



INITIATIVE FOR RESEARCH,
INNOVATION AND ADVOCACY
IN DEVELOPMENT



ELECTORAL OFFENCES IN NIGERIA

a situational analysis

SUPPORTED BY

**MacArthur
Foundation**

Copyright © 2023.

This project was undertaken by The Electoral Hub, an affiliate of the Initiative for Research, Innovation and Advocacy in Development (IRIAD) with support from the Macarthur Foundation. All rights reserved.

About The Electoral Hub

The Electoral Hub, an affiliate of the Initiative for Research, Innovation and Advocacy in Development (IRIAD), is a multidisciplinary strategic think-tank which seeks to provide solutions to improve the credibility and integrity of the electoral process. The Electoral Hub complements the roles and activities of the different institutions, stakeholders and drivers of the electoral process and governance. The Electoral Hub aims to strengthen electoral governance and accountability in Nigeria through research, documentation, electoral education, policy and legal influencing and impact advocacy. We believe that the integrity of the electoral process is crucial in improving electoral governance and sustaining democracy in Nigeria. We also believe in solutions rooted in the principles of justice and equity.

IRIAD-The Electoral Hub

...promoting electoral knowledge, accountability and integrity

9B Omolara Adeyemi Street, Kukwaba, Abuja

Phone: +234 908 6998 850 +234 912 1551 337

+234 915 1221 138 +234 704 7998 525

Twitter: @electoralhub and @iriadev

Instagram: @electoralhub, @theelectoralforum, and @iriadev

Facebook: @electoralhubng, @lelectoralforum, and @iriadev

LinkedIn: <https://www.linkedin.com/company/the-electoral-hub/>

[www.https://www.linkedin.com/company/iriadev/](https://www.linkedin.com/company/iriadev/)

YouTube: <https://www.youtube.com/@electoralhub1196>

Website: <https://www.electoralhub.iriadng.org> and <https://iriadng.org>

Table of Contents

Table of Contents.....	ii
Foreword.....	iv
Preface	v
Acknowledgements	vi
Acronyms.....	vii
Executive Summary.....	ix
Introduction	1
1.1 Background and Context.....	1
1.2 Aim and Objectives of the Study	3
1.3 Methodology of the Study.....	3
1.4 Structure of the Paper.....	4
Conceptualisation of Electoral Offences	5
2.1 Framing of Electoral Offences Globally	5
2.2 Framing of Electoral Offences in Nigeria.....	7
Trajectory of Electoral offences in Nigeria	10
3.1 Electoral Offences before 1999.....	10
3.2 Electoral Offences after 1999.....	13
Legal Frameworks and Provisions on Electoral Offences in Nigeria.....	17
4.1 The Electoral Act 2022	17
4.2 The Constitution of the Federal Republic of Nigeria (CFRN)	18
4.3 INEC Regulations and Guidelines	19
4.4 Other Related laws and Policies.....	20
4.5 Electoral Offences and Punishment in the Electoral Act, 2022	22
4.6 Electoral Offences in the Elections (Registration, Etc. Of Voters) Act.....	28
The Prosecution of Electoral Offenders in Nigeria	34
5.1 Bodies Responsible for Prosecution of Electoral Offenders.....	34
5.1.1 The Office of the Attorney-General of the Federation	34

5.1.2 The Nigerian Police Force	35
5.1.3 The Independent National Electoral Commission.....	35
5.1.4 The Court System	36
5.2 Burden and Standard of Proof in Electoral Offences Cases	36
Efforts at Addressing Electoral Offences in Nigeria	41
6.1 Independent National Electoral Commission	41
6.2 Security Agencies.....	42
6.3 Election Petition Tribunals.....	42
6.4 Anti-graft Agencies	43
6.5 Legislative Bills on Electoral Offences in Nigeria	44
6.5.1 Senate Bill : The National Electoral Offences Commission (EST., ETC.) Bill, 2019 (SB 220).....	45
6.5.2 House of Representative Bill: The National Electoral Offences Commission and Related Matters Bill, 2022	46
Recommendations from Electoral Reform Committees.....	48
7.1 FEDECO/Babalakin Commission of Inquiry	48
7.2 Electoral Reform Committee/Uwais Panel	50
7.3 Presidential Committee on Electoral Violence and Civil Disturbances/Lemu Panel	52
7.4 Constitution and Electoral Reform Committee -CERC/Ken Nnamani	52
Conclusion and Recommendations Addressing Electoral Offences in Nigeria	54
8.1 Conclusion.....	54
8.2 Recommendations	54
Appendix.....	57
Appendix 1: Detailed provisions on electoral offences and penalties in the Electoral Act 2022	57

Foreword

The essence and capability of electoral processes to drive participatory development lies in their integrity, transparency, and fairness. For the Nigerian state, a thriving democracy is a symbol of progress and a catalyst for national development and cohesion. However, the prevalence of electoral offences in the country threatens the very foundation upon which democracy stands. *"Electoral Offences in Nigeria: A Situational Analysis"* is an in-depth exploration of the troubling spectre of electoral malpractices that has marred the entire political landscape of the state. With meticulous research, insightful analysis, and a keen eye on extant electoral laws, this study sheds light on the enormity of the situation while offering pragmatic recommendations to address these offences and restore the sanctity of electoral processes.

The journey into the world of electoral offences begins with a candid examination of their prevalence in Nigeria's political history. From voter intimidation and bribery to ballot box stuffing and election results manipulation, the alarming range of malfeasance presents an urgent call to action for all stakeholders in the democratic process. Through a comprehensive review of the existing electoral laws, this work seeks to unravel the strengths and weaknesses of the extant legal framework. It delves into the Electoral Act, highlighting its provisions and nuances, and explores the challenges in its implementation. By understanding the legal landscape, we gain the insights to identify the gaps that have allowed electoral offences to persist.

The vision for Nigeria's future lies not in complacency but in concrete action. As we traverse the pages of this seminal work, we are confronted with the stark reality that electoral offenses pose a significant threat to the nation's democratic fabric. However, this book is not a lamentation of the challenges faced but a blueprint for reform. Guided by the principles of justice, transparency, and equity, the recommendations testify to informed policymaking's transformative potential. They call for targeted electoral reform, equipping the relevant institutions with the tools needed to combat electoral offenses effectively. Furthermore, they stress the importance of civic education and voter awareness, empowering citizens to be vigilant and active participants in preserving the sanctity of their votes.

As we embark on this voyage of understanding, it is our hope that this situational analysis catalyses positive change and is a source of inspiration for those dedicated to preserving the integrity of the electoral process. Together, we shall chart a course toward a future where democracy thrives, and the voice of every Nigerian is respected and celebrated.

Kole Ahmed Shettima, PhD

Africa Director

John D. and Catherine T. MacArthur Foundation

Preface

Electoral offences pervade the Nigerian state, constituting a fundamental source of concern for the credibility of elections in the country. Its origin is not recent but the intensity with which electoral offences are perpetrated has been on the rise in recent times. More so, the electorate and political aspirants have been widely reported to be complicit in the illicit enterprise of electoral offences. This study presents a detailed situational analysis of the problem of electoral malpractice in Nigeria, showing the historical background, legal frameworks and specific regulations on electoral offences and the specified punitive measures, experience with the prosecution of electoral offenders, legislative bills on electoral offences, relevant recommendations from electoral reform committees, and novel recommendations for addressing the destructive trend of electoral offences in Nigeria.

The elaborate insight on electoral offences in Nigeria contained in this study is aimed, not only at showing the depressing state of the country's electoral processes and practices but also to show the positives that exist despite the subsisting and overarching presence of the negative trend. Sections in the study are deliberately contrived in a sequence, showing the problem, existing measures for containing it, efforts at containing – prosecuting – the menace and the accompanying lacunae, prior recommendations from reform committees, and novel recommendations arising from this study. This structure is aimed at guiding readers from a position of problem identification to one of solutions.

This is a research output of IRIAD-The Electoral Hub, an organisation focused on promoting electoral knowledge, accountability, and integrity through knowledge production and sharing, policy informing, advocacy and public education. The research is a part of the broader organization's effort to improve the integrity of elections in Nigeria. It is, therefore, our earnest hope that as readers immerse themselves in the pages contained, they would be propelled to reflect on the issues raised and advocate on the way forward towards eliminating electoral malpractices in our polity.

We hope that the knowledge from this study would be a catalyst for concerted action towards improving the quality of elections and strengthening democratic credentials of Nigeria.

Princess Hamman-Obels

Director

IRIAD – The Electoral Hub

Acknowledgements

The initiation, conduct and completion of this study benefitted from the contributions of various actors. Individual researchers, state institutions and funding organisations were particularly helpful in driving the process that produced this final report. As such, The Electoral Hub is grateful to all stakeholders whose financial, intellectual and other contributions made this research a success.

Specifically, we are grateful to the Macarthur Foundation for their generous funding, which made this research a possibility. Macarthur Foundation's commitment to knowledge advancement, democratic consolidation and development was the fulcrum that guaranteed the success of this study.

We are also grateful to Brenda Anugwom, the lead contributor, as well as Emem Udoh and the research team at IRIAD – The Electoral Hub. Specifically, we are thankful to the Director, Princess Hamman-Obels and Divine Otumbere Weldone, whose contribution of time, physical and intellectual energy helped in the production of this report. Their invaluable insights and inputs were very instrumental to the success of this study.

IRIAD - The Electoral Hub greatly appreciates every individual, organisation and institution for the role played in this study.

Acronyms

ABSAA	Abia State Signage and Advertisement Agency
ACE Project	Administration of Cost of Elections Project
AGF	Attorney General of the Federation
APC	All Progressives Congress
CERC	Constitutional and Electoral Reform Committee
CFRN	Constitution of the Federal Republic of Nigeria
CPC	Congress for Progressive Change
CSOs	Civil Society Organisations
DSS	Department of State Security
EADR	Election Alternative Dispute Resolution
ECOWAS	Economic Community of West African States
EFCC	Economic and Financial Crime Commission
EMB	Election Management Body
ERC	Electoral Reform Committee
FCT	Federal Capital Territory
FEDECO	Federal Electoral Commission
GNPP	Great Nigeria Peoples Party
HoR	House of Representatives
ICCES	Inter-Agency Consultative Committee on Election Security
ICPC	Independent Corrupt Practices and Related Offences Commission
INEC	Independent National Electoral Commission
MDAs	Ministries, Departments and Agencies
NASS	National Assembly
NCPC	National Council of Nigeria and the Cameroons
NCPC	National Council of Nigerian Citizens
NIPSS	National Institute for Peace and Strategic Studies
NNA	Nigerian National Alliance
NNDP	Nigeria National Democratic Party
NEC	National Electoral Commission
NEOC	National Electoral Offences Commission
NEPU	Northern Elements Progressive Union
NPC	Northern People's Congress
NPF	Nigerian Police Force
NPN	National Party of Nigeria
NPP	Nigeria Peoples Party
PDP	Peoples Democratic Party
PEPT/C	Presidential Election Petition Tribunal/Court

PRP	Peoples Redemption Party
PVC	Permanent Voter (s) Card
RERC	Registration and Election Review Committee
RO	Returning Officer
SAN	Senior Advocate of Nigeria
UPGA	United Progressive Grand Alliance
UPN	Unity Party of Nigeria
USIP	United States Institute of Peace
VEP	INEC Voter Education and Publicity Department

Executive Summary

Nigerian elections have a tendency to be flawed. They are characterised by various forms of malpractices and offences which continue to defy extant check and accountability mechanisms. Arising from this premise, this study lays out a situational analysis of electoral offences that pervade the Nigerian state. The study presents a historical background of the problem, legal frameworks and specific regulations on electoral offences and punitive measures, experience with the prosecution of electoral offenders, legislative bills on electoral offences, relevant recommendations from electoral reform committees, and novel recommendations for addressing the destructive trend of electoral offences in Nigeria. Data for the study were extrapolated from the Constitution, the Electoral Act 2022, Commissions of Inquiry, Reports and documented materials of relevant ministries, departments and agencies as well as relevant newspaper reports.

The study notes that, although electoral offences in Nigeria began in the immediate post-independence era, the trend has continued on an incremental basis following every successive election cycle. To this end, and in cognisance of the destructive and adverse consequences of electoral offences, the country's Constitution and Electoral Act lays out key provisions against electoral offences. More so, relevant governmental ministries, departments and agencies, including the main electoral umpire, the Independent National Electoral Commission (INEC), security agencies, anti-graft agencies (the Economic and Financial Crimes Commission and the Independent Corrupt Practices and Other Related Offences Commission) have exerted some effort towards containing the menace as have election petition tribunals and the legislative arm of the Nigerian government through legislative bills. These efforts have, however, yielded only marginal success as there have been very few prosecutions and even fewer convictions of electoral offenders despite its pervasiveness. There have also been relevant recommendations to address issue of electoral malpractices and malfeasance from commissions of inquiry such as the Babalakin Commission of 1986, Uwais Panel of 2008, Lemu Panel of 2011, and Nnamani Constitutional and Electoral Reform Committee of 2016.

Data from the study informed the finding that the pervasiveness of electoral offences in Nigeria has informed the introduction of diverse policy measures, reforms and legislations. The success of these measures is however impeded by weak institutional frameworks and corrective measures reflected in failures by relevant agencies to investigate and prosecute electoral offences. These failures have become a major obstacle to conducting quality and successful elections. It was thus, recommended amongst others, that, relevant agencies

intensify efforts at arresting, prosecuting, and securing the conviction of electoral offenders. It was also recommended that relevant agencies collaborate with civil society actors in combating electoral offences while simultaneously documenting and keeping records of electoral offenders to serve as deterrence against future violations of electoral laws, rules, regulations, and guidelines.

Introduction

1.1 Background and Context

Elections are periodic and highly competitive processes through which decision-makers in government are selected by citizens who enjoy broad freedom to make demands of the government and hold leaders accountable.¹ Elections are central to any democracy. The conduct of elections is overseen by election management bodies (EMBs) or electoral umpires. For the Nigerian state, the institution responsible for overseeing the conduct of elections is the Independent National Electoral Commission (INEC)². INEC performs diverse functions including organising, undertaking, and supervising all elections to the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and the membership of the Senate, the House of Representatives, and the House of Assembly of each State of the Federation amongst other regulatory powers.³ This process enables power to flow from the people and ensures respect for the constitutional limits on its exercise.

The competitive nature of elections is such that electoral malpractices and fraud has become one of the salient features of Nigerian elections⁴ where the quest for power is a zero-sum game, Machiavellian and ‘do or die’⁵. This was understandable given Nigeria’s first-past-the post electoral system, and its tendency to encourage a winner-takes-all political culture, which in turn converts politics and electoral competition into a zero-sum game and a theatre of war⁶. This cannot be divorced from the combination of the structural and cultural bases on which the country's political economy rested before and immediately post-independence years which shaped the dynamics and trajectories of competitive electoral politics in the country.

For example, according to Jibrin Ibrahim⁷, electoral politics has been “redefined as the most effective organisation of electoral fraud and competitive rigging between parties,

¹Kirkpatrick, J. J. (1984). Democratic Elections and Democratic Government. *World Affairs*, 147(2), 61–69. <http://www.jstor.org/stable/20672013>

²There are actually 37 EMBs in Nigeria with INEC as the major one and responsible for all elections except local council elections of the 36 states of Nigeria which are handled by each of the state EMB known as State Independent Electoral Commission.

³Paragraph 15 of Part 1 of the Third Schedule to the 1999 Constitution of the Federal Republic of Nigeria

⁴Nwankwo, J. C. (2023). The 2019 General Elections, Logistics Challenges and Electoral Transparency: The Implications for Democratic Consolidation in Nigeria. *Caritas Journal of Management, Social Sciences and Humanities* 2(10): 90-105.

⁵ Nigerian terminology of electoral politics where election is taken as a ‘do or die’ affairs

⁶Jinadu, A. (2012). Preface. In: Report of the Registration and Election Review Committee. <https://inecnigeria.org/wp-content/uploads/2019/02/RERC-REPORT.pdf> . Page xiv

⁷Ibrahim, J. (2006). Legislation and the Electoral process: the Third Term Agenda and the Future of Nigerian Democracy. *Journal of African Elections* 5(1): 36-59. This paper was also presented at the Centre for Democracy

barons and godfathers with no history of commitment to democracy or the practice of internal party democracy.”⁸ Similarly, failure by relevant agencies to investigate and prosecute electoral offences has increased electoral impunity and become a major obstacle to successful conduct of elections⁹.

The Constitution of the Federal Republic of Nigeria, 1999 (as amended), the Electoral Act 2022 and the Independent National Electoral Commission (INEC) Regulations and Guidelines constitute the legal framework that regulates the country’s electoral process.¹⁰ These legal frameworks are important for safeguarding the sanctity of the process and ensuring leadership responsiveness. Election outcomes lacking credibility could result in the enthronement of non-responsive leadership and create substantial space for violent opposition by the losing candidate(s), especially where the contests have a sectarian cast.¹¹ As such, the legal instruments – Constitution or Electoral Act – lays out specific offences and appropriate penalties ranging from incarceration to fines, aimed at safeguarding the credibility of the electoral process.

Legislative instruments and their provisions on electoral offences in Nigeria have undergone continuous transformation following the country’s transition to democracy and rising concerns about the increasing prevalence of electoral malpractices in the country. Since Nigeria adopted a democratic system of government in 1999, reactions to electoral offences have grown into a magnitude of concern to all, including the international community, which sent shivers down the spines of the political class after a visa ban was imposed by the United States on “election riggers” in 2020.¹² Various bills have come before the Legislature on electoral offences to give the scourge much-deserved attention despite the provisions in the electoral laws. As of March 2022, a bill to establish an Electoral Offences Commission had passed in the Senate and the House of Representatives as well. Other bills seeking to establish a Tribunal on electoral offences are currently before both houses of the National Assembly.

The afore-stated efforts at containing electoral offences through legislative bills point to the severity of the menace. In view of this severity, it becomes necessary for all relevant stakeholders to act towards containing electoral offences. This responsibility

and Development Nigeria Round Table in London on 21 April 2006 and published in *The Constitution*, 6(2), 46-74.

