

**A STUDY OF THE IMPLICATIONS OF THE 2018 INCONCLUSIVE ELECTION IN
OSUN STATE ON ELECTORAL PROCESS IN NIGERIA**

BY

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DECLARATION

I, Olajide Olufunsho AYOBOLU, humbly declare that this dissertation is an outcome of my research efforts carried out in the school of Post-Graduate Studies in the National Institute of Legislative and Democratic Studies/University of Benin. I hereby wish to further state that this research work is entirely mine under the supervision and guidance of my supervisor, Dr. Mohammed Wakil.

Where work of other varied person and scholars have been consulted or used such as been duly acknowledged by means of referencing.

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CERTIFICATION

This is to certify that this dissertation titled: **“A STUDY OF THE IMPLICATIONS OF THE 2018 INCONCLUSIVE ELECTION IN OSUN STATE ON ELECTION PROCESS IN NIGERIA”** was carried out by **Olajide Olufunsho AYOBOLU** and has been read and approved for the award of Master in Elections and Party Politics for University of Benin/National Institute for Democratic and Legislative Studies.

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DEDICATION

This research work is dedicated to my Lord and Saviour Jesus Christ, who is the Author and Finisher of my faith. Glory be to God Almighty. Hebrews 12:2

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To be able to come up with a project of this nature different people made diverse level of contributions. It is, therefore, necessary to duly acknowledge all those who assisted me, in one way or the other in the writing this project.

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ABSTRACT

It is imperative to underscore the fact that the recurring issue of inconclusive election is becoming frequent and ubiquitous in the conduct of elections in Nigeria and, a formidable challenge in Nigeria's electoral system, this therefore lends this subject as particularly fertile for exploration, within the context of the programme. The significance of the study is exemplified in the fact that the administration of elections remains a vital component of democracy and public trust in EMBs is often a reflection of how well organised (or not) the electoral process has become over the years. The integrity of the electoral process, in many African States, is a major concern for both international and domestic election observers alike. Therefore, this study on inconclusive elections will be of immense benefit to policy makers, civil society organisations and other critical stakeholders in the electoral process. The overriding significance of this study is to add to the growing literature on inconclusive election and its implication on the integrity of the electoral process and democratic governance. This study will help in no small measure to improve the quality of elections in the polity.

This study relied largely on the secondary sources of data collection. These include textbooks, articles, newspapers and other published and unpublished materials such as electoral laws, electoral precedence as well as relevant interviews where absolutely necessary. It involves the use of descriptive, prose and narrative methods in describing scenarios and events through the prism of scientific observation. It is the systematic and analytical description of events and situations, data and records, trends and histories, occurrences and application of extant laws to similar situations in different environments. It is the methodical presentation of facts and figures without prejudices and prevarications. It is the presentation of established facts, coming up with new ideas, fresh methods of analysis and on this basis draw conclusions and make far-reaching recommendations that can stand the test of time.

This study discovered that inconclusive election leads to voter apathy and increases the financial burden on INEC. Another discovery is that without the supplementary elections, the election in Osun in 2018 had been won and lost at the first ballot. The margin of votes had been applied differently by INEC to similar electoral situations in the country. Inconclusive election was discovered to have deleterious implications on the integrity of elections, electoral process as well as the credibility of INEC as an institution. The study also discovered contradictions in electoral laws as it relates to margin of votes in inconclusive election.

This study recommended amongst other things that the idea of inconclusive election based on margin of votes should be done away with completely. It contradicts the electoral system that is operational in the country which is First –Past- The- Post (FPTP), predicated on simple majority and geographical spread. Secondly it recommended that the government should endeavour to fully implement the report of Justice Mohammed Uwais Electoral Report Committee. This will enable the Independent National Electoral Commission (INEC) to be truly independent. This will enable the Independent National Electoral Commission (INEC) to be truly independent in terms of appointments and financial autonomy, to this end, it will be able to conduct free, fair and credible elections. Also, the margin of win or votes or lead as the case may is a fraudulent because it is predicated on the entire number of voters registered in any particularly polling booth, and not on the actual numbers of voters accredited to vote on Election Day. On the day of election, not every voter come out to cast their ballot, in fact, not every accredited voters eventually vote, in actual sense, not all registered voters are eligible to vote because not all of them have collected their PVC's. Therefore the margin of vote is a needless electoral exercise that ought to be promptly discarded.

These are some of the ways to block the loopholes in the electoral process and work assiduously towards a free, fair and credible election.

TABLE OF CONTENTS

Title page	i
Declaration	ii
Certification	iii
Dedication	iv
Acknowledgement	v
Abstract	vi

CHAPTER ONE: INTRODUCTION

1.1 Background to the Study	1
1.2 Statement of Research Problem	5
1.3 Research Questions	7
1.4 Objectives of the Study	8
1.5 Scope of the Study	8
1.6 Significance of the Study	9
1.7 Limitation of Study	10
1.8 Organization of Chapters	10

CHAPTER TWO: LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Literature Review	12
2.2 Theoretical Framework	18

2.3 Factors that led to Inconclusive Election in Nigeria	23
2.4 Implications of Inconclusive Election in Nigeria	29

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Research design	33
3.2 Study Area	34
3.3 Source of Data Gathering Techniques	35

CHAPTER FOUR: DATA PRESENTATION AND ANALYSIS

4.1 The Concept of Election	36
4.2 The Concept of Inconclusive Election	38
4.3 Presentation of Data and Analysis	42
4.4 Discussion and Analysis of Result	52
4.5 Issues of Inconclusive Election in Nigeria	58
4.6 Summary of Chapter	64

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary of Findings	65
5.2 Conclusion	68
5.3 Recommendations	68

Bibliography	72
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Appendices	80
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CHAPTER ONE

