

**LEGISLATIVE INTENT AND JUDICIAL INTERPRETATION: A CASE STUDY OF
THE ELECTORAL ACT, 2022.**

BY

Adaobi Blossom ONUOHA (Miss)

PG/NLS2215158

**A DISSERTATION SUBMITTED TO THE NATIONAL INSTITUTE FOR
LEGISLATIVE AND DEMOCRATIC STUDIES/UNIVERSITY OF BENIN
(NILDS/UNIBEN) POST-GRADUATE PROGRAMMES IN PARTIAL FULFILMENT OF
THE REQUIREMENTS FOR THE AWARD OF MASTER DEGREE OF LAWS (LLM -
LEGISLATIVE DRAFTING)**

JULY, 2025

DECLARATION

I declare that this work is the product of my effort undertaken under the supervision of Dr. Shamsudeen Yahaya and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged.

Adaobi Blossom ONUOHA (Miss)

PG/NLS2215158

APPROVAL

This dissertation, titled “Legislative Intent and Judicial Interpretation: A Case Study of the Electoral Act, 2022” by Adaobi Blossom Onuoha, has been approved for the award of Master of Law in Legislative Drafting (LL.M), University of Benin/National Institute for Legislative and Democratic Studies (NILDS/UNIBEN).

BY

Dr. Shamsudeen Yahaya
(Supervisor)

Date

Dr. Mohammed Amali
(Internal Examiner)

Date

Dr. Asimiyu Abiola
(Director of Studies & Chief Examiner)

Date

Prof. Yemi Akinseye-George, SAN
(External Examiner)

Date

CERTIFICATION

This Dissertation titled “**Legislative Intent and Judicial Interpretation: A Case Study of the Electoral Act, 2022**” is the original work of Adaobi Blossom ONUOHA with **Matric No: PG/NLS2215158**, carried out under the supervision of Dr. Shamsudeen Yahaya. It is further certified that this dissertation has not been submitted in part or whole to this University or any other Academic Institution for any degree or master’s programme, and that all sources used have been duly acknowledged by proper reference.

Adaobi Blossom ONUOHA

Signature

Date

DEDICATION

This research work is dedicated to God, my parents, siblings, friends, classmates and colleagues for their immense support and love.

ACKNOWLEDGMENTS

I am immensely grateful to God, who has been my anchor and guiding light throughout this research journey. I deeply appreciate the support, guidance and counsel provided by Dr. Shamsudeen Yahaya, with utmost patience and unrivalled dedication.

I want to express my heartfelt thanks to Kingsley Ibe, my classmate and learned friend, who greatly assisted me in my research quests. I am also deeply indebted to Mr. Azubuike, Mrs. Omolayo Kareem, Madam Toyin, Hassan Sharafa, Ifeanyi, and Okiro for their help in collating the needed resources.

My heartfelt gratitude goes to my fellow students and colleagues who have shown me unwavering love and support throughout my years of study. I am truly grateful to NILDS/UNIBEN for giving me this platform to undertake a Master of Laws programme (LL.M) in Legislative Drafting.

TABLE OF CONTENTS

Title Page	i
Declaration	ii
Approval	iii
Certification	iv
Dedication	v
Acknowledgments	vi
Table of Contents	vii
Table of Cases	xii
Table of Statutes	x
Table of Abbreviations	x
Abstract	xii

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study	1
1.2 Statement of the Research Problem	2
1.3 Research Objectives	5
1.4 Scope of the Study	6
1.5 Significance of the Study	6
1.6 Research Methodology	7
1.7 Synopsis of Chapters	8

CHAPTER TWO

CONCEPTUAL CLARIFICATIONS, THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 Legislative Drafting	9
2.2 Principles of Legislative Drafting	10
2.2.1 The 7Cs of Legislative Drafting	10
2.2.2 Gender Neutral Drafting	10
2.2.3 Plain Language Drafting	11
2.3 Legislative Intent	12
2.4 Judicial Interpretation	13
2.5 The Rules of Judicial Interpretation	13
2.5.1 Literal Rule	14
2.5.2 Mischief Rule	15
2.5.3 Golden Rule	15

2.5.4	<i>Ejusdem Generis</i> Rule	16
2.5.5	Purposive Approach	17
2.6	Literature Review	18
2.7	Theoretical Framework	27
2.7.1	The Natural School	27
2.7.2	The Positivist School	28
2.7.3	The Sociological School	29
2.7.4	The Realist School	29
2.8	Theories of Interpretation of Statutes	30
2.8.1	Textualism	30
2.8.2	Purposivism	31
2.8.3	Intentionalism	32

CHAPTER THREE

INNOVATIONS IN THE ELECTORAL ACT 2022 AND SOME JUDICIAL INTERPRETATIONS

3.1	Relevant Provisions of the Electoral Act 2022	35
3.1.1	Election Administration	35
3.1.2	Election Process to Include the Use of Technology	38
3.1.3	Manner in Which Political Parties Carry Out Their Congresses and Conventions	38
3.1.4	Requirements for Filing Election Petitions and Timelines for Different Electoral Processes	40
3.1.5	The Inclusion of People Living with Disability	41

3.2	Hansard Report of the Legislative Proceedings for the Amendment of the Electoral Act 2022	41
3.2.1	Examination of the Debate Proceedings of the Senate House on the Bill Seeking to Amend the Electoral Act 2010	42
3.2.2	Examination of the Debate Proceedings of the House of Representatives on the Bill Seeking to Amend the Electoral Act 2010	49
3.3	Election Petition Judgments Based on the Provisions of the Electoral Acts 2022	54
3.3.1	<i>Adegboyega Isiaka Oyetola & APC v INEC, Adeleke Ademola Jackson Nurudeen & PDP</i>	54
3.3.2	<i>Hon. Aghedo Sunday & APC v INEC, Enabuele Destiny Oghayerio & PDP</i>	55
3.3.3	<i>Atiku & PDP v INEC, Bola Ahmed Tinubu & Ors</i>	56
3.3.4	<i>Magaji Da'u Aliyu & APC v INEC, Adamu Yakubu & PDP</i>	58
3.3.5	<i>Yahaya Abubakar Abdullahi v Hon. Sani Bawa Argungu, PDP & INEC</i>	59
3.4	Juxtaposition of the Legislative Intent and Judicial Interpretation with regard to the Electoral Act 2022	61

CHAPTER FOUR

LESSONS FROM OTHER JURISDICTIONS AND CHALLENGES OF INTERPRETATION OF STATUTES

4.1	Canada	68
4.1.1	Lessons for Nigeria	70
4.2	Namibia	71
4.2.1	Lessons for Nigeria	73

4.3	India	74
4.3.1	Lessons for Nigeria	77
4.4	Challenges of Interpretation of Statutes	78
4.4.1	Ambiguity in Statutes Texts	79
4.4.2	Application of Different Rules of Interpretation	80
4.4.3	Judicial Activism vs Judicial Restraint	81
4.4.4	Conflicting Statutes	83
4.4.5	Inadequacy of Words in Statutory Provisions	85
4.4.6	The Issue of Jurisdiction and <i>Locus Standi</i>	86

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1	Summary of Major Findings	88
5.2	Recommendations	90
5.3	Contribution to Knowledge	92
5.4	Conclusion	93
5.5	Areas for Further Studies	94
BIBLIOGRAPHY		95

TABLE OF CASES

LOCAL

Adegboyega Isiaka Oyetola & APC v. INEC, Adeleke Ademola Jackson Nurudeen & PDP SC/CV/508/2023.

AG Bendel State v. AG Federation (1981) All NLR 85 (2, 6).

Atiku & PDP v. INEC, Bola Ahmed Tinubu, APC & Ors 2013 19 NWLR pt. 1917.

Attorney General of Federation v The Guardian Newspaper Ltd (1999) 9 NWLR (pt. 618) 264.

Chukwuma Uchechukwu Onyekwere & Anor v INEC Ors EPT/AB/SHA/15/2023.

Dapianlong v. Dariye (2007) CLR 4(g) (SC).

Dumex Nig. Ltd v. Peter Nwakhoba & Ors (2009) All FWLR (pt. 461) SC.

Hon. Aghedo Sunday & APC v. INEC, Enabuele Destiny Oghayerio & PDP EPT/ED/SHA/16/2023.

Ifezue v. Mbadugha & Anor. (1984) LPELR 1437 SC.

Igbo Youth Democrats v. Speaker of the House of Representatives FHC/ABJ/CS/567/2015.

Ikpeazu Vs. Otti & Ors (2016) LPELR 40055 SC.

Jammal Steel Structures Limited v. ACB (1965) AC 402.

Magaji Da'u Aliyu & APC v. INEC, Adamu Yakubu & PDP EPT/JG/HR/08/2023.

Marwa & Ors v. Nyako & Ors (2012) LPELR-7837 (SC).

Mekwunye v. Carnation Registrars Ltd. V. Anor (2021) LPELR-55187(CA).

Momoh & Anor v Francis & Ors (2019) LPELR-49000 (CA).

Okedara v Attorney General of the Federation (2019) LCN/12768 (CA).

Our Line Ltd v S.C.C (Nig) Ltd (2009) JELR 47311 (SC).

PDP v. Chief Nduka Edede & Anor FHC/UM/CS/26/2022.

PDP v INEC (1999) CLR 7 (j) SC.

Peter Dasat & PDP v INEC, Ezra Yardi Dakup & APC CA/J/EPT/PL/HOA/216/2022.

R v Local Commissioner for Administration 1979 2 All ER 881.

Savannah Bank v Ajilo (1989) NWLR (pt. 97) 305.

Shell Petroleum Development Company of Nigeria v Isaiah (2001) All N.L.R. 559.

Shinkafi & Anor v Yari & Ors (2016) LPELR – 26050.

Udoh v Orthopaedic Hospital Management Board (1993) 7 SCNJ 436.

Ufomba v INEC & Ors (2017) LPELR-42079 SC.

Utih v Omoyivwe (1991) 1NWLR (pt.166) 166.

Yahaya Abubakar Abdullahi v Hon. Sani Bawa Argungu, PDP & INECSC/CV/1563/2022.

FOREIGN

AC Jose v Siwan AIR 1984 SC 921.

Duport Steel v Sirs (1980).

Girish M. Das v. Chief Election Commissioner (2012) SCC Online Guj 4916.

Grey v Pearson 10ER1216.

Henry v. Canada (Attorney General), 2014 BCCA 30 (CanLII).

Heydon's Case (1584) 76 ER 637.

Itula and Others v Minister of Urban and Rural Development and Others 2020(1) NR 86 (SC).

Magor and St. Mellons Rural District Council v Newport Corporation (1950) 2 All ER 1226.

Parker v. Parker (1954) All ER p 22.

Pepper v. Hart (1993) AC 593.

SS Knutsford Limited v. Tillman & CO (1908) 1KB 185.

Subramanian Swamy v. Election Commission of India WP (C) No 11879 of 2009.

Sussex Peerage Case 8ER 1034, 1057.

TABLE OF STATUTES

LOCAL

Electoral Act, 2010

Electoral Act, 2022.

Evidence Act, 2011.

INEC Regulations and Guidelines for the Conduct of Elections, 2022.

PDP Electoral Guidelines for the Conduct of Primary Election, 2022.

The Constitution of the Federal Republic of Nigeria, 1999 (as altered).

The Cybercrime Act 2015.

FOREIGN

Canada Elections Act, 2000.

Conduct of Rules, 1962

Namibia Electoral Act, 2014.

Representation of the People Act, 1951.

TABLE OF ABBREVIATIONS

APC	All Progressives Congress
BVAS	Bi-Modal Voter Accreditation System
ECN	Electoral Commission of Namibia
EPT	Election Petition Tribunal
ERC	Electoral Reforms Committee
EVM	Electronic Voting Machines
GIGA	Global Initiative for Governance and Accountability
INEC	Independent National Electoral Commission
IREV	INEC Result Viewing Portal
PDP	Peoples Democratic Party
PU	Polling Unit
VVPAT	Voter Verified Paper Audit Trail

Abstract

This research is an exposition of the relationship dynamics between the legislative intent and judicial interpretation, how legislative drafters can reflect the legislative intent and improve the drafting process to minimise ambiguity and improve the quality of legislation and implementation in Nigeria using the Electoral Act 2022 as a case study. The justification of this research was the need to examine if there is a relationship between the legislative intent and judicial interpretations of the Electoral Act.

The research adopted the doctrinal research methodology and relied on primary and secondary source materials. Primary source materials used include the Constitution of the Federal Republic of Nigeria 1999 (as altered), Electoral Act, Hansard Reports, and case laws. Secondary source materials used include textbooks, articles, newspapers, and internet materials.

The finding on the first research objective is that in the Electoral Act, the legislative intent was that the National Assembly gave INEC the discretion to determine the mode of transmission of results. The finding on the second research objective showed that there was no obvious dichotomy between the legislative intent and the judicial interpretations of the court with regard to electronic voting, as the courts interpreted the provisions based on the clear meaning of the provisions. However, due to divergent decisions of courts on some provisions of the Act, it was opined that if the provisions on the electronic voting system were well legislated, little would be left to the discretion of the judiciary, as well as ensuring uniformity in their judgments. The finding on the third research objective noted that to minimise ambiguity and under legislation of some electoral procedures like the electronic voting system, the legislative drafter is required to conduct research into electoral laws of other jurisdictions, articulate and translate the intent of the legislature in the future amendments of the Electoral Act to achieve qualitative election practices. The finding on the fourth

research objective demonstrated that Nigeria can adopt some electoral practices from other jurisdictions, such as the voter-verified paper audit trail (VVPAT) in the electoral process and the blockchain technology to enhance the elections.

The research recommended that the process of the electronic voting system, should be adequately covered in subsequent amendments to the Electoral Act to minimise ambiguity and enable the judiciary to determine the legislative intent with ease. The research also recommended that the courts utilise the extrinsic aids of interpretation, like the Hansard Report, in coming to judicial conclusions in electoral cases. It also recommended that the legislative drafter adopt comparative legislative drafting and research to identify which technology best suits the electoral process in Nigeria to draft electoral laws devoid of ambiguity. The research also recommended the adoption of electoral practices from other jurisdictions to improve the electoral process. From the findings of this research, it is concluded that the Electoral Act is due for an amendment, especially as regards the electronic voting system and all other lacunae discovered when the Electoral Act was subjected to judicial interpretation in the last general elections.

Word Count: 499 Words

Keywords: Electoral Act, Interpretation, Legislative intent, Statutory

CHAPTER ONE: GENERAL INTRODUCTION

1.1 Background to the Study

The relationship dynamics between the legislature's intent and judicial interpretations have become a widespread debate among legal scholars and practitioners. This is due to the part each party has to play in making and interpreting laws and statutes. Most democratic societies practice the theory of the separation of governmental powers, meaning that such powers of the federation to make laws, interpret laws, and enforce laws are separately vested in different arms of government.¹ The lawmakers enact the laws, the judiciary gives interpretation to the laws, and the executive administers the laws. The legislature needs a drafter to translate legislative intent into a legislative draft, also known as a bill. The legislative drafter can do this through the instructions received from the legislature. This bill is presented to the legislature to be passed into law. It is expected that there is some uniformity in the intentions of the arms and, consequently, in the result of carrying out their functions. It has been proven that this is not always so, and sometimes, the outcome of the judicial interpretation can diverge from the original intentions of the legislature.²

The Electoral Act³ was amended in 2022. This was to improve the election policies, practices and procedures of the elections in Nigeria, ensure an enhancement in the management of elections in Nigeria and address several of the issues confronting the electoral process in Nigeria. Many new and amended provisions were subjected to judicial interpretation due to the Osun State election of 2022 and the general elections held in 2023. 1,209 pre-election and post-election petitions,

¹ Fineface Ogoloma, 'The Theory of Separation of Powers in Nigeria: An Assessment' *African Review Journal* (2012) (6) (3) 127-134.

² Michael Healy, 'Legislative Intent and Statutory Interpretation in England and the United States: An Assessment of the Impact of *Pepper v Hart*' *Stan. J. Int'l L.* (1999) (35) (231).

³ Electoral Act No. 61, 2022.

including the presidential election petition, were taken to court, causing the amended Electoral Act to be thoroughly subjected to judicial interpretation.⁴ Proving a petitioner's case was almost as impossible as the camel traversing the eye of a needle.⁵ The judicial decisions in the past general elections cast aspersions on the integrity of the government's intentions regarding the amendment of the Electoral Act 2022. This research uses the Electoral Act 2022 as a case study to examine the relationship between legislative intents and judicial interpretations. This will aid in finding out to what extent the interpretations have aligned with the legislature's intentions. Furthermore, this will aid an in-depth understanding of the dynamics between the legislature and the judiciary in Nigeria's democratic system.

1.2 Statement of the Research Problem

Ideally, legislative drafts (which eventually become bills, then laws) should be coined so that the legislature's intent is clearly and unambiguously reflected in the statutes. However, this is not always the reality. The establishment of the Electoral Act 2022 was based on the conviction that a revised electoral legal framework would tackle the significant issues of election manipulation, electoral impunity, operational deficiencies, and fragile democratic institutions that compromise Nigeria's electoral process. Although commendable innovations were introduced into the nation's electoral system, numerous vulnerabilities were revealed during its initial execution in the 2023 general election. The identified loopholes served as the basis for the multitude of election petitions that inundated the courts. Among these loopholes is the ambiguity surrounding the appropriate stage for comparing physical copies of results with those transmitted electronically. Also, the definition of the terms 'transmitted directly' and 'electronically transmitted' is unclear. While

⁴ "PLAC, *From Ballot to the Courts: Analysis of the Election Petition Litigation from Nigeria's 2023 General Elections* (PLAC, 2025).

⁵ INEC, 'Electronic Transmission and Collation of Results' https://www.inecnigeria.org/wp-content/uploads/2023/02/Electronic_Transmission_Collation_Of_Result-5.pdf accessed 16 January 2025".

INEC was granted the authority to reassess declarations and returns that contravene legal standards, the specific methods and processes for exercising this authority were not defined in the Act or INEC guidelines, creating potential for ambiguities. A comprehensive analysis of the proviso in Section 65(1) of the Electoral Act 2022, alongside Regulation 90 of INEC Regulations, fails to clarify who is permitted to file a report, as well as the procedure for reporting a return that has been submitted under duress or in contravention of laws, regulations, or guidelines. The general elections conducted in 2023 left many Nigerians confounded while veiling the country's electoral process with seeming uncertainty, especially following the judgments of the tribunals on the suits.⁶ The amendments to the Electoral Act introduced the use of electronic devices and processes in conducting elections.⁷ This was predicted to improve the integrity of the elections, and INEC assured the electorate that the new technology would be used without fail. The uploading of the polling unit results aimed to mitigate electoral misconduct by safeguarding the results sheets (EC8A) from manipulation during the ward collation.⁸

The electronic transmission of results involves uploading them to the INEC Result Viewing Portal (IREV). This process guarantees that copies of the poll results are accessible to INEC, promoting transparency as voters can also view the results.⁹ Nigerians rode on the euphoria of the assurances towards the elections, all to be disappointed as the elections were not uploaded in real-time. Several days after the elections, some results were not uploaded to the IREV.¹⁰ Sequel to the election and return of candidates in the general elections concluded in February 2023, many aspirants filed

⁶ Ibid.

⁷ (n3), Section 47(2).

⁸ Iwok Iniobong, 'How INEC conned Nigerians on BVAS, IREV' <https://businessday.ng/analysis/article/how-inec-conned-nigerians-on-bvas-irev/> accessed 16 January 2025.

⁹ INEC (n5).

¹⁰ Aderemi Omotubora and Nelson Iheanacho, 'Is INEC in Breach of the Law on E-Transmission of Election Results? The Flip Side of the Coin' <https://riskgroupllc.com/is-inec-in-breach-of-the-law-on-e-transmission-of-election-results-the-flip-side-of-the-coin/> accessed 16 January 2025.

petitions in the election tribunal for redress. In their defence of not keeping to their promises of electronic transmission, the Commission pointed out that electronic transmission did not need to be used to transmit the election results.¹¹ Hence, using electronic means to transmit the results was at their discretion. After the elections, 1209 election petitions were filed in court. 206 petitions were withdrawn and eventually struck out, 110 were dismissed, the EPT panels outrightly refused 790, and only 103 petitions were upheld, even in the face of gross irregularities in the electoral activities.¹²

The courts declared that INEC is under no legal compulsion to transmit election results in the election electronically. The IREV system that was introduced is not a collation system. The court did not consider the details of the procedure of electronic transmission of results during the election petition proceedings because it was not codified in the Electoral Act. One of the most prominent debates in Nigeria's electoral jurisprudence is whether such innovations should be inserted into the Electoral Act to enjoy the force of law.

This research seeks to expound on the relationship between the legislative intent and judicial interpretations of the provisions of the Electoral Act 2022, especially as regards the outcome of the judicial decisions on the election petitions accruing from the general elections of 2023. Hence, this research seeks to achieve this by answering the research questions below;

- i. What is the intent of the legislature with regard to the electronic voting, transmission of results and other major provisions of the Electoral Act 2022?

¹¹ Premium Times, 'NigeriaDecides 2023: Electronic Transmission of Results not Compulsory- APC replies Atiku, Obi' <https://www.premiumtimesng.com/news/headlines/586069-nigeriadecides2023-electronic-transmission-of-results-not-mandatory-apc-replies-atiku-obi.html> accessed 16 January 2025.

¹²Friday Olorok, 'INEC Laments High Cost of Law Suits as South-South Leads in Election Petitions' <https://www.arise.tv/inec-laments-high-cost-of-lawsuits-as-south-south-leads-in-election-petitions-filing/> accessed 29 January 2025.