⁸Ibid page 43

⁹See Report of the Constitution and Electoral Reform Committee (CERC), (Main Report) 2017; Registration and Election Review Committee

¹⁰INEC, (2019), *Electoral Offences and Penalties*. [ELECTORAL-OFFENCES-AND-PENALTIES-latest-FEBRUARY-2019.pdf \(inecnigeria.org\)](https://inecnigeria.org/ELECTORAL-OFFENCES-AND-PENALTIES-latest-FEBRUARY-2019.pdf) accessed in March 2022

¹¹Campbell, J. (2010), *Electoral Violence in Nigeria*, Contingency Planning Memorandum no. 9, p. 3

¹²The Guardian (2020), *Visa Ban: FG says sanctioning electoral offenders disrespectful to Nigeria's sovereignty*. <https://guardian.ng/news/visa-ban-fg-says-sanctioning-electoral-offenders-disrespectful-to-nigerias-sovereignty/>

informs this attempt by The Electoral Hub to produce a comprehensive documentation and analysis of issues relating to, and arising from, electoral offences in Nigeria.

1.2 Aim and Objectives of the Study

The main aim of this study is to document Nigeria's experience with electoral offences, to know the what, how, where we are, efforts so far in addressing electoral offences as well as draw lessons from nation's experience thus far. The specific objectives of the study are to:

- i) Provide a clear conceptualization of electoral offences from the global as well as national perspectives,
- ii) Trace the historical trajectory of electoral offences in Nigeria
- iii) Identify legal frameworks on electoral offences in Nigeria and their key provisions.
- iv) Analyse efforts at the prosecution of electoral offences in Nigeria with a focus on identifying responsible parties and the burden of proof
- v) Assess efforts of stakeholders aimed at addressing electoral offences,
- vi) Identify recommendations advanced by electoral reform committees for tackling electoral offences in Nigeria, and
- vii) Provide suitable recommendations for the prevention, prosecution, and deterrence of electoral offences within the Nigerian electoral landscape.

1.3 Methodology of the Study

This study was desk research that relied on a mix of primary and secondary sources for data. Newspaper publications and official documents from the archives of relevant government ministries, departments and agencies constituted useful sources for understanding extant election related regulations, stakeholders' adherence or non-adherence to these frameworks and prosecutorial efforts. Key documents that were particularly useful include the Constitution of the Federal Republic of Nigeria, the Electoral Act 2022, Elections (registration etc. of voters) Act (2004), Election Observers' Reports between the 2019 and 2023 election cycles, and publications of the Independent National Electoral Commission (INEC) on electoral offences, Commissions of Inquiry, and reports of MDAs. These were augmented with primary data assembled from The Electoral Hub's observations from elections conducted between 2019 and 2023 in Nigeria. Data generated were presented and analysed under relevant themes.

1.4 Structure of the Paper

In addition to this introductory segment, the study includes sections on the conceptualisation of electoral offences, the historical background of electoral offences in Nigeria, a detailed explanation of legal frameworks and the specific provisions on legal offences in Nigeria with penalties, agencies responsible for the prosecution of electoral offenders, burden and standard of proof of electoral offences, opportunities for tackling electoral offences, and a review of the country's experience with electoral reform committees and their recommendations. The last section provides appropriate concluding summary of the study and recommendations for addressing electoral offences in Nigeria.

Conceptualisation of Electoral Offences

2.1 Framing of Electoral Offences Globally

Electoral offenses encompass a wide spectrum of actions that undermine the integrity and fairness of elections, thereby jeopardising the democratic foundation of a society. The concept is diversely framed, as electoral fraud, electoral manipulation, electoral irregularities, electoral misconduct, violation of electoral rules, and violation of electoral norms, among others.¹³ Whichever way it is framed, the underlying idea is that electoral offences constitute actions that violate the integrity of the electoral process. According to the United States Institute of Peace (USIP), electoral offences constitutes interference with a citizen's right to vote, abuse of the right to vote, interference with the integrity of the voting process and interference with election candidates.¹⁴ Gross violation of any one condition invalidates the fulfillment of all the others as elections are considered democratic if and only if they fulfill the conditions for its ideal conduct.¹⁵ Violations and infractions at any level of the electoral process is therefore a crucial issue of concern in discourses around electoral offences. As Andreas Schedler noted, electoral fraud is essentially the introduction of bias into the administration of elections which:

can take place at any stage of the electoral process, from voter registration to the final tally of the ballots. It covers such activities as forging voter ID cards, burning ballot boxes, or padding the vote totals of favoured parties and candidates. Invariably, though, it violates the principle of democratic equality.¹⁶

Although Schedler's idea of electoral fraud as the introduction of bias into the administration of the electoral process presents a seemingly exclusive focus on administrative bodies and institutions – macro level fraud, the examples he proceeds to provide draws attention to the role individuals and 'non-administrative' groups could play in perpetrating electoral offences and distorting the electoral process. This is further buttressed by the idea of first- and second-order electoral offences as advanced by Pippa Norris.

¹³See Schedler, Andreas (2002). " Elections Without Democracy: The Menu of Manipulation." *Journal of Democracy* 13 (2002): 36-50; USIP <https://www.usip.org/sites/default/files/MC1/MC1-Part2Section15.pdf>; Norris, Pippa (2013). The new research agenda studying electoral integrity. *Electoral Studies* 32(4), 563-575; and Babalakin Commission of Inquiry (1986). Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission. Federal Republic of Nigeria

¹⁴USIP <https://www.usip.org/sites/default/files/MC1/MC1-Part2Section15.pdf>

¹⁵Schedler, Andreas (2002). " Elections Without Democracy: The Menu of Manipulation." *Journal of Democracy* 13 (2002): 36-50

¹⁶ibid

According to Pippa Norris,¹⁷ the global standards relating to the integrity of elections can be divided into two primary levels: first-order and second-order. Although the exact demarcation between these levels is wavy at best, this distinction offers a constructive framework for understanding electoral challenges. Norris explains that first-order issues encompass instances involving severe violence and significant violations of fundamental human rights. These actions can be initiated by various entities such as state security forces, ruling or opposition parties, community leaders, and other relevant actors. Norris points out that these actions collectively pose substantial threats to the stability of a governing system. The potential outcomes, as outlined by Norris, encompass concessions for reforms, heightened state-sanctioned repression, or even periods of revolutionary upheaval aimed at upending the existing regime.¹⁸

Norris further contends that second-order challenges concern more routine issues such as deficient technical expertise, or human errors that undermine the credibility of the electoral process.¹⁹ According to him, the spectrum of public endorsement for the system extends from supporting specific figures and authorities, like placing trust in elected leaders, to a broader faith in the institutional framework of the regime, approval of its performance, alignment with its fundamental principles, and a sense of identification with the nation-state on a more abstract level. Within well-established democracies, Norris points out that where legitimacy is derived from a history of recurring elections, isolated occurrences of second-order complications might not necessarily erode trust in the regime's institutions or the broader systemic backing. However, Norris warns that in nations with limited exposure to competitive elections, or as we choose to adapt his idea, in transitional democracies like Nigeria, even minor second-order irregularities can escalate into first-order quandaries. Norris emphasizes that in contexts where avenues for peaceful protest are restricted, minor electoral disagreements and minor irregularities (including even slight delays in announcing official results) could potentially trigger widespread violence, resulting in civilian casualties, inter-communal clashes, and extensive property destruction via looting and arson.

Similar to Norris' position, the Administration and Cost of Elections (ACE) Project provides a distinction between two categories of electoral offences.²⁰ According to them, there are specific electoral offences, which are an assault on essential elements within an electoral process, and illicit conducts which, although aimed at hampering or interfering with the electoral process, violate the laws of the land.²¹ The publication further details the specific examples of specific electoral offences - including tampering

¹⁷Norris, P. (2013). The new research agenda studying electoral integrity. *Electoral Studies*, 32(4): 563-575.

¹⁸ibid.

¹⁹ibid.

²⁰Administration and cost of Elections Project, <https://aceproject.org/main/english>

²¹Ibid. <https://aceproject.org/main/english/lf/lfd10.htm> accessed in March 2022

with voters' registers, changing a ballot slip placed in the ballot box by the voter or tampering with result sheets to favour a candidate as assaults on a specific element of the electoral process. However, when a person kills an electoral official or agent of a political party observing the process or even bombing or burning down the headquarters of a political party, the electoral process is affected, and so is the society at large.²² This violates the law of the land.

Electoral offences undoubtedly involve numerous activities which may range from voter suppression and manipulation to bribery and misinformation campaigns. Effectively conceptualising electoral offenses requires a comprehensive examination of not only the legal frameworks governing elections but also the broader socio-political context in which they occur. Herein, lies the idea of electoral norms, to which Schedler refers. Understanding electoral offences requires a consideration of the principles of ensuring equal participation, transparency, and accountability in the electoral process. Electoral offences can erode the fundamental right of citizens to choose their representatives freely and fairly.

2.2 Framing of Electoral Offences in Nigeria

Beyond the efforts at conceptualisation of electoral offences at the global level, the Nigerian election management body, INEC, offers simple, yet conceptually strong definition of electoral offences. They note that any conduct – action or inaction - which is prohibited by the Constitution or the Electoral Act and a breach of which attracts punishment is an electoral offence.²³ It is essentially any election-related conduct - action or inaction - which the Constitution or the Electoral Act prohibits, or any other statute and a breach of which attracts punishment²⁴. This includes conduct or omission aimed at illegitimately acquiring political power. It has been stated by the courts that the rules and procedures laid down in the Electoral Act must be confirmed at all the stages of the electoral process; otherwise, an election may be declared void or irregular. Some of the electoral offences provided under the various electoral laws in Nigeria include acts such as rigging, vote-buying, coercion and, in most cases, violence. These acts are aimed at curtailing fairness during the electoral process to produce a winner through fraudulent or violent means²⁵.

²²ibid

²³ INEC. (2019). *Electoral Offences and Penalties*. <https://www.inecnigeria.org/wp-content/uploads/2019/02/ELECTORAL-OFFENCES-AND-PENALTIES-latest-FEBRUARY-2019.pdf>

²⁴The Electoral Hub (2022). *Electoral Act 2022: Electoral Offences and Penalties*. www.electoralthub.iriadng/publications/

²⁵Steve, A. A., Nwocha, E. M. and Igwe, O. I. (2019). *An Appraisal of Electoral Malpractice and Violence as an Albatross in Nigerian's Democratic Consolidation*. *Beijing Law Review*10(1). <https://www.scirp.org/journal/paperinformation.aspx?paperid=90402>

Electoral offences can occur during the pre-election stage, election period and post-election period of the electoral process. It can also be committed by political parties, candidates, the Electoral Management Bodies and the electorates, and is intended to mar the process. The report of the Babalakin Commission of Enquiry provides a clearer picture of what constitutes electoral offences in Nigeria. The Commission, in providing a list of 16 offences perpetrated in the 1983 General Elections offers insight on the specific issues that constitute electoral offences in Nigeria. Issues as contained in the report²⁶ include:

1. Compilation of fictitious names.
2. Illegal compilation of separate voters list.
3. Abuse of the revision exercise.
4. Illegal printing of voters' cards.
5. Illegal possession of ballot boxes.
6. Stuffing of ballot boxes with ballot papers.
7. Falsification of election results.
8. Thumb-printing of ballot papers.
9. Voting by under-age children.
10. Printing of Form EC 8 and EC 8A.
11. Deliberate refusal to supply election materials.
12. Announcing results where no elections were held.
13. Unauthorised announcement of election results
14. Harassment of candidates, agents and voters.
15. Change of list of electoral officials.
16. Box-switching and inflation of figures.

Although compiled after the 1983 General Elections, the list remains relevant to contemporary times. Almost all 16 items contained in the list above continue to feature as threats to the credibility of elections in Nigeria.

Jibrin Ibrahim²⁷ delimited electoral offences which he referred to as manipulations into the three stages/phases of the electoral process following the electoral cycle, namely: pre-election, election, and post-election. According to Ibrahim, most election manipulation occurs before the election (pre-election stage/phase) and involves elaborate forms of system manipulation "rigging as system manipulation". He further provides examples of manipulations during the different electoral stages as follows:

²⁶Babalakin Commission of Inquiry (1986). Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission. Federal Republic of Nigeria

²⁷Ibrahim, Jibrin. (2006). Legislation and the Electoral process: the Third Term Agenda and the Future of Nigerian Democracy. *Journal of African Elections* 5(1):36-59.

Examples of Pre-election Manipulation

- Exclusionary party registration conditions
- Manipulation of the voters' register
- Appointment of corrupt electoral officers
- Exclusion and false nomination of candidates during party primaries
- Gerrymandering

Examples of Polling-day Manipulation

- Collaboration between polling officials and agents to subvert the electoral rules
- Late or non-supply of election materials to opposition strongholds
- Delay in opening polling centres located in opposition strongholds
- Stuffing of ballot boxes
- Under-age voting
- Multiple voting
- Inducement of voters with food and money
- Threatening voters with the use of force

Examples of Post-election Manipulation

- Refusal to count ballots from opposition strongholds
- Changing the results between voting centres and collation centres
- Declaration of false results
- Annulment of elections in situations where the results are unacceptable to incumbents
- Long delays or manipulation of election tribunals to protect stolen results

Since, Babalakin (1986) and Ibrahim (2006), the challenges of electoral fraud have grown in complexity as concerns about electoral information and emergent technological issues which could influence the electoral process in contemporary times were not really issues of concern in the 1983 era or even 2006. The digital age has introduced new challenges, such as cyber-attacks on voting systems, manipulation of social media platforms, fake news and online disinformation campaigns. These emerging threats demand a forward-looking approach to conceptualising electoral offences, one that remains adaptable to the evolving methods of interference. A holistic view takes into account the different stages of the electoral process, the interconnectedness of various offenses, the need for international cooperation to combat transnational electoral crimes, and the importance of educating the public about recognising and countering attempts to subvert the electoral process.

Trajectory of Electoral offences in Nigeria

3.1 Electoral Offences before 1999

Electoral offences such as vote-buying, thuggery and rigging have remained a burden on the Nigerian electoral journey. Evidently, in all elections, from the Local Government Council elections to Presidential elections, issues of fraud, malpractices, manipulations and violence before, during and after elections have characterised the political space since post-independence. As noted in the Roundtable on the 1983 General Election organised by NIPSS, only the 1959 and 1979 elections were held without systematic rigging and both of these elections had one point in common: they were held in the presence of strong arbiters – the colonial state (1959 election) and the military (1979 election). Arbiters, who were not themselves participants in the elections and who desired free and fair elections²⁸. The 1964 general election was a significant landmark in Nigeria's political history as it was the first post-independence election to be held and conducted by Nigerians themselves. It can also be argued that this election brought about the advent of electoral malpractice and offences.²⁹ The election was marred with various forms of electoral offences such as rigging, extreme violence, intimidation, exclusion, denial, manipulation, ethnic hostility and outright killing of political opponents³⁰.

The prevalence of electoral offences and malpractices, and the resultant upheavals, especially in the defunct Western region contributed to paving the way for a military incursion in 1996. Thereafter, the country experienced a 3-year civil war and 13 years of military rule. By 1979, however, new elections were conducted. Evidence on the 1979 election also pointed to the prevalence of electoral offences at various levels. Chief Obafemi Awolowo, who contested under the platform of the Unity Party of Nigeria (UPN) alleged thus:

... The NPN has acceded [sic] to power by fouling the electoral process. We have seen that in fouling the process, the NPN was not alone. Indeed, by itself alone, there was very little the NPN could do which will have

²⁸National Institute for Policy and Strategic Studies, 1983. Round-table Meeting on the 1983 General Elections, Kuru

²⁹Ewuga, L. E.(2019), *Electoral Malpractices in Nigeria; Civic Education as an Antidote*; International Journal of Research and Scientific Innovation (IJRSI) | Volume VI, Issue VIII, August 2019 | ISSN 2321–2705; accessed at <https://www.rsisinternational.org/journals/ijrsi/digital-library/volume-6-issue-8/192-196.pdf>

³⁰See Steve, A. A., Nwocha, M. E., & Igwe, I. O. (2019). An Appraisal of Electoral Malpractice and Violence as an Albatross in Nigerian's Democratic Consolidation. *Beijing L. Rev.*, 10, 77; and Ibrahim, J. (2006). Legislation and the Electoral process: the Third Term Agenda and the Future of Nigerian Democracy. *Journal of African Elections* 5(1):36-59.

made any noticeable impact. But the FEDECO and practically all the orders of government were involved in the foul game.³¹

The quote from Awolowo above pointed to the perpetration of electoral offences, not only by political parties but by a collusion of the election management body and organs of government – the legislature, executive and judiciary. Opposition political parties that partook in the contest (Unity Party of Nigeria, the Nigeria Peoples Party (NPP), the Great Nigeria Peoples Party (GNPP) and the Peoples Redemption Party (PRP)) all claimed that the election had been rigged in favour of the NPN.

The next election after the 1979 election was that of 1983. Evidence shows that the election was also characterised by an array of electoral offences including voter intimidation, extreme violence, and massive competitive rigging, including ballot manipulation. It was alleged that the Federal Government, led by the National Party of Nigeria (NPN), influenced and manipulated the electoral process and its outcomes in Anambra, Oyo, Kaduna, Gongola and Borno States.³² An interesting case is that of the Ondo State gubernatorial election in 1983 conducted by the Federal Electoral Commission (FEDECO) under the chairmanship of Justice Ovie Whiskey (Rtd.); in that election, the NPN candidate, Chief Akin Omoboriowo was declared elected by the Electoral Commission against Chief Michael Ajasin of UPN, who actually won the election. Chief Omoboriowo's results were inflated while Chief Ajasin's results were decreased.³³

Latching onto flaws in the 1983 elections, the military again took over power. By 1993. The military organised the widely lauded, yet infamous June 12, 1993 General Election. This election which has been widely lauded as the freest and fairest in the history of elections in Nigeria, is however infamous due to its annulment on June 23, 1993 by the then military president General Ibrahim Babangida. Although widely perceived to be free and fair, the June 12th election was not totally free of electoral offences. An excerpt from the transcript of General Ibrahim Babangida's speech during the election points to this as it reads thus:

There was in fact a huge array of electoral malpractices virtually in all the states of the federation before the actual voting began. There were authenticated reports of electoral malpractices against party agents, officials of the National Electoral Commission and also some members of the electorate. All of these were clear violations of the electoral law;

³¹ Adeyinka Makinde (June 24, 2019). *Awolowo accuses the NPN, FEDECO & the Judiciary of "fouling the electoral process" / December 1979* [Video]. YouTube.

