

The 2022 Electoral Act (as Amended) and the Administration of 2023 Presidential Election in Nigeria

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Abstract

This study is on the 2022 Electoral Act (As Amended) and Election Administration in Nigeria. This study examined the 2022 electoral act (As amended) and the failure of technology innovations in the act, and its transparency in the 2023 presidential election in Nigeria. The study adopted the historical method. The data was gathered using secondary methods like textbooks, journals, newspapers, etc. The theory applied in this study is the Systems theory by David Easton. The study revealed that INEC failed in its responsibility to allow the judicious use of the technological devices to actualize free, fair and acceptable election. Also, the failure of INEC staff on the Election Day as well as the violation of its rules hamper the transparency of the election. The study therefore recommended that there should be improved capacity training for INEC staff in the use of technological devices during election to enhance transparency in voter registration process. Also, there should be a review of the 2022 electoral act (as amended) to provide mandatory transmission of election results.

Keywords: INEC, BVAS, IREV, Election Administration, Technology

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Background of the Study

The effective administration of election to a viable standard gives direction to governance and acceptability of government in any society. The electoral process is an ideal, and constitute integral aspect of the democratic process both across democracies. A malfunctioning electoral system or poor governance, which may result in a failed state. This is a result of the way and manner election is planned, organized, resulting to crisis of governance and democratic instability. The process of electing leaders must align with democratic best principles, hence, a well-structured legal framework to regulate the behaviour of the stakeholders and procedures to follow. So, for a state to thrive in its election management, it must have an electoral law to guide its process.

In an effort to advance the electoral system in the country on 25th February 2023, under his excellency former President, (Late) Muhammadu Buhari signed into law the Electoral Act Amendment Bill. The process of the Electoral Act, 2022 started in 2018 but was delayed ahead of the 2019 General elections. The signing of the new Electoral Act, 2022 signals the repealing of the Electoral Act No. 6, 2010. The new Electoral Act, 2022 was to regulate the conduct of the national, state and FCT elections. To ensure provisions for the restriction of the qualification for elective office to relevant provisions of the constitution of Nigeria, 1999 (as amended), use of BVAS and other technological devices in elections and party Primaries, to provide a timeline for the Submission of List of Candidates, criteria for Substitution of candidates, limit of campaign expenses, and address the omission of names of candidates or logo of Political parties. These areas of innovations have the potential to improve the administration of elections in Nigeria.

The 2022 Act directs early funding for elections, increases time frames for various activities in the election cycle and expands the powers of the Independent National Electoral Commission (INEC) to promote the output and transparency of its constitutional obligation as the country's election management commission. It infuses sections to enhance intra-party cohesion and democratic practice of political parties in candidates' selection process and simplifies ambiguities such as when a candidate dies while election is in progress but before the pronouncement of results.

Other provisions aimed to promote greater inclusivity of Persons with Disabilities (PWDs) in the electoral process. Overall, the Electoral Act 2022 allows for an improved and vibrant framework which intend for enhanced credibility in election matters.

The Policy and Legal Advocacy Centre stated that Electoral Act, 2022 has 153 Sections and each section deals with specific subject matter.

The Act is divided into various parts, which has substantive subject-matter therein. For instance:

- Part (i) deals with establishment and functions of INEC i.e. Sections 1-7; Part (ii) deals with Staff of the commission (INEC) i.e. Section 8;

while Part (iii) titled National Register of Voters and Voters Registration which encapsulates sections 9-23. Part (iv) of the Act is on the Procedure at election, which covers Sections 24-74, while Part (v) covers Sections 75-97, and deals with political parties. Part (vi) covers sections 98-113, Part (vii) is on Electoral Offences and covers sections 120-129; Part (viii) with the heading: Determination of Election Petition covers sections 130-140, while Part (ix) covers sections 141 – 153, and has the heading: which is titled Miscellaneous Provisions. (PLAC, 2023:9-23).

