

AN APPRAISAL OF LEGISLATIVE DRAFTING RULES: A FOCUS ON THE
ELECTORAL ACT, 2022

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DECLARATION

I hereby declare that this work is the product of my own research efforts; undertaken under the supervision of Professor Edoba Omoregie, SAN and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged.

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CERTIFICATION

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APPROVAL

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DEDICATION

I dedicate this dissertation to the Almighty God, whose grace has been my guard and guide. To my parents, Elder Victor Aro and Deaconess Toyin Aro, whose prayers and support has aided me this far. To my loving husband, Kolawole Omole, whose love, support and encouragement has been a driving force throughout this academic journey. And to my dearest daughter, Oluwadarasimi, whose love and corporation has been a source of strength. Lastly, to the loving memory of my dearest sister, Bibi, whose encouragement was a source of inspiration.

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LIST OF ACRONYMS/ABBREVIATIONS

A-G Federation: Attorney-General of the Federation

BVAS: Biometric Verification and Authentication System

CAP: Consolidated Acts and Regulations

C & P: Crompton & Jervis (a set of reports in English law)

INEC: Independent National Electoral Commission

L.F.N: Laws of the Federation of Nigeria

NWLR: Nigerian Weekly Law Reports

PDP: People's Democratic Party

Pt.: Part

QB: Queen's Bench (a division of the High Court in England and Wales)

WRN: Weekly Reports of Nigeria

ABSTRACT

The effectiveness of legislation relies in its capacity to communicate legislative intent clearly to stakeholders. However, certain legislative documents persist in using outdated drafting styles, leading to ambiguity in interpretation. Additionally, the absence of adherence to gender-neutral principles within legislation introduces further complexity, potentially implying gender exclusivity within defined roles. This research examined the adherence of the Electoral Act, 2022, to fundamental principles of legislative drafting; it addressed concerns surrounding clarity, gender neutrality, and ambiguity within the legislative text. This research paper aimed to conduct a comprehensive examination of legislative drafting rules, with a specific focus on the Electoral Act of 2022. The central objective of this research was to explore the intricacies of legislative drafting and to what extent these principles applied to the drafting of the Electoral Act, 2022. The justification of the study lies in its potential to improve legislative drafting practices, enhance the quality of the Electoral Act, 2022, and contribute to governance landscape.

The research adopted the doctrinal approach against the non-doctrinal. This approach is usually regarded as desk or library research. It is concerned with ascertaining the consequences; usually legal; of a fact situation. It seeks information that is already in the public domain. The Doctrinal approach was the primary research option of this research as it directly enquired into the state of law shorn of arguments. It is, in this sense, practical research as distinct from pure or applied research. This approach used documented work in organising materials, and also sought information from primary and secondary sources such as statutes, decided cases, relevant textbooks and journals.

In line with the central objective of exploring the intricacies of legislative drafting rules and to what extent these rules were applied to the drafting of the Electoral Act, 2022, the key findings underscored the imperative to adopt a modern approach to legislative

drafting within the Electoral Act, 2022. Beyond gender neutrality, the analysis revealed deficiencies in clarity, precision, and legal certainty within the legislative text. Ambiguities and gaps within the Act posed challenges in interpretation and implementation, necessitating comprehensive revisions to enhance legislative effectiveness.

To enhance the efficacy of the Electoral Act, 2022, the study recommended the need to adopt a holistic approach to legislative drafting, addressing not only gender neutrality but also clarity, precision, and legal certainty. Implementing comprehensive legislative scrutiny mechanisms and providing inclusive language training are crucial steps towards promoting fairness and equity in electoral processes. Enhancing clarity and precision in legislative language, alongside adherence to modern drafting norms, strengthens the Act's compatibility with international frameworks and best practices. In conclusion, by adopting these recommendations, policymakers can ensure that the Electoral Act upholds the highest standards of legislative quality and serves as a reliable framework for democratic governance, ultimately contributing to fair and inclusive electoral processes.

CHAPTER ONE

INTRODUCTION

Due to the dynamic nature of legislative drafting, there has been a shift from the traditional style of drafting to the plain language style of drafting. One of the principles of legislative drafting that has emerged in the plain language movement is that of gender-neutral drafting which advocates the use of gender neutral terms in drafting. Also, the Electoral Act, 2022, is an important legislation in our democratic system. This dissertation seeks to discuss the rules of legislative drafting in view of the modern day style of drafting and whether the Electoral Act, 2022, complies with some essential rules.

Lastly, this chapter presents the background of the study, statement of the research problem, research questions, aims and objectives of the study, scope and limitation of the study, significance of the study, research methodology and analysis of chapter

1.1 Background of the Study

In the realm of legislative drafting, sticking to established rules and principles is crucial for crafting effective laws. These guidelines cover various aspects, from using clear language to ensuring consistency and considering the broader legal context. One of the key rules is clarity. It's essential to express the law's intent clearly, leaving no room for confusion or misinterpretation. Consistency is another vital aspect. Keeping the terminology, structure, and style uniform throughout the legislation makes it easier to understand and apply. Laws should be written in a way that anyone, regardless of their legal knowledge, can understand. This means using language that is clear and straightforward while accurately conveying legal concepts. Also, laws must be comprehensive, addressing all relevant aspects of the subject matter to avoid ambiguity. Drafters should also be aware of the legal and societal context, ensuring the law aligns with existing legislation and societal values. The rules of drafting

legislation is also flexible, therefore, while laws provide guidance, they should also be adaptable to changing circumstances.

In this study valuable insight is provided into legislative drafting practices. By evaluating adherence to legislative drafting rules within electoral legislation, the study aims to propose practical improvements for clearer and more effective laws, particularly in the electoral domain. The study will encompass a comprehensive examination of legislative drafting rules (such as- plain language which encompasses clarity and simplicity, readability, precision, and brevity; transparency; accuracy; consistency and coherence; compliance; avoidance of excessive delegation; logical structure; gender-neutrality), spanning a historical analysis to understand the evolution of drafting norms and practices in Nigeria. This historical exploration will delve into the development of legislative drafting principles over time, tracing their origins and evolution to provide valuable insights into the context and rationale behind current drafting methodologies.

Additionally, a comparative analysis will be undertaken to assess legislative drafting practices across three different jurisdictions. By examining the approaches adopted by other countries or regions, this comparative analysis aims to identify best practices, innovative techniques, and lessons learned that can inform and enrich the drafting process within the context of electoral legislation in Nigeria. The dissertation will go beyond analysis to propose practical recommendations aimed at improving the drafting process specifically within the domain of electoral legislation. These recommendations will be rooted in the findings of the study. By offering implementable recommendations for enhancing the clarity, coherence, and effectiveness of electoral legislation, the study seeks to contribute to the on-going discourse on legislative reform and governance enhancement in Nigeria.

1.2 Statement of the Problem

The aim of any legislation is to communicate the intention of the lawmakers to its users. However, some legislation has failed to communicate its purpose due to the use of archaic style of drafting as opposed to the modern day style of legislative drafting. Also, some legislation have to adapt to the rule of gender neutrality, thereby leaving room for the interpretation that certain roles are for the exclusive reserve of one gender; thereby implying the exclusion of the other gender. This has led to the major problem of ambiguity, therefore leading to interpretation problems by the courts and laymen. There is a great challenge in trying to interpret the true meaning of words as a result of archaic style of drafting. This research intends to focus on the rules of legislative drafting and whether the Electoral Act, 2022, is in compliance with the essential rules of legislative drafting.

1.3 Research Questions

This research intends to provide answers to the following research questions:

- i. What are the essential legislative drafting rules applicable to the creation of electoral legislation, particularly within the context of the Electoral Act, 2022?
- ii. How effectively does the Electoral Act, 2022, adhere to established legislative drafting rules?
- iii. What are the prevailing challenges and ambiguities present in the language and structure of the Electoral Act, 2022, regarding legislative drafting rules?
- iv. What recommendations can be proposed to improve the overall quality, clarity, and effectiveness of the Electoral Act, 2022, in alignment with best practices in legislative drafting?

1.4 Aims and Objectives of the Study

The elementary aims and objectives of this study are as follows:

- i. To identify and examine some essential legislative drafting rules relevant to electoral legislation, with a focus on the Electoral Act, 2022.
- ii. To evaluate the conformity of the Electoral Act, 2022, with established legislative drafting rules.
- iii. To analyse the existing challenges and ambiguities within the language and structure of the Electoral Act, 2022, concerning legislative drafting rules, and their implications for interpretation and implementation.
- iv. To develop actionable recommendations aimed at enhancing the overall quality, coherence, and effectiveness of the Electoral Act, 2022, by addressing identified shortcomings and aligning with best practices in legislative drafting.

1.5 Scope and Limitation of the Study

Scope:

The scope of the research study covers the Electoral Act, 2022, 2022, 2022 and the essential rules of legislative drafting, such as the plain English movement, gender neutrality, etc. This dissertation will comprehensively examine the legislative drafting rules, principles, and best practices, with a specific focus on their application to the Electoral Act, 2022. The research will delve deeply into the Electoral Act, 2022, analysing its content, structure, and provisions to identify any inconsistencies or shortcomings in relation to legislative drafting rules

Limitations:

- i. Time Frame: The study will be limited by a specific time frame, which may prevent an exhaustive analysis of all legislative drafting rules and practices worldwide.
- ii. Geographic Focus: The research will primarily focus on legislative drafting rules and practices in a specific jurisdiction or country (Nigeria), which may not cover all global variations.

- iii. **Subjective Interpretation:** The assessment of the Electoral Act, 2022, and identification of drafting deficiencies may be subjective to some extent, as interpretation can vary.
- iv. **Legal Changes:** Any amendments or changes to the Electoral Act, 2022, during the course of the research may not be fully addressed.
- v. **Language Limitation:** The dissertation will be limited to English language sources and may not encompass drafting rules in other languages.
- vi. **Generalizability:** Findings and recommendations may be specific to the context and may not be entirely generalizable to all legislative drafting situations.

These scope and limitations provide clarity on the extent of the research and the constraints that may influence the study's outcomes.

1.6 Significance of the Study

The study will give insight into the rules of legislative drafting and whether there is any form of compliance in drafting of the Electoral Act, 2022. The significance of the study lies in its potential to improve legislative drafting practices, enhance the quality of the Electoral Act, 2022, and contribute to governance landscape.

This research will be significant in the following areas:

- i. It will help refocus attention on the essential rules of legislative drafting.
- ii. It will help bring to light the flaws in the Electoral Act, 2022, vis-à-vis the rules of legislative drafting.
- iii. It will help to proffer solutions to the drafting errors in the Electoral Act, 2022, for future reference and guidance.
- iv. It will benefit legal professionals and legislators by providing insights into best practices for legislative drafting.

1.7 Research Methodology

The research intends to use the doctrinal approach to research as against the non-doctrinal. This approach is usually regarded as desk or library research. It is concerned with ascertaining the consequences; usually legal; of a fact situation. It seeks information that is already in the public domain. This does not mean that such information is readily available; in most cases, the reverse is the case. This type of research is based on preliminary suppositions. Primary sources seek to establish the validity of these suppositions while secondary sources tend to support them. Doctrinal approach is the primary research option of the legal practitioner as it directly enquires into the state of law shorn of arguments, or value factors. It is, in this sense, practical research as distinct from pure or applied research.

In discussing this, the dissertation will adopt the doctrinal research methodology. The approach will use documented work in organising materials for this research, information from primary and secondary sources such as statutes, decided cases, relevant textbooks and journals. The choice is predicated in the context of all legislative drafting being traced and found in the works of text writers as well as legislation.

1.8 Chapter Analysis

This research study is divided into five (5) broad chapters. Chapter one deals with the general introduction and the preliminary issues such as the background to the research study, the statement of the research problem, research questions, aims and objectives of the study, scope and limitation of the study, significance of the study, research methodology and analysis of chapter. Chapter Two begins with the literature review, then the background to legislative drafting, which dwells on the historical development of legislative drafting; it further discussed the concept of legislative drafting and then the Electoral Act, 2022; as well as the literature review. Chapter Three discusses the rules of legislative drafting, the challenges in the application of the rules of legislative drafting, the effects of the challenges in the

application of the rules of legislative drafting and the application of the rules of legislative drafting in the Electoral Act, 2022. Chapter Four begins by discussing the gaps in the Electoral Act, 2022, in line with legislative drafting rules; then it ends with a comparative study. Chapter Five gives a summary of findings, recommendations, contribution to knowledge, areas of further studies and then conclusion.

CHAPTER TWO

THEORETICAL FRAMEWORK, HISTORICAL DEVELOPMENT AND LITERATURE REVIEW

Legislative drafting serves as a conduit for translating policy ideals into enforceable legal instruments, governed by a set of rules and principles that underpin the legislative process. It embodies the intersection of language and law, facilitating the enactment, interpretation, and application of laws by legislative bodies. This chapter discusses the literature review, historical development and the theoretical framework.

2.1 Literature Review

The practice of legislative drafting is fundamental to the creation and implementation of effective laws within any legal system. Well-drafted legislation not only upholds the rule of law but also ensures the clarity and effectiveness of legal norms. In the specific context of electoral legislation, the Electoral Act, 2022, holds a pivotal role in shaping democratic processes and electoral outcomes. In this context, the objective of this research is to undertake an exhaustive review of the existing literature relevant to the research theme, identifying the boundaries of such literature, delineating its limitations, and establishing the pivotal significance of this inquiry.

This literature review is a concise exploration of key authors and scholars who have significantly contributed to the field of legislative drafting, directly informing the research focus of this dissertation: "An appraisal of legislative drafting rules: Focus on the Electoral Act, 2022."

A particularly noteworthy piece of work in this area is Thornton's book on Legislative Drafting¹. Thornton's notable work on the historical evolution of legislative drafting offers valuable insights into the origins and development of this critical discipline. His research has deeply enriched our comprehension of the historical evolution of legislative drafting. His

¹ Charles Thornton, *Legislative Drafting*, (3rd ed. London: Butterworths, 1987)

work underscores the historical context that is essential for understanding the foundations of legislative drafting practices. Thornton's work delves into the emergence of legislative drafting as an integral component of the legal process. While Thornton's work is highly informative in terms of the historical context of legislative drafting and its place within the realm of law, it is worth noting that his research primarily focuses on the historical aspect and the broader role of drafting in the study of law. His work, however, does not explicitly delve into the contemporary implications or practical applications of legislative drafting principles; which shall be a central aspect of this research.

Another work of importance is by Xanthaki². Xanthaki's views on legislative drafting offers valuable insights into the rules and practices of drafting legislation. Xanthaki emphasizes the need for precise and coherent drafting to ensure the effectiveness of legal norms and compliance with the rule of law. The book aligns with and complements the existing literature. It provides valuable insights into drafting principles and practices that can be applied to the analysis of the Electoral Act, 2022. The book lays emphasis on precision and adherence to legal norms. Xanthaki's work contributes a comprehensive perspective to the ongoing discourse on legislative drafting rules and practices. However, it does not delve into the challenges in the applicability of these drafting rules, which is a part of this dissertation.

Another work is by Patchett³. Patchett's work is also notable as it discusses the characteristics of "good" legislation and its implications in different legal systems. It also examines various drafting procedures in its jurisdiction. Yet, this work did not explore a comparative study. This research will engage in a comparative study.

² Helen Xanthaki, *Legislative drafting: a new sub-discipline of law is born*, (September 2013), 59 <<https://www.agora-parl.org/resources/library/workshop-development-legislative-drafting-arab-parliaments>>accessed 29 September 2022

³ Keith Patchett, *Workshop on the Development of Legislative Drafting for Arab Parliaments, Beirut* (3-6 February 2003), 19 – 20<<https://www.agora-parl.org/resources/library/workshop-development-legislative-drafting-arab-parliaments>>accessed 29 September 2022

Another Literature titled *Drafting Legislation: Art and Technology of Rules for Regulation* by Irving⁴, provides a comprehensive analysis of the art and technology behind legislative drafting. It explores the intricate process of transforming policy objectives into precise legal language, emphasizing the importance of clarity, coherence, and effectiveness in drafting legislation. While not focusing specifically on electoral laws, Irving's insights into drafting techniques and principles are highly relevant to the appraisal of the Electoral Act, 2022.

The Electoral Act, 2022⁵, serves as a pivotal legal instrument influencing democratic processes and electoral outcomes. Conducting a thorough appraisal of this legislation within the framework of legislative drafting rules is essential to evaluate its effectiveness and compliance with legal standards. Analysing the language and structure of the Electoral Act, 2022, is crucial to ensure clarity and precision in its provisions. Ambiguities or inconsistencies may hinder interpretation and implementation, impacting electoral processes. Through a comprehensive critique of the Electoral Act, 2022, within the context of legislative drafting rules, this dissertation aims to provide a nuanced evaluation of its strengths and weaknesses. Subsequently, it seeks to offer recommendations to enhance its drafting and implementation, thereby promoting democratic principles and electoral integrity.

These scholars and their works are foundational to this research, as they collectively contribute to our understanding of legislative drafting rules and practices. By integrating their insights, this dissertation endeavours to examine legislative drafting rules with a specific focus on the Electoral Act, 2022, to determine whether there is compliance with the rules of legislative drafting and offer recommendations to enhance the drafting of this pivotal legislation.

⁴ Helen Irving, *Drafting Legislation, Art and Technology of Rules for Regulation*, (5th ed. Imprint Hart Publishing, 2008) 19 -40

⁵ Electoral Act, 2022

2.2 Background to Legislative Drafting

Legislative drafting is as old as human society. Although it is not clear how and when it developed, it operates as a distinct specialty. However, legislative drafting evolved over time through experience by drafters from other jurisdictions. In 1484 and 1869, drafting of English bills was undertaken by chancery barristers or council attached to the relevant agency. Prior to that, most statute was drafted by judges. The purpose of establishing the office of parliamentary council in London in 1869 under Henry Thring was largely to avoid chaos resulting from contracting out the drafting of parliamentary bills to chancery barristers. The chaos was partly due to the fact that those responsible for drafting legislation before the establishment of the office of parliamentary council were amateur drafters who had no drafting skills.