- ii. What were the decisions of the court on the provisions of the Electoral Act on electronic voting, transmission of results and other major provisions?
- iii. What is the role of the legislative drafters in improving the drafting of the Electoral Act to minimise ambiguity?
- iv. What are the lessons Nigeria can learn from the Electoral laws of other jurisdictions?

1.3 Research Objectives

The major objective of this research is an exposition the relationship between the legislative intents in enacting a statute and the consequent statutory interpretations of the judiciary with specific reference to the Electoral Act, 2022. This is to enable the understanding of the working dynamics between the legislature and the judiciary with regard to the new and amended provisions of the aforementioned statute, alongside the interpretations of the provisions as stated by the electoral tribunals.

This research seeks to:

- i. Determine the legislative intent with regard to the electronic voting, transmission of results and other major provisions of the Electoral Act 2022.
- ii. Analyse the decisions of the courts on the provisions of the Electoral Act on electronic voting, transmission of results and other major provisions.
- iii. Discuss the role of legislative drafters in improving the drafting of the Electoral Act to minimise ambiguity.
- iv. Examine the lessons Nigeria can learn from the Electoral laws of other jurisdictions.

1.4 Scope of the Study

The fundamental objective of this research is to expound on the part the judicial interpretations of the provisions of the Electoral Act 2022 played in the outcome of the judgment of the election

petitions accruing from the general elections of 2023. This will be done by juxtaposing the intentions of the legislative drafters against the judicial interpretations of the Electoral Act 2022.

Therefore, the research is limited to the Electoral Act 2022, judgments from election petitions of 2023, and parliamentary documents that were instrumental in enacting the statute.

However, to further emphasise the point, a comparative analysis of the Electoral Act 2022, alongside electoral laws and practices of other jurisdictions and judicial interpretations of such provisions, will be provided.

1.5 Significance of Study

This research is significant because it attempts to study whether there was concordance and harmony between the legislative intent of the legislature in amending the Electoral Act 2022 and the judicial interpretations of the electoral statute.

This research intends to contribute to the existing body of works studying the relationship dynamics between legislative drafting and judicial interpretation. It is intended to serve as part of the body of works that address the development of theoretical frameworks and methodologies for analysing the relationships between legislative drafting, judicial interpretation, and the electoral process for further research for students and researchers. They can build upon this research's findings to explore other legal research areas.

The findings of this research can aid policy makers in improving the quality of electoral laws. This is because this research attempts to study how judicial interpretation of the Electoral Act 2022 affects the law's implementation.

This research intends to add to the existing body of work on the relationship dynamics between legislative drafting, judicial interpretation, and the electoral process. Finally, it points to the

importance of studying the relationship between legislative drafting and judicial interpretation in developing effective laws and contributes to the growing body of literature on the juxtaposition of legislative drafting and judicial interpretation.

1.6 Research Methodology

Research methodology refers to the theoretical and philosophical frameworks and strategies that will guide the research. In other words, methodology refers to the techniques and procedures the researcher uses to analyse issues highlighted in the research. Legal research methodology similarly refers to the methods of discerning law and legal phenomena.

This research adopted the doctrinal methodology, which uses legal reasoning to analyse statutory provisions and case laws.¹³ It relied on primary and secondary source materials. Primary source materials include the Electoral Act 2022 (as amended), the Constitution of the Federal Republic of Nigeria, 1999 (as altered), and Hansard Reports. Relevant textbooks, articles, scholarly publications, case laws, internet materials, and reports presented at seminars and workshops are the secondary sources explored to aid in articulating the concepts of Legislative Intent, Legislative Drafting, and Statutory Interpretation.

This research conducted a qualitative content analysis of the relevance of the source materials. Again, there is a need for critical qualitative analysis of interactions in observed interactions of legal systems. Qualitative content analysis originated in the fields of qualitative sociology, anthropology, and psychology, aiming to investigate the meanings behind underlying physical messages. This approach is predominantly inductive, focusing on the examination of topics and themes along with their implications within the data. In certain instances, qualitative content

¹³ B. U. Ihugba, *Introduction to Legal Research Method and Legal Writing* (Malthouse Press, 2020) 5.

analysis seeks to formulate theories. It prioritizes distinct themes that highlight the various interpretations of a phenomenon, rather than concentrating on the statistical significance of specific concepts.¹⁴

1.7 Synopsis of Chapters

This research work is divided into 5 chapters. Chapter 1 is the general introduction. Chapter 2 articulates the concepts of Legislative Drafting, Legislative Intent, Statutory Interpretation, and relevant theoretical frameworks. Chapter 3 examines the provisions of the Electoral Act 2022. It includes the Hansard Report of the Legislative Proceedings for the Amendment of the Electoral Act, 2022, and judgments of the court in the election petitions based on the provisions of the Electoral Act 2022. It further analyses the provisions of the Electoral Act 2022, by juxtaposing the Hansard Report and the judicial decisions based on the provisions of the Electoral Act 2022. In Chapter 4, there are lessons from other jurisdictions, including Namibia, Canada and India, and challenges of interpretation of statutes. Chapter 5 summarises findings, makes recommendations, provides a conclusion, and suggestions for further studies.

¹⁴ Herman W. Smith, *Strategies of Social Research: The Methodological Imagination* (Englewood Cliffs, 1975).

CHAPTER 2: CONCEPTUAL CLARIFICATION, THEORETICAL FRAMEWORK AND LITERATURE REVIEW

This chapter discussed legislative drafting, major principles of legislative drafting, legislative intent, judicial interpretation, literature review, theoretical framework and theories of interpretation of statutes.

2.1 Legislative Drafting

Legislative drafting was seen as a mere skill acquired by government lawyers because they believed it was just on-the-job training, where lawyers switched from statutory interpretation to drafting legislation, bearing in mind how other lawyers would interpret it.¹⁵ Nonetheless, as common law was supplanted by statutory laws, legislation emerged as the primary means of regulation, taking the place of common law.

Many scholars have attempted to add context and substance to the articulating of what legislative drafting truly means. Cormacain¹⁶ opines that legislative drafting refers to the process of transforming policy concepts into legislation that is suitable for inclusion in the statute book, as it essentially involves the act of writing the law. Idornigie¹⁷ opines that legislative drafting is an institutionalised means of communication that results in a permanent enactment with has a life of its own and speaks for itself without any form of aid or explanation from the legislative drafter. Imhanobe¹⁸ defines legislative drafting as a process through which a legislative drafter writes

¹⁵ Helen Xanthaki, 'Legislative Drafting: A New Sub-Discipline of Law is Born' *IALS Student Law Review* (2013) (1) (1) 57-80.

¹⁶ Ronan Cormacain, *Legislative Drafting* (Institute of Advanced Legal Studies, School of Advanced Study, University of London, 2017) 3.

¹⁷ Paul Idornigie, 'Introduction to Legislative Drafting-The Qualities, Qualifications and Roles of a Legal Draftsperson' <https://paulidornigie.org/wp-content/uploads/2021/08/Introduction-to-Legislative-Drafting-Qualities-Qualifications-etc-Updated.pdf> accessed 3 February 2025.

¹⁸ S. O. Imhanobe, *Principles of Legal and Legislative Drafting in Nigeria* (Imhanobe Law Books Limited, 2014) 184.

policies or proposals into legislative language in a parliamentary document called bill for presentation to a legislative house with the aim of being passed into some form of legislation.

2.2 Principles of Legislative Drafting

To achieve effective legislative drafting, drafters are highly advised to adhere to principles that optimise clarity, precision and inclusivity. These principles include the 7Cs of legislative drafting, gender neutral drafting and plain language drafting. Examining these principles gives a better understanding of the role they play in the creation of effective legislation that promotes equity and the rule of law.

2.2.1 The 7 Cs of Legislative Drafting

The 7Cs of legislative drafting are cardinal points that a legislative drafter must abide by to the best of his ability in drafting a bill. A good bill should possess the qualities expounded in the 7Cs to an acceptable extent. The 7Cs are; capable of being complied with; clear; comprehensible; concise; complete; consistent; and certain.¹⁹

In the actual application of the 7Cs, legislative drafters can find that they are torn between two alternatives. For instance, the drafter might be torn between making a draft concise, but risking leaving out necessary information and making a draft complete without risking verbosity. The goal is for the legislative drafter to utilise each of the principles to the best of their abilities and to the extent that the legislative draft allows.

2.2.2 Gender Neutral Drafting

Gender Neutral Style is a contemporary style of drafting where the drafter carefully uses the choice

¹⁹ Chris Michelin, 'The Seven Cs of Basic Legislative Drafting' <https://californiaglobe.com/fr/the-seven-cs-of-basic-legislative-drafting/> accessed 10 January 2025.

of nouns and pronouns which are not gender specific.²⁰ The drafter chooses words that are gender inclusive. For instance, fisher, headteacher, lessor, chairperson, draftsman, and police officer among others. The mechanism of gender-neutral drafting includes;

- i. Using plural pronouns, that is, they, them, instead of he/she, him/her.
- ii. Combining masculine and feminine forms, that is, he or she, him or her.
- iii. Using sentences in passive form.

Thornton suggested that gender-neutral drafting should become a general rule. He disagreed with the claim that the stance of gender-neutral drafting is of no fundamental importance. It is viewed as sexist and discriminatory in the international community. Also, it is considered by many to reinforce stereotypes.

2.2.3 Plain Language Drafting

Plain language has no universal definition, but descriptions that centre on the same idea. It can be described as plain language, if a drafter aims to communicate information to others via a written document, the effectiveness of that document in conveying the information to the target audience increases with the use of plain language.”²¹ This definition is broad enough to accommodate symbols and marks other than written words as information amounting to plain language. The Plain Language Association International adopts a results-focused definition of plain language. It indicates that communication is considered to be in plain language when its phrasing, arrangement, and layout are sufficiently unambiguous for the target audience to easily locate the requirement, comprehend the discovery, and utilise the information.²² It mirrors the interests and requirements

²⁰ Claribel Longjohn, ‘Gender Neutral Legislative Drafting in Nigeria’ *International Journal of Humanities and Social Sciences* (2015) (4) (3) 67-84.

²¹ S. Flammer, ‘Persuading Judges: An Empirical Analysis of Writing Style, Persuasion, and the Use of Plain English’, *J. Legal Writing Institute* (2010) (16) 185.

²² Plain Language Association International, ‘What is Plain Language’ <https://plainlanguagenetwork.org/plain-language/what-is-plain-language/> accessed on 11 January 2025.

of the reader instead of the legal, administrative, or technological interests of the writer or the organisation that the writer answers to.²³

The purpose of plain language is to improve the communication of legislation to its audience. Plain English seeks to facilitate clear communication between the legislative drafter and the target audience of the legislative text, ranging from a senior judge to an illiterate citizen.²⁴ The guidelines established in Plain English aim to render legislation comprehensible while preserving its original intent. Undoubtedly, it will not eliminate all uncertainties, but it will address unnecessary ones that hinder the clarity of the draft and complicate its readability. Consequently, it clearly outlines what actions are required and what actions are prohibited, ensuring that there is no confusion regarding the message it intends to communicate. The primary objective of the plain language drafting initiative is to create legislative documents that individuals without legal expertise can read and understand. It promotes the exclusion of jargon, redundancy, ambiguity, and obscurity. In essence, the drafters who engage in plain language drafting do so with the audience in mind.

2.3 Legislative Intent

Legislative intent refers to the purpose that the legislature had in mind when they enacted a statute.²⁵ It is articulated to be a practice used by the judiciary and lawyers to determine the legislature's objectives of passing a certain bill into law.²⁶ Issues over legislative intent arise when different interpretations of a statute could lead to conflicting outcomes. Determining the legislative intent could involve reviewing the literal meaning of a statute as well as Hansard Reports and

²³ E. Steinberg, *Plain Language: Principles and Practice* (Wayne State University Press, 1991)7.

²⁴ Helen Xanthaki (n15), 114.

²⁵ Introduction to Law and Legal Process Review, 'Key term – Legislative Intent' <https://library.fiveable.me/key-terms/introduction-law-legal-process/legislative-intent> accessed 25 July 2025.

²⁶ Ballotpedia, 'Legislative Intent' https://ballotpedia.org/Legislative_intent accessed 25 July 2025.

reports of public hearings related to the particular statute.²⁷

When there is different interpretation of legislative intent, it can lead to challenges, especially when the courts are reaching diverse conclusions about how a law should be applied. With such inconsistencies, it can result to different decisions on a particular statutory provision, prolonged litigation, complication of legal landscape and undermining of public trust in the legal system.²⁸

When a statute has little or no ambiguity or is well written, legislative intent is easily ascertained. This minimises confusion in interpretation and application. Furthermore, it facilitates more articulate judicial interpretation, enhances accountability and ensures that laws serve their intended purposes.

2.4 Judicial Interpretation

The Black's Law Dictionary characterises interpretation as both the art and the process of uncovering and determining the meaning of a statute, will, contract, or any other written document. Additionally, it can be described as the procedure governed by law and legislative intent, whereby courts examine and implement legislation to address legal matters.²⁹ Section 6 of the Constitution of the Federal Republic bestows judiciary with the exclusive preserve to interpret statutes. This can be seen in *Utih v Omoiyivwe*³⁰, the court held that its duty is limited to the search to discover the intent of the legislature.

2.5 Rules of Judicial Interpretation

Over the years, the judiciary has designed and deciphered guiding rules that would aid them while

²⁷ Ibid.

²⁸ Introduction to Law and Legal Process Review(n25).

²⁹ Ibid.

³⁰ (1991) 1 NWLR (pt 166) 166.

they discharge their duty of interpreting statutes. These rules are discussed briefly in this research work.

2.5.1 Literal Rule

This rule evolved from the *Sussex Peerage* case, in which the court determined that when the diction of the legislation is unambiguous and unequivocal, it is sufficient to interpret the words in their literal context, as the words themselves most accurately convey the lawmakers' intent.³¹ The simple presumption of this rule is that each term in legislation is employed with a specific meaning, and they are not tautologies, as it is assumed that the legislature does not say anything in vain.³²

In *Attorney General of Federation v The Guardian Newspaper Ltd*,³³ Iguh JSC stated that when the language employed or the stipulations of the section of the Law are explicit and unequivocal, they should be interpreted according to their usual meaning, unless such interpretation would result in absurdity or contradict other provisions of the specific statute. Also, in the case of *Our Line Ltd v S.C.C (Nig) Ltd*³⁴, the Supreme Court has articulated that the principle is that when interpreting a written document, one should follow the literal language of the legislation, unless doing so would result in absurdity or conflict with the remainder of the statute.

This principle asserts that the purpose of the legislature is most accurately discerned through the literal interpretation of the language employed. When the meaning of the statutory terms is clear and unequivocal, it is not the role of judges to create imagined ambiguities as a pretext for neglecting to apply its straightforward meaning, even if they believe that doing so may lead to

³¹ 8 ER 1034, 1057.

³² S. O. Imhanobe (n18).

³³ (1999) 9 NWLR (pt. 618) 264.

³⁴ (2009) JELR 47311 (SC).

undesirable, unjust, or immoral outcomes.³⁵

2.5.2 Mischief Rule

This “rule was established in *Heydon’s* case, where the judges laid down the issues that consideration should be given to. They are;

- i. What was the common law before the making of the statute?
- ii. What was the mischief and defect that gave rise to the statute?
- iii. What remedy has the parliament resolved and appointed to cure the mischief?
- iv. What is the true reason for prescribing the remedy?

This rule gives the court the authority to look beyond the ordinary meaning of the legislation in order to address the issue that the statute aims to resolve. In *Shell Petroleum Development Company of Nigeria v Isaiah*³⁶, the Supreme Court held that it is trite law to evaluate a statute in its entirety and provide an interpretation that aligns with the context of the whole statute.

2.5.3 Golden Rule

This rule evolved from the *Grey v Pearson* case, in which the court determined that the grammatically simple meaning of the language of the statute should be followed unless doing so results in absurdity, contradiction, or inconsistency with the remainder of the statute. In such instances, the meaning of the words may be adjusted to prevent disparity and contradiction, but not beyond that.³⁷ Nevertheless, the golden rule does not offer a definitive method for assessing the presence or degree of an absurdity, but appears to rely on the outcome of each individual case.

³⁵ *Duport Steel v Sirs* (1980).

³⁶ (2001) All N.L.R. 559.

³⁷ 10 ER1216.

In the case of *Bronik Motors v Wema Bank*³⁸, the issue of interpretation of the expression ‘as may be prescribed’ in Section 230(1)(a) & (b) of the 1979 Constitution of the Federal Republic of Nigeria arose and it was determined that interpreting the words” of enactment in their usual sense would lead to an unreasonable outcome, which is unlikely to align with the legislature's intent. Consequently, the secondary interpretation of the stated words could be employed. .

2.5.4 The Ejusdem Generis Rule

This rule states that when general expressions are placed after specific expressions, they should be interpreted in accordance with the specific expressions. Lord Bacon laid down a rule stating that the coupling of words together shows that they are to be understood in the same sense. The argument in support of this rule is based on the presumption which criticises surplusage of words. For instance, “Animals like dogs, pigs, goats and others are not allowed in here”. Every other animal must have common characteristics with the listed animals in *ejusdem generis*. In the case of *SS Knutsford Limited v Tillman & Co*³⁹, the enumerated words on the bill of lading were ‘war, disturbance or any other cause’. The court held that the common characteristics is that they are caused by human actions and not natural phenomenon. In *Jammal Steel Structures Limited v ACB*⁴⁰, the Supreme Court held that the ejusdem generis rule applied to the provision of a relevant section of the Federal Revenue Decree of 1973 that provides for ‘banking, foreign exchange, currency or other fiscal measures’. Interestingly, Fatayi Williams JSC in his dissenting judgment held that it did not apply because the general words take colour from the specific words and not the other way round.

³⁸ 1983 ALL NLR 227.

³⁹ (1908) 1KB 185.

⁴⁰ (1965) AC 402.

2.5.5 Purposive Approach

This is a rule of interpretation that gives effect to the general purpose of legislation. It can be said to be a reformation of the mischief rule. This rule considers legislation beyond its ordinary meaning and the context in which the words are used.⁴¹ It is a combination of the golden and literal rules. The contemporary purposive approach combines elements of both the golden and literal rules. Lord Denning asserted that the court ought not to merely express despair and enforce laws that sustain injustice. He believed that judges should interpret the laws in alignment with the legislature's intent and that any gaps should be addressed as needed.⁴²

The purposive approach rule necessitates that a court focus on the purpose of the legislation, the legislature's intent at the time of the statute's enactment, and the statute's wording itself. This rule allows judges to refer to the Hansard and accept official reports or records from the committee stage of the bill's passage to ascertain the Legislature's intentions. It can be argued that this rule dismantles barriers and promotes enhanced collaboration between the Legislature and the Judiciary. This collaboration is not founded on the principles of checks and balances; instead, it implies that the legislature should regularly update the Hansard, thereby granting judges greater access.

Lord Denning stated that their role is to ascertain the intentions of Parliament and ministers and to implement those intentions. They achieve this more effectively by addressing the gaps and clarifying the legislation through rigorous examination.⁴³ This rule of interpretation is criticised by Lord Simmons who asserted that it is a naked usurpation of the legislative function under the

⁴¹ S. O. Imhanobe (n18).

⁴² LearnNigeriaLaw, 'Statutory Interpretation' <https://www.learnnigerianlaw.com/learn/legal-system/interpretation> accessed 7 January 2025.

⁴³ *Magor and St. Mellons Rural District Council v Newport Corporation* (1950).

veiled disguise of interpretation.⁴⁴

There are arguments in favour and against the rule of the purposive approach. In *Dapianlong v Dariye*⁴⁵, the court held that the judex is better employed to put himself to the task of what the law is and not what it ought to be. A legal scholar, Chief Richard Akinjide SAN opined that judges need to use the Hansard more regularly to be able to harmonise the perception of the judiciary and the perception of public opinion.⁴⁶ In *R v Local Commissioner for Administration*⁴⁷, the Court admitted that when the words of a statute are incomprehensible, courts and practitioners look to the Hansard.

The major challenge of this approach is the difficulty to access parliamentary materials as what is published on the official website is not sufficient information. Again, if the legislative drafter does not pay attention to research before drafting, the aim of the purposive approach is inhibited or even frustrated.

2.6 Literature Review

Quite a number of articles and publications have been written on key areas of this research. Some of them are discussed below, to provide a background and perspective to this research. This will be done using the chronological approach by organising and discussing the literature based on the development of literature on the subject of research, and to identify how literature dealt with the subject over a period of time. The objective of the literature review is to critically evaluate the different scholarly opinions relevant to the subject of the study.

⁴⁴ Ibid.

⁴⁵ (2007) CLR 4(g) (SC).

⁴⁶ NOUN, 'Course Guide' <https://nou.edu.ng/coursewarecontent/LED%20714.pdf> accessed 10 January 2025.

⁴⁷ 1979 2 All ER 881.

Charles⁴⁸ posits that procedural laws should be compulsorily viewed as the conferral or creation of judicial power. Therefore, it should be constantly examined. He opines that if the procedural legislators are not constantly examined and reviewed, the procedure will become as unyielding and hostile as the old regulations which the new ones modified. He further posits that quality time must be spent catching up on the mistakes of the procedural legislation with the aim to patch up and improve the structure to prevent the system from becoming old and moribund. A reliable method to guarantee this occurs is by forming a procedural committee tasked with delivering reports at predetermined and anticipated intervals. Furthermore, such reports ought to highlight the evolving judicial trends and indicate when and how promptly reform would be required to maintain the original intent of the regulations. The article states that as a result of the wide range of interpretation context, a unified theory of statutory interpretation might be unattainable. Essentially, this article is an exposition on the peculiar problems encountered by legislative drafters and the courts in the drafting and interpretation of procedural codes respectively as against this research work which is an exposition of the relationship between legislative drafting and judicial interpretation with specific reference to Nigeria and the Electoral Act, 2022.