INTRODUCTION

1.1 Background to the study

It is imperative to underscore the fact that the recurring issue of inconclusive election is becoming frequent ubiquitous in the conduct of elections in Nigeria and, a formidable challenge in Nigeria's electoral system, this therefore lends this subject as particularly fertile for exploration, within the context of the programme. The rationale for choosing Osun State as a case study for analysis and to interrogate the concept in Osun are several, first, Osun offers the index and only case of inconclusive election in the South-West geopolitical zone of the country till date. Second, the election was an off-cycle one, outside the general elections calendar, one would have expected that the Electoral Management Body (EMB), the Independent National Electoral Commission (INEC) to mobilise every resource to prepare seriously and comprehensively to forestall any electoral, logistical and security lapses that could have elicited a situation warranting a supplementary election. Yet, the unexpected happened and there was a re-run election to the chagrin of perceptive members of the public, with its concomitant consequences. Third, it was an election that took place before the 2019 general elections in Nigeria, therefore, it would have been expected also that the electoral umpire would seize the opportunity to test the waters and make adequate preparations, while eliminating observable lapses but again, incidences of inconclusive election in the 2019 general election is the highest in the history of elections conducted in Nigeria.

Inconclusive election is a recent but recurring development in Nigeria's electoral history and process. The issue of inconclusive elections has provoked so much debate in the public space and this reinforces the importance of elections to democracy. The electorate hold on tenaciously to the fact that they have the power and the right to elect those who will preside over their affairs, hence, they do not just want to vote but they want their votes to count. It is in this regard that Joseph (1987) argued that elections do not necessarily

guarantee worthwhile democratic rule, it is also true that election is at the heart of the modern conception of democracy following from the inability of the modern society to accommodate the classical democratic notion of involving every citizen in decision-making. In a related vein, Akhter (2001) postulated that the abuse and misuse of elections and the manipulation of the electoral system notwithstanding, elections are still relied upon for determining important matters in most political systems. For example, elections demonstrate that legitimate political power flows from below. Free and fair elections, acceptable elections devoid of irregularities and malpractices are essential for the sustainability of democracy. And the conditions of free and fair elections include the right to vote by the entire adult population; regularity of elections within the context of constitutionally open contestation for legislative seats, campaigning free from intimidation and violence, secret balloting without influence and honest counting and reporting of election results.

In spite of the fact that inconclusive election is well provided for in the Electoral Act 2010 as well as Independent Nigeria Electoral Commission (INEC) Guidelines and Regulations, many of the political gladiators see inconclusive election as a clever and deceptive way of manipulating the electoral process to favour a particular political party. That is why the former speaker of the House of Representatives Dogara. Y. (2019) warned the “Independent National Electoral Commission (INEC) against setting a dangerous precedence by declaring elections inconclusive. In 2019, INEC had declared elections inconclusive in at least six states, including Bauchi where the former speaker hails from. Addressing a national executive council meeting of the People’s Democratic Party (PDP) in Abuja, Dogara cited election cases in Ghana and other African countries, saying, it is only in Nigeria that elections are declared inconclusive. It will be very, very unfortunate that INEC, which is led by a first class professor of history, will set this dangerous and unacceptable precedence in our political history. What has happened is pure evil”.

Unini Chioma 2019 pointed that

“... The fundamental question that arises here is whether INEC is telling the whole world that an election cannot be won by just one vote in a democratic setting. How then did we come about this idea of ‘margin of votes between

two leading candidates’, that we can no longer conclude our elections? ...For instance, in the bye-election to fill the vacant seat of Lokoja/Kogi Federal Constituency last year, triggered by the death of Hon. Buba Jibrin, Haruna Isah was declared winner having polled 26,860 votes as against Engr. Bashir Abubakar of PDP, who scored 14,845 votes. The margin of win was 6,900 votes. The election was marred with violence such that 19,960 votes were canceled. INEC did not declare the election inconclusive, but proceeded to declare APC’s candidate winner. That is the level of arbitrariness and selectiveness of INEC in the application of the unknown principle. Consider also the election for the Abia North senatorial district which, by INEC standard, should have been declared inconclusive. But, Orji Uzor Kalu, a former governor of Abia State, was among the about 100 senators-elect who received their certificates of return from INEC in Abuja. He had been returned as elected after polling 31,201 votes for the APC to beat incumbent PDP senator, Mao Oluabunwa who polled 20,801. Some 38,526 votes were canceled, which is much larger than the margin of win of 10,400 votes. INEC refused to declare the Abia North senatorial election as inconclusive” (The Nigeria Lawyer 2019).

In the same token, Taiwo Adisa writing in the **Nigeria Tribune Newspaper** (2019) argued about the discrepancies in the different provisions of the law about inconclusive election as well as the differences in the application of the provisions and remarked thus, “Section 133 of the 1999 constitution of the Federal Republic of Nigeria states that “A candidate for an election to the office of President shall be deemed to have been duly elected to such office where, being the only candidate nominated for the election – (a) he has a majority of YES votes over NO votes cast at the election; and (b) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the States in the Federation and the Federal Capital Territory, Abuja.” Section 134 (1): states that “A candidate for an election to the office of President shall be deemed to have been duly elected, where, there being only two candidates for the election – (a) he has the majority of votes cast at the election; and (b) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the States in the Federation and the Federal Capital Territory, Abuja.

(2) A candidate for an election to the office of President shall be deemed to have been duly elected where, there being more than two candidates for the election- (a) he has the highest number of votes cast at the election; and (b) he has not less than one-quarter of

the votes cast at the election in each of at least two-thirds of all the states in the Federation and the Federal Capital Territory, Abuja.”

Section 179 states thus: 179. (1) “A candidate for an election to the office of Governor of a State shall be deemed to have been duly elected to such office where, being the only candidate nominated for the election-(a) he has a majority of YES votes over NO votes cast at the election; and (b) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the local government areas in the State, but where the only candidate fails to be elected in accordance with this subsection, then there shall be fresh nominations.