<https://www.youtube.com/watch?v=lnKhFoBXwuA&t=40s>

³² Ibid

³³ Ibid

there were proofs of manipulations through offer and acceptance of money and other forms of inducement against officials of the National Electoral Commission and members of the electorate. There was also evidence of conflict in the process of authentication and clearance of credentials of the presidential candidates.³⁴

While the excerpt above is likely to be viewed as an attempt by a military government to justify its failure to hand over power, it is almost a consensus that the election was widely marred by vote trading. With the 1993 elections annulled, the military remained in power till 1999 when the present democratic dispensation began.

Bayo Adekanye 1990 in Jibrin Ibrahim 2005 captured this historical trajectory of electoral malpractices and offences instances succinctly as shown below³⁵:

- **May 1961:** The Northern regional election of May 1961 which gave the then Northern People's Congress (NPC) a sweeping victory of 94 per cent of seats in the regional assembly, while eliminating the Northern Elements Progressive Union (NEPU) as an opposition. The regional ruling party had achieved this sweeping electoral victory, using in part all forms of electoral chicanery, political intimidation, and even coercion, including the arrest and imprisonment of opposition leaders.
- **November 1961:** In the Eastern regional elections of 1961, the National Council of Nigerian Citizens (NCNC)³⁶, the ruling party of the Eastern region employed similar methods of malpractice, turning the East into a one-party dominant region. The elections were also marked by persecution of all dissident minority opposition parties operating on the periphery.
- **October 1963:** The mid-Western regional elections of October 1963 and January 1964 turned the then newly created region into what one writer at the time called the 'cockpit of Nigeria'. There was a fierce struggle for supremacy among the three majority parties: the NPC, the NCNC, and the by now politically emasculated Action Group (AG), all of them deploying every resource considered necessary to capture the region.
- **December 1964 – January 1965:** The first post-independence federal general elections took place in late December 1964 through early January 1965. They were fought between two large political coalitions, the Nigerian National

³⁴ The Cable (2018, June 12). There was an array of malpractices' — IBB's speech annulling June 12 (FULL TEXT). <https://www.thecable.ng/array-malpractices-ibbs-speech-annulling-june-12>

³⁵ Adekanye, J. Bayo. 1990. 'Elections in Nigeria: Problems, Strategies and Options'. *Nigerian Journal of Electoral and Political Behaviour* 1(1). In Ibrahim, Jibrin. (2006). Legislation and the Electoral process: the Third Term Agenda and the Future of Nigerian Democracy. *Journal of African Elections* 5(1):36-59.

³⁶ Formerly National Council of Nigeria and the Cameroons

Alliance (NNA) and the United Progressive Grand Alliance (UPGA). The NNA comprised the NPC and the newly created Nigeria National Democratic Party (NNDP)³⁷, while the UPGA was made up of the NCNC and the AG. Marked by countrywide electoral malpractices, political intimidation, and violence, the December 1964 elections climaxed with a last-minute boycott by one of the coalitions of parties. This resulted in a serious constitutional crisis as Nigeria was without a government for three days, during which loose talk about an Eastern regional plan to secede or about an impending army-organised putsch filled the political air.

- **October 1965:** Another tumultuous election after the Eastern region election was the Western region elections of October 1965. The elections were one of the most violent elections to be conducted in post- independence Nigeria. The results were heavily rigged in favour of the NNDP minority party, which had been in power in the region since 1962 and against the interests of the dominant AG. The Western elections were immediately followed by a mass revolt of the region’s inhabitants against the NNDP’s usurpation. In a similar vein, the latter regime could not be saved by subsequent counter-measures such as ‘flooding the West with troops’ which its supporters embarked on in the NPC-dominated federal government. The bloody violence which resulted in the breakdown of law and order, was threatening to engulf the whole federation when the army majors struck on 15 January 1966. This violence gave credence to the “Wild Wild West” adjective for the region then.

3.2 Electoral Offences after 1999

Cases like the afore-stated are rife and widely documented during the military era. The expectation however, was that the end of an epoch of intermittent military dominance would result in an incremental improvement in the quality of elections. The experience in the democratic dispensation that marked the turn of the century has been a far cry from this expectation. In the seven general elections that have been conducted in the Fourth Republic (1999, 2003, 2007, 2011, 2015, 2019 and 2023), media reportages show that virtually all major political parties and political actors are involved in cases of electoral malpractices. All seven elections have been marred by cases of electoral offences and violence which short-change the citizen’s willpower and mandate expressed during the electoral process.³⁸ The 1999 general election which saw the emergence of Olusegun Obasanjo of the People’s Democratic Party (PDP) as winner,

³⁷ The NNDP was a break-away party from the AG, which the NPC had helped to keep in power in the old West and apparently against popular wishes.

³⁸ Aluaigba, M. T. (2016). Democracy deferred: The effects of electoral malpractice on Nigeria’s path to democratic consolidation. *Journal of African elections*, 15(2), 136-158.

was considered relatively peaceful because the country was transitioning from a military regime to a civil regime.³⁹ There were, however, reports of fraudulent electoral practices which included the late commencement of voting, late arrival of electoral materials, missing names of eligible voters on the register, early closure of voting at some polling stations and voting during legally unstipulated hours. The most noticeable were cases of bribing of voters and vote buying in various States including Delta and Kano State, as reported by election observers.⁴⁰

The notable electoral offences that were committed during the 2003, 2007 and 2011 elections include massive use of money for vote-buying, stuffing of ballot boxes, ballot-box snatching, falsifying election results to favour or disfavour particular candidates, and fraudulently announcing that candidates who had in fact lost, had won. The 2011 Election, in particular, was marred with election violence which claimed many innocent lives, especially in the Northern part of the country, when the PDP candidate, Goodluck Jonathan was declared winner⁴¹. The violence which was reported to have claimed the lives of at least, 10 members of the National Youth Service Corps engaged as ad-hoc staff for electoral duty, and roughly 800 others, was attributed to aggrieved members of the Congress for Progressive Change (CPC). The outcome of the election was vehemently rejected by the leadership of CPC, who alleged the prevalence of electoral malpractices such as vote-trading, ballot-box stuffing and inflation of election results.⁴² These complaints and allegations prompted youths who saw CPC as the dominant political force in their communities to turn towards violence.⁴³

The 2015 General Elections improved the electoral process as it was relatively peaceful, although it was not completely flawless. For the 2019 general elections, the United States Government reported that there was evidence of security agencies being used to intimidate voters, election observers and INEC officials, particularly in the Southern region of the country.⁴⁴ The Situation Room, a Nigerian Civil Society Group, reported that 626 lives were lost in the election process, before and during the elections.⁴⁵ There were also high cases of voters' inducement, rigging, ballot snatching and buying and

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

⁴² Orji, N. & Uzodi N. (2012). Post Election Violence in Nigeria: Experience with the 2011 Elections. <https://placng.org/i/wp-content/uploads/2020/02/PEV.pdf>

⁴³ ibid

⁴⁴ Sani, K., (2019) *Elections: Army, SSS used to intimidate voters, INEC officials – U.S. Report* (March 15, 2020); accessed at <https://www.premiumtimesng.com/news/headlines/381980-2019-elections-army-sss-used-to-intimidate-voters-inec-officials-u-s-report.html>

⁴⁵ Onapajo, H., & Babalola, D. (2020). Nigeria's 2019 general elections—a shattered hope? *The Round Table*, 109(4), 363-367.

selling of Permanent Voters' Card (PVC). During the 2015 elections, suspected APC supporters were reported to have razed PDP property in Gombe state, Nigeria.⁴⁶

Electoral violence has been a pervasive form of electoral offence in Nigeria. This is evident in the exchange of allegations among chieftains of three major parties that contested the 2023 general elections – APC, PDP and LP.⁴⁷ More so, there have been cases when state apparatuses of force are alleged to be complicit in the perpetration of electoral violence. Following the 2019 Presidential and National Assembly Election in the State, military personnel were alleged to have unleashed violence on Abonnema in Akuku-Toru Local Government Area of Rivers state where 15 Peoples Democratic Party, PDP, members were killed. The military also killed two PDP agents in Emohua Local Government Area.⁴⁸ This complicity of the military brings a unique dimension to the issue of electoral offences, drawing attention to the role of state actors and the need for efforts to be exerted at ensuring their accountability. It is worth noting that the circumstances that gave rise to violence in the state – power contests between major political players of the PDP, a party at the helm in the state, and the APC, the ruling party at the national level – is present in various other states of Nigeria as are cases of electoral violence.

The trend in electoral offences have continued in contemporary times, in off-cycle elections conducted in 2021 and 2022, and also the recently concluded 2023 general elections in Nigeria. In the 2021 Anambra State Governorship Elections, observers on the field noted that there were not-so-discreet cases of vote-buying, intimidation and violence recorded across the twenty-one Local Government Areas of the State.⁴⁹ In the same year, the Akwa Ibom State High Court convicted and sentenced a Returning Officer (RO) in the 2019 General Elections in Akwa Ibom North-West Senatorial District to 3 years imprisonment for electoral fraud.⁵⁰ The convict, Professor Peter Ogban, a professor of soil science at the University of Calabar, was found guilty of fraudulently manipulating election results, publishing, and announcing false results of two local government areas.⁵¹ The legal framework for electoral offences was tested in this landmark case. Also, the 2022 FCT local council election recorded similar trends of malpractices especially vote-buying and selling in many polling units.⁵² The

⁴⁶ <https://www.premiumtimesng.com/news/headlines/174712-nigeria-2015-violence-escalates-suspected-apc-supporters-razed-pdp-property-gombe.html?tztc=1>

⁴⁷ <https://www.channelstv.com/2022/12/22/pdp-lp-apc-chieftains-trade-accusations-over-electoral-violence/>

⁴⁸ <https://www.vanguardngr.com/2019/02/killings-us-calls-for-end-to-violence-in-rivers-2/>

⁴⁹ CDD Election Analysis Centre Preliminary Anambra Election Report (November 6, 2021); <https://www.cddwestafrica.org/2021/11/06/cdds-preliminary-anambra-election-report/>

⁵⁰ Premium Times (2021), *Nigerian Professor Jailed for Electoral Fraud*, <https://bit.ly/3i27roF> accessed in March 2022

⁵¹ *ibid*

⁵² The Electoral Hub (2022). *Lessons from 2022 FCT Area Council Election*.

<https://electoralhub.iriadng.org/publications/technical-papers-briefs/deepening-democracy-lessons-from-2022-fct-area-council-elections/>

Electoral Hub's 2023 post-election analysis also laid out panoply of electoral offences perpetrated across the country.⁵³

The historical trend established above provides a glimpse into the gory image of election irregularities that has trailed the country's history since independence. Since practices over time become a part of people's culture, the deep historical roots of electoral offences and malpractices in Nigeria provide some explanation for the persistence and sophistication of electoral offences in the post-1999 democratic era. This is despite the existence of clear regulatory frameworks for elections in the country.

Elections were regulated by Decree No. 35 of 1991 before 1999 and later became the Election (Registration, Etc. of Voters) Act, LFN 2004. The Electoral offences under this Act are enumerated in the next section.

⁵³ The Electoral Hub (2023). *Electoral Accountability Matter: Analysis of Nigeria's 2023 General Election*. www.electoralhub.iriadng.org/publications/

Legal Frameworks and Provisions on Electoral Offences in Nigeria

There are a menu of laws regulating the electoral process and governance in Nigeria. As noted in the CERC 2017, the real challenge with addressing electoral offences and impunity is not the absence of laws but the enforcement of existing provisions and sanctions in tackling offences. For instance, The Electoral Act 2022 provides for a wide range of electoral offences with accompanying sanctions (see table in the next section). The Act also empowers INEC to prosecute offenders through its legal offices or any legal practitioners it appoints. The Act, Section 144, also stipulates that “The Commission shall consider any recommendation made to it by a tribunal with respect to the prosecution by it of any person for an offence disclosed in an election petition”. Additionally, some of these offences may be criminal offences that are also subject to prosecution under Nigeria’s criminal laws.

The laws that regulate the conduct of elections in Nigeria are the Constitution of the Federal Republic of Nigeria (CFRN), (as amended), the Electoral Act 2022 and the Independent National Electoral Commission (INEC) Rules and Regulations.⁵⁴ Persons who commit electoral offences are generally tried and prosecuted at magistrate courts, and high courts under the Electoral Act.⁵⁵ An electoral offence may be committed by INEC or security officials, political parties and their officials, candidates, observers, journalists/media houses or the general public.⁵⁶

4.1 The Electoral Act 2022

In Nigeria, the Electoral Act serves as a crucial legal instrument for regulating virtually all aspects of electoral conduct and ensuring the credibility of the process. It outlines rules and regulations that govern the entire electoral process, from voter registration to results announcement. The Electoral Act 2022 repealed the Electoral Act 2010. The Act contains provisions for regulating the conduct of Federal, State and Area Council elections, approving the use of card readers, and other technological devices in elections and political party primaries, providing a timeline for the submission of list of candidates, specifying a criteria for substitution of candidates, placing limits of campaign expenses, and addressing the omission of names of candidates or logo of

⁵⁴INEC (2019), *Electoral Offences and Penalties*. <https://www.inecnigeria.org/wp-content/uploads/2019/02/ELECTORAL-OFFENCES-AND-PENALTIES-latest-FEBRUARY-2019.pdf>

⁵⁵ Electoral Act, (2022), Section 145(1) and (2)

⁵⁶ INEC. (2019). *Electoral Offences and Penalties*. <https://www.inecnigeria.org/wp-content/uploads/2019/02/ELECTORAL-OFFENCES-AND-PENALTIES-latest-FEBRUARY-2019.pdf>

political parties.⁵⁷ The Act further lays out an elaborate list of electoral offences, treated largely as criminal offences with appropriate punitive measures.⁵⁸

Specifically, Part VII (Sections 114 – 129) of the Electoral Act 2022 lays out an elaborate list of electoral offences and prescribed punitive measures. These offenses encompass a range of behaviors, including forgery of documents, multiple voting, impersonation, and vote buying. The Act takes a firm stance against such actions to safeguard the integrity of elections and uphold the democratic principles of the nation. Electoral offenses outlined in the Act are designed to prevent actions that could jeopardize public will and compromise the credibility of elections in the country. Offenses like spreading false information, engaging in violence or intimidation, and tampering with election results are not only discouraged but also carry penalties. The Act emphasises the importance of peaceful and transparent elections by deterring individuals from participating in any form of misconduct that could disrupt the electoral process or manipulate its outcomes. By clearly defining these offenses and their consequences, the Act plays a crucial role in ensuring that elections in Nigeria are conducted fairly and in accordance with democratic values.

The Electoral Act also underscores the significance of accountability and responsibility in the electoral process. It places the responsibility not only on voters and candidates to uphold the law but also on election officials and stakeholders to administer the process with honesty and impartiality. This comprehensive approach ensures that all aspects of the electoral process are scrutinised and regulated, minimising the potential for malpractice. The Act is an essential instrument in Nigeria's efforts to promote credible elections, preserve the people's right to choose their leaders freely, and maintain the trust of citizens in the democratic system.

4.2 The Constitution of the Federal Republic of Nigeria (CFRN)

Electoral offenses in Nigeria are governed not only by the Electoral Act but also find their basis in the Constitution. The Constitution of the Federal Republic of Nigeria serves as the supreme law of the country, establishing the fundamental principles and structure of the nation's governance. It outlines the powers, functions, and responsibilities of various government bodies and defines the rights and duties of Nigerian citizens. In the context of electoral offenses, the Constitution provides a foundational framework for the legal treatment of such offenses. It empowers the

⁵⁷ Electoral Act, (2022) Explanatory Memorandum

⁵⁸ For more on Criminalization of Electoral Offences, see Ibeanu, O. (2022, April 28). *Prosecuting Electoral Offences as a Mechanism for Electoral Accountability*. Keynote Address Presented at the Roundtable on Electoral Offences in Nigeria organized by The Electoral Hub on the 28th April, 2022

National Assembly to enact laws that establish the procedures and penalties for electoral offenses, ensuring the integrity of the electoral process and upholding democratic ideals.

The Constitution emphasises the need for free and fair elections as a cornerstone of democracy. Sections 33 to 43 of the Constitution of the Federal Republic of Nigeria (1999) specifying the fundamental rights of citizens is a tacit pointer to the rights of citizens to exercise their freedom of partaking in leadership decisions without undue influence or coercion (as exemplified by electoral offences). More so, Sections 106, 107, 131, and 177 amongst others laying out conditions for qualification or disqualification for occupancy of executive or legislative positions at the federal and state levels also border directly on electoral issues. Similarly, Section 239 (1) establishing the jurisdiction of the election petition court (Appeal Court) to decide on presidential election disputes, and section 285 establishing election petition tribunals across various elections in the country are direct pointers to the crucial place of the Constitution in electoral governance and regulation of electoral offences in the country.

In addition to the preceding, provisions in the Constitution of the Federal Republic of Nigeria stating (1999) that no association can canvass for votes for any candidate at an election other than a political party (Section 221) and prohibiting political parties from owning or receiving funds or assets from outside Nigeria (Section 225(3)) further shows the pivotal place of the Constitution in regulating the electoral process and determining what constitutes electoral offences.

4.3 INEC Regulations and Guidelines

The Independent National Electoral Commission (INEC) regulations and guidelines is essentially a set of rules, principles, and procedures established by INEC (the Nigerian EMB) to govern various aspects of the electoral process. It is designed to ensure the fairness, transparency, and integrity of the electoral process. The regulation covers a wide range of areas, including voter registration, political party participation, campaign finance, election conduct, and results declaration. The Commission has, in recent times, released guidelines for electoral conduct in 2019 and 2022.

For the 2023 General Elections, INEC updated the 2019 version of the electoral regulations and guidelines in 2022 and deployed it for use. The new document titled Regulations and Guidelines for the Conduct of Elections, 2022 covers matters of elections and arrangements for their conduct, accreditation and voting procedure during elections, collation of results and making of returns, elections during COVID-19 and other health emergencies, among others. Each of these key areas contained several specific provisions aimed at guiding the diverse aspects of electoral conduct.