Reed⁴⁹ defines legislative history as the statements and significant occurrences that capture the focus of the legislation from the moment the statute is enacted. He argues that it is increasingly common for the legislative history of a statute to be taken into account during its interpretation. Additionally, he suggests that courts should give some deference to legislative history, considering it as a component of the external context surrounding the statute.

⁴⁸ Charles E. Clark, 'Special Problems in Drafting and Interpreting Procedural Codes and Rules' *Vanderbilt Law Review* (1957) (3) (3).

⁴⁹ Reed Dickerson, 'Statutory Interpretation: Dipping into Legislative History' *Hofstra Law Review* (1983) (3) (4) (2) 1125-1162.

Given that the author acknowledges the potential unreliability or inconsistent disclosure of legislative history, he aimed to ascertain whether the judicial interpretations of the statutes pose a risk of unjustly surprising the legislative audience. This article asserts that attorneys, agencies, and courts frequently utilise legislative history when interpreting statutes, as it is believed to enhance the reliability of the decisions made. In the article, the author establishes that the legislative history is a fundamental tool for judicial officers to rely on as against this research work which is an exposition of the relationship between legislative drafting and judicial interpretation with specific reference to Nigeria and the Electoral Act, 2022.

Eric⁵⁰ offers a description of legislative process and some observations about statutory interpretations. He states that its concern arose from the chasm between actual legislative process and its judicial interpretations. The author observed a defensive disrespect of the legislative supremacy and the process through which the legislature makes the law. He chucks the disrespect to the elusive nature of finding legislative intent and pointed out how unprepared and untrained the judiciary is in the art of finding legislative intent.

Furthermore, the author criticises the lack of opportunity to offer training that will improve the legislative process. This was done by using legislative instances drawn from experiences. The research also adds to the body of information vital for the education of the legal community on the legislative process and for possible change in the formulation of some theories of statutory interpretation. This article is a study of the dynamics between legislative processes involved in lawmaking and the consequent judicial interpretations. However, this research work goes a step further by considering the statutory provisions and some of the actual judicial interpretations.

⁵⁰ Eric Lane, 'Legislative Process and Its Judicial Renderings: A Study in Contrast' *Hofstra Law Faculty Scholarship* (1987) 639-661.

Earl⁵¹ posits that ascertaining the legislative intent is the touchstone of judicial interpretation. Furthermore, the intentionalist model provides a firm basis for statutory interpretation. It claims that the model preserves the basic allocation of decision-making authority that underlies legislative intentions. The intentionalist model emphasises the importance of understanding the intent behind a statute and not just its literal intent. It considers factors such as legislative history, context and purpose to inform the statutory interpretation. The article further claims that the model provides a sounder framework than the non-intentionalist approach for deciphering legislative intents. This article is a detailed exposition of the intentionalist model as an improved means of statutory interpretation while this research work is an exposition of the relationship between legislative drafting and judicial interpretation with specific reference to Nigeria and the Electoral Act, 2022. In this article, the author suggests that individuals only approach the court when the texts are unclear, contradictory, or have become so outdated that a previously distinct meaning has been obscured due to shifts in language or legal culture. Legislative history provides clues where all other avenues fail as a source of standard objection.

Daniel⁵² attempts to clarify the extent to which judges are constrained by statutory language and legislative intent. The first part of the article attempts to identify the constraint on judicial policy making by arguing that courts should only be precluded from judicial activism when statutory directive is clear. The second part attempts to demonstrate that limiting the court to statutory directives constrain judicial decisions and sometimes, have led judges to give decisions contrary to their view of public policy or in worse case scenarios, give decisions that are inconsistent with legislative provision. The third part of the article considers possible qualifications to the principle

⁵¹ Earl Maltz, 'Statutory Interpretation and Legislative Power: The Case for a Modified Intentionalist Approach' *Tulane Review* (1989) (63) (1).

⁵² Daniel A. Farber, 'Statutory Interpretation and Legislative Supremacy' *Geo L.J.* (1989) (78) (281).

of legislative supremacy. In situations where strict and unquestioning compliance with legal requirements would contradict the drafter's intention due to an unforeseen event or an erroneous judicial interpretation, it has gained independent significance as a precedent.

Daniel further contends that lawmakers typically do not wish to make the ongoing effectiveness of a statute dependent on the prevailing public sentiment. He further argues that there must be judicial respect for legislative decisions. In summary, this article expounds the principle of legislative supremacy which stipulated that judges defer to legislature in judicial review, but does not carry out comparative analysis of the relationship dynamics of the functions of the legislature and judiciary in other jurisdictions as done in this research work.

Shirley and Robert⁵³ examine the manner in which the legislature and judiciary impact each other in the processes of interpreting, applying, and amending statutes. They assess the interactions between judges and legislators aimed at enhancing statutes through judicial opinions. The article investigates whether the responsibilities of judges extend further than their published opinions to enhance the quality of legislation. It suggests that in addition to interpretation, the courts utilise their rulings to highlight deficiencies in statutes, thereby ensuring that they are more coherent and understandable. It further posits that the two arms should work more in sync to achieve a more quality legislature. This article is invaluable to the furtherance of this research work as it is an exposition on the influence which the legislature and judiciary have on each other but this research work goes a step further by carrying out comparative analysis of the relationship dynamics of the functions of the legislature and judiciary in other jurisdictions.

⁵³ Shirley S. Abraham & Robert L. Hughes, 'Shall We Dance – Steps for Legislators and Judges in Statutory Interpretation' *Minnesota Law Review* (1991) 1045-1093.

Slawson⁵⁴ posits that the usage of legislative history has chipped at the confidence that public officials and citizens have in the capacity of government to deal with problems through statute creation. He further posits that legislative history has become some sort of out for the judiciary. Hence, it enables the judiciary to avoid making difficult judicial decisions and deflecting responsibilities to the legislature. He argues that legislative history and the inability to predict how the courts and agencies would use it to strip the legislature of a great measure of their constitutionally given control. Finally, the article recommends a theory of legislation which would encompass both how legislation is produced and how its meaning should be determined as against this instant research work which is an exposition of the relationship between legislative drafting and judicial interpretation with specific reference to Nigeria and the Electoral Act, 2022.

Judge Easterbrooke⁵⁵ posits that digging out legislative history for clues to better grasp the intent of the legislative creates unwelcome changes in the way judges see the law alongside the evaluation of statutory words. He goes ahead to further describe the legislative intent as the goals, purposes, concerns of the legislature with regard to how they illuminate legislative concepts. Ultimately, he asserts that the statutory text and its structure, rather than the legislative history and intent, provide the necessary basis for understanding and interpreting the statute. In this article, Judge Easterbrooke posits that statutory interpretation through the statutory texts and structures trumps statutory interpretation using legislative history and intent while this instant research work in contrast recommends a more harmonious working relationship between the legislature and judiciary for more effective enactment and interpretation of statutes.

⁵⁴ W. David Slawson, 'Legislative History and the Need to Bring Statutory Interpretation Under the Rule of Law' *Stanford Law Review* (1992) (44) (2) 383-427.

⁵⁵ Frank H. Easterbrooke, 'Text; History and Structure in Statutory Interpretation' *Harvard Law Journal* (1994) (17) 63-74.

Esther⁵⁶ examines the use of clarity, precision, and unambiguity as essential tools for effective legislative drafting. The author evaluates the implementation of plain language drafting alongside gender-neutral drafting. Additionally, she asserts that the demographic of individuals who will read and utilise the legislation should be considered when determining the language for drafting. She further contends that the approach and style of drafting a legislative document are influenced by the principles that the readers will apply. In essence, the legal sophistication of the legislation's end users must be factored into the selection of legal terminology, particularly since drafters do not write exclusively for judges and lawyers. Consequently, due to the necessity of drafting in a manner that clearly communicates expectations, the author deems it crucial to “analyse clarity, precision, and unambiguity as vital components of effective legislative drafting. Ultimately, the author posits that clarity, precision, and unambiguity contribute to the effectiveness of legislation. Notably, she mentions that there is no hierarchy among clarity, precision, and unambiguity. Certain legislations, such as criminal laws, necessitate greater clarity, while others, like evidence laws, demand more precision. Therefore, the overarching aim is the effectiveness of the law. The article focuses on tools that facilitate effective legislative drafting; however, this research serves as an exploration of the connection between legislative drafting and judicial interpretation, specifically in the context of Nigeria and the Electoral Act of 2022.

Lisa and Abbe⁵⁷ argues that contrary to the administrative theory of some sort of dalliance between the judiciary and the legislature, such a relationship does not exist. This article focuses on the influences that are more relevant to the drafting process than most of the interpretative rules of the court. It further explores the implications of the views of the drafters of the law makers about

⁵⁶ Esther Majambere, ‘Clarity, Precision and Unambiguity: Aspects for Effective Legislative Drafting’ *Commonwealth Law Bulletin* (2011) (37) (3) 417-426.

⁵⁷ Lisa Schultz Bressman and Abbe R. Gluck, ‘Statutory Interpretation from the Inside – An Empirical Study of the Congressional Drafting, Delegation and the Courts’ *Vanderbilt Law School Faculty Publications* (2013) 725-802.

delegation to courts and agencies alongside their expectations of such dalliance between judiciary and the legislature. This article is key to the development of this research work but it does not discuss the relationship between legislative drafting and judicial interpretation with specific as is discussed in this research.

Sarah and Baribefi⁵⁸ examines historical development of legislative drafting and the interpretative law in Nigeria. The authors further analyse the application, scope and key provisions of the Interpretation Act in Nigeria and its impact on legislative drafting. Finally, the article concludes by establishing that interpretation laws in Nigeria are not as advanced as in other jurisdictions. This article is relevant to the framing of this research work but this research limits the scope of its discussion to the Electoral Act 2022.

Abubakar⁵⁹ explores the potential for achieving democratic stability in Nigeria via electoral reforms, specifically focusing on the Electoral Act 2022. The revised legislation is analysed to determine whether it offers opportunities for enhanced electoral credibility and democratic stability. Fundamentally, the paper argues that the Electoral Act can ensure greater financial autonomy for the electoral commission, INEC, tackle logistical issues, and enhance electoral integrity by legitimising the use of technology in electoral processes and activities. Nevertheless, this research serves as an examination of the connection between legislative drafting and judicial interpretation.

⁵⁸ Tebira, Sarah Hope Adanma & Tebira Baribefi Legborsi, 'Legislative Drafting and Interpretation Act' *NIALS International Journal of Legislative Drafting* (2020) 3(2)181 – 190.

⁵⁹ Abubakar Olanrewaju Sulaiman, 'Electoral Reforms and Democratic Stability in Nigeria: A Critical Review of the 2022 Electoral Act' *NILDS Journal of Democratic Studies* (2022) (2) (2)1-28.

Obiaraeri⁶⁰ highlights that, in contrast to the repealed Electoral Act 2010, the Electoral Act 2022 does not acknowledge unlawful exclusion as a basis for an election petition. The author emphasizes that the new procedures implemented to protect parties and candidates from unlawful exclusion during elections are not entirely reliable. This is due to poorly written provision in Section 42 of the Electoral Act 2022, which are vague and susceptible to misinterpretation. Furthermore, the article contends that the issue of unlawful exclusion has not been adequately addressed and suggests that, to eliminate the concern of unlawful exclusion, specific offenses related to unlawful exclusion should be established, and the authority to annul an election should be granted to INEC in cases of proven unlawful exclusion. In essence, this article discusses the omission of unlawful exclusion as a ground for election petitions in the Electoral Act and is crucial to the advancement of this research work; however, this research work serves as an exploration of the connection between legislative drafting and judicial interpretation of certain provisions of the Electoral Act 2022.

Anna⁶¹ argues that there are two kinds of ambiguity; accidental ambiguity and deliberate ambiguity. The accidental ambiguity is as a result of carelessness while the deliberate ambiguity is an intentional act of the legislator. The work attempts to describe the relationship between language and the law, causes and effects of bad drafting, the relevance of drafting, the underlying principles of good drafting, types of drafting ambiguities and possible ways to apply them to legislative drafting. It finds that the draftsman should be an expert in the law and linguistics. Furthermore, it recommends that the draftsman should use a combination of micro-linguistic and

⁶⁰ N. O. Obiaraeri, 'Section 42 of the Electoral Act, 2022 and the Lurking Ghost of Unlawful Exclusion- A Critique' *African Journals Online* (2023) <<https://www.ajol.info/index.php/nba/article/view/254204/240193>> accessed 23 November 2024.

⁶¹ Anna Napolitano, 'Drafting and Interpretation' https://dlwqtxtslxzle7.cloudfront.net/44045037/Drafting_and_Interpretation-libre.pdf? accessed 15 November 2024.

macro-linguistic approach which meant an analysis of the language of drafting alongside comparative legal linguistics”. The article concentrates on describing the relationship between linguistics and the law while this research work is an exposition on the relationship between legislative drafting and judicial interpretation with specific reference to Nigeria and the Electoral Act 2022.

2.7 Theoretical Framework

Legislative drafting as an area of interest in law draws from the various schools of law. It engages the various jurisprudences of the schools of law and reflects them in the drafting of the various statutes and laws. Natural law argues that laws should mirror moral principles and promote the common good. In contrast, Positivists, like John Austin and H.L.A Hart emphasise the relevance of clarity, precision, and simplicity in drafting laws, distinguishing law from morality. The proponents of the Realist school focus on the socio-economic perspective of law, advocating for legislative drafting that considers the practical consequences of legislation. These schools of thought influence the practice and principles of legislative drafting and guide legislative drafters to create laws that are well-aligned with the expected drafting standard. These schools of thought are discussed in this research work.

2.7.1 The Natural School

This school of thought asserts that “a universal law exists, originating from a supernatural entity, which can be uncovered by rational thought. It is derived from the belief that nature embodies perfection, and that humans ought to align their behaviour with it to discern between good and evil. The moral or ethical framework primarily concentrates on the relationship between law and the fundamental principles that the law aims to achieve. It endeavours to investigate the rationale

behind the establishment of a particular law. Its historical or intellectual context is not linked to this framework.⁶² Scholars in this school of thought range from Thomas Aquinas, Socrates, Aristotle, Cicero, John Finn, and St. Augustine, among others. As per Thomas Aquinas, law is defined as a rational ordinance aimed at the common good, established by God who is concerned for the community. He further claimed that the illumination of reason is naturally granted by nature, and thus by God, to each person to guide him in his conduct.⁶³

Nonetheless, this perspective faces criticism due to the fact that the majority of its principles or assertions lack empirical methods for evaluation. The natural laws are not formally documented and cannot be cited for proper application. Additionally, it has been contended that the metaphysical nature of natural law hinders its broad acceptance among the atheistic population.

2.7.2 The Positivist School

This school upholds a formalised, static, or mathematical interpretation of law. They assert that law is established by a sovereign, who is regarded as the sole source of its legitimacy. The sovereign enforces both the law and penalties upon the people while staying above the law. It is assumed that whenever the sovereign or singular authority enacts a rule or law, it is irrelevant whether the law reflects the interests of the populace or not; whether it is moral or not.⁶⁴ Some of

⁶² Shankar Prasad, 'Schools of Jurisprudence: A Critical Study' *Journal of Emerging Technologies and Innovative Research (JETIR)* (2019) (6) (3).

⁶³ C.C. Chisom and O. Oguguwa, 'The Supremacy of The Realist School of Thought Vis a Vis Other Schools of Thought as it Relates to The Nigerian Legal System' <https://bscholarly.com/schools-of-thought-in-law/> accessed 7 December 2024.

⁶⁴ Brian Leiter, 'The Radicalism of Legal Positivism' https://www.researchgate.net/publication/228257805_The_Radicalism_of_Legal_Positivism accessed 7 January 2025.

the proponents of this school of thought are John Austin, Hans Kelsen, and H.L.A Hart, amongst others.⁶⁵

The positive school has faced criticism due to the fact that a law opposing the will of the populace can lead to dictatorship, ultimately culminating in civil disobedience or revolution.

2.7.3 The Sociological School

This school of thought asserts that law ought to be created or examined considering its impact on society. One of its prominent scholars, Roscoe Pound, suggested that law should be both functional and liberal, meaning it must always be prepared to adapt to societal progress and transformations.⁶⁶ It further asserts that the law ought not to be merely a systematic or formalised rule imposed upon individuals.

This school has been criticised for lacking a robust mechanism that subjects its laws to the will of the people.; instead, individuals should be directed by laws in their conduct. Furthermore, there are no established methods for assessing the societal trends of activities at any given moment due to the typical variance in interest.⁶⁷

2.7.4 The Realist School

Realism is a legal movement that emerged in the United States of America, asserting that law should be understood as it exists or as it is practised in the courtroom, rather than how it should be or any other perspective.⁶⁸ They assert that the events occurring in the courtroom, as well as the

⁶⁵ Ibid.

⁶⁶ Chisom and Oguguwa (n63).

⁶⁷ Ibid.

⁶⁸ Brian Leiter, 'Naturalising Jurisprudence: Essays on American Legal Realism and Naturalism in Legal Philosophy' (2010).

https://www.researchgate.net/publication/289170123_Naturalizing_Jurisprudence_Essays_on_American_Legal_Realism_and_Naturalism_in_Legal_Philosophy accessed 8 January 2025.

actions taken by judges to reach their decisions, constitute the law. In essence, the law is defined by the pronouncements of the courts. This perspective was primarily championed by notable figures such as Oliver Wendell Holmes, Jerome Frank, and Karl Llewellyn, among others.⁶⁹ They firmly believe that law is merely the result of events that transpire in the courtroom. They distance themselves from the perspective that law constitutes a set of formal regulations that are explicitly articulated and must be adhered to.

2.8 Theories of Interpretation of Statutes

Theories of interpretation of statutes play a fundamental role in shaping the conceptualisation and application of statutes. These theories provide a fulcrum for judges, lawyers and policymakers to understand and interpret the law while applying it in a fair and just manner. With time and practice, various theories have emerged with their arguments, strengths and weaknesses. The theories are examined in this research”.

2.8.1 Textualism

The fundamental idea of textualism is that the legal effect of a statute should align with the linguistic meaning of the statute. That means that the court ought not to interpret and apply a law in isolation of the language of the statute.⁷⁰

Nevertheless, the problem with this approach is that linguistic interpretation does not consider the contextual application of statutes. This presents a challenge, as the absence of contextual analysis

⁶⁹ Ibid.

⁷⁰ Lawrence B. Solum, ‘Legal Theory Lexicon: Theories of Statutory Interpretation and Construction’ <https://lsolum.typepad.com/legaltheory/2018/12/legal-theory-lexicon-theories-of-statutory-interpretation-and-construction.html> accessed 3 February 2025.

can lead to ambiguity in certain statutes. For instance, understanding the context is essential to ascertain whether a statute that governs banks pertains to riverbanks or financial institutions.

When the statutory language is unambiguous, advocates of textualism resist the temptation to resort to alternative theories that might modify the text's meaning, even in cases where there are discrepancies between the textual interpretation and the legislative intent.⁷¹ They further contend that even if judges were able to discern the law-making intentions of the legislature, such intentions should not be regarded as legally recognisable. This is because it is the public meaning of a text, rather than the private intent behind it, that should dictate the legal obligations of the public to the statute.⁷²

2.8.2 Purposivism

Purposivism denotes the method of statutory interpretation which asserts that the legal implications of a statute ought to be ascertained based on the statute's intended purpose. In other words, statutes should be construed to reflect their reasonable meaning, even when such meaning deviates from the literal interpretation of the text or the personal intentions of the lawmakers involved. Purposivism represents an objective methodology that emphasizes an investigation into the objectives that a hypothetical legislature would have pursued had it enacted the statute with the aim of promoting the public good.⁷³

As defined by “the Merriam-Webster Dictionary, purposivism encompasses various theories concerning nature or the behaviour of humans and animals that consider purpose or conscious

⁷¹ Ibid.

⁷² Jamie Blaker, ‘Is Intentionalist Theory Indispensable to Statutory Interpretation?’ *Monash University Law Review* (2017) (43)(1) 239-273.

⁷³ Ibid.

intent as a fundamental reality.⁷⁴ According to purposivism, the judiciary decides what purpose should be attributed to a statute and its provisions.⁷⁵ In the context of purposivism, the purpose of a statute takes precedence over the literal meaning of the words used.⁷⁶ Purposivism has been criticised for being broad making it difficult to articulate a definitive purpose of a statute.⁷⁷

2.8.3 Intentionalism

Intentionalism focuses on the intentions of the legislature.⁷⁸ This theory maintains that the legislature's intentions should be prioritised and considered during statutory interpretation. Blaker opines that the legislature's subjective law-making intentions determine the laws of statutes.⁷⁹ Intentionalism posits that the fundamental use of legal interpretation is to decipher the intentions of the legislation.⁸⁰ In this theory, the text serves as a crucial guide for understanding the intentions of the bill sponsors. The advocates of this theory seek to formulate the statute in a manner that corresponds with the legislative intent behind its enactment. Intentions are cognitive states; however, the legislative drafters and the legislature responsible for drafting and enacting statutes may possess varying intentions that are pertinent to the interpretation and construction of the statute. These intentions can be either communicative or subjective.⁸¹

Communicative intentions expound that the content that the legislature puts in the statutes is what the intended reader is required to grasp. If the drafters of the statute used words in their usual sense,

⁷⁴ Purposivism, Merriam-Webster Dictionary <https://www.merriamwebster.com/dictionary/purposivism#> accessed 3 February 2025.

⁷⁵ Mark Greenberg, 'Legal Interpretations, Stanford Encyclopaedia of Philosophy' <https://plato.stanford.edu/entries/legal-interpretation/> (2021) accessed 3 February 2025.

⁷⁶ Ibid.

⁷⁷ Lawrence B. Solum (n70).

⁷⁸ Ibid.