It was not until the beginning of the 20th century with the emergence of legislative drafting experts and specialists with distinct training and instruction, that a unique legislative drafting technique with a tendency to discourage ambiguous words, use of synonyms and promotion of precision and clarity was developed in Britain. The British drafting style and methodology as a colonial legacy was bequeathed to most commonwealth countries, including Nigeria. Consequently, the history of legislative drafting in Nigeria could be said to have been generally influenced by the advent of colonial rule. When English type laws were introduced into Nigeria by the British colonial masters, these laws became part of Nigeria's laws. The English parliament legislated for the area now called Nigeria and British drafters drafted Nigeria's laws even up to 1960 when Nigeria attained independence. For example, Sir Engle was the head of a team that drafted the 1960 independent constitution. The earliest indigenous Nigerian drafters who replaced British drafters understudied the British drafters. Some of these Nigerian drafters were later sent to Britain, Canada, India and other commonwealth countries where the English style and techniques of drafting were taught.

Given this scenario, it is not expected that more of legislative drafting in Nigeria will be an extension of the British drafting Style. Britain provided more of drafting precedent and instructing personnel for the first generation of Nigeria's indigenous drafters.

2.3 The Concept of Legislative Drafting

Legislative drafting deals with the composition of a proposed legislation; it is an art of writing legislation which includes subsidiary legislation, notices, rules, warrants and other instruments. It is an aspect of legal writing speciality. It is a unique form of communication employed in the control and regulation of society through framing policy decisions that have legal consequences in relation to members of a given society. Legislative drafting is an act of putting the intention of the legislator which maybe Parliament, Congress, National Assembly, House of Assembly, however called into proper written form for the guidance of private or public action.

The concept of legislative drafting entails the process of putting policy ideas into legal form/text by incorporating the five stages and rules in legislative drafting. Legislation refers to the preparation and enactments of laws by a legislative body via its law-making process. The legislative process includes amending, evaluating, and voting on proposed laws. Legislative process means the steps and principles followed to bring about a legislative draft, which is the proposed bill into law. It focuses on the basic drafting rules which bring the proposed bill into law. It is concerned with the words used in the bill to communicate the values, judgements, objectives, and intentions of the bill. The transformation of an idea into components of legislative matters occurs through its embodiment in the form of a bill. Essentially, a bill serves as a preliminary, draft representation of concepts that could potentially be incorporated into formalized legal documentation. A bill that is enacted is called an Act (Federal Level) or a Law (State Level).

Laws begin as ideas. First, every bill must be premised on policy focus. When a decision is taken to draft a bill, the first thing that will play in the drafter's mind should be the intention of the bill. Ideas for legislation can come from legislators who have experience in a particular field, private organisations, policy makers, members of the National Assembly; or legislators can copy legislation because an idea works well in one jurisdiction and can be useful in theirs.

Legislative drafting is a meticulous process that involves navigating five essential stages to achieve a successful and effective legislation. The drafter must move in a logical angle from the first to the fifth stage. It may be a smooth and short journey, but, many a times, it is a rough, long and unclear journey. It involves going forward and backward until the drafter completes the draft.

The stages in legislative drafting are:

- A. Receive and understand the Instruction
- B. Analyse the Instruction
- C. Design the draft Bill
- D. Compose the draft Bill
- E. Scrutinize the draft Bill

Receive and understand the Instruction: Receiving and understanding the instruction is crucial as it forms the foundation of the draft. This stage focuses on the instructions taken in form of information which the drafter collects from the instructor, whom may be a Lawmaker, Political Thinker, a Policy Maker, a Policy Idealist, a Parliamentary Officer, the President at the National Level and the Governor at the state level, Members of the National Assembly or Principal Members of the National Assembly, Private Organisations, Interested Bodies, Opinion-formers, Educationalist, Legal Officer, etc. The drafter must obtain and meticulously read the drafting instruction, by taking the pain to understand same. The

instruction must be certain; so the need may arise for the drafter to go forward and backward to the instructor to ensure clarity at this stage. At this stage, the principal objective must be comprehensible and clear.

The drafting instructions are data, information, ideas, suggestions, etc. The drafter must be familiar and have a good knowledge of the Constitution, taxation, economic policies, and such areas may relate to the draft. The drafter must research and consult with relevant bodies/stakeholders. However, note that the instruction may not always involve a new bill but an alteration or a repeal of an existing law.⁶

Analyse the Instruction: The drafter at this stage dwells on the analysis of the instruction gathered from the instructor. The drafter at this stage will digest the instruction, reconfirm the instruction, seek more clarity and gather more information if needed; at this stage, the drafter must take the pain of understanding the instruction. In analysing the bill, the drafter must conduct a research on whether there is an existing framework or whether there are similar existing laws. The drafter's knowledge of the constitution must be sound and unshakeable. Constitution, treaties, all laws and principles have to be considered, relevant questions have to be asked to aid the analysis. All legislations must have a constitutional background; it must not be inconsistent with the provisions of the Constitution. Also, the drafter must look at basic principles of law. As a drafter, the bottom line is being sure of your principle.

In analysing, a legislative plan must be complied, relevant research must be conducted, the drafter must analyse existing laws to determine whether there is a mischief, and the drafter must analyse the importance and necessity of the legislation. A drafter must analyse whether the legislation is the last resort as a regulatory tool for the situation and also analyse the potential danger areas. A drafter must analyse any practical implication of the

⁶ Edoa Omoregie, *Lecture Notes on Legislative Drafting* (30 May 2022)

legislative proposal, including an analysis on matters for which secondary legislation is likely to be needed to implement the draft law⁷.

The contents of legislative plan may include the following⁸:

1. The rationale behind the need for the legislation.
2. The specific issue to be addressed
3. The history/causes of the issue
4. Possible solutions (suggestions by way of academic opinions, etc.)
5. Penalties
6. Possible effectiveness of the proposed solution
7. Possible cost
8. Possible benefits
9. Justification of the bill
10. Jurisdiction
11. Life span of the bill: Whether the bill is to be of a permanent nature or to have a limited life.

At this stage, it is of utmost importance that the drafter fully comprehends the intention of the instructor, as well as, the main objectives of the proposed bill. Having a full grasp of the intention and main objectives of the instructor and the proposed bill respectively at this stage is of utmost importance to the drafter, as this will guide and shape the drafter's thought pattern and research skills. The drafter must be mindful of the principle of customary international law and must consider which to comply with⁹. A drafter must also know which

⁷ Daniel Greenberg, *Craies on Legislation: A Practitioner's Guide to the Nature, Process, Effect and Interpretation of Legislation*, (Sweet and Macwell, London, 2004), 256

⁸ Ibid

⁹ Omoregie, n14

item to include on the exclusive or concurrent list and why. As a drafter, if asked to draft a bill that has the tendency of been lope sided, bear in mind the principle of solidarity; look at the best interest of all in other to protect all segments that makes up the society. Sustain the principle of equalisation; do not undermine any segment.

Design the draft Bill: This stage involves the structuring of legislative text in a way that aids comprehension. Designing the bill usually in two stages:¹⁰ first is the fitting of the proposed legislation within the legal system, and the second is the internal structure of the bill. Designing the bill starts with a draft at this stage, an initial draft is made usually by using precedence as a guide. The drafter uses precedence as a guide by making use of similar legislation and comparing same but must not plagiarise. When the design is completed, it must be subjected to several reviews. In designing, the legislative text should be structured in a manner that aids comprehension. Bergeron states that Bills must be arranged in a logical order.¹¹ According to Lord Thring, there are five rules as it relates to structure¹²:

1. Rule 1: provisions declaring the law should be separated from, and take precedence of, provisions relating to the administration of the law. Before the question of administration can arise, one must know the law, hence the precedence of the statement of the law over its administration. Thus the advice is:
 - a. State the law, and then
 - b. State the authority to administer the law, and the
 - c. State the manner in which the law is to be administered,

An example in setting up the office of the Coroners, it is advisable to establish the office of the Coroners before setting the law of inquest. Thus, the law emanates from the authority rather than the other way round.

¹⁰ Francis Bennion, *Bennion on Statute Law* (Longman 1990), 56

¹¹ V.C.R.A.C. Crabbe, *Legislative Drafting* (Cavendish Publishing 1998), 145-147

¹² Ibid

2. Rule 2: Simpler propositions should precede more complex ones, and in an ascending scale of proposition, the less should come before the greater.

An example: In principle, assault should be provided for before aggravated assaulted.

3. Rule 3: principal provisions should be separated from subordinate provisions. Subordinate provisions should be placed towards the end of the Act, while the principal provisions should occupy their proper position in the narrative of the occurrence to which they refer. Principal provisions declare the material objectives of the Act. Subordinate provisions are required to give effect to the principal provisions. They may deal with details, and thus complete the operation of the principal provisions.
4. Rule 4: Exceptional provisions, temporary provisions and provisions relating to the repeal of the Act should be separated from the other enactments, and placed by themselves under separated headings.
5. Rule 5: Procedure and matters of details should set apart by themselves, and should not expect under very special circumstances, find any place in the body of the Act.

In designing a bill, the following provisions maybe included¹³:

1. Preliminary provisions: this includes: Long title, Preamble, Enacting clause, Short title, Commencement, Duration/expiry, Application, Purpose clause, Definitions and Interpretation.
2. Principal provisions: these are the main provisions of the bill. It is the principal provisions of a bill that distinguishes it from other bills. Both the substantive and administrative provision of the principal provisions forms the crux of the bill; they are the backbone of the bill. Therefore, they are the subject matter of the in question and

¹³ Ibid

must be drafted with care. The two subheads of the principal provisions are: Substantive provisions and Administrative provisions.

3. Miscellaneous provisions: This involves crimes and related provisions encompassing aspects like prosecution time limits, persistent offenses, corporate wrongdoings, and delegated accountability. Additional and complementary measures, including rules on evidence, authority to establish subordinate legislation, notice services, authorization for entry and search, as well as procedures for seizure and arrest.
4. Final provisions: It involves savings Clause, which preserving laws, rights, or privileges that would otherwise be repealed or cease to be effective. This ensures the continuity of existing legal elements even when a law is repealed.

Also, in final provisions, there is the Transitional Provision which is essential for facilitating a smooth transition between existing and new laws, addressing loose ends that might be left unresolved. Repeals are also under the final provisions and it involves the removal of provisions or Acts from the statute book. It must be explicitly stated to prevent confusion. This can occur when legislation is no longer necessary, combined with re-enactment consolidating unchanged laws, or combined with replacement adapting existing laws to new circumstances.

There is also the Consequential Amendments which deals with adjustments resulting from repeals and may be presented in an annex, especially if numerous, and can be conveniently displayed in a tabular form. Finally there is the Schedule which is like an attachment to main legislation linked from a substantive part of it. They prevent the main legislation from becoming cumbersome, maintaining clarity and organization. Schedules are utilized when including certain details in the main legislation would make it unwieldy.

Compose the draft bill: This is where an actual draft is produced. After designing and reviewing of the bill, the next step is to compose the bill. At this stage, a clean copy of the bill is produced. Some jurisdictions require legislation to be composed at a much higher level generality than others that place greater emphasis upon specific rules setting out rights, powers, and duties than upon statements of principles. Such factors can have lengthy and complexity impact on the draft. Some principles of legislative composition are:¹⁴

1. Express normative rules in a direct prescription form, rather than as a narrative
2. Include only norms that perform a legal function
3. Amend existing legislation expressly and specifically
4. Avoid long sentences and articles comprised of numerous sentences
5. Aim for plenty of “white space” on the page, e.g. by breaking up longer propositions with internal paragraphing
6. Ensure that the content of each article have a unity of purpose
7. Use plain language, avoiding legalistic and antique modes resion, but use the appropriate legal terms for legal concepts
8. Follow standard word order and grammar
9. Use terminology consistently, in particular the same term for the same case and a different term for a different case
10. Avoid using words that are superfluous or repetitious
11. Avoid expressions that are ambiguous and terms that are vague or obscure in meaning
12. Limit incorporation by cross-referencing of substance from other legislation
13. Use a consistent system of numbering for articles , paragraphs and tabulations

¹⁴ Ganjiki Wayne, *Effective Drafting for Effective Legislation: Utilising Thornton’s Five Stages of Drafting in Papua New Guinea*, (September 1, 2016). <https://sas-space.sas.ac.uk/6747/1/LLM%20ALS%20Dissertation%20Final%202016_1545299_Ganjiki%20Wayne.pdf>accessed 29 September 2022

14. Express normative requirements through formulae, diagrams and charts where they contribute to clarity.

In summary, in composing a bill, words, grammar and punctuation are to be considered. The use of plain clear language/words is advised to avoid ambiguity. Active words are to be used and not passive words. Use present tense, use “may” to express a power or privilege, and “must” or present tense to express the imperative mode. Also use gender-neutral language, develop a consistent system for numbering articles, paragraphs and tabulations.

*Scrutinising the bill*¹⁵: Another word for scrutiny is verification. This stage involves the verification of legislative text and the draft bill in general. The rationale behind scrutiny is to establish whether quality has been achieved or not. It requires a third eye view; it is more like a mechanical view. The third eye has to be a patient leader, a smart person, knowledgeable, sober, and willing to identify fundamental errors. One of the aims of this stage is to ensure that quality has been achieved. Scrutinising takes place within the drafting team (internally), and then by relevant bodies and affected agencies (externally).

Scrutiny is a continuous process throughout the drafting process, with the sole aim of improving clarity and to check its practicability. Legal verification (compliance and constitutional) must be made. Also, principle verification, structure verification, language verification and purpose verification must be made. Scrutinising of the draft bill may take into cognizance the¹⁶ verification of legal compliance such as:

1. Legal Compatibility Checks:
 - a. Adherence to constitutional principles, particularly basic rights and freedoms.
 - b. Consistency with existing or anticipated treaties.
 - c. Harmony with prevailing legislation.

¹⁵ Ibid

¹⁶ Ibid

- d. Alignment of concepts and legal approaches with existing law.
2. Operational Feature Checks:
- a. User-friendly legislative provisions.
 - b. Evaluation of administrative, enforcement, and adjudication procedures for effectiveness, fairness, consistency, and transparency.
 - c. Employment of language that minimizes the likelihood of disputes and facilitates settlement and adjudication.
 - d. Inclusion of all necessary provisions for the scheme's functionality and enforceability.
3. Secondary Legislation Checks:
- a. Inclusion of provisions enabling the creation of necessary secondary legislation.
 - b. Imposition of appropriate limits on the formulation of such legislation.
4. Form, Clarity, and Comprehensibility Checks:
- a. Adherence to standard requirements for format, presentation, structure, and style.
 - b. Conformance with best practices for legislative expression and composition.
 - c. Simplification of provisions where possible.
 - d. Logical and accessible organization of the legal framework.

During this stage, a final draft undergoes scrutiny by an impartial party, focusing on both its form and substance.

2.4 The Electoral Act, 2022

On the 25th of February 2022, Former President Muhammadu Buhari assented to the Electoral Act, 2022 Amendment Bill, effectively repealing the previous Electoral Act, 2010 (No. 6). The new Electoral Act, 2022, is a comprehensive legislation comprising 153

sections, each addressing specific subject matters. The Act is structured into different parts, with substantive content in each. For instance, Part 1 concerns the Establishment and Functions of the Independent National Electoral Commission (INEC), encompassing Sections 1-7. Part 2 focuses on the staff of INEC (Section 8), while Part 3 delves into the National Register of Voters and Voters Registration (Sections 9-23). Part 4 outlines the Procedure at Elections (Sections 24-74), and Part 5 addresses Political Parties (Sections 75-97). Part 6 (Sections 98-113) and Part 7 (Sections 120-129) are dedicated to various aspects of Electoral Offenses. Part 8, titled "Determination of Election Petitions," encompasses Sections 130-140, and Part 9, "Miscellaneous Provisions," covers Sections 141-153.

This new legislation introduces several innovative changes aimed at enhancing the regulation of Federal, State, and Area Council elections in Nigeria. Some key innovations include:

1. **Financial Independence for INEC:** The Act establishes the Independent National Electoral Commission Fund, which will receive payments from the federal government, investments, and other financial support to ensure INEC's financial autonomy. Election funds for the Commission are now required to be released not later than one year before the next general election, granting INEC direct access to election funds without the need for vetting by the Ministry of Finance.
2. **Notice of Election:** The Act mandates INEC to publish a notice of election not later than 360 days before the scheduled Election Day. This notice must be published in each constituency where an election is to be held, a departure from the previous requirement of 90 days before the election. By-election notices remain at 14 days.
3. **Early Party Primaries:** INEC is empowered to require political parties to submit their lists of sponsored candidates emerging from valid primaries no later than 180 days before a general election, as opposed to the previous requirement of 60 days before the election. This change encourages early primaries by political parties.

4. **Extended Campaign Period:** The Act extends the campaigning period to 150 days before polling day, concluding 24 hours before the election, as opposed to the previous 90-day period. This allows political parties more time to communicate their campaign messages to the electorate and for voters to make informed decisions.
5. **Central Electronic Voter Database:** The Act mandates INEC to keep the Register of Voters in electronic format in its central database, in addition to manual or hardcopy formats. This enhances data accessibility and accuracy.
6. **Revised Definition of Over Voting:** Over voting is redefined as when the number of votes cast exceeds the number of accredited voters at a polling unit, a departure from the previous definition based on registered voters.
7. **Exclusion of Political Appointees:** Political appointees at any level are prohibited from acting as voting delegates or being voted for at political party Conventions or Congresses for candidate nominations.
8. **Handling of Candidate Deaths:** In the event of a candidate's death before or after polls commence but before the announcement of the final result, election postponement and rescheduling are provided for.
9. **Technological Adoption:** The Act permits the use of electronic devices, such as smart card readers and electronic voting machines, in the accreditation process and the electronic transmission of election results, in alignment with procedures determined by INEC.

The Act is designed to promote adherence to due process and compliance with its provisions by public and party officials, aiming to enhance the integrity of electoral processes.

