2017**.<sup>183</sup> These instruments create a techno-legal ecosystem: **KIEMS** devices for biometric

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<sup>179</sup> O.Z. Elisha & W. Otieno, pg. 65

<sup>180</sup> Article 140 and Article 105(2) of the Constitution of Kenya 2010, respectively; cit-in O.Z. Elisha & W. Otieno, pg. 66

<sup>181</sup> Constitution of Kenya, 2010, art. 140(1)–(2)

<sup>182</sup> Supreme Court (Presidential Election Petition) Rules, 2017 (rev. 2022).

<sup>183</sup> Elections Act, No. 24 of 2011 (as at 2022); IEBC Act, No. 9 of 2011; Elections (General) Regulations, 2012.

identification and results transmission; structured result forms (**Forms 34A, 34B, and 34C**); public portal publication; and audit duties for electoral technology.<sup>184</sup>

#### **4.1.2. The 2022 Petition(s): Parties, Consolidation, and Timelines**

Following the **9 August 2022** general election and the IEBC Chair's **15 August** declaration of Dr. **William Samoei Ruto** as President-elect with **50.49%**, multiple petitioners including **Raila Odinga & Martha Karua**, lodged challenges. The Supreme Court consolidated **seven petitions** into the **Presidential Election Petition No. E005 of 2022** as the lead file and issued tailored pre-trial case-management directions under the Presidential Petition Rules.<sup>185</sup> The Court sat as a **specialized presidential panel** (Koome CJ & P; Mwilu DCJ & VP; Ibrahim, Wanjala, Ndung'u, Lenaola & Ouko SCJJ), reflecting the apex court's institutional capacity to handle complex, condensed litigation.<sup>186</sup>

#### **4.1.3. Issues for Determination**

The Court distilled a set of core questions (often summarized publicly as "**nine issues**"), including:

- Whether **technology** deployed by IEBC met constitutional and statutory standards of **integrity, verifiability, security, and transparency** (Const. arts. 81(e), 86; Elections Act s.44; Tech Regs).
- Whether there was **interference** with uploading/transmission of **Form 34A** from polling stations to the public portal.
- Whether disparities existed between **Forms 34A** (polling stations), **34B** (constituency), **34C** (national tally), and the portal images.
- Whether IEBC **failed to conduct mandatory tech audits** (Tech Regs 11–12).

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<sup>184</sup> Elections (Technology) Regulations, 2017, esp. regs. 10–12 (audits, assessment).

<sup>185</sup> *Odinga & another v IEBC & 9 others* [2022] KESC 45 (KLR) (Aug. 29, 2022).

<sup>186</sup> *Odinga & 16 others v Ruto & 10 others* [2022] KESC 56 (KLR) (Sept. 26, 2022)

- Whether **verification and tallying** under **Article 138(3)(c) & (10)** belonged to IEBC as a **corporate body** or to the Chair alone (intersecting with **Regulation 87(3)** and **IEBC Act s.11A(a)**).
- Whether the **50% + 1** threshold was correctly computed under **Article 138(4)** (including the mathematics of rounding and the relevant denominator).
- Whether postponed races under **s.55B Elections Act** amounted to **voter suppression**.
- The **constitutionality** of **Regulation 87(3)** if it vested verification/tally in the Chair to the exclusion of commissioners.
- Appropriate **reliefs**.<sup>187</sup>

#### 4.1.4. **Doctrinal Holdings and Reasoning**

##### **a) Technology integrity and verifiability.**

The Court reaffirmed that technology is an enabler, not a replacement for the primacy of **polling-station results** (Form 34A). It held that the petitioners **failed to prove** alleged hacking, server infiltration, or manipulation of the public portal. The **KIEMS** architecture, audit trails, and the **verification/scrutiny** orders granted by the Court did not reveal a system-level compromise that materially affected results.<sup>188</sup> The Court emphasized the “**polling station is king**” orthodoxy rooted in earlier jurisprudence (e.g., **Maina Kiai** line of authority that results declared at polling stations are final for those stations), while insisting on **verifiable** national aggregation.<sup>189</sup>

##### **b) Forms 34A/34B/34C and portal images.**

On alleged variances between paper forms and portal images, the Court found **no material discrepancies** sufficient to vitiate the result. Scrutiny of sampled forms and

<sup>187</sup> Ibid. see also Reg. 87(3)).

<sup>188</sup> *Odinga & 16 others v Ruto & 10 others* [2022] KESC 56 (KLR) (Election Petitions) (26 September 2022) (Judgment)

<sup>189</sup> *Hon. Harrison Garama Kombe v. Kenga Stanely Karisa & Ors* *Petition E020 OF 2023* (Judgement) <[SC-PETITION-NO.-E020-OF-2023-Kombe-Harrison-v-Kenga-Stanely-3-Others.pdf](#)> accessed 31<sup>st</sup> October, 2025

tally logs did not disclose a pattern of manipulation. The evidential standard borne by the petitioners was **not met**.<sup>190</sup>

**c) Corporate power vs. Chair’s role in verification/tallying.**

The Court clarified that **verification and tallying** at the national level are **institutional functions of IEBC**, not unilateral powers of the Chair. However, on the facts, the petitioners did not demonstrate that the internal dispute among four commissioners who disavowed the result (“**opaque**” claim) translated into **illegality affecting the result**. Any governance dysfunction within IEBC was **deplored**, but it did not, in this record, reach the threshold for invalidation.<sup>191</sup>

**d) The 50% + 1 calculus.**

Applying **Article 138(4)** and prior doctrine, the Court endorsed the computation that **excluded rejected ballots** from the denominator and dismissed proposals of mathematical rounding that would have altered the threshold. The Court held the President-elect attained **50% + 1 of valid votes**.<sup>192</sup>

**e) Postponements and voter suppression.**

Invoking **s.55B Elections Act**, the Court accepted that IEBC may postpone certain races upon prescribed thresholds (e.g., logistical impossibility). On the evidence, postponements in specified counties/constituencies/wards did **not** amount to **unlawful voter suppression** or materially affect the presidential tally.<sup>193</sup>

**f) Constitutionality of Regulation 87(3).**

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<sup>190</sup> *Odinga & 16 others v Ruto & 10 others* [2022] KESC 56 (KLR) (Election Petitions) (26 September 2022) (Judgment) <[Odinga 16 others v Ruto 10 others Law Society of Kenya 4 others \(Amicus Curiae\) \(Presidential Election Petition E005 E001 E002 E003 E004 E007E008of2022 \(Consolidated\)\) 2022KESC56\(KLR\) \(Election Petitions\) \(26Septem.pdf\)](#)> accessed 31<sup>st</sup> October, 2025.

<sup>191</sup> *Ibid.*

<sup>192</sup> *Ibid.* See also Raila 2013 on rejected votes.

<sup>193</sup> *Ibid.* (s.55B Elections Act postponements; voter suppression claim rejected).