(2) A candidate for an election to the office of Governor of a State shall be deemed to have been duly elected where, there being two or more candidates- (a) he has the highest number of votes cast at the election; and (b) he has not less than one-quarter of all the votes cast in each of at least two-thirds of all the local government areas in the state.”

Besides the constitutional provisions, Section 53(1 and 2) of the Electoral Act 2010 (as amended) as well as Section 69 of the Act provide for conditions whereby votes can be voided. Section 53 of the Electoral Act recognises over-voting as a condition where votes of the affected polling unit can be voided.

Section 69 of the Electoral Act indicates that: “In an election to the office of the President or Governor whether or not contested and in any contested election to any other elective office, the result shall be ascertained by counting the votes cast for each candidate and subject to the provisions of sections 133, 134 and 179 of the constitution, the candidate that receives the highest number of votes shall be declared elected by the appropriate Returning Officer.”

But INEC is hanging on to provisions of the Electoral Act 2010 at Section 53(2) which states that: “Where votes cast at an election in any polling unit exceed the number of registered voters in that polling unit, the result of the election for that polling unit shall be declared null and void by the commission and another election may be conducted at a

date to be fixed by the commission where the result at that polling unit may affect the overall result in the constituency.”

.....Unfortunately, INEC has been unable to justify the refusal to apply the inconclusive appellation to some elections and why the logic is only applied haphazardly. For instance, critics of the commission had raised issues as to why the governorship election in Ogun and Kaduna states were not declared inconclusive, especially when the results declared fell within the “margin of win” description.

To this end, this research will endeavour to delve into how elections should be properly conducted, and will be generally acceptable to the mass of the electorate. How important or otherwise is inconclusive election to the overall outcome of elections and how will inconclusive election help to bring about integrity of the electoral process or is inconclusive election a fraud that should be jettisoned? Or is it a genuine attempt to make elections freer, fairer, more transparent and generally acceptable? What was at the back of the mind of the framers of the law when they input “margin of election” into the Electoral Act? What are the pros and the cons of inconclusive elections that need to be vigorously interrogated? In what ways can inconclusive elections contribute to the integrity of the electoral process? Or should it be expunged from Electoral Acts.

1.2 Statement of Research Problem

The problems associated with inconclusive elections are enormous ranging from financial burden, security, legitimacy, democratic erosion, awareness and mass education. The centrality of elections in a democratic polity cannot be overemphasized. Momoh and Adejumobi (1999) underscored this fact very poignantly thus, “Elections occupy a central place in the democratic process through the animating force they provide for representative government. On the other hand, they serve as an instrument of legitimization for the state and who manage the reins of state power, while on the other, they ensure political accountability to the people”. Relatedly, Mackenzie (1954) summed up that elections can only be free and fair in an environment where there exists: “(a) an

independent judiciary to interpret electoral law; (b) an honest, competent, non-partisan administration to run elections; (c) a developed system of political parties, well organised to put their policies, traditions and teams of candidates before the electors as alternatives between which to choose and (d) a general acceptance throughout the political community of certain rather than vague rules of the game which limits the struggle for power because of some unspoken sentiments that if the rules are not observed more or less faithfully, the game itself will disappear”.

The question therefore is that in what ways does inconclusive election promote or undermine the ingredients of free and fair elections that have been pointed out above? It would be recalled that incidences of inconclusive election has been on the ascendency in recent elections conducted in the country. Not only does inconclusive election bring about pent-up anger, latent animosities, concealed hostility and mutual suspicion but it also heightens tension, creates anxiety and conceivably circumstances for people to call to question the integrity, sanctity and credibility of the electoral body.

Critical to the issue of election is the role of Electoral Management Bodies (EMB's), in this case INEC and political parties. If the EMB is independent, impartial and competent, it will reflect on the outcome of elections. Similarly, if the political parties play by the rules and do not engage in any untoward practices, there is every likelihood that the outcome of elections will not generate controversies or cause anxiety of any sort. It is, therefore, incumbent on both the INEC and political parties as important stakeholders to play their roles diligently to have decent and reliable outcomes.

Consequently, in the case of the 2018 gubernatorial election in Osun State, the inconclusive election according the electoral umpire was predicated on the "Margin of Lead Principle" contained in paragraph 41(e) and 43(b) of the INEC Regulations and Guidelines, the commission cannot declare a winner if the number of canceled votes can mathematically affect the outcome of the election.

So, for instance, if the margin of victory between the first-placed candidate and the second-placed candidate is 100, the number of canceled votes cannot be any more than 99. If the number of canceled votes is 101, or higher, then the result of the declared election will have to be declared inconclusive since the second-placed candidate can mathematically win the election if all 101 voters cast their votes for just that candidate.

Therefore, to what extent are INEC and the political parties playing the role expected of them to guarantee peaceful elections? Are acrimonious and contentious election outcomes a reflection of abdication of responsibilities by these important and critical stakeholders in the electoral process? As a student of Election and Party Politics, the author regards this problem an important practical phenomenon because it affects the state's overall development. Elections are a means of putting in place a state's political leadership to preside over its economic, political and social affairs. Therefore, if the process of doing so is corrupt or questionable then the quality of leadership becomes compromised and tends to engender the development of underdevelopment. Otherwise electoral legitimacy will be weak or lost and can further undermine the tenets of purpose-driven leadership and good governance where fair elections are an integral part of the democratization process.

1.3 Research Questions

The following are the research questions of the study

1. What are the various factors that precipitated inconclusive elections in the Osun State gubernatorial election in 2018?
2. To what extent does the gubernatorial election in 2018 contribute to the integrity of the electoral process or did it undermine the electoral process? In other words, what are the challenges faced by INEC in conducting credible elections?

3. What responses did the inconclusive Osun State gubernatorial elections of 2018 trigger among key stakeholders- EMB, CSO, Political Parties and academia?

1.4 Objective of the study

The main objective of study is to investigate the implications of inconclusive Osun State gubernatorial election of 2018 on the integrity of the electoral process

1. To ascertain the factors that made the election inconclusive.
2. To analyse the implication of the inconclusive election on the eventual outcome of the electoral process.
3. To analyse the responses elicited by the election from the Independent National Electoral Commission (INEC) and other stakeholders to avert reoccurrence.