CHAPTER THREE

LEGISLATIVE DRAFTING RULES AND THEIR APPLICATION IN DRAFTING OF THE ELECTORAL ACT, 2022

In the context of drafting the Electoral Act, 2022, adherence to legislative drafting rules is paramount. The Electoral Act serves as the foundation for democratic processes, governing elections and ensuring the integrity and fairness of electoral systems. As such, the drafting of the Electoral Act demands meticulous attention to detail, precision in language, and clarity in expression. This chapter explores some essential rules and of legislative drafting and their application in the drafting of the Electoral Act, 2022. By examining the intricacies of legislative language and the specific requirements of electoral legislation, this chapter aims to elucidate the significance of effective drafting practices in shaping the electoral landscape and upholding democratic values

3. Legislative Drafting Rules

Language is social in nature been that it is a social institution. It is a means of nourishing and developing culture and establishing human relations. Language is also dynamic in nature since no language was created in a day out of a mutually agreed formula. Therefore, language is the outcome of evolution and each generation transmits this evolution on to the next. Like humans, language is not static but dynamic and it also changes, dies, grows and expands. It is also worthy to note that drafting is not the same as writing - at least legislative drafting¹⁷. Legislative drafting must have legislative components. The text messages we write every day is drafting but it has no legislative components¹⁸. Legislative drafting is a form of language used to communicate the intention of the draftsman to the reader of a statute or instrument. Legislative drafting is the process of creating a document which serves as a legal instrument or document. Legislative drafts can take many forms, including but not limited to, wills, bills,

¹⁷ Omoregie, n14

¹⁸ *ibid*

contracts, regulations, guidelines, etc., which involves the use of precise language to clearly convey the intention of the drafter.

Adhering to the rules of legislative drafting is imperative for several reasons. Firstly, it promotes legal certainty by ensuring that laws are clear, consistent, and unambiguous, reducing the potential for misinterpretation or disputes. Secondly, it enhances the enforceability of laws by providing a solid foundation for their implementation. Thirdly, adherence to these rules facilitates effective communication between lawmakers, legal professionals, and the public, fostering a shared understanding of legal provisions. Lastly, it contributes to the overall integrity of the legal system, upholding the rule of law and promoting trust in the legislative process. In essence, the imperative nature of adhering to these rules lies in the fundamental role they play in creating well-crafted, accessible, and enforceable laws.

In legislative drafting, these rules must be clearly understood and concisely expressed in writing. Some of the rules of legislative drafting vary from jurisdiction to jurisdiction, but there are common principles which cuts across jurisdictions, which are-

1. Use of Plain Language: Supporters of "plain language" drafting advocate avoiding legalistic expressions to enhance the clarity of the law. When legal terms are overly complex or unclear, they hinder understanding and should be removed whenever possible. It is acceptable to use technical terms if necessary, even if it makes the statute more challenging for a layperson to grasp. While it's preferable for parts of tax laws to be understandable to non-experts, especially without sacrificing precision, complete clarity for the layperson is not an absolute requirement in the intricacies of tax law. A precisely drafted statute can be translated into layperson-friendly instructions. The motivation behind plain language drafting is to promote democracy and the rule of law by ensuring that legislation is accessible to those whose lives it

impacts. Language has been described as a system of communication with its own set of convictions¹⁹.

The use of plain, everyday language is encouraged to enhance comprehension. Drafting legislation should be done in a comprehensible manner devoid of ambiguities because; legislation might at some point become subject to litigation requiring the courts to interpret such legislation. In *Lawal v. Magaji*²⁰, the courts stressed on the need to give effect to the language of a statute in a manner that an ordinary person may be able to understand. It is therefore important to convey documents in plain language to reduce the likelihood of litigation and professional negligence claim against the drafter and parties who sign such legislation.

In the context of legislative drafting, when statutes are formulated in plain and unambiguous terms, the judiciary, in the course of statutory interpretation, consistently applies the "Plain Meaning Rule," also referred to as the "Literal Rule." This rule represents one of the established canons of statutory construction traditionally employed by both English courts²¹ and Nigerian courts²² in the interpretation of legislative enactments. The use of the "Plain Meaning Rule" in legislative drafting promotes the plain language style by ensuring that laws are written in clear and straightforward terms. This approach simplifies the interpretation of statutes for both legal professionals and the general public, making the law more accessible and understandable to all stakeholders. It helps avoid confusion and

¹⁹ Queen Okeleke, *Absurdities in Language and the Law- A Review of English and Nigerian Cases* (March, 2014). <https://www.academia.edu/7595090/NIGERIAN_INSTITUTE_OF_ADVANCED_LEGAL_STUDIES_INTRODUCTIO_N_TO_LEGISLATIVE_DRAFTING?email_work_card=view-paper>accessed 29 September 2022

²⁰ (2010) Volume 8 WRN P.102

²¹ *R v Harris* (1836) 7 C & P 446; *Fisher v Bell* [1961] 1 QB 394; *Whitely v Chappel* (1868) LR 4 QB 147.

²² See *Saka v. Adeboiye* (2010) volume 39 WRN p 98; *Gani v. Fawehinmi v. Nigeria Bar Association* (2002) 50 WRN 27; *A-G Federation v. All Nigeria People's party (ANPP)* (2003) 15 NWLR (Pt. 844) 400; *People's Democratic party (PDP) v. Independent National Electoral Commission (INEC)* (1999) 11 NWLR (Pt. 724) 14.

ambiguity, ultimately enhancing the effectiveness and accessibility of legislative texts.

Documents which are plainly expressed and easily understood will rarely be brought before the courts for interpretation, as such document or legislation is easily understood by its readers. However, it should be noted that plain language does not involve the use of 'cheap' English. The use of plain language entails but is not limited to the following-

- a. Clarity and simplicity: As a legislative drafter, the primary objective is to enact the sponsors' policy, with careful consideration for the legislation's intended audience. Using plain language is crucial to ensure easy comprehension by the readers and users of the law. Additionally, when crafting legislation, it is essential for drafters to employ terms that guarantee clarity, precision, and lack of ambiguity. The drafted legislation should be explicit and straightforward, utilizing language easily grasped by those who will be impacted by the law. In the realm of legislative drafting, clarity enhances the reader's understanding of the communicated content.

In relation to plain language and clarity, the transition from "shall" to "must", must be discussed. In modern legislative drafting, the use of "must" in place of "shall" reflects a shift toward clearer and more straightforward language. Traditionally, "shall" has been used to impose a duty or obligation, but its interpretation can sometimes be ambiguous. The term "must" is preferred in contemporary drafting because it is considered more direct and less prone to misunderstanding. "Must" is seen as a stronger and more unequivocal term, leaving little room for interpretation. It conveys a mandatory requirement without the potential ambiguity that "shall" might

introduce. This linguistic precision aims to enhance the clarity and effectiveness of legal documents, reducing the likelihood of disputes over the intended meaning of a provision.

The move from "shall" to "must" is part of a broader effort in legislative drafting to improve accessibility and eliminate unnecessary complexity. By using language that is easily understood, legislators aim to create laws that are more accessible to the general public and legal professionals alike. The preference for using "must" in place of "shall" in modern legislative drafting aligns with the principle of clarity and plain language. This can be considered a rule or guideline within the broader context of legislative drafting. While there isn't a universally standardized set of rules for legislative drafting, drafters often follow guidelines established by drafting manuals, style guides, or legislative drafting conventions specific to their jurisdiction.

The move toward using "must" is generally guided by principles that prioritize precision, clarity, and simplicity in legal language. Different jurisdictions or drafting authorities may have their own specific rules or guidelines, but the overarching aim is to make legal texts more understandable and less susceptible to misinterpretation. The shift from "shall" to "must" reflects a practical application of these principles in pursuit of clearer communication in legal documents.

- b. **Readability:** Readability refers to how easily a statute can be comprehended, taking into account factors such as the complexity of the text, its familiarity, legibility, and typography. It's crucial for the goal of achieving a readable statute to be integrated into every stage of the drafting process, rather than

being an afterthought. The responsibility for establishing the foundation of readability rests on the drafter. This involves understanding policy intentions, clarifying drafting instructions, and creating a logically organized draft through an iterative process. The drafter is obligated to lay the groundwork for a readable end product, aiming for a text that is fundamentally sound, well-organized, coherent, and clear.

Readability naturally emerges as a consequence of effective legislative drafting, emphasizing the use of short sentences, paragraphs, and avoiding complex language to ensure ease of understanding. Readability, plain language, and clarity are related concepts in the context of legal drafting, but they have distinct nuances. Readability refers to how easily a document, in this case, a statute or legal text, can be read and understood. It encompasses factors such as sentence structure, paragraph length, use of jargon, and overall presentation that contribute to the ease with which a reader can comprehend the content. The primary aim is to make the text accessible and user-friendly, focusing on the reader's experience.

Plain language involves using clear, simple, and straightforward language to convey information, minimizing the use of complex terminology or convoluted expressions. It emphasizes using everyday language that is easily understood by the target audience, avoiding unnecessary complexity or ambiguity. The primary goal is to enhance communication and ensure that the intended audience can grasp the information without undue difficulty.

Clarity in legal drafting pertains to the absence of ambiguity and the precision of language, ensuring that the intended meaning is easily discernible. It involves using well-defined terms, avoiding vagueness, and organizing the

text in a logical manner to facilitate understanding. The primary objective is to eliminate confusion and ambiguity, promoting a clear and unequivocal interpretation of the legal provisions.

In summary, while readability focuses on the overall ease of reading and understanding a document, plain language emphasizes the use of straightforward language, and clarity centers on the precision and absence of ambiguity in conveying meaning. All three contribute to creating effective and accessible legal texts.

- c. Precision: The provision should be precise and tailored to achieve the intended outcomes, preventing any unintended consequences or loopholes. Precision in legislative drafting entails the intentional use of particular words to convey the intention of the lawmakers without any form of ambiguity. Precision is exact, it leaves nothing to the imagination of the reader: never to presume upon the reader's intelligence²³In legislative drafting, precision requires choosing correct words and maintaining their grammatical sense²⁴. This avoids uncertainty in the meaning of words or sentences, which in turn affects construction of statutes²⁵. Drafters must be precise in their wording to leave no room for interpretation or ambiguity.
- d. Brevity: The legislation should be concise and avoiding unnecessary repetition, while maintaining clarity and comprehensiveness. Every word in a statute should have a definite purpose and no unnecessary word should be

²³ Elias Turatsinze, *'The pursuit of clarity, precision and unambiguity in drafting retrospective legislation,' Institute of Advanced Legal Studies School of Advanced Study University of London, (2011-2012). LLM in Advanced Legislative Studies (ALS) <https://sas-space.sas.ac.uk/4711/1/Elias_Turatsinze_LLM_ALS_Dissertation.pdf>accessed 29 September 2022*

²⁴ *ibid*

²⁵ *ibid*

used²⁶. In addition to having a purpose and ensuring the avoidance of unnecessary words for easy understanding, elegant words are to be used to articulate the intention of the policy maker.

- e. The prescription for brevity does not necessarily mean that statutes should be short, but rather, brevity emphasises that certain definite details need to go into the statute, and it takes additional words to express these details. Moreover, the expression of an idea in so few words that it becomes cryptic and understandable only after careful study also constitutes an extreme to be avoided²⁷. The point is simply that no word should be included if it does not serve a function. Some principles of plain language composition are²⁸:
 - i. Express normative rules in a direct prescription form, rather than as a narrative.
 - ii. Include only norms that perform a legal function
 - iii. Amend existing legislation expressly and specifically
 - iv. Avoid long sentences and articles comprised of numerous sentences
 - v. Aim for plenty of “white space” on the page, e.g. by breaking up longer propositions with internal paragraphing
 - vi. Ensure that the content of each article have a unity of purpose
 - vii. Use plain language, avoiding legalistic and antique modes of expression, but use the appropriate legal terms for legal concepts
 - viii. Follow standard word order and grammar
 - ix. Use terminology consistently, in particular the same term for the same case and a different term for a different case

²⁶ *ibid*

²⁷ *ibid*

²⁸ Ganjiki Wayne, n16

- x. Avoid using words that are superfluous or repetitious
 - xi. Avoid Redundancy: Repetitive language should be avoided, and provisions should be cross-referenced when necessary
 - xii. Avoid expressions that are ambiguous and terms that are vague or obscure in meaning
 - xiii. Limit incorporation by cross-referencing of provisions from other legislation
 - xiv. Use a consistent system of numbering for articles, paragraphs and tabulations
2. Transparency²⁹: A statute is transparent if it easily allows the reader to understand the rationale for the rules. One way of achieving transparency is to begin a law by stating its purpose. If the statement is very general, it is not helpful. On the other hand, a very general statement can do little harm. (E.g., an income tax law might begin: “This law levies a tax on income.”) If the statement is made more specific and operational, then it could serve a function by indicating the overall legislative purpose so as to facilitate interpretation of ambiguous provisions.

In the case of some legislation, this might be helpful. For example, a piece of environmental legislation might stipulate that the purpose of the legislation is to eliminate pollution wherever technically feasible, regardless of the cost, or it might provide the opposite, that the statute should not be construed as requiring measures to be taken whose costs are disproportionate to the environmental benefits. Either philosophy, if articulated by the legislature, would give guidance to the courts as to the legislative intent.

²⁹ *ibid*

3. Accuracy and completeness: Drafting should be accurate, taking into account the relevant laws, rules, and regulations. The legislation should cover all relevant issues related to the subject matter, avoiding any gaps or omissions.
4. Consistency and coherence: The terminology, structure and format of the legislation should be consistent throughout the document, ensuring that similar provisions are expressed in a similar manner. Drafting should be consistent in language, terminology, and formatting throughout the document. The legislation should be logically organised and structured, with provisions arranged in a logical order that makes sense to the reader. Language and terminology should be consistent throughout the document to avoid confusion.
5. Compliance: The document should comply with all relevant laws and regulations, including privacy and confidentiality provisions. Drafters must consider the broader legal context and existing laws when drafting new legislation.

A check for compliance usually includes: Compliance with the Constitution, especially basic rights and freedoms; Compliance with existing or pending treaties; Compliance with existing statutes and Compliance as to secondary legislation: Provisions enabling the making of secondary legislation needed to supplement the law and the appropriate limits upon the making of such legislation.

6. Avoidance of Excessive Delegation: Statutes should avoid unnecessary delegation of powers to the Executive or other bodies, ensuring that the responsibility for decision making lies with appropriate authorities.
7. Logical Structure: The statute should have a logical structure with clear headings and subheadings. A statute should be structured in a manner that aids comprehension.

Bergeron states that Bills must be arranged in a logical order.³⁰ According to Lord Thring, there are five rules as it relates to structure.³¹

- a. Rule 1: provisions declaring the law should be separated from, and take precedence of, provisions relating to the administration of the law. Before the question of administration can arise, one must know the law, hence the precedence of the statement of the law over its administration. Thus the advice is: State the law, state the authority to administer the law, and state the manner in which the law is to be administered. An example in setting up the office of the Coroners, it is advisable to establish the office of the Coroners before setting the law of inquest. Thus, the law emanates from the authority rather than the other way round.
- b. Rule 2: Simpler propositions should precede more complex ones, and in an ascending scale of proposition, the less should come before the greater. An example: In principle, assault should be provided for before aggravated assaulted.
- c. Rule 3: principal provisions should be separated from subordinate provisions. Subordinate provisions should be placed towards the end of the Act, while the principal provisions should occupy their proper position in the narrative of the occurrence to which they refer. Principal provisions declare the material objectives of the Act. Subordinate provisions are required to give effect to the principal provisions. They may deal with details, and thus complete the operation of the principal provisions.

³⁰ V.C.R.A.C. Crabbe, *Legislative Drafting* (Cavendish Publishing 1998), 145-147

³¹ Ganjiki Wayne, n16

- d. Rule 4: Exceptional provisions, temporary provisions and provisions relating to the repeal of the Act should be separated from the other enactments, and placed by themselves under separated headings.
- e. Rule 5: Procedure and matters of details should set apart by themselves, and should not expect under very special circumstances, find any place in the body of the Act.

In terms of a logical structure, the following provisions may be included:

- a. Preliminary provisions: preliminary provisions usually consists of the following- Long title, Preamble, Enacting clause, Short title, Commencement, Duration/expiry, Application, Purpose clause, Definitions and Interpretations.
- b. Principal provisions: these are the main provisions of a bill. It is the principal provisions of a bill that distinguishes it from other bills. Both the substantive and administrative provision of the principal provisions forms the crux of the bill; they are the backbone of the bill. Therefore, they are the subject matter of the bill in question and must be drafted with care. The two subheads of the principal provisions are: Substantive provisions and Administrative provisions.
- c. Miscellaneous provisions: this consists of offences and provisions ancillary to offences such as time limit for prosecution, continuing offences, offences by corporations, and vicarious responsibility.
- d. Final provisions: this part of a bill usually consists of - Savings (these may also be placed in a schedule if they are long); it preserves or “saves” a law, a right or privilege that would otherwise be repealed or cease to have effect. That is, it keeps rights or obligations that might otherwise disappear when an existing law is repealed. There is also the transitional provision which is

necessary to aid a smooth transition to be made between the existing law and the new law; they tie up the loose ends which would otherwise be left dangling. Savings and Transitional provisions should not be mistaken as same.

While the former do not relate to time, but simply preserves a circle of persons or activities from the field of application of the new regime and are also long term provisions; the latter focuses on regulating for the short term issue that continue to fall within the field of application of both the old and new regime, and they are also short term provisions that regulates the transition between the old and the new regime for the same class of subjects, objects or activities. Repeals are also a part of the final provisions- this involves deletions of provisions or Acts from the statute book; their introduction must be done expressly to avoid confusion. Consequential amendments are also part of the final provisions and these may be placed in an annex especially if the repeals and consequential amendments are numerous and can conveniently be presented in a tabular form.

Lastly, there is the Schedule which is an attachment to the main legislation linked from a substantive part of the main legislation. Schedules help to avoid clumsiness in the main legislation. They free the main body of legislation from untidiness. Schedules are used in instances where if included in the main legislation, it would make it clumsy.

8. Gender-neutrality: The use of gender-neutral language is a key ingredient to an effective legislation because it clearly expresses the legislature's intention in an accurate and non-discriminatory manner. Drafters should use gender-neutral language to ensure inclusivity. A drafter should avoid the use of improper terms that are gender specific. Terms such as "he," "she," "his," "hers," "him," "her," "himself," or "herself"

may not be used unless application to only one gender is intended or, as a last resort³². To avoid the improper use of gender-specific terms, a drafter may³³

- a. Re-place gender-specific nouns with gender-neutral nouns.

Exception: A drafter should not create gender-specific nouns that are not commonly understood in the English language. For example, use "manhole," not "personhole."

- b. Repeat the antecedent noun instead of using a gender-specific noun. This is often the easiest and clearest way to avoid using gender-specific terms. For example, A manager or officer shall certify that the manager or officer accurately reported the expenditure, is more appropriate as opposed to - The manager of officer shall certify that he accurately reported the expenditure.