The Court declined to strike down **Reg. 87(3)**; instead, it **harmonized** the provision with the Constitution by reading it as facilitating the Chair’s announcement role **within** the corporate tally/verification function of IEBC, not **to the exclusion** of other commissioners.<sup>194</sup>

**g) Outcome.**

The consolidated petitions were **dismissed**; the election of **Dr. William Samoei Ruto** as President was **upheld**. The Court issued **institutional recommendations** to IEBC on governance, technology, and audits (continuing the practice from 2013 and 2017), and delivered a **detailed judgment** after announcing a short disposition within the constitutional 14-day window.<sup>195</sup>

**4.1.5. Continuities and Departures from 2013 and 2017**

Kenya’s 2022 decision stands on the shoulders of two landmark cycles:

- **2013 (Raila 2013)** the Supreme Court **upheld** the election, clarified **timelines**, rejected the inclusion of **rejected ballots** in “all the votes cast,” and set early contours for presidential-petition procedure.<sup>196</sup>
- **2017 (Raila 2017)**, a historic **nullification** premised on failures of **electoral compliance and verifiability** in transmission; the Court emphasized fidelity to constitutional principles in tech-driven processes and ordered a **fresh election** within 60 days.<sup>197</sup>

Kenya’s 2022 decision both **consolidated** and **refined** these trajectories: it doubled down on the **primacy of polling-station returns**, demanded **proof with specificity** for tech-tampering

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<sup>194</sup> Ibid. (constitutionality/reading of Reg. 87(3)).

<sup>195</sup> Presidential Election Petition E005 of 2022 (Judgement) <[Judgment-Presidential-Election-Petition-E005-OF-2022-Raila-Odinga-and-others-Vs-William-Ruto-and-others \(3\).pdf](#)> accessed 31<sup>st</sup> October, 2025.

<sup>196</sup> *Odinga & 5 others v IEBC & 3 others* [2013] KESC 6 (KLR) (Apr. 16, 2013)

<sup>197</sup> *Raila Amolo Odinga & another v IEBC & others* (Presidential Petition No. 1 of 2017) [2017] KESC 32 (KLR) (1<sup>st</sup> September 2017)

claims, insisted on **institutional (corporate) tallying** at IEBC, and delivered a **calculus-grounded** ruling on the 50%+1 threshold.<sup>198</sup>

#### 4.1.6. **Procedural Toolkit: Scrutiny, Technology Orders, and Amici**

The Supreme Court's procedural management in 2022 was notable. It ordered targeted **scrutiny** and **forensic access** (subject to security protocols) to address server and portal claims, took **amicus curiae** input (e.g., Law Society of Kenya; ICJ-Kenya; expert amici), and policed affidavit practice with severity (including admonitions about counsel-sworn affidavits and truthfulness).<sup>199</sup> While maintaining **condensed timelines**, the Court utilized the Presidential Petition Rules to shape efficient adjudication, including **consolidation** and **structured submissions**.<sup>200</sup>

#### 4.1.7. **Technology, Transparency, and Burden of Proof**

The 2022 judgment situates technology as a **transparency tool** (public portal publication; audit trails) but **not** as the sole source of legal verifiability. The legally determinative units remain **Form 34A** at polling stations, echoing both the **Maina Kiai** doctrine and the Court's 2017 emphasis on **verifiable** elections.<sup>201</sup> The burden of proof remained **asymmetric**: petitioners must furnish **cogent, documentary, data-specific evidence** demonstrating **material impact** on the result, paralleling Nigerian doctrine on **substantial effect**, but enforced here under a **14-day** constitutional clock.<sup>202</sup>

#### 4.1.8. **Comparative Reflections for Nigeria**

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<sup>198</sup> *Odinga & 16 others v Ruto & 10 others* [2022] KESC 56 (KLR)

<sup>199</sup> *Ibid.*

<sup>200</sup> Supreme Court (Presidential Election Petition) Rules, 2017

<sup>201</sup> *Odinga & 16 others v Ruto & 10 others; Law Society of Kenya & 4 others (Amicus Curiae) (Presidential Election Petition E005, E001, E002, E003, E004, E007 & E008 of 2022 (Consolidated))* [2022] KESC 56 (KLR) (Election Petitions) (26 September 2022) (Judgment) <[Odinga & 16 others v Ruto & 10 others; Law Society of Kenya & 4 others \(Amicus Curiae\) \(Presidential Election Petition E005, E001, E002, E003, E004, E007 & E008 of 2022 \(Consolidated\)\) \[2022\] KESC 56 \(KLR\) \(Election Petitions\) \(26 September 2022\) \(Judgment\) - Kenya Law](#)> accessed 31<sup>st</sup> October, 2025

<sup>202</sup> ICJ-Kenya/Uraia *Compendium of 2022 Election Petitions* (Vol. 5) (Sept. 5, 2022). <[COMPENDIUM-FOR-2022-ELECTION-PETITIONS.pdf](#)> accessed 31<sup>st</sup> October, 2025

Several features of Kenya's presidential-petition model are salient for Nigerian reform debates:

1. **Single-tier apex adjudication & short fuse.** A **14-day, single-forum** model minimizes post-election uncertainty but demands massive front-loaded capacity (filings, scrutiny, tech audits). Nigeria's **multi-tier** model favors fuller record development but risks erosion of public confidence through delay.
2. **Strong technology rules, but polling-station primacy.** Kenya's approach operationalizes tech transparency (portal publication; audit duties) without displacing **paper forms** as legal anchors useful when electronic systems are contested.
3. **Corporate commission accountability.** By re-asserting **IEBC's** corporate verification role while tolerating internal dissent (without automatic nullification), the Court sought to preserve **institutional stability** while demanding better **governance** an instructive balance for **INEC** oversight.
4. **Doctrinal clarity on thresholds.** The **50% + 1** calculus and exclusion of **rejected votes** from the denominator provide computational certainty analogous clarity could reduce Nigerian disputes around **majority of lawful votes** and treatment of rejected/invalid ballots.

Kenya's **2022** presidential petition jurisprudence reflects a mature **apex-court** model grappling with **technology, institutional governance, and mathematical thresholds** under intense public scrutiny. The Supreme Court's insistence on **documentary specificity, corporate tallying, and time-bound** adjudication produced a decision that both **consolidates** earlier doctrine and **signals** institutional reforms. For Nigeria, the Kenyan model offers **procedural innovations** and **tech-audit disciplines** that could inform future recalibrations of election-petition practice while reminding reformers that **speed** must be balanced with **verifiability** and **public trust**.