4.4 Other Related laws and Policies

The Violence Against Persons Prohibition (VAPP) Act is a crucial piece of legislation in Nigeria aimed at addressing and eradicating various forms of violence against individuals, especially women and vulnerable groups. Enacted in 2015, the VAPP Act provides a comprehensive legal framework to prevent, prohibit, and punish all forms of violence, including physical, sexual, psychological, and economic violence. This legislation recognises the importance of safeguarding the rights and dignity of all persons, regardless of gender, age, or social status. The focus of the Act on violence of all forms places issues of electoral violence directly within its purview.

Importantly, the Act introduces protective measures for victims, such as restraining orders and orders for the payment of compensation, to ensure their safety and well-being. Specific provisions of the Act as contained in Sections 2 – 4 bordering on willful infliction of injury, coercion, and creation of fear of injury respectively, are all relevant provisions for checking electoral offences, specifically, electoral violence. Similarly, section 11 specifying punitive measures for destruction of properties and Section 18 which provides against intimidation all find relevance within the context of discourse on electoral offences, electoral violence and voter intimidation. Lastly Section 23 is specifically focused on political violence. The section contains provisions against committing and attempting to commit political violence. It also proscribes and ascribes appropriate punishments to the act of aiding and abetting perpetrators of political violence. These provisions, amongst others, make the VAPP a crucial legislative instrument for regulating electoral offences in Nigeria.

Like the VAPP (2015), the Child Rights Act (CRA) is also a very vital legislative instrument with relevance to electoral conduct in Nigeria. It is a legal instrument designed to protect the rights and welfare of children across the country. Enacted in 2003, the Act is a comprehensive framework that outlines the rights and responsibilities of children, parents, guardians, and the government in ensuring the well-being and development of Nigeria's young population. The CRA is a response to international standards, including the United Nations Convention on the Rights of the Child, and seeks to provide a legal foundation for promoting and safeguarding the rights of children in various aspects of their lives.

With a total of 278 Sections, the Act serves as an elaborate instrument for the protection of Nigerian children. Section 26 of the Act specifically proscribes the employment, use or involvement of children in activities that constitute an offence. Subsection 2 of this provision further specifies a fourteen years imprisonment term for violators of the provision. This provision is particularly relevant to the electoral process, especially with regards to underage voting which, as media reportages have revealed, features

prominently as an electoral offence in Nigeria. The Act is therefore, an important legislative instrument for regulating electoral conduct in the country.

Another legislative instrument with utilitarian value in Nigerian electoral discourse is the Discrimination against Persons with Disabilities (Prohibition) Act (2019). Commonly referred to as the Disability Act, it serves as an important legal framework in Nigeria aimed at promoting the rights, inclusion, and well-being of people with disabilities (PWDs). It acknowledges the rights of PWDs and seeks to eliminate discrimination and barriers that hinder their full participation in society. The Disability Act aligns with international standards, particularly the United Nations Convention on the Rights of Persons with Disabilities, and reflects Nigeria's commitment to ensuring equal opportunities for all citizens.

The Act's provision for PWDs to be considered first in queues as contained in Section 25, and its provision in Section 30 for PWDs to be encouraged to fully participate in politics and political life by creating an enabling environment for PWDs to engage in public affairs and to hold key positions in political parties are all crucial provisions that lends credence to the relevance of the Act to electoral discourse.

The provisions of the laws that deal with electoral offences are as follows –

4.5 Electoral Offences and Punishment in the Electoral Act, 2022

S/N	Offence	Section	Fine (Naira) OR	Prison term
1.	INEC appointee belonging to a political party	8(5)	5,000,000	2 years imprisonment or both
2.	Multiple registration	12(3)	100,000	1 year imprisonment or both
3.	Holding more than one valid voter's card	16(3)	500,000	1 year imprisonment or both
4.	Issuing a PVC less than 90 days to an election	18(5)	200,000	2 years imprisonment or both
5.	Failure to display or publish voter's register	19(5)	100,000	6 months imprisonment or both
6.	Buying and selling of voter's card	22	500,000	2 years imprisonment or both
7.	False representation in Register of Voters	23(1)	100,000	1 year imprisonment or both
8.	Obstruction of registration	23(2)	500,000	At most 5 years imprisonment
9.	Nomination of more than one candidate	30(3)	100,000	3 months imprisonment or both
10.	Presiding Officer violating Polling Unit Results Management Procedure	60(6)	500,000	At least 6 months imprisonment
11.	Announcement of false result	64(9)	5,000,000	At least 3 years imprisonment or both
12.	Announcing or signing results from Polling Units where election materials are not recorded prior to voting	73(3)	10,000,000	At least 1 year imprisonment or both

S/N	Offence	Section	Fine (Naira) OR	Prison term
13.	Resident Electoral Commissioner not issuing CTC of documents within 14 days of application	74(2)	2,000,000	12 months imprisonment or both
14.	Association that gives false information to be registered as a political party	75(5)	5,000,000	None
15.	Executive member of an Association that gives false information to be registered as a political party	75(5)	3,000,000	At least 2 years imprisonment or both
16.	Political party that retains a phalanx for purposes of violence in contravention of S. 227 of the 1999 Constitution (first offence)	78(1)	5,000,000	None
17.	Political party that retains a phalanx for purposes of violence in contravention of S. 227 of the 1999 Constitution (subsequent offence)	78(1)	7,000,000	None
18.	Political party that retains a phalanx for purposes of violence in contravention of S. 227 of the 1999 Constitution (everyday of continuation)	78(1)	500,000	None
19.	Aiding and abetting a party to retain a phalanx for purposes of violence in contravention of S. 227 of the 1999 Constitution	78(2)	5,000,000	5 years imprisonment or both
20.	Failure of Party to submit annual account to INEC	86(2)	1,000,000	6 months imprisonment or both

S/N	Offence	Section	Fine (Naira) OR	Prison term
21.	Candidate who exceeds election expenses limit	88(9)	1% of expenses limit	At most 12 months imprisonment or both
22.	Any individual who contravenes election expenses limit	88(10)	500,000	At most 9 months imprisonment or both
23.	Accountants falsifying or forging election expenditure documents for candidates	88(11)	3,000,000	3 years imprisonment or both
24.	Aspirants or candidates violating the prohibition of certain conducts during campaigns	92(7)	1,000,000	12 months imprisonment
25.	Political party violating the prohibition of certain conducts during campaigns (first instance)	92(7)	2,000,000	None
26.	Political party violating the prohibition of certain conducts during campaigns (subsequent offence)	97(7)	1,000,000	None
27.	A person or group that aids or abets the retention of thugs	92(8)	5,000,000	3 years imprisonment or both
28.	Candidate, aspirant, or person directly or indirectly threatening the use of force or violence during political campaign	93(2)	1,000,000	12 months imprisonment
29.	Political party directly or indirectly threatening the use of force or violence during political campaign (first instance)	93(2)	2,000,000	None

S/N	Offence	Section	Fine (Naira) OR	Prison term
30.	Political party directly or indirectly threatening the use of force or violence during political campaign (any subsequent offence)	93(2)	500,000	None
31.	Political party engaging in political broadcast or advertising 24 hours to an election	94(2)	Max. 500,000	None
32.	Public media that contravenes the provision of equal airtime to candidates and parties (first instance)	95(6)	2,000,000	None
33.	Public media that contravenes the provision of equal airtime to candidates and parties (subsequent conviction)	95(6)	5,000,000	None
34.	Principal officers and other officers of public media that contravenes the provision of equal airtime to candidates and parties	95(6)	1,000,000	6 months imprisonment
35.	Corporate bodies violating the prohibition of political broadcasts, publications and advertisements 24 hours to an election	96(3)	Max. 1,000,000	None
36.	Individuals violating the prohibition of political broadcasts, publications and advertisements 24 hours to an election	96(3)	1,000,000	6 months imprisonment or both

S/N	Offence	Section	Fine (Naira) OR	Prison term
37.	Candidate, person or association that campaigns on religious, tribal or sectional basis	97(1)	1,000,000	12 months imprisonment or both
38.	Political party that campaigns on religious, tribal or sectional basis	97(1)	10,000,000	None
39.	Electoral Offences in relation to registration of voters	114	Max 1,000,000	12 months imprisonment or both
40.	Electoral Offences in respect of nomination of candidates	115(1)	None	2 years imprisonment
41.	Electoral Offences in respect of elections	115(2)	Max 50,000,000	Not less than 10 years imprisonment or both
42.	Disorderly behaviour at political meetings	116	Max 500,000	12 months imprisonment or both
43.	Improper use of voter's card	117	Max 1,000,000	12 months imprisonment or both
44.	Improper use of vehicles	118	Max 500,000	6 months imprisonment or both
45.	Impersonation or voting when not qualified	119	Max 500,000	12 months imprisonment or both
46.	Dereliction of duty	120(1 & 2)	Max 500,000	12 months imprisonment or both

S/N	Offence	Section	Fine (Naira) OR	Prison term
47.	Polling Agent, party or party agent that makes false declaration of result	120(3)	Max 500,000	12 months imprisonment or both
48.	Announcement or publishing of false election result	120(4)	None	36 months imprisonment
49.	Returning or Collation Officer who delivers false certificate of return	120(5)	None	3 years imprisonment
50.	Any person who delivers false certificate of return	120(6)	None	3 years imprisonment
51.	Bribery and conspiracy	121(1)	Max 500,000	12 months imprisonment or both
52.	Any person who commits the offence of bribery	121(4)	Max 500,000	12 months imprisonment or both
53.	Breaching of secrecy of the vote or interfering with a voter casting his/her vote	122	Max 100,000	3 months imprisonment or both
54.	Wrongful voting and false statements	123	Max 100,000	6 months imprisonment or both
55.	Voting where one is not registered	124(1)	Max 100,000	6 months imprisonment or both
56.	Possession of another person's voter's card at a Polling Unit	124(2)	100,000	6 months imprisonment or both
57.	Disorderly conduct at elections	125	Max 500,000	12 months imprisonment or both

S/N	Offence	Section	Fine (Naira) OR	Prison term
58.	Breach of certain actions within 300 metres of a Polling Unit on election day	126(3)	100,000	6 months imprisonment per offence
59.	Snatching or destruction of election material	126(4)	None	24 months imprisonment
60.	Undue influence	127	100,000	12 months imprisonment or both
61.	Threatening	128	1,000,000	3 years imprisonment
62.	All offences also apply to recall			

SOURCE: Professor Okechukwu Ibeanu (2022, April 28) "Prosecuting Electoral Offences as a Mechanism for Electoral Accountability." Keynote Address Presented at the Roundtable on Electoral Offences in Nigeria organized by The Electoral Hub on the 28th April, 2022

4.6 Electoral Offences in the Elections (Registration, Etc. Of Voters) Act

Citation	Offences	Penalties
Section 17(a) - Offences in relation to registration	Any person who without lawful authority, destroys, mutilates, defaces or removes or makes any alteration in any notice or document required for the purpose of	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to fine of N5,000 or to both such imprisonment and fine

Citation	Offences	Penalties
	registration or the revision of the register of voters under this Act;	
Section 17(b) – False statement by a voter in a voters’ register	Any person who knowingly gives false information or makes a false statement with reference to any application for inclusion of his name in the register of voters or with reference to any objection to the retention or inclusion of the name of any person in the register of voters;	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to fine of N5,000 or to both such imprisonment and fine
Section 17(c) – Registering in more than one unit by a voter	Any person who presents himself to be or does an act whereby he is by any name of description whatsoever, included in the register of voters for more than one unit in which he is entitled to be registered	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to fine of N5,000 or to both such imprisonment and fine
Section 17(d) – Publishing false statements to exclude qualified voter	Any person who publishes any statement, rumour or report which he knows to be false or does not believe to be true so as to prevent persons who are qualified from applying for inclusion in the register of voters	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to fine of N5,000 or to both such imprisonment and fine
Section 17(e) – Obstruction of a registration officer	Any person who impedes or obstructs a registration officer or any person acting on his behalf in the performance of his duties	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to fine of N5,000 or to both such imprisonment and fine

Citation	Offences	Penalties
Section 17(f) – Impersonation of registration officer	Any person who without proper authority, carries the identity card of a registration officer or assistant registration officer	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to fine of N5,000 or to both such imprisonment and fine
Section 18(a) - Offences in relation to improper use of registration cards, etc	Any person who being entitled to a registration card, hands it, when received by him, to some person other than an officer appointed and acting in the course of his duty under this Act	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to a fine of N5,000 or to both such imprisonment and fine
Section 18(b)	Any person who not being an officer and acting in the course of his duty under this Act, receives a registration card in the name of some other person	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to a fine of N5,000 or to both such imprisonment and fine
Section 18(c)	Any person who without lawful excuse, has in his possession more than one registration card	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to a fine of N5,000 or to both such imprisonment and fine
Section 18(d)	Any person who is guilty of an offence and liable on conviction to imprisonment for a term of two years or to a fine of N5,000 or to both such imprisonment and fine	If found guilty of this offence is liable on conviction to imprisonment for a term of two years or to a fine of N5,000 or to both such imprisonment and fine
Section 19(a) - Offences in relation to dereliction of duty, etc.	Any registration officer, assistant registration officer, revising officer, registration agent, member or staff of the	If found guilty of this offence is liable on conviction to imprisonment for a term of five

Citation	Offences	Penalties
	commission by whatever name called, who, without lawful authority registers or aids the registration of any person by proxy or copies into the preliminary list the name and particulars of any person.	years or to a fine of N10,000 or to both such imprisonment and fine
Section 19(b)	Any registration officer, assistant registration officer, revising officer, registration agent, member or staff of the commission by whatever name called, who, without lawful authority issues to any person more than one registration card.	If found guilty of this offence is liable on conviction to imprisonment for a term of five years or to a fine of N10,000 or to both such imprisonment and fine
Section 19(c)	Any registration officer, assistant registration officer, revising officer, registration agent, member or staff of the commission by whatever name called, who, without lawful authority issues to any political party a registration card	If found guilty of this offence is liable on conviction to imprisonment for a term of five years or to a fine of N10,000 or to both such imprisonment and fine
Section 19(d) Unlawful inclusion of voter in more than a unit	Any registration officer, assistant registration officer, revising officer, registration agent, member or staff of the commission by whatever name called, who, without lawful authority includes any person in the register of voters for more than one unit or more than once in the register of	If found guilty of this offence is liable on conviction to imprisonment for a term of five years or to a fine of N10,000 or to both such imprisonment and fine

Citation	Offences	Penalties
	voters for a unit in which he is entitled to register	
Section 20(1)(a) - Offences by certain officials and persons, etc.	Any person to whom this section applies who is for the time being under duty to discharge any function relating to the registration of voters or revision of the register of voters, is guilty of an offence, if he, without reasonable cause, before or during the registration of voters or revision of the register of voters, or at any time thereafter fails to perform or discharge such duty	A person who is guilty of this offence, shall be liable on conviction to a fine of N10,000 or to imprisonment for a term of five years or to both such fine and imprisonment
Section 20(1)(b) Registration officer performing fraudulently, negligently or recklessly	Any person to whom this section applies who is for the time being under duty to discharge any function relating to the registration of voters or revision of the register of voters, is guilty of an offence, if he, without reasonable cause, before or during the registration of voters or revision of the register of voters, or at any time thereafter performs such duty fraudulently, negligently, or recklessly	A person who is guilty of this offence, shall be liable on conviction to a fine of N10,000 or to imprisonment for a term of five years or to both such fine and imprisonment
Section 20(1)(c) Breach of duty by a registration officer	Any person to whom this section applies who is for the time being under duty to discharge any function relating to the	A person who is guilty of this offence, shall be liable on conviction to a fine of N10,000

Citation	Offences	Penalties
	<p>registration of voters or revision of the register of voters, is guilty of an offence, if he, without reasonable cause, before or during the registration of voters or revision of the register of voters, or at any time thereafter commits any act or omission in breach of such duty</p>	<p>or to imprisonment for a term of five years or to both such fine and imprisonment</p>

Source: Extrapolated from Laws of the Federation of Nigeria (Elections (registration etc. of voters) Act) 2000

The Prosecution of Electoral Offenders in Nigeria

As can be deciphered from the long list of offences and prescribed punitive measures in the preceding section, the prevalence of electoral offences in Nigeria does not stem from a lack of legal provisions. In fact, key legal frameworks guiding electoral conduct in the country – the Constitution and the Electoral Act – have not only been specific in stating what constitutes electoral offences but have also placed the onus of prosecuting electoral offenders on specific bodies. This section provides insights on bodies accountable and responsible for addressing electoral offences in Nigeria.

5.1 Bodies Responsible for Prosecution of Electoral Offenders

Under the present legal framework, three principal agencies including: Office of the Attorney-General of the Federation, The Nigerian Police Force, and the Independent National Electoral Commission are saddled with the powers to prosecute electoral offences. The powers and responsibilities of these agencies are:

5.1.1 The Office of the Attorney-General of the Federation

Under sections 174(1)(a) and 286(1)(b) of the Constitution, the Attorney-General of the Federation or any authorised person under the authority of the Attorney-General can lawfully initiate or authorise the initiation of criminal proceedings in any court other than a court-martial in any State of the Federation in respect of offences created by the Electoral Act 2022. This position of the law is based on the Supreme Court decision in the case of *Attorney-General, Ondo State v. Attorney-General, Federation*⁵⁹.

Furthermore, every offence created by an Act of the National Assembly is deemed a “federal offence” and hence within the prosecutorial jurisdiction of the Attorney-General of the Federation.⁶⁰ The Electoral Act is a federal law, and thus, the Attorney-General of the federation can prosecute any person who violates the Electoral Act or commits any of the electoral offences prohibited under that legislation.