Exception: This method may not be the best method if the sentence requires the noun to be repeated so often that the sentence becomes cumbersome or difficult to understand.

- c. Remove a possessive pronoun or replace it with an article (a, an, or the):

For example- A member waives [~~his~~] the right to a membership if . . .

- d. Change to an interrogative or demonstrative expression: In this method, the drafter uses "who," "which," or "that" as the subject of the sentence to, by inference, relate to one or multiple verbs.

- e. Remove the nominal: A person who manufactures, or [~~has in his possession~~] possesses a controlled substance in violation of this chapter is guilty of a first degree felony.

³²<<https://le.utah.gov/documents/LDM/draftingManual.html#:~:text=Consistency%20is%20of%20greater%20importance,then%20use%20the%20term%20consistently.> > accessed 29 September 2023

³³ *ibid*

- f. Reword an "if/then" statement and replace it with a subordinate clause, or reword it entirely: [~~If a~~] A person who is not authorized to conduct business under this chapter [~~, he~~] may not claim to be a certified specialist [~~If the commissioner finds~~] Upon finding that the sampling frequency can be safely reduced, [~~he~~] the commissioner may order the frequency reduced in accordance with Subsection (2).
- g. "His or her," "his or hers," "him or her," or "Himself or herself": As a last resort, a drafter may refer to both genders. This should only be used if other methods are not possible or result in an unclear sentence. Use of this method is very rare, and usually only arises when the phrase "himself or herself" is used. On occasion, "himself or herself" can be replaced with "oneself," but, depending on the sentence, this can be awkward and is not always the best solution.

The general principle is that primary legislation should be drafted in a gender-neutral way, so far as it is practicable to do so. Gender neutrality applies not only when drafting free-standing text in a Bill but also when inserting text into older Acts which are not gender-neutral³⁴. However, in very limited circumstances, exceptions may be made when amending an older Act; that is, where it might be confusing to be gender-neutral³⁵.

In conclusion, legislative drafting rules are crucial for several reasons. Firstly, they enhance clarity and precision in laws, reducing ambiguity and the potential for misinterpretation. Secondly, these rules promote consistency in legal language, making statutes easier to understand and apply uniformly. Thirdly, adherence to drafting principles helps ensure that laws are internally coherent and compatible with existing legal frameworks. Lastly, these rules facilitate the legislative process by providing a standardized framework for

³⁴ Adedeji Adekunle, *Lecture Notes on Legislative Style, Syntax Expression* (30 May 2022)

³⁵ *ibid*

drafting, aiding lawmakers in the creation of effective and legally sound statutes. Overall, the significance lies in promoting legal certainty, fairness, and efficient governance.

3.1 Challenges in the Application of Legislative Drafting Rules

While legislative drafting rules are indispensable for creating clear and effective laws, they also come with several challenges. These challenges can impede the drafting process and the quality of the resulting legislation. Here are some of the key challenges associated with legislative drafting rules:

1. **Interpretation and Ambiguity:** Despite rules, there is often room for interpretation in legal texts. Ambiguities can arise, leading to disputes and varying interpretations by courts, lawyers, and legal scholars.
2. **Unforeseen Circumstances:** Legislative drafters cannot predict every future scenario. Laws may not address emerging issues or evolving societal norms, leading to the need for frequent amendments and updates.
3. **Over-Regulation:** Excessive focus on adhering to drafting rules may lead to overregulation, where laws become overly detailed and rigid. This can stifle innovation, increase compliance costs, and lead to legal complexity.
4. **Drafting Mistakes:** Drafting errors can occur, even when following established rules. These errors can create legal loopholes, ambiguities, and unintended consequences in the law.
5. **Lack of Clarity in Policy Objectives:** Sometimes, policymakers themselves may not have clear or consistent objectives when formulating laws. This can pose a challenge for drafters, as they must interpret and reconcile differing policy goals.
6. **Political Influences:** Drafters may face external pressures or political influences that affect the content of the legislation. This can lead to laws that serve political interests rather than the public good.

7. **Time Constraints:** The legislative process often has tight deadlines. Drafters may be forced to work under time pressure, which can compromise the quality of the drafting process.
8. **Resistance to Change:** Legislative drafting rules may become outdated, making it challenging to adapt to changing circumstances. There can be resistance to updating rules or moving away from traditional drafting practices.
9. **Cultural and Linguistic Challenges:** In diverse societies or those with multiple official languages, linguistic and cultural differences can pose challenges for drafters in ensuring that laws are clear and equitable for all citizens.
10. **Drafting for Digital Environments:** As technology advances, drafters face the challenge of creating laws that are applicable to the digital realm. Ensuring that laws remain relevant in the digital age can be complex.
11. **Complex Regulatory Fields:** In highly technical or specialized regulatory areas, such as biotechnology or cyber security, drafting rules may not provide adequate guidance for creating effective and precise legislation.
12. **Public Engagement and Participation:** In some cases, the legislative drafting process may lack sufficient public engagement and participation, limiting the inclusiveness of the legal system and potentially leading to laws that do not reflect the diverse needs of the population.
13. **Coordination across Jurisdictions:** In cases of international agreements or multi-jurisdictional legal frameworks, coordinating drafting rules across different legal systems and languages can be challenging.
14. **Reactive Nature of Lawmaking:** Legislators often react to crises, public pressure, or emerging issues, leading to hastily drafted laws that may not align perfectly with established rules.

Despite these challenges, legislative drafting rules remain essential for creating well-structured and functional laws. Addressing these challenges often involves a balance between following established rules and adapting to the unique circumstances and needs of each legislative context.

3.2 Effects of Challenges in the Application of Legislative Drafting Rules

The implications of challenges in legislative drafting rules are wide-ranging and have various effects. When the process of creating laws faces difficulties in adhering to established drafting rules, it can lead to a range of complex consequences:

1. **Legal Uncertainty:** Poorly drafted rules may lead to ambiguity and uncertainty in their interpretation and application. This can result in legal disputes and difficulties in enforcing the rules effectively.
2. **Inconsistent Application:** Ambiguous or vague language in legislative drafting may lead to inconsistent application of the rules, creating disparities in how the law is understood and enforced across different situations or jurisdictions.
3. **Loopholes and Gaps:** Inadequate drafting may inadvertently create loopholes or gaps in the law, allowing individuals or entities to exploit these weaknesses for unintended purposes. This undermines the effectiveness of the rules.
4. **Compliance Challenges:** If rules are complex or unclear, compliance becomes challenging for those who are subject to them. This can lead to unintentional violations, as individuals and organizations may struggle to understand and adhere to the requirements.
5. **Litigation Risks:** Poorly drafted rules increase the likelihood of legal challenges and litigation. Ambiguities or inconsistencies can be exploited in court, leading to prolonged legal battles and potential disruptions in the enforcement of the rules.

6. **Public Confidence:** If the rules are perceived as poorly drafted or confusing, it may erode public confidence in the legal system and government institutions. Clarity and precision in legislative drafting contribute to a transparent and trustworthy legal framework.
7. **Administrative Burden:** Rules that are overly complex or unclear may impose a significant administrative burden on the relevant authorities tasked with enforcement. This can hinder efficient governance and lead to resource inefficiencies.
8. **Amendment Challenges:** If amendments are required to address drafting deficiencies, the legislative process might be time-consuming and resource-intensive. Rapid changes in circumstances may outpace the ability to update and revise the rules effectively.
9. **Reputational Damage:** Legislative bodies and policymakers may face reputational damage when laws are perceived as unclear or ineffective, impacting public confidence in their abilities.
10. **Implementation Issues:** Difficulties in adhering to drafting rules can impede the effective implementation of laws, hindering their intended impact on society.
11. **Resource Allocation:** Addressing drafting errors post-enactment consumes additional resources, diverting time and funds from other important priorities.

Addressing these challenges requires careful consideration and expertise in legislative drafting to ensure that rules are clear, coherent, and aligned with the intended legal and policy objectives. It emphasizes the importance of involving legal professionals, subject matter experts, and stakeholders in the drafting process to enhance the quality and effectiveness of the legislation.

In summary, challenges in legislative drafting rules can have a cascading impact on the clarity, effectiveness, and public perception of laws. Creating a need for meticulous attention to drafting standards can avoid these multifaceted implications.

3.3 The Application of Legislative Drafting Rules in the Drafting of the Electoral Act, 2022.

Legislative drafting rules serve as a fundamental framework for crafting legislation that is clear, precise, and effective in achieving its intended objectives³⁶. The Electoral Act, 2022, as a pivotal component of any democratic system, demands the utmost precision and comprehensibility to ensure fair and efficient electoral processes. This section explores the applicability of established legislative drafting rules to the Electoral Act, 2022, shedding light on how its applicability can significantly promote comprehension and contribute to the quality of the Act. Below are some of the key outcomes of applying some rules of legislative drafting to the Electoral Act, 2022:

1. Consistency in Legal Terminology: Applying the rules of legislative drafting to the Electoral Act, 2022, ensures that the same words and phrases are used consistently throughout the Act to maintain coherence and prevent misunderstandings. In applying the principle of consistency, the Act aligns its language and terminology with other related legislation, promoting a harmonious legal framework. Consistency in language and terminology is vital in legislative drafting. Consistency ensures that the same terms are used throughout, avoiding confusion and potential conflicts due to different interpretations of similar terms. Terminology and definitions are consistent throughout the Act, thereby maintaining coherence. The terms and definitions used in the Electoral Act, 2022, are consistent throughout the statute and it aided in avoiding confusion of certain terms, thereby maintaining clarity of such terms.

³⁶ Charles Thornton, n23

2. **Logical Structure:** Legislative drafting rules call for a logical and organized structure. When applied to the Electoral Act, 2022, this shows that the Act is organized in a way that makes it easy to navigate and understand. Sections follow a logical order, and related provisions are grouped together.
3. **Incorporation of Definitions:** Legislative drafting rules emphasize the inclusion of precise definitions. The Electoral Act, 2022, defines key terms and concepts to ensure that the users of the Act have a clear understanding of what these terms mean.
4. **Cross-Referencing and Repeal Clauses:** The Electoral Act, 2022, also includes provisions that clearly indicate how it relates to other legislation and any laws it may repeal or amend. This ensures that the Act is consistent with the broader legal framework.
5. **Accessibility:** Legislative drafting rules also emphasize making legislation accessible to the public. In the case of the Electoral Act, 2022, it provides explanatory notes to help the general public understand their rights and responsibilities in the electoral process.
6. **Legal Framework:** By applying the rules of legislative drafting to the drafting of the Electoral Act, 2022, the Act aligns with the existing legal framework, including the constitution and other relevant laws. The Act conforms to constitutional provision, thereby ensuring that it is legally sound and complies with the highest law of the land.
7. **Purpose and Objectives:** The objectives of the Electoral Act, 2022, are clearly stated, and its provisions align with these objective.

In conclusion, it is important that every drafter adheres to the rules of legislative drafting by applying same in drafting of any statutory instrument. The rules of legislative drafting are generally applicable to the drafting of the Electoral Act, 2022, just as they are to any other piece of legislation. Legislative drafting aims to ensure that laws are clear, precise, and

legally sound. Legislative drafting rules provide a systematic approach to drafting the Electoral Act, 2022, ensuring that it is clear, unambiguous, and effectively serves its purpose of regulating electoral processes in a transparent and democratic manner. Applicability of the rules of legislative drafting to the Electoral Act, 2022, is crucial for the proper functioning of the electoral system and for upholding the principles of democracy.

CHAPTER FOUR

GAPS IN THE USE OF DRAFTING RULES IN THE ELECTORAL ACT, 2022

The efficacy of legislative drafting rules cannot be overstated in the crafting of clear, precise, and effective laws. However, despite the importance of adhering to these rules, gaps in their application within the Electoral Act, 2022, can pose significant challenges. When drafting rules are not meticulously followed, it can result in legal ambiguities, complexities in enforcement, and challenges in the interpretation of laws. The Electoral Act, 2022, serves as the cornerstone of electoral processes, delineating the rules and procedures governing elections and ensuring the integrity of democratic practices. As such, any deficiencies in the drafting of this pivotal legislation can have far-reaching implications for the electoral landscape and democratic governance.

This chapter delves into the legislative drafting gaps present within the Electoral Act, 2022. By identifying and analysing these gaps, the study aims to shed light on the areas where adherence to drafting rules may have fallen short. Through a comprehensive examination of specific provisions and language within the Electoral Act, the study will uncover instances of ambiguity, inconsistency, or inadequacy in drafting, highlighting the potential impact on the interpretation and application of electoral laws.

Also, the comparative analysis embarked upon in this chapter delves into an examination of the rules of legislative drafting within the context of electoral legislation across three different jurisdictions (Canada, Australia and Kenya). Each of the selected Nations boasts a unique approach to the craft of electoral legislation, adapted to the specific demands of their respective democratic processes.

4.1 Legislative Drafting Gaps in the Electoral Act, 2022

Legislative drafting rules are essential to ensure that laws are clear, precise, and effective. Gaps in the use of these rules can lead to legal ambiguities and difficulties in enforcement and Interpretation of laws. Below are some of the gaps in the Electoral Act, 2022,-

In the realm of legislative drafting, the language employed in section 1(1) (b) of the Electoral Act, 2022³⁷, which states that "...may sue and be sued in its corporate name," demands heightened scrutiny due to potential imprecision. This phrase, featuring the term "may," presents a legal framework that grants the Commission the authority to exercise discretion in initiating or defending lawsuits using its official corporate name. The choice between "may" and "must" in legal drafting carries significant legal ramifications. "May" conveys permission and discretion, signifying that the Commission has the option to engage in legal actions with its corporate name. Conversely, "must" imposes a mandatory obligation, leaving no room for discretion or alternative actions.

For the sake of precision and unambiguous legislative intent, it is advisable to rephrase the provision as follows: "...Must sue and be sued in its corporate name." This revised wording ensures that the Commission is legally obligated to initiate and defend lawsuits solely using its corporate name, leaving no room for interpretation and clearly establishing a non-negotiable legal duty. This level of specificity is crucial for legal clarity and compliance within the framework of the Electoral Act, 2022.

In the context of legislative drafting and legal precision, Section 6(3) of the Electoral Act, 2022³⁸, indeed presents potential ambiguity. The provision currently states that "The Resident Electoral Commissioner appointed under the Constitution may only be removed by the President, acting on an address supported by two-thirds majority of the Senate praying that the Resident Electoral Commissioner be so removed for inability to perform the

³⁷ Electoral Act, 2022

³⁸ Electoral Act, 2022

functions of the office, whether arising from infirmity of mind or body or any other cause, or for misconduct." The term "may" introduces an element of discretion into the President's authority to remove the Resident Electoral Commissioner. This discretion implies that, in situations where the Commissioner is unable to perform the functions of the office or is involved in misconduct, the President has the option to decide whether or not to effect the removal.

To ensure clarity and avoid any potential for discretionary interpretation, it is recommended to rephrase the section as follows: "The Resident Electoral Commissioner appointed under the Constitution shall be subject to removal by the President, acting on an address supported by a two-thirds majority of the Senate, in the event that the Resident Electoral Commissioner is unable to perform the functions of the office, whether arising from infirmity of mind or body or any other cause, or for misconduct." This revised wording establishes a clear and mandatory requirement for removal in cases of the Commissioner's inability to fulfill their duties or misconduct, eliminating any ambiguity and emphasizing the non-discretionary nature of the process. This level of clarity is fundamental in maintaining the integrity and functionality of the Electoral Act, 2022.

Within the context of legislative drafting and legal precision, Section 8(5) of the Electoral Act, 2022³⁹, raises concerns regarding adherence to the rule of gender neutrality. The section currently reads: "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 is liable on conviction, to a fine of N 5,000,000 or imprisonment for a term not more than two years or both." The use of masculine pronouns, such as "himself" and "his," in the section implies that the offense is applicable only to males, thus violating the

³⁹ Ibid

principle of gender neutrality in legislative drafting. To rectify this and ensure gender-inclusive language, the provision should be revised as follows: "A person who, being a member of a political party, misrepresents themselves by not disclosing their membership, affiliation, or connection to any political party in order to secure an appointment with the Commission in any capacity commits an offense and is liable upon conviction to a fine of N 5,000,000, imprisonment for a term not exceeding two years, or both."

In this revised version, gender-neutral language has been implemented by using "themselves" and "their" instead of gender-specific terms. This modification guarantees that the provision applies equitably to individuals of all genders and complies with the imperative of gender neutrality, a fundamental aspect of modern legislative drafting to uphold fairness and inclusivity within the legal framework.

Section 12(1) (d) of the Electoral Act, 2022⁴⁰, raises concerns related to gender neutrality within the context of legislative drafting. The current wording states: "...presents himself to the registration officers of the Commission for registration as a voter; and..."

To align with the principles of gender neutrality and inclusivity in legislative drafting, the provision should be revised as follows: "...presents themselves to the registration officers of the Commission for registration as a voter; and..." or alternatively, "...presents oneself to the registration officers of the Commission for registration as a voter; and..." By implementing these changes, the provision eliminates the gender-specific "himself" and replaces it with the gender-neutral "themselves" or "oneself," ensuring that it does not assume a specific gender and upholds inclusivity without discrimination based on gender identity.

Section 43(2) of the Electoral Act, 2022⁴¹, raises concerns regarding gender neutrality in legislative drafting. The provision, in its current form, reads: "Notwithstanding the requirement of subsection (1), a candidate shall not be precluded from doing any act or thing

⁴⁰ Electoral Act, 2022

⁴¹ Electoral Act, 2022

which his political party, in consultation with him, has appointed a polling agent to do on his or her behalf under this Act." To uphold the principles of gender neutrality and inclusivity in legislative language, the provision should be amended as follows: "Notwithstanding the requirement of subsection (1), a candidate shall not be precluded from doing any act or thing which their political party, in consultation with them, has appointed a polling agent to do on their behalf under this Act." This revision replaces the gender-specific pronouns "his" and "him" with the gender-neutral "their" and "them," ensuring that the provision does not assume a specific gender and is inclusive and neutral with respect to gender identity. This aligns with the rule of gender neutrality in legislative drafting and promotes fairness and inclusivity.