It is noteworthy that Kenya experiences similar electoral offences as in Nigeria. According to research carried out by the National Crime Research Center<sup>203</sup> in terms of the County prevalence of election crimes and offences, the research found that bribery was among the most prevalent election offences in the counties. Voter bribery was most prevalent in Narok County (77.6%), Garissa (69.0%), Bomet (56.3%), Siaya (53.8%), and Kisumu (41.5%). Voter/ballot fraud ranked second in prevalence. The research found that hate speech occurred in all counties but was most prevalent in Narok (38.8%), Kisumu (26.4%), and Nairobi (23.7%). Fighting was also reported in all the sampled counties except Kwale. It was mostly reported in Nairobi (27.6%), Bomet (25.0%), and Siaya (21.2%).<sup>204</sup> These findings point out that election crimes and offences are very common occurrences in the electoral process in Kenya. The IEBC, in collaboration with the Office of the Director of Public Prosecutions (ODPP), handled 86 cases of election offences arising from the 2013 General Elections<sup>205</sup>

## 4.2. The Romanian Election Tribunal of 2024

Romania's 2024 presidential elections marked a turning point in the global discussion on electoral integrity in the digital age. On **6 December 2024**, the **Constitutional Court of Romania**, in its **Decision No. 32**, annulled the outcome of the first-round presidential election, citing large-scale interference through artificial intelligence (AI)-driven misinformation, hybrid warfare tactics, and opaque campaign financing.<sup>206</sup> This was the first time a European constitutional court nullified a national election primarily due to **digital**

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<sup>203</sup> National Crime Research Centre (2016), "Election Crimes and Offences in Kenya. Nairobi, Kenya: Issue Brief on Election Crimes and Offences in Kenya Report, 2016"  
<https://www.crimeresearch.go.ke/publications/issuebriefonprevalenceandtypesofelectioncrimesandoffence.pdf> (accessed 27/01/2025)

<sup>204</sup> Ibid

<sup>205</sup> Ibid

<sup>206</sup> International Foundation for Electoral Systems (IFES), *The Romanian 2024 Election Annulment: Addressing Emerging Threats to Electoral Integrity* (Washington, D.C.: IFES, 20<sup>th</sup> Dec 2024) <[The Romanian 2024 Election Annulment Addressing Emerging Threats to Electoral Integrity IFES - The I\[1\].pdf](#)> accessed 31<sup>st</sup> October, 2025.

**manipulation and information integrity violations**, signalling an evolution in how courts interpret free and fair elections in the 21st century.<sup>207</sup>

Historically, Romanian election annulments were grounded in procedural irregularities, fraud, or administrative errors.<sup>208</sup> However, Decision No. 32 broadened this scope by treating **cyber interference, algorithmic amplification of disinformation, and illicit online political financing** as violations of voters' constitutional right to make informed choices.<sup>209</sup> The Court thereby repositioned electoral justice at the intersection of **constitutional law, digital governance, and national security**.

#### **4.2.1. Constitutional and Legal Foundations**

The Constitutional Court exercised its **ex officio** jurisdiction under **Article 146(f)** of the **Romanian Constitution**, which empowers it to “ensure compliance with the electoral process and validate presidential elections.”<sup>210</sup> The Court relied on **Article 52(1)** of **Law No. 370/2004 on the Election of the President**, which permits annulment where “irregularities or fraud are capable of influencing the allocation of mandates or candidate rankings.”<sup>211</sup>

Although the Court had validated the results of the first round on 2<sup>nd</sup> December 2024, new intelligence reports from national security agencies were declassified two days later, revealing systemic foreign interference and undisclosed financing networks. This prompted the Court to reopen the matter. It justified this exceptional step on constitutional grounds, citing its duty to safeguard democratic values namely free elections, equality of opportunity, and citizens' right to accurate information.<sup>212</sup>

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<sup>207</sup> Ibid.

<sup>208</sup> Law No. 370/2004 on the Election of the President of Romania, Art. 52(1).

<sup>209</sup> IFES (2024), p. 3.

<sup>210</sup> Constitution of Romania (2003, rev. 2011), Art. 146(f).

<sup>211</sup> Law No. 370/2004 (supra note 200).

<sup>212</sup> Constitutional Court of Romania, Decision No. 32 of 6 December 2024 (on the Annulment of the First-Round Presidential Election).

The Court also aligned its reasoning with **European Union (EU)** obligations, referencing the **Venice Commission’s Code of Good Practice in Electoral Matters** and the **EU Regulation on Transparency in Political Advertising** (Regulation (EU) 2024/900).<sup>213</sup> By doing so, it situated Romania’s electoral jurisprudence within broader European standards on transparency, information integrity, and political finance oversight.

#### **4.2.2. Key Findings of the Constitutional Court**

The Court’s judgment turned on three major findings:

1. **Digital Interference and Information Integrity:** Intelligence reports showed coordinated manipulation of social-media algorithms, AI-generated misinformation, and the use of automated “bot” networks to distort campaign visibility and influence public opinion.<sup>214</sup> The Court found that these activities violated **Article 36(1)** of the Romanian Constitution, which guarantees the freedom to vote “in full knowledge of the circumstances.”
2. **Illicit and Opaque Campaign Financing:** The **Permanent Electoral Authority’s** official records indicated zero declared expenditure by one major candidate, contradicting extensive evidence of paid online advertising. The Court found that **third-party financing and hybrid political-finance warfare** breached national campaign-finance laws and undermined electoral equity.<sup>215</sup>
3. **Institutional Weakness and Oversight Failures:** The Court criticized the Electoral Authority for inadequate regulation of online campaigning and lack of transparency in ballot recounts, especially regarding out-of-country votes.<sup>216</sup>

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<sup>213</sup> Venice Commission, *Code of Good Practice in Electoral Matters* (CDL-AD (2002)023rev2, Council of Europe, 2020); Regulation (EU) 2024/900 on Transparency in Political Advertising (Official Journal of the European Union, L 139/1, 2024).

<sup>214</sup> IFES (2024), pp. 4–5.

<sup>215</sup> Permanent Electoral Authority of Romania, *Report on Political Financing 2024* (Bucharest: PEA, 2025) p. 7.

<sup>216</sup> IFES (2024), p. 6.

Together, these findings established that the integrity of the election had been **substantially compromised**, warranting annulment.

#### **4.2.3. Evidentiary Challenges and Judicial Reasoning**

One of the most significant aspects of Decision No. 32 is the **admission of intelligence-based evidence** in electoral litigation. IFES observed that this development “introduces significant complications for traditional evidentiary standards.”<sup>217</sup> Intelligence materials are often classified or anonymized, raising questions about admissibility, transparency, and contestability. The Romanian Court had to balance **national-security confidentiality** against **judicial transparency and due process**.

The Court applied a “**clear and convincing evidence**” standard higher than the ordinary civil test of “preponderance of evidence” but lower than the criminal threshold of “beyond reasonable doubt.”<sup>218</sup> It reasoned that because election annulments bear enormous democratic consequences, only evidence demonstrating a high probability of systemic manipulation could justify such a decision.

Critics have argued that reliance on redacted intelligence reports may erode procedural fairness, as litigants could not independently verify the evidence. However, the Court maintained that the **magnitude of the threat foreign interference, AI-generated propaganda, and illicit financing justified exceptional judicial intervention**.

#### **4.2.4. The State’s Obligations and Broader Implications**

The Romanian Court’s decision emphasized two fundamental state obligations:

1. **Positive Obligation:** To proactively prevent external and technological interference that undermines electoral fairness;

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<sup>217</sup> IFES (2024), p. 7.

<sup>218</sup> Ibid.; see also M. Barkan, “Standards of Proof in Election Litigation,” *Election Law Journal* Vol. 22 No. 2 (2023) p. 131.