Finally, because of the high premium attached to the speedy disposal of criminal cases, the Attorney-General of the Federation can delegate his/her powers to the

⁵⁹ (2002) 9 NWLR (Pt. 772) 222

⁶⁰ *Ibid.*

various State Commissioners of Police. They can now institute and prosecute electoral offences in the name of such Commissioners of Police.⁶¹

5.1.2 The Nigerian Police Force

The Police have the power to conduct all prosecutions before any court of competent jurisdiction in Nigeria under section 66 of the Police Act, 2020. However, the use of this authority is strongly limited by the broad powers conferred on the Attorney-General of the Federation or a State under sections 174 and 211 of the 1999 Constitution (as amended).⁶²

It is worth noting that while the election rules do not directly endow the Police with prosecuting authority, the Police have the discretion to investigate any charge of electoral offences brought to them.⁶³ Thus, nothing in section 4 or 66 of the Police Act precludes the Police from using discretion about whether or not to investigate a particular allegation or conduct an investigation to its logical conclusion.

5.1.3 The Independent National Electoral Commission

Generally, the Constitution (Part F, First Schedule to the 1999 Constitution) does not directly empower the Independent National Electoral Commission with prosecutorial powers. However, this power is provided for in section 145(2) of the Electoral Act 2022. The said section provides that:

A prosecution under this Act shall be undertaken by legal officers of the Commission or any legal practitioner appointed by it.

Furthermore, under the said section, an Election Petition Tribunal may recommend (for prosecution) to the Independent National Electoral Commission (INEC) to prosecute offenders under the Electoral Act. However, INEC could initiate such proceedings, especially where the election in question was not challenged.⁶⁴ The section provides thus:

The commission shall consider any recommendation made to it by a Tribunal with respect to the prosecution by it of any person for an offence disclosed in any election petition.

⁶¹*Amadi v. F.R.N.* (2008) 18 NWLR (Pt. 1119) 259

⁶²*F.R.N. v. Ajakaiye* (2010) 11 NWLR (Pt. 1206) 500

⁶³*Fawehinmi v. I.G.P.* (2002) 7 NWLR (Pt. 767) 606

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

The above provision makes it mandatory for the Commission to consider any recommendation made to it by an election tribunal for the prosecution of offenders under the Act. This does not mean that the Commission cannot initiate proceedings where a recommendation is not made, for instance, where the election is not contested.

The above section did not limit the investigation and prosecution to only cases where an election petition tribunal has made a recommendation. INEC or any other appropriate agency or body may investigate and prosecute the appropriate cases without a recommendation from an Election Tribunal.⁶⁵

5.1.4 The Court System

The court system plays a crucial role in the resolution of disputes and dispensation of justice. It is a key stakeholder in efforts towards addressing electoral offences. In the Nigerian state, the Electoral Act 2022 empowers the Magistrate and High Courts across states in Nigeria, and the Federal Capital Territory, to handle electoral offence cases. Section 145(1) of the Act specifically provides that:

An offence committed under this Act shall be tri-able in a Magistrate Court or a High Court of a State in which the offence is committed, or the Federal Capital Territory, Abuja.⁶⁶

As can be gleaned from the provision above, the court is an indispensable actor in the prosecution of electoral offences. In discharging its role of interpreting the law, the court is perfectly placed to provide ruling on whether or not electoral offences have been committed in the face of available evidence. With the court performing its constitutional and legally ascribed role, it can ensure that fair and just verdicts are passed on electoral offenders in line with the provisions of relevant legislations.

5.2 Burden and Standard of Proof in Electoral Offences Cases

Elections lie at the heart of representative democracy and their success or otherwise are central to the success or failure of democracy. The Electoral Act 2022 (as amended) devotes the entire Part VII of Sections 114-129 to specific acts and or omissions, which it criminalises and punishes as election offences. Other provisions in the same Act also criminalise certain acts as electoral offences. These include offences regarding the registration of voters⁶⁷ and the compilation of voters' registers⁶⁸, offences against the

⁶⁵*Ibrahim Mohammed Umar v. Federal Republic of Nigeria & Ors* (2021) LPELR-53936(CA)

⁶⁶ Section 145(1). Electoral Act 2022

⁶⁷ Section 22

⁶⁸ Section 23

nomination of candidates⁶⁹, offences relating to campaign financing⁷⁰, election day offences⁷¹ and post-election offences.⁷²

Nonetheless, in virtually every election, there have been incidents of ballot box snatching, voter inducement and other forms of violations of the electoral law. However, not many of the perpetrators were ever brought to book. Arrests were made, but not much else was heard about such cases afterwards.

Electoral offences are criminal in nature, and generally, like civil cases, the burden of proof lies on the person who would fail if no evidence was given on either side.⁷³ In other words, the burden of proof lies with the prosecution.⁷⁴ Thus, the prosecution has to prove the commission of the electoral offence by the defendant(s) and also show that the defendant(s) who has/have been charged was/were the person(s) who committed the electoral offence. It should be stated that this burden does not shift. It remains with the appellant until it has been fully discharged.

Regarding the standard of proof⁷⁵, it is also important to note that allegations of electoral offences must be proved beyond reasonable doubt⁷⁶ following sections 138(1) and (2) of the Evidence Act⁷⁷. The position of the law is that if the commission of a crime by a party is directly in issue in any proceedings, civil or criminal, it must be proved beyond reasonable doubt. Section 138(1) of the Evidence Act provides that:

If the commission of a crime by a party to any proceeding is directly in issue in any proceeding, civil or criminal, it must be proved beyond reasonable doubt.

For instance, if a person has been alleged to have snatched a ballot box, the prosecution has to prove this allegation beyond reasonable doubt.⁷⁸ Nevertheless, proof beyond

⁶⁹ Section 30

⁷⁰ Section 85

⁷¹ Sections 51 and 57

⁷² Also see, The Electoral Hub (2022, April 28) Communiqué on the Roundtable on Electoral Offences in Nigeria organized by The Electoral Hub on the 28th April, 2022. Available at: <https://www.electoralthub.iriad.org/publications>

⁷³ *Ezeanuna v. Onyema* (2013) 13 NWLR (Pt. 1263) 36

⁷⁴ *Ogunbiyi v. Ogundipe* (1992) 9 NWLR (Pt. 263) 24

⁷⁵ The term “Standard of proof” denotes the degree or level of proof in a specific case, such as beyond a reasonable doubt or by a preponderance of evidence.

⁷⁶ The term “proof beyond reasonable doubt” does not necessarily connote proof beyond any shadow of doubt. It means proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his own affairs. Otherwise, the essence and fundamental objective of the law in preserving the sanctity and security of the society would be defeated if it allows fanciful possibilities to deflect the course of justice

⁷⁷ *Wali v. Bafarawa* (2004) 16 NWLR (Pt. 898) 1

⁷⁸ *Modede v. Okadigbo* (1992) 9 NWLR (Pt. 263) 1

reasonable doubt does not mean proof beyond all shadow of a doubt.⁷⁹ In the famous case of *Okonkwo v. Onovo*⁸⁰, it was noted:

Where a petitioner grounds his petition on non-compliance with electoral laws, falsification of results and such other conducts, which in themselves constitute criminal offences, the burden he places on himself is much greater than he otherwise would be called upon to discharge. Such a petitioner's burden is one to be discharged beyond reasonable doubt. In discharging this greater burden, it is the quality and not necessarily the quantity of the evidence of such a petitioner that would avail him. It will only be fatal for him if he omits to call the available material witness to establish all such important facts that have fallen into the issue. The quantum of evidence and the number of witnesses is only dictated by the petitioner based on the necessity to prove his case. In the instant case, having regard to the burden of proof as appreciated by the trial tribunal, the Respondent proved his case of electoral malpractice beyond reasonable doubt. This is more so when the evidence adduced in support of the respondent's claim remains unchallenged and uncontroverted.

As previously stated, the Attorney-General, the Police, and INEC have general prosecutorial authority over election offences. These bodies usually bear the burden of proof in prosecuting these offences. However, it should be noted that proof of electoral offences is not limited to criminal proceedings. In truth, the evidence of electoral offences may sometimes begin during the election petition hearings, which are often civil trials.

A perusal of most of the election petitions in Nigeria shows that most of the allegations made by petitioners border on criminal offences, such as allegations of corrupt practices, over-voting, falsification of results, ballot snatching, and a host of other offences prohibited under the Electoral Act. The courts have ruled that the petitioner must prove it beyond reasonable doubt where the commission of a criminal offence is alleged in a petition. For instance, in *Ezeanuna v. Onyema*⁸¹, it was alleged by the petitioners that some of the election results were written in the respondent's house and not by INEC officials. The Court of Appeal held that such an allegation of production

⁷⁹*Ezike v. Ezeugwu* (1992) 4 NWLR (Pt. 236) 462

⁸⁰ (1999) 4 NWLR (Pt. 597) 110 at pp. 117-118

⁸¹ (2011) 13 NWLR (Pt. 1263) 36

of results in somebody's house is a criminal allegation and must be proved beyond reasonable doubt by the petitioner who made such assertion.

We have noted the general standard for proof of electoral offences, which is to prove the allegations of the offences are beyond reasonable doubt. Throughout the various election cycles, we should also note that the courts have developed judicial standards or the nature of evidence required for the proof of some of these specific electoral offences. For instance, the issues that the prosecution or a petitioner should prove to show instances of the offences of "corrupt practices" are not clearly stated in the Electoral Act 2022. It is the courts, in various judgments, that have laid the nature of the evidence that the prosecution or petitioner should fulfill. For the offences of corrupt practices, the courts have held that in election petitions where the allegation of corrupt practices is made, the petitioner making these allegations must lead cogent and credible evidence to show:

1. That the Respondent whose election is being challenged personally committed the corrupt acts or aided, abetted, consented or procured the commission of the alleged corrupt practices;
2. Where the alleged acts were committed through an agent, that the agent was expressly authorised to act in that capacity or granted authority; and
3. That the corrupt practice substantially affected the election's outcome and how it affected it.⁸²

The same holds for bribery allegations, where courts have insisted that the prosecution or petitioner must present clear evidence demonstrating how voters were bribed and that the bribery was committed either directly by the Respondent (or accused person) or by an agent acting under the Respondent's direct authority (or accused person). Therefore, it has to be shown that either the candidate who is alleged to have bribed the voters or his acknowledged agent authorised what has been done or subsequently ratified it. Thus, the courts have held that a candidate in an election cannot be held responsible for what other people did in the form of unsolicited aid of which he or his acknowledged agents are ignorant.⁸³

The courts have also expedited the process of establishing undue influence or duress, holding that undue influence via intimidation is not established until evidence is shown demonstrating that specific votes were swayed.⁸⁴ Thus, the threat must be sufficiently grave and designed to sway the voter to qualify as undue influence. Further, the court

⁸²*Omisore v. Aregbesola* (2015) 15 NWLR (Pt. 1482) 205

⁸³*Anazodo v Anda* (1999) 4 NWLR (Pt. 600) 530

⁸⁴*Buhari v. Obasanjo* (supra)

has concluded that in determining whether a threat constituted undue influence, the impact on the voter threatened should be considered, not the purpose of the person making the threat. A threat might constitute undue influence even if the individual making the threat lacked the purpose or ability to carry it out.

Again, on the nature of evidence required for proof of allegation of presentation of forged certificates or educational qualifications, The Court of Appeal in *K.I. Imam vs. Senator A. M. Sheriff & Ors*⁸⁵ expounded on how to substantiate the allegation:

An allegation of presenting a forged Higher National Diploma Certificate to an Electoral Body, INEC, is an allegation of crime. However, in order to substantiate the allegation, two conditions must be fulfilled to the satisfaction of the Court or Tribunal, namely: -

- (a) That the said certificate presented by the candidate, i.e., 2nd Respondent, was forged; and
- (b) That it was the candidate that presented the certificate.

The above two ingredients have to be proved beyond reasonable doubt, pursuant to section 138(1) of the Evidence Act.

Another issue of note is the treatment of result sheets that have been altered or had cancellations made on them. In one of the 2015 election petition cases, *Abdulkadir Abdullahi v. Sanusi Garba Rikiji*⁸⁶, the Election Petition Tribunal adopted the decision as the Court of Appeal in *Salisu Ali Basheer v. Same*⁸⁷. It held that nothing in the present Electoral Act or its Schedule prohibits cancelling, altering or inking by any person writing or issuing election results. Thus, if a petitioner alleges unlawful alteration, he must show or explain how the figures or contents in the documents have been improperly or wrongfully altered.

⁸⁵ (2005) 10 NWLR (Pt. 914) 80

⁸⁶ (Unreported) EPT/ZMS/HA/2/15

⁸⁷ (1992) 4 NWLR (Pt. 236) 491

Efforts at Addressing Electoral Offences in Nigeria

The scale and impact of electoral offences in Nigeria has informed some action by the electoral umpire, security agencies, anti-graft agencies and the Nigerian legislature towards containing the menace. The efforts of each of these institutions are elaborated in this section.

6.1 Independent National Electoral Commission

By virtue of its responsibility in overseeing the overall conduct of elections in the country, INEC has intermittently exerted efforts towards containing electoral offences and enhancing the credibility of the elections. From this study, it was found that this has been done through deployment of technology, training of ad-hoc staff, collaboration with relevant security agencies, training of legal aides, and firing of complicit staff within the Commission.

The deployment of technology before the 2023 general elections was particularly lauded as a potent check against issues of multiple voting, and over voting. A 2013 study on the challenges and possibilities of prosecuting electoral offenders revealed that the INEC had, at that time, filed cases against 482 electoral offenders in the country.⁸⁸ Of these accused offenders, only 24 constituting about 0.5% were convicted. Similarly, following the conclusion of the 2023 general elections, the Commission was reported to have stated that 774 persons arrested for various electoral offences across the 36 states of the country are to be prosecuted.⁸⁹ These are indicative of efforts towards containing the problem.

Extant evidence also shows that the Commission has, during successive election cycles, taken steps towards cancelling results of polling units where electoral offences were considered to be prevalent. Examples of cases where elections were cancelled due to over-voting,⁹⁰ electoral violence,⁹¹ and non-adherence to electoral guidelines allude to this.⁹²

⁸⁸ Okoye, F. (2013). *The prosecution of electoral offenders in Nigeria: Challenges and possibilities*. <https://library.fes.de/pdf-files/bueros/nigeria/10405.pdf>

⁸⁹ [https://www.thisdaylive.com/index.php/2023/05/04/inec-to-prosecute-774-poll-offenders-enters-working-arrangements-with-nba?amp=1#:~:text=The%20Independent%20National%20Electoral%20Commission,\(NBA\)%20for%20their%20prosecution.](https://www.thisdaylive.com/index.php/2023/05/04/inec-to-prosecute-774-poll-offenders-enters-working-arrangements-with-nba?amp=1#:~:text=The%20Independent%20National%20Electoral%20Commission,(NBA)%20for%20their%20prosecution.)

⁹⁰ <https://guardian.ng/news/over-voting-inec-cancels-abaji-area-council-senatorial-results/>

⁹¹ <https://www.vanguardngr.com/2023/02/inec-cancels-results-in-four-kwara-polling-units/>

⁹² <https://punchng.com/nigeriaelection2023-inec-cancels-two-ekiti-election-results-melaye-demands-explanation/>

6.2 Security Agencies

Extant evidence on efforts towards addressing electoral offences in Nigeria also gives credit to the security agencies in the country, especially the Nigerian Police Force and the Department of State Service. The Nigerian Police Force, in the discharge of its constitutional mandate of preventing and arresting criminals, including electoral offenders, has been recorded to have deployed several personnel during successive election cycles to check against malpractices. The 2023 General Elections alone saw a deployment of 310,973 policemen across the 36 states of Nigeria.⁹³

Arrests made by the police are also indicative of their efforts towards containing electoral crime. Following the conduct of the 2023 General Elections, the Nigerian Police Force was widely reported to have transferred 215 case files of electoral offenders to the electoral umpire⁹⁴ Similarly, the Ondo State Police Command was reported to have arrested 15 suspects over alleged electoral offences during House of Assembly elections in the state.⁹⁵

In addition to the efforts by the Nigerian Police Force, the Department of State Services (DSS) has also been recorded to have contributed positively towards checking electoral offences in the country. For instance, on the 16th March, 2023, the Department of State Services (DSS) was reported to have arrested two persons suspected to have attempted to incite violence ahead of the March 18th governorship elections in the state.⁹⁶ Similarly, the DSS was reported to have arrested Tony Otuonye, the Director Abia State Signage and Advertisement Agency (ABSAA) over threats of violence as the state prepared towards for the March 2023 Governorship Election.⁹⁷

It is noteworthy to point out that these efforts, though laudable, are arguably insignificant in relation to the magnitude of electoral malpractices and offences that occur in the country during successive elections. The 774 persons arrested by the Nigerian Police Force in the 2023 General Elections translates to an average of 1 (one) person per local government area. This is a clear indication that election offenders in the country are not only ‘under-prosecuted’ but also “under-arrested”.

6.3 Election Petition Tribunals

Election petition tribunals in Nigeria are election dispute resolution instruments established by the legal instruments guiding the conduct of elections in Nigeria – the

⁹³<https://www.arise.tv/nigeria-police-to-deploy-310973-personnel-for-2023-elections/>

⁹⁴<https://punchng.com/police-hand-over-215-electoral-offenders-files-to-inec/>

⁹⁵<https://tribuneonline.ng/ondo-police-arrest-15-for-electoral-criminal-offences-during-assembly-polls/>

⁹⁶<https://www.channelstv.com/2023/03/16/gov-election-dss-arrests-two-suspects-over-call-for-violence-in-kano/>

⁹⁷<https://www.vanguardngr.com/2023/03/abia-agency-director-arrested-by-dss-for-inciting-electoral-violence/>

Constitution and the Electoral Act. Election tribunals in the country exist at two levels. First, there is the Presidential Election Petition Tribunal (PEPT) for addressing grievances arising presidential elections in the country. The Appeal Court serves as the Tribunal for hearing and deciding on Presidential Election cases. The second level is the Governorship and Legislative Houses Election Petition Tribunal. This is a special tribunal established for the purpose of addressing issues and grievances arising from legislative and governorship elections in the country.

In presenting cases before the Election Petition Tribunal, aggrieved parties point to allegations of violation of electoral guidelines by either political parties or the electoral management bodies. Section 143 (b) of the Electoral Act 2022 provides that parties and candidates have a ground for petition if the election was characterised by “corrupt practices and non-compliance with the provisions of this Act.” More so, tribunals are also empowered by Section 144 to determine if electoral offences were committed and make recommendations for the Commission to prosecute same. Election Petition Tribunals are therefore empowered to take actions to check electoral offences in Nigeria. Through their rulings, tribunals nullify elections proven to be characterised by electoral irregularities and offences. This contributes to enhancing electoral accountability and deterrence of electoral offenders.