Section 47(1) of the Electoral Act, 2022⁴², is at odds with the principle of gender neutrality in legislative drafting. The provision, in its current form, states: "A person intending to vote in an election shall present himself with his voter's card to a Presiding officer for accreditation at the polling unit in the constituency in which his name is registered." To adhere to the principles of gender neutrality and inclusivity in legislative language, the provision can be revised as follows: "A person intending to vote in an election shall present themselves with their voter's card to a Presiding officer for accreditation at the polling unit in the constituency in which their name is registered." This revision replaces the gender-specific pronouns "himself" and "his" with the gender-neutral "themselves" and "their," ensuring that the language does not presume the gender of the individual intending to vote. It promotes inclusivity and avoids gender assumptions, aligning with the rule of gender neutrality in legislative drafting.

Section 64(5) of the Electoral Act, 2022⁴³, raises concerns related to gender neutrality and the clarity of language within the context of legislative drafting. The section, in its current form, states: "Subject to subsection (1), a collation officer or returning officer shall

⁴² Ibid

⁴³ Electoral Act, 2022

use the number of accredited voters recorded and transmitted directly from polling units under section 47 (2) of this Act and the votes or results recorded and transmitted directly from polling units under section 60 (4) of this Act to collate and announce the result of an election if a collated result at his or a lower level of collation is not correct."

To address these concerns, maintain precision, and promote gender-neutral and plain legal language, the provision may be rephrased as follows: "Subject to subsection (1), a collation officer or returning officer shall be required to utilize the number of accredited voters recorded and transmitted directly from polling units as specified in Section 47(2) of this Act, along with the votes or results recorded and transmitted directly from polling units as delineated in Section 60(4) of this Act, for the purpose of compiling and announcing the election results, provided that the collated result at their level of collation or below is found to be incorrect." This revision simplifies the language, maintains legal accuracy, and ensures gender neutrality by using gender-neutral language like "their" and "shall be required to." It aligns with the principles of plain English and the rule of gender neutrality in legislative drafting.

Section 74(1) of the Electoral Act, 2022⁴⁴, gives rise to concerns regarding gender neutrality within the context of legislative drafting. The provision, in its current form, states: "The Resident Electoral Commissioner in a state where an election is conducted shall, within 14 days after an application is made to him by any of the parties to an election petition, cause a certified true copy of such document to be issued to the said party."

To align with the principles of gender neutrality and inclusivity in legislative language, the provision may be revised as follows: "The Resident Electoral Commissioner in a state where an election is conducted shall, within 14 days after an application is made to them by any of the parties to an election petition, cause a certified true copy of such document to be issued to

⁴⁴ Electoral Act, 2022

the said party." This revision replaces the gender-specific "him" with the gender-neutral "them," ensuring that the language does not presume the gender of the Resident Electoral Commissioner. It promotes inclusivity and adheres to the rule of gender neutrality in legislative drafting and legal language.

Section 85(5) (d) of the Electoral Act, 2022, raises concerns related to gender neutrality within the context of legislative drafting. The provision, in its current form, states: "in the case of the position of a Chairmanship candidate of an Area Council, the political party shall, where it intends to sponsor a candidate."

To adhere to the principles of gender neutrality and inclusivity in legislative language, the provision may be revised as follows: "in the case of the position of the Chair candidate of an Area Council, the political party shall, where it intends to sponsor a candidate."

This revision replaces the gender-specific "Chairmanship" with the gender-neutral "Chair," ensuring that the language does not presume the gender of the candidate. It promotes inclusivity and aligns with the rule of gender neutrality in legislative drafting and legal language.

Section 88 (6) of the Electoral Act, 2022⁴⁵, provides that "In the case of a chairmanship election to an Area Council, the maximum amount of election expenses to be incurred by a candidate shall not exceed N 30,000,000."

The use of "chairmanship" in the sentence does offend gender-neutral language. It assumes that the position is typically held by a male. To make it fully gender-neutral, a drafter could use a more gender-neutral term like "chair" or "chairperson."

So, it would be: "In the case of a chair election to an Area Council, the maximum amount of election expenses to be incurred by a candidate shall not exceed N 30,000,000."

This change avoids any gender-specific assumptions.

⁴⁵ Ibid

Section 88 (11) of the Electoral Act, 2022,⁴⁶ "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 and abets the contravention of the provisions of this section commits an offence and is liable on conviction to a fine of N 3,000,000 or imprisonment for a term of three years or both."

The use of "his" in the subsection "his expenditure" assumes the gender of the candidate to be male. To make it gender-neutral, a drafter should use a gender-neutral possessive pronoun such as "their" to refer to the candidate.

It would then be: "a document relating to their expenditure at an election." A suggested redraft would be "An accountant who falsifies, or conspires or aids a candidate to forge or falsify a document relating to their expenditure at an election or receipt or donation for the election or in any way aids and abets the contravention of the provisions of this section commits an offence and is liable on conviction to a fine of N 3,000,000 or imprisonment for a term of three years or both." This change avoids assuming the gender of the candidate and promotes gender neutrality; thereby adhering to the rules of legislative drafting.

Section 98 (1) of the Electoral Act, 2022⁴⁷ provides that "Election expenses of a political party shall be submitted to the Commission in a separate audited return within six months after the election and such return shall be signed by the political party's auditors and countersigned by the Chairman of the party and be supported by a sworn affidavit by the signatories as to the correctness of its contents."

This subsection offends the rule of gender-neutrality by assuming that the Chairman of the party is male; it exhibits a gender-specific assumption in its use of "Chairman," which does not account for the possibility of a female chairperson or leader of the political party. To adhere to gender-neutrality based on legislative drafting rules, the subsection should use a

⁴⁶ Electoral Act, 2022

⁴⁷ Electoral Act, 2022

gender-neutral term like "Chair" or "Chairperson" to ensure that it does not make assumptions about the gender of the party's leader. A suggested redraft would be "Election expenses of a political party shall be submitted to the Commission in a separate audited return within six months after the election and such return shall be signed by the political party's auditors and countersigned by the Chair of the party and be supported by a sworn affidavit by the signatories as to the correctness of its contents."

Section 99 (1) of the Electoral Act, 2022⁴⁸ provides that "There shall be elected for each Area Council in the Federal Capital Territory a Chairman and Vice-Chairman." This subsection is not gender-neutral because it excludes the female gender. The terminology "Chairman and Vice-Chairman" is not gender-neutral because it uses masculine terms ("Chairman") without including a gender-inclusive alternative. To adhere to gender-neutrality, the drafter could use terms like "Chairperson" and "Vice-Chairperson" or "Chair" and "Vice-Chair" to avoid specifying gender. This ensures that the roles are open to individuals of any gender. A suggested way to redraft this to reflect gender neutrality would be- "There shall be elected for each Area Council in the Federal Capital Territory a Chairperson and Vice-Chairperson." An alternative is- "There shall be elected for each Area Council in the Federal Capital Territory a Chair and Vice-Chair."

Section 101 (c) of the Electoral Act, 2022,⁴⁹ provides that "A person shall be qualified for election under this Part of this Act

if he or she—

(a) is a citizen of Nigeria;

(b) is registered as a voter;

(c) has attained the age of 25 years for Councillor and 30 years for

Chairman and Vice Chairman;"

⁴⁸ Ibid

⁴⁹ Electoral Act, 2022

The use of "Chairman" and "Vice Chairman" in the context of age requirements can be seen as problematic from a gender-neutral perspective because these titles are not gender-inclusive. It assumes that only males can hold these positions, which is not inclusive of individuals of all genders. To adhere to gender-neutrality, a drafter could use gender-inclusive terms like "Chair" and "Vice Chair" or "Chairperson" and "Vice-Chairperson" along with the age requirements. This ensures that the eligibility criteria apply to individuals of any gender who wish to run for these positions. A suggested redraft could be: A person shall be qualified for election under this Part of this Act if he or she—

(a) is a citizen of Nigeria ;

(b) is registered as a voter ;

(c) has attained the age of 25 years for Councillor and 30 years for Chair and Vice Chair;

Section 102 (1) (j) of the Electoral Act, 2022,⁵⁰ provides that "has been elected to such office at any two previous elections in the case of Chairman." In legislative drafting, the phrase "has been elected to such office at any two previous elections in the case of Chairman" offends the rule of gender-neutrality by implicitly assuming that only individuals of a certain gender (typically male, given the use of "Chairman") are eligible for this office. This assumption introduces a gender bias into the eligibility criteria, which is inconsistent with the principle of gender-neutrality in legislative drafting. To align with the principle of gender-neutrality, it is advisable to use gender-inclusive language, such as "has been elected to such office at any two previous elections in the case of the Chair," This is to ensure that the eligibility criteria applies to individuals of any gender without gender-specific assumptions. A suggested way to redraft would be "has been elected to such office at any two previous elections in the case of the Chair."

⁵⁰ Electoral Act, 2022

Section 105 (3) of the Electoral Act, 2022⁵¹ provides that "Where at the close of nomination for election to the office of Chairman..." The phrase "office of Chairman" in the context of legislative drafting is not entirely in line with the rules of gender neutrality because it assumes a gender-specific title. To align with gender-neutral principles, legislative drafting should use gender-inclusive language, such as "office of the Chair" or "office of the Chairperson." A suggested way to redraft would be "Where at the close of nomination for election to the office of the Chair..." This approach ensures that the language of the law is inclusive and does not assume that the office is limited to individuals of a specific gender.

Section 106 (1) of the Electoral Act, 2022,⁵² provides that "A candidate for an election to the office of Chairman shall be deemed to have been duly elected to the office where being the only candidate nominated for the election he or she has..." Based on the rules of legislative drafting, the use of the term "Chairman" breaches the rule of gender-neutrality because it implies a specific gender, typically male, in the title of the office. This can be seen as exclusionary and outdated, as it does not account for individuals of the female gender who may hold or aspire to hold the position.

To make the language more gender-neutral, it is recommended to use a gender-neutral title such as "Chair" or "Chairperson." This change ensures that the language is inclusive and does not favour one gender over another. The Subsection also offends the rule of clarity because it uses "Chairman" indicating that the role is exclusively reserved for males; but also uses "he or she" in the same sentence indicating that the role could be either for males or females.

A suggested redraft would be "A candidate for an election to the office of a Chairperson shall be deemed to have been duly elected to the office where being the only candidate nominated for the election he or she has..."

⁵¹ Ibid

⁵² Electoral Act, 2022

Section 106 (2) of the Electoral Act, 2022⁵³ provides that "A candidate for an election to the office of the Chairman shall be deemed to have been elected where there being only two candidates for the election he has..." In legislative drafting, the use of the term "Chairman" offends the rule of gender-neutrality because it assumes and enforces a specific gender identity, typically male, in the title of the office. This use of gender-specific language can be problematic for several reasons:

1. **Exclusivity:** It excludes individuals of the female gender who may be eligible for or interested in running for the position. It sends a message that only males can hold the office of Chairman, which is not inclusive.
2. **Reinforces Gender Stereotypes:** It perpetuates traditional gender stereotypes by associating the leadership role with a specific gender, which may not accurately represent the diverse range of candidates who could hold such a position.

To make the subsection more gender-neutral, it is advisable to use a gender-neutral title like "Chair" or "Chairperson." A redraft adhering to gender neutrality would be "A candidate for an election to the office of the Chair shall be deemed to have been elected where there being only two candidates for the election he has..." Or "A candidate for an election to the office of the Chairperson shall be deemed to have been elected where there being only two candidates for the election he has..." This change ensures that the language is inclusive and does not favour one gender over another, aligning with modern principles of gender equality and neutrality in legislative drafting.

Section 106 (4) of the Electoral Act, 2022,⁵⁴ provides that "A candidate for an election to the office of Chairman shall be deemed to have been duly elected where, there being more than two candidates for the election, he or she has" In the provided subsection, the use of "Chairman" disregards the rule of gender-neutrality because it assumes a specific

⁵³ Electoral Act, 2022

⁵⁴ Electoral Act, 2022

gender identity in the title of the office, which is typically male. This exclusionary language implies that only a person who identifies as male can hold the position of Chairman, which is not inclusive of individuals of the female gender. To adhere to the rule of gender-neutrality, it is advisable to use a gender-neutral title like "Chair" or "Chairperson" instead of "Chairman." In the provided text, the use of "Chairman" disregards the rule of gender-neutrality because it assumes a specific gender identity in the title of the office, which is typically male. This exclusionary language implies that only a person who identifies as male can hold the position of Chairman, which is not inclusive of individuals of other genders.

To adhere to the rule of gender-neutrality, it is advisable to use a gender-neutral title like "Chair" or "Chairperson" instead of "Chairman." A redraft would be "A candidate for an election to the office of the Chair shall be deemed to have been duly elected where, there being more than two candidates for the election, he or she has" Or "A candidate for an election to the office of the Chairperson shall be deemed to have been duly elected where, there being more than two candidates for the election, he or she has". This change ensures that the language is inclusive and does not favour one gender over another, aligning with the principles of gender equality and neutrality in legislative or formal documents.

Section 106 (7) of the Electoral Act, 2022,⁵⁵ provides that "If no candidate is duly elected under subsection (6), arrangements shall be made within 14 days of the result of the previous election, for another election between the two candidates specified in subsection (6), and a candidate at this last election shall be deemed duly elected to the office of Chairman of the Area Council if he scores a simple majority of votes cast at the election." The phrase "a candidate at this last election shall be deemed duly elected to the office of Chairman" in the provided subsection offends the rule of gender-neutrality in legislative drafting because it uses the pronoun "he" without providing a gender-neutral alternative. It also uses the term

⁵⁵ Electoral Act, 2022

Chairman which promotes gender exclusivity. This language assumes that the Chair will always be male, which is not gender-neutral or inclusive.

To adhere to the rule of gender-neutrality, the drafter should use gender-neutral language. Instead of "he," it should use a gender-neutral term such as "they" or rephrase the sentence to avoid gender-specific pronouns altogether. This ensures that the language is inclusive and does not favour one gender over another, in line with principles of gender equality and neutrality in legislative documents. Also, instead of Chairman, the drafter should use Chair or Chairperson. Therefore, a redraft would be "If no candidate is duly elected under subsection (6), arrangements shall be made within 14 days of the result of the previous election, for another election between the two candidates specified in subsection (6), and a candidate at this last election shall be deemed duly elected to the office of the Chair of the Area Council if they scores a simple majority of votes cast at the election.

Section 107 (1) of the Electoral Act, 2022,⁵⁶ provides that "If a person duly elected as Chairman dies before taking and subscribing to the Oath of Allegiance and Oath of Office, the person elected with him or her as Vice-Chairman shall be sworn in as Chairman who shall then nominate and with the approval of a majority of the members of the Area Legislative Council appoint a new Vice-Chairman." This subsection offends the rule of gender-neutrality in legislative drafting by using language that assumes the gender of individuals holding certain positions. Specifically, the phrase "him or her as Vice-Chairman" implies that only a man can hold the position of Vice-Chairman. This section suggests that the female gender is excluded from holding the position of a Chair. To promote gender-neutrality in legislative drafting, language should be inclusive and not make assumptions about the gender of individuals. For instance, using gender-neutral language like "the person elected as Vice-Chairman" would be more appropriate.

⁵⁶ Electoral Act, 2022

Here's a gender-neutral redraft of the subsection: "If a person duly elected as Chairperson dies before taking and subscribing to the Oath of Allegiance and Oath of Office, the person elected with them as Vice-Chairperson shall be sworn in as Chairperson who shall then nominate and, with the approval of a majority of the members of the Area Legislative Council, appoint a new Vice-Chairperson."

Section 107 (2) of the Electoral Act, 2022⁵⁷ provides that "Where the Vice-Chairman is appointed from among the Councilors as the new Vice-Chairman, the Commission shall conduct a bye-election to fill the vacant seat created in the Ward from which the new Vice-Chairman has been appointed. "There is a gender neutral Issue here: The section assumes the gender of the position by using the term "Chairman." To adhere to gender-neutral principles, it should avoid specifying gender in these roles. A redraft for gender neutrality would be: "When the Vice-Chair is appointed from among the Councilors as the new Vice-Chair, the Commission shall conduct a bye-election to fill the vacant seat created in the Ward from which the new Vice-Chair has been appointed." This redrafted version removes gender-specific terms and maintains gender neutrality in legislative drafting.

Section 107 (3) of the Electoral Act, 2022⁵⁸ provides that "Where the persons duly elected as Chairman and Vice-Chairman of an Area Council die before taking and subscribing the Oath of Allegiance and Oath of Office during which period the Area Council has not been inaugurated the Commission shall within 21 days conduct an election to fill the vacancies." This subsection offends the rule of gender-neutrality because it uses gender-specific terms like "Chairman" and "Vice-Chairman" which assume gender in these roles. To make it gender-neutral, the drafter should avoid specifying gender. Here's a gender-neutral redraft:

⁵⁷ Electoral Act, 2022

⁵⁸ Ibid

"Where the individuals duly elected as Chair and Vice-Chair of an Area Council die before taking and subscribing the Oath of Allegiance and Oath of Office, during which period the Area Council has not been inaugurated, the Commission shall, within 21 days, conduct an election to fill the vacancies." This redraft helps to maintain the rule of gender inclusion in legislative drafting.

Section 107 (4) (b) of the Electoral Act, 2022⁵⁹ provides that "...in the case of election into a legislative House, the election shall start afresh and the political party whose candidate died may, if it intends to continue to participate in the election, conduct a fresh primary within 14 days of the death of its candidate and submit the name of a new candidate to the Commission to replace the dead candidate: Provided that in the case of Area Council Chairmanship election, the running mate of the deceased candidate shall continue with the election and nominate a new running mate." This provision, offends the rule of gender-neutrality by using the term "chairmanship." This term implies that only a man can hold the position, and it assumes a gender-specific role. To promote gender-neutrality, language in legislation should avoid making such assumptions about the gender of individuals in these roles. Instead, it should use neutral language, such as "Chair" or "Chairperson," to ensure inclusivity.

To address the use of "chairmanship" and make it gender-neutral, the section can be revised as follows: "In the case of an election into a legislative House, the election shall start afresh, and the political party whose candidate died may, if it intends to continue to participate in the election, conduct a fresh primary within 14 days of the death of its candidate and submit the name of a new candidate to the Commission to replace the deceased candidate. Provided that in the case of an Area Council election for the Chairperson, the partner of the deceased candidate shall continue with the election and nominate a new

⁵⁹ Electoral Act, 2022

partner." This redraft helps promote gender neutrality by replacing the gender-specific term "chairmanship" with the more neutral phrase "Chairperson." This change avoids making assumptions about the gender of the individuals who may hold this role and ensures that the provision is inclusive, regardless of gender. It aligns with the principle of using gender neutral language in legislative drafting to create more inclusive and equitable laws.

