

Abstract

Electoral integrity is the cornerstone of democratic governance, underpinning public trust and legitimacy in electoral processes. In Nigeria, persistent challenges such as vote-buying, ballot tampering, voter intimidation, and electoral result manipulation undermine efforts to achieve credible and transparent elections. This study critically examined the legal and institutional frameworks governing electoral processes in Nigeria, focusing on the innovations introduced by the Electoral Act 2022. Employing a doctrinal methodology, it utilised primary sources, such as constitutional provisions, statutes, and case law, alongside secondary sources, including scholarly articles, reports, and commentaries, to provide a comprehensive analysis. The paper evaluated the role of key institutions, including the Independent National Electoral Commission (INEC) and the judiciary, in safeguarding electoral integrity. While technological advancements, such as the Bimodal Voter Accreditation System (BVAS) and INEC Result Viewing Portal (IREV), represent significant progress, systemic obstacles—political interference, corruption, and inconsistent law enforcement—continue to pose barriers to reform. The study identified gaps in the legal framework, particularly in enforcing penalties for electoral malpractice and the adjudication of disputes, and proposed actionable reforms. These include enhancing judicial independence, strengthening INEC's operational autonomy, increasing penalties for electoral offences, and expanding civic education to foster accountability and transparency. By addressing these challenges, this paper provides a pathway for consolidating Nigeria's democratic processes and reinforcing public confidence in its electoral system.

Keywords: Electoral Act 2022, Electoral Integrity, Electoral Processes and Electoral Reforms

1. Introduction

Electoral integrity is the foundation of democratic governance, cultivating legitimacy, public trust, and stability within a political system. It embodies the principles of fairness, transparency, and inclusivity¹ throughout the electoral process—from voter registration to the announcement of results.² Elections that uphold these principles bolster democracy by authentically representing the electorate's will.³ In contrast, compromised electoral processes weaken governance, diminish public trust, and frequently result in political instability.⁴

In Nigeria, electoral processes have historically faced significant challenges undermining their credibility. For example, the 2007 general elections were marred by widespread allegations of vote-buying, ballot stuffing, and voter intimidation, leading international observers to question the legitimacy of the results. According to Omotola,⁵ these malpractices diminished public confidence in Nigeria's democratic processes and highlighted the urgent need for reforms to tackle these persistent issues. Similarly, the 2015 and 2019 general elections exposed considerable logistical delays and technical failures in the deployment of smart card readers, further fueling doubts about the transparency and integrity of the electoral process.⁶ Despite these challenges, recent years have witnessed notable reforms to enhance Nigeria's electoral framework. Key among these reforms is the implementation of advanced technologies such as the Bimodal Voter Accreditation System (BVAS),⁷ the electronic transmission of results, and the INEC Result Viewing Portal (IREV),⁸ which were effectively operationalised during the 2023 general elections. The BVAS has been recognised as a technological innovation designed to reduce fraud and enhance transparency in the voter accreditation process. At the same time, the IREV portal has improved public access to election results in

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¹ The definitions of these principles are outlined in the following section titled 'Conceptual Framework'

² S Birch, *Electoral malpractice* (London: Oxford University Press, 2012) 1- 23; and P Norris, 'Theories Why Electoral Integrity Matters' In *Why Electoral Integrity Matters*, (Cambridge University Press; 2014) 3-20

³ R López-Pintor, 'Electoral Management Bodies as Institutions of Governance' *UNDP* (2000) 15 -17

⁴ P Norris *et al.*, 'Measuring Electoral Integrity around the World: A New Dataset' *PS: Political Science & Politics* (2014) 47(4)789-798.

⁵ JS Omotola, 'Electoral Reform and the Prospects of Democratic Consolidation in Nigeria' *Journal of African Elections* (2011) 10(1) 187-207 <DOI: 10.20940/JAE/2011/v10i1a9> accessed 1 December 2024

⁶ O Agbu, 'Election Rigging and the Use of Technology: The Smart Card Reader as the Joker in Nigeria's 2015 Presidential Election' *Journal of African Elections* (2016) 15(2) 70 - 90 <DOI: 10.20940/JAE/2016/v15i2a5> accessed 1 December 2024; AF Ayinde and AO Idowu, 'Nigeria's 2015 Elections: Permanent Voter's Cards, Smart Card Readers and Security Challenges' *Journal of African Elections* (2016) 15(2) 50 - 68; and S Oniye *et al.*, 'Appraisal of the Electoral Act 2022: A Curse or Blessing to the 2023 General Elections in Nigeria' *International Journal of Innovative Research & Development* (2023) 12(5) 144-151.

⁷ The BVAS, provided for in Section 47(2) of the Electoral Act 2022, authenticates voters using fingerprints and facial recognition, ensuring accurate accreditation and reducing fraud.

⁸ The IREV, backed by Section 50(2) of the Electoral Act 2022, enables real-time public access to polling unit results for transparency.

real-time, bolstering accountability and trust in the process.⁹ Additionally, the Electoral Act 2022 introduced electronic transmission of results to mitigate the risk of vote tampering, improve transparency, and build confidence in the electoral process.¹⁰ However, systemic obstacles continue to obstruct progress toward credible, free, and fair elections. Political interference, corruption, and inadequate enforcement mechanisms are central to these challenges. Ibrahim¹¹ underscores that the politicisation of electoral institutions and pervasive corruption within Nigeria's political system have hampered efforts at achieving electoral integrity. Furthermore, as noted by Jega,¹² the absence of robust mechanisms for enforcing electoral laws, coupled with weak institutional capacity, has limited reforms' ability to address persistent electoral malpractices effectively. These structural challenges, along with delays in judicial dispute resolution and inconsistencies in the application of penalties, have significantly impeded Nigeria's democratic development.¹³

The Electoral Act 2022¹⁴ represents a significant milestone in Nigeria's reform journey. It introduces innovative provisions to enhance transparency, reduce electoral malpractice, and foster inclusivity. These include the electronic transmission of results to minimise tampering,¹⁵ using technological devices for voter accreditation,¹⁶ enhanced protections for persons with disabilities during the voting process,¹⁷ and stricter penalties for offences such as vote-buying and ballot stuffing.¹⁸ The Act establishes a framework to tackle issues historically undermining electoral integrity by addressing long-standing challenges like over-voting¹⁹ and delayed dispute resolution.²⁰ Nevertheless, concerns persist regarding the effectiveness of its implementation, the strength of enforcement mechanisms, and the willingness of key stakeholders to fully embrace its provisions.