⁷⁹ Jamie Blaker (n72).

⁸⁰ Ibid.

⁸¹ Lawrence B. Solum (n70).

it can be said that the communicative intentions of the legislature would be quite akin to the literal meaning of the statutory wording

Concerning the subjective intention, the legislature may aim for a statute to yield specific effects, fulfill particular purposes, attain certain goals, or be implemented in designated manners. These subjective intentions may be evident in the legislative history of a statute and utilised to inform the process of statutory interpretation. This would influence the legal implications that the courts will assign to the statute. While textualism emphasises the significance of the text itself, intentionalism theory gives precedence to legislative history. This is evident in instances where the legislative history offers clear proof of the effects, purposes, goals, or applications that the legislature intended. This theory has faced criticism for rendering statutes excessively subjective, as it ultimately relies on the court's interpretation of the legislature's intentions.⁸²

This research inclines towards the intentionalist approach of statutory interpretation because it opines that an examination of the legislative history of the Electoral Act, 2022, which includes the Hansard Reports of the two Houses that make up the National Assembly, would enable a firm grasp of the nuanced intentions of the legislature in enacting the aforementioned statute. It is opined that a firm grasp of the legislative intent would play a fundamental responsibility in guiding the statutory interpretation. This is because the judiciary, which is the interpreter would have a better perspective of the meaning and purpose of the legislation.

It is opined that the objective of statutory interpretation is to give life to the legislative intent, ensuring that the legislation is interpreted and enforced in ways that align with the legislative intent of enacting the statute. The last general elections in 2023 gave way to a plethora of election

⁸² Jamie Blaker (n72).

petitions at the courts. Majority of these petitions were dismissed because of inability of the petitioners to successfully discharge the burden of proof”.⁸³ In other words, evidence tendered by the petitioners did not satisfy the standard of proof to prove the claimed grounds of the petitions. Armed with the knowledge that the laws are made for the best interest of the people and government; this study seeks to understand whether the strict standard of proof was what the legislature intended.

⁸³ PLAC (n4).

CHAPTER 3:

INNOVATIONS IN THE ELECTORAL ACT 2022 AND SOME JUDICIAL INTERPRETATIONS

This chapter discussed provisions of the Electoral Act that are relevant to the research discourse, debate proceedings of the bill passage of the Electoral Act from the both chambers of the National Assembly, some election petition judgments from the 2023 general elections, and the juxtaposition of the legislative intent and the judicial interpretation with reference to the Electoral Act 2022.

3.1 Relevant Provisions of the Electoral Act, 2022

The innovations in the Electoral Act, 2022 were far-reaching, to include election administration, and election process, the use of technology, conduct of political parties' congresses and conventions, the requirements for registering political parties, requirements for filing election petitions, timelines for electoral processes, and the inclusion of people living with disability, amongst others.

For this research work, we will focus on the new and amended provisions related to election administration, the election process to include the use of technology, conduct of political parties' congresses and conventions, requirements for filing election petitions, timelines for different electoral processes and the inclusion of people living with disability. This is because prior to the election petitions in 2023, these provisions had not been subjected to judicial interpretations.

3.1.1 Election Administration

The Electoral Act 2022 stipulates that all financial resources necessary for a general election must be disbursed no later than one year prior to the general elections.⁸⁴ This is to improve the efficiency

⁸⁴ Section 3(3) of the Electoral Act.

of the preparation of the INEC for elections and enable it to procure necessary election material early enough.

The Act stipulates that INEC is required to provide notice of the election no later than 360 days prior to the election date⁸⁵ and political parties must submit the list of their candidates to INEC not later than 180 days before the election.⁸⁶ Furthermore, the candidates of the political parties must have won at their political party primaries, not later than 180 days (6 months) before the election. INEC is also required to suspend and reschedule an election if there is a serious disruption or a threat to peace and security of electoral officers and materials, making it impossible to continue with the election.⁸⁷ The Act also provides for the electronic accreditation of voters utilising Smart Card Readers or any other technical tools identified by INEC.⁸⁸ Furthermore, INEC is empowered to dictate the mode of transmitting poll results.⁸⁹

A key provision of the Electoral Act, 2022 prohibits any political appointee from serving as a voting delegate or being eligible for election at a party's convention or congress for candidate nominations.⁹⁰ In simpler terms, this provision stipulates that ministers, commissioners, special advisers, and personal assistant, amongst others, are prevented from being delegates or candidates in a political party's primaries. This provision was contested in court and the court referenced 4 sections of the Constitution which already addressed how political appointees and persons engaged in public service can contest elections in Nigeria. All of them provide that such a person must resign from the office no fewer than 30 days ahead of the election date.⁹¹ The only way such a

⁸⁵ Ibid., Section 28(1).

⁸⁶ Ibid., Section 29(1).

⁸⁷ Ibid., Section 24(3).

⁸⁸ Ibid., Section 47(2).

⁸⁹ Ibid., Section 50(2).

⁹⁰ Ibid., Section 84(12).

⁹¹ The CFRN, Sections 66(1)(f), 107(1)(f), 137(1)(g), 182(1)(g).

person can be a voting delegate or candidate at the political party's convention or congress is by resigning from the political appointment or position of public service before the party primaries which are stipulated to be held at least 180 days before the date of the general elections.⁹² In light of all the provisions, the political appointee or public servant should resign 180 days, that is, 6 months before the general elections to meet up with the political party's primary's eligibility requirement and that of the general elections.

In the event of the death of a nominated candidate after the nomination paper has been delivered, not before the commencement of the election, INEC must appoint another convenient date for the election within 14 days.⁹³ The Act further states that if a candidate becomes deceased after an election begins, but prior to the announcement of the poll result and winner, INEC shall defer the election for 21 days at most.⁹⁴ Should a candidate pass away during an election for the legislature, a new election process will commence. The political party representing the dead candidate must organise a new primary within 14 days of the death and provide INEC with the name of the replacement candidate.⁹⁵ If the deceased candidate was contesting for presidential, gubernatorial or Federal Capital Territory Area Council election, their running mate shall continue with the election and nominate a new running mate.⁹⁶

The Act grants authority to the collating officers and returning officers to utilise the count of accredited voters and the votes that are recorded and transmitted directly from Polling Units (PUs) for the purpose of collating and announcing results.⁹⁷ To assess instances of overvoting, INEC will

⁹² (n3), Section 29(1).

⁹³ Ibid., Section 24(1).

⁹⁴ Ibid., Section 24(3)(a).

⁹⁵ Ibid., Section 24(3)(b).

⁹⁶ Ibid.

⁹⁷ Ibid., Section 64(4-5).

rely on the number of accredited voters.⁹⁸

The Act explicitly indicates that any election conducted without the prior documentation of the quantity, serial numbers, and other critical information regarding results sheets, ballot papers, and other sensitive electoral materials in the formats specified by INEC will be deemed invalid. A Presiding Officer found in violation of this requirement will be prosecuted and, if convicted, may be fined N10 million or sentenced to at least one year in prison, or both.⁹⁹

The Act empowered INEC to review the declaration of election results where it determines it was not made voluntarily or contrary to the law, guidelines, or manual, within 7 days.¹⁰⁰ However, a relevant party can commence a petition to subject INEC's decision to judicial review.¹⁰¹

3.1.2 Election Process to Include the Use of Technology

The Act mandates INEC to compile, maintain, and update the National Electronic Register of Election Results which shall be accessible to any person or political party.¹⁰² Furthermore, the Act gives INEC the option to use an electronic voting system¹⁰³ and an electronic system of transmission of results.¹⁰⁴

3.1.3 Manner Which Political Parties Carry Out Their Congresses and Conventions

According to the Electoral Act, 2022, it is obligatory for every registered political party to maintain a membership register in both hard and electronic copies, which must be provided to the Commission at most 30 days, before the scheduled primaries, congress, or convention.¹⁰⁵ It is

⁹⁸ Ibid., Section 51(2).

⁹⁹ Ibid., Section 73(2-3).

¹⁰⁰ Ibid., Section 65(1).

¹⁰¹ Ibid., Section 65(2).

¹⁰² Ibid., Section 62.

¹⁰³ Ibid., Section 41(1).

¹⁰⁴ Ibid., Section 60(5).

¹⁰⁵ Ibid., Section 77.

stipulated that a political parties must tender the list of candidates who emerged from valid primaries, conducted by political parties, no later than 180 days before the election date.¹⁰⁶ Moreover, it is imperative for political parties to notify INEC at least 21 days in advance of their congress, convention, or merger meeting; if this notice is not given, the event will be deemed invalid, and INEC may attend party congresses and conventions without notifying the parties.¹⁰⁷

The political parties have the authority to determine whether candidates are selected via direct primaries, indirect primaries, or consensus. According to Section 84(2) of the Act, if a political party opts for consensus candidates, it must adhere to established rules.¹⁰⁸ A political party is prohibited from altering or replacing candidates unless the candidate dies or withdraws.¹⁰⁹

In the event that a political party does not follow the regulations outlined in the Act during the conduct of primaries, the candidate emerging from those primaries will not be eligible to participate in that election.¹¹⁰ Political parties must initiate their processes 150 days ahead of the polling day and finalise them 24 hours prior to the election.¹¹¹ Additionally, they are obligated to submit the names of their polling agents to INEC at least 14 days before the election, and no individual in a political office at any level of government may serve as a polling agent unless they have resigned from their role at least 3 months in advance of the election.¹¹²

In the event that a political party's candidate name is missing from the list released by INEC, the party must inform INEC in writing about the omission at least 90 days prior to the election. This notification should be endorsed by both the National Chairman and the Secretary of the concerned

¹⁰⁶ Ibid., Section 29(1).

¹⁰⁷ Ibid., Section 82(1&5).

¹⁰⁸ Ibid., Section 84(9).

¹⁰⁹ Ibid., Sections 31, 32.

¹¹⁰ Ibid., Section 84(13).

¹¹¹ Ibid., Section 94(1).

¹¹² Ibid., Section 43.

party, accompanied by an affidavit. Neglecting to do so will not serve as a basis for nullifying the election.¹¹³ Additionally, a political party is required to confirm its identity on sample ballot papers within 2 days following the inspection.¹¹⁴

3.1.4 Requirements for Filing Election Petitions and Timelines for Different Electoral Processes

The Electoral Act of 2022 mandates that organisations seeking registration as political parties must submit their applications to INEC no later than 12 months¹¹⁵ prior to an election, a significant change from the previous requirement of 6 months outlined in the old Act¹¹⁶. Where the organisation fulfils the necessary criteria for registration, INEC is obligated to process their application and complete the registration within 60 days¹¹⁷ as opposed to the 30 days¹¹⁸ specified in the old Act. If INEC fail to register the organisation within this timeframe, the organisation will automatically be considered registered unless INEC provides a contrary notification.

In instances where an association does not fulfil the stipulated criteria, the Independent National Electoral Commission (INEC) is obligated to notify the association within 90 days¹¹⁹ from the application date regarding their non-registration and the rationale behind it, a significant extension from the previous 30-day¹²⁰ requirement established by the former Act. The revised Act further allows associations to contest INEC's non-registration decision by appealing to a Federal High Court within 14 days of receiving the rejection notice from INEC.¹²¹

¹¹³ Ibid., Section 32(2).

¹¹⁴ Ibid., Section 42.

¹¹⁵ Ibid., Section 75(1).

¹¹⁶ The Electoral Act 2010, Section 78(1).

¹¹⁷ (n3), Section 75(4).

¹¹⁸ (n116), Section 78(4).

¹¹⁹ (n3), Section 75(3).

¹²⁰ Ibid., Section 78(3).

¹²¹ (n3), Section 76.

3.1.5 The Inclusion of People Living with Disability

The recent Act stipulates that INEC proffers tailored assistance to individuals with disabilities at polling locations by ensuring the availability of appropriation communication methods, including braille, large print, electronic devices, sign language interpretation, or, when necessary, off-site voting.¹²² This is to improve the inclusion of people living with disabilities in the national elections.

3.2 Hansard Report of the Legislative Proceedings for the Amendment of the Electoral Act, 2022

The Hansard report can simply be defined as the published transcripts of proceedings of elected lawmakers in their legislative capacity.¹²³ Over the years, it has grown in popularity to become one of the extrinsic aids of interpretation. In other words, debate proceedings of the legislature are encapsulated in what makes up the Hansard report. In the landmark case of *Pepper v Hart*¹²⁴, the House of Lords established the principle making it possible to refer to the statements made in the House of Commons or the House of the Lords, when the primary legislation is ambiguous. This is in a bid to interpret the meaning of the legislation accurately. Lord Griffiths stated that the Courts no longer adopt a strict constructionist interpretation that limits them to the literal meaning of the language.¹²⁵ He further stated that the courts would now adopt a purposive approach, which would seek to give effect to the purpose of the statute and look into extraneous materials that address the background against which the statute was enacted.¹²⁶ Finally, he declared that there was no reason

¹²² Ibid., Sections 9(1)(b), 54(1-2).

¹²³ JJ Magyar, 'The Evolution of Hansard Use' *Statute Law Review* (2012) 33 pp 363-389.

¹²⁴ [1993] AC 593.

¹²⁵ Ibid.

¹²⁶ Ibid.

to cut the judiciary off from the one source in which may be found an authoritative statement of the intention with which the statute was placed before the parliament.¹²⁷

This research will focus on the Hansard records from both houses of the National Assembly concerning the bill to amend the Electoral Act of 2010. This is significant because this bill became the Electoral Act of 2022.

3.2.1 Examination of the Debate Proceedings of the Senate House on the Bill Seeking to Amend the Electoral Act, 2010

After a bill scales the first reading, the clauses contained in the bill are debated by the members of the legislature at the second reading. After this stage, the bill is referred to the committee. However, it was discovered that the aforementioned bill was not debated at the second reading. The amendment of the Electoral Act 2010 was debated by the Senate after it had gone through the committee stage. Clauses that were debated by the Senate are discussed.

Clause 23 (Criminalisation of Buying and Selling Voter's Cards)

Some of the lawmakers debated on the deletion or otherwise of subclause (a), which criminalised the possession of other people's voter cards. Some opined that the whole clause be deleted, while some opined that just subclause (a) be deleted. The Chairman pointed out that the Committee recommended against it.¹²⁸ This is currently Section 22 of the Electoral Act 2022.

Clause 30 (Notice of Election)

Sen. Henry Gershom Bassey opined that the proposed 180 days in which a political party has to submit their candidates to INEC was too much and should be changed back to 60 days as

¹²⁷ Ibid.

¹²⁸ National Assembly Senate Debate on Electoral (Act) Amendment Bill 2021 (SB. 680) presented by Senator Basiru Surajudeen Ajibola (Osun Central) on 15 July 2021.

previously provided by the Electoral Act, 2010.¹²⁹ Sen. Alkali Saidu Ahmed further opined that it be changed to 120 days. On the contrary, Sen. Aliyu Sabi Abdullahi pointed out the difficulty encountered by aspirants in their pre-election matters concerning time and insisted that the 180 days stand. This proposition was seconded by Sen. Emmanuel Bwacha. The Senate President asked for the propositions to be put to vote.¹³⁰ This is currently Section 30 of the Electoral Act 2022.

Clause 43 (Ballot boxes and Voting Devices)

As regards expanding the scope of mode of conducting elections to include electronic voting, Sen. Ibrahim Hassan Hadejia proposed that to accommodate the possibility of the use electronic device for electronic voting, that ‘forms or devices’ should be used in all parts of the clause to accommodate such possibility. The proposed amendment was put to vote and was adopted.¹³¹ This is currently Section 41 of the Electoral Act 2022.

Concerning clause 43(5), Senator Basiru suggested that the observations permitted for polling agents during elections should be broadened beyond merely electoral materials. He proposed that the wording be amended to allow polling agents present at the polls to examine the original electoral materials, as well as the identification and accreditation processes of potential voters, with the possibility of documenting these observations as evidence. Nevertheless, this proposal was subjected to a vote and ultimately did not stand.¹³²

Clause 45 (Polling Agents)

Sen. Basiru proposed that Clause 45(1) should be amended to state that the Commission and its officers shall keep details and photographs of the polling agents confidential from other political

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

parties until after the election. It was put to vote and negatived.¹³³ This is currently Section 43 of the Electoral Act 2022.

Clause 52 (Conduct of Poll by Open Secret Ballot)

Senator Abdullahi Sabi proposed an amendment to Clause 52(3) to clarify that the Commission may consider the electronic transmission of results, provided that the National Network Coverage is assessed as adequate and secure by the National Communication Commission and sanctioned by the National Assembly, in contrast to the existing provision that permits the Commission to transmit election results electronically when it is practical to do so. Sen. Ali Ndume reluctantly seconded on the basis that electronic transmission would not be feasible in his area at the moment. The amendment was put to vote and sustained.¹³⁴ This is currently Section 50 of the Electoral Act 2022 (as amended). In the particular section, it states that voting at an election and transmission of results under this Act shall be by the procedure determined by the Commission. This does not reflect the recommendation proffered by some of the members of the Senate on this particular issue. The section which should have been a game changer in the electoral process was made discretionary giving INEC the power to decide not to embrace the change and be accountable to it. An observer opined that till electronic transmission of election is made compulsory, election credibility would continue to elude the electoral process.¹³⁵ While there are aspects of truth in the claim, it is not considered that the electronic transmission of election results serves as a panacea for the irregularities in the electoral process. Ultimately, electronic systems are susceptible to

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Sylvester Udemezue, 'How Nigerian's National Assembly Can Make the Electoral Act/System Impregnable on Electric Transmission to Prevent Fraud During Election Result Collation' https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4929155 accessed 7 February 2025.

hacking or manipulation, although the likelihood of such occurrences is significantly lower compared to non-electronic methods.¹³⁶

Sen. Albert Akpan further proposed an amendment to Clause 52(3) that makes transmission through electronic means by the Commission mandatory and not discretionary. This would be done by changing the word ‘may’ to ‘shall’. It was put to the vote and negatived.

Sen. Enyinnaya Abaribe claimed a point of order asking for a division as regards the amendment proposed by Sen. Albert Akpan. Hence, the Senators voted individually to the amendment proposed by Sen. Albert Akpan. Sen. Opeyemi Bamidele buttressed that the Senators were not averse to the possibility of electronic transmission but did not want to make provisions that would disenfranchise some communities in Nigeria.¹³⁷ Sen. Albert Akpan’s proposed amendment was put to individual vote as a result of the claim of division by Sen. Abaribe. At the end of the voting process, 28 senators voted in favour of the proposed amendment. 52 senators voted against it while 28 Senators were absent. Hence, the proposed amendment by Sen. Albert was discountenanced.

¹³⁸Regardless of the several benefits foreseen from making electronic transmission compulsory, the peculiarities of the country should be put into consideration. Just as Sen. Abdullahi earlier pointed out, there are some parts of the country where the national network coverage does not adequately cover. Hence, there is little or no network coverage in those areas of the country which would be counterproductive to the possibility of electronic transmission of electoral results in such areas. For there to be a possibility of total and compulsory automation of the electoral process in Nigeria, the issue of poor national network coverage should be addressed to ensure that when

¹³⁶ Inwalomhe David, ‘2023: Hackers and Electronic Transmission of Elections Result’ Punch Newspaper (2023) <https://punchng.com/2023-hackers-and-electronic-transmission-of-elections-result/> accessed 8 February 2025.

¹³⁷ National Assembly Senate Debate (n128).

¹³⁸ Ibid.

compulsory electronic transmission becomes law, it does not work against some parts of the country. It is opined that the country should be geared gradually but certainly towards the goal of making electronic transmission of election results in all areas of the country feasible by the provision of adequate national network coverage.

Clause 53 (Overvoting)

Sen. Abiodun Olujimi observed that there was a discrepancy between Clause 53(2) and 53(3). Subclause 2 provided that where the number of votes cast at an election in any polling unit exceeds the number of accredited voters in that polling unit, the Presiding Officer shall cancel the result of the election in that polling unit; and subclause 3 provided that where the result of an election is cancelled in accordance with subsection 2, there shall be no return for the election until another poll has taken place in the affected polling unit. He proposed that subclause 3 be expunged to avoid hiding under the guise of overvoting to initiate re-elections. The proposed amendment was put to vote and negatived.¹³⁹ Further in the course of the debate proceedings, Sen. Smart Adeyemi attempted to draw attention back to Clause 53 to highlight something, but the Chairman of the Committee refused, citing that there has even been a division and a lot of time has been spent already in the debate proceedings¹⁴⁰ This is currently Section 51 of the Electoral Act 2022.

Clause 63 (Counting of Votes and Forms)

Sen. Smart Adeyemi proposed that the fine for presiding officers who breach their duty be increased from ₦100,000 to ₦500,000 and the proposed amendment was adopted.¹⁴¹ He reasoned that the position of the presiding officer was fundamental to the success of an election, hence, the

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

fine should mirror the kind of damage that the breach of such duty would cause an election. This is currently the Section 60(6) of the Electoral Act 2022.

Clause 76 (Forms for Use at Elections)

Again, Sen. Smart Adeyemi proposed to amend the fine amount of a presiding officer who breached the duty of signing a result that breached the provision from ₦200,000 to ₦ 1 million. The proposed amendment was adopted. This provision is contained in Section 73(3) of the Electoral Act 2022, but the fine is 10 million naira.