6.4 Anti-graft Agencies

The Nigerian state has two major anti-graft agencies – the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC). The respective mandates of these two bodies are to investigate, prosecute and prevent corrupt practices, and to investigate and prosecute perpetrators of financial crimes.

For the ICPC concerned with prosecution of perpetrators of corrupt practices, the prosecution of electoral offenders is considered a part of its mandate of combatting political corruption. Representing the Chairman of the Commission, Prof. Bolaji Owasanoye (SAN), the Director, Enlightenment and Education, Mohammed Ashiru Baba was quoted to have asserted that:

electoral frauds, ranging from vote selling and vote buying, ballot box snatching, falsification or manipulation of election results (rigging), etc [sic] are what we in ICPC consider political corruption and these forms of corruption are punishable under the Electoral Act”.⁹⁸

⁹⁸<https://www.vanguardngr.com/2021/08/2023-icpc-noa-others-strategise-to-tackle-electoral-corruption/>

The implication of the afore-stated assertion is that the ICPC considers it a part of their mandate to take action against various forms of electoral offences like vote trading, ballot box snatching, and manipulation of election results. In the discharge of this function, the ICPC was reported to have deployed about 400 operatives across states in Nigeria on March 18th 2023 for the governorship and House of Assembly elections.⁹⁹

Like the ICPC, evidence suggests that the EFCC has also exerted efforts toward containing electoral offences, particularly vote trading, in Nigerian elections. The Commission was reported to have deployed personnel to observe the conduct of political party primaries across the country.¹⁰⁰ Although reports suggest that there were apprehensions about the presence of the EFCC at parties' primaries, the powers accorded to the Commission in Section 6 and 7 of the EFCC Act of 2004 allows it to investigate if any person, corporate body or organization has committed any offence under this Act or other law relating to economic and financial crimes.¹⁰¹ This makes its exercise in the monitoring of electoral processes a legitimate cause.

Similarly, the efforts of the security agencies – police and DSS, the efforts of anti-graft agencies towards checking electoral offences have had very little success. A comparison of extant records on number of arrests and prosecutions of security agencies with those of anti-graft agencies engaged in same set of activities inform a conjecture that anti-graft has a relatively poorer outing in its efforts to contain electoral offences.

Additionally, efforts by security agencies and anti-graft agencies against electoral offences are not mutually exclusive. As such, the period before the 2023 General Election was marked by the introduction of the Inter-Agency Consultative Committee on Election Security (ICCES) which membership comprised of both security agencies and anti-graft agencies. Specifically, the ICCES was reported to comprise the Economic and Financial Crimes Commission, the Military, Police, Department of State Security, the Independent National Electoral Commission (INEC) and the Office of National Security Adviser.¹⁰²

6.5 Legislative Bills on Electoral Offences in Nigeria

Under ideal circumstances, electoral contests involve competition between political parties and candidates based on their ideas and programmes.¹⁰³ This ideal has largely

⁹⁹<https://icpc.gov.ng/2023/03/18/icpc-deploys-about-400-operatives-across-states-for-governorship-assembly-elections/>

¹⁰⁰<https://businessday.ng/news/legal-business/article/the-efccs-role-in-financial-crimes-during-elections/>

¹⁰¹<https://businessday.ng/news/legal-business/article/the-efccs-role-in-financial-crimes-during-elections/>

¹⁰²<https://icpc.gov.ng/2023/03/18/icpc-deploys-about-400-operatives-across-states-for-governorship-assembly-elections/>

¹⁰³Ogbogbo, C. B. N. (2009). Historicizing The Legal Framework for Elections in Nigeria. *Journal of the Historical Society of Nigeria*, 18, 42–60.

been sacrificed on the altar of electoral malpractices in Nigeria. Hooliganism, concomitant electoral violence and other forms of electoral irregularities have become constant features of the political landscape,¹⁰⁴ necessitating the initiation of bills and motions for tackling the menace.

The Nigerian Ninth National Assembly has been considering several bills that seek to highlight electoral offences and prescribe penalties for them. The bills of the 9th Assembly were–

Senate (Upper Chamber)

1. National Electoral Offences Commission (Est., etc.) Bill, 2019 (SB 220) sponsored by Senator Abubakar Kyari

House of Representative (Lower Chamber)

2. Electoral Offences Tribunal (Est.) Bill, 2019 (HB 549) sponsored by Honourable Francis Charles Uduyor
3. National Electoral Offences Commission (Est.) Bill 2021 (HB 1589), sponsored by the Senate
4. Electoral Offences Commission and Tribunal (Est.) Bill 2021 (HB 1427) sponsored by Honourable Kingsley Chinda
5. Nigeria Electoral Offences Commission Bill, 2021 (HB 1372) sponsored by Honourable Aishatu Jibril Dukku
6. Electoral Offences Tribunal (Est.) Bill, 2020 (HB 695) sponsored by Honourable Francis Charles Uduyor
7. Electoral Offence Commission (Est.) Bill, 2020 (HB 753) sponsored by Honourable John Dyegh¹⁰⁵

None of the above-listed House of Representative bills have been passed into law as of March 14, 2022; however, the Senate bill -National Electoral Offences Commission (Est., etc.) Bill, 2019 (SB 220), sponsored by Senator Abubakar Kyari has been passed in the Senate.¹⁰⁶

6.5.1 Senate Bill : The National Electoral Offences Commission (EST., ETC.) Bill, 2019 (SB 220)

The bill which sought to establish a National Electoral Offences Commission (the Commission) with powers to arrest, investigate and prosecute any person alleged to

¹⁰⁴Ibid

¹⁰⁵See PLAC Billstrack <https://placbillstrack.org/search.php> access in March 2022

¹⁰⁶Ibid

have committed an electoral offence (Clause 7 of the Bill) was passed in July 2021. During the deliberation for the passage of the Bill, the Chairman of the Senate Committee on INEC, Kabiru Gaya, reiterated the imperative for the Bill, citing the inability of INEC to prosecute electoral offenders in accordance with the provisions of the Electoral Act. Additionally, the bill provides that the Commission shall have the power to adopt measures to prevent, minimise and eradicate the Commission of electoral offences across the country [Clause 7(1), (b)].

In enforcing these provisions, the bill under Clause 8(5), requires that officers of the Commission involved in its enforcement shall have the same power, authority, and privileges (including the power to search persons and premises, effect arrest of any person or bear arms) as are given by law to members of the Nigeria Police Force.

The bill further seeks to set up special units within the Commission under Clause 10 as follows –

- a) Investigative, legal and prosecution unit
- b) Elections monitoring and operations unit
- c) Administrative unit
- d) Research and training unit

The National Electoral Offences Commission bill, 2019 (SB 220) provides for offences from Clauses 12 to 32. The list includes –

- Offences arising from violating existing laws (Clause 12)
- Offence relating to registration of voter's card (Clause 14)
- Applying undue influence (Clause 17)
- Bribery (Clause 18)
- Prohibition on disturbing public peace (Clause 22)
- Prohibition on damaging of character (Clause 23)
- Prohibition on a campaign against national interest (Clause 25)
- Prohibition on political propaganda on election day (Clause 29)
- Prohibition on hate speech (Clause 32)

6.5.2 House of Representative Bill: The National Electoral Offences Commission and Related Matters Bill, 2022

The National Electoral Offences Commission and Related Matters Bill, introduced in 2019, was aimed at establishing a National Electoral Offences Commission that would be responsible for taking action against electoral offences in Nigeria. Section 1(1) of

the Bill provides for the establishment of the Commission. As proposed in Section 2(1) of the Bill, membership of the committee was to include:

- A Chairman
- A Secretary
- Representatives of certain bodies including, among others, the Ministry of Justice, the Independent National Electoral Commission (INEC), and the National Human Rights Commission
- Six Nigerians with cognate experience in any one of the following: law, security, electoral management, engineering, and information technology. (Section 2(1j))

As the name suggests, the proposed establishment of the Commission was aimed at acting against electoral offences in the country. Clause 6 of the Bill mandates the Commission to, among others:

- Investigate all electoral offences;
- Prosecute electoral offenders;
- Maintain records of all persons investigated and prosecuted; and
- Adopt measures to prevent, minimise and eradicate the commission of electoral offences throughout the country.

This mandate places the Commission at a pivotal place for taking action against electoral offenses in Nigeria. The specific mandate to adopt measures for preventing, minimizing and eradicating electoral offences gives the Commission a major strength as it allows for pre-emptive measures for the prevention of crimes. Like the Senate version of the bill, the bill contains clauses specifying electoral offences against which the Commission was to act as well as specific punitive measures.

Recommendations from Electoral Reform Committees

Owing to the prevalence of electoral offences, successive governments in Nigeria have attempted to draw up definitive solutions by setting up committees to reform the electoral process and evolve safeguards against electoral misconduct. One such committee was the Babalakin Commission of Inquiry established in 1985 to conduct an inquiry into the operations of the Federal Electoral Commission (FEDECO).¹⁰⁷ The committee was constituted in response to the high rate of electoral fraud and impunity that occurred during the 1983 general elections.¹⁰⁸ Other committees were the 2008 Electoral Reform Committee under former President Umaru Musa Yar'Adua (Chaired by Hon. Justice Muhammadu Lawal Uwais); the 2011 Presidential Committee on Electoral Violence and Civil Disturbances (Chaired by Sheikh Ahmed Lemu), which President Goodluck Jonathan set up to examine and investigate the causes of electoral violence that occurred during the electoral process, and the 2017 Ken Nnamani Committee on Constitutional and Electoral Reform.¹⁰⁹ Recommendations emanating from each of these committees are discussed in this section.

7.1 FEDECO/Babalakin Commission of Inquiry

Following the 1983 elections conducted by the Federal Electoral Commission (FEDECO), and concerns arising therefrom, a judicial commission of inquiry into the Affairs of Federal Electoral Commission (FEDECO) commonly referred to as the Babalakin Commission of Inquiry was established by the military regime of General Muhammadu Buhari to investigate the activities of FEDECO. Chapter 9 of the report of the Commission provides a detailed highlight of abuses and shortcomings characterising the 1983 elections. The allegations laid out in the report were assembled from testimonies of persons who appeared before the Commission. The Commission laid out a catalogue of 16 electoral offences perpetrated by various actors across the then existing 19 states of the federation during the elections. These have been adopted in this analysis as part of the conceptualisation of electoral offences in section 2.2 above.

It is trite to note that the list of electoral offences provided in the Babalakin Commission Report of 1986 is by no means exhaustive. In fact, the Commission Report clearly states that the classification of abuses and shortcomings is not an exhaustive treatment of all

¹⁰⁷Babalakin Commission of Inquiry (1986). *Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO)*. Federal Republic of Nigeria.

¹⁰⁸ Ibid

¹⁰⁹ Ibid

the abuses during the election, but because those discussed therein are the areas where a larger number of complaints was made. Chapter 9 of the report further responsible parties for electoral malpractices. Culpable stakeholders as identified in the report include:

- Politicians
- Political parties
- Presiding officers and electoral staff,
- Nigerians
- The Police.

The Commission report also provides recommendations on addressing identified electoral offences in the country. These are particularly contained in Chapter 12 of the Report which lays out the findings and recommendations. Some of the recommendations relating to electoral offences are outlined below:

- To guarantee the independence of the election management body, it is important that the Electoral Act contains a clause such as, “in the discharge of its functions, the Federal Electoral Commission shall not be subject to the direction or control of any person or authority.”
- Government should pay attention to factors in our national setting like the winner-takes-it-all syndrome and attendant desire by politicians to seize power at all cost, the political culture which encourages discredited politicians to stay in power, the treatment of politics as a path to easy wealth, the factor of rural and urban poverty, political thuggery and low level of political awareness amongst majority of the population as part of the fight against electoral offences.
- Voter registration should be an ongoing exercise conducted annually.
- Returning officers should be adequately trained and the importance of their role in the electoral process should be properly stressed.
- The need to address delays in handling cases of electoral malpractices and attending to complaints lodged with the police. The commission recommended that criminal cases relating to registration of voters and the elections should be given priority attention by both the police and the Director of Public Prosecution.

- The custody of ballot papers and the distribution of sensitive election materials should be retained with continued police involvement.
- At election time, special investigation units should be set up in the police force to give speedy attention to reported cases of electoral malpractice, and the ministries of justice should make special arrangements to expedite action on cases involving electoral malpractices.
- Special courts should be set up to try cases of electoral malpractices.
- Government should pass legislation against political thuggery.
- Government should evolve a way of curbing the excess use of inflammatory speeches by political leaders. The practice of infusing ethnicity and religion into political campaigns should be discouraged.
- Stiff punishment including imprisonment without option of fines should be considered for electoral staff who commit electoral offences.¹¹⁰

7.2 Electoral Reform Committee/Uwais Panel

Just like the aftermath of the 1983 General Election, discontent and concerns following 2007 general election, led to the establishment of a similar committee to provide wholesome recommendations at reforming the electoral process in Nigeria. The then winner of the 2007 Presidential Election, President Musa Yar’ Adua on August 28, 2007 set up a 22-member Electoral Reform Committee (ERC) to “...examine the entire electoral process with a view to ensuring that we raise the quality and standard of our general elections and thereby deepen our democracy”.¹¹¹

The 2008 Electoral Reform Committee chaired by Hon. Justice Muhammadu Lawal Uwais stated that it was unfortunate that elections conducted during the military regimes were more credible than those conducted under civilian rule.¹¹² This was due to the greed and desperation of politicians to retain power.¹¹³ The Committee noted that some of the major causes of electoral violence and malpractice in Nigeria include the following:

- The lack of independence and capacity of the various Electoral Management Bodies both at the Federal and State levels

¹¹⁰Babalakin Commission of Inquiry (1986). *Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO)*. Federal Republic of Nigeria.

¹¹¹Report of the Electoral Reform Committee (ERC Report 2008) pii

¹¹²<https://cleen.org/2019/05/24/revisiting-justice-uwaiss-electoral-reform-report/>

¹¹³ Ibid

- The negative political culture in Nigeria
- The weak democratic institutions and processes in Nigeria
- Lack of a strong legal and constitutional framework in Nigeria
- The character of the Nigerian State as the arena for political contests is brought about by the numerous ethnic groups and religious divides in the country.¹¹⁴

Some of the recommendations made by this Committee in its report include the following:

- That an Electoral Offences Commission be established to investigate and prosecute all cases relating to electoral fraud and violence
- That the Constitution of the Federal Republic of Nigeria should be amended to provide for independent candidature in conformity with international law, particularly the African Charter on Democracy, Governance and Elections and the ECOWAS Protocol on Democracy and Elections
- That a Political Parties Registration and Regulatory Commission be established to register and monitor the activities of political parties
- The establishment of a Constituency Delimitation Commission
- That INEC should ensure that there is efficient electoral administration and management
- That independent candidates should be allowed to contest elections
- That political parties, for transparency and accountability, should publicly disclose to INEC all their sources of funding
- The roles of the various security agencies should be defined to ensure that there is no breakdown of law and order during elections
- The media should be adequately trained on electoral laws to enable them adequately enlighten and guide the public
- Civil Society Organisations should participate more and monitor the electoral process to ensure that cases of electoral malpractice and violence are reported
- That the Electoral Act be amended to ensure the inclusion of women and persons with disabilities
- That all electoral offences should be prosecuted expeditiously
- There should be sustained civic education and public enlightenment on the responsibilities of the electorate in ensuring credible elections. The Committee also recommended that there was a need to encourage a culture that views elections as part of a broader and continuous process of ensuring accountability.¹¹⁵

¹¹⁴ Ibid

¹¹⁵ Ibid

7.3 Presidential Committee on Electoral Violence and Civil Disturbances/Lemu Panel

The 2011 Presidential Committee on Electoral Violence and Civil Disturbances (Chaired by Sheikh Ahmed Lemu) was inaugurated in May 2011 to look into the post-2011 Election violence that left more than 800 people dead¹¹⁶, particularly in the cities of Bauchi, Jos and Kaduna. The Committee noted that some of the reasons which encourage electoral violence and malpractice in Nigeria include:

- The fact that politics in Nigeria is predicated on ethnic and religious grounds
- The culture of bad governance and impunity which surrounds politics
- The disappointment and frustrations of the citizens against past regimes who have been unable to adequately solve the problems plaguing the nation
- The high rate of bribery and corruption in the country
- The increased rate of insecurity in the country
- The greed and attitude of elected officials who do not want to be accountable to the electorates that voted them into office
- The failure of the government to implement the recommendations of panels, commissions and committees on electoral malpractice and violence in Nigeria.¹¹⁷

The Committee also made recommendations to the government to implement the recommendations of past committees, urged security operatives to investigate persons involved in the commission of electoral offences and prosecute electoral offenders that are found guilty.¹¹⁸

7.4 Constitution and Electoral Reform Committee -CERC/Ken Nnamani

The CERC was inaugurated on October 4, 2016, to undertake a constitutional and electoral reconstruction to address challenges of the electoral process by examining all

¹¹⁶See: Bekoe, D. (2011). *Nigeria's 2011 Elections: Best Run, but Most Violent*. <https://www.usip.org/publications/2011/08/nigerias-2011-elections-best-run-most-violent> and <https://www.hrw.org/news/2011/05/16/nigeria-post-election-violence-killed-800>

¹¹⁷Kawu, M.I. (2011). Lemu Report and Fuel Subsidy: An Explosive Mix of Politics and Oil. (*Vanguard News*). <https://www.vanguardngr.com/2011/10/lemu-report-fuel-subsidy-an-explosive-mix-of-politics-and-oil/>

¹¹⁸Ndujihe, C. & Idonor, D. (2011). *Post-election violence: FG panel report indicts Buhari*. Vanguard News. <https://www.vanguardngr.com/2011/10/post-election-violence-fg-panel-report-indicts-buhari/>

current legal frameworks for elections and providing recommendations to facilitate a more robust and acceptable electoral system¹¹⁹. The Committee had membership drawn from diverse groups including four management staff of INEC¹²⁰.