This paper critically assesses Nigeria's legal and institutional frameworks for safeguarding electoral integrity, focusing on the roles of institutions such as the Independent National Electoral Commission (INEC), the judiciary, and civil society organisations (CSOs) in promoting transparency and accountability in elections. Additionally, it identifies ongoing gaps within the electoral framework, including delays in resolving electoral disputes, inconsistent application of penalties for malpractice, and inadequate protection against political interference. The paper contributes to the discourse on strengthening democratic processes in Nigeria by providing a comprehensive analysis of the country's electoral system and highlighting areas for improvement. Through targeted reforms, the government can move closer to achieving electoral integrity, fostering public confidence in the democratic process, and consolidating its democracy.

2. Conceptual Analysis

Election

An election is fundamentally the process through which individuals or groups express their preferences by choosing representatives to occupy public offices or positions of governance. Black's Law Dictionary²¹ defines an election as 'the process of selecting a person to occupy an office (usually a public office), membership, award, or other title or status'. This is typically achieved through voting. In *Abubakar v. Yar'Adua*,²² the court affirms that an election involves a formal act of voting, symbolising the collective will of a political constituency.²³ Similarly, in *Ogboru v Uduaghan*,²⁴ the court emphasised that the concept of election extends beyond merely casting votes to encompass the comprehensive procedure that includes accreditation, voting, collation of results, and the declaration of outcomes. Elections are essential in any democratic society, serving as instruments for legitimising authority and promoting citizen participation. Consequently, they must be anchored in principles of fairness, transparency, and inclusivity to maintain public trust. In Nigeria, elections are governed by the Constitution of the Federal Republic of Nigeria 1999

⁹TP Ayeni *et al*, 'The Role of Technology in Nigeria's 2019 and 2023 General Elections' *Global Scientific Journal* (2023) 11(12) 267 – 276 <10.13140/RG.2.2.21009.61287> accessed 1 December 2024.

¹⁰Oniye *et al*, 'Appraisal of the Electoral Act 2022: A Curse or Blessing to the 2023 General Elections in Nigeria, 145 - 146

¹¹J Ibrahim, 'Nigeria's 2007 Elections: The Fitful Path to Democratic Citizenship' *United States Institute of Peace Special Report* (January 2007) 2 - 4 <<https://www.usip.org/sites/default/files/sr182.pdf>> accessed 1 December 2024

¹²AM Jega, 'Electoral Reforms in Nigeria: Prospects and Challenges' a lecture at the. 7th International Electoral Affairs Symposium, in Kuala Lumpur Malaysia 2013.

¹³*Ibid*

¹⁴Subsequently the 2022 Act when properly defined.

¹⁵S 50(2)

¹⁶S 47

¹⁷S 54

¹⁸Ss 121 and 129

¹⁹S 51 redefines over-voting as instances where votes cast exceed the number of accredited voters thereby addressing ambiguities that previously complicated election adjudications.

²⁰S 133

²¹Bryan A. Garner, *Black's Law Dictionary* (9th edn, West Publishing Company, 2004) 595

²²[2008] 19 NWLR (Pt 1120) 1 at 70

²³See also *Oke v Mimiko* (2013) LPELR-21368(SC)

²⁴[2019] 2 NWLR (Pt 1232) 538

(As amended)²⁵ and the 2022 Act, which provides the legal framework necessary for ensuring free, fair, and credible elections. These legal instruments aim to protect the electoral process by addressing malpractices such as vote-buying, multiple voting, and voter intimidation, thereby affirming elections as a crucial mechanism for democratic governance and accountability.

Electoral Process

The electoral process refers to the complete sequence of activities involved in the organisation and conduct of elections in a democratic system. Black's Law Dictionary conceptualises the electoral process as the systematic procedure through which individuals are elected to public office.²⁶ Judicial perspectives, as outlined in *NDP v INEC*²⁷ and *Nwali v EBSIEC & Ors*,²⁸ reaffirm that the electoral process is comprehensive, encompassing more than just 'Election Day' activities. In Nigeria, the electoral process involves several critical phases, including voter registration, the registration and nomination of candidates, electoral campaigning, voting, vote sorting, and the official announcement of results.²⁹ The 2022 Act, underpinned by constitutional provisions, mandates transparency and adherence to established guidelines in each phase to protect electoral integrity.³⁰ For instance, Section 47(2) of the 2022 Act regulates voter accreditation through technological advancements like the BVAS, ensuring accurate verification of voter identities. Similarly, Sections 60 and 64 govern result collation and transmission, emphasising technology integration to enhance transparency. In its entirety, the electoral process also encapsulates ancillary activities such as civic education and the adjudication of disputes, further reinforcing the legitimacy of elections. The courts have consistently interpreted the electoral process to include compliance with legal standards, as demonstrated in *Buhari v. Obasanjo*,³¹ where substantial compliance with electoral laws was deemed essential for upholding election validity.³² Therefore, the concept of an electoral process highlights the intricate and multifaceted activities involved in organising elections. By instituting legal and procedural safeguards, as reflected in Nigeria's current legal framework, the electoral process seeks to create an environment that promotes credibility, ensures broad participation, and respects the fundamental rights of all stakeholders.