1.5 Scope of the Study

Having made a feasibility evaluation on the research topic, and to make the work presentable, readable, wieldy and manageable with adequate and reliable data, the scope of this research effort on a study of the implications of the 2018 inconclusive election in Osun State on electoral Process in Nigeria will focus on the governorship election that took place on September 22, 2018; as Section 178 (2) of the country's 1999 Constitution (as amended) and Section 25 (8) of the Electoral Act 2010 (as amended) had stipulated that election into the office of governor should be held not earlier than 150 days and not later than 30 days before the expiration of the term of office of the last holder. Also, "The Commission is by virtue of Section 30(1) of the Electoral Act 2010 (as amended) expected to issue a notice for the election not later than 90 days before the date of the election."

As well as the 2018 supplementary gubernatorial election in Osun State in what passed as the tightest governorship election in the annals of elections in the country, the Candidate of the People's Democratic Party, (PDP), Senator Ademola Adeleke, polled 254, 698 votes while his closest marker, Alhaji Gboyega Oyetola, of the All Progressives Congress, (APC), scored 254, 345 votes. The Social Democratic Party, (SDP), Senator Iyiola Omisore, polled 128, 049 votes to be in third position. Adeleke led with 353 votes, which is a far cry from the 3, 498 voided votes in Orolu LGA (three units, 947 votes), Ife South (two units, 1,314), Ife North (one unit, 353 votes). And Osogbo (one unit, 884 votes). The scope of study is therefore limited to the 2018 governorship election as well as the 2018 supplementary governorship election in Osun State.

1.6 Significance of the study

The administration of elections remains a vital component of democracy and public trust in EMBs is often a reflection of how well organised (or not) the electoral process has become over the years. The integrity of the electoral process, in many African States, is a major concern for both international and domestic election observers alike. Therefore, this study on inconclusive elections will be of immense benefit to EMBs, policy makers, civil society organisations and other critical stakeholders in the electoral process.

The overriding significance of this study is to add to the growing literature on inconclusive election and its implications on the integrity of the electoral process and democratic governance. Thus the study is, therefore, both timely and germane. A detailed analysis of this phenomenon will reduce the dearth of knowledge in this area. Besides, the suggestions and recommendations proffered in this study will help in no small measure to improve the quality of elections in the polity and democratic ethos in Nigeria.

Finally, this work is useful to scholars, researchers, public intellectuals, writers and students who may wish to carry out further research on inconclusive elections in Nigeria.

1.7 Limitation of the study

There are two major limitations in this study that could be addressed in future research on the subject matter. First, the issue of inconclusive election in the polity is a new one, as such there are only few research efforts that have been carried out in this area. Lawyers, researchers, journalists and civil society organisations are still working relentlessly in this area. This means there is still a lot of room for further research and breaking of new grounds on this subject.

Secondly, the focus of the study is on the inconclusive 2018 gubernatorial election in Osun State. The time lapse between the event and study is a challenge because of the paucity of materials with which this work could have been embellished, notwithstanding this has challenged the author to look at creative ways of searching for useful materials to accomplish the task at hand.

1.8 Organisation of the study

In any research work, organisation of chapters is conventional for the presentation of chapters as it will assist for proper digestion of ideas in the study. As a result of this, this research work consists of five (5) chapters.

Chapter one gives a general introduction of the research work, highlights the statement of research problem, research objectives, put some succinct research questions, defines the scope of study, the significance of the study, research hypothesis and defines key concepts and finally the organization of the work.

Chapter two deals entirely with the review of key literature and theoretical framework, here relevant scholarly works to the research were thoroughly and comprehensively revised. The chapter also delves into the different electoral laws as well as issues around inconclusive election and its implication on the electoral process.

Chapter three zeroed in on the research methodology adopted, while chapter four deals with the interpretation and analysis of the research proposition.

Finally, chapter five summaries and concludes the research work as well as gives out relevant recommendations.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

Literature review is a well-integrated discussion and critical evaluation of different scholarly viewpoints on a given research problem as found in previous relevant studies highlighting their strengths, weaknesses and indicating how a given study will for instance, make germane contribution to existing body of knowledge, especially on the research problem and on other related areas of study or investigation. A well-structured literature review is characterized by a logical flow of ideas, current and relevant references with consistent, appropriate referencing style, and proper use of terminology or terms and an unbiased and comprehensive view of the previous research or studies on the topic.

2.1 Literature Review

Right from the onset it is important to point out that different definitions have been given to the concept of inconclusive election. According to the Electoral Act 2010 as amended, an “Inconclusive election” would occur when no candidate meets the condition for the declaration of a winner of the election after polls. Simply put, “He or she must satisfy all legal requirements, score the majority of lawful votes cast at the election in which all eligible voters have been given the opportunity to exercise their franchise. Where no candidate satisfies this requirement, the election is said to be inconclusive,”

To further understand what the concept of inconclusive election means, the Electoral Act (2010) Section 53 (1 & 2) states that -(1) No voter shall vote for more than one candidate or record more than one vote in favour of any candidate at any one election. (2) Where the votes cast at an election in any polling unit exceed the number of registered voters in that polling unit, the result of the election for that polling unit shall be declared null and void by the Commission and another election may be conducted at a date to be fixed by

the Commission where the result at that polling unit may affect the overall result in the Constituency.

And Electoral Act (2010) Section 26 (1) stipulates that Where a date has been appointed for the holding of an election, and there is reason to believe that a serious breach of the peace is likely to occur if the election is proceeded with on that date or it is impossible to conduct the elections as a result of natural disasters or other emergencies, the Commission may postpone the election and shall in respect of the area, or areas concerned, appoint another date for the holding of the postponed election, provided that such reason for the postponement is cogent and verifiable.