2. **Neutrality Obligation:** To guarantee a level playing field and protect voters' rights to informed participation.<sup>219</sup>

While the annulment corrected an immediate wrong, it also underscored the **limitations of judicial remedies** as misinformation and hybrid influence leave lasting damage to public trust. IFES thus argued that the focus must shift toward **prevention and resilience-building**, including cyber security reforms, AI-content regulation, digital-advertising transparency, and voter-education initiatives.<sup>220</sup>

The decision's global significance lies in its recognition that **digital threats constitute a new frontier of electoral malpractice**. Courts and electoral bodies must now adapt evidentiary rules, oversight mechanisms, and statutory safeguards to confront technologically sophisticated interference.

#### 4.2.5. Comparative Lessons

The Romanian 2024 annulment offers several lessons relevant to Nigeria and other democracies:

- **Expanded Conception of Electoral Malpractice:** The ruling redefines malpractice beyond ballot manipulation to include **information warfare and digital disinformation**, a concept Nigeria's Electoral Act 2022 has yet to codify.
- **Judicial Courage and Proactivity:** The Court's **ex officio** action parallels Kenya's assertive 2017 annulment in *Raila Odinga v. IEBC & Others (2017 eKLR)*, underscoring the judiciary's role as a guardian of constitutional democracy.
- **Integration of International Standards:** Romania's alignment with EU norms illustrates how national courts can harmonize domestic law with transnational principles a practice Nigerian courts could emulate regarding African Union and ECOWAS electoral instruments.

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<sup>219</sup> Constitutional Court Decision No. 32 (2024), paras 98–105.

<sup>220</sup> IFES (2024), pp. 8–9.

- **Technology Regulation:** The case highlights the urgency of statutory frameworks to regulate digital campaigning, political-ad-funding transparency, and AI content in elections.

For Nigeria, where the use of digital platforms in 2023 elections exposed vulnerabilities in INEC’s online result transmission system, adopting Romania’s preventive approach could significantly enhance electoral credibility.

The annulment of Romania’s 2024 presidential election represents a landmark in the global evolution of electoral adjudication. It demonstrates judicial willingness to confront **non-traditional threats**, such as AI manipulation, cyber interference, and opaque finance that compromise democratic integrity. By grounding its reasoning in both national and European law, the Constitutional Court reaffirmed that **electoral justice must evolve alongside technology**.

For Nigeria, the Romanian experience reinforces the need to broaden the understanding of electoral malpractice, strengthen digital transparency laws, and empower courts to address emerging forms of manipulation that transcend conventional fraud.

### 4.3. **Lessons from Other Jurisdictions**

Comparative experiences provide important insights into how election disputes can be adjudicated more effectively. While the Nigerian framework is comprehensive, persistent challenges such as heavy evidentiary burdens, strict timelines, and political interference have limited its effectiveness. A comparative review of other jurisdictions reveals practices and innovations that can inform reforms in Nigeria’s electoral jurisprudence.

#### 4.3.1. **Kenya: Speed and Technological Accountability**

As examined in the 2022 presidential petition, the **Supreme Court of Kenya** has original and exclusive jurisdiction over presidential disputes under **Article 140 of the 2010 Constitution**.<sup>221</sup> The Court is bound to determine petitions within **14 days**, ensuring finality and stability. Procedurally, Kenya has embedded technology into electoral adjudication, with statutory obligations for **audit trails, electronic transmission, and public portals**.<sup>222</sup>

The Court in ***Raila Odinga & Another v. IEBC & Others (Presidential Petition No. 1 of 2017)*** nullified the presidential election on account of irregularities in electronic transmission, emphasizing that elections must be *\*simple, verifiable, transparent, and in conformity with the Constitution*.<sup>223</sup> This demonstrates a willingness to enforce compliance even against high political stakes. Nigeria could learn from Kenya's technological verification systems, while adapting them to its own infrastructural realities.

#### **4.3.2. South Africa: Constitutional Supremacy and Independent Oversight**

In South Africa, electoral disputes are grounded in the principle of constitutional supremacy. The **Constitution of the Republic of South Africa, 1996**, read with the **Electoral Act 73 of 1998**, establishes the **Electoral Court**, which hears challenges relating to elections, conduct of electoral officers, and interpretation of electoral law.<sup>224</sup>

The South African Constitutional Court has consistently stressed transparency and fairness. In ***New National Party v. Government of the Republic of South Africa 1999 (3) SA 191 (CC)***, the Court underscored that electoral systems must ensure free participation while balancing administrative feasibility.<sup>225</sup> Unlike Nigeria, South Africa places strong emphasis on **pre-election adjudication** through independent commissions, thereby preventing disputes from escalating into post-election crises.

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<sup>221</sup> Constitution of Kenya, 2010, art. 140.

<sup>222</sup> Elections Act, No. 24 of 2011 (Kenya); Elections (Technology) Regulations, 2017.

<sup>223</sup> *Raila Amolo Odinga & Another v. Independent Electoral and Boundaries Commission & Others* (Presidential Petition No. 1 of 2017) (Kenya SC).

<sup>224</sup> Electoral Act 73 of 1998 (South Africa), s. 20; Constitution of the Republic of South Africa, 1996.

<sup>225</sup> *New National Party v. Government of the Republic of South Africa 1999 (3) SA 191 (CC)*.

### 4.3.3. India: Expansive Judicial Powers and Electoral Discipline

India provides another important model. Under **Article 329(b) of the Constitution of India**, disputes relating to parliamentary and assembly elections are adjudicated exclusively by High Courts, with appeals lying to the Supreme Court.<sup>226</sup> The judiciary has taken an expansive view of its role, often sanctioning candidates for corrupt practices under the **Representation of the People Act, 1951**.

In *Indira Nehru Gandhi v. Raj Narain (1975) Supp SCC 1*, the Supreme Court famously annulled the election of then Prime Minister Indira Gandhi on grounds of electoral malpractice.<sup>227</sup> This decision reinforced the judiciary's capacity to act as a check on political power. Nigeria could adopt similar robust approaches by empowering tribunals to impose meaningful sanctions against individual candidates, rather than limiting reliefs to annulments or reruns.

### 4.3.4. Ghana: Electoral Commission Accountability

Ghana's system is notable for its emphasis on the independence of its **Electoral Commission (EC)**. The **Constitution of Ghana, 1992**, vests authority in the Supreme Court to determine presidential election petitions, with the 2012 case *Nana Addo Dankwa Akufo-Addo v. John Dramani Mahama [2013] SC (Ghana)* providing a landmark precedent.<sup>228</sup> Although the petition failed, the Court established principles on transparency, burden of proof, and electoral commission accountability.

Ghana's 2020 presidential petition (*Mahama v. Akufo-Addo*) reaffirmed these standards, underscoring that while the EC enjoys independence, it must act with transparency and provide open access to electoral materials.<sup>229</sup> The Nigerian judiciary could emulate Ghana's

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<sup>226</sup> Constitution of India, art. 329(b); Representation of the People Act, 1951.

<sup>227</sup> *Indira Nehru Gandhi v. Raj Narain (1975) Supp SCC 1 (India SC)*.

<sup>228</sup> *Nana Addo Dankwa Akufo-Addo v. John Dramani Mahama [2013] SC (Ghana)*.