Electoral Integrity

Electoral integrity is a fundamental concept in democratic governance, representing the adherence to principles and practices that ensure elections are conducted in a manner that reflects the genuine will of the people. It encompasses all electoral processes' fairness, transparency, and inclusivity, from the initial stages of voter registration to the final declaration of results.³³ The term is deeply rooted in the idea that elections serve as a critical mechanism for citizens to choose their representatives and influence governance, making the integrity of this process vital to the legitimacy of democratic systems.³⁴ Electoral integrity is founded on three critical components: fairness, transparency, and inclusivity. These elements establish the groundwork for credible elections, ensuring the process is free from undue influence, manipulation, fraud, coercion, or bias. Fairness involves equal opportunities for all eligible voters and political candidates to engage in the electoral process. It necessitates the impartial application of electoral laws, equitable access to resources for political parties, and unbiased management by electoral bodies.³⁵ For example, the 2022 Act emphasises fairness by regulating campaign finances³⁶ and implementing measures to prevent vote-buying.³⁷ Transparency, in contrast, requires openness and accountability in all electoral activities, allowing stakeholders to verify the legitimacy of the process. This includes the accurate compilation of voter registers, the secure handling of ballot papers, and public accessibility to election results. In Nigeria, provisions like the electronic transmission of results encompassed within Section 50(2) of the 2022 Act are intended to bolster transparency by reducing opportunities for result manipulation during collation. Inclusivity ensures the active participation of all eligible citizens in the electoral process, irrespective of gender, disability, or socio-economic status. A notable example of efforts to promote inclusivity in Nigeria is Section 54 of the 2022 Act, which mandates the inclusion of persons with disabilities in the electoral process.

The significance of electoral integrity has been acknowledged in various international frameworks and declarations, underscoring its essential role as a cornerstone of democracy. The Universal Declaration of Human Rights (1948)³⁸

²⁵Subsequently, the Constitution or the 1999 Constitution when properly defined.

²⁶(n 21) p 596

²⁷[2012] LPELR-19722(SC)

²⁸[2014] LPELR-23682(CA)

²⁹*Ibid*

³⁰The next section analysis the legal framework for electoral integrity in Nigeria

³¹[2005] 50 WRN 1, 177; [2005] 13 NWLR (Pt 941) 1

³²See also *Omisore & Anor v Aregbesola & Ors* [2015] LPELR-24803(SC)

³³(n 4)

³⁴*Ibid*

³⁵P Norris, 'Theories Why Electoral Integrity Matters' in *Why Electoral Integrity Matters*, 8 -10

³⁶S 88

³⁷S 121

³⁸Article 21(1)– (3)

asserts that every individual has the right to participate in genuine elections that are free, fair, and inclusive. Likewise, the African Charter on Democracy, Elections, and Governance (2007)³⁹ mandates member states to uphold democratic principles within their electoral systems, reflecting a global consensus on the critical nature of electoral integrity in maintaining governance and stability. In Nigeria, the issue of electoral integrity has gained increasing attention, given historical challenges such as vote-buying, ballot stuffing, voter suppression, and result manipulation. These malpractices have often compromised the credibility of elections, resulting in public disillusionment and political instability.⁴⁰ For instance, the 2007 general elections were marred by widespread irregularities, eliciting domestic and international condemnation. Furthermore, technical failures in voter authentication and result collation during subsequent elections, including those held in 2019 and 2023, have exposed ongoing deficiencies within the country's electoral framework.⁴¹

Reforms such as the introduction of electronic transmission of results, the BVAS, and the IReV signify efforts to tackle electoral challenges and enhance the integrity of the electoral process.⁴² These technologies are designed to mitigate voter impersonation, ensure accurate accreditation, and provide real-time access to election results, thereby fostering trust in the system. However, the effectiveness of these measures is contingent upon robust implementation and the dedication of stakeholders, including political actors, electoral bodies, and civil society organisations, to uphold democratic principles. Electoral integrity is, therefore, a multidimensional concept that necessitates the alignment of legal frameworks, technological advancements, and institutional practices to achieve credible elections. While Nigeria has made significant progress through reforms such as the 2022 Act, ongoing systemic challenges underscore the necessity for continued efforts to enhance fairness, transparency, and inclusivity. Achieving electoral integrity is vital not only for consolidating democracy but also for building public confidence and ensuring the stability of Nigeria's political system.

3. Evolution of Electoral Processes in Nigeria

The evolution of electoral processes in Nigeria mirrors the nation's political history, transitioning from indigenous governance systems through colonial rule to the contemporary democratic framework. This journey has been marked by notable milestones, obstacles, and reforms across various periods, showcasing the dynamic nature of Nigeria's electoral development.⁴³ In pre-colonial Nigeria, governance was rooted in indigenous systems characterised by traditional councils, chiefdoms, and monarchies.⁴⁴ These structures emphasised community participation and consensus-building, although they lacked today's formal electoral mechanisms. Decision-making was primarily hierarchical and reflected local customs and traditions.⁴⁵ The colonial era introduced modern electoral practices in Nigeria, commencing with the Clifford Constitution of 1922. This constitution established limited elections for legislative councils in Lagos and Calabar, representing the country's first instance of electoral governance. Nonetheless, based on income and educational qualifications, the franchise was highly restrictive, effectively excluding a significant portion of the populace.⁴⁶ This elitist approach set the stage for the electoral systems during the colonial period, where participation was confined to a privileged few.

The post-independence era marked the adoption of parliamentary democracy, with elections becoming a central feature of Nigeria's political framework.⁴⁷ The elections of the First Republic (1960–1966) demonstrated both the potential and challenges of democratic governance. Although these elections represented a shift towards broader participation, they were plagued by issues such as regionalism, ethnic politics, and electoral malpractices, including voter intimidation and ballot stuffing.⁴⁸ These factors contributed to political instability and ultimately culminated in the military coup of 1966, which disrupted Nigeria's democratic experiment.⁴⁹ The subsequent military regimes attempted to restore electoral governance, albeit under strict controls. The 1979 elections signalled Nigeria's transition to the Second Republic, facilitated by the promulgation of the 1979 Constitution, which established a presidential system of government.⁵⁰ While this transition signified a significant reform, the elections were marred by irregularities and allegations of fraud, ultimately undermining public trust.⁵¹ The collapse of the Second Republic in 1983,

³⁹Article 3, 17(1) & (2)

⁴⁰(n 5)

⁴¹(n 12)

⁴²(n 9)

⁴³BO Nwabueze, *Constitutional Democracy in Africa Vol 1* (Ibadan: Spectrum Books Ltd, 2003) 1 - 23

⁴⁴T Falola and MM Heaton, *A History of Nigeria* (Cambridge: University Press, 2008) 61 - 80

⁴⁵*Ibid*

⁴⁶(n 11) p 5

⁴⁷A Onoja, 'Nature, Character and Outcomes of Post-Election Challenges in Nigeria' *Journal of the Historical Society of Nigeria* (2009) Vol 18, 79-104 <<https://www.jstor.org/stable/41854929>> 1 December 2024

⁴⁸(n 12)

⁴⁹*Ibid*

⁵⁰AC LeVan, *Contemporary Nigerian politics: Competition in a time of transition and terror* (Cambridge: University Press, 2019) 1 - 20

⁵¹(n 5)

following yet another military intervention, highlighted the fragility of Nigeria's electoral processes during this tumultuous period.