Eventually, the bill was transmitted to the President for assent in December 2018, but he had reservations about some provisions of the bill.¹⁴² Hence, he refused to give his assent. The bill was recommitted to the Senate for further consideration of the provisions that the President had reservations about. The clauses that needed fresh legislative actions were Clauses 43(Ballot boxes and Voting Devices), 52(Conduct of Poll by Open Secret Ballot), 57(Personal Attendance), 63(Counting of Votes and Forms) and Clause 87(Indirect Primaries). The recommitment was held on 12 October 2021.¹⁴³

Sen. Smart Adeyemi was opposed to the inclusion of the option of direct primaries. He argued that direct primaries should not be applicable in Nigeria because considerable members of the party are illiterates, especially in rural areas. He further added that it is cheaper and less cumbersome to have indirect primary elections.¹⁴⁴

Sen. Mohammed Aliero argued for direct primaries. He said it would be a move that would strengthen and deepen democracy, improve the transparency of the electoral process, while

¹⁴² National Assembly, 'The Ninth National Assembly and Electoral Act 2022' <https://nass.gov.ng/news/item/1620> accessed 20 March 2025.

¹⁴³ Re-Committal of some Clauses of the Electoral Act No. 6, 2010 (Repeal & Re-enactment) Bill, 2021.

¹⁴⁴ Ibid.

enhancing democracy in Nigeria. He further argued that direct primaries would enable individuals who have the heart to serve the people will stand a chance of getting elected. Sen. Michael Opeyemi Bamidele, arguing for direct primaries, noted that it would give power back to the people. Sen. Abdulfatai Buhari opined that the party members would be satisfied that they elected their choice aspirants, evoking a sense of relevance in the party members. Sen. Enyinnaya Abaribe opined that parties should be allowed to do the primaries in the way that suits them. The clause was resolved into the committee for consideration.¹⁴⁵

With regard to Clause 52, Sen. Ike Ekweremadu opined that the expression ‘which may include electronic voting’, which was added to the clause, was completely unnecessary and made for inelegant legislative drafting. Sen. Abdullahi seconded the motion, opining that it is a tautology because power has already been given and should not be given in surplus, as it does not add anything to the intendment of the legislation. The amendment was put to vote and agreed to.¹⁴⁶

Sen. Ike Ekweremadu proposed an amendment to Clause 87(1) so that presidential primaries would be staggered across regions of the country and not take place in one day. The amendment was put to vote and negatived.¹⁴⁷

The bill was passed and forwarded to the President for assent. Once again, the President withheld assent based on a reservation on Clause 84 of the bill. This was as a result of a slight difference in the version of the Senate and the House of Representatives. The House of Representatives had provided only for direct and indirect primaries, while the Senate had provided for direct primaries,

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

indirect primaries and consensus candidates. In the re-committal proceedings, the two Chambers harmonised the versions of the bill and forwarded it again to the President for assent.

3.2.2 Examination of the Debate Proceedings of the House of Representatives on the Bill Seeking to Amend the Electoral Act, 2010

The second reading of the Electoral Act (Amendment) Bill in the House of Representatives held on 24 November 2020. Hon. Dukku Aishatu Jubril commenced the debate by stating thus;

Mr. Speaker, it has become imperative to amend this Bill due to the deficiencies identified within our electoral system. The experiences we have encountered since 1999 clearly demonstrate a significant link between a robust electoral legal framework and the execution of elections that are free, fair, and credible. Indeed, the necessity for amendments to our electoral laws has been recognized as a priority by the National Assembly, particularly during the 9th Assembly. It is essential to build upon the progress we have made in our democratic journey while also addressing the gaps present in our electoral legal framework. A pertinent illustration of this is the Kogi State Governorship Election in 2015, where a prominent candidate passed away after the polls had begun but prior to the announcement of the results.¹⁴⁸ There are significant concerns regarding the necessity for a well-defined legal framework on various issues prior to the 2023 elections. These issues encompass the implementation of technological tools such as the Card Reader and Electronic Voting System, the criteria for candidate substitution, the requirement to disclose the sources of funds contributed to political parties, the process for replacing lost or destroyed Permanent Voter Cards, penalties for possessing fraudulent voter cards, and the stipulation that primary election dates must occur no earlier than 150 days and no later than 120 days before the election date. Consequently, this Bill aims to rectify numerous deficiencies within our electoral system by amending over 300 provisions, including new clauses, of the Electoral Act 2010.¹⁴⁹

Hon. Dikku Aishatu started that the second reading debate on the Electoral Amendment Bill. Hon Onyejeocha Nkeiruka commented on Clause 30(Notice of Election) saying that 48 hours were too small to substitute a dead candidate. She proposed that INEC should all the elections that hold in Nigeria, including councillors and local government elections as it would be beneficial for the practice of real democracy. The Speaker observed that the proposal might be against the

¹⁴⁸ House of Representatives Second Reading of the Electoral Act (Repeal and Enactment) Bill, 2020.

¹⁴⁹ Ibid.

constitution and practice of the federal structure. She opined that as regards the limit of money to be spend during elections, that the stipulated amount was too low, hence would not be able to solve issued presented by the electorates during the candidate's campaign.

Hon. Waive Francis expressed concern at how to put a cap on electoral expenses and how it can be measured in Nigerian economy and enforced when a candidate spends more than required. He also pointed out that 150 days of campaign were too long as it would impact the cost of campaign. Hence, to reduce the cost of campaign, the days of campaign should also be reduced.¹⁵⁰

Hon. Ali Wudil Muhammed on Clause 49(3) pointed out that there has to be a limit to the time allowed before declaring that the smart card reader has failed to work and deploying for another one. This is to avoid frustrating elections and inadvertently disenfranchising the electorate.¹⁵¹

Hon. Tyough Aondona Robert proposed that the need to advance more towards technology is paramount to proper electoral reform work. He pointed out that relevant technology was of immense help in the Edo and Ondo elections. Secondly, he pointed out that the time of result collation and release of election results needed to be reviewed. Finally, he proposed that candidates within the parties in their first tenure be considered for first right of refusal within their parties to reduce rancour for elections. First right of refusal in this case means the right to decide if they wanted to continue to be the candidates for their parties for the positions which they occupy as incumbents.

Hon. Jimoh Abdulraheem had reservations with regard to Clause 52 which provided that use of electronic devices may be adopted by INEC. He opined that the use of the word 'may' might cause

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

problem because if challenged, INEC would claim that it was not mandatory for the use of electronic devices to be adopted by INEC. He also had reservations with Clause 64 which makes it possible for votes to be recounted if a person within the polling unit is not satisfied with the conduct of elections. He proposed that the word ‘may’ be changed to ‘shall’ to make it compulsory. Finally, he disagreed with the clause that stated that in a correspondence with INEC, 3 signatories of the parties namely Chairman, Secretary and Treasurer should sign. He proposed that Treasurer be replaced with Legal or Organising Secretary.¹⁵²

Hon. Abubakar Makki proposed that the addition of subclause 3 would make Clause 49 ambiguous and lead to inconclusive elections. The clause provided that Presiding Officers could use smart card readers or any technological device. The Speaker agreed with him and pointed out that he had vehemently opposed the phrasal expression when he was leader of the House. He posited that the expression was too vague, open ended and needed to be expunged while the device be described as ‘smart card reader only’.¹⁵³

Hon. Elumelu Ndudi Godwin observed that 30 million naira as the cap on election activities for Area Council chairmen was too much and there was need to de-emphasize money on politics and encourage people who do not have such financial capacity. The Speaker discountenanced the proposal. The Honourable further lent his voice to propose that it be made mandatory and not discretionary that smart card reader be used. He further emphasised that money stipulated for campaigns were huge and would discourage younger individuals from participating in the elections, especially considering the clamour for the inclusion of younger people in political participations. The Speaker pointed out that despite the need to de-emphasize money, there was

¹⁵² Ibid.

¹⁵³ Ibid.

need to be realistic and money was needed to carry out campaign and electoral expenses, hence the need to balance out the concern for election expenses limit.¹⁵⁴

Hon. Idris Ahmed explained that the electoral expense was not expected to come solely from the individual contesting for the position, but from a system set up to sponsor such candidate. The Speaker explained that with the capping of financial expenditure, no candidate is more advantaged than the other candidate.¹⁵⁵

Hon. Elumelu Ndudi Godwin pointed out that Nigerian youths had a lot of grievances citing the ENDSARS. He claimed that they sought an opportunity to participate but do not have the resources to do so.¹⁵⁶

Hon. Benson Babajimi expressed his reservation about Clause 53(2). It provided that when there is overvoting, INEC ‘may’ conduct another election. He opined that the word ‘may’ should be replaced with ‘shall’ to mandate INEC to avoid disenfranchisement. The Speaker concurred with him.

Hon. Bagos Dachung proposed that the issue of election funding be more detailed further to ensure that terrorist organisations do not sponsor candidates into political offices. He also proposed increased inclusion of women's participation in government alongside depersonalising INEC while strengthening the Commission as an institution.¹⁵⁷

Hon. Luke proposed engendering the confidence of Nigerians through enshrining smart card readers and electronic voting system in the electoral law. He also expressed concerns about Clause

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

53(2) as regards the discretionary power the Commission had to re-do an election in the event of overvoting, stating that it should lead to total annulment and cancellation of the outcome of the election in the particular polling unit.¹⁵⁸

Hon. Kalu Benjamin raised a concern regarding the establishment of polling units as outlined in Clause 42(1) and (2). He emphasised that the discretion afforded to the Commission for dividing local government areas into registration areas necessitates regulation through specific determining factors.¹⁵⁹

Hon. Obanikoro raised a question on how Nigerians in diaspora would be involved in the elections. He further suggested that their passports be used as a means of accreditation during voting. Other honourable members of the House lent their voices to similar concerns that had been raised by their colleagues like monitoring and enforcement of election funding limit, regulation of INEC's commission on overvoting amongst others.¹⁶⁰

The bill was referred to the committee of the Whole and there was a presentation of report to the House. In the report presented, the Committee explained that the President withheld assent as a result of Section 58(1) & (4) of the Constitution. Therefore, political parties ought to have the freedom to exercise their right to choose the method of election they wish to implement in their political primaries. The House corrected the clause 84 to include 'indirect primaries' as an option of political primaries. On 25 January 2022, it was further amended to include 'consensus' as an additional mode of carrying out primaries' elections.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

3.3 Election Petition Judgments Based on the New and Amended Provisions of the Electoral Act, 2022

The general elections of 2023 resulted to a plethora of election petitions. This led to the statutory interpretations of some of the provisions of the amended Electoral Act. In this research, some of the judgments from the election petition will be studied.

3.3.1 *Adegboyega Isiaka Oyetola & APC v INEC, Adeleke Ademola Jackson Nurudeen & PDP*¹⁶¹

The election associated with this petition was classified as an off-cycle election because it took place outside the usual timeframe designated for national general elections. Consequently, the amended Electoral Act was first subjected to statutory interpretation in the electoral petition that resulted from the election.

This was an appeal commenced when the appellant filed a notice of appeal against the court judgment allowing the appeal judgement against the Osun State Governorship tribunal. It was commenced on 2 grounds, namely;

- i. That the 2nd Respondent was not duly elected by the majority of lawful votes cast at the election;
- ii. That the 2nd Respondent's election was invalid by reason of non-compliance with the Electoral Act (as amended) and the INEC Regulations, Guidelines and Manuals.

The appellant asserted that during the elections held across 744 polling units, there was a significant failure to utilize the BVAS machine for the purpose of voter accreditation. It was

¹⁶¹ SC/CV/508/2023.

reported that Presiding Officers allowed voting to proceed in numerous polling units without the necessary accreditation and verification through the BVAS machine. The appellant contended that this neglect to employ the BVAS invalidated the election, as the number of accredited and verified voters recorded by the BVAS did not align with the total votes cast.¹⁶²

The Appellants failed to present the BVAS machine for the 744 polling units in question and instead submitted a report detailing the examination of the INEC database/backend report, which they asserted included the necessary information from the BVAS machine.

The Court stated that no part of the Electoral Act makes the BVAS report a part or substitute of the BVAS machine as evidence needed to prove overvoting. The Supreme Court ruled that they failed to discharge the burden of proof for overvoting for not tendering the machines in evidence.

3.3.2 *Hon. Aghedo Sunday & APC v INEC, Enabuele Destiny Oghayerio & PDP*¹⁶³

The petitioner brought this petition on 2 grounds namely;

- i. That the 2nd Respondent was not duly elected by a majority of lawful votes at the election;
- ii. That the election was invalid because of non-compliance with the provisions of the Electoral Act 2022.

The Petitioner alleged that an additional 400 votes were added to the Respondent's votes, bringing it to 8061 instead of 7661. To prove the alleged claims, the Petitioner tendered the certified true copy of the BVAS report for all the polling units in the state constituency supplementary elections.

¹⁶² *Momoh & Anor v Francis & Ors* (2019) LPELR-49000 (CA).

¹⁶³ EPT/ED/SHA/16/2023.

Counsel for the 2nd Respondent contended that the Petitioner ought to have tendered the BVAS machine itself to prove the number of accredited voters. He cited the case of *Oyetola v INEC*.¹⁶⁴

The tribunal stated that it was unnecessary to submit the BVAS machine itself as the BVAS report, which contained the information which was needed in the machine, suffices. Hence, using the certified true copies of the BVAS report for the affected units and the certified true copies of the FORM EC8A(ii) of the relevant ward, the tribunal deduced mutilations and alterations. Consequently, the tribunal ordered that the certificate of return given to the 1st Respondent be withdrawn and another given to the Petitioner as the rightful winner of the constituency election.

3.3.3 *Atiku & PDP v INEC, Bola Ahmed Tinubu, APC & Ors*¹⁶⁵

Several issues were raised for determination in this presidential appeal but the issue of interest was the appellant contending that the lower court was wrong in refusing to declare non-compliance with the electronic transmission of result in polling units nationwide as provided in the Electoral Act, 2022 and specified in the Regulation and Guidelines for the Conduct of Elections 2022.

The appellant's counsel argued that the assurances of the INEC as a public institution resulted to the activation of the doctrine of legitimate expectation, which the Commission did not live up to. As a result, the election ought to be nullified. In response, the counsel for the respondent stated that the use of 'or' in paragraph 38(1) of the Guidelines gives the presiding officers the discretion or option to either transmit electronically or manually. He further stated that the appellants were unable to refer the lower court to a single provision which made the use of electronic transmission compulsory or made the inability to use it, render the election process as non-compliant.

¹⁶⁴ *Oyetola v INEC* (n162).

¹⁶⁵ 2013 19 NWLR pt. 1917.

In resolving the issue, the court referred to Section 135(1) of the Electoral Act 2022 which provides that an election shall not be liable to be invalidated on the ground of non-compliance, if it appears to the Court that the election was conducted substantially in line with the provisions of the Act and the results were not substantially affected by the non-compliance. The court stated that the appellant failed to show the court how such compliance affected the outcome of the election. The court aligned with the lower court that IREV was a viewing portal and not a collation system. Hence, the inability of the public to view results on it did not stop or invalidate collation of results which was mostly manually done. Consequently, such inability cannot be the ground for the nullification of the election result. The court dismissed the appeal and declared that the appellant was unable to prove manifest non-compliance.

Abba JSC in support of the lead judgment stated that the combined effect of Sections 60(5), 62(1), 64(4) & (6) of the Electoral Act implies that INEC is at liberty to prescribe the manner in which election results would be transmitted. He further stated that despite the use of the word ‘shall’ in the above-mentioned provisions, the provisions are not absolutely mandatory but only obligatory when all things are equal.¹⁶⁶

Finally, in an *obiter*, the learned judge encouraged legislators to nip in the bud, the issue of laxity and latitude given to the Commission to choose whichever method of transmission that they prefer. He reasoned that this would make them adhere to a mandatory duty regulated by a statute that does not lack clarity.

¹⁶⁶ Ibid., p.74, per Abba JSC.

3.3.4 *Magaji Da’u Aliyu & APC v INEC, Adamu Yakubu & PDP*¹⁶⁷

The first Petitioner was the individual endorsed by the second Petitioner in the election for the Binin Kudi/Buji Federal Constituency of Jigawa State. The Petitioner brought the action on 2 grounds, namely;

- i. That the 2nd Respondent was not duly elected by the majority of lawful votes cast at the election;
- ii. That the election of the 2nd Respondent was invalid by reason of non-compliance with the provisions of the Electoral Act 2022.

The Petitioner alleged that in 44 out of 439 polling units, the Presiding Officers allowed voting of persons not accredited by the BVAS machine and included votes of unaccredited voters in the collated results from the affected polling units. The 1st Petitioner further alleged that the 1st Respondent failed to limit counting of votes and collation of results to only voters accredited by the BVAS machine, which resulted to overvoting.

To prove the alleged overvoting, the Petitioner tendered the certified true copy of the BVAS report for all the affected polling units. The tribunal stated that the 1st Petitioner did not prove his claim on the balance of probabilities as he did not tender the BVAS machine as specified in S. of the Electoral Act (as amended) 2022. The presiding judge additionally remarked that the Petitioner ought to prevail based on the merits of their case rather than depending on the deficiencies in the Respondent's defence or any admissions made.¹⁶⁸

¹⁶⁷ EPT/JG/HR/08/2023.

¹⁶⁸ *Dumex Nig. Ltd v Peter Nwakhoba & Ors* (2009) All FWLR (pt. 461) SC.

The learned judge aligned himself with the decision in *Oyetola v INEC* to decided that the Petitioner failed to prove his claim of overvoting.

3.3.5 *Yahaya Abubakar Abdullahi v Hon. Sani Bawa Argungu, PDP & INEC*¹⁶⁹

The PDP carried out the primary election for the Kebbi North Senatorial Constituency. Alhaji Ibrahim Bawa Kwamba won the primary election, but through a letter addressed to the Chairman of the 2nd Respondent, voluntarily withdrew his nomination. The 1st Respondent was the 1st runner up at the said primary election.

Following his withdrawal, the 2nd Respondent scheduled another primary election, which the Appellant participated in, and the 1st Respondent did not participate in. The Appellant emerged victorious, and the 2nd Respondent forwarded his name and details to the 3rd Respondent as its candidate for the Kebbi North Senatorial District.

Annoyed by this development, the 1st Respondent, who felt that his name should have been forwarded as the 1st runner up after the winner of the first primaries voluntarily withdrew, commenced an action at the trial court through originating summons. The trial court found in favour of the 1st Respondent, holding that the conducting of another primary election by the 2nd Respondent was void. Dissatisfied with the decision, the Appellant appealed to the Court of Appeal, and the lower court affirmed the decision of the trial court. The Appellant further appealed the decision of the Court of Appeal.

The singular issue identified was whether the Court of Appeal was justified in confirming the trial court's ruling that invalidated the primary election of the 2nd Respondent, thereby designating the Appellant as the candidate for the Kebbi North Senatorial District. There was a lead judgment and

¹⁶⁹ SC/CV/1563/2022.

a dissenting judgment. An in-depth look into them would enable more comprehension of the perspective of each learned judgment and how they interacted with the relevant statutory provisions.

In the lead judgment, Justice C.C. Nweze reiterated the legal principle that when the language of a statute is clear and unambiguous, the Court is obliged to literally interpret it. He further stated that the duty of the Court, generally, is to interpret the law and not to make it.

According to Section 84(5)(c)(II) of the Electoral Act 2022, the candidate who receives the most votes after the voting process must be announced the winner of the primary election, and their name will be submitted to INEC as the party's official candidate. The court has interpreted this provision to mean that if the winner of the initial primary election withdraws, there is no candidate available for the party to endorse, as the position of the runner-up is not acknowledged under the Electoral Act. Consequently, this situation prevents the 1st Respondent's name from being forwarded to INEC as a replacement for Alhaji Ibrahim Bawa Kwamba.

The learned judge elucidated that Section 33 of the Electoral Act 2022 stipulates that a party is prohibited from altering its candidate once their name has been submitted, except the candidate dies or voluntarily withdraws. In such cases, the political party is required to hold a new primary election within 14 days to select and submit a new candidate to the Independent National Electoral Commission (INEC). The Court further noted that the Electoral Act lacks any provision permitting the 2nd Respondent to replace a withdrawn candidate with the 1st runner-up or any other person, as the Act clearly forbids the submission of names other than that of the election victor to INEC.

The presiding judge articulated that by upholding the trial court's ruling, the Court of Appeal actively participated in the selection of a candidate, a process that is solely reserved for the political

party by statute. He asserted that the remedy requested by the first Respondent pertains to the internal matters of the political party.¹⁷⁰ Finally, the learned judge held that the lower court was wrong to have assumed jurisdiction over the matter, set aside the judgment of the Court of Appeal and allowed the appeal of the Appellants.

There was a dissenting judgment by Emmanuel Akomaye Agim, JSC. The learned judge pointed to the Article IV (11) of PDP Electoral Guidelines for the Primary Election 2022 that provided that where after the successful nomination of a senatorial district candidate at the special congress, the candidate dies, withdraws, or is incapacitated, the Senatorial Executive Committee of the party shall summon an emergency senatorial district special congress to elect or nominate another candidate. The learned judge stated that since the name of Alhaji Ibrahim Bawa Kwamba had not been forwarded to INEC by the 2nd Respondent before he withdrew, Sections 31 & 32 of the Electoral Act 2022 would not apply, because he could not be said successfully nominated. He further stated despite the silence of the Electoral Act on the situation, the next step should have been an emergency senatorial district senatorial district special congress and not a fresh primary election. Hence, the primary election that produced the Appellant was illegal and void. Finally, he asserted that the claim made by the 1st Respondent should be dismissed as it contravened the stipulations of the Electoral Act, and he further argued that the Appellant's submission was invalid due to its non-compliance with the Electoral Guidelines of PDP.