<sup>229</sup> *John Dramani Mahama v. Nana Addo Dankwa Akufo-Addo & EC [2021] SC (Ghana)*.

insistence on institutional accountability of the electoral body, ensuring that INEC does not shield itself behind technicalities.

#### **4.3.5. Comparative Lessons for Nigeria**

From the comparative survey, several lessons emerge:

1. **Expedited but Verifiable Adjudication:** Kenya and Ghana show that shorter timelines can work if matched with strong transparency measures and institutional capacity. Nigeria's longer 180-day window often leads to rushed cases at the end rather than efficient early management.
2. **Institutional Accountability:** South Africa and Ghana emphasize the responsibility of electoral commissions to act transparently. Nigerian courts could demand stricter compliance and accountability from INEC.
3. **Stronger Judicial Remedies:** India's judiciary demonstrates the deterrent effect of annulling even the most powerful officeholder's election. Nigerian tribunals could strengthen deterrence by coupling annulments with penalties for candidates and officials personally responsible for malpractice.
4. **Integration of Technology:** Kenya's embrace of audit trails and electronic result publication ensures verifiability. Nigeria's recent adoption of BVAS and IReV is a step forward, but courts must insist on strict compliance.
5. **Public Confidence and Legitimacy:** Across jurisdictions, courts recognize that electoral justice is not only about legal compliance but also about maintaining public trust. Nigeria's judiciary must be sensitive to this democratic legitimacy dimension in its reasoning.

This chapter's comparative analysis reveals that while Nigeria's electoral petition system remains procedurally robust, it is not yet responsive to the modern challenges confronting democratic elections. Kenya's focus on verifiability and speed, Romania's bold confrontation

of digital interference, South Africa's emphasis on constitutional enforcement, India's judicial fortitude, and Ghana's insistence on institutional transparency all underscore the multifaceted nature of electoral justice.

For Nigeria, the lessons are clear: electoral reforms must integrate technological safeguards, strengthen judicial independence, and expand the legal conception of malpractice to include information-integrity violations. Only through such holistic reform can election petitions truly serve their purpose not merely resolving disputes, but preserving the sanctity of democracy itself.

This chapter has undertaken a comparative analysis of election petition mechanisms in other jurisdictions, with a particular focus on Kenya's 2022 presidential election petition, and supplementary insights from South Africa, India, and Ghana. The comparative review reveals that while Nigeria shares common challenges with these systems such as balancing speed with fairness and managing the burden of proof other jurisdictions have innovated in ways that strengthen electoral justice.

Kenya demonstrates the value of **technological verifiability and single-tier, time-bound adjudication**; South Africa shows the benefits of **constitutional supremacy and pre-election resolution mechanisms**; India highlights the importance of **robust judicial sanctions against malpractice**; and Ghana underscores **electoral commission accountability**.

For Nigeria, these experiences point to the need for reforms that enhance **judicial independence, strengthen INEC's accountability, improve technological transparency, and empower courts to impose deterrent remedies**. Adopting these lessons will not only improve the efficacy of election petitions but also reinforce public confidence in Nigeria's democratic process.

# CHAPTER FIVE

## 5. SUMMARY, CONCLUSION, RECOMMENDATIONS, AND LIMITATIONS

### 5.1. Summary

This study examined the topic *Election Petitions and Offences: Towards Curbing Electoral Malpractice in Nigeria*. Chapter One introduced the research, providing the background to the study, a statement of the problem, objectives, research questions, scope, significance, and definitions of key terms. The chapter established that while elections are vital for the consolidation of democracy, the Nigerian electoral process has been consistently undermined by malpractice, thereby raising questions about the adequacy of the legal framework for election petitions.

Chapter Two undertook a **literature review and conceptual framework**. It clarified the meaning of critical concepts *election*, *election petition*, and *electoral malpractice* and analysed their interrelationship in Nigeria's legal context. The review also engaged with empirical studies and theoretical perspectives such as electoral justice, democratic legitimacy, and rule of law theories. It demonstrated that although the literature is rich, gaps remain in terms of practical reforms to strengthen Nigeria's electoral jurisprudence.

Chapter Three explored **election disputes and petitions in Nigeria**. It analysed the jurisdiction of tribunals and courts, the procedure for questioning elections, the parties to petitions, the statutory grounds for challenging results, timelines, and remedies. The chapter further discussed impediments such as the heavy evidentiary burden, procedural technicalities, high costs, and weak enforcement of electoral offences and broader challenges faced by the

judiciary in combating malpractice. It concluded that while petitions are indispensable, systemic obstacles limit their effectiveness.

Chapter Four provided a **comparative analysis**. It examined Kenya's 2022 presidential election petition, highlighting the Supreme Court's emphasis on technology, transparency, and speedy adjudication. It also drew lessons from South Africa, India, and Ghana. The comparative review demonstrated that while other jurisdictions share similar challenges, they have adopted innovations such as corporate electoral accountability (Ghana), technological audit trails (Kenya), and robust judicial sanctions (India) that Nigeria could adapt to strengthen its own system.

Collectively, the chapters revealed that Nigeria's framework for election petitions is both necessary and inadequate: necessary because it provides a constitutional avenue for electoral redress, but inadequate because persistent structural, legal, and political challenges hinder its role in curbing malpractice.

## **5.2. Conclusion**

From the analysis, several conclusions can be drawn:

1. **Centrality of Petitions to Electoral Justice:** Election petitions are a cornerstone of Nigeria's democratic system, providing the principal means of resolving disputes and legitimizing electoral outcomes. Without them, electoral malpractice would go unchecked.<sup>230</sup>
2. **Systemic Weaknesses:** Despite their importance, petitions are constrained by heavy evidentiary burdens, procedural rigidity, strict timelines, high litigation costs, and perceptions of judicial compromise.<sup>231</sup> These challenges undermine the ability of petitions to function as effective deterrents.

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<sup>230</sup> G.C. Nwokedi, "Election Petitions and Electoral Integrity in Nigeria" *NIALS Journal of Law and Democracy* Vol. 4, No. 1 (2015) p. 113.

<sup>231</sup> Festus Okoye, *Judicial Protection of Democracy in Nigeria* (Enugu: Fourth Dimension, 2011) p. 145.

3. **Judicial Role:** Nigerian courts have, on occasion, acted courageously by annulling flawed elections, as in *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607*. Yet, in other instances, technical dismissals or controversial rulings have damaged public confidence.<sup>232</sup>
4. **Comparative Insights:** Other jurisdictions show that electoral justice can be strengthened through mechanisms such as technological verifiability (Kenya), independent electoral courts (South Africa), judicial willingness to sanction malpractice (India), and electoral commission accountability (Ghana).<sup>233</sup>
5. **Need for Reform:** For election petitions to effectively curb electoral malpractice in Nigeria, reforms are required in legal, institutional, and procedural dimensions.

### 5.3. Recommendations

In light of the foregoing, the following recommendations are made:

1. **Reform of Burden of Proof:** Nigerian law should ease the evidentiary burden by shifting some responsibility to INEC to demonstrate compliance with statutory obligations, especially regarding technological tools like BVAS and IReV.<sup>234</sup>
2. **Flexible Timelines:** While constitutional timelines ensure speed, they should be made more realistic. For instance, presidential petitions could be given a longer window than legislative petitions, reflecting their complexity.
3. **Strengthening Judicial Independence:** Safeguards should be introduced to shield judges from political pressure. This could include transparent appointment processes, improved security of tenure, and adequate funding for election tribunals.