The return to civilian rule in 1999 marked the onset of the Fourth Republic, which was characterised by determined efforts to reform Nigeria's electoral system. Although the 1999 elections faced criticism for irregularities, they represented a renewed commitment to democratic governance.⁵² Subsequent reforms, including the Electoral Act of 2002 and the Electoral Act of 2010 (as amended),⁵³ aimed to tackle the systemic issues that undermined electoral integrity. The establishment of the INEC as the primary electoral authority further institutionalised these reforms.⁵⁴ During the Fourth Republic, significant technological advancements have been introduced to enhance electoral transparency and reduce malpractice. Innovations such as the Smart Card Reader launched in 2015 and the BVAS, implemented in the 2023 general elections, exemplify the modernisation efforts within Nigeria's electoral framework.⁵⁵ These technologies have improved voter accreditation processes and diminished opportunities for fraud, particularly regarding voter impersonation and over-voting. Furthermore, the 2022 Act introduced measures such as the electronic transmission of results and financial independence for INEC,⁵⁶ thereby bolstering the credibility of the electoral process.

Despite recent advancements, challenges remain. Electoral violence, vote-buying, and delays in dispute resolution continue to erode public confidence in Nigeria's electoral processes.⁵⁷ For instance, the logistical failures observed during the 2019 general elections underscored the necessity for more robust planning and execution. Additionally, political interference and the weak enforcement of electoral laws pose significant obstacles to achieving credible elections.⁵⁸ The evolution of Nigeria's electoral framework illustrates the tension between progress and ongoing challenges. While notable strides have been made in institutionalising reforms and utilising technology, the country must persist in addressing systemic barriers to enhance electoral integrity. By learning from its history and aligning with international best practices, Nigeria can develop a more robust and credible electoral system that truly reflects the aspirations of its citizens.

4. Legal Framework for Electoral Integrity in Nigeria

Nigeria's legal framework governing electoral integrity is primarily derived from the Constitution and the Electoral Act 2022. Together, these laws provide the foundation for conducting credible elections and ensuring that electoral processes genuinely reflect the people's will. This section explores key provisions of the Constitution, the innovations introduced by the 2022 Act, and a comparative analysis of earlier Electoral Acts.

Constitution of the Federal Republic of Nigeria 1999 (As Amended)

The Constitution serves as the supreme legal framework governing electoral processes and ensuring the integrity of elections. It underscores the importance of democratic governance and the active participation of citizens. Section 14(2)(c) establishes that free, fair, and credible elections, enabling citizen involvement in governance, are fundamental to a democratic society. The Constitution provides the legal foundation for electoral credibility by enshrining fundamental rights under Chapter IV, including the right to vote and to be voted for,⁵⁹ which form the cornerstone of electoral integrity. A pivotal aspect of the constitutional framework is providing a robust structure for managing elections, including establishing the INEC. Sections 153 and 158 affirm INEC's independence, ensuring its neutrality and shielding it from undue political influence. INEC's specific functions are further detailed in Section 15 of the Third Schedule, which mandates the Commission to organise and supervise elections, conduct voter registration, and oversee political parties to ensure compliance with electoral laws. Sections 68-71 bolster INEC's autonomy, highlighting its powers and composition to safeguard electoral integrity. Additionally, the Constitution provides critical procedural guidelines. Sections 77, 117, 132, and 178 mandate the conduct of periodic elections and emphasise universal adult suffrage as an integral element of a democratic electoral process. Sections 221-229 regulate the registration and activities of political parties, ensuring transparency, equity, and accountability in the political framework. Furthermore, the Constitution stipulates qualifications for candidates, the tenure of elected officials, and the overarching framework of the electoral system, laying the groundwork for comprehensive electoral governance. These constitutional provisions collectively establish the basis for a transparent, inclusive, and accountable electoral system designed to address key challenges such as political interference, voter suppression, and malpractice. By instituting legal and institutional safeguards, they create a pathway to bolster electoral credibility and democratic resilience. However, achieving these ideals requires the diligent implementation of these provisions, the integrity of electoral institutions like INEC, and the active engagement of civil society in promoting fairness and transparency.

⁵²(n 36)

⁵³Subsequently, the 2010 Act when properly defined.

⁵⁴(n 9)

⁵⁵*Ibid*

⁵⁶S 3(2)

⁵⁷Oniye et al, 'Appraisal of the Electoral Act 2022: A Curse or Blessing to the 2023 General Elections in Nigeria, 144 - 151