The Electoral Act as an instrument has raised concerns due to its inability to legislate or capture the provision of independent candidacies, the non-recognition of diaspora voting, inadequate opportunity for women in elected positions, insufficient voting provisions for persons with disabilities (PWDs), technological ineffectiveness, and the failure to institute Electoral offences Tribunal (Ogbanje, Isaac, Attah, Anierobi, and Asogwa, 2025).

In the light of the concern expressed above and the conduct of the 2023 election with its attendant shortfalls, this study sought to examine the impact of the 2022 Electoral Act, on transparency and technological devices in the 2023 presidential election in Nigeria.

Statement of the Problem

The Electoral Act, 2022 was a well-articulated legal document intended to facilitate free and fair conduct of election. Globally, the entrenchment of democracy has become the norm or practice globally. The past elections have not been without high degree of fraud and have posed negatively toward election procedure. To this end, electoral act 2022 was signed into law to deepen the democratic practice in the country. The act replaced the 2010 electoral act used into the 2015 general election. The electoral empire (INEC), civil organizations, observers both local and foreign among stakeholders made valuable inputs aimed at ensuring a democratic order that promotes the sanctity of the ballot. With the amendments, the new electoral act, 2022 was used to organize the 2023 presidential election.

Looking at the Act and the election management in Nigeria, there are inconsistencies, gaps omissions, commissions, that becloud the Legal act that guides, regulates the planning and execution of elections in the country. The 2022 Electoral Act (As Amended) approved the use of technology. The BVAS failed to function as deployed. In such circumstances, the elections did not hold and another election scheduled within 24 hours.

The Act did not allow for complete transmission of results electronically. The power reserve in the Act, which allows INEC power to decide manners(s) of transmission of results, has been seen as a loophole to the Act. During the 2023 Presidential election, INEC decided to collate the Presidential election results manually while the National Assembly election was transmitted. This raised the question of credibility of the process.

Turnout as a percentage of total registered voters for the election is 27% (25,286,616 out of 93,469,008), which is less than 35% turnout rate recorded in 2019, showing a pattern of where the electorate actively came to polling units to vote but were technically disenfranchised due to BVAS failure, polling time constraints, and voter intimidation (CDD, 2023). The use of BVAS to check the submission of Voters, the transmission of result using INEC portal (IRev) were not effectively deployed for maximum output. The technological process turns out to become a mechanism to rig and manipulate outcome of election as reported in the 2023 Presidential election. INEC failed to upload the results of the election in real time as contained in its guidelines ahead of the 2023 Presidential election, a failure which it attributed to “glitches” (CDD, 2023). The pertinent question is; how has technology innovation by INEC as contained in the electoral act 2022, failed to promote electoral transparency, and the effects of the failure to the 2023 Presidential Election?

Objectives of the Study

The main goal of this study is to investigate the impact of the 2022 Electoral Act (As Amended) on the administration of the 2023 Presidential Election in Nigeria.

Specific objectives include:

- i. to examine the infractions of the 2022 electoral act on the transparency in the conduct of the 2023 Presidential election in Nigeria.
- ii. to identify the violations of the 2022 electoral act, as well as rules and regulations of INEC on technological devices in the 2023 Presidential election in Nigeria.

Research Questions

This study adopted the following research questions:

- i. What are the infractions of the 2022 electoral act (as amended) on the transparency in the conduct of the 2023 Presidential election in Nigeria?
- ii. What are the violations of the 2022 electoral act, as well as rules and regulations of INEC on the use of technology in the 2023 Presidential election in Nigeria?