The Committee, just like the Uwais ERC, noted and called for the expeditious prosecution of electoral offences. It noted that the “real challenge with electoral offences is not the absence of laws but enforcement of existing provisions”¹²¹. It identified low levels of prosecution resulting from lack of arrests and investigations; difficulty in achieving convictions due to lack of credible evidence; and release of offenders following interventions of political sponsors as well as the absence of centralised information by Magistrates Courts which lack state-wide register as the major obstacles to addressing the challenge of electoral offences and impunity.

The major recommendation of the CERC on dealing with the electoral offence is the establishment of a body, the Political Parties and Electoral Offences Commission to investigate and prosecute electoral offences. It argued that “transferring the task of investigation and prosecution of electoral offences to a separate institution is a meaningful way of addressing these challenges”¹²²

This supports the Uwais recommendation, although different from an Electoral Offences Commission recommended by Uwais as the body that should be responsible for investigation and prosecution.

¹¹⁹See Committee Inaugural Address of the AGF, Abubakar Malami (SAN)

¹²⁰Oluwole Osaze-Uzzi (Director, VEP); Olutoyin O. Babalola (Director, Legal Services); Chima Duruaku (Deputy Director, Electoral Operations); Maryam I. Musa (Deputy Director, EADR); and S.O. Ibrahim (Assistant Director, Legal Services)

¹²¹Report of the Constitutional and Electoral Reform Committee (CERC) 2017 page 51

¹²²Ibid page 52

Conclusion and Recommendations

Addressing Electoral Offences in Nigeria

8.1 Conclusion

Elections are crucial tools for ensuring popular sovereignty in a representative democracy. Its conduct is, therefore, expected to conform to laid down rules and procedures. When elections are characterised by severe anomalies and electoral offences are perpetrated with impunity, the potency of elections as a tool for ensuring that ultimate power remains with the people is destroyed. More so, outcomes of elections that are perceived to be lacking credibility could herald a legitimacy crisis by creating substantial space for violent opposition by the losing candidate(s), especially where the contests have a sectarian cast.¹²³ This makes electoral offences a conundrum worthy of attention, especially for the Nigerian state.

As this study has shown, the zero-sum nature of political contests in Nigeria intersects with pervasive parochial and undemocratic political culture to perpetuate electoral offences in the country. Elections in the country have been susceptible to massive rigging and all forms of malpractices to predetermine who wins or loses, casting doubt on the legitimacy of the process and outcomes.¹²⁴ Relevant institutions and agencies have taken cognisance of the destructive impact of electoral offences and initiated bills as well as legislative provisions with specific punitive measures for various electoral offences. Despite these measures, the problem has subsisted through successive elections in Nigeria due to implementation gaps. Institutions responsible for the prosecution and punishment of electoral offenders have been largely ineffective and the outcome has been the comparatively few prosecutions of electoral offenders recorded in the country.

8.2 Recommendations

As argued in the ERC 2008, all electoral offences must and should be prosecuted expeditiously. This is because the prevailing atmosphere of electoral impunity can only be ended by prosecuting and holding accountable those responsible for electoral offences. The historical roots of electoral offences in Nigeria and lacunae in efforts

¹²³Campbell, J. (2010). Electoral violence in Nigeria. *Contingency Planning Memorandum Number 9*. Council on Foreign Relations.

¹²⁴<https://aceproject.org/ace-en/topics/ei/onePage/>

towards its containment have led to the persistence of the problem through successive election cycles. Informed by this understanding, provisions in extant legal frameworks and recommendations by successive election reform committees, the following are proposed plausible solutions for addressing the scourge of electoral offences in Nigeria:

- 1) **Establishment of an Electoral Offences Commission:** a designated agency dealing with electoral offences should be established, not just to investigate, prosecute and punish offenders but to document the occurrences. Documentation will create data from which lessons can be drawn to devise strategies for tackling electoral offences.
 - The agency should have a register of offenders in its custody to name and shame perpetrators (especially politicians who fund them) as a way of deterring others from committing electoral offences. There should be a special section for those who commit violence against women in politics within the register.
 - A CSO permanent CSO desk should be established as part of this agency to aid collaboration and leverage on the capabilities within the CSO space in the effort to contain electoral offences and offenders.
 - A “gender desk” should also be established within the agency for addressing gender-related issues.
- 2) **Judicial Response:** The Chief Judge of all the 36 states should set up courts for electoral offences and appoint judges to handle the cases. This would reduce the workload of magistrates and high court judges who are already overwhelmed by other cases.
- 3) **Clearly Defined Responsibilities:** Responsibilities with regards to investigation and prosecution of electoral offences need to be clearly assigned.
- 4) **Balance Punitive Measures with Restorative Approaches:** The use of punitive measures needs to be adequately balanced with restorative justice in such a way as to leverage on the gains of the Criminal Justice Administration Act as well as the Electoral Act.
- 5) **Promotion of Preventive Measures:** Preventive measures against electoral offences should be established to avoid sole reliance on reactionary punitive measures.
- 6) **Relieve INEC of Some Responsibilities:** The Electoral Umpire, INEC, should be unbundled and relieved of the responsibility of prosecuting electoral offenders. INEC currently performs diverse roles which beyond the conduct of

elections, includes regulation, prosecution, investigation of election offences. Alternatively, to avoid another layer of bureaucracy, INEC should be provided with all enablement, human and material, to effectively prosecute offences.

- 7) **CSO Engagement with the Legislature:** CSOs should act concertedly toward engaging members of the legislature and other critical stakeholders for the passage of the Electoral Offences Commission (Establishment) Bill.
- 8) **Multi-stakeholder Engagement:** Stakeholders across all sectors, governmental and non-governmental, should evolve strategies for building partnerships for effective investigation and prosecution of electoral offences.
- 9) **Political Will:** Critical stakeholders, especially in the EMB, law enforcement and anti-graft agencies, should develop the willpower to use available data for investigating and, prosecuting electoral crimes
- 10) **Building Political Synergy:** CSOs need to identify pro-reform elements as an entry point into reforming the mindset of the politicians and work towards a possible synergy
- 11) **Media Sensitisation:** Print and new media should be deliberate in crafting and disseminating, in the interest of democracy and its associated press freedom, sensitisation and awareness campaigns about the dangers of electoral offences.
- 12) **Collaborative Multi-stake Holder Approach:** The Ministry of Information, INEC, CSOs, the media and other relevant stakeholders should collaborate for the purpose of advocacy and sensitisation of citizens and political actors on electoral offences and its adverse impacts. These campaigns and advocacy should also be directed at simplifying the provisions of the constitution and the electoral Act on electoral offences.

Appendix

Appendix 1: Detailed provisions on electoral offences and penalties in the Electoral Act 2022

Citation	Offences	Penalties
Section 8(5) - INEC appointee belonging to a political party	A person who, being a member of a political party, misrepresents himself by not disclosing his membership, affiliation, or connection to any political party in order to secure an appointment with the Commission in any capacity.	Commits an offence and shall be liable on conviction, to a fine of N5,000,000 or imprisonment for a term not more than two years or both.
Section 12(2) (3) – Multiple registration	A person shall not register in more than one registration centre or register more than once in the same registration centre.	Commits and offence and shall be liable on conviction to a fine not more than N100,000 or imprisonment for a term not more than one year or both.
Section 16(2) (3)- Holding more than one valid voter’s card	No voter shall hold more than one valid voter’s card.	Shall be liable on conviction, to a fine not more than N500,000 or imprisonment for a term not more than one year or both.
Section 18 (3) (5) - Issuing a PVC less than 90 days to an election	No person shall issue a replacement permanent voter’s card to any voter less than 90 days before polling day.	Shall be liable on conviction, to a fine not more than N200,000 or imprisonment for a term not more than two years or both.
Section 19(5) - Failure to display or publish voter’s register	An official or staff of the Commission, who fails to display or publish the voters’ register as provided under subsection (1) commits an offence.	Shall be liable on conviction to a fine of N100,000 or imprisonment for a term of six months or both.

Section 22 (a-c) - Offences of buying and selling voters' cards	(a) Any person who is in unlawful possession of any voter's card whether issued in the name of any voter or not commits an offence	Shall be liable, on conviction, to a fine not more than N500,000 or imprisonment not more than two years or both
	(b) Any person who sells or attempts to sell or offers to sell any voter's card whether issued in the name of any voter or not commits an offence	Shall be liable, on conviction, to a fine not more than N500,000 or imprisonment not more than two years or both
	(c) Any person who buys or offers to buy any voters' card whether on his own behalf or on behalf of any other person commits an offence	Shall be liable on conviction, to a fine not more than N500,000 or imprisonment not more than two years or both.
Section 23 (1) (a-e) - Offences relating to register of voters	(a) Any person who after demand or requisition made of him or her under this Act without just cause, fails to give any such information as he or she possesses or does not give the information within the time specified commits an offence	Shall be liable on conviction to a fine not more than N100,000 or imprisonment not more than one year or both
	(b) Any person who in the name of any other person, whether living, dead or fictitious, signs an application form for registration as a voter to have that other person registered as a vote commits an offence	Shall be liable on conviction to a fine not more than N100,000 or imprisonment not more than one year or both
	(c) Any person who transmits or is involve in transmitting to any person as genuine a declaration relating to registration which is false in any material particular, knowing it to be false commits an offence	Shall be liable on conviction to a fine not more than N100,000 or imprisonment not more than one year or both
	(d) Any person who intentionally procures the inclusion in the Register of Voters of his or herself or any other person with the	Shall be liable on conviction to a fine not more than N100,000 or imprisonment not more than one year or both

	knowledge that he or she or that other person ought not to have been registered commits an offence	
	(e) Any person who by his or herself or any other person procures the registration of a fictitious person commits an offence	Shall be liable on conviction to a fine not more than N100,000 or imprisonment not more than one year or both
Section 23 (2)(a) – Registration by duress	(a) Any person who by duress, including threats of any kind causes or induces any person or persons generally to refrain from registering as a voter or voters commits an offence	Shall be liable on conviction, to a fine not more than N500,000 or imprisonment not more than 5 years
Section 23 (2)(b) – Hindering of registration	(b) Any person who in any way hinders another person from registering as a voter commits an offence	Shall be liable on conviction, to a fine not more than N500,000 or imprisonment not more than 5 years
Section 26(1) – Violating oath of neutrality by election officials	All staff, electoral officers, presiding officers, returning officers and security officials taking part in the conduct of an election shall affirm or swear to an oath of loyalty and neutrality as in the second schedule, indicating that they will not accept bribes or gratification from any person and shall perform their functions and discharge their duties impartially and in the interest of the Federal Republic of Nigeria without fear or favour.	Any person who violates subsection (1), commits an offence and is punishable under section 120 (dereliction of duty) (Section 26(2))
Section 29(8) – Submission of underqualified candidates	A political party which presents to the Commission the name of a candidate who does not meet the qualification stipulated in this section (Section 29 (1-7)) commits an offence.	Shall be liable on conviction to a fine of N10,000,000
Section 30 (2) - Prohibition of double nomination	No person shall nominate more than one person for an election to the same office.	Any person who contravenes this section shall be guilty of an offence and on conviction be liable to

		a maximum fine of N100,000 or imprisonment for three months or both but his action shall not invalidate the nomination (Section 30(3)).
Section 64(9) – Collating and announcing a false result	A returning officer or collation officer, as the case may be, commits an offence if he or she intentionally collates or announces a false result.	Shall be liable on conviction to a fine of N5,000,000 or imprisonment for a term of at least 3 years or both.
Section 73(3) – Penalty for violating subsection (2)¹ prior recording on election forms	A Presiding officer who intentionally announces or signs any election result in violation of subsection (2) commits an offence.	Shall be liable on conviction to a fine of N10,000,000 or imprisonment for a term of at least one year or both.
Section 74(2) – Penalty for non-compliance with subsection (1) Access to election document	Any Resident Electoral Commissioner who willfully fails to comply with the provisions in subsection (1) commits an offence.	Shall be liable on conviction to a maximum fine of N2,000,000 or imprisonment for a term of 12 months or both.
Section 75(5) – on powers of the Commission to register political parties	An association, its executive members or principal officer who give false or misleading information, commits an offence.	Shall be liable on conviction, in the case of: (a) the association to a fine of N5,000,000; and (b) each executive or principal officer of the association to a fine of N3,000,000 or imprisonment for a term of at least two years or both.
Section 78(1) – Organising or training people to disrupt or assault opponents or any other member of the public	No person shall retain, organise, train or equip any person or group of persons for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objective or interest or in such a manner as to arouse reasonable apprehension that they are organised and trained or equipped for that purpose. (Section 227 of the CFRN)	Any political party or association, which contravenes the provisions of section 227 of the Constitution is guilty of an offence and liable on conviction to a fine of- (a) N 5,000,000.00 for the first offence; (b) N 7,000,000.00 for any

		subsequent offence; and (c) N 500,000 for every day that the offence continues
Section 78(2) – Penalty for contravention of Section 227 of the Constitution	No person shall retain, organise, train or equip any person or group of persons for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objective or interest or in such a manner as to arouse reasonable apprehension that they are organised and trained or equipped for that purpose. (Section 227 of the CFRN)	Any person or group of persons who aids or abets a political party in contravening the provisions of section 227 of the Constitution shall be guilty of an offence and be liable on conviction to a fine of N5,000,000 or 5 years imprisonment or both
Section 83(4)	A political party which fails to provide the required information or clarification under subsection (2) ² or carry out any lawful directive given by the Commission in conformity with the provisions of this section is liable	A fine not more than ₦1,000,000
Section 85 (1) (a) - Offences in relation to finances of a Political Party	Any Political Party that holds or possesses any fund outside Nigeria in contravention of section 225(3)(a) of the 1999 Constitution commits an offence	Shall on conviction forfeit the funds or assets purchased with such funds to the commission and in addition may be liable to a fine of at least ₦5,000,000.00
Section 85 (1) (b)	Any Political Party that retains any fund or other asset remitted to it from outside Nigeria in contravention of section 225(3)(a) of the 1999 Constitution commits an offence	Shall on conviction forfeit the funds or assets to the commission and in addition may be liable to a fine of at least ₦ 500,000.00
Section 86 (2) – Failure to submit annual financial statements by political parties	Any official of a political party who fails to submit to the commission a detailed annual statement of Assets and Liabilities and analysis of its sources of funds and other assets, together with statement of its expenditure including hard and soft copy of its list of members or in such a form as the commission may require commits an offence	Shall be liable to a fine of at least ₦1,000,000.00 or imprisonment for a term of 6 months or both

Section 87 (2-a) - Power to limit contribution to a Political Party	An individual, candidate or political party who exceeds the limits placed by the commission to the amount of money or other assets which an individual can contribute to a political party or candidate commits an offence	On conviction shall be liable – (a) in case of a political party to a fine not more than ₦10,000,000.00 and forfeiture of amount donated; (b) in case of an individual, a fine of 5 times the amount donated in excess of the limit placed by the commission
Section 88 – Spending above statutory limits by candidates or political parties	A candidate who knowingly acts in contravention of Section 88, which places limits on election expenses commits an offence	On conviction shall be liable to a fine of 1% of the amount permitted as the limit of campaign expenditure under this Act or imprisonment for a term not more than 12 months or both (Section 88(9))
	An individual who knowingly acts in contravention of Section 88(9), which stipulates the penalty for contravening the limits on election expenses as provided under Section 88(1) – (8) commits an offence	On conviction shall be liable to a maximum fine of N500,000 or imprisonment for a term of 9 months or both
	An accountant who falsifies or conspires or aids a candidate to forge or falsify a document relating to his expenditure at an election or receipt or donation for the election or in any way aids or abets the contravention of provisions of Section 88 commits an offence	On conviction shall be liable to a maximum fine of ₦3,000,000 or imprisonment for a term of 3 years or both
Section 89(4) – Failure to submit audited election expense return	A political party which contravenes Section 89(3), which requires the submission of the political party’s audited election expense return 6 months after the election, signed by the auditors and chairman of the party and supported by a sworn affidavit commits an offence	On conviction shall be liable to a maximum fine of ₦1,000,000 and N200,000 per day on party for the period after the audited return was due until it is submitted

Section 89(7) – Exceeding election expenses limits	Any political party that incurs election expenses beyond the limit set in subsection (2) commits an offence	On conviction shall be liable to a maximum fine of ₦1,000,000 and forfeiture to the Commission, the amount by which the expenses exceed the limit set by the Commission.
Section 92(7) - Prohibition of certain conduct at political campaigns	A political party, aspirant or candidate that keeps or uses armed private security organisation or any group or vanguard for the purpose of providing security or aiding the political party or candidate during election or rallies, procession or campaigns commits an offence	On conviction shall be liable (a) in case of an aspirant or candidate to a maximum fine of ₦1,000,000 or imprisonment for a term of 12 months (b) in the case of a political party to a fine of ₦2,000,000 in the first instance and ₦1,000,000 for any subsequent offence
Section 92 (8) – Aiding and abetting certain conduct at political campaigns	A person or group of persons who aids or abets a political party, an aspirant or a candidate in contravening the provisions of subsection (5), commits an offence	Shall be liable on conviction to a fine of ₦500,000 or imprisonment for a term of three years or both
Section 93 - Prohibition of use of force or violence during political campaign	A party, candidate, aspirant or person or group of persons shall not directly or indirectly threaten any person with the use of force or violence during any political campaign in order to compel that person or any other person to support or refrain from supporting a political party or candidate (Section 93(1))	Any person or political party that contravenes the provisions of this section commits an offence and is liable on conviction- (a) in the case of a candidate, aspirant, person or group of persons, to a maximum fine of ₦1,000,000 or imprisonment for a term of 12 months; and (b) in the case of a political party, to a fine of ₦2,000,000 in the first instance, and ₦500,000 for any subsequent offence (Section 93(2))