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<sup>232</sup> *Oshiomhole v. INEC (2009) 4 NWLR (Pt. 1132) 607 (CA) at 688.*

<sup>233</sup> *Raila Amolo Odinga & Another v. IEBC & Others (Presidential Petition No. 1 of 2017) (Kenya SC); Indira Nehru Gandhi v. Raj Narain (1975) Supp SCC 1 (India SC); Nana Addo Dankwa Akufo-Addo v. John Dramani Mahama [2013] SC (Ghana).*

<sup>234</sup> *Atiku Abubakar v. INEC & Ors. (2019) LPELR-48488(CA) Pages 277-316.*

4. **Lowering Cost of Litigation:** Filing fees and procedural costs should be reduced to allow access by candidates from smaller parties. Legal aid schemes could be established for genuine petitioners.
5. **Effective Prosecution of Electoral Offences:** Nigeria should establish an independent **Electoral Offences Commission**, as recommended by the Justice Uwais Electoral Reform Committee, to ensure that perpetrators are personally sanctioned.<sup>235</sup>
6. **Institutional Accountability for INEC:** Courts should adopt a firmer stance in compelling INEC to act transparently, for example by making full electoral materials available promptly. Ghana's emphasis on commission accountability provides a useful model.
7. **Technology Integration with Transparency:** Nigeria should fully embrace technological innovations while ensuring audit trails and public accessibility of data. Kenya's use of public result portals demonstrates how technology can enhance transparency when judicially enforced.
8. **Capacity Building for Judges and Lawyers:** Regular training on electoral technology, forensic evidence, and international best practices should be mandatory for those handling petitions.

#### **5.4. Limitations and Suggestions for Further Research**

Like any academic study, this research has its limitations.

1. **Scope Limitation:** The study focused primarily on Nigeria's legal framework and selected comparative jurisdictions. Other regions (e.g., Latin America, Europe) were not examined in detail, even though they offer additional insights.

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<sup>235</sup> Nigerian Institute of Advanced Legal Studies (NIALS), *Report of the Electoral Reform Committee on Electoral Offences* (Abuja: NIALS, 2018) p. 27.

2. **Doctrinal Emphasis:** The research was doctrinal and comparative, relying on statutes, case law, and literature. Empirical fieldwork involving interviews with judges, lawyers, or electoral officials was beyond its scope.
3. **Dynamic Electoral Reforms:** Electoral law in Nigeria is constantly evolving, especially with recent innovations such as BVAS. Some of the findings may need updating as courts interpret these new tools.
4. **Further Research:** Future studies could focus on (a) empirical evaluation of petition outcomes across multiple election cycles, (b) comparative analysis of electoral offence prosecutions, (c) the role of civil society in electoral adjudication, and (d) technological innovations in dispute resolution, including block chain-based electoral systems.

## 5.5. **Final Reflection**

The research has demonstrated that while Nigeria's system of election petitions remains indispensable, it is currently insufficient as a deterrent against malpractice. Strengthening judicial independence, reforming procedural laws, enhancing INEC's accountability, and drawing lessons from comparative jurisdictions are necessary to ensure that election petitions fulfil their constitutional purpose of safeguarding democracy. Ultimately, the credibility of Nigeria's electoral system depends not only on the conduct of elections but also on the effectiveness of mechanisms for challenging them.

# **Bibliography**

## **Books**

- B.O. Nwabueze, *Democracy in Africa: Constitutionalism, Authority and Accountability* (Ibadan: Spectrum Books, 2003).
- A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, 10th ed. (London: Macmillan, 1959).
- Festus Okoye, *Judicial Protection of Democracy in Nigeria* (Enugu: Fourth Dimension, 2011).
- Mohammed Uwais, *Electoral Adjudication in Nigeria* (Lagos: NIALS Press, 2010).
- R. Suberu, *Federalism and Electoral Politics in Nigeria* (Ibadan: IFRA, 2007).
- A. Olurode, *Election Security and Judicial Independence in Nigeria* (Lagos: Friedrich Ebert Stiftung, 2016).

## **Journal Articles and Chapters**

- J.S. Omotola, “Elections and Democratic Transition in Nigeria under the Fourth Republic” *African Affairs* Vol. 109, No. 437 (2010) 536.
- J.S. Omotola, “Judicialization of Politics and the Electoral Process in Nigeria” *African Studies Quarterly* Vol. 10, No. 2 (2008) 62–67.
- S.Y. Omotola, “Electoral Governance and the Challenge of Electoral Justice in Africa” *Africa Development* Vol. 34, No. 3 (2009) 47.
- A.I. Ajayi & O. Fagbadebo, “The Judiciary and Electoral Disputes in Nigeria” *Journal of Politics and Law* Vol. 10, No. 5 (2017) 101–104.
- G.C. Nwokedi, “Election Petitions and Electoral Integrity in Nigeria” *NIALS Journal of Law and Democracy* Vol. 4, No. 1 (2015) 113–121.
- O. Agbaje, “The Cost of Justice in Nigeria’s Electoral Jurisprudence” *Journal of African Elections* Vol. 9, No. 2 (2010) 49–50.
- J. Ibrahim, “The Role of the Judiciary in Electoral Disputes in Nigeria” *Nigeria Social Science Review* Vol. 15, No. 2 (2013) 78–89.

- M. Barkan, “Standards of Proof in Election Litigation,” *Election Law Journal* Vol. 22, No. 2 (2023) 131.

## **Cases (selected — reported)**

- *Awolowo v. Shagari* (1979) 6–9 SC 37.
- *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341.
- *INEC v. Musa* (2003) 3 NWLR (Pt. 806) 72.
- *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1.
- *Buhari v. Yusuf* (2003) 14 NWLR (Pt. 841) 446.
- *CPC v. INEC* (2011) 18 NWLR (Pt. 1279) 493.
- *ANPP v. Goni* (2012) 7 NWLR (Pt. 1298) 147.
- *Mark v. Eke* (2004) 5 NWLR (Pt. 865) 54.
- *Oshiomhole v. INEC* (2009) 4 NWLR (Pt. 1132) 607 (CA).
- *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326 (CA).
- *Ngige v. Obi* (2006) 14 NWLR (Pt. 999) 1.
- *Ojukwu v. Yar’Adua* (2009) 12 NWLR (Pt. 1154) 50.
- *Ogboru v. Okowa* (2016) 11 NWLR (Pt. 1522) 84.
- *Ucha v. Elechi* (2012) 13 NWLR (Pt. 1317) 330.
- *Atiku Abubakar v. INEC & Ors.* (2019) LPELR-49473(SC).
- *Atiku Abubakar v. INEC & Ors* (2019) LPELR-48488(CA)
- *Atiku Abubakar & Anor v. INEC & Ors.* (2023) LPELR-60392(SC).
- *APC v. PDP* (2015) LPELR-24349(CA)
- *APC v. Marafa* (2020) LPELR-49565(SC).
- *PDP v. Degi-Eremienyo* (2020) 9 NWLR (Pt. 1729) 24.
- *Odedo v. PDP & Ors* (2020) LPELR-24738(SC).