Also, Electoral Act section 69 says the decision of the Returning Officer on any question arising from or relating to- (a) unmarked ballot paper; (b) rejected ballot paper; and (c) declaration of scores of candidates and the return of a candidate, shall be final subject to review by a tribunal or Court in an election petition proceedings under this Act.

Electoral Act section 70 says in an election to the office of the President or Governor whether or not contested and in any contested election to any other elective office, the result shall be ascertained by counting the votes cast for each candidate and subject to the provisions of sections 133, 134 and 179 of the Constitution, the candidate that receives the highest number of votes shall be declared elected by the appropriate Returning Officer.

While section 71 says where two or more candidates poll an equal number of votes being the highest in an election, the Returning Officer shall not return any of the candidates and a fresh election shall be held for the candidates on a date to be appointed by the Commission.

“There are two sections of the Electoral Act that we need to focus on. The first one is Section 26, which says “in the event of violence or natural disaster, INEC should not proceed with an election and if the total number of registered persons in the place affected

is more than the margin of lead where you have conducted the election, then don't make a declaration until you go back and complete the election.

"Section 53 of the Electoral Act is very clear, in the event of over-voting, INEC is prohibited by law from making a declaration. The law says 'don't make a return until you go back to those polling units and you conduct an election where the number of registered voters will make a difference to the margin of lead. I'm yet to hear any Nigerian say this commission has declared any election inconclusive outside the law.

Paragraph 41(e) and 43(b) of the INEC Regulations and Guidelines-

Paragraph 41(e) says the State Collation/Returning Officer for the Governorship election shall where the margin of lead between the two leading candidates is not in excess of the total number of registered voters of the Polling Unit(s) where election was canceled or not held in line with Sections 26 and 53 of the Electoral Act, the returning officer shall decline to make a return until polls have taken place in the affected Polling Unit(s) and the results incorporated into new form EC 8D and subsequently recorded into form EC 8E for Declaration and Return.

While paragraph 43(b) says the LGA Collation Officer/Returning officer in-charge of State Constituency (House of Assembly) Election shall: Where the margin of lead between the two leading candidates is not in excess of the total number of registered voters of the Polling Unit(s) where election was canceled or not held in line with section 26 and 53 of the Electoral Act, the returning officer shall decline to make a return until polls have taken place in the affected Polling Unit(s) and the results incorporated into the new Form EC 8C(I) and subsequently recorded into form EC8E(I) for Declaration and Return.

However, in giving explanation for the spate of inconclusive election, the INEC chairman, Professor Mahmood Yakubu stated that inconclusive election occurs after polls; no candidate meets the condition precedent for the declaration of a winner of the election. He maintained that a candidate must satisfy all conditions stipulated by the law before he

could be declared a winner, noting that he or she must satisfy all legal requirements; score the majority of lawful votes cast at the election in which all eligible voters have been given the opportunity to exercise their franchise and for executive positions, the stipulated spread in the constituency. He argued that doing otherwise would amount to a breach of the Constitution, the Electoral Act and fundamentals of democratic ethos. It could mean returning people as winners who have not scored the majority of lawful votes at the elections (Daily Nigeria News, June 18, 2016).

INEC Guidelines and Regulations (2015) Section 28 states that Where, the total number of votes cast at a polling unit exceeds the number of registered voters in the polling unit, the result of the election for that polling unit shall be declared null and void. Similarly, where the total number of votes cast at a polling unit exceeds the total number of accredited voters, the outcome of the election shall be declared null and void.

INEC Guidelines and Regulations (2019) Section 33 says that supplementary elections can occur where the election is declared null and void in an area and it is believed that the result will affect the overall outcome. Where the total number of canceled votes are less than the margin of lead between the leading candidate and contending candidates, the officer shall declare the results. This is also the case where the margin of lead between the two leading candidates is not in excess of the total number of voters registered in polling units where elections are not held or voided.

According to Babalola A. M. et al (2019) “the conduct of supplementary election or a declaration of suspension of the process in the voting exercise and the announcement of another day for the exercise is often referred to as inconclusive election’.

In the views of Onah and Chukwu (2019) they submit that inconclusive election

“Is a scenario where the electoral umpire fails to announce the result of an election due to some irregularities arising from cancellations in some electoral units which sufficiently negates the electoral laws, rules and regulations backing such election”. Inconclusive elections arise due to some of the following

conditions that undermine the credibility of the polls: lack of election in some electoral units; cancellation of election results from some polling or electoral units due to irregularities; serious security breach in significant areas of the electoral districts etc. The enabling legislation for elections in Nigeria stipulate that whenever the number of voters who were disenfranchised as a result of the negative incidents appear higher than the number or the difference between the presumed winner and runner-up of the election, such election should be declared inconclusive because those voters, if given a conducive environment to exercise their franchise, could change the entire result'.

Furthermore, Nkwede and Emordi (2020) contended that the concept "inconclusive election"

'is a namby-pamby phenomenon which has attained the status of a new lexicography of electoral trite and clichés in Nigeria. The imbroglio surrounding inconclusive election as a pervasive buzz word is that it lacks any scholastic cum academic definitions due to the fact that it has not been subjected to such rigors. In this study, attempts would be made to employ a legalistic approach at defining the seemingly ambiguous compound-concept of inconclusive election'.

In a related development, Abah and Nwokwu (2016) posit that inconclusive election"

is an emerging phenomenon in the Nigerian electoral process whereby elections are concluded without clear winners returned. It implies a situation where elections are held but due to cancellations of election results, winners in elections could not emerge. In other words, an inconclusive election would occur when no candidate meets the condition for the declaration of a winner of the election after polls. Simply put, "he or she must satisfy all legal requirements, score the majority of lawful votes cast at the election in which all eligible voters have been given the opportunity to exercise their franchise. Where no candidate satisfies this requirement, the election is said to be inconclusive".