<p>Section 94 – Limitation on political broadcast and campaign by political parties</p>	<p>A registered Political Party which through any person acting on its behalf during the 24 hours before polling day- (a) advertises on the facilities of any broadcasting undertaking; or (b) procures for publication or acquiesces in the publication of an advertisement in a Newspaper, for the purpose of promoting or opposing a particular candidate, commits an offence under this Act (Section 94 (2))</p>	<p>Shall be liable on conviction to a maximum fine of ₦500,000 (Section 94(2))</p>
<p>Section 95 (6) – Contravening subsections (3) and (4)</p>	<p>A person who contravenes subsections (3) and (4) commits an offence</p>	<p>Shall be liable on conviction, in the case of (a) a public media, to a fine of N2,000,000 in the first instance and N5,000,000 for subsequent conviction; and (b) principal officers and other officers of the media house, to a fine of N1,000,000 or imprisonment for a term of six months.</p>
<p>Section 96(1-2) - Prohibition of Broadcast, 24 hours preceding or on polling day</p>	<p>A person, print or electronic medium that broadcasts, publishes, advertises or circulates any material for the purpose of promoting or opposing a particular political party or the election of a particular candidate over the radio, television, newspaper, magazine, handbills, or any print or electronic media whatsoever called during twenty-four hours immediately preceding or on polling day commits an offence under this Act</p>	<p>A person is convicted of an offence under this section is liable - (a) in the case of a body corporate to a maximum fine of N1,000,000 and (b) in the case of an individual to a maximum fine of N1,000,000 or to imprisonment for a term of six months or both. (Section 96(3))</p>

	Where an offence under subsection (1) is committed by a body corporate, the principal officers of that body shall be deemed to have committed the same offence	
Section 97(1) - Campaign based on religion, tribe, etc.	Any candidate, person or association who engages in campaigning or broadcasting based on religious, tribal, or sectional reason for the purpose of promoting or opposing a particular political party or the election of a particular candidate, commits an offence under this Act	(a) The candidate, person or association on conviction shall be liable to a maximum fine of N1,000,000 or imprisonment for 12 months or to both; (b) in the case of a political party, to a maximum fine of N10,000,000
Section 114 - Offences in relation to registration	(a) A person who without authority, destroys, mutilates, defaces or removes or makes any alteration in any notice or document required for the purpose of registration under this Act commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or to a term of 12 months or to both
	(b) A person who presents himself or herself to be or does any act whereby he is by whatever name or description howsoever, included in the register of voters for a constituency in which he is not entitled to be registered or causes himself to be registered in more than one registration or revision centre commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or to a term of 12 months or to both
	(c) A person who publishes any statement or report which he knows to be false or does not believe to be true so as to prevent persons who are qualified to register from registering as voters commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or to a term of 12 months or to both
	(d) A person who makes in any record, register or document which he is required to prepare, publish or keep for the purpose	Shall be liable on conviction to a maximum fine of N1,000,000 or to a term of 12 months or to both

	of registration, any entry or statement which he knows to be false or does not believe to be true commits an offence	
	(e) A person who impedes or obstructs a registration officer or a revision officer in the performance of his duties commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or to a term of 12 months or to both
	(f) A person who without proper authority, wears the identification of a registration officer or assistant registration officer or wears any other identification purporting to be the identification of a registration officer or assistant registration officer commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or to a term of 12 months or to both
	(g) A person who forges a registration card commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or to a term of 12 months or to both
	(h) A person who carries out registration or revision of voters at a centre or place not designated by the commission commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or to a term of 12 months or to both
Section 115(1) – Offences in respect of nomination	(a) A person who forges any nomination paper or result form commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(b) A person who willfully defaces or destroys any nomination paper or result form commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(c) A person who delivers to an electoral officer any nomination paper or result form knowing it to be forged commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.

	(d) A person who signs a nomination paper or result form as a candidate in more than one constituency at the same election commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(e) A person who forges any ballot paper or official mark on any ballot paper or any certificate of return or result form commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(f) A person who willfully destroys any ballot paper or official mark on any ballot paper or any certificate of return or result form commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(g) A person who without authority gives a ballot paper or result form to any person commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(h) A person who willfully places in any ballot box any unauthorised paper or result form commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(i) A person who willfully removes from a polling station any ballot paper or result form whether or not the ballot paper or result form was issued to him in that polling station commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(j) A person who without authority destroys or in any other manner interferes with a ballot box or its contents or any ballot paper or result form then in use or likely to be used for the purpose of an election commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.
	(k) A person who signs a nomination paper consenting to be a candidate at an election knowing that he is ineligible to be a candidate at that election, commits an offence	Shall be liable on conviction to a maximum term of imprisonment for 2 years.

Section 115(2) -Illegal printing of ballot papers	(a) A person who without proper authority prints a ballot paper or what purports to be or is capable of being used as a ballot paper or result form at an election	Shall be liable on conviction to a maximum fine of N50,000,000 or for a term of imprisonment of not less than 10 years or to both.
Printing of excess ballot papers without authorisation	(b) A person who being authorised by the commission to print ballot papers or result form, prints more than the number or quantity the commission authorised commits an offence	Shall be liable on conviction to a maximum fine of N50,000,000 or for a term of imprisonment of not less than 10 years or to both.
Possession of ballot paper or result form without authorisation	(c) A person who without authority, is found in possession of a ballot paper or result form when he is not in the process of voting and at a time when the election for which the ballot paper or result form is intended is not yet completed commits an offence	Shall be liable on conviction to a maximum fine of N50,000,000 or for a term of imprisonment of not less than 10 years or to both.
Illegal manufacturing, constructing, importing or supplying of ballot box	(d) A person who manufactures, constructs, imports into Nigeria, has in his possession, supplies to any election official or uses for the purpose of an election, or causes to be manufactured, constructed or imported into Nigeria, supplies to any election official for use for the purpose of any election, any ballot box including any compartment, appliance, device or mechanism or by which a ballot paper or result form may or could be secretly placed or stored in, or having been deposited during polling may be secretly diverted, misplaced or manipulated, commits an offence	Shall be liable on conviction to a maximum fine of N50,000,000 or for a term of imprisonment of not less than 10 years or to both.
Section 115(3) – Attempt to commit an offence	An attempt to commit any offence under Section 115 shall be punishable in the same manner as the offence itself.	Shall be punishable in the same manner as the offence itself.
Section 116 - Disorderly behaviour at political meetings	(a)Any person who, at a political meeting, acts or incites another to act in a disorderly manner for the purpose of preventing the	Shall be liable on conviction to a maximum fine of N500,000 or imprisonment for 12 months or both

	transaction of the business for which the meeting was convened commits an offence	
	(b) Any person who, at a political meeting has in his possession an offensive weapon or missiles commits an offence	Shall be liable on conviction to a maximum fine of N500,000 or imprisonment for 12 months or both
Section 117 - Improper use of voter's cards	(a) Any person who being entitled to a voter's card, gives it to some other person for use at an election other than an officer appointed and acting in the course of his duty under this Act commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or imprisonment for 12 months or both
	(b) Any person who Not being an officer acting in the course of his duty under this Act, receives any voters card in the name of some other person or persons for use at an election uses it fraudulently commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or imprisonment for 12 months or both
	(c) Any person who without lawful excuse has in his possession more than one Voters Card commits an offence	Shall be liable on conviction to a maximum fine of N1,000,000 or imprisonment for 12 months or both
	(d) Any person who buys, sells, procures or deals, with a voter's card otherwise than as provided in this Act commits an offence	Shall be liable on conviction to a maximum fine of ₦1,000,000 or imprisonment for 12 months or both
Section 118 - Improper use of vehicles	(1) No person shall provide for the purpose of any other person to a registration office or to a polling unit any government vehicle or boat, or any vehicle or boat belonging to a public corporation except in respect of a person who is ordinarily entitled to use such vehicle or boat and in emergency in respect of an electoral officer	(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a maximum fine of ₦500,000 or to imprisonment for six months or to both

Section 119 - Impersonation and voting when not qualified	(a) Any person who applies to be included in any list of voters in the name of some other person, whether such name is that of a person living or dead or of a fictitious person	Shall be liable on conviction to a maximum fine of N500,000 or 12 months imprisonment or both
	(b) Any person who having once to his or her knowledge been properly included in a list of voters under this Act as a voter entitled to vote at any election, applies, except as authorised by this Act, to be included in any other list of voters prepared for any Constituency as a voter at an election	Shall be liable on conviction to a maximum fine of N500,000 or 12 months imprisonment or both
	(c) Any person who applies for a Ballot Paper in the name of some other person, whether such name is that of a person living or dead or of a fictitious person	Shall be liable on conviction to a maximum fine of N500,000 or 12 months imprisonment or both
	(d) Any person who having voted once at an election applies at the same election for another ballot paper	Shall be liable on conviction to a maximum fine of N500,000 or 12 months imprisonment or both
	(e) Any person who votes or attempts to vote at an election knowing that he is not qualified to vote at the election	Shall be liable on conviction to a maximum fine of N500,000 or 12 months imprisonment or both
	(f) Any person who induces or procures any other person to vote at an election knowing that such other person is not qualified to vote at the election, commits an offence	Shall be liable on conviction to a maximum fine of N500,000 or 12 months imprisonment or both
Section 120 – Dereliction of duty	(1) Any officer appointed for the purposes of this Act, who without lawful excuse commits any act or omits to act in breach of his official duty commits an offence	Shall on conviction be liable to a maximum fine of N500,000 or to imprisonment for 12 months or both
	(2) Any Polling Officer who fails to report promptly at his polling unit on an election day without lawful excuse commits an offence of dereliction of duty	Shall be liable on conviction to a maximum fine of N500,000 or 12 months imprisonment or both.

	(3) Any polling agent, political party, or party agent who conspires to make false declaration of results of an election commits an offence	Shall be liable on conviction to a maximum fine of N500,000 or imprisonment for a term of 12 months or both
	(4) Any person who announces or publishes an election result knowing same to be false or which is at variance with the signed certificate of return commits an offence	Shall be liable on conviction to imprisonment for a term of 36 months
	(5) Any Returning Officer or Collation Officer who delivers or causes to be delivered a false certificate of return knowing same to be false, commits an offence	Shall on conviction be liable to a maximum imprisonment for 3 years without an option of fine
	(6) Any person who delivers or causes to be delivered a false Certificate of return knowing same to be false to any news media commits	Shall on conviction be liable to imprisonment for 3 years.
Section 121(1) - Bribery and conspiracy	(a) Any person who directly or indirectly, by his or herself or by any other person on his behalf, corruptly makes any gift, loan, offer, promise, procurement or agreement to or for any person, in order to induce such person to procure or to endeavour to procure the return of any person as a member of a legislative house or to an elective office or the vote of any voter at any election commits an offence	On conviction shall be liable to a maximum fine of N500,000 or 12 months imprisonment or both
	(b) Any person who upon or in consequence of any gift, loan, offer, promise, procurement or agreement corruptly procures, or engages or promises or endeavours to procure, the return of any person as a member of a legislative house or to an elective office or the vote of any voter at any election commits an offence	On conviction shall be liable to a maximum fine of N500,000 or 12 months imprisonment or both

	(c) Any person who advances or pays or causes to be paid any money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election commits an offence	On conviction shall be liable to a maximum fine of N500,000 or 12 months imprisonment or both
	(d) Any person who after any election directly, or indirectly, by his or herself, or by any other person on his or her behalf receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting or having induced any candidate to refrain from canvassing for votes for his or herself at any such election, commits an offence	On conviction shall be liable to a maximum fine of N500,000 or 12 months imprisonment or both
Section 121(2) – bribery	A voter commits an offence of bribery where before or during an election directly or indirectly himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself, or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election	is liable on conviction to a maximum fine of N500,000 or imprisonment for 12 months or both
Section 121 (4) – bribery	Any person who commits the offence of bribery is liable under this Act	Shall be liable on conviction to a maximum fine of N500,000 or imprisonment for 12 months or both

Section 121 (5) – Aiding and abetting	Any person who conspires, aids or abets any other person to commit any of the offences under this part of this Act shall be guilty of the same offence	Shall be liable on conviction to a maximum fine of N500,000 or imprisonment for 12 months or both
Section 122 (3) – Requirement of secrecy in voting	Any person who interferes with a voter casting his or her vote, or by any other means obtain or attempt to obtain in a polling unit information as to the candidate for whom a voter in that place is about to vote for or has voted for commits an offence	Shall be liable upon conviction to a maximum fine of N100,000 or to imprisonment for 6 months or both (Section 122(4))
	Any person who communicates at any time to any other person information obtained in a polling unit as to the candidate to whom a voter is about to vote or has voted for, commits an offence	Shall be liable upon conviction to a maximum fine of N100,000 or to imprisonment for 6 months or both (Section 122(4))
Section 123 - Wrongful voting and false statements	(a) Any person who votes at an election or induces or procures any person to vote at an election, knowing that he or she or such person is prohibited from voting at the election commits an offence	Shall be liable on conviction to a maximum fine of N100,000 or imprisonment for a term of 6 months or both
	(b) Any person who before or during an election, publishes any statement of the withdrawal of a candidate at such election knowing it to be false or reckless as to its truth or falsity commits an offence	Shall be liable on conviction to a maximum fine of N100,000 or imprisonment for a term of 6 months or both
	Any person who before or during an election publishes any statement as to the personal character or conduct of a candidate calculated to prejudice the chance of election of the candidate or to promote or procure the election of another candidate and such statement is false and was published without reasonable grounds for belief by the person publishing it that the statement is true, commits an offence	Shall be liable on conviction to a maximum fine of N100,000 or imprisonment for a term of 6 months or both

Section 124 - Voting by unregistered person	(1) Any person who knowingly votes or attempts to vote in a Constituency in respect of which his name is not on the register of voters commits an offence	Shall be liable on conviction to a maximum fine of N100,000 or to imprisonment for a term of 6 months or both
	(2) Any person who knowingly brings into a polling unit during an election a voter's card issued to another person commits an offence	Shall be liable on conviction to a fine of N100,000 or to imprisonment for 6 months or both
Section 125 - Disorderly conduct at elections	Any person who at an election, acts or incites others to act in a disorderly manner commits an offence	Shall be liable on conviction to a maximum fine of N500,000 or imprisonment for a term of 12 months or both
Section 126 - Offences on election day	(1) No person shall do any of the following acts or things in a polling unit or within a distance of 300 metres of a polling unit on the date on which an election is held - (a) canvass for votes; (b) solicit for the vote of any voter; (c) persuade any voter not to vote for any particular candidate; (d) persuade any voter not to vote at the election; (e) shout slogans concerning the election; (f) be in possession of any offensive weapon or wear any dress or have any facial or other decoration which in any event is calculated to intimidate voters; (g) exhibit, wear or tender any notice, symbol, photograph or party card referring to the election (h) use any vehicle bearing the colour or symbol of a political party by any means whatsoever; (i) loiter without lawful excuse after voting or after being refused to vote (j) snatch or destroy any election materials; and (k) blare siren	(3) A person who contravenes any of the provisions of this section commits an offence and shall be liable on conviction to a fine of N100,000 or imprisonment for 6 months for every such offence (4) Any person who snatches or destroys any election material shall be liable on conviction to 24 months imprisonment.
	(2) No person shall within the vicinity of a polling unit or collation centre on the day of which an election is held: (a) convene, hold	(3) A person who contravenes any of the provisions of this section commits an offence and

	or attend any public meeting during the hours of poll as may be prescribed by the commission; (b) unless appointed under this Act to make official announcements, operate any megaphone, amplifier or public address apparatus; (c) wear or carry any badge, poster, banner, flag or symbol relating to a political party or to the election	shall be liable on conviction to a fine of N100,000 or imprisonment for 6 months for every such offence.
Section 127 - Undue Influence	A person who corruptly by his or herself or by any other person at any time after the date of an election has been announced, directly or indirectly gives or provides or pays money to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election	Shall be liable on conviction to a fine of N100,000 or 12 months imprisonment or both
	A person who being a voter, corruptly accepts or takes money or any other inducement during any of the period stated in the paragraph above of this section, commits an offence	Shall be liable on conviction to a fine of N100,000 or 12 months imprisonment or both
Section 128 – Use of Threat	A person who directly or indirectly, by his or herself or by another person on his behalf, makes use of or threatens to make use of any force, violence or restraint commits an offence	Shall be liable on conviction to a fine of N1,000,000 or imprisonment for 3 years.
	A person who inflicts or threatens to inflict by his or herself or by any other person, any minor or serious injury, damage, harm or loss on or against a person in order to induce or compel that person to vote or refrain from voting, or on account of such person having voted or refrained from voting commits an offence	Shall be liable on conviction to a fine of N1,000,000 or imprisonment for 3 years

	A person who by abduction, duress, or a fraudulent device or contrivance, impedes or prevents the free use of the vote by a voter or thereby compels, induces, or prevails on a voter to give or refrain from giving his vote	Shall be liable on conviction to a fine of N1,000,000 or imprisonment for 3 years
	A person who by preventing any political aspirants from free use of the media, designated vehicles, mobilisation of political support and campaign at an election, commits an offence	Shall be liable on conviction to a fine of N1,000,000 or imprisonment for 3 years

Compiled by: The Electoral Hub from the Electoral Act (2022)



INITIATIVE FOR RESEARCH,
INNOVATION AND ADVOCACY
IN DEVELOPMENT



...promoting electoral knowledge, accountability and integrity

ABOUT THE ELECTORAL HUB

The Electoral Hub, an affiliate of the Initiative for Research, Innovation and Advocacy in Development (IRIAD), is a knowledge and advocacy hub which seeks to provide solutions to improve the credibility and integrity of the electoral process. The Electoral Hub complements the roles and activities of the different institutions, stakeholders and drivers of the electoral process and governance. The Electoral Hub aims to strengthen electoral governance and accountability in Nigeria through research, documentation, electoral education, policy influencing-informing and impact advocacy. We believe that the integrity of the electoral process is crucial in improving electoral governance and sustaining democracy in Nigeria. We also believe in solutions rooted in the principles of justice and equity.

9B Omolara Adeyemi Street, Kukwaba, Abuja

Phone: +234 908 6998 850 +234 912 1551 337

+234 915 1221 138 +234 704 7998 525

Twitter: @electoralhub and @iriadev

Instagram: @electoralhub, @theelectoralforum, and @iriadev

Facebook: @electoralhubng, @electoralforum, and @iriadev

Linkedin: [https://www.linkedin.com/company/the electoral hub/](https://www.linkedin.com/company/the%20electoral%20hub/)

[www.https://www.linkedin.com/company/iriadev/](https://www.linkedin.com/company/iriadev/)

Youtube: <https://www.youtube.com/@electoralhub1196>

Website: <https://www.electoralhub.iriadng.org> and <https://iriadng.org>