Conceptual Clarification:

Election

It is a process where a person is elected to fill an office through decision-making by a group of people in a democratic Process called Voting (Nabiebu, 2022). The Electoral Act, 2022 defines an election under section 152 as “any election held under this Act and includes a referendum”. As a result, elections are limited to those that INEC is authorized to hold. Election signifies the choice that several persons collectively make a person to fill an office or Place. It is the art of choosing someone for Public office by Voting. Election serves as the most legitimate democratic means of changing governments and policies and legitimizing the rights of rulers to rule (Shuaib, Khafayat and Akintoye, 2023). Election is simply the Process through which eligible electorates cast their votes in order to choose from among political contestants that vie for various elective positions for the purpose of sound leadership, quality representation and good governance.

Election Administration is the process of making agreement to organize election by a constituted body (Akizim, 2018). This involves the structures and procedures. Equally, Ajayi (2007) gave a resounding definition of the concept. For him, "election administration is construed to be the management and process of organization of all stages of an electoral cycle by the commission.

Election administration according to USEAC (2018) is seen as the Process of the way elections are arranged, starting from preparations, leading to the election, to the approaches that leads to the Voting by the people, and the declaration of winners. Kurfi (2005) outlined nine basic features of election administration to include (i) delimitation of electoral districts (ii) compilation of comprehensive voters register (iii) building of polling units (iv) recruitment, training of electoral personnel (v) logistics like procurement distribution, distribution, among other materials (vi) canvassing for voters (vii) registration of nomination and appointment of polling agents (viii) casting of votes (ix) counting of Votes and declaration of results. These steps show process of election administration but not complete as other aspect of election administration, especially postelection matters, which impart on democratic consolidation, remain silent.

Electoral Act 2022

Legal framework is relevant to applying different innovative visions, equipment and processes to ensure the credibility of elections. This is succinctly captured under the new Electoral act 2022, which came into law on February 25, 2022 and is believed to contain remarkable provisions that support free, fair, elections. The new inputs especially the area that border on technology to improve voter registration, voter accreditation, result management, and the promotion of inclusivity of marginalized people, are now legally accommodated (Balewa, 2022). Included is the registration and accreditation of observers, media organizations and the nomination of candidates and polling agents by political parties (Balewa, 2022).

The 2010 Legal Framework (Electoral Act)

The Electoral Act 2010 was the governing law for elections in Nigeria from 2010 to 2022. It was a significant piece of legislation that introduced several reforms into the electoral process, including provisions on funding, independence of the commission, conduct of political party nomination processes and election campaigns amongst others (CDD, 2023). The 6th National Assembly amended the 2010 Electoral Act about five different times to enable the commission conduct a fresh voter registration exercise, and the General Election in February and March of the 2011 General Election. However, since the 2011 General Election, the commission and other stakeholders in the political and electoral processes have identified several gaps and challenges in the 2010 Act that needed to be addressed to enhance the credibility, transparency, and inclusivity of elections. The commission then made a comprehensive submission to both the 7th and 8th National Assemblies for the reform of the legal framework. These frameworks were not affected during the 2011-2015 and 2015-2019 electoral cycles. It was only during the 2019-2023 electoral cycle that some of these suggestions for reform were incorporated into the existing legal framework as the new 2022 Electoral Act (CDD, 2023).

Overview of the Electoral Act, 2022

The Electoral Act of 2022 was passed essentially to address some of the identified weaknesses and gaps in the 2010 Act, thereby providing a better and more encompassing framework for the conduct and management of elections and the electoral process. Some of these weaknesses and gaps arose over the years in the preparation, planning, and conduct of both general as well as other off-cycle/supplementary elections by the commission. In more specific terms, the Act further strengthened the financial autonomy of the commission when in section 3(3) it directed that the release of funds for general elections be made not later than one year to the election. Similarly, section 28(1) and (2) provided for the commission to publish the notice of election for a general election not later than 360 days to the election, giving the commission and political parties sufficient time to plan for the election and conclude the candidate nomination process.