3.4 Juxtaposition of the Legislative Intent and Judicial Interpretation with reference to the Electoral Act, 2022

One of the first issues encountered in the application of the Electoral Act was the judicial interpretation of Section 84(12). It states that no political appointee at any level shall be a voting

¹⁷⁰ *Ufomba v INEC & Ors* (2017) LPELR-42079 SC.

delegate or be voted for at the Convention or Congress of any political party for the purpose of the nomination of candidates for any election. The constitutionality and the legality of the said section were fiercely contested in court in several cases. A member of the Action Alliance party, through an application at the Federal High Court, Umuahia, requested that the court properly interpreted the said section.¹⁷¹ The court, presided by Justice Evelyn Anyadike declared the section to be unconstitutional, invalid, illegal, null, void and of no effect. The court decided that Sections 66(1)f, 107(1)(f), 137(1)(f) and 182(1)(f) of the Constitution had already taken care of the resignation deadline of She further ordered that the Attorney General of the Federation delete the subsection from the Electoral Act.¹⁷²

The consequence of the said subsection was that political appointees were not allowed to participate actively in the nomination of candidates for elective positions during the conventions of their political parties. They were further prevented from being voted for, except the appointee resigned before the convention. The legislative intent behind the controversial provision was to estop possible conflict of interest by the political appointees, misappropriation of public funds and equal playing field for all aspirants.¹⁷³

In another suit brought by the President Buhari as he then was and the former Attorney General of the Federation, Malami, they sought for the court to declare Section 84(12) of the Electoral Act expunged from the Electoral Act. The case was dismissed and declared as an abuse of court process. the court further stated that the court could not interfere to amend the said law as that was

¹⁷¹ PDP v. Chief Nduka Edede & Anor FHC/UM/CS/26/2022.

¹⁷² Ibid.

¹⁷³ Chidimma Stella Nwakoby & Tobechukwu Modestus Ihediuche, 'Section 84(12) Electoral Act: Issues and Controversies Towards 2023 General Elections' *International Journal of Law* (2022) 8(4) 58-62.

the sole preserve of the legislature.¹⁷⁴ Consequently, it is left for the legislature to amend Section 84(12) to be able to properly convey their intent as well as solve the mischief behind the said statutory provision.

In the election petition proceedings, the parties were not allowed to file additional witness statements on oath after their petition had been filed and served. While there is no specific provision that expressly prohibited a party from doing so, through the combined reading of Section 132(7) of the Electoral Act, Paragraph 4(5) of the First Schedule to the Electoral Act 2022 and Section 285(5) of the Constitution, the court declared it so. Section 132(7) of the Electoral Act and Section 285(5) of the Constitution both stipulate that an election petition shall be filed within 21 days after the date of the declaration of the election results. Paragraph 4(5) of the First Schedule to the Electoral Act stipulates that witness statements of oath should be filed alongside the petition. As a result of this, parties were unable to file witness statements of oath from subpoenaed witnesses, no matter how fundamental such witness statements were to proving their cases. In the case of *Chukwuma Uchechukwu Onyekwere & Anor v INEC Ors*¹⁷⁵, the Petitioner filed witness statements after the 21-day mark, citing the administrative bureaucracy of the 1st Respondent, being INEC, as the reason it was not possible to file the witness statements on oath from the subpoenaed witnesses of INEC. The tribunal relied on the aforementioned statutory provisions to support its decision, while further stating that the electoral laws did not provide for addressing the lacuna that the Petitioner complained about regarding the witness statements of the subpoenaed witnesses obtained after the 21-day mark. Consequently, the court declared the new statements as inadmissible and did not consider them in deciding the case of the petitioner. This was the fate of

¹⁷⁴ Law Pavilion, 'Electoral Act: Supreme Court Strikes Out Buhari's Suit Challenging Section 84(12)' <https://lawpavilion.com/blog/electoral-act-supreme-court-strikes-out-buharis-suit-challenging-section-8412/> accessed 30 July 2025.

¹⁷⁵ EPT/AB/SHA/15/2023.

other petitions where the Petitioners had to tender witness statements on oath from the INEC. Clearly, there is a lacuna in the electoral law which has allowed this difficulty. The courts have decided to be constrained to the boundaries of statutory provisions. Hence, there has to be specific legislation on this situation to get the courts to take a different posture with regard to the matter discussed above. A legal scholar opined that for effective and efficient legislation of such timelines for such as mentioned above, there should be adequate consultations with the agencies and bodies involved, like INEC, so that the administrative procedure that a Petitioner needs to abide by to retrieve relevant documents will be factored in by the resultant statutory provisions.¹⁷⁶

The event that unfolded during the debate of the Senate suggested that it was predictable that INEC would choose not to be bound to using the electronic transmission of votes.¹⁷⁷ Hence, Sen. Albert Akpan had proposed that the electronic transmission of votes be made compulsory and not discretionary. The House negatived the proposal, choosing to leave it to the discretion of the INEC. On the same proposal, Sen. Abaribe claimed a point of order asking for division. Concerns of possibly disenfranchising communities with no good network coverage were raised. Eventually, majority of the House voted against mandatory electronic transmission.

During the general elections in 2023, there were numerous glitches with the BVAS machines, which affected the outcome of the elections. Some of the problems included: an underestimation of the time needed to authenticate voters; inability of the BVAS to function; inability of the BVAS to authenticate identical twins; electoral officers bringing wrong BVAS to polling units; and failure

¹⁷⁶ Umar Isa Sulaiman, 'Ending Technical Justice in Election Petitions in Nigeria: A Road Map for the Enhancement of Electoral Justice' SSRN eLibrary (2024) <https://papers.ssrn.com/sol3/Delivery.cfm/4973128.pdf> accessed 30 July 2025.

¹⁷⁷ National Assembly Senate Debate on Electoral (Act) Amendment Bill 2021 (SB. 680) (n130).

of the BVAS to capture the identity of an individual, amongst others.¹⁷⁸ All these problems led to the disenfranchisement of a considerable number of voters. There was a lot of video evidence of these problems.¹⁷⁹ Unfortunately, the standard of proof seemed too high for the petitioners as such evidence was declared lacking in probative value if not made by the electoral officers in charge of the affected polling units or wards. This was worsened by the fact that there were no provisions mandating the INEC to use electronic transmission of votes; hence, the Commission could not be held accountable for the issues encountered during the elections. Little wonder that the citizens of the country were discontent with the court's judgment.¹⁸⁰

The electoral offence of overvoting is codified in Section 51 of the Electoral Act. It defines overvoting as a situation in which the total number of votes cast, including those that are rejected or deemed void, surpasses the voters who have been accredited in a specific polling unit during an election. This can be done by the use of documentary evidence, supported by credible witnesses, preferably party agents who are direct eyewitnesses at the affected polling units. To establish the occurrence of overvoting, the Petitioner must present the voters' register or the BVAS report, submit the results statement in the designated formats that clearly indicate the total votes cast surpass the number of accredited voters, connect each document to the relevant aspect of the case for which they are submitted, and demonstrate how the removal of the over-voting figure would lead to a victory for the Petitioner.¹⁸¹ The Electoral Act 2022 made using witnesses dispensable by

¹⁷⁸ GIGA Focus Africa, 'Overpromising and Underdelivering? Digital Technology in Nigeria's 2023 Presidential Elections' <https://www.giga-hamburg.de/en/publications/giga-focus/overpromising-underdelivering-digital-technology-nigerias-2023-presidential-elections> accessed 18 March 2025.

¹⁷⁹ CNN World, 'Voting Irregularities in Nigerian Gubernatorial Elections' <https://edition.cnn.com/videos/world/2023/03/19/exp-nigeria-elex-busari-031902aseg2-cnni-world.cnn>.

¹⁸⁰ ThisDay, 'Election Petitions: Between Public Opinions and Judicial Process' <https://www.thisdaylive.com/index.php/2023/04/11/election-petitions-between-public-opinion-and-judicial-process/> accessed 18 March 2025.

¹⁸¹ *Ikpeazu v. Otti & Ors* (2016) LPELR 40055 SC Page 72; *Shinkafi & Anor v Yari & Ors* (2016) LPELR – 26050 (32 – 33), (35 – 36).

making it possible to prove overvoting using documentary evidence. This is codified in Section 137 of the Electoral Act 2022. It is important to note at this point that the proof requirements for overvoting are not specifically codified in the Electoral Act but covered in Section 137 of the Electoral Act 2022. It is trite that he who asserts must prove in law, but the rationale behind section 137 is to lighten the heavy burden of proof placed on a petitioner. This section seeks to establish that a party claiming non-compliance with the provisions of the Electoral Act during an election is not required to present oral evidence to substantiate the claim if original or certified true copies of documents clearly indicate the alleged non-compliance.

The major difference between *Oyetola v INEC* and *Hon. Aghedo v INEC* is that in the latter, even though the petitioner did not tender the BVAS machine, the tribunal ascribed probative value to the certified true copies of FORM EC8A(ii). The tribunal deduced that the numbers were mutilated from the document, changing 177 to 577.¹⁸² The tribunal did not let the respondents get away with the mischief of altering the documents based on the inability of the petitioner to tender the BVAS machine.

The fact that the electoral tribunals and appeal courts insisted on the tendering of BVAS machines¹⁸³ and did not deem it fit to consider the BVAS report or the FORM EC8(ii) a worthy paper trail made the Petitioner's responsibility of proving their case impossible in most petitions. From the insistence of the court that the BVAS machine be tendered to prove an electoral petition, it seemed as though they did not avert their mind to a situation where it is impossible for the Petitioner to lay hands on the machines, especially because these machines are within the possession of the INEC. There was no specification in the Electoral Act or Guidelines, of any

¹⁸² (n164).

¹⁸³ This was seen in the case of *Oyetola v. INEC*. Hence, it served as a precedence that the electoral tribunals aligned.

document to serve as a substitution for the BVAS machine, if the Petitioner is not able to tender it as a result of circumstances beyond their control. Such document is known as the voter verified paper audit trail in other jurisdictions.¹⁸⁴

A voter verified paper audit trail (VVPAT) is a fundamental part of the electoral voting system that provides a record of each vote cast.¹⁸⁵ Its technology enables verification of vote recording and enables election officials to conduct audits and recounts, thereby improving the integrity of the entire voting process. This is used in countries like India, Brazil and the United States.¹⁸⁶ It is opined that the amendment of the Electoral Act to include an express provision of a VVPAT or an item to serve as secondary evidence will ameliorate the difficulty which a Petitioner faces in proving his case as seen in the last general elections.

The skills and expertise of the legislative drafters would be instrumental to the realisation and integration of the innovations discussed above into the Electoral Act. It is the place of the legislative drafter to give life to the intents of the legislature in a piece of legislation.

¹⁸⁴ Ontosight, 'Voter Verified Paper Audit Trail' <https://ontosight.ai/glossary/term/voter-verified-paper-audit-trail-overview--677fa0d687ceff39685103d> accessed 14 March 2025.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

CHAPTER 4:

LESSONS FROM OTHER JURISDICTIONS AND CHALLENGES OF INTERPRETATION OF STATUTES

This chapter examined the correlation between the legislature's intentions and the resultant judicial interpretation of electoral statutes and court decisions regarding some election petitions across three countries: Canada, Namibia, and India.

4.1 Canada

Elections in Canada are traditional, which means they do not employ an electronic voting system but instead use ballot papers and boxes.¹⁸⁷ The voting populace in Canada is called electors.¹⁸⁸ A remarkable feature of the Canada Elections Act is its provision for voters who are bedridden in facilities for the elderly or individuals with disabilities. Upon receiving consent from the responsible authority of the institution, the election officer is authorised to collect the votes from these confined electors. A significant feature of the Canada Elections Act is its provision for voters who are bedridden in facilities for the elderly or individuals with disabilities. Upon receiving consent from the responsible authority of the institution, the election officer is authorised to collect the votes from these confined electors.¹⁸⁹

Voters who qualify and are located outside the country are permitted to vote, provided that their application for registration and special ballot must be submitted to the special voting rules administrator in the National Capital Region by 6 p.m. on the sixth day before polling day, ensuring

¹⁸⁷ Canada Elections Act, Section 151.

¹⁸⁸ Ibid., Section 2.

¹⁸⁹ Ibid., Section 157(1).

that their names can be entered in the register kept by the Chief Electoral Officer.¹⁹⁰ Election time lasts 12 hours, depending on the time zones of the cities and counties in Canada.¹⁹¹

In Canada, there is an electoral practice called a judicial recount.¹⁹² In this practice, if the disparity between the votes received by the leading candidate and those received by another candidate is less than one-thousandth of all the votes that were cast, the returning officer is required to submit a documented request to a judge for a recount to be conducted within four days, following the validation of the results. During the recount process, the judge possesses the entire authority of a returning officer regarding the attendance and examination of witnesses.

A landmark electoral case challenged the voter identification requirement outlined in Section 143(2) of the Canada Electoral Act, which mandates voters to present proof of identity and residence issued by the Canadian government to the election office.¹⁹³ The appellant contended that this provision infringed upon Section 3 of the Canadian Charter of Rights and Freedoms, which ensures that every Canadian citizen has the right to vote in elections for members of the House of Commons or a legislative assembly and to be eligible for membership. They asserted that the legislation unconstitutionally disenfranchised eligible voters.

The appellate court rejected the appellants' assertion that the trial court made a legal error by stating that, despite the provision appearing to violate Section 3 of the Canadian Charter of Rights and Freedoms, the negative consequences of the legislation are minimal, with actual instances of disenfranchisement among eligible voters expected to be exceedingly uncommon.¹⁹⁴

¹⁹⁰ Ibid., Sections 220-222.

¹⁹¹ Ibid., Section 128.

¹⁹² Ibid., Section 301(1)-(5).

¹⁹³ *Henry v Canada* (2010) BCSC 610.

¹⁹⁴ Ibid.

4.1.1 Lesson for Nigeria

Despite the seeming contravention of the Charter of Human Rights by the provision of the Electoral Act that insisted that an elector who did not identify themselves with a voter identification would not be allowed to vote, the court refused to take the statutory provision on face value and consequently declared the provision unconstitutional. Instead, the court made recourse to the debate of the proceedings of the Parliament during the amendment that introduced the said provision into the Electoral Act.

It was reported that during the hearings of the Committee on Procedure and House Affairs, the Committee wrote that¹⁹⁵:

Many Canadians have expressed concern about the potential for fraud and misrepresentation in voting. Members of the Committee share this concern. While we have no means of knowing how widespread this problem is, the fact that it exists undermines the integrity of the electoral process. At present, there is no requirement for voters to show any identification before being able to vote, so long as their names are on the list. In our society, essential activities necessitate that individuals provide a valid form of identification, frequently including a photograph. In the context of voting, implementing a comparable requirement would be entirely reasonable. Furthermore, it would emphasise to voters the gravity and societal significance of their actions: exercising a cherished and fundamental democratic right.

Historically, Canada has aimed to facilitate the electoral process; however, if trust in the electoral system is compromised, modifications become essential. We do not aim to implement any policies that would deter participation in voting, nor do we wish to complicate the voting process unnecessarily. Nevertheless, the credibility and legitimacy of the electoral framework necessitate the adoption of procedures that guarantee only eligible individuals can cast their votes and that their identities are verified. This is crucial for maintaining the transparency of the voting system. The Committee raised concerns regarding the necessity for appropriate identification and residency verification, along with proof of an individual's eligibility to vote, which were also echoed by the witnesses who appeared before the Committee and provided written evidence. All factions represented in the House of Commons support a more efficient system for verifying voter identification, including the use of photo identification, with alternatives available for individuals who cannot provide the required identification. The Committee aims to clarify that voter information cards should not grant an individual the right to vote. This was never the

¹⁹⁵ Ibid.

intended purpose of these cards, although they are frequently utilised for this reason in practice. This clarification is essential, considering the issues surrounding their distribution or disposal. Committee members are also troubled by the fact that voters can use magazine subscription labels and utility bills to verify their identity. While such documents may assist in confirming one's address, they do not serve as adequate identification.

Therefore, the court discovered that the intention of the Parliament concerning the voter identification requirement was to minimise voter fraud and prevent people who were ineligible to vote from doing so. This is because such fraud was affecting the fairness of the elections to a considerable extent. Consulting the Parliament's report enabled the court to align their interpretation of the provision to serve the purpose for which it was introduced, regardless of the seeming contravention of the Charter of Human Rights. The court could have decided the provision was unconstitutional and declared it invalid to the extent of its contradictions with the Charter of Human Rights, but the mischief that the provision cured would remain a problem to the country's electoral system.

4.2 Namibia

Namibia is regarded as one of the most politically stable nations in Africa. It has conducted continuous elections since 1989, the year it achieved majority rule from apartheid South Africa.¹⁹⁶ The Namibia Election Act 2014 provides for electronic voting machines in elections and specifies duties that a presiding officer must carry out to ensure the machines are up and running. Just as in Nigeria, the Electoral Commission has the discretion to decide whether to adopt an electronic voting system or a traditional ballot system.¹⁹⁷ A voter who is unable to attend their designated polling station on election day may request to cast their vote via a tendered vote at any polling station during the applicable polling hours. These votes must be included in the tally of the polling

¹⁹⁶ Movine Omondo and Others, 'Elections in Africa: Trends, Diversity, and Emerging Technologies' (2024) <https://govote.ng/wpcontent/uploads/2024/09/Election-in-Africa-I.pdf> accessed 24 February 2025.

¹⁹⁷ Namibia Electoral Act 2014, Section 97(2).

station where the voter cast their vote.¹⁹⁸

In the landmark electoral case of *Itula and Others v Minister of Urban and Rural Development and Others*¹⁹⁹, the candidates challenged the constitutionality of employing electronic voting machines that lack a voter-verified paper audit trail, as mandated by the Electoral Act.²⁰⁰ Dr. Hage Gottfried Geingob, the incumbent and candidate from the ruling party, achieved electoral success under the banner of the South West Africa Political Organisation. In second place was Dr. Panduleni Itula, an independent candidate, who received around 38% of the votes.²⁰¹

The applicants claimed that there were irregularities in the use of Electronic Voting Machines (EVMs) as the Electoral Commission of Namibia (ECN) operated the EVMs without a paper trail to confirm the votes. The applicants initiated legal action against the Minister of Urban and Rural Development and the Electoral Commission regarding the conduct of the general elections. In particular, the applicants sought to challenge the constitutionality of the Minister's actions by applying to the Supreme Court of Namibia, arguing that the Minister had 'selectively promulgated' certain provisions of section 97 of the Electoral Act 5 of 2014. To address the alleged unconstitutionality of the Minister's actions, the applicants requested the Court to issue declaratory orders, which included annulling the 2019 presidential election and mandating a rerun of that election without unnecessary delay.

The Court decided in favour of the applicants, determining that the Minister violated the constitutional principle of separation of powers. The Court asserted that the electronic voting machine should be accompanied by a verifiable paper trail. It ruled that in making this decision,

¹⁹⁸ Ibid., Section 98(6).

¹⁹⁹ 2020(1) NR 86 (SC).

²⁰⁰ (n197), Section 94(3) & (4).

²⁰¹ Dunia P. Zongwe, 'Itula and Others v Minister of Urban and Rural Development and Others 2020 (1) NR 86 (SC)' *SAIPAR Case Review* (2020) 12(3)(2).

the Minister effectively eliminated the safeguard established by Parliament to protect the electronic voting system. The Supreme Court stated that, by overstepping his authority and disregarding the separation of powers doctrine, the Minister's selective application of section 97 of the Namibia Electoral Act is unconstitutional and therefore invalid.

Despite that, the Court ruled that the annulment of the Minister's determination and the declaration of constitutional invalidity would only become effective following the elections that would occur after the Court's ruling. Therefore, the Court deferred the implementation of the invalidity order. In light of this, the Supreme Court concluded that the applicants were entitled to a declaratory order affirming that the Minister's determination was unconstitutional; however, it considered it unsuitable to declare the election invalid and mandate a rerun as requested by the applicant.²⁰²

4.2.1 Lessons for Nigeria

Section 97 Subsection (3) of the Namibia Electoral Act stipulates that the implementation of voting machines during elections must occur alongside the concurrent use of a verifiable paper trail for each vote cast by a voter, with the paper trail serving to confirm any vote that has been cast. In essence, the voting machines are required to operate in conjunction with the paper trail. Furthermore, this section clarifies that should there be any inconsistency between the results generated by the voting machines and those documented on the paper trail, the results from the paper trail will be considered the official election result for the respective polling station or voting thread.²⁰³ In other terms, should there be a discrepancy between the numbers displayed on the voting machines and those recorded in the paper trail, the figures in the paper trail will be deemed authoritative. The paper trail is a crucial component of any election conducted with electronic

²⁰² Ibid.

²⁰³ Omondo and Others (n196), Section 97(4).

voting machines, and it is imperative that electronic voting occurs only in conjunction with a verifiable paper trail.

The ruling made by the court in the current case of *Itula* contradicts the explicit stipulations outlined in the Electoral Act. The applicant received a declaratory judgment from the court; however, the court decided that the judgment will not be implemented immediately after the recent elections, but rather at a later time. Meanwhile, this was not stated expressly in the Electoral Act. Such decisions further widen the gap between the intentions of the legislature and the resultant interpretations of the statute by the court.

4.3 India

During the late 1970s, India faced difficulties with paper ballots. Consequently, modifications were made to the Representation of the People Act of 1951, granting the Electoral Commission of India the authority to implement Electronic Voting Machines (EVMs) and transition to electronic voting. A notable similarity between India and Nigeria is their struggle to strike a balance between technological advancements and the conventional ballot system. Motivated by the then Chief Election Commissioner of India, S.L. Shakhdar, India began trials with electronic voting machines in 1982 to eliminate issues related to ballot stuffing and booth capturing. In 1984, the validity of the EVM process was examined by the judiciary in the significant case of *AC Jose v Siwan*.²⁰⁴ The Supreme Court noted that the existing Conduct of Rules, 1961 did not sufficiently address electronic voting. Consequently, 35 out of 85 constituencies were declared invalid, resulting in a reliance on manual voting in those areas. Following this ruling, the Indian Parliament revised the Representation of the People Act 1951 to include a provision that permitted the Electoral

²⁰⁴ AIR 1984 SC 921.