While Ezenwa, (2016) maintained that the idea that inconclusive elections

"have existed only recently is a myth. The fact remains that inconclusive elections have existed throughout the lifecycle of Nigeria's democratic experiment. Pointer cases include: 1979 Presidential election, Rivers state gubernatorial election (1999), Imo state gubernatorial elections (2007 and 2011), Anambra state gubernatorial election (2014), Bayelsa,

Imo, Kogi and Taraba states gubernatorial elections (2015), to mention but a few”.

According to Oni et al (2013)

The history of inconclusive elections “dates back to the June 12, 1993 presidential poll. This was the forerunner to what has lately occurred in Kogi, Bayelsa and Imo North Senatorial zone. Perhaps, the only difference between the June 12, 1993 election and that of Kogi, Bayelsa and Imo North in 2015 is that the voting process on June 12 was concluded throughout the length and breadth of the nation, but while the then National Electoral Commission of Nigeria, under the watchful eyes of Professor Humphrey Nwosu, commenced state by state announcement of the results of the presidential election, it was suddenly stopped midway by the then military administration under General Ibrahim Babangida”.

Importantly, inconclusive elections arise mainly as a result of the numerous anomalies in the use of biometric technology voting systems. The European Union Election Observation Mission (2015) maintains that

Structural procedural weaknesses persist for collation, particularly in regards to checks in the process and transparency. These include: no requirement for distribution and display of copies of voting point results forms, no double-blind data entry during collation, an insufficient system for dealing with anomalies or suspicious results, and no requirement for display of PU results at the first-level of collation (thereby breaking the chain of results data compromising stakeholders' ability to check the veracity of announced totals”.

Inconclusive election in the strict sense of the term is an emerging phenomenon in the Nigerian electoral process whereby elections are concluded without clear winners returned. It implies a situation in which elections are held but due to cancellations of election results winners in the elections could not emerge. In other words, final results which determine the true and overall winners are not pronounced by the returning officers owing to cancellations of substantial numbers of votes during the polls due to alleged violence and other sundry irregularities. This imbroglio gives rise to supplementary elections where the fates of contestants are finally decided.

2.2 Theoretical Framework

This section is designed to present the study's conceptual framework; theories are explanations of a natural or social behaviour, event, or phenomenon. A scientific theory is a system of constructs and propositions that collectively presents a logical, systematic, and coherent explanation of a phenomenon of interest with some assumptions and boundary conditions. The democratic theory is established in the ancient Greek polity, which compartmentalised or categorized government in accordance with the numbers of participants in the decision-making process. According to them a government is classified in a continuum ranging from rule by one person, monarchy, through rule by few, oligarchy, and by many, democracy. The central theme is the levers of power and how power is deployed in the political system on behalf of the people. This theory argues that few people that control a nation's key financial, industrial and communication institutions constitute the ruling class, a small group of people which superintends modern society.

Conceptually, democracy is very complex, byzantine and convoluted. Democracy means different things to different people and can be so defined. For instance, Abraham Lincoln sees democracy as the government of the people, by the people and for the people. This deeply profound and elaborate definition suggests consensus, agreement or accord by the government, willingly chosen by the generality of the people for the quest of the needs, aspirations, desires, interest, growth, advancement and development of the people. Such a government operates at the mercy of the people and is held accountable to the people through periodic elections because indeed, power belongs to the people. This process enables the people to govern themselves through incessant cross-fertilization of ideas and meetings on shared and widespread issues/interests, voting during elections and of course, running for public offices. The driving forces behind a democratic government are the shared understanding, ideas, focus, initiatives, viewpoints, interests, understanding, assessments, experiences and opinions rather than the fixated worldview of a Leviathan.

It is in this respect that Adejumobi (2000) explains that “political system characterized by regular and free election in which politicians organize into parties, compete to form the government by right of virtually all adult citizens to vote and by guarantee of a range of familiar political and civil rights”. It means that there is an organic link between democracy and elections. For this linkage to be productive, it has to meet certain essential conditions. These include: the people have to be empowered to make political choices without hindrance, and the political atmosphere under which this choice is made should be free from threat, intimidation and manipulation. Also, the practice of choosing political leaders should cohere with the cultural values of the people which should safeguard the exercise. In other words, elections must be compatible with democracy that is being practiced in a given country. For elections to make sense to a democratic system, it must go beyond a ritualistic exercise carried out periodically.

In furtherance of this, Kelsen (1955) and Barak (2006), assert that “representative democracy which allows freedom of political expression, freedom of speech and freedom of the press are considered to be the essential rights that allow eligible citizens to be adequately informed and able to vote according to their own interests”.

Robert Dahl’s writings (1971, 1989) provide a benchmark for defining the essential elements of democracy. In *Polyarchy*, Dahl (1971: 3) identified eight criteria in defining democracy: the right to vote; the right to be elected; the right of political leaders to compete for support and votes; elections that are free and fair; freedom of association; freedom of expression; alternative sources of information; and institutions that depend on votes and other expressions of preference.

The most important elements encapsulating the democratic agenda are popular participation, equitable representation and accountability. Thus democracy provides opportunities for the citizens to have inputs in the policy process, contribute in the making of decisions that affect their lives and environments. It is also a means of creating political infrastructure through which diverse interests are represented in government, and the institutionalization of mechanism to hold rulers accountable to the public will and providing

the means for the removal of government from power without military intervention as well as engendering the principle of accountability through which rulers are held accountable for their action in public office by the citizen through the instrumentality of competition and cooperation of their elected representatives.

It is in this regard that Amuwo (1992) said democracy “consists not only in winning elections but also and more importantly in establishing organic relations with the people and allowing them to control their leaders by holding them to account. This may sound abstract especially in Nigeria where the political gladiators who canvassed and begged for votes only yesterday from the electorates abandoned them as soon as they assumed office by claiming that their elevation or appointment is divine and not challengeable by any human institution; in such circumstance, elections becomes ritualistic and formalistic which changes nothing. The ritual of elections cannot guarantee democracy to people who face undemocratic courts, police and bureaucrats every day”.