The time-frame for the notice of election in respect of by-elections, however, remains as in the old Act. By far, one of the most significant new provisions in the 2022 Act is section 29(1) that made it mandatory for political parties to submit the list of their validity nominated candidates to the commission six (6) months or 180 days to a general election. This is a very significant provision. It gives the commission sufficient time to finalize the printing and deployment of balloting instruments to locations for the conduct of a general election. The new Act had similarly extended the time-frame for campaigns by political parties, providing that party campaigns shall begin 150 days before polling day and end 24 hours prior to Election Day.

Other novel provisions include the establishment of a central database of electronic register of voters. The electronic national register of election results (section 62(2)); a subsection on overvoting that now defines over-voting in terms of the discrepancy between the number of accredited voters and the number of votes cast (section 51(2)). It provides on the commission's power to review the results of an election declared under duress, the incorporation of technology in the result management processes of the commission such as those in sections 24, 25, 27, 41-42, 46-47, 50-51, 56, 60-62, 65-71, 141, and 146-148 (Electoral Act, 2022). Overall, the new Act has substantially cured some of the major challenges and encumbrances in the conduct and management of elections and the electoral process in Nigeria.

Voter Registration and PVC Collection Issue

In order to cast a vote, people invariably have to register and thereafter collect the Permanent Voter Card (PVC), which involves a tedious process; the distribution of PVCs, which constituted a challenge for the INEC and the citizens, as a result of underage and multiple registration. The commission critically purge the voter register, thereby, discarding over 2:7 million persons from it (Adebiye, 2023). As a result, the process for displaying claims, objections, and delisting voters were unclear and overly burdensome for citizens, raising concern about potential bias during the voter roll cleaning process, which disproportionately removed votes from certain regions at significant higher rates (Agbiloko and Okafor, 2023). Given the above, INEC announced that nearly 7% of PVCs were not collected by registered

voters across the nation before election day and it released disaggregated data on PVC collection by polling unit - which is used to calculate turnout and margin of lead information very late in the process. Because of this, INEC twice extended the deadline for PVC activity until February 5. However, civil society activists and other stakeholders pointed out several challenges inherent with collection of PVCs such as INEC staff collecting gratification in exchange for PVCs, a troubling situation, INEC officials not in office, cards that were unavailable and voters being instructed to come back later in February to retrieve their cards (Adebiye, 2023). Aworinde (2023) infer that the above issues are the reason for low voter turnout in the 2023 presidential election (National Register of voters and Voters Registration, Section 9-23).

Technological Failure and 2023 Election in Nigeria

The INEC Results Viewing Portal (IREV) and the Bimodal Voter Accreditation System (BVAS) are two new technologies that INEC implemented to enhance the administration of the 2023 Presidential and General Elections. Voters are biometrically verified by the BVAS, which also electronically sends a picture of the results at the polling unit level to the IREV web page. One of the biggest advancements in election transparency since the 2019 polls was the publication of polling unit level result via IREV (Ogbanje et al, 2025). However, the ultimate success of these technologies hinges on how effectively they are managed, their nationwide reliability, and the public's confidence in them. This is because, INEC carried out a nationwide stress test prior to the presidential election, despite piloting both systems during three off-cycle elections. Furthermore, while state pilots showed an increase in the speed of results reporting, technical issues persisted, including IREV visuals that were blank, blurry, or assigned to the wrong polling units. Since it takes a lot of time and resources to download, transcribe and tabulate individual forms, the images are not suitable for aggregate analysis. This makes the system transparent but not always verifiable [Agbkoba, 2025].

In view of the aforementioned, Adebiye (2023) and Augustus-Daddie et al (2024), indicated that the results of the election demonstrated that the 2023 presidential election presented a variety of obstacles to the use of technology in our electoral Process. This is because registered voters at several accreditation centers complained that the Bimodal Voter Accreditation System (BVAS) failed to verify them, as well as the failure of the electoral commission to transmit the results of the presidential election result in real time which allowed for possible result manipulation.