Section 108 (1) (a) of the Electoral Act, 2022⁶⁰ provides that "...Chairman took the oath of office; or" This provision offends the rule of gender-neutrality because it uses the term "Chairman" in a way that assumes the gender of the individual holding that position. This assumes that only a man can hold the position of Chairman, and it does not provide a gender-neutral alternative. To adhere to gender-neutrality, the term "Chairman" should be replaced with a gender-neutral term like "the presiding officer," "the elected head," "Chair," or "Chairperson". Here's a redraft that promotes gender-neutral language: "...the presiding officer took the oath of office; or..." This redraft aids gender-neutral language by replacing "Chairman" with a gender-neutral term which does not assume the gender of the person in that role, making the provision more inclusive and in line with gender-neutral principles.

Section 108 (1) (c) of the Electoral Act, 2022⁶¹ provides that, "if he or she becomes a member of a secret society or does any other thing disqualifying him or her from holding the office of Chairman or Councillor under this Act; or" In this provision, there is a breach of gender neutral rule and plain language because, using "he or she", "him or her" and "Chairman" in the same sentence can be seen as not conforming to the principles of plain language and gender neutrality in legislative drafting for a few reasons:

1. Gender Neutrality: "Chairman" is a gender-specific term, implying that only a man can hold the position. To promote gender neutrality, it's recommended to use gender-

⁶⁰ Electoral Act, 2022

⁶¹ Ibid

neutral terms like "Chair" or "Chairperson" to ensure inclusivity and avoid excluding individuals of the female gender.

2. Clarity and Simplicity: Plain language aims for clear and simple communication. The use of "he or she" and "him or her" makes the sentence more complex and confusing. Using "he or she" and "him or her" suggests that the role is gender sensitive but using chairman in the same sentence implies that the same role is for the exclusive reserve of the male gender. To achieve plain language, it is better to rephrase the sentence.

A more gender-neutral and plain language version of the sentence could be: "if a person becomes a member of a secret society or engages in any other activity that disqualifies them from holding the position of Chair or Councillor under this Act;"

This revision maintains gender neutrality and simplifies the subsection for better readability and understanding.

Section 109 (c) of the Electoral Act, 2022⁶² provides that "if he or she becomes a member of a secret society or does any other thing disqualifying him or her from holding the office of Chairman or Councillor under this Act ; or" This provision offends the rule of gender-neutrality by using gender-specific terms like "Chairman". It also offends the rule of clarity and consistency in plain language by using "he or she" and "chairman" in the same sentence. This can create confusion and is not in line with the principle of clarity in plain language. For the breach of gender-neutrality, the use of the term "chairman" is not gender-neutral because it assumes a male gender. To promote gender neutrality, it's recommended to use gender-inclusive terms such as "chair" or "chairperson". For the breach of clarity and consistency in plain language, using both "Chairman" and "he or she" in the same sentence can create confusion and is not in line with the principles of clarity in plain language. To make the sentence clearer and more gender-neutral, the drafter should use a gender-inclusive

⁶² Electoral Act, 2022

term like "Chair" and adjust the sentence to avoid redundancy. So, a more appropriate version would be: "if the individual becomes a member of a secret society or does any other thing disqualifying them from holding the office of Chair or Councillor under this Act." This change ensures that the language is inclusive and does not imply a specific gender. This change ensures an alignment with gender-neutrality and plain language, which promotes consistency and simplify the sentence structure for better clarity.

Section 110 (1) of the Electoral Act, 2022⁶³ provides that "The Chairman or Vice-Chairman may be removed from office in accordance with the provision of this section."

The use of "Chairman" in this provision does not adhere to the rule of gender-neutrality because it assumes a male gender. To make the section more gender-neutral, it would be better to use a gender-inclusive term like "Chair" or "Chairperson." This ensures that the language doesn't imply a specific gender and is more inclusive. For example, it could be rephrased as: "The Chair or Vice-Chair may be removed from office in accordance with the provisions of this section." This change makes the language more gender-neutral while maintaining clarity.

Section 110 (2) of the Electoral Act, 2022⁶⁴ provides that "Whenever a notice of any allegation of gross misconduct in writing signed by not less than one-third of the members of the Area Legislative Council stating that the holder of the office of Chairman or Vice-Chairman is guilty of misconduct in the performance of the functions of his office, detailed particulars shall be specified and presented to the Speaker of the Area Legislative Council."

This section offends the rule of gender-neutrality by using gender-specific language, particularly in the phrase "the holder of the office of Chairman or Vice-Chairman." This language assumes that the office holder is male. To ensure gender-neutrality, it would be more appropriate to use gender-inclusive terms such as "the office holder" or "the Chair or

⁶³ Electoral Act, 2022

⁶⁴ Electoral Act, 2022

Vice-Chair" to avoid implying a specific gender. For example, it could be rephrased as: "Whenever a notice of any allegation of gross misconduct in writing, signed by not less than one-third of the members of the Area Legislative Council, stating that the office holder is guilty of misconduct in the performance of the functions of the office, detailed particulars shall be specified and presented to the Speaker of the Area Legislative Council." This change makes the language more gender-neutral and inclusive.

Section 111 (1) of the Electoral Act, 2022⁶⁵ provides that "The Chairman or Vice-Chairman of an Area Council shall cease to hold office if" This provision offends the rule of gender-neutrality by using gender-specific terms, "Chairman" and "Vice-Chairman," which assumes the role is for the exclusive reserve of the male gender. To ensure gender-neutrality, it's better to use gender-inclusive language, such as "Chair" and "Vice-Chair" or "Chairperson" and "Vice-Chairperson." For example, it could be rephrased as: "The Chair or Vice-Chair of an Area Council shall cease to hold office if..." This change avoids implying a specific gender and adheres to the principle of gender-neutrality.

Section 111 (1) (a) of the Electoral Act, 2022⁶⁶ provides that "by resolution passed by two-thirds majority of all members of the Executive Council of the Area Council, it is declared that the Chairman or Vice-Chairman is incapable of discharging the functions of his or her office; and" This provision offends the use of gender-neutral language and plain language for several reasons-

1. "Chairman" and "Vice-Chairman" are not gender-neutral terms. They assume a male gender and exclude the possibility of a female office holder.
2. "his or her" is an attempt to be gender-inclusive, but it creates unnecessary complexity and makes the sentence less clear.

⁶⁵ Electoral Act, 2022

⁶⁶ Ibid

To align with gender-neutral and plain language principles, the drafter should use gender-inclusive terms such as "Chair" and "Vice-Chair" or "Chairperson" and "Vice-Chairperson" throughout the sentence. For example: "When it is declared by a two-thirds majority of all members of the Executive Council of the Area Council that the Chair or Vice-Chair is incapable of discharging the functions of the office." This revision ensures gender-neutrality and clarity in the language.

Section 111 (2) of the Electoral Act, 2022⁶⁷ provides that "Where the medical panel certifies in its report that, in its opinion, the Chairman or Vice-Chairman is suffering from such infirmity of body or mind as renders him permanently incapable of performing the functions of his office, a notice signed by the Speaker of the Area Legislative Council shall be published in the Official Gazette of the Area Council." This section offends the rule of gender-neutrality by using gender-specific terms and pronouns, such as "Chairman," "Vice-Chairman," "him," and "his." These terms assume a male gender and do not account for the possibility of a female office holder.

To adhere to gender-neutrality, it is essential to use gender-inclusive language. For instance, the drafter could replace "Chairman" with "Chair" or "Chairperson," and "Vice-Chairman" with "Vice-Chair" or "Vice-Chairperson." Additionally, the drafter could replace "him" with "the office holder" or use "their" and "his" with "their" to accommodate any gender. This makes the sentence more inclusive and avoids assumptions about the gender of the individuals involved. Here's a gender-neutral redraft of the sentence: "Where the medical panel certifies in its report that, in its opinion, the Chair or Vice-Chair is suffering from such infirmity of body or mind as renders them permanently incapable of performing the functions of the office, a notice signed by the Speaker of the Area Legislative Council shall be published in the Official Gazette of the Area Council." The redrafted section implies that the

⁶⁷ Ibid

individuals in question, whether they hold the position of Chair or Vice-Chair, can be of any gender. It avoids making assumptions about the gender of the office holders and uses gender-inclusive language to ensure that the sentence is neutral in this regard.

Section 111 (3) of the Electoral Act, 2022⁶⁸ provides that "The Chairman or Vice-Chairman shall cease to hold office as from the date of publication of the notice of the medical report under subsection (2)" The given provision offends the rule of gender-neutrality because it uses gender-specific terms, "Chairman" and "Vice-Chairman." To make it gender-neutral, the drafter could redraft it as follows: "The Chair or Vice-Chair shall cease to hold office as of the date of publication of the notice of the medical report under subsection (2)." This revised statement removes gender-specific language and is more inclusive

Section 111 (5) of the Electoral Act, 2022⁶⁹ provides that "In this section, the reference to "Executive Council of the Area Council" is a reference to the body of Supervisory Councilors of the Area Council, established by the Chairman and charged with such responsibility for the functions of government as the Chairman may direct. The use of "Chairman" in the original provision breaches the rule of gender-neutrality because it's a gender-specific term that implies the Chair of the Council is male, excluding the possibility of a female Chair. To adhere to gender-neutrality, it's better to use gender-inclusive language. Here's a redraft: "In this section, the reference to the 'Executive Council of the Area Council' is a reference to the body of 'Supervisory Councilors' of the Area Council, established by the Chair and charged with such responsibilities for the functions of government as the Chair may direct." This revised provision avoids gender-specific language and ensures gender-neutrality.

⁶⁸ Electoral Act, 2022

⁶⁹ Ibid

Section 112 (1) of the Electoral Act, 2022⁷⁰ provides that "The Vice Chairman of an Area Council shall hold the office of the Chairman of the Area Council if the office of the Chairman becomes vacant by reason of death, resignation, permanent incapacity or removal of the Chairman from office for any other reason in accordance with section 110 or 111 of this Act." The use of "Chairman" and "Vice Chairman" in the original section offends the rule of gender-neutrality as these terms assume only the male gender is suitable for the role. It does not account for individuals of the female gender who might hold these positions. To make it more gender-neutral, it could be redrafted as follows: "The Vice Chair of an Area Council shall hold the office of the Chair of the Area Council if the office of the Chair becomes vacant by reason of death, resignation, permanent incapacity, or removal from office for any other reason in accordance with section 110 or 111 of this Act." This redraft replaces gender-specific terms with gender-neutral ones and ensures inclusivity.

Section 112 (2) of the Electoral Act, 2022⁷¹ provides that "Where any vacancy occurs in the circumstances mentioned in subsection (1) during a period when the office of Vice-Chairman of the Area Council is also vacant, the Speaker of the Area Legislative Council shall hold office of the Chairman of the Area Council for a term of not less than three months, during which there shall be an election of a new Chairman of the Area Council who shall hold office for the unexpired term of office of the last holder of the office. " The use of "Chairman" and "Vice-Chairman" in the original provision is not gender-neutral because it assumes the exclusion of the female gender. It only accounts for the male gender, suggesting that only individuals of the male gender might hold these positions. To promote gender-neutrality, the drafter could redraft it as follows: "Where any vacancy occurs in the circumstances mentioned in subsection (1) during a period when the office of Vice-Chair of the Area Council is also vacant, the Speaker of the Area Legislative Council shall hold office

⁷⁰Electoral Act, 2022

⁷¹ Ibid

of the Chair of the Area Council for a term of not less than three months, during which there shall be an election of a new Chair of the Area Council who shall hold office for the unexpired term of office of the last holder of the office." This redraft replaces gender-specific terms with gender-neutral ones, making it more inclusive and aligned with the rule of gender-neutrality.

Section 112 (3) of the Electoral Act, 2022⁷² provides that "Where the office of the Vice-Chairman becomes vacant" here the office of the Vice-Chairman becomes vacant

The phrase "Where the office of the Vice-Chairman becomes vacant" is not gender-neutral because it assumes a specific gender by using the term "Chairman." To make it gender-neutral, it can be rephrased as follows: "When the office of the Vice-Chair becomes vacant."

This change removes the gender-specific term "Chairman" and replaces it with the gender-neutral "Chair."

Section 112 (3) (b) of the Electoral Act, 2022⁷³ provides that "by his assumption of the office of Chairman of an Area Council in accordance with subsection (1); or"

The phrase "by his assumption of the office of Chairman" is not gender-neutral because it assumes a specific gender. To make it gender-neutral, it can be rephrased as follows: "by their assumption of the office of Chairperson of an Area Council in accordance with subsection (1); or" This revised version uses the gender-neutral term "Chairperson" instead of "Chairman" to be inclusive of all genders.

Section 112 (3) (c) of the Electoral Act, 2022⁷⁴ provides that "for any reason, the Chairman shall nominate and, with the approval of the legislative arm of the Area Council, appoint a new Vice-Chairman." This provision does not adhere to gender-neutral language because it excludes the female gender by using the term "Chairman" and "Vice-Chairman";

⁷² Electoral Act, 2022,

⁷³ Ibid

⁷⁴ Ibid

thereby suggesting that the role is for the exclusive reserve of the male gender. To make it gender-neutral, it could be redrafted this way: "For any reason, the Chairperson shall nominate and, with the approval of the legislative arm of the Area Council, appoint a new Vice-Chairperson." This change ensures that the language is inclusive of all genders.

Section 113 of the Electoral Act, 2022⁷⁵ provides that "A member of an area council may be recalled as a member if-

- (a) there is presented to the Chairman of the Commission a petition in that behalf signed by not less than one-half of the persons registered to vote in that member's constituency alleging their loss of confidence in that member and which signatures are duly verified by the Independent National Electoral Commission ; and"

This breaches the rule of gender-neutrality because it uses the term "Chairman" instead of a gender-neutral alternative. To make it gender-neutral, it could be rephrased as follows:

"A member of an area council may be recalled as a member if-

- (a) there is presented to the Chair of the Commission a petition in that behalf signed by not less than one-half of the persons registered to vote in that member's constituency alleging their loss of confidence in that member and which signatures are duly verified by the Independent National Electoral Commission;" The change replaces "Chairman" with "Chair" to make it gender-neutral.

Section 116 (b) of the Electoral Act, 2022⁷⁶ provides that "has in his possession an offensive weapon or missiles, 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." This provision contains gender-specific language ("has in his possession"). To adhere to the rule of gender-neutrality, it should be rewritten to be inclusive of all genders. For example, it could be changed to "has in their possession" or "has in the possession of a person." This ensures that the law or rule

⁷⁵ Electoral Act, 2022, 2022, 2022

⁷⁶ Ibid

applies to individuals of any gender. Here is a possible redraft: "has in their possession an offensive weapon or missiles commits an offense and is liable on conviction to a maximum fine of N 500,000 or imprisonment for a term of 12 months or both." This redraft makes the language gender-neutral by replacing "has in his possession" with "has in their possession." This change makes the rule inclusive of all genders and avoids specifying a particular gender. The implication is that the rule now applies to any person, regardless of their gender, who possesses an offensive weapon or missiles, and they may face the specified penalties upon conviction.

Section 117 (c) of the Electoral Act, 2022⁷⁷ provides that "without lawful excuse has in his possession more than one voters card, or" The phrase "has in his possession" in Section 117 (c) of the Electoral Act, 2022 is not gender-neutral, as it assumes a male gender. To make it more gender-neutral, it could be redrafted this way: "without lawful excuse has in their possession more than one voter's card, or". The implication of this change is that it ensures the language in the Electoral Act, 2022, is inclusive of all genders, rather than assuming a specific gender. This aligns with principles of gender equality and avoids potential discrimination.

Section 128 (c) of the Electoral Act, 2022⁷⁸ provides that "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; or" This provision offends the rule of gender-neutrality by using gender-specific language ("gives his vote") which assumes that voters are male. To adhere to gender-neutrality, it should be rewritten to avoid specifying a particular gender. Here's a gender-neutral redraft: "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

⁷⁷ Electoral Act, 2022

⁷⁸ Ibid

giving their vote. The implication of the redraft is that the redrafted provision is now inclusive of all genders and applies to any voter, regardless of their gender. It ensures that the rule does not assume the gender of the voter and applies universally to all eligible voters."

Section 131 (a & b) of the Electoral Act, 2022⁷⁹ provides that "a) any person has been validly elected to the office of Chairman, Vice Chairman or Councilor; (b) the term of office of any person elected to the office of Chairman, Vice-Chairman or Councilor;" The use of "Chairman" and "Vice-Chairman" offends the rule of gender-neutrality because it assumes that these positions are held by males, which excludes the female gender and that is not inclusive. Here's a gender-neutral redraft:

"a) any person has been validly elected to the office of Chair, Vice-Chair, or Councilor ;

(b) the term of office of any person elected to the office of Chair, Vice-Chair, or Councilor ;"

The implication of the redraft is that the redrafted text is now gender-neutral, making it inclusive of all genders. It ensures that the positions of Chair and Vice-Chair are not assumed to be held by males and can be occupied by the female gender. This promotes equality and inclusivity.

Section 131 (2 - 4) of the Electoral Act, 2022⁸⁰ provides that "(2) An Area Council Election Tribunal shall consist of a Chairman and (3) The Chairman shall be a Chief Magistrate and the two other members shall be appointed from among Magistrates of the judiciary of the Federal Capital Territory, Abuja and legal practitioners of at least 10 years post-call experience, non-legal practitioners of unquestionable integrity or other members of the judiciary of the Federal Capital Territory not below the rank of a Magistrate. (4) The Chairman and other members of the Area Council Election Tribunal shall be appointed by the Chief Judge of the High Court of the Federal Capital Territory, Abuja."

⁷⁹ Electoral Act, 2022

⁸⁰ Ibid

The use of "Chairman" in this context offends the rule of gender-neutrality because it assumes that the person in this position must be male. This assumption excludes individuals of the female gender; this makes it not inclusive. It reinforces gender bias by suggesting that only males can hold such positions.