And, Egwu (2002) maintains that “unless democracy is used as a means of responding to the acute needs of the people such as food security, shelter and clothing, the people would not be strong enough to support democracy. Democracy makes sense only when it guarantees freedom, liberty and economic emancipation”.

The Universal Declaration of Human Rights (1948) Article.1, states that “everyone has the right to take part in the governance of his country, directly or indirectly, or through freely chosen representatives... While Article.3 states that the will of the people shall be the basis of the authority of the government; this will be expressed in periodic and genuine elections that shall be held by secret vote or by equivalent free voting procedures”.

Although elections do not democracy make, in other words, elections do not translate to good democratic governance but election is important and central to the whole idea of democracy. In fact, there can be no democracy without elections. This is because election is the process and procedure through which electorates freely and willingly choose those they want or prefer to represent their own interest without any iota of coercion or

inducement. That is why Diamond (2004), articulates democracy as, “a means for the people to choose their leaders and to hold their leaders accountable for their policies and their conduct in office. He goes on to state that the people decide who will represent them in parliament, and who will head the government, at the national and local levels. They do so by choosing between competing parties in regular, free and fair elections”.

In a lecture titled “What is Democracy”? Larry Diamond (2004) gave an overview of what in his opinion on democracy is. He describes democracy as a system of government with four key elements:

- A system for choosing and replacing the government through free and fair elections;
- Active participation of the people, as citizens, in politics and civic life;
- Protection of the human rights of all citizens; and
- A rule of law in which the laws and procedures apply equally to all citizens.

Therefore, in appreciating and understanding the democratic theory, it is germane to come to terms with the sublime role election plays in a democracy. This brings the issue of inconclusive election to the fore, hence, if the representatives of the people are not duly elected by the people, where will they derive their legitimacy from? Genuine elections must be free, fair and credible as well as reflect the wishes and aspirations of the majority of the people. It is only then that those elected can be accountable to the people who elect them into public office and also carry out the various promises they made to the people during electioneering campaigns.

It is in this regard that Akhter (2001) postulated that

“The abuse and misuse of elections and the manipulation of the electoral system notwithstanding, elections are still relied upon for determining important matters in most political systems. For example, elections demonstrate that legitimate political power flows from below. A free, fair and credible elections, acceptable elections devoid of irregularities and malpractices are essential for the sustainability of democracy. And the conditions of free and fair elections include the right to vote by the entire adult population; regularity of elections within

constitutionally open contestation for legislative seats, campaigning free from intimidation and violence, secret balloting without influence and honest counting and reporting of election results”.

However, according to Fishkin (2001) a central problem of democratic theory

“Is how to avoid ‘tyranny of the majority.’ A decision may count all or most people's preferences, it may be supported by the public's considered judgments, it may be aggregated by an appropriate decision rule such as majority rule, and it may, nevertheless, conflict with justice or impose unacceptable consequences on some portion of the population. In other words, the people may, democratically, decide to do bad things. Attempts to address the problem of majority tyranny usually rely on answers to the questions addressed above: Whose preferences count? What kinds of preferences are considered? What decision rule is employed? What is the design of democratic institutions? First, the spread of the franchise to most or all adult citizens has been an important factor in making sure that the interests of those citizens are considered. The spread of voting rights across racial, ethnic, religious, gender, and class divisions has proven to be an important factor in creating institutional incentives for addressing the problems of those who were previously disenfranchised. But such a solution is imperfect. A group can have its votes counted, but outvoted, its interests considered but neglected or even despised”.

Similarly, democratic theory provides us with conflicting visions rather than some uniquely authoritative answer to the questions posed here. Questions about democracy remain unsettled. But unlike any other period in its history, the authority of the basic democratic idea is virtually unchallenged in the modern era. Democracy (in some sense) triumphs even as disagreements proliferate as to what it is, or might be.

According to Ansolabehere (2001) another drawback for democratic theory in modern societies is that

“People apparently know little about the choices they face and they have little incentive to seek new information. Candidates and parties, then, have very strong incentives to provide information to voters at little or no search costs: candidates try to reach us, rather than us, them. As a result we are highly reliant on what politicians choose to say in their advertisements. This is the problem of voter autonomy. By one telling voters have abdicated to political elites the important jobs of choosing what issues will be discussed, what elections and therefore government will be about, and even what we will think as people walk into the voting

booth. From this view, people are highly susceptible to false or deceptive advertising and will vote for the candidate whom we see the most rather than the one we think is best representative. Regulation of the volume and content of political advertising may, therefore, be necessary”.

The counter argument is that voters, even though they do not know much by way of details, have a clear sense of what they themselves value or prefer, and, in order to win elections, politicians must adjust their messages to what the voters want. In crafting their advertisements, a candidate selects issues on which he or she can make electoral gains, because the voters care about it, because the candidate has a strong record, or because the candidate has taken the more popular position. This leads to majoritarian biases in what is discussed, but that is the essence of elections.

Therefore, it is instructive to note that democratic theory is relevant in explaining how inconclusive elections impact the integrity of the electoral process. If democracy is about the organization of government predicated on the wishes of the majority of the people through transparent, flawless and sincere elections. Therefore, inconclusive election in Nigeria following the trend of events seem to suggest that INEC might be inadvertently playing into the hands of dishonest and unprincipled politicians cum desperate political parties to get electoral victories through the backdoor, regardless of the desires of the generality of voters which is what this research effort wants to interrogate.

Elections are an indispensable part of the democratic process. For democracy as presently constituted, without an election, there is no democracy. Hence, the conduct of an election is crucial to the survival of any democracy because the freedom of choice, which is a key principle of the democratic culture, is exercised.