- Selected Kenyan authorities cited: *Raila Odinga & Others v. IEBC & Others* (Presidential Petition No. 1 of 2017) (Kenya SC); *Odinga & 16 Others v. Ruto & 10 Others* [2022] KESC 56 (KLR).
- Romanian authority cited: Constitutional Court of Romania, **Decision No. 32 of 6 December 2024** (Annulment of the First-Round Presidential Election).

## **Legislation & Statutes**

- Constitution of the Federal Republic of Nigeria 1999 (as amended).
- Electoral Act, 2022 (Federal Republic of Nigeria).
- Law No. 370/2004 on the Election of the President of Romania.
- Constitution of Romania (2003; revised 2011).
- Constitution of Kenya, 2010.
- Elections Act, No. 24 of 2011 (Kenya).
- IEBC Act, No. 9 of 2011 (Kenya).
- Elections (Technology) Regulations, 2017 (Kenya).
- Electoral Act 73 of 1998 (South Africa).
- Constitution of the Republic of South Africa, 1996.
- Representation of the People Act, 1951 (India).
- Regulation (EU) 2024/900 on Transparency in Political Advertising (Official Journal of the European Union, L 139/1, 2024).

## **Reports, Working Papers & Institutional Publications**

- Nigerian Institute of Advanced Legal Studies (NIALS), *Report of the Electoral Reform Committee on Electoral Offences* (Abuja: NIALS, 2018).
- Transition Monitoring Group (TMG), *Final Report on the 2007 General Elections in Nigeria* (Abuja: TMG, 2007).
- Transition Monitoring Group (TMG), *Post-Election Report on the 2019 General Elections in Nigeria* (Abuja: TMG, 2019).
- Centre for Democracy and Development (CDD), *Analysis of the 2019 Elections and Electoral Reform Agenda* (Abuja: CDD, 2019).
- Centre for Democracy and Development (CDD), *Report on the 2023 General Elections in Nigeria* (Abuja: CDD, 2023).
- ICJ-Kenya & Uraia, *Compendium of 2022 Election Petitions* (Vol. 5) (Sept. 2022).
- Permanent Electoral Authority (Romania), *Report on Political Financing 2024* (Bucharest: PEA, 2025).
- International Foundation for Electoral Systems (IFES), *The Romanian 2024 Election Annulment: Addressing Emerging Threats to Electoral Integrity* (Washington, D.C.: IFES, 20 Dec. 2024).

## **International Instruments & Guidance**

- Venice Commission, *Code of Good Practice in Electoral Matters* (CDL-AD (2002)023rev2, Council of Europe, 2020).
- European Union, *Regulation (EU) 2024/900 on Transparency in Political Advertising* (Official Journal of the European Union, L 139/1, 2024).

# **APPENDICES**

## **Appendix A — Key Cases & Statutes (Selected and cited in the thesis).**

### **Cases (selected)**

- *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341.
- *Akinfosile v. Ijose* (1960) SCNLR 447.
- *Awolowo v. Shagari* (1979) 6–9 SC 37.
- *INEC v. Musa* (2003) 3 NWLR (Pt. 806) 72.
- *Buhari v. Yusuf* (2003) 14 NWLR (Pt. 841) 446.
- *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1.
- *Mark v. Eke* (2004) 5 NWLR (Pt. 865) 54.
- *CPC v. INEC* (2011) 18 NWLR (Pt. 1279) 493.
- *ANPP v. Goni* (2012) 7 NWLR (Pt. 1298) 147.
- *Oshiomhole v. INEC* (2009) 4 NWLR (Pt. 1132) 607 (CA).
- *Fayemi v. Oni* (2010) 17 NWLR (Pt. 1222) 326 (CA).
- *Ngige v. Obi* (2006) 14 NWLR (Pt. 999) 1.
- *Ojukwu v. Yar'Adua* (2009) 12 NWLR (Pt. 1154) 50.
- *Ucha v. Elechi* (2012) 13 NWLR (Pt. 1317) 330.
- *Atiku Abubakar v. INEC & Ors.* (2019) LPELR-49473(SC).
- *Atiku Abubakar v. INEC & Ors* (2019) LPELR-48488(CA)
- *Atiku Abubakar & Anor v. INEC & Ors.* (2023) LPELR-60392(SC).
- *APC v. PDP* (2015) LPELR-24349(CA).
- *APC v. Marafa* (2020) LPELR-49565(SC).
- *PDP v. Degi-Eremienyo* (2020) 9 NWLR (Pt. 1729) 24.

- Selected comparative cases: *Raila Odinga & Another v. IEBC & Others* (Presidential Petition No. 1 of 2017) (Kenya SC); *Odinga & 16 Others v. Ruto & 10 Others* [2022] KESC 56 (KLR).
- Romanian authority: Constitutional Court of Romania, Decision No. 32 of 6 December 2024.

### **Statutes & Instruments (selected)**

- Constitution of the Federal Republic of Nigeria, 1999 (as amended) — ss. 76, 116, 131, 132, 178, 239, 285(5)–(8).
- Electoral Act, 2022 (Federal Republic of Nigeria) — ss. 47–66; ss. 117–140; s. 133; s. 134; s. 152.
- Law No. 370/2004 on the Election of the President of Romania — art. 52(1).
- Constitution of Romania (2003, rev. 2011) — arts. 36(1), 146(f).
- Constitution of Kenya, 2010 — art. 140(1)–(2).
- Elections Act, No. 24 of 2011 (Kenya); IEBC Act No. 9 of 2011; Elections (Technology) Regulations, 2017.
- Electoral Act 73 of 1998 (South Africa); Constitution of the Republic of South Africa, 1996.
- Representation of the People Act, 1951 (India).
- Regulation (EU) 2024/900 on Transparency in Political Advertising (OJ L 139/1, 2024).
- Venice Commission, *Code of Good Practice in Electoral Matters* (CDL-AD(2002)023rev2).

## **Appendix B — Sample Election Petition (Template)**

A practical, one-file template to show structure and required parts. Adapt names, facts, dates and supporting exhibits as needed.

**IN THE NATIONAL AND STATE HOUSES OF ASSEMBLY**

**ELECTION TRIBUNAL**

**EDO STATE OF NIGERIA**

**HOLDEN AT BENIN CITY**

**PETITION NO. EPT/**

**ELECTION INTO THE OVIA FEDERAL CONSTITUENCY HELD ON**

**23<sup>RD</sup> FEBRUARY, 2019**

BETWEEN

[NAME OF PETITIONER] (Applicant/Petitioner)

AND

[NAME OF 1ST RESPONDENT] (Returned Candidate)

[NAME OF 2ND RESPONDENT] (INEC)

[NAME OF 3RD RESPONDENT] (Electoral Officer — optional)

**PETITION**

1. The Petitioner is [full particulars — candidate, party membership, address].
2. The 1st Respondent is [full particulars].
3. The 2nd Respondent is the Independent National Electoral Commission (INEC),  
[address].
4. The election in question was conducted on [date] for the office of [specify].