Here's a gender-neutral redraft: "An Area Council Election Tribunal shall consist of a Chair and (3) The Chair shall be a Chief Magistrate, and the two other members shall be appointed from among Magistrates of the judiciary of the Federal Capital Territory, Abuja, and legal practitioners of at least 10 years post-call experience, non-legal practitioners of unquestionable integrity, or other members of the judiciary of the Federal Capital Territory not below the rank of a Magistrate.

(4) The Chair and other members of the Area Council Election Tribunal shall be appointed by the Chief Judge of the High Court of the Federal Capital Territory, Abuja."

The implication of the redraft is that the redrafted text is now gender-neutral, making it inclusive of all genders. It ensures that the positions of Chair are not assumed to be held by males and can be occupied by individuals of the female gender. This promotes equality and inclusivity.

Section 132 (3 & 4) of the Electoral Act, 2022⁸¹ provides that "...(3) An Area Council Election Appeal Tribunal shall consist of a Chairman and two other members and the Chairman shall be a Judge of the High Court and the two other members shall be appointed from among Judges of the High Court of the Federal Capital Territory, Abuja, Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, Judges of the Customary Court of Appeal or other members of the Judiciary of the Federal Capital Territory, Abuja, not below the rank of a Chief Magistrate. (4) The Chairman and other members of the Area

⁸¹ Electoral Act, 2022

Council Election Appeal Tribunal shall be appointed by the Chief Judge of the High Court of the Federal Capital Territory, Abuja."

The use of "Chairman" in this context offends the rule of gender-neutrality because it assumes that the person in the said position will always be male. This language excludes individuals of the female gender. It reinforces gender bias by suggesting that only males can hold the role of Chairman. Here's a gender-neutral redraft:

"...(3) An Area Council Election Appeal Tribunal shall consist of a Chair and two other members, and the Chair shall be a Judge of the High Court, and the two other members shall be appointed from among Judges of the High Court of the Federal Capital Territory, Abuja, Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, Judges of the Customary Court of Appeal, or other members of the Judiciary of the Federal Capital Territory, Abuja, not below the rank of a Chief Magistrate.

(4) The Chair and other members of the Area Council Election Appeal Tribunal shall be appointed by the Chief Judge of the High Court of the Federal Capital Territory, Abuja."

The implication of this redraft is that the redrafted text is now gender-neutral, making it inclusive of all genders. It ensures that the position of Chair is not assumed to be held by males and can be occupied by individuals of the female gender as well, thereby, promoting equality and inclusivity.

Section 134 (3) of the Electoral Act, 2022⁸² provides that "With respect to subsection (1) (a), a person is deemed to be qualified for an elective office and his election shall not be questioned on grounds of qualification if, with respect to the particular election in question, he meets the applicable requirements of sections 65, 106, 131 or 177 of the Constitution and he is not, as may be applicable, in breach of sections 66, 107, 137 or 182 of the Constitution."

⁸² Electoral Act, 2022, 2022, 2022

The use of "he" and "his" in this context offends the rule of gender-neutrality because it assumes that individuals seeking elective office are male. This language excludes individuals of the female gender. It reinforces gender bias by suggesting that only males can run for elective office. Here's a gender-neutral redraft:

"With respect to subsection (1) (a), a person is deemed to be qualified for an elective office, and their election shall not be questioned on grounds of qualification if, with respect to the particular election in question, they meet the applicable requirements of sections 65, 106, 131, or 177 of the Constitution, and they are not, as may be applicable, in breach of sections 66, 107, 137, or 182 of the Constitution."

The implication of the redraft is that the text is now gender-neutral; making it is inclusive of all genders. It ensures that individuals of the female gender can also run for elective office, and their qualifications are not questioned based on gender. This promotes equality and inclusivity in the electoral process.

Section 136 (2) of the Electoral Act, 2022⁸³ provides that "Where an election tribunal or court nullifies an election on the ground that the person who obtained the highest votes at the election was not qualified to contest the election, the election tribunal or court shall declare the person with the second highest number of valid votes cast at the election who satisfies the requirements of the Constitution and this Act as duly elected : Provided that the person with the second highest number of valid votes cast at the election remains a member of the political party on which platform he contested the election otherwise, the candidate with the next highest number of votes in the election and who satisfies the same conditions shall be declared the winner of the election."

The use of "he" in this context offends the rule of gender-neutrality because it assumes that the person who obtained the second-highest number of votes and is eligible to contest the

⁸³ Electoral Act, 2022

election will always be male. This language excludes the female gender. It reinforces gender bias by suggesting that only males can be in this position. Here's a gender-neutral redraft:

"Where an election tribunal or court nullifies an election on the ground that the person who obtained the highest votes at the election was not qualified to contest the election, the election tribunal or court shall declare the person with the second highest number of valid votes cast at the election who satisfies the requirements of the Constitution and this Act as duly elected: Provided that the person with the second highest number of valid votes cast at the election remains a member of the political party on whose platform they contested the election; otherwise, the candidate with the next highest number of votes in the election and who satisfies the same conditions shall be declared the winner of the election."

The implication of the redraft is that the redrafted text is now gender-neutral, making it inclusive of all genders. It ensures that the person with the second-highest number of votes and the eligibility to contest the election can be of any gender, promoting equality and inclusivity.

Section 150 (4) of the Electoral Act, 2022⁸⁴ provides that "Any official of a State Commission who contravenes the provision of subsection (1) commits an offence and shall be subject to prosecution as if he were an official of the Commission who committed the same offence under this Act."

The use of "he" in this context offends the rule of gender-neutrality because it assumes that any official who contravenes the provision will always be male. This language excludes females. It reinforces gender bias by suggesting that only males can hold such a position and be subject to prosecution.

⁸⁴ Electoral Act, 2022

Here's a gender-neutral redraft: "Any official of a State Commission who contravenes the provision of subsection (1) commits an offense and shall be subject to prosecution as if they were an official of the Commission who committed the same offense under this Act."

The implication of this redraft is that the redrafted text is now gender-neutral, making it inclusive of all genders. It ensures that any official, regardless of their gender, can be subject to prosecution for contravening the provision, promoting gender equality and inclusivity.

It is also observed that various provision of the Electoral Act, 2022 still makes use of the term "shall". From the provisions of the Electoral Act, 2022, the use of "shall" in itself doesn't necessarily constitute a breach of the rules of legislative drafting. Considering how "shall" is used in various sections of the Electoral Act, 2022, its usage aligns with the drafting conventions and legal interpretation principles of the jurisdiction (Nigeria). However, the appropriateness of using "shall" depends on the context.

Therefore, the potential issues with the use of "shall" may arise if there is inconsistency, ambiguity, or if it creates confusion within the document. Since "shall" is used consistently throughout the document and its meaning is clear in each context, it may not be problematic.

However, in line with the modern style of legislative drafting, "must" is an appropriate term for the following reasons:

1. Clarity: "Must" is often considered clearer and more direct than "shall." It leaves less room for interpretation and is generally easier for readers to understand.
2. Avoiding Ambiguity: The use of "shall" can sometimes be ambiguous, as it may be interpreted as either mandatory or permissive. "Must" is less likely to be misunderstood in this way.

3. Modern Plain Language Trends: Many drafting styles and guides advocate for the use of plain language in legal documents. Using "must" aligns with the principles of plain language by promoting simplicity and clarity.
4. Consistency: Modern drafting often emphasizes consistency. If "must" is chosen to convey a mandatory meaning, it is advisable to use it consistently throughout the document.
5. Legal Interpretation: While legal interpretation can vary, in many jurisdictions, "must" is more likely to be interpreted as imposing a mandatory obligation, making it a preferred choice in modern drafting.

In modern legislative drafting, there has been a shift towards using "must" instead of "shall" to convey a mandatory meaning. This change is driven by a desire for clearer and more direct language, as "must" is seen as more straightforward and less prone to ambiguity. It is important to know that the shift from "shall" to "must" may vary by jurisdiction and some legal systems or drafting conventions may still use "shall" without issue.

4.2 Comparative Lessons

The comparative analysis embarked upon in this dissertation delves into an examination of the rules of legislative drafting within the context of electoral legislation across a diverse array of Nations. Each of the selected Nations boasts a unique approach to the craft of electoral legislation, adapted to the specific demands of their respective democratic processes. The comparative analysis of legislative drafting rules in different jurisdictions reveals variations and commonalities in how countries approach the process of creating legislation. These differences can be influenced by legal traditions, political systems, historical backgrounds, and the complexity of legal issues. Here's a comparative overview of legislative drafting rules as it relates to Electoral legislations in a few different jurisdictions and some lessons for Nigeria:

Canada: The Canada Elections Act, 2000 is a significant cornerstone of Canada's electoral system. Over the years, it has undergone multiple amendments and revisions to align with evolving electoral requirements. Canada is widely acknowledged for its meticulous and precise approach to legislative drafting, offering a model that Nigeria can draw valuable insights from when shaping electoral laws that are accessible to a diverse population. Within Canada's Federal Electoral system, the pivotal legislative instrument governing federal elections is the Canada Elections Act, 2000. The Canada Elections Act, 2000 is the quintessential federal statute overseeing the orchestration of elections in Canada.

The differences and similarities between legislative drafting in the Canada Elections Act, 2000 and the Nigeria Electoral Act, 2022 reflects the evolving nature of legal language and drafting conventions.

The Electoral Act, 2022 of Nigeria and the Canada Elections Act, 2000 share similarities in the use of "shall". The continued use of "shall" despite modern drafting trends favouring "must," reflects the historical and traditional language of legal documents. "Shall" has been a common term in legal texts, indicating a mandatory requirement. While some modern drafting guidelines suggest the use of "must" for clarity, the legal community often interprets "shall" as imperative.

The use of "shall" in legal texts, such as the Electoral Act, 2022 of Nigeria and the Canada Elections Act, 2000, can be attributed to the historical and traditional language of legal drafting. "Shall" has long been employed to convey a sense of obligation and mandate within legal documents. Although contemporary drafting preferences often lean towards the use of "must" for clarity, the legal community often interprets "shall" as imperative, indicating a mandatory requirement. This persistence of language reflects a balance between adapting to modern drafting trends and preserving established legal terminology for consistent interpretation and application. The potential issues with the use of "shall" may

arise if there is inconsistency, ambiguity, or if it creates confusion within the document. Since "shall" is used consistently throughout the document and its meaning is clear in each context, it may not be problematic.

The difference between both countries lies in the use of gender-neutral language. The Canada Elections Act, 2000, unlike the Electoral Act, 2022 of Nigeria complies with gender neutrality which signifies a commitment to inclusivity. This approach ensures that legal language does not reinforce or perpetuate gender stereotypes. For instance, using neutral terms like "Chairperson" instead of gender-specific pronouns contributes to a more equitable legal framework.

Also, the absence of gender neutrality in the Nigeria Electoral Act may suggest a more traditional approach to legislative drafting. This can inadvertently reinforce gender biases and may not align with contemporary principles of equality and non-discrimination. Therefore, Nigeria can glean from Canada's inclusivity. Canada's commitment to inclusivity, as reflected in legislative drafting with gender-neutral language, serves as a model for promoting equality. Nigeria could benefit from adopting similar measures to ensure that legal frameworks are more reflective of and respectful to the diversity within its population.

In view of Canada's inclusivity and diversity in legislative drafting, Nigeria can glean the following lessons:

1. Legislative Reflection of Diversity: Canada's commitment to inclusivity is notably demonstrated in its legislative drafting, where the use of gender-neutral language is a deliberate step towards fostering equality. This practice ensures that legal documents are not inadvertently biased or exclusionary, acknowledging the diverse composition of society. Nigeria, with its rich tapestry of cultures, ethnicities, and genders, could learn from Canada's approach to crafting legislation that resonates with the entire spectrum of its population.

2. **Promotion of Equality:** Canada's emphasis on inclusivity through gender-neutral language aligns with the global push for gender equality. By adopting similar measures, Nigeria has the opportunity to contribute to breaking down societal stereotypes and promoting a legal framework that acknowledges the equal rights and status of all individuals, irrespective of gender identity.
3. **Avoidance of Unintended Bias:** Gender-neutral language is a proactive strategy to avoid unintentional bias in legal texts. Canada's legislative drafting recognizes the importance of language in shaping perceptions and attitudes. Nigeria could benefit from a careful examination of its legal language to ensure that it does not inadvertently perpetuate stereotypes or disadvantage any particular group within its diverse society.
4. **Reflecting Cultural Diversity:** In addition to gender neutrality, Canada's approach to inclusivity extends to reflecting cultural diversity in its legislative processes. Nigeria, with its myriad of ethnic groups and languages, can draw inspiration from this inclusivity to ensure that legal documents are culturally sensitive and considerate of the various traditions and practices across the nation.
5. **Strengthening Social Cohesion:** Inclusivity in legislative drafting contributes to building a sense of social cohesion and shared identity. By acknowledging and respecting the diversity within its borders, Nigeria can foster a more unified society, where citizens feel equally represented and protected by the law.
6. **Legal Framework for the Vulnerable:** Canada's commitment to inclusivity extends to protecting the rights of the vulnerable. Nigeria, with its diverse range of ethnicities and communities, could learn from Canada's legal frameworks that safeguard the rights and interests of the vulnerable, contributing to a more equitable and just society.

7. **Global Recognition and Reputation:** Adopting inclusive legislative practices enhances a country's global recognition and reputation. Canada's commitment to inclusivity has earned it acclaim on the international stage. By aligning its legislative practices with principles of equality and inclusivity, Nigeria can enhance its standing in the global community.
8. **Evolving Societal Values:** The shift towards inclusive language in legislation reflects an evolution in societal values. Canada's example illustrates an adaptation to contemporary expectations and responsiveness to changing norms. Nigeria, in embracing similar principles, can demonstrate a commitment to progress and responsiveness to the evolving values of its population.

In conclusion, Canada's commitment to inclusivity through gender-neutral language in legislative drafting provides a compelling model for Nigeria to consider. By embracing these practices, Nigeria has the opportunity to build a legal framework that is not only reflective of its diverse population but also actively contributes to fostering equality and social cohesion.

Therefore, Nigeria can learn from Canada's experiences in promoting inclusivity by adapting these lessons to Nigeria's unique context, which in turn can contribute to the country's progress and development.

Australia: The key electoral legislation in Australia is the Commonwealth Electoral Act, 1918 for federal elections. The Commonwealth Electoral Act, 1918 serves as a comprehensive legal framework for federal elections.

In view of legislative drafting rules, the use of the term "Chairperson" in the provision of the Commonwealth Electoral Act, 1918 demonstrates a conscious effort to incorporate gender-neutral language. In traditional usage, "Chairman" was commonly used to refer to the person in charge of a committee or commission, and this term was gender-specific. However, the

shift to "Chairperson" is a deliberate choice to eliminate gender distinctions and promote inclusivity.

By employing "Chairperson," the Commonwealth Electoral Act, 1918 acknowledges the importance of gender neutrality and ensures that individuals of any gender can assume leadership roles within the augmented Electoral Commission for a State. This aligns with the broader societal recognition of the need for gender-inclusive language in legal and administrative contexts.

The term "Chairperson" is a linguistic adaptation that reflects a commitment to gender diversity and equality. It sets a precedent for more inclusive language use within legislative frameworks, fostering an environment where individuals of all genders feel represented and empowered in the electoral process. Nigeria could learn from international best practices, such as Australia's approach to gender-neutral language, when revising or enacting electoral legislation in the following ways:

1. **Review and Identify Gender-Specific Language:** Conduct a thorough review of the Electoral Act of Nigeria to identify instances of gender-specific language. This includes terms like "Chairman" which is present in the Electoral Act, 2022.
2. **Amend Legislation for Gender Neutrality:** Introduce amendments to replace gender-specific terms with gender-neutral alternatives, such as "Chairperson." This ensures that the language used is inclusive and does not reinforce gender stereotypes.
3. **Public Consultation:** Engage in public consultations with various stakeholders, including women's rights organizations, legal experts, and the general public. Gather input on the importance of gender-neutral language and its impact on inclusivity in the electoral process.

4. **Capacity Building:** Provide training and capacity-building programs for lawmakers, legal professionals, and electoral officials to promote awareness of the significance of gender-neutral language and its implementation.
5. **Align with International Standards:** Ensure that revisions to the Electoral Act, 2022 aligns with international standards and best practices in promoting gender equality and inclusivity in electoral processes. Learn from the experience of Australia that has successfully implemented similar reforms.
6. **Educational Campaigns:** Conduct educational campaigns to inform the public about the changes in language and the broader goals of promoting gender equality within the electoral system. This can create awareness and support for the initiatives.
7. **Continuous Evaluation:** Establish mechanisms for continuous evaluation to monitor the effectiveness of gender-neutral language implementation in the Electoral Act. This includes assessing its impact on inclusivity and diversity in electoral processes.
8. **Comprehensive Gender Inclusion Policies:** Consider incorporating comprehensive gender inclusion policies within the Electoral Act to address broader issues of representation and participation of all genders in the electoral process.

It's crucial for Nigeria to tailor these lessons to its specific legal and cultural context. Continuous collaboration with stakeholders and a commitment to fostering inclusivity in electoral processes can contribute to a more equitable and representative electoral system.

Kenya: The Kenya Electoral Act, 2011, governs electoral processes in Kenya and typically addresses various aspects such as voter registration, candidate eligibility, election procedures, and dispute resolution. In line with legislative drafting rules, the Act complies with the following legislative drafting rules:

1. **Clarity and Precision:** The provisions of the Act are clear, precise, and unambiguous. This ensures that the provisions are easily understood by lawmakers, election officials, and the general public.
2. **Consistency:** The Act maintains consistency in its language and structure. This consistency aids in the interpretation of the law and prevents confusion.
3. **Accessibility:** The Act is accessible to a diverse audience. This involves using plain language and avoiding overly technical or complex terminology, making it more understandable for the general population.
4. **Comprehensiveness:** The Act comprehensively covers all aspects of the electoral process, leaving no significant gaps or ambiguities. This helps in providing a robust legal framework for elections.
5. **Flexibility:** The Act has some degree of flexibility to which accommodates changes in the electoral landscape. This involves incorporating provisions that allows for amendments or updates to adapt to evolving circumstances.
6. **Inclusivity:** The Act promotes inclusivity, ensuring that electoral processes are fair and representative. This involves provisions related to the participation of diverse groups and the protection of voters' rights.
7. **Legal Certainty:** The Act provides legal certainty, offering a stable and predictable legal framework. This is crucial for maintaining the integrity of the electoral process and instilling confidence among stakeholders.
8. **Enforceability:** Provisions in the Act can be enforceable, allowing for effective implementation and legal remedies in case of violations.
9. **Constitutional Compatibility:** The Act aligns with the Constitution of the country, ensuring that electoral laws are consistent with the broader legal framework.