Commission to utilise electronic voting machines in elections. Nevertheless, this amendment did not resolve the ongoing debates regarding the acceptance and use of these voting machines.²⁰⁵

In January 1990, the Government of India formed the Electoral Reforms Committee (ERC) to evaluate and enhance the country's electoral system. This Committee, comprising members from various national and state political parties, emphasised the importance of engaging technology experts to evaluate the Electronic Voting Machines (EVMs) to alleviate public concerns about their reliability. After the expert evaluation, the machines were determined to be devoid of the issues noted during the last general election, prompting the Committee to recommend their utilisation in the upcoming general elections of 1998 and 1999.²⁰⁶

Notwithstanding the considerable improvements made to the Electronic Voting Machines (EVMs) by the technical Committee appointed by the Commission, apprehensions regarding their functionality continued to exist. The case of *Girish M. Das v Chief Election Commissioner*²⁰⁷ brought renewed attention to the security and dependability of EVMs. A public interest litigation was filed with the Gujarat High Court, requesting a directive from the Election Commission of India to enhance the protections of the EVMs against threats such as hacking, tampering, and unauthorised manipulation. The court was additionally requested to temporarily halt the use of EVMs until it can be assured of the infallibility and authenticity of their operations. The Court observed that the petitioner failed to demonstrate any actions or omissions by the pertinent authorities that could have jeopardised the petitioner's rights. Through the ruling of this case, the court reinforced the idea that the judiciary does not operate as a review board for the effectiveness

²⁰⁵ Subhajit Basu, Aderemi Omotubora, Iheanacho Nelson & Mehul Jain, 'Nigeria's Electoral Progress: Insights and Lessons from India's E-Voting Journey' *NALSAR Law Review* (2024) (9)(1) 18-44.

²⁰⁶ *Ibid.*

²⁰⁷ (2012) SCC Online Guj 4916.

or relevance of policies. It concluded by emphasizing that the function of courts is not to offer advisory opinions on policy issues to constitutional bodies, acknowledging their intrinsic authority in the development of policies. A petition was submitted to the court seeking a temporary suspension of EVM usage until the Court is satisfied with the infallibility and authenticity of EVM operations. The Court remarked that the petitioner did not establish any actions or inactions by the relevant authorities that might have endangered the petitioner's rights. In its ruling, the court affirmed that the judiciary does not act as a review body for the efficacy or appropriateness of policies. It concluded by reiterating that the courts are not intended to provide consultative insights on policy matters to constitutional entities, recognising their fundamental authority in policy creation.

In 2001, Dr. Subramanian Swamy, a prominent personality in Indian politics, commenced legal proceedings in the Delhi High Court, requesting the Electoral Commission to implement a verifiable paper trail for electronic voting to enhance electoral transparency and provide undeniable proof that a voter's selection was correctly documented.²⁰⁸

The Supreme Court supported Dr. Swamy in a ruling that played a crucial role in implementing the Voter's Verifiable Paper Audit Trail (VVPAT) system in Electronic Voting Machines (EVMs). The Court emphasised that to foster confidence in EVMs, a verifiable paper trail is essential. It highlighted that the integration of VVPAT with EVMs is vital for maintaining the integrity and transparency of elections, as each vote represents a citizen's democratic entitlement. The establishment of the VVPAT system necessitated significant amendments to the existing Conduct of Election Rules 1961.

²⁰⁸ *Subramanian Swamy v Election Commission of India WP (C) No. 11879 of 2009.*

4.3.1 Lessons for Nigeria

The study above shows that India has undergone similar challenges in the evolution of its electoral system. In India, the court's decisions informed the further amendment of the Electoral Act. The Parliament integrated the court's judicial decisions into further amendments to the Act.

It is opined that making the electoral voting system compulsory, indispensable, and the primary means of conducting elections in Nigeria will enable the country to attain a progressive level in its electoral system. This can be achieved by wording the provision so that it is beyond the discretion of INEC to use the electronic voting systems of BVAS and IREV.

Electronic voting should be legally acknowledged as the principal method of conducting elections, with manual voting serving as a means of verification or an alternative option. This recognition must be integrated into principal statutes like the Constitution and the Electoral Act. Consequently, it is crucial for the Nigerian judiciary to constitutionally affirm the power of the INEC to employ the BVAS and IREV as outlined in the Electoral Act.

For a country that was trying out an electoral voting system for the first time, the INEC chairman's assurance of using real-time transmission was too ambitious.²⁰⁹ Technical issues plagued the BVAS, such as unreliable network access, password errors, and power outages, which hindered the machine's ability to operate nonstop.

Regardless of the assurance by the INEC Chairman, there was no timeline for the transmission of results embedded in any of the electoral statutes. Hence, the assurance was not enforceable in court. It is opined that in the issue of transmission, there should be a gradual evolution to successful

²⁰⁹ Donatus Anichukwueze, '2023: No Going Back On Electronic Transmission Of Results, INEC Reassures' *ChannelsTV* (26 October 2022) <https://www.channelstv.com/2022/10/26/election-results-will-be-electronically-transmitted-in-real-time-inec-assures/> accessed 20 February 2025.

transmission before real-time transmission. The goal should be for Nigeria to attain a level of comprehensive and total transmission of votes through electronic voting devices first before attempting real-time transmission of votes electronically cast.

4.4 Challenges of Interpretation of Statutes

Black's Law Dictionary, 11th ed., defines statute interpretation as the process by which courts interpret and apply legislation.²¹⁰ To achieve this, the court must comprehend the interpretation of the terminology employed within a statute and subsequently apply that statute to particular circumstances.

According to Justice Oputa, the interpretation of statutes is a judicial responsibility that seeks to actualise the intentions of the legislature.²¹¹ He further mentioned that the court interprets the law within the confines of its language and considers its purpose and spirit.

According to Justice Tobi, the interpretation of statutes involves a combination of artistic and scientific approaches to determine the authentic meaning of a law as conveyed through its language.²¹² He emphasised that the purpose of interpretation is to understand the intentions of the legislature, while also ensuring that this interpretation aligns with the principles of justice and fairness.²¹³

According to Professor Ben Nwabueze, statute interpretation refers to the procedure by which the

²¹⁰ Nengi Abam, 'The Issue of Statutory Interpretation in the Nigerian Legal System and Measures Devised by the Court to Mitigate the Distress' <https://legalideasforum.com/the-issue-of-statutory-interpretation-in-the-nigerian-legal-system-and-measures-devised-by-the-court-to-mitigate-the-distress.html> accessed 8 April 2025.

²¹¹ Ibid.

²¹² Ibid.

²¹³ Ibid.

judicial system interprets and enforces the stipulations of a statute.²¹⁴

In the course of the interpretation of provisions of the electoral laws, the judiciary encounters some challenges. Some of the challenges are discussed here.

4.4.1 Ambiguity in Statute Texts

Ambiguity in statutory text occurs when the words used in drafting the legislation can be interpreted in more than one way or are vague, unclear, and broad because of language changes caused by changes in time.²¹⁵ It is difficult to pinpoint the major reason for ambiguity. Such ambiguity might be unintentional or intentional omissions for future legislative intervention. Another significant factor contributing to ambiguity could be the legislative drafter's use of complex phrasing and word arrangement that makes comprehension difficult or impossible.

During judicial interpretation, ambiguity in the statutory text is a key challenge to interpreting statutes. In this context, attributing a literal interpretation to a specific provision would lead to outcomes that are absurd, contradictory, or inconsistent with the overall framework of the statute. Words carry meanings and contexts that do not consistently clarify the intended interpretation. In the case of *AG Bendel State v AG Federation*, the Supreme Court was charged with interpreting the term 'consultation'. This was because the word resulted in varying opinions on whether it necessitated actual agreement or simply discussions.

During the process of adjudicating one of the presidential election petitions,²¹⁶ the court was faced with the issue of ambiguity of statutory provisions with regard to subpoenaed witnesses in election

²¹⁴ Author 'The Challenges and Implications of Judicial Interpretation in Modern Legal Systems' <https://aithor.com/essay-examples/the-challenges-and-implications-of-judicial-interpretation-in-modern-legal-systems> accessed 8 April 2025.

²¹⁵ Kingdom N. Okere, 'A Critical Appraisal of the Problem of Interpretation of Statutes in Nigeria' A Thesis Submitted in Partial Fulfilment of an LLM Programme in University of Abuja.

²¹⁶ *Atiku v INEC* (n165).

petitions. It was revealed the provisions regarding subpoenaed witnesses were leading to multiple interpretations and conflicting court decisions. Section 285(5) of the Constitution (as altered) limited the period to present petitions alongside supporting documents to 21 days. More often than not, these subpoenaed witnesses were from INEC and the Petitioners did not have an idea who to personally subpoena from INEC. By the time the Petitioners were done finding out who they could subpoena from INEC, the 21 days would be exhausted and by default, the witness statement of oath inadmissible in court, potentially sabotaging the Petitioner's case and making his case impossible to prove.

4.4.2 Application of Different Rules of Interpretation

In some situations, the court often faces the dilemma of interpreting statutes literally or considering the legislature's wider intent. In *Mekwunye v Carnation Registrars Ltd v Anor*²¹⁷, the Court aligned with the Supreme Court's decision²¹⁸ that stated that 'shall' and 'may' might be given different interpretations depending on the context in which they are used. 'Shall' does not always mean 'must', and 'may' can sometimes be equivalent to 'shall', where it intends to execute a legal right. In *Peter Obi v INEC*²¹⁹, the court refrained from interpreting the provisions outlined in Section 134(2)(b) of the 1999 Constitution (as altered). Instead, the Court adopted a purposive approach, taking into account the wider implications of the law. This section stipulates that for a candidate to be considered duly elected, they must secure a minimum of one-fourth of the votes submitted during the election across a minimum of approximately two-thirds of all states within the federation, including the Federal Capital Territory, Abuja. The court clarified that the states of the federation and the Federal Capital Territory should be viewed collectively, asserting that the latter

²¹⁷ (2021) LPELR-55187(CA).

²¹⁸ *Ifezue v Mbadugha & Anor*: (1984) LPELR 1437 SC.

²¹⁹ (2023) 19 NWLR (1).

is not separate from the federation's states. Consequently, the court determined that the Federal Capital Territory is not distinct from the federating states.

In the case of *Yahaya Abubakar Abdullahi v Hon. Sani Bawa Argungu & Ors*,²²⁰ the court applied the literal rule of interpretation in setting aside the decision of the Court of Appeal. The learned judge relied on the express provisions of the relevant statutes to decide that the decision of the Court of Appeal be set aside, however, there was a dissenting opinion of the court where Emmanuel Akomaye JSC read into the intent of the law to opine that regardless of the silence of the Electoral Act on the situation, the next step should have been an emergency senatorial district senatorial district special congress and not a fresh primary election, as otherwise decided by the lead judgment.

4.4.3 Judicial Activism vs. Judicial Restraint

The concept of judicial activism arises when judges are predisposed to interpret legislation in a way that fosters sociological transformation, in contrast to judicial restraint, which involves a strict compliance with the text of the law.²²¹ Judges are either proponents of judicial activism or judicial restraint. It shows how the court interprets and applies the law to real-life cases. Lord Denning, a proponent of judicial activism, held in the celebrated case of *Parker v Parker*²²² If the defence argues that the novel application of the law has never been done before, the argument does not appeal to him. He further states that if we never do anything that has never been done before, the law will not progress while the world advances, a situation that would negatively impact both the world and the law.

²²⁰ (n169).

²²¹ Author (n214).

²²² (1954) All E.R. p.22.

In *Udoh v Orthopaedic Hospital Management Board*²²³, the court exhibited judicial activism by interpreting the law in a manner that safeguarded the rights of workers, despite the statutes not explicitly addressing the matter.

In the case of *Yahaya Abubakar Abdullahi v Hon. Sani Bawa Argungu & Ors*,²²⁴ the court applied judicial restraint in overturning the ruling of the Court of Appeal. C.C. Nweze JSC adhered strictly to the explicit provisions outlined in the relevant statutes. The esteemed judge referenced Section 33 of the Electoral Act 2022, which explicitly prohibits a political party from changing its candidate after their name has been submitted, except in cases of the candidate's death or voluntary withdrawal. In such circumstances, the political party must carry out a new primary election within 14 days to select and submit a new candidate to the Independent National Electoral Commission (INEC). The Court emphasized that the Electoral Act does not contain any provision allowing the 2nd Respondent to substitute a withdrawn candidate with the 1st runner-up or any other individual, as the Act clearly prohibits the submission of names other than that of the election winner to INEC.

However, in the dissenting judgment by Emmanuel Akomaye Agim JSC, the learned judge pointed to the Article IV (11) of PDP Electoral Guidelines for the Primary Election 2022 that provided that where after the successful nomination of a senatorial district candidate at the special congress, the candidate dies, withdraws, or is incapacitated, the Senatorial Executive Committee of the party shall summon an emergency senatorial district special congress to elect or nominate another candidate. The learned judge stated that since the name of Alhaji Ibrahim Bawa Kwamba had not been forwarded to INEC by the 2nd Respondent before he withdrew, Sections 31 & 32 of the Electoral Act 2022 would not apply, because he could not be said successfully nominated. He

²²³ (1993) 7 SCNJ 436.

²²⁴ (n169).

further opined despite the silence of the Electoral Act on the situation, the next step should have been an emergency senatorial district senatorial district special congress and not a fresh primary election. Hence, the primary election that produced the Appellant was illegal and void. Consequently, it is opined that the dissenting opinion of the court is laced with judicial activism because the learned judge proposed a next step of action despite the silence of the Electoral Act on the situation.

4.4.4 Conflicting Statutes

Instances have emerged and continue to emerge where various statutes seem to be in conflict, complicating the determination of which should take precedence. This issue has been largely addressed, particularly in relation to constitutional provisions. This is because the Constitution is established as the highest law of the land.²²⁵ Consequently, it is easier for the judge to decide that the court is superior to the provisions of the other statutes. In *Savannah Bank v Ajilo*,²²⁶ the court was assigned the responsibility of resolving a dispute between the Land Use Act and the Companies Act concerning land mortgaging. The court ruled that the Land Use Act would have priority in matters of land title transfer.

In a recent legal case, *Okedara v Attorney General of the Federation*²²⁷, the plaintiff contended that Section 24(1) of the Cybercrime Act 2015 conflicted with Sections 36(12), 39, and 45 of the Constitution (as altered). This particular provision of the Cybercrime Act criminalises the act of transmitting a message via a computer system that is considered 'grossly offensive, pornographic, or of an indecent, obscene, or menacing nature,' along with sending a message that is recognized as false with the intention of causing annoyance, inconvenience, danger, obstruction, insult, injury,

²²⁵ CFRN 1999, Section 1.

²²⁶ (1989) NWLR (pt. 97) 305.

²²⁷ (2019) LCN/12768 (CA).

criminal intimidation, enmity, hatred, ill will, or unnecessary anxiety to another person, or aiding in the delivery of such a message. In relation to this offense, the penalty may include a fine of up to N7,000,000, imprisonment for a duration not exceeding three years, or a combination of both. A Nigerian attorney has submitted a motion to the Federal High Court in Lagos, challenging the constitutionality of section 24(1) of the Act. He contended that the provision lacks clear definition, is ambiguous, and endangers his right to freedom of expression as safeguarded by section 39 of the Constitution, in addition to his right to a fair hearing as outlined in section 36(12).

The application submitted by the Appellant was rejected by the Federal High Court, presided over by Justice Buba. The Court determined that Section 24 (1) of the Cybercrime Act is explicit and that there is no direct definition of cybercrime. It concluded that the limitations on freedom of speech outlined in Section 24 (1) of the Cybercrime Act are warranted within a democratic framework, as they pertain to the interests of defense, public safety, public order, public morality, or public health, as articulated in Section 45 of the Constitution.

The Appellant was not satisfied with the court's judgment; hence, he proceeded to the Court of Appeal. The Court cited and relied upon the case of *Marwa & Ors v Nyako & Ors*, along with Section 1 of the Cybercrime Act, 2015, and Section 45 of the Constitution, to affirm that both the Cybercrime Act and Section 45 of the Constitution aim to protect the privacy rights of citizens. As a result, the Court determined that the legislative purpose behind the Cybercrime Act 2015 aligns with the stipulations of Section 45 of the Constitution. Furthermore, the Court observed that the offense outlined in the pertinent section of the Act is distinctly defined, and the associated penalties are clearly articulated. Therefore, it concluded that the provisions of section 24(1) of the Cybercrime Act 2015 do not conflict with the provisions of sections 36(12) and 39 of the Constitution. The Court unanimously concluded that the appeal lacked merit and dismissed it.

In the landmark case of *Henry v Canada (Attorney General)*²²⁸, as explained earlier, voter identification rules were introduced in the Canada Elections Act. Plaintiff argued that the rules conflicted with the right of every citizen to vote as stipulated in Section 3 of the Canadian Charter of Rights and Freedoms. After studying the debate proceedings of the parliament which enabled the discovery that the rules were added to minimise voter identification fraud, the court held that the voter identification rule did not conflict with the relevant provision of the Charter, instead, it complemented and positively qualified the said provision.

4.4.5 Inadequacy of Words in Statutory Provisions

In many instances, the legislature fails to anticipate the circumstances that may emerge during the implementation of the law; while drafting and enacting the law, it does not consider potential situations that could arise in its application. These are novel questions of the law and have never been subjects of judicial interpretation. Locus classicus case of this issue is the *PDP v INEC*²²⁹ Atiku Abubakar won the Adamawa governorship election. However, he soon became the vice president-elect, and INEC was prepared to conduct another election. INEC construed the provision of the relevant decree to mean death and nothing more. PDP contended that Atiku's Deputy Governor Bonnie Haruna be sworn in as governor instead of INEC conducting a fresh election. The relevant governor stipulated that if a governor-elect dies before the date of his swearing-in, his deputy shall be sworn in.²³⁰

The Supreme Court opted to adopt a broader interpretation of the term compared to that of the Court of Appeal. Chief Justice Uwais noted that the provisions of Decree No. 3 of 1999 clearly

²²⁸ *Henry v Canada* (n187).

²²⁹ (1999) CLR 7 (j) SC.

²³⁰ Decree No.3 of 1999, Section 37(1).

indicate that the lawmakers intended for the deputy governor to assume the role of governor if the governor-elect is unavailable for the swearing-in ceremony following the election. The court emphasised that a restrictive interpretation of 'die' would result in injustice and conflict with legal principles. Additionally, it asserted that the term 'die' is sufficiently broad to encompass Atiku Abubakar's decision to forfeit his mandate for the governorship of Adamawa State. Consequently, the Court ruled that the Deputy Governor-elect should swear the oath of office as the governor of Adamawa State.

In *Oyetola v INEC*, the court stated expressly that there was nothing provided in the Electoral Act to substitute for the BVAS machines as secondary evidence. It is submitted that this is an inadequacy in the provisions of the electoral law in Nigeria. S.87 of the Evidence Act defines and stipulates types of secondary evidences that are admissible in court in cases where it is impossible to tender the primary evidence. Hence, it is opined that the issue of evidence to be tendered in court to prove overvoting is not sufficiently legislated.

4.4.6 The Issue of Jurisdiction and *Locus Standi*

In most cases, the legislation makes it easy to decide the rightful jurisdiction and the rightful persons with *locus standi*. However, it is not clearly stated in public interest cases. The court often throws out such cases due to a lack of *locus standi* or jurisdiction. Sometimes, the criteria that a person bringing the case must have a 'vested' interest impedes the statute's evolution.

In the case of *Igbo Youth Democrats v Speaker of the House of Representatives*²³¹ Hon. Ademola struck out the suit seeking judicial interpretation of the principle of federal character in the composition of the House's principal officers. This was because the plaintiffs are not elected as

²³¹ Suit No: FHC/ABJ/CS/567/2015.

part of the House of Representatives and do not have *locus standi*, regardless of the important constitutional question they sought interpretation.

In the case of *Peter Dasat & PDP v INEC, Ezra Yardi Dakup & APC*²³², the 2nd Respondent had contested and won an election into the House of Assembly, Pankshin South Constituency, Jos under the PDP. The Petitioner/Appellant instituted an action at the tribunal against the Respondents. The tribunal decided that the Petitioner did not have *locus standi* to establish such actions, regardless of the overwhelming evidence tendered against the Respondents. This is because PDP, the party that sponsored the Petitioner, had failed to comply with a judgment of court regarding holding a valid state party congress. Hence, they had no legitimate basis to sponsor the Petitioner to contest an election in the state. Consequently, the court decided that the tribunal was right to decide that the Petitioner/Appellant had no *locus standi* to file such suit. As a result, the appeal was dismissed without considering the merit of the case.

²³² CA/J/EPT/PL/HOA/216/2022.

CHAPTER 5:

SUMMARY OF FINDINGS, RECOMMENDATION AND CONCLUSION

This chapter summarised the study's major findings, made recommendations based on them, and concluded the work with a conclusion and recommended areas for further research.

5.1 Summary of Findings

The finding on the first research objective indicates that in accordance with the stipulations of the Electoral Act, the National Assembly left INEC with the discretion to ascertain the mode of transmission of results and adopt electronic voting. The Electoral Act was amended to further promote justice, fairness and equity. For instance, several extensions were made to the timeframe for carrying out several electoral activities. Also, special assistance is to be proffered by INEC to people with disabilities, even for offside voting, where necessary.²³³ However, the Electoral Act did not make extensive and detailed provisions on how the electronic voting system would run. Granted that it incorporated some commendable provisions that made it possible for the INEC to conduct an election using electronic voting system. Members of the Senate paid a lot of attention to the Bill's provisions, which enable electronic voting. It evoked a lot of debates and voting, which enabled the inference that the majority of the Senate was of the view that INEC should reserve the power to decide whether to conduct a traditional or electronic voting procedure. Furthermore, certain members of the House of Representatives appeared to anticipate the unique challenge posed by the recent general elections, wherein the inclusion of the term 'may' would allow the INEC to assert that implementing the electronic voting system was not mandatory. Also, they seemed to have foreseen the lacuna that arose due to ambiguity over the procedure and processes of the electronic voting. Regardless of these observations, the majority of the legislators voted for the

²³³ (n3), Sections 9(1) (b), 54(1-2).

electronic voting system to be at the discretion of the INEC. Consequently, it was codified in the Electoral Act that the mode of transmission of voting was at the discretion of the INEC. Hence, this research found that the legislative intent of the legislature was for the INEC to have the discretion to decide on mode of transmission of results and electronic voting.