5. GROUND(S): The Petitioner challenges the election on the following ground(s):
  - (a) Lack of qualification of the 1st Respondent under s. [con] (state specifics);
  - (b) Substantial non-compliance with the Electoral Act, 2022 (identify sections);
  - (c) Corrupt practices as defined under ss. 121–127 Electoral Act, 2022;
  - (d) The 1st Respondent was not duly elected by majority of lawful votes cast.
6. STATEMENT OF FACTS: [Numbered concise paragraphs of facts, with dates, polling units affected, forms, incidents of malpractice].
7. RELIEFS SOUGHT: [e.g. (i) nullification of election; (ii) declaration that Petitioner is duly elected; (iii) order for fresh election; (iv) costs].
8. AFFIDAVIT: This Petition is supported by the affidavit of the Petitioner sworn on [date] and the following exhibits: [List: EXH A — certified copy of result sheet (Form X); EXH B — BVAS logs; EXH C — witness statements; EXH D — INEC correspondence].

**DATED** this [day] of [month], [year].

[Signature of Petitioner’s Counsel & Address for Service]

## **Appendix C — Sample Affidavit Checklist for Election**

### **Petition**

Use this checklist to make sure the supporting affidavit(s) and exhibits are complete.

1. Caption and Title (matching Petition)
2. Deponent’s full name, address, occupation, and oath/affirmation clause
3. Statement of locus standi (Petitioner’s status: candidate/party)
4. Chronology of events (date-stamped)
5. Identification of polling units and result forms (Form numbers)

6. Statement of non-compliance or corrupt practice with statutory references (Electoral Act ss.)
7. Witness statements: polling agents, INEC officials, accredited observers (signed, dated, with contact details)
8. Documentary exhibits: certified copies of Form(s) 1/34/XYZ, BVAS logs, portal screenshots, results collation spread sheets
9. Expert reports (if any): IT/forensics, statistical analysis
10. Statement of reliefs and verification clause
11. Exhibits indexed and paginated; chain of custody statement where applicable

## **Appendix D — Proposed Interview Questionnaire (for stakeholders / field research)**

Use this if you decide to supplement the doctrinal study with qualitative interviews (judges, tribunal members, INEC officials, party agents, civil society).

### **A. Background Information**

1. Name (optional): \_\_\_\_\_
2. Role/position: \_\_\_\_\_
3. Organization: \_\_\_\_\_
4. Years of experience: \_\_\_\_\_

### **B. Questions**

1. In your view, how effective are election petitions in curbing electoral malpractice in Nigeria? Please explain.
2. What are the major legal or procedural impediments that petitioners face? (Probe: timelines, evidence, costs).

3. How would you assess INEC’s responsiveness to requests for electoral materials during petitions?
4. Do you think the current evidentiary standards strike an appropriate balance between fairness and the need to protect electoral stability? Why/why not?
5. What reforms (legal, institutional, and technological) would most improve the adjudication of election petitions?
6. How should courts treat intelligence-based or classified evidence (e.g., cyber security reports) in electoral disputes?
7. Have you observed any impact of technological tools (BVAS, portals) on petition outcomes? Provide examples.
8. Would you support establishing an independent body to prosecute electoral offences? Explain.
9. What role should civil society and media play in ensuring transparency during petitions?
10. Any other recommendations or observations?

## **Appendix E — Sample Consent Form for Interview**

### **Participants**

**Title of Study:** Election Petitions: Towards Curbing Electoral Malpractice in Nigeria

**Researcher:** [Your Name] — LL.M Candidate, Faculty of Law, University of Benin

I understand that:

- My participation is voluntary and I may withdraw at any time without giving reason.
- The interview will be recorded (audio) with my consent; recordings will be used only for this research and will be securely stored.

- The researcher will anonymize identifiable details in the final report unless I expressly consent to be named.

I consent to participate in this interview.

Name (printed): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(If recording consent) I consent to audio recording: Yes / No

## **Appendix F — Timeline of Major Nigerian Election**

### **Petitions (Selected)**

Useful as quick reference for historic context in Chapter 3.

- 1962 — *Madukolu v. Nkemdilim* (landmark jurisdictional rule).
- 1979 — *Awolowo v. Shagari* (presidential election dispute).
- 2003 — *INEC v. Musa* (election conduct).
- 2005 — *Buhari v. Obasanjo* (post-election petition principles).
- 2006 — *Ngige v. Obi* (governorship dispute — vote computation).
- 2009 — *Oshiomhole v. INEC* (governorship result corrected).
- 2010 — *Fayemi v. Oni* (governorship annulment).
- 2011 — *CPC v. INEC* (jurisdictional and procedure refinements).
- 2012 — *ANPP v. Goni* (timeline strictness affirmed).
- 2019 — *Atiku Abubakar v. INEC & Ors.* (presidential petition — electronic evidence issues).
- 2023 — *Atiku Abubakar & Anor v. INEC & Ors.* (LPELR-60392(SC)) (recent significant ruling).

## **Appendix G — Glossary of Selected Terms**

- **BVAS:** Bimodal Voter Accreditation System device used for voter accreditation.

- **INEC:** Independent National Electoral Commission (Nigeria).
- **BVAS logs / IReV:** Digital logs and result-viewing systems used in result transmission.
- **Form 34:** Generic label replace with jurisdictional-specific result form number used in courts.
- **Election Petition (sui generis):** A special form of litigation confined by statute and constitution.
- **Substantial Effect:** Legal test requiring proof that irregularities materially changed the result.
- **Ex officio:** Action taken by a judicial body on its own motion.
- **Information Integrity:** The trustworthiness, accuracy and reliability of information in an electoral context.

## **Appendix H — Data Sources & Documents Consulted**

Primary sources you relied on / may supply on request (for transparency and reproducibility).

- Texts of cited judgments (NWLR, LPELR case pages).
- Constitution of the Federal Republic of Nigeria, 1999 (as amended).
- Electoral Act, 2022 (full text).
- Kenyan Supreme Court decisions (2013, 2017, 2022).
- Romanian Constitutional Court — Decision No. 32 (6 Dec 2024) and Law No. 370/2004.
- IFES briefing: *The Romanian 2024 Election Annulment* (20 Dec 2024).
- NIALS Electoral Offences Report (2018).
- Reports by TMG, CDD, ICJ-Kenya, and other election observer groups.

- Academic books and journal articles listed in the bibliography.

### **How to use these Appendices**

- **Appendix A** (Key Cases & Statutes) — transfer into your *Table of Cases* and *Table of Statutes* with exact paragraph/page locators from your footnotes.
- **Appendix B–C** (petition & affidavit templates) — adapt and use as practical exhibits or teaching aids.
- **Appendix D–E** (interview instruments) — useful if you decide to collect empirical data as follow-up.
- **Appendix F–H** — quick-reference materials to support examiners and supervisors reviewing your methodology and sources.

In this regard, pertinent suggestions will be highlighted, and novel recommendations will be proposed, which, if implemented, may, together with the other issues raised, rejig and revolve our election petition process towards a more modern, proactive, and justice-centric approach.