⁵⁸*Ibid*

⁵⁹S 40

Electoral Act 2022

The 2022 Act represents a significant advancement in Nigeria's democratic progress, introducing a series of innovative measures designed to tackle systemic challenges and enhance public trust in the electoral process. Central to these reforms is the BVAS, as Section 47(2) mandated. The BVAS represents a transformative advancement over earlier systems, such as the Smart Card Reader and manual registers. Using fingerprint and facial recognition technology ensures precise voter accreditation, effectively eradicating issues like voter impersonation and multiple voting. Beyond enhancing reliability, the BVAS allows for seamless transmission of voter accreditation data, further reinforcing the integrity of election outcomes.⁶⁰ Another notable innovation is the provision for electronic transmission of results, encompassed within Section 50(2). Though not mandatory, this provision requires polling unit results to be sent directly to INEC's central server, mitigating the risks associated with manual collations and potential tampering. This initiative is supported by the IReV, which enables the public to access scanned copies of polling unit results in real-time. While Section 60 addresses the recording and collation of election results, integrating these digital systems ensures a transparent and accessible process. However, it has been observed that the Act does not explicitly stipulate the use of the IReV; rather, it depends on INEC's internal manuals, prompting calls for greater statutory clarity to reinforce its significance.⁶¹ The 2022 Act also tackles the issue of financial autonomy, which has long hampered the effectiveness of the INEC. Under Section 3(3), the establishment of the INEC Fund ensures that the commission gains direct access to budget allocations from the Federal Government at least one year before elections, circumventing intermediary bodies such as the Ministry of Finance.⁶² This vital reform helps protect INEC from political interference, allowing it to fulfil its constitutional mandate independently and efficiently. Inclusivity is another key focus of the Act. Section 54 implements measures to accommodate persons with disabilities, demonstrating a commitment to broader participation in electoral processes. Additionally, the Act redefines over-voting in Section 51, now relying on the number of accredited voters instead of registered voters, thus resolving ambiguities that have hindered prior electoral adjudications.⁶³ The requirement that presiding officers cancel results in cases of over-voting—and conduct fresh elections if necessary—enhances accountability. Furthermore, the 2022 Act strongly emphasises internal party democracy, mandating the fair and transparent conduct of primaries as outlined in Section 84. This provision standardises candidate selection processes and addresses earlier criticisms regarding irregularities in party nominations. Notably, Section 84(12) prohibits political appointees from serving as voting delegates or aspirants unless they first resign from their appointments, thereby ensuring the neutrality of the electoral process.

The 2022 Act stands out as a significant advancement in Nigeria's electoral legislative framework compared to its predecessors. Its antecedents, including the Electoral Act of 1998, provided essential stepping stones in Nigeria's democratic evolution but also showcased notable shortcomings that necessitated subsequent reforms. Enacted during General Abdulsalami Abubakar's transitional government, the 1998 Act was pivotal in establishing the INEC and defining its legal authority. Section 158 of the Act empowered INEC to organise elections, oversee voter registration, and manage political transitions. This legislative effort was critical in facilitating the general elections of 1999, which marked the return to civilian rule. However, the Act had significant limitations. It lacked robust provisions to address systemic challenges such as vote-buying, ballot stuffing, electoral violence, and the widespread manipulation of results. Moreover, it did not adequately safeguard INEC's operational independence, leaving the Commission susceptible to political interference. These gaps diminished the credibility of elections during this transitional period and highlighted the urgent need for a more comprehensive and enforceable legal framework. The Electoral Act 2001 addressed some of these concerns by further solidifying INEC's independence under Section 2 and providing additional voter registration and election administration regulations. However, the 2001 Act fell short in introducing specific deterrents against malpractice and failed to address challenges such as INEC's financial independence and the consistent application of sanctions for electoral offences. Building on its predecessor, the Electoral Act 2002 introduced procedural improvements, including stricter guidelines for political party registration and enhanced voter registration processes under Sections 10 and 21. However, much like the 2001 Act, the 2002 framework remained limited in addressing the manipulation of election outcomes and systemic malpractice. It also did not incorporate mechanisms for technological advancements, such as electronic voter accreditation or the transmission of results, further leaving room for irregularities.

The Electoral Act 2006 marked a shift by emphasising internal party democracy and expanding INEC's oversight role. Section 87 of this Act mandated that party primaries be conducted transparently, while provisions for campaign

⁶⁰See *Oyetola & Anor v INEC & Ors* (2023) LPELR- 60392(SC), where it was held that BVAS is the primary source of accreditation data and thus serves as evidence required to prove non-accreditation, improper accreditation, and over-voting under the 2022 Act.

⁶¹See *Ifeanyi & Anor v. INEC & Ors* (2024) LPELR – 61713(SC); and *Atiku & Anor v INEC & Ors* (2023) LPELR – 61556(SC)

⁶²Under the Electoral Act 2010, INEC was required to present its budget through the Federal Ministry of Finance, limiting its financial independence.

⁶³See *APC v INEC & Ors* [2023] LPELR-61227(CA) 28; and *Murtala & Anor v INEC & Ors* [2024] LPELR-62523(CA) 115 - 116

finance regulation were introduced under Section 91. However, the 2006 Act did not integrate technological solutions, leaving challenges such as voter accreditation and result manipulation unaddressed. The Electoral Act 2010, as amended in subsequent years,⁶⁴ introduced the permanent voters' card and Smart Card Reader, a technological advancement for voter verification. Despite its significance, the device relied solely on fingerprints and lacked the robustness of BVAS in addressing voter impersonation. Additionally, the 2010 Act required manual collation of results under Section 59, creating opportunities for tampering during collation. These gaps persisted despite amendments aimed at strengthening transparency and reducing malpractice. The 2022 Act addresses these technological and procedural shortcomings and strengthens accountability mechanisms. For instance, Sections 121, 129 and 135 impose stricter penalties for vote-buying, ballot stuffing and result falsification, with offenders facing fines or imprisonment of up to one year for these offences. These penalties are more stringent than previous acts, aiming to deter malpractice and enhance public confidence in elections.

The 2022 Act represents a comprehensive overhaul of Nigeria's electoral laws. It builds on the strengths of previous legislation while addressing critical gaps through technological innovation, enhanced accountability, and strengthened institutional autonomy. While challenges in implementation and enforcement remain, the Act provides a robust foundation for enhancing Nigeria's democratic resilience and restoring public confidence in its elections.

5. Role of Institutions in Safeguarding Electoral Integrity

Electoral integrity relies on the active participation and operational effectiveness of institutions dedicated to upholding transparency, fairness, and inclusivity. In Nigeria, the key institutions tasked with this responsibility include the INEC, the judiciary, civil society organisations (CSOs), and the media. Each of these institutions plays a unique yet interconnected role, contributing to the overall credibility of the electoral process.