The findings on the second research objective showed that in the course of interpreting the provisions of the Electoral Act in election petitions, the judiciary was limited to the provisions of the Act. Hence, there was no obvious dichotomy between the legislative intent and the judicial interpretations of the court with regard to the electronic transmission of voting and the specifications of how it works. In the course of this research, it was realised that the application of the electronic voting system in the past general election faced challenges. The judicial interpretations of the provisions of the Electoral Act serve as feedback to the legislature on how the courts articulate the laws the legislature has enacted. During the analysis of judgements from election petitions, it was found that some judges had diverse views with regard to the issues brought by the Petitioners. This reflected in their judgments. However, it is opined that if these issues, especially with regard to electronic voting system is well legislated, little would be left to the discretion of the judiciary, as well as ensuring uniformity in their judgments. It is reiterated that the legislative drafter is the person skilled to write legislations. The legislative drafter is the person who gives tangibility to the intent of the legislature through transforming it into words of a statute.

On the third research objective, the research found that to minimise ambiguity and under legislation of some electoral procedures like the electronic voting system and electronic transmission of results, the legislative drafter is needed to articulate and translate the intent of the

legislature in the future amendments of the Electoral Act and adopt best practices to drafting electoral laws in other jurisdictions.

The finding on the fourth research objective is that Nigeria can learn valuable lessons from other countries' electoral laws to better utilise technology in the conduct of elections. This research attempted a jurisdictional analysis of the electoral laws of some countries like India, Namibia and Canada. After carrying out the analysis of the electoral practices and laws in these other jurisdictions, this research found that the BVAS machine or any other electronic device to be used for election in Nigeria should not be used in isolation of a voter verified paper audit trail, which would serve as an indispensable part of an electronic voting system and an infallible record and proof of the data contained in the BVAS machine or any other electronic device used in the election, especially for parties proving their cases in court, as the VVPAT record is a tamperproof secondary evidence of the information contained in the BVAS machine.

5.2 Recommendations

From the analysis and findings of this research, the following recommendations are proposed;

It is recommended that the Electoral Act be amended to define the electronic voting system, unlike the generic expression 'voting device' and provisions be made in detail for how it will operate in the election process. The electronic process of voting should be considered in the proposed amendment of the Act, especially considering all the challenges that were faced during the election process. In the election petitions stemming from the general elections, the standard of proof seemed hardly attainable, and many petitioners found it difficult to discharge the burden of proof. This was largely because the manner of conducting elections, that is, the electronic voting system was not well legislated in the Electoral Act. Hence, the process of the electoral voting system

should be adequately covered in the Electoral Act. This will greatly minimise ambiguity, reduce lacunae and enable the judiciary determine the intent of the legislature with ease. It is recommended that it is not necessarily expedient to take away the discretionary power of the INEC to decide whether the voting procedure would be manual or electoral, however, there should be a provision stating that if the INEC decides on electronic voting procedure, it would abide by the specific and detailed provisions regulating electronic voting system as provided in the Electoral Act.

It is also recommended that the courts utilise the extrinsic aids of interpretation like, the Hansard Report, in coming to judicial conclusions in electoral cases.

It is also recommended that the legislative drafter adopt the principles of comparative legislative drafting and research to see which of the technologies best suits the electoral process in Nigeria to draft electoral laws devoid of ambiguity.

This research established some electoral practices that Nigeria can emulate from other jurisdictions. Hence, the research recommends the adoption of voter-verified paper audit trail (VVPAT) in the electoral process, based on the practices in other jurisdictions. The voter-verified paper audit trail (VVPAT) is a fundamental part of the electoral voting system that provides a record of each vote cast. It is a technology that enables the verification of vote recording and enables election officials to conduct audits and recounts, thereby improving the integrity of the entire voting process. This system provides the capability to verify the recording of votes and empowers election officials to carry out audits and recounts, thereby strengthening the overall integrity of the electoral process.

The introduction of the VVPAT technology as an audit trail for the vote records of the BVAS machine will help a Petitioner prove their case because its integrity cannot be tampered with. This is because there will be a trustworthy trail to serve as secondary evidence in court, even if the BVAS machine is unavailable. Another is the block-chain technology. This represents an advanced database solution that enables transparent sharing of information across a business network. Blockchain is a variant of distributed ledger technology that guarantees the immutability, verifiability, and security of records by employing time stamping and hashing to cryptographically associate blocks of transactions via an established consensus mechanism to safeguard the network. It is crucial for Nigeria to commit resources to the exploration of a tamper-resistant voting model that employs blockchain technology. Proponents of blockchain opine that a non-centralised voting mechanism powered by blockchain can provide enhanced accountability relative to established oversight organisations such as INEC. Despite its acclaimed autonomy and objectivity, electoral authorities have the potential to sway votes favouring specific political entities or factions. The immutable characteristics of blockchain technology would guarantee the authenticity of every vote. This will require the political will of the legislature and the executive. Furthermore, the government is required to invest in enhancing capacity to achieve successful elections driven by blockchain, which would best be integrated into the electoral system through extensive research and pilot testing.

5.3 Contribution to Knowledge

This research attempted an exposition of the relationship dynamics between the legislature and the judiciary with reference to the amendment of the Electoral Act. It threw light on how fundamental a legislative drafter is in bringing to life proposed innovations in a piece of legislation. Furthermore, it exposed how such proposed innovations can be frustrated if not well articulated or

detailed in the said legislation. The research also identified valuable lessons Nigeria can learn from the electoral laws of other jurisdictions, such as the VVPAT and blockchain technology, to enhance the effectiveness of the electoral process in Nigeria.

5.4 Conclusion

This research analysed the relationship dynamics between the legislative intent and judicial interpretation with specific reference to the Electoral Act. The research discussed the philosophy of legislative drafting; stages of passing a bill into law; principles of legislative drafting, which included plain language drafting, 7Cs of legislative drafting and gender-neutral drafting; rules of judicial interpretation; theoretical framework of legislative drafting; and theories of interpretation of statutes.

It further discussed the new provisions outlined in the Electoral Act, the debate proceedings of the two chambers of the National Assembly and notable judgments from the past general election in 2023. This was to enable the juxtaposition of the legislative intent and the consequent judicial interpretation of the statutes of the Electoral Act.

Finally, this research carried out a comparative analysis between the electoral laws of Nigeria and those of some other jurisdictions, including Namibia, Canada and India, while highlighting lessons Nigeria could learn from these jurisdictions to improve the local electoral laws.

From the findings of this research, it is opined that the Electoral Act is due for an amendment, especially as regards the electronic voting system and all other lacunae discovered when the Electoral Act was subjected to judicial interpretation in the last general elections.

5.5 Areas for Further Studies

This research does not exhaust the subject of the relationship dynamics between legislative intent and judicial interpretation. This is because it is limited to the Electoral Act 2022. Several other statutes can be subjected to the study, as the Electoral Act was in this research. Also, the relationship dynamics between the Executive and the Legislature with regard to the Electoral Act can be subjected to a study, especially considering the number of times that the President withheld assent till the provisions of the Electoral Bill that he had reservations over were amended to evoke his assent.

BIBLIOGRAPHY

BOOKS

B. U. Ihugba, *Introduction to Legal Research Method and Legal Writing* (Malthouse Press, 2020)

5.

E. Steinberg, *Plain Language: Principles and Practice* (Wayne State University Press, 1991)7.

Herman W. Smith, *Strategies of Social Research: The Methodological Imagination* (Englewood Cliffs, 1975).

PLAC, *From Ballot to the Courts: Analysis of the Election Petition Litigation from Nigeria's 2023 General Elections* (PLAC, 2025).

S. O. Imhanobe, *Principles of Legal and Legislative Drafting in Nigeria* (Imhanobe Law Books Limited, 2014) 184.

ARTICLES

Abubakar Olanrewaju Sulaiman, 'Electoral Reforms and Democratic Stability in Nigeria: A Critical Review of the 2022 Electoral Act' *NILDS Journal of Democratic Studies* (2022) (2)(2)1-28.

Anna Napolitano, 'Drafting and Interpretation'
https://d1wqtxts1xzle7.cloudfront.net/44045037/Drafting_and_Interpretation-libre.pdf? accessed 15 November 2024.

Brian Leiter, 'Naturalising Jurisprudence: Essays on American Legal Realism and Naturalism in Legal Philosophy' (2010).

https://www.researchgate.net/publication/289170123_Naturalizing_Jurisprudence_Essays_on_American_Legal_Realism_and_Naturalism_in_Legal_Philosophy accessed 8 January 2025.

Brian Leiter, 'The Radicalism of Legal Positivism' https://www.researchgate.net/publication/228257805_The_Radicalism_of_Legal_Positivism accessed 7 January 2025.

C.C. Chisom & O. Oguguwa, 'The Supremacy of The Realist School of Thought Vis a Vis Other Schools of Thought as it Relates to The Nigerian Legal System' <https://bscholarly.com/schools-of-thought-in-law/> accessed 7 December 2024.

Charles E. Clark, 'Special Problems in Drafting and Interpreting Procedural Codes and Rules' *Vanderbilt Law Review* (1957) (3)(3).

Chidimma Stella Nwakoby & Tobechukwu Modestus Ihediuche, 'Section 84(12) Electoral Act: Issues and Controversies Towards 2023 General Elections' *International Journal of Law* (2022) 8(4) 58-62.

Claribel Longjohn, 'Gender Neutral Legislative Drafting in Nigeria', *International Journal of Humanities and Social Sciences* (2015) 4(3) 67-84.

Daniel A. Farber, 'Statutory Interpretation and Legislative Supremacy' *Geo L.J.* (1989) (78) (281).

Dunia P. Zongwe, 'Itula and Others v Minister of Urban and Rural Development and Others 2020 (1) NR 86 (SC)' *SAIPAR Case Review* (2020) 12(3)(2).

Earl Maltz, 'Statutory Interpretation and Legislative Power: The Case for a Modified Intentionalist Approach' *Tulane Review* (1989) 63(1).

Eric Lane, 'Legislative Process and Its Judicial Renderings: A Study in Contrast' *Hofstra Law Faculty Scholarship* (1987) 639-661.

Esther Majambere, 'Clarity, Precision and Unambiguity: Aspects for Effective Legislative Drafting' *Commonwealth Law Bulletin* (2011) (37) (3) 417-426.

Fineface Ogoloma, 'The Theory of Separation of Powers in Nigeria: An Assessment' *African Review Journal* (2012) (6)(3) 127-134.

Frank H. Easterbrooke, 'Text; History and Structure in Statutory Interpretation' *Harvard Law Journal* (1994) (17) 63-74.

Helen Xanthaki, 'Legislative Drafting: A New Sub-Discipline of Law is Born' *IALS Student Law Review* (2013) (1) (1) 57-80.

Jamie Blaker, 'Is Intentionalist Theory Indispensable to Statutory Interpretation?' *Monash University Law Review* (2017) (43)(1) 239-273.

JJ Magyar, 'The Evolution of Hansard Use' *Statute Law Review* (2012) 33 pp 363-389.

Lisa Schultz Bressman & Abbe R. Gluck, 'Statutory Interpretation from the Inside – An Empirical Study of the Congressional Drafting, Delegation and the Courts' *Vanderbilt Law School Faculty Publications* (2013) 725-802.

Mauro Zamboni, 'Legislating Politics: An Introduction' 2 *Legisprudence* [2008] 155, 155.

Michael Healy, 'Legislative Intent and Statutory Interpretation in England and the United States: An Assessment of the Impact of *Pepper v. Hart*' *Stan. J. Int'l L.* (1999) (35) (231).

N. O. Obiaraeri, 'Section 42 of the Electoral Act, 2022 and the Lurking Ghost of Unlawful Exclusion- A Critique' *African Journals Online* (2023)

<<https://www.ajol.info/index.php/nba/article/view/254204/240193>> accessed 23 November 2024.

Reed Dickerson, 'Statutory Interpretation: Dipping into Legislative History' *Hofstra Law Review* (1983) (3)(4)(2) 1125-1162.

Rihab H Sahib & Prof. Dr. Eman S. Al-Shamery, 'A Review on Distributed Blockchain Technology for E-voting Systems' (2021) *Journal of Physics: Conference Series* 1804 012050.

Ronan Cormacain, 'Legislative Drafting' *Institute of Advanced Legal Studies, School of Advanced Study*, University of London (2017) 3.

S. Flammer, 'Persuading Judges: An Empirical Analysis of Writing Style, Persuasion, and the Use of Plain English', *J. Legal Writing Institute* (2010) (16) 185.

Shankar Prasad, 'Schools of Jurisprudence: A Critical Study' *Journal of Emerging Technologies and Innovate Research (JETIR)* (2019) (6) (3).

Shirley S. Abraham & Robert L. Hughes, 'Shall We Dance – Steps for Legislators and Judges in Statutory Interpretation' *Minnesota Law Review* (1991) 1045-1093.

Subhajit Basu, Aderemi Omotubora, Iheanacho Nelson & Mehul Jain, 'Nigeria's Electoral Progress: Insights and Lessons from India's E-Voting Journey' *NALSAR Law Review* (2024) (9)(1) 18-44.

Tebira, Sarah Hope Adanma & Tebira Baribefi Legborsi, 'Legislative Drafting and Interpretation Act' *NIALS International Journal of Legislative Drafting* (2020) 3(2)181 – 190.

Umar Isa Sulaiman, 'Ending Technical Justice in Election Petitions in Nigeria: A Road Map for the Enhancement of Electoral Justice' *SSRN eLibrary* (2024) <https://papers.ssrn.com/sol3/Delivery.cfm/4973128.pdf> accessed 30 July 2025.

W. David Slawson, 'Legislative History and the Need to Bring Statutory Interpretation Under the Rule of Law' *Stanford Law Review* (1992) (44)(2) 383-427.

ONLINE SOURCES

Aderemi Omotubora and Nelson Iheanacho, 'Is INEC in Breach of the Law on E-Transmission of Election Results? The Flip Side of the Coin' <https://riskgroupllc.com/is-inec-in-breach-of-the-law-on-e-transmission-of-election-results-the-flip-side-of-the-coin/> accessed 16 January 2025.

Aithor 'The Challenges and Implications of Judicial Interpretation in Modern Legal Systems' <https://aithor.com/essay-examples/the-challenges-and-implications-of-judicial-interpretation-in-modern-legal-systems> accessed 8 April 2025.

AWS, 'What is Blockchain Technology' <https://aws.amazon.com/what-is/blockchain/?aws-products-all.sort-by=item.additionalFields.productNameLowercase&aws-products-all.sort-order=asc> accessed 21 March 2025.

Ballotpedia, 'Legislative Intent' https://ballotpedia.org/Legislative_intent accessed 25 July 2025.

Charles Mbah Okafor, 'Blockchain Technology: Meaning, Structure and Applications' <https://www.ncs.org.ng/wp-content/uploads/2021/03/Blockchain-Technology-Meaning-Structure-and-Applications-.pdf> accessed 21 March 2025.

Chris Michelin, 'The Seven Cs of Basic Legislative Drafting' <https://californiaglobe.com/fr/the-seven-cs-of-basic-legislative-drafting/> accessed 10 January 2025.

CNN World, ‘Voting Irregularities in Nigerian Gubernatorial Elections’ <https://edition.cnn.com/videos/world/2023/03/19/exp-nigeria-elex-busari-031902aseg2-cnni-world.cnn>. accessed 10 January 2025.

Donatus Anichukwueze, ‘2023: No Going Back On Electronic Transmission Of Results, INEC Reassures’ *ChannelsTV* (26 October 2022) <https://www.channelstv.com/2022/10/26/election-results-will-be-electronically-transmitted-in-real-time-inec-assures/> accessed 20 February 2025.

Friday Olorok, ‘INEC Laments High Cost of Law Suits as South South Leads in Election Petitions’ <https://www.arise.tv/inec-laments-high-cost-of-lawsuits-as-south-south-leads-in-election-petitions-filing/> accessed 29 January 2025.

GIGA Focus Africa, ‘Overpromising and Underdelivering? Digital Technology in Nigeria’s 2023 Presidential Elections’ <https://www.giga-hamburg.de/en/publications/giga-focus/overpromising-underdelivering-digital-technology-nigerias-2023-presidential-elections> accessed 18 March 2025.

INEC, ‘Electronic Transmission and Collation of Results’ https://www.inecnigeria.org/wp-content/uploads/2023/02/Electronic_Transmission_Collation_Of_Result-5.pdf accessed 16 January 2025.

Introduction to Law and Legal Process Review, ‘Key term – Legislative Intent’ <https://library.fiveable.me/key-terms/introduction-law-legal-process/legislative-intent> accessed 25 July 2025.

Inwalomhe David, ‘2023: Hackers and Electronic Transmission of Elections Result’ *Punch Newspaper* (2023) <https://punchng.com/2023-hackers-and-electronic-transmission-of-elections-result/> accessed 8 February 2025.

Iwok Iniobong, ‘How INEC conned Nigerians on BVAS, IREV’ <https://businessday.ng/analysis/article/how-inec-conned-nigerians-on-bvas-irev/> accessed 16 January 2025.

Lawrence B. Solum, ‘Legal Theory Lexicon: Theories of Statutory Interpretation and Construction’ <https://lsolum.typepad.com/legaltheory/2018/12/legal-theory-lexicon-theories-of-statutory-interpretation-and-construction.html> accessed 3 February 2025.

LearnNigeriaLaw, ‘Statutory Interpretation’ <https://www.learnnigerianlaw.com/learn/legal-system/interpretation> accessed 7 January 2025.

Mark Greenberg, ‘Legal Interpretations, Stanford Encyclopaedia of Philosophy’ <https://plato.stanford.edu/entries/legal-interpretation/> (2021) accessed 3 February 2025.

Merriam-Webster Dictionary <https://www.merriamwebster.com/dictionary/purposivism#> accessed 3 February 2025.

Movine Omondo, Adetayo Ayodele Adesanya, George Otieno, Moses Kioko, Eweka Yvonne Ogieomo, ‘Elections in Africa: Trends, Diversity, and Emerging Technologies’ (2024) <https://govote.ng/wp-content/uploads/2024/09/Election-in-Africa-I.pdf> accessed 24 February 2025.

National Assembly, ‘The Ninth National Assembly and Electoral Act 2022’ <https://nass.gov.ng/news/item/1620> accessed 20 March 2025.

National Institute for Legislative and Democratic Studies ‘Law Making’ <https://www.nilds.gov.ng/wp-content/uploads/2023/09/law-making.pdf> accessed 9 January 2025.

Nengi Abam, 'The Issue of Statutory Interpretation in the Nigerian Legal System and Measures Devised by the Court to Mitigate the Distress' <https://legalideasforum.com/the-issue-of-statutory-interpretation-in-the-nigerian-legal-system-and-measures-devised-by-the-court-to-mitigate-the-distress.html> accessed 8 April 2025.

NOUN, 'Course Guide' <https://nou.edu.ng/coursewarecontent/LED%20714.pdf> accessed 10 January 2025.

Ontosight, 'Voter Verified Paper Audit Trail' <https://ontosight.ai/glossary/term/voter-verified-paper-audit-trail-overview--677fa0d687cefff39685103d> accessed 14 March 2025.

Paul Idornigie, 'Introduction to Legislative Drafting-The Qualities, Qualifications and Roles of a Legal Draftsperson' <https://paulidornigie.org/wp-content/uploads/2021/08/Introduction-to-Legislative-Drafting-Qualities-Qualifications-etc-Updated.pdf> accessed 3 February 2025.

Plain Language Association International, 'What is Plain Language' <https://plainlanguagenetwork.org/plain-language/what-is-plain-language/> accessed on 11 January 2025.

Premium Times, 'NigeriaDecides 2023: Electronic Transmission of Results not Compulsory- APC replies Atiku, Obi' <https://www.premiumtimesng.com/news/headlines/586069-nigeriadecides2023-electronic-transmission-of-results-not-mandatory-apc-replies-atiku-obi.html> accessed 16 January 2025.

Sylvester Udemezue, 'How Nigeria's National Assembly Can Make the Electoral Act/System Impregnable on Electric Transmission to Prevent Fraud During Election Result Collation' https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4929155 accessed 7 February 2025.

ThisDay, ‘Election Petitions: Between Public Opinions and Judicial Process’
<https://www.thisdaylive.com/index.php/2023/04/11/election-petitions-between-public-opinion-and-judicial-process/> accessed 18 March 2025.

Tonye Clinton Jaja, ‘Stages of the Legislative Drafting Process’ NILS-CAP Intensive Training Workshop on Legislative Drafting 1 and 11
<https://ir.nilds.gov.ng/bitstream/handle/123456789/461/> accessed 3 February 2025.

MASTER’S DISSERTATION

Kingdom N. Okere, *A Critical Appraisal of the Problem of Interpretation of Statutes in Nigeria* (LLM Dissertation Faculty of Law University of Abuja, 2016).

HANSARD REPORT

Debate Proceedings of the House of Representatives on the Bill Seeking to Amend the Electoral Act, 2010.

National Assembly Senate Debate on Electoral (Act) Amendment Bill 2021 (SB. 680) presented by Senator Basiru Surajudeen Ajibola (Osun Central) on 15 July 2021.