10. Dispute Resolution Mechanisms: The Act includes clear and effective mechanisms for resolving disputes that may arise during the electoral process, promoting fairness and transparency
11. Gender-neutrality, using the term "Chairperson." The Use of Gender-Neutral Terminology in the Elections Act of Kenya, 2011 employs the term "Chairperson" instead of "Chairman," it reflects a conscious effort to use gender-neutral language. This linguistic choice ensures that the leadership position is not explicitly tied to a particular gender, promoting inclusivity.

The compliance of the Kenya Electoral Act, 2011 with the gender-neutral rule and other rules of legislative drafting has the following impacts:

1. Gender Neutrality and Inclusivity: Compliance with the gender-neutral rule means avoiding language that favours a particular gender. This promotes inclusivity and prevents discrimination, ensuring that the electoral rules are accessible and fair to all, regardless of gender.
2. Legal Clarity and Certainty: Compliance to the rules of clarity and certainty contributes to legal clarity and certainty. This makes the provision of the Act clear and helps prevent ambiguity, thereby, reducing the likelihood of legal disputes and ensuring that the electoral rules can be interpreted consistently.
3. Promotion of Rule of Law: Compliance with established drafting rules reinforces the principles of the rule of law. It ensures that the provisions of the Act are formulated in a manner that upholds legal standards, promoting transparency, accountability, and predictability in the electoral process.
4. Public Confidence: Compliance with gender-neutral language, contributes to public confidence in the electoral system. Clear and inclusive rules foster trust among

citizens, political actors, and other stakeholders in the fairness and integrity of the electoral process.

5. **Constitutional Alignment:** Compliance with legislative drafting rules, including adherence to constitutional principles, ensures that the Kenya Electoral Act, 2011 aligns with the broader legal framework. This alignment is crucial for upholding constitutional values and preventing inconsistencies within the legal system.
6. **Ease of Implementation:** The provisions of the Act are generally well-drafted, thereby, making it easier to implement and enforce. This reduces the likelihood of unintended consequences, loopholes, or difficulties in applying the electoral rules in practice.
7. **Global Standards and Best Practices:** Adhering to international standards and best practices in legislative drafting, including gender-neutral language, helps Kenya align its electoral laws with global norms. This can enhance the country's standing in the international community and promote a positive image of its democratic processes.

In summary, the impact of compliance with the gender-neutral rule and other rules of legislative drafting in the Kenya Electoral Act, 2011 extends to legal clarity, inclusivity, effectiveness, public confidence, constitutional alignment, and adherence to global standards. It contributes to a more robust and well-functioning electoral framework.

Nigeria can draw several lessons from the compliance of the Kenya Electoral Act, 2011 with the gender-neutral rule and other rules of legislative drafting:

1. **Inclusivity Matters:** Emphasizing gender-neutral language promotes inclusivity in electoral laws. Nigeria can prioritize similar measures to ensure that the Electoral Act, 2022 is accessible and fair to all citizens, regardless of gender, promoting a more inclusive democratic process.

2. **Legal Clarity and Consistency:** Adhering to established rules of legislative drafting enhances legal clarity and consistency. Nigeria can benefit from ensuring that the Electoral Act, 2022 is well-drafted, minimizing ambiguity, and providing clear guidelines for interpretation and implementation.
3. **Aligning with Constitutional Principles:** Compliance with constitutional principles in legislative drafting is crucial. Nigeria can focus on aligning its electoral laws with the constitutional framework to ensure consistency and avoid conflicts within the legal system.
4. **Enhancing Public Confidence:** A well-drafted electoral framework contributes to public confidence in the democratic process. Nigeria can prioritize transparency, accountability, and adherence to established legal standards to foster trust among citizens and stakeholders in the electoral system.
5. **Global Best Practices:** Learning from international experiences and adopting global best practices in legislative drafting can improve the quality of electoral laws. Nigeria can consider aligning its electoral framework with international standards to enhance its reputation in the global community and demonstrate commitment to democratic principles.
6. **Effective Implementation:** Lessons from Kenya highlight the importance of rules that are easy to implement and enforce. Nigeria can focus on crafting electoral laws that are practical and effective, minimizing potential challenges in their application.
7. **Regular Review and Updates:** Electoral laws should be subject to regular review and updates to address evolving societal needs. Nigeria can establish mechanisms to periodically review its electoral laws, ensuring they remain relevant and effective in the changing political landscape.

8. Stakeholder Engagement: Involving relevant stakeholders, including legal professionals, subject matter experts, and civil society, in the drafting process is crucial. Nigeria can benefit from a collaborative approach to drafting electoral laws to gather diverse perspectives and ensure comprehensive and well-informed regulations.

In summary, Nigeria can learn from Kenya's experience by prioritizing inclusivity, legal clarity, alignment with constitutional principles, public confidence, adherence to global best practices, effective implementation, regular reviews, and stakeholder engagement in the process of drafting and updating electoral laws. These lessons can contribute to a more robust and effective electoral framework in Nigeria.

CHAPTER FIVE

CONCLUSION

In this chapter, the study delves into the culmination of the dissertation journey by presenting a comprehensive overview of the findings, recommendations, contributions to knowledge, areas for further study, and concluding remarks. Through an in-depth analysis of legislative drafting practices within electoral legislation, the study aims to provide actionable insights for policymakers, legislators, and drafting professionals seeking to enhance the clarity, coherence, and efficacy of electoral laws.

5.1 Summary of Findings

Key findings include:

1. **Gender-Specific Language and Inclusivity:** The presence of gender-specific language within the Electoral Act, 2022, presents challenges to inclusivity and may perpetuate gender biases in electoral laws, deviating from the recommendation to embrace gender-neutral language throughout the Act. Also, failure to substitute gender-specific terms with inclusive terminology impedes efforts to foster inclusivity and ensure equitable representation in the electoral process, as advised.
2. **Comprehensive Legislative Scrutiny:** The absence of robust legislative scrutiny mechanisms limits the Act's capacity to rectify drafting errors and assess its effectiveness, contravening the recommendation to institute pre-legislative and post-legislative scrutiny practices. Establishing structured legislative scrutiny processes, including stakeholder consultations and public engagement forums, facilitates the identification and remediation of potential flaws in the Act, as proposed.
3. **Clarity, Precision, and Legal Certainty in Legislative Language:** Ambiguities and deficiencies in the language of the Electoral Act, 2022, undermine clarity, precision, and legal certainty. For instance, the problem identified in Section 6(3) of the

Electoral Act, 2022, lies in the ambiguity introduced by the use of the term "may" regarding the President's authority to remove the Resident Electoral Commissioner. The term "may" suggests discretion on the part of the President, indicating that the removal of the Commissioner is not mandatory but rather optional.

This discretion allows the President to decide whether or not to effect the removal in situations where the Commissioner is unable to perform their duties or is involved in misconduct. This discretionary interpretation introduces uncertainty and potential for inconsistent application of the provision. It creates ambiguity regarding the circumstances under which the President may choose to remove the Commissioner, leading to potential misuse or arbitrary exercise of executive authority. Furthermore, the discretionary nature of the provision may undermine the accountability and transparency of the removal process, as it lacks clear criteria for decision-making.

4. The findings suggest that while the utilization of "shall" in the Electoral Act, 2022, adheres to Nigerian drafting conventions and legal interpretation principles, there exists a contemporary preference for "must" due to its clarity, consistency, and alignment with plain language guidelines in legislative drafting. This underscores a potential requirement for future revisions to embrace modern language standards, thereby enhancing comprehension and legal certainty within the document.

In summary, the dissertation presents a comprehensive analysis of how drafting errors in the Electoral Act, 2022 can have legal, practical, and democratic implications. It offers recommendations for legislative reform and highlights the importance of adherence to sound drafting practices in the development of the Electoral Act, 2022.

5.2 Recommendation

Based on the findings outlined in the study, the following recommendations are proposed to address the identified challenges and enhance the effectiveness of the Electoral Act, 2022:

1. To foster inclusivity and eliminate gender biases in electoral laws, it is imperative to adopt gender-neutral language throughout the Electoral Act, 2022. This involves replacing gender-specific terms with inclusive terminology, providing definitions for gender-neutral pronouns like "they/them" to clarify usage, eliminating gendered language describing roles or responsibilities in the electoral process, and using gender-neutral job titles for positions within the electoral system. This comprehensive approach ensures that the Act reflects and respects the diversity of gender identities, promoting equal participation and representation in the electoral process.
2. Implement Comprehensive Legislative Scrutiny Mechanisms: To ensure the adherence to legislative drafting rules and enhance the effectiveness of the Electoral Act, 2020, it is recommended to establish comprehensive legislative scrutiny mechanisms. This entails both pre-legislative scrutiny and post-legislative scrutiny to address potential flaws in the drafting process and evaluate the impact of the enacted legislation.

Pre-legislative scrutiny involves subjecting draft legislation to thorough examination and review by relevant stakeholders, experts, and the public before formal introduction in parliament. This process allows for the identification of potential flaws, ambiguities, or unintended consequences in the proposed legislation, thereby enhancing its quality and effectiveness. Mechanisms for pre-legislative scrutiny may include consultation with electoral experts, civil society organizations, parliamentary committees, and public forums to solicit feedback and ensure alignment with legislative drafting principles.

Post-legislative scrutiny becomes essential to evaluate its impact and effectiveness. This involves monitoring the implementation and enforcement of the legislation, assessing its practical implications, and identifying areas for improvement or amendment. Post-legislative scrutiny mechanisms may include parliamentary oversight committees, independent bodies, and academic institutions conducting inquiries, gathering evidence, and soliciting feedback from stakeholders to assess the Act's performance in achieving its objectives and compliance with legislative drafting rules.

By instituting comprehensive legislative scrutiny mechanisms, policymakers can proactively address drafting errors, enhance compliance with legislative drafting rules, and ensure the effectiveness of the Electoral Act, 2020, in promoting democratic principles and electoral integrity. This transparent and inclusive approach fosters accountability, public trust, and confidence in the legislative process, ultimately contributing to the enhancement of electoral laws and democratic governance.

3. Enhance Clarity, Precision, and Legal Certainty in Legislative Language: To address ambiguities and gaps in the Electoral Act, 2022, it is imperative to prioritize the enhancement of clarity, precision, and legal certainty in legislative language. This involves a comprehensive review and revision of ambiguous provisions to ensure consistency and unambiguous interpretation. One key aspect to consider is the use of modal verbs such as "may" and "shall" in defining legal obligations within the Act. In instances where discretionary language is employed, such as the use of "may," there is a risk of introducing ambiguity and uncertainty regarding the obligation's enforceability. Conversely, the use of "must" conveys a mandatory obligation, leaving no room for interpretation or discretion. Therefore, it is recommended to replace

instances of "may" with "must" to establish clear and non-negotiable legal duties. This adjustment not only enhances the precision of the legislative text but also promotes legal certainty and predictability in the interpretation and application of the law.

By adopting precise and unambiguous language, the Electoral Act can effectively convey legislative intent and ensure consistent compliance with legal requirements. This clarity is essential for electoral officials, legal practitioners, and the general public to understand their rights and obligations under the law, thus facilitating better enforcement and governance of electoral processes. Furthermore, aligning with modern drafting norms and established legal standards, particularly by replacing "shall" with "must," strengthens the Act's compatibility with international frameworks and best practices.

This harmonization promotes coherence and consistency in electoral regulation, enhancing the Act's credibility and effectiveness on both domestic and international fronts. In conclusion, enhancing clarity, precision, and legal certainty in legislative language within the Electoral Act, 2022, is paramount for promoting transparency, accountability, and confidence in electoral processes. By implementing these recommendations, policymakers can ensure that the Act upholds the highest standards of legislative quality and serves as a reliable framework for democratic governance.

4. Embrace Modern Language Standards: Considering contemporary preferences for clarity and consistency in legislative drafting, future revisions of the Electoral Act, 2022, should embrace modern language standards. Utilizing mandatory language like "must" instead of "shall" enhances comprehension and legal certainty within the document, aligning with plain language guidelines in legislative drafting. This

adaptation to modern language standards ensures that the Act remains relevant, effective, and accessible to all stakeholders involved in the electoral process.

Since the goal is to enhance clarity and reduce ambiguity while ensuring that the legislative intent remains intact. These recommendations should be adapted to the specific legal and procedural context of the Electoral Act, 2022. These recommendations aim to create a more inclusive and equitable electoral process that respects the rights and identities of all citizens, regardless of gender.

5.3 Contribution to Knowledge

This study contributes to the understanding of legislative drafting, emphasizing the importance of clarity, simplicity, precision, and gender sensitivity in legal language. It highlights specific areas where improvements can be made to enhance the accessibility of legal documents.

This study contributes to knowledge by:

1. Highlighting the significance of legislative drafting rules and gender-neutral language in electoral legislation.
2. Providing insights into diverse electoral legislations and their implications for compliance to the rules of legislative drafting.
3. Offering recommendations for modernizing and enhancing the inclusivity of electoral processes.
4. Identification of Breaches: This dissertation provides a detailed analysis and identification of specific breaches of legislative drafting rules within the Electoral Act, 2022, contributing to a deeper understanding of the specific issues at hand.
5. Impact Assessment: The dissertation assess the real-world impact of drafting errors on the implementation, interpretation, and enforcement of the Electoral Act, 2022, shedding light on the practical consequences of such breaches.

6. **Legal Implications:** It further explores the legal implications of drafting errors, potentially setting precedents for addressing similar issues in other legislative contexts and offering guidance to legal professionals and policymakers.
7. **Policy Recommendations:** By proposing recommendations for legislative reform to rectify the breaches, the dissertation contributes to practical solutions for improving the clarity, coherence, and effectiveness of electoral laws, thus enhancing democratic governance.
8. **Cross-Jurisdictional Insights:** The research includes a comparative analysis with electoral legislation in other jurisdictions; it provides valuable insights into international best practices in legislative drafting and their applicability to electoral laws.
9. **Stakeholder Awareness:** The dissertation raises awareness among stakeholders, including lawmakers, election officials, and civil society organizations, about the importance of sound legislative drafting in electoral processes.
10. **Democracy and Rule of Law:** The work highlights the critical role that well-drafted electoral laws play in upholding democratic principles and the rule of law, contributing to the broader discourse on democratic governance.

In summary, the contribution to knowledge lies in the comprehensive analysis of the breaches of legislative drafting rules within the Electoral Act, 2022, which proposed solutions for reform and the broader implications for democratic governance and the rule of law. This study has the potential to influence both legal practice and policy decisions in electoral law and legislative drafting.

5.4 Suggested Areas for Further Studies

This study opens doors for further research in several areas:

1. **Impact of Comprehensive Legislative Scrutiny Mechanisms:** Further research can delve into assessing the impact of comprehensive legislative scrutiny mechanisms on the effectiveness and integrity of electoral legislation. This study could investigate the outcomes of pre-legislative and post-legislative scrutiny practices in terms of identifying drafting errors, enhancing accountability, and promoting public trust in the legislative process. By analysing case studies and comparative experiences from other jurisdictions, researchers can gain insights into the practical implications of implementing robust legislative scrutiny mechanisms within the context of electoral law.
2. **Assessment of Legislative Drafting Training Programs:** Further investigation could focus on assessing the availability and effectiveness of training programs tailored for legislative drafters involved in implementing the Electoral Act, 2022. This study would involve examining the accessibility, content, and impact of existing training initiatives aimed at enhancing the drafting skills of legislative professionals responsible for formulating electoral legislation. Through surveys, interviews, and case studies, researchers can evaluate the comprehensiveness of the training programs, identify any gaps or deficiencies, and gather feedback from participants regarding the relevance and applicability of the training content. Based on the findings, recommendations can be proposed to improve the quality and accessibility of legislative drafting training, ensuring that drafters are equipped with the necessary skills and knowledge to draft clear, precise, and legally sound provisions within the Electoral Act, 2022.

5.5 Conclusion

In conclusion, this dissertation has undertaken an appraisal of legislative drafting rules within the context of electoral legislation, with a specific focus on the Electoral Act, 2022. Guided

by the research questions and objectives outlined at the outset, the study delved into the essential principles governing legislative drafting, the adherence of the Electoral Act, 2022, to these rules, the challenges and ambiguities present within the Act's language and structure, and the formulation of actionable recommendations for improvement. The first research question sought to identify some essential legislative drafting rules applicable the Electoral Act, 2022. Through meticulous examination, the study uncovered the key principles of clarity, precision, and legal certainty that underpin effective legislative drafting in the electoral context. These rules serve as the foundation upon which electoral laws are crafted, ensuring coherence and effectiveness in their implementation.

In addressing the second research question, the study evaluated the extent to which the Electoral Act, 2022, adheres to established legislative drafting rules. The analysis revealed areas of alignment as well as instances where the Act falls short of meeting these standards. While certain provisions demonstrate clarity and precision, others exhibit ambiguities and exclusivity that hinder interpretation and implementation.

The third research question delved into the prevailing challenges and ambiguities within the language and structure of the Electoral Act, 2022, concerning legislative drafting rules. The stud uncovered some gaps, including ambiguities arising from discretionary language, challenges related to gender-specific terminology, and ambiguity in drafting style. These challenges have implications for the interpretation and application of the law, highlighting the need for reform and improvement.

Finally, the study aimed to develop actionable recommendations aimed at enhancing the overall quality, coherence, and effectiveness of the Electoral Act, 2022, in alignment with best practices in legislative drafting. By addressing identified shortcomings and aligning with established principles, these recommendations seek to bolster the integrity and functionality of electoral legislation, ultimately contributing to the enhancement of democratic governance.

In essence, this dissertation has served as a call to action, urging stakeholders to confront the challenges and shortcomings within the Electoral Act, 2022, and embark on a journey of reform and improvement. By heeding the lessons learned and implementing the proposed recommendations, we can strive towards a future where electoral laws are characterized by clarity, coherence, inclusivity and effectiveness, thereby advancing the principles of democracy and the rule of law.

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