Independent National Electoral Commission (INEC)

INEC is at the heart of Nigeria's electoral process, established under Section 153 of the Constitution and further empowered by the 2022 Act.⁶⁵ Its mandate includes organising elections, supervising voter registration, regulating political party activities, and ensuring compliance with electoral laws.⁶⁶ INEC's independence is constitutionally protected under section 158, reinforcing its status as a neutral arbiter in electoral administration. Key innovations under INEC's leadership have significantly advanced Nigeria's electoral framework. Introducing the BVAS under Section 47(2) of the 2022 Act has revolutionised voter accreditation by utilising fingerprint and facial recognition technologies, eliminating issues like multiple voting and impersonation. Coupled with the IReV, which facilitates real-time electronic transmission of results, these advancements have improved transparency and minimised result tampering during collation. However, challenges remain, such as logistical deficiencies, technical failures, and issues of political interference, as observed in recent elections like those of 2019 and 2023.⁶⁷ Enforcement of reforms also poses hurdles, with inconsistent application of penalties for electoral offences remaining a weak link in safeguarding integrity.⁶⁸

Judiciary

The judiciary is crucial in maintaining electoral integrity in Nigeria, acting as the final arbiter in election disputes. Empowered by Section 246 of the Constitution, it oversees election tribunals to adjudicate electoral matters, ensuring electoral processes align with constitutional and statutory standards. Key duties include assessing election legality, addressing misconduct, and validating candidates' elections. This authority combats fraud, voter intimidation, and procedural violations. Judicial decisions in landmark cases have played a critical role in shaping Nigeria's electoral jurisprudence and fostering reforms beyond individual cases, ultimately influencing the integrity of the country's elections. One of the most significant cases in this regard is *Buhari v. Obasanjo*,⁶⁹ which remains one of Nigeria's most cited electoral cases. The case challenged the 2003 presidential election results, with the petitioners alleging that the elections were marred by widespread fraud. In its judgment, the Supreme Court emphasised the principle of substantial compliance with electoral laws. The court acknowledged the existence of irregularities but determined that they did not substantially affect the election results. The decision sparked debates on the need for more precise definitions of non-compliance and criteria to invalidate election results. Notably, this decision contributed to developing a more robust electoral system in Nigeria by highlighting the need for a legal standard to guide future electoral dispute resolutions and ensure greater transparency in the electoral process. Another landmark case,

⁶⁴2015, 2019, and 2021

⁶⁵The analysis of the 2022 Act's provisions concerning INEC has been detailed in the preceding segment.

⁶⁶Section 15 of the Third Schedule of the 1999 Constitution

⁶⁷INEC has proposed reforms to improve electoral processes, particularly in response to challenges faced during the 2023 general elections. See Punch Newspapers, 'INEC proposes reforms to enhance electoral process', Punch Newspapers (12 December 2024) <<https://punchng.com/inec-proposes-reforms-to-enhance-electoral-process/>> accessed 1 December 2024

⁶⁸JC Azu, 'Enforcing Nigeria's electoral offences laws' Daily Trust (23 January 2018) <<https://dailytrust.com/enforcing-nigerias-electoral-offences-laws/>> accessed 1 December 2024

⁶⁹(n 31)

Abubakar & Anor v. INEC & Ors,⁷⁰ delved into concerns about non-compliance with technology-driven electoral processes. This case addressed the challenges related to the accuracy and legal procedures for transmitting election results electronically. The petitioners claimed that the INEC failed to transmit results in real-time as appropriately required. Although the Court of Appeal dismissed the petition due to insufficient evidence, the case sparked broader debates on integrating technology in elections. It led to calls for greater scrutiny of the role of technological innovations like smart card readers and the electronic transmission of results, thus setting a legal precedent for future elections.⁷¹ Moreover, it highlighted the need for a clear legal framework authorising technological integration in the election process. Similarly, the *Amaechi v. INEC*⁷² case delivered a landmark decision by the Supreme Court, affirming that it is the political party, not individual candidates, which own the votes cast during an election. In this case, Rotimi Amaechi, who his party had substituted as the gubernatorial candidate for the People's Democratic Party (PDP), sought reinstatement. The Supreme Court held that the substitution was invalid, reinforcing the principle that votes cast in an election belong to the party, not the individual candidate. This case established the importance of internal party democracy, underscoring that political parties must properly vet candidates according to their procedures. It helped clarify issues related to candidate substitutions and nominations, further cementing the integrity of the election process and strengthening public trust in political party structures. In *Peter Obi v. INEC & Ors*,⁷³ following the 2023 presidential election, the Supreme Court examined claims related to the election results and the integrity of the electoral process. The case addressed the use of electronic transmission mechanisms such as the BVAS and the IReV. Although the court upheld the legitimacy of the results, it also identified lapses in applying these technologies, particularly concerning real-time transmission and the functionality of the electoral technology. The judicial scrutiny in this case helped bring attention to systemic issues within Nigeria's election management, highlighting the need for further reforms and consistent enforcement of technological innovations in future elections.

These landmark judicial decisions underscore the judiciary's crucial role in ensuring electoral integrity and addressing malpractices such as result manipulation, candidate legitimacy, and adherence to electoral laws. By reinforcing electoral transparency and expanding definitions of electoral offences, the judiciary upholds democratic principles, ensuring that elections are contested fairly. However, challenges remain within the judicial system, particularly concerning case delays and the backlog of election-related disputes at the appellate level.⁷⁴ These issues hamper the judiciary's ability to address electoral concerns promptly. Additionally, allegations of judicial bias, particularly claims of judges acting under political pressure or personal bias, remain significant threats to the judiciary's credibility. Legal scholars like Imosemi *et al.*⁷⁵ have raised concerns about the influence of politics on judicial decisions, underscoring the critical need to protect judicial independence. To strengthen Nigeria's democracy, it is essential to safeguard the judiciary's autonomy and ensure that decisions are made without external interference, thus enhancing electoral justice in the country.