Theoretical Framework

System Theory

In 1953, David Easton analyzed politics using the system theory. According to him, the system is a system of interaction within a society through which authoritative allocation of resources is done, so also the decision making and implementation. Easton, in his system theory analysis stated that the system functions by getting inputs from the environment. These inputs could either be supports or demands. Then, these inputs in turn, undergo a conversion process and it comes out as an authoritative decision, which is always binding on the environment. This

decision could also generate feedback, and it keeps going on mechanically. While the inputs come from the environment, the gatekeepers are saddled with the responsibility of circulating the various interests of the people. This duty is carried out by the civil societies, political parties, etc. according to Easton, for a system to last, it must get more support from the people than their various demands. The system theory has assumptions, such as: systems are interrelated, reciprocity among the units in a political system, i.e. every unit needs one another to Survive, all the units in the political system meet at an equilibrium. All systems have an interest to fulfil which is self-preservation and resistance.

Applying this theory to the study, it demonstrates the relationship between major stakeholders in the electoral Process, the contribution and involvement in the electoral act, and its implementation to ensure free and fair election. The electoral act, 2022 was passed into law as the legal framework to guide and regulate the administration and conduct of the 2023 Presidential Election. In line with the assumption of the system theory which borders on cooperation among the component unit that make up the political system. With the passage of the electoral act, 2022 by the national assembly, the Independent National Electoral Commission implement the act to ensure free and free election. Therefore, the failure of the national assembly or INEC to carry out its function toward election administration will result to system Failure. The inability of INEC to follow meticulously the provisions of the Act during the 2023 Presidential election especially the use of BVAS and IReV, caused massive disappointment to the people over the outcome of the election.

Methodology

This study adopted the historical method. It is a qualitative approach. This involved data collection and evaluation. It deals with the determination, evaluation and explanation of past events for the purpose of gaining a better and clearer understanding of the present and future. As a qualitative approach, data collection was through secondary sources which involves journals, newspapers, textbooks, etc. the data analysis was done through evaluation method which describes as well evaluates the data gathered.

Evaluation of the Research Questions

Research Question 1: What are the infractions of the 2022 electoral act (as amended) on the Transparency in the conduct of the 2023 Presidential election in Nigeria?

The 2023 Presidential election has been concluded and the outcome known. The Independent National Electoral Commission has declared the winner, and subsequently sworn him into office. The election was without ill feelings of manipulation of the result. The challenges associated with the administration of the election of the Presidential context going by the extant law. First, the violation of the act started with the former President, Late General Muhammadu Buhari (rtd) cast his vote and publicly displayed it to the View of the other Voters. This act was followed by the then Attorney General of the Federation, thereby violating the provision of the electoral act 2022, section 122(1) which states that

Every person in attendance at a polling unit including every officer charged with the conduct of an election and his or her assistants at every polling station or at the Collation center, as the case may be, shall maintain and aid in maintaining the secrecy of the voting (CSJ, 2023:1).

Subsection (4) of this section stipulates that anyone who acts in violation of this provision commits an offense and, upon conviction, is liable to a maximum fine of N100,000, or imprisonment for a term of three months, or both" Going by the above, both the former President and the Attorney General committed offences. If the president was not prosecuted due to immunity he enjoys, the Attorney General should have been prosecuted. This casts doubts to the transparency in implementing the act.

Another prevailing issue was the late arrival of electoral materials and personnel at polling units. Almost all the late comers attributed it to logistic problems: Generally, voting that was scheduled to commence by 8:30am failed to start until 10:30am, and in some cases as late as 2pm and 6pm. This resulted to voter apathy, disenfranchisement of people. The Act in section 120 stipulates for dereliction of duty. Subsections (1) and (2) stipulate that: "(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 or her official duty commits an offence and is liable on conviction to a maximum fine of N500,000 or imprisonment for a term of 12 months or both. (2) Any polling official who fails to report promptly at his or her polling unit on election day without lawful excuse commits an offence of dereliction of duty and is liable on conviction to maximum fine of N500,000 or imprisonment for a term maximum of 12 months or both". The late arrival of officials of INEC assured and reassured that it was ready and even got a special cash dispensation from the Central Bank of Nigeria against the naira cash crisis. Again, the law was violated and nothing was done.