Civil Society Organizations (CSOs) and Media

CSOs and the media are vital in promoting electoral integrity in Nigeria by advancing transparency, accountability, and public education.⁷⁶ Notable CSOs such as the Situation Room and Yiaga Africa actively monitor elections and advocate reforms. Yiaga Africa uses strategies like the Parallel Vote Tabulation (PVT) to verify results and boost public trust, while the Centre for Democracy and Development (CDD) offers insights into electoral malpractices.⁷⁷ These organisations were instrumental in reforms like the adoption of the BVAS and result transmission in the 2022 Act, significantly enhancing the credibility of Nigeria's electoral process.⁷⁸ The media plays a crucial role in complementing the work of CSOs by providing real-time information, exposing electoral malpractices, and holding stakeholders accountable. Platforms like Premium Times and Channels Television have spotlighted issues such as vote-buying and fraud. At the same time, grassroots initiatives engage in voter education campaigns to reduce apathy and build awareness of electoral reforms. Social media has become instrumental in amplifying information and reaching younger demographics through campaigns by CSOs such as Enough is Enough (EiE) Nigeria. Despite these efforts, challenges like misinformation, sensationalism, and partisan reporting persist. Addressing these issues requires improved funding, stronger legal protections for journalists and activists, and continuous capacity-building efforts to safeguard media and CSO effectiveness.

⁷⁰[2019] 1 NWLR (Pt. 1770) 351

⁷¹(n 61)

⁷²[2008] 5 NWLR (Pt 1080) 227 SC

⁷³[2023] LPELR-60416(CA)

⁷⁴Adedapo Salmon, 'Understanding the Role of Election Tribunals in Nigeria's Electoral Process' *Monitor Review* (2023) <<https://ymonitor.org/understanding-the-role-of-election-tribunals-in-nigerias-electoral-process/>> accessed 1 December 24

⁷⁵A Imosemi *et al.*, 'An Exploration of the 2019 General Elections in Nigeria: A Review of the Legal Framework' *Global Journal of Politics and Law Research* (2019) 7(5) 73 – 77

⁷⁶Onuh *et al.*, 'Cyril Ike. "Civil Society Organizations and electoral credibility in Nigeria' *Africa Review* (2021) 13(2) 233-250 <https://brill.com/view/journals/bafr/13/2/article-p233_7.xml> accessed 1 December 2024.

⁷⁷HA Idowu, 'Democratic and Electoral Process in Nigeria: A Forecast into the 2023 General Elections' *Taiwan Journal of Democracy* (2022) 18(2) 145 - 176

⁷⁸*Ibid*

6. Challenges to Electoral Integrity in Nigeria

Despite initiatives aimed at enhancing the credibility of Nigeria's electoral process, including the reforms introduced by the 2022 Act, significant challenges remain that compromise electoral integrity. These challenges are outlined as follows:

Electoral Violence and Voter Suppression: Electoral violence has become a recurring challenge in Nigeria, often employed as a tool to intimidate opponents and disenfranchise voters. The INEC and observers such as the CDD have documented widespread violence during elections, including physical attacks, arson, and the use of armed thugs to disrupt polling activities.⁷⁹ Notable incidents include the violence observed during the 2019 and 2023 general elections, where several polling units were attacked, resulting in fatalities and the destruction of electoral materials.⁸⁰ Such violence discourages voter participation, reducing turnout and undermining the credibility of the electoral process. Voter suppression tactics, including limiting access to polling units, disenfranchisement through inadequate logistical arrangements, and the use of security forces to intimidate voters, further exacerbate this issue. Addressing electoral violence requires robust mechanisms for pre-election conflict resolution, improved security at polling stations, and accountability for perpetrators. While Section 129 of the 2022 Act prohibits violence and threats at polling units, the enforcement of these provisions remains inconsistent, leading to impunity.

Vote-buying and Result Manipulation: Vote-buying remains one of Nigeria's most pervasive electoral malpractices. Political parties and their agents often use financial incentives to influence voters, undermining the principle of free and fair elections. Observers, including Yiaga Africa and the European Union Election Observation Mission, noted widespread incidents of vote-buying in recent elections, facilitated by the poverty and socio-economic vulnerabilities of many citizens.⁸¹ For instance, reports from the 2023 general elections revealed that party agents distributed cash and gifts at polling stations to secure votes, contravening Section 121 of the 2022 Act, which criminalises vote-buying and bribery.⁸² Similarly, result manipulation continues to plague the credibility of Nigeria's electoral system. Despite innovations such as the BVAS and the IReV, gaps in enforcement and transparency leave room for tampering during collation. While Sections 50(2) and 64 of the 2022 Act aim to mitigate result manipulation through real-time electronic transmission, reports of discrepancies and failures in technology deployment during the 2023 elections highlighted the continued vulnerability of this critical phase in the electoral process.

Political Interference and Corruption within Institutions: Political interference compromises the independence of electoral management bodies and other institutions tasked with safeguarding electoral integrity. INEC, for example, has faced allegations of undue influence, particularly during the appointment of its officials, which is regulated by the presidency and subject to political considerations.⁸³ While the 2022 Act has introduced reforms such as the establishment of the INEC Fund under Section 3(3) to ensure financial autonomy, operational independence remains a challenge. Corruption within law enforcement agencies and election tribunals also undermines the integrity of elections.⁸⁴ Not uncommon are cases of security personnel turning a blind eye to electoral offences or colluding with political actors. This undermines public trust and the enforcement of electoral laws. Addressing corruption requires structural reforms that include transparent appointment processes, financial independence, and strict accountability for public officials involved in the electoral process.

Weak Enforcement of Electoral Laws: The weak enforcement of electoral laws is a systemic issue that significantly undermines Nigeria's electoral integrity. While the 2022 Act prescribes penalties for various offences, including fines and imprisonment, enforcement has been sporadic at best. Many perpetrators of electoral crimes, such as vote-buying, result manipulation, and violence, evade prosecution due to political protection, limited investigative capacity, and slow judicial processes.⁸⁵ For instance, Sections 121 and 129 of the Electoral Act, which prohibit bribery and electoral violence, have been insufficiently enforced, leading to widespread impunity. Electoral offenders are seldom prosecuted, with only a handful of cases reaching a conclusive judicial determination. This emboldens bad actors and weakens public confidence in the electoral system. As proposed by many stakeholders, establishing specialised electoral offences tribunals could help address this gap by expediting the prosecution of offenders and strengthening deterrence mechanisms.