Research Question 2: What are the violations of the 2022 electoral act, as well as rules and regulations of INEC on the use of technology in the 2023 Presidential election in Nigeria?

Outstanding issue put to question on the acceptability of the presidential election. Going by section 160 of the 1979 constitution of Nigeria, which is the fundamental law of the country. INEC may by rules of otherwise regulate its own procedure or assign powers and impose duties on any officer or authority for the purpose of discharging its functions. Again, section 148 of the electoral act, 2022; "the commission may subject to the provisions of this Act, issue regulations, guidelines, or manuals for the purpose of its administration". Thus, both the constitution and the Act empower INEC to make rules, regulations and issue to manuals to regulate elections in Nigeria. It is the power to make subsidiary legislation. Specifically, section 60(5) of the Act provides that the Presiding officer shall transfer the result including total number of accredited voters and the results of the ballot in a manner as prescribed by the commission. According to subsection (6) of the same section, a presiding officer who willfully breaches any provision of the section commits an offense.

Upon conviction, they face a fine of up to N500,000 or a minimum prison sentence of six months. Exercising these powers, INEC made the rules and regulations for the 2023 elections, specifically mandating that results be transmitted electronically via the BVAS device. The word used in the regulation were mandatory and left nothing to the discretion of the polling officers. An agency such as INEC created by law and given powers to make subsidiary legislation and cannot depart from the rules it had made to govern specific circumstances. If INEC had not intended the rules to be followed, it would have expressly stated so in the guideline. Thus, a "subsidiary legislation or enactment is one that was subsequently made or enacted under or pursuant to the power conferred by its principal legislation to which it is therefore secondary or complimentary."

The first excuse of INEC was that there was a glitch with the Presidential election transmission facilities. When that was debunked through the fact the results for the national assembly conducted simultaneously with the presidency were being transmitted without glitch, the electoral umpire charged of it stand by arguing that uploading of results was not a precondition for declaration of results. The third and biggest issue that raised fundamental but unanswered questions on the credibility of the presidential election. By Section 160 of the 1999 constitution which is the fundamental law of the land, INEC may by rules or otherwise, regulate its own procedure or confer powers and impose duties on any officer or authority for the purpose of discharging its functions. Again, by section 148 of the Act, the commission may subject to the provisions of this Act, issue regulations, guidelines, or manuals for the purpose of giving effect to the provisions of this Act and for its administration. Thus, both the constitution and the Act empower INEC to make rules, regulations and issue manuals to regulate elections in Nigeria. It is the power to make subsidiary legislation (CSJ) (Center for Social Justice, 2026).

Conclusion

The Electoral Act, 2022 was designed to entrench democracy in the country. It was intended to ensure effective electoral process. This legal framework which forms the basis for the administration of the 2023 general election especially the presidential contest introduced a more robust provisions to advance electoral integrity. The introduction of technology into the election management of the country was a laudable effort aimed at improving country's democratic practice. The innovations among others like the integration of electronic technology for voting and results transmission, enhancement in results transparency and the use of machine for registration and verification cannot be overemphasized. The implementation of the Act to realize the set objectives was without challenges. The overbearing short falls this study observed were man made. The study concludes that INEC failed in its responsibility to allow the judicious use of the technological devices to actualize free, fair and acceptable election. Also, the failure of INEC staff on the election day as well as the violation of its rules hamper the transparency of the election.

Recommendations

The Study therefore recommended among others that:

1. There should be improved capacity training for INEC staff in the use of technological devices during election to enhance transparency in voter registration process.
2. There should be a review of the 2022 electoral act (as amended) to provide mandatory transmission of election results.

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