7. Proposed Reforms

While the 2022 Act introduced significant advancements, the highlighted challenges have impeded Nigeria's establishment of an entirely credible, inclusive, and transparent electoral process. Implementing proposed reforms to tackle these challenges and aligning the electoral framework with international best practices is essential. The following outlines these necessary reforms:

⁷⁹I Amaechina *et al.*, 'Electoral Malpractice and Consolidation of Democracy in Nigeria: A Study of Muhammadu Buhari's Administration, 2015-2023' *JPSLR* (2024) 10(2) 50 – 74

⁸⁰(n 10)

⁸¹VE Efebeh and BO Ohis, 'The Menace of Vote Buying in Nigeria Electoral System: Issues, Causes and Solutions 2015-2023' *SHE Journal* (2023) 14 (2), 235 – 336.

⁸²*Ibid*

⁸³S 153 of the Constitution

⁸⁴F Okoye, 'The Prosecution of Electoral Offenders in Nigeria: Challenges and Possibilities' FES Discussion Paper (5 september 2015) <https://library.fes.de/pdf-files/bueros/nigeria/10405.pdf?utm_source=chatgpt.com> accessed 1 December 2024

⁸⁵*Ibid*

Strengthening INEC's autonomy and operational capacity: Safeguarding electoral integrity requires strengthening INEC's independence and efficiency. While Section 3 (3) of the 2022 Act establishes the INEC Fund to ensure financial autonomy, additional steps are necessary to institutionalise this independence and reduce political influence, particularly in appointing INEC officials. An independent, bipartisan body for oversight would enhance public trust. Operational capacity should also be reinforced with secure funding and training in logistics and technology. Consistent implementation of innovations like BVAS and IReV is vital for minimising irregularities and building credibility in the electoral process. These measures are essential to foster confidence in Nigeria's elections.

Enhancing judicial independence and capacity for timely adjudication: The judiciary is crucial in resolving electoral disputes and ensuring democratic integrity. Delays, as seen with the 2019 and 2023 general elections, undermine trust, allowing compromised mandates to persist. Prioritising judicial independence is vital to shield courts from political interference, particularly in high-stakes disputes. Establishing specialised election tribunals with clear timelines can address backlogs, ensuring prompt resolutions without sacrificing quality. Equally critical is capacity building for judges, focusing on emerging issues like discrepancies in electronically transmitted results to enhance judicial effectiveness in electoral matters.

Introducing comprehensive voter education campaigns: Voter education is crucial for credible elections, empowering citizens to make informed decisions and counter practices like vote-buying and misinformation. Many voters, particularly in rural and marginalised areas, are unaware of the implications of reforms introduced by the 2022 Act, including BVAS and IReV mechanisms. Coordinated campaigns led by INEC, in collaboration with civil society organisations, are essential. Utilising traditional and social media, grassroots networks, and leaders can enhance outreach. Initiatives such as Enough is Enough (EiE) Nigeria highlight the success of multi-channel approaches in fostering voter awareness.

Legislative amendments to bolster the enforcement of electoral laws: While the 2022 Act provides detailed provisions on electoral offences, enforcement remains a significant challenge. Sections 121-129, which criminalise vote-buying, intimidation, and ballot-stuffing, have limited impact due to inadequate prosecution mechanisms and systemic impunity. Reforms should include legislative amendments to streamline prosecution processes. As recommended by stakeholders, establishing a special electoral offences commission could focus exclusively on investigating and prosecuting electoral violations, bypassing political and bureaucratic bottlenecks. Enhanced penalties for repeat offenders and expedited trial procedures would also serve as effective deterrents. An example of best practice can be drawn from Kenya's Independent Electoral and Boundaries Commission (IEBC), which incorporates oversight mechanisms that ensure accountability for electoral malpractice.

Integrating advanced technological solutions: The introduction of BVAS and IReV has established a more transparent electoral system in Nigeria. However, technological advancements, such as electronic voting systems, could further streamline the process, addressing issues such as invalid ballots and logistical inefficiencies associated with paper-based elections. Implementing electronic voting systems requires comprehensive infrastructural investments, robust cybersecurity frameworks, and pilot testing to ensure reliability and public confidence. Additionally, legislation should explicitly address the legal status of electronically transmitted data, ensuring its admissibility in court for dispute resolution, thus reinforcing existing laws in Sections 50(2) and 64(4) - (6) of the 2022 Act.

8. Conclusion

Pursuing electoral integrity is paramount for Nigeria's democratic development, as evidenced by findings from recent studies that highlight ongoing reforms and systemic challenges. The introduction of the 2022 Act represents a significant legislative milestone, incorporating transformative innovations such as the BVAS and the electronic transmission of results. These advancements are designed to enhance electoral transparency, mitigate malpractice, and rebuild public trust in the electoral process. Nevertheless, substantial challenges endure, including electoral violence, vote-buying, voter suppression, institutional corruption, and protracted judicial adjudication. These persistent issues erode public confidence and undermine democratic principles. To achieve electoral integrity, a collaborative multi-stakeholder approach is imperative. The INEC, judicial bodies, CSOs, media, and political actors must engage cohesively to promote transparency, inclusivity, and accountability. Moreover, INEC's autonomy, as enshrined in Section 3(3) of the 2022 Act, requires robust safeguarding to diminish political interference and bolster operational capacity. Addressing logistical and technological challenges encountered in recent elections, such as delays in BVAS deployment, is crucial to solidifying INEC's credibility as an electoral arbiter. The judiciary plays a central role in ensuring electoral justice by efficiently adjudicating disputes and upholding the rule of law. Delays in the resolution of electoral petitions, as observed in previous elections, often perpetuate compromised outcomes. Consequently, strengthening judicial independence and capacity is essential for expedited resolutions and enhanced public trust. CSOs, including Yiaga Africa and the Centre for Democracy and Development, are integral in overseeing elections, advocating reforms, and conducting voter education campaigns. These initiatives, supported by impartial media reporting, empower the electorate and deter electoral malpractice. Ultimately, robust enforcement and targeted voter education are necessary to address the root causes of systemic issues and promote a credible electoral process, ensuring Nigeria's democratic resilience and serving as a model for electoral governance in Africa.