2.3 Factors that lead to Inconclusive Election in Nigeria

Inconclusive election has generated a lot of controversies in the polity to the extent that it has called to question the integrity and credibility of INEC. It is imperative to underscore the fact that there are some factors that bring about inconclusive elections in the country,

chief of which is insecurity. If there is insecurity and violence takes place, there is no way elections can be conducted and even where it is conducted there is every likelihood that it would be canceled and a fresh election will be rescheduled for electorates to exercise their franchise. Security is key to have issue-free elections but in our clime there are numerous cases of ballot-box snatching, thugs disrupting elections and preventing people from voting, massive thumb printing of ballot papers etc.

According to Mediayanose (2018) Some of the roles of security in elections are as follows: “Providing security for candidates during rallies, congresses, conventions, electioneering campaigns and elections; safeguarding the lives and properties of citizens during the electoral process; ensuring and preserving a free, fair, safe and lawful atmosphere for campaigning by all parties and candidates without discrimination; maintaining peaceful conditions, law and order around the polling and collation ; providing security for electoral officials at the voting and counting centre’s; ensuring the security of election materials at the voting centres and during transportation; ensuring the security of all electoral material, personnel and citizens during registration of voters, update, revision and any other electoral event. In sum, the role of security is to ensure safety of the electorate, electoral materials and electoral officers before, during and after elections”.

It is for this reason that Jegede (2003) said “there are different manifestations of electoral violence e.g., murder, arson, abduction, assault, violent seizure and destruction of electoral materials. These acts are perpetuated by individuals and groups with the intention of influencing the outcome of elections or deter elected officials from consolidating their positions after election”. Also, Ogundiya (2003) argued that “electoral violence includes all sorts of riots, demonstrations party clashes, political assassinations, looting, arson, thuggery, kidnapping, etc., spontaneous or not, which occur before, during and after elections. It could be regarded as an election motivated crisis employed to alter, change or influence by force or coercion, the electoral behaviour of voters or voting patterns or possibly reverse electoral decisions in favour of particular individuals, groups or political party”. Afolabi (2003) posited that “electoral violence is a form of violence that is associated mainly with the process of elections in a given society precisely a democratic

set up or in the process of democratic transition. It is very glaring, therefore, that insecurity that necessitates electoral violence is one of the cardinal reasons for inconclusive election”.

In fact, Otiye (2014) argues that “the success or failure of any election depends on the stakeholders performing their duties (INEC, Political Parties, Election Observers, Media and Security Agencies)”. He laments that “the security agencies can make a difference in the outcome of elections”. It is therefore important that security officers display the highest level of integrity, neutrality, professionalism and sense of duty. The protection of human life, voters, electoral materials and officials and the preservation of lawful and orderly electoral processes are necessary for credible, free and fair elections.”

Just like the way Olurode (2013) put it “security is indispensable to the conduct of free, fair and credible elections. From the provision of basic security to voters at political party rallies and campaigns to ensuring that result forms are protected, the whole electoral process is circumscribed by security considerations.” Thus, without adequate security, there cannot be credible, free and fair elections.

Another factor that can lead to inconclusive election is over voting, if in any polling unit or booth, the number of votes cast is more than the number of registered voters, such an election will be canceled and a new round of election can be organised. That is why the Electoral Act 2010 as amended, section 53 (1-3) states that “No voter shall vote for more than one candidate or record more than one vote in favour of any candidate at any one election. (2) Where the votes cast at an election in any polling unit exceed the number of registered voters in that polling unit, the result of the election for that polling unit shall be declared null and void by the Commission and another election may be conducted at a date to be fixed by the Commission where the result at that polling unit may affect the overall result in the Constituency. (3) Where an election is nullified in accordance with subsection (2) of this section, there shall be no return for the election until another poll has taken place in the affected area”.

Also, in the case of natural disasters like flood, landslide, earthquake, volcanic eruption, tornados, hurricanes, acid rain, ocean surges in riverine area and many others elections can be halted and fresh elections arranged, hence, natural disasters can lead to inconclusive election, that is why section 26 (1 and 2) of the Electoral Act (2010) as amended says that “(1) In the event of an emergency affecting an election, the Independent National Electoral Commission shall, as far as possible, ensure that persons displaced as a result of the emergency are not disenfranchised; (2) Where a date has been appointed for the holding of an election, and there is reason to believe that a serious breach of the peace is likely to occur if the election is proceeded with on that date or it is impossible to conduct the elections as a result of natural disasters or other emergencies, the Commission may postpone the election and shall in respect of the area, or areas concerned, appoint another date for the holding of the postponed election, provided that such reason for the postponement is cogent and verifiable”.

Moreover, if in any election the total number of canceled or voided votes are more than the difference between the party that came first and second in the election, the election will be inconclusive and a supplementary will be organised. Paragraph 41(e) and 43(b) of the INEC Regulations and Guidelines-

Paragraph 41(e) says “the State Collation/Returning Officer for the Governorship election shall where the margin of lead between the two leading candidates is not in excess of the total number of registered voters of the Polling Unit(s) where election was canceled or not held in line with Sections 26 and 53 of the Electoral Act, the returning officer shall decline to make a return until polls have taken place in the affected Polling Unit(s) and the results incorporated into new form EC 8D and subsequently recorded into form EC 8E for Declaration and Return”.

While paragraph 43(b) says “the LGA Collation Officer/Returning officer in-charge of State Constituency (House of Assembly) Election shall: Where the margin of lead between the two leading candidates is not in excess of the total number of registered voters of the Polling Unit(s) where election was canceled or not held in line with section 26 and 53 of

the Electoral Act, the returning officer shall decline to make a return until polls have taken place in the affected Polling Unit(s) and the results incorporated into the new Form EC 8C(I) and subsequently recorded into form EC8E(I) for Declaration and Return”.

Again, if candidates in an election poll equal votes, none of them will be declared winner and the Electoral Act 2010 as amended, Section 70 states that “Where two or more candidates poll equal number of votes being the highest in an election, the Returning Officer shall not return any of the candidates and a fresh election shall be held for the candidates on a date to be appointed by the Commission”.

If candidates do not satisfy all the conditions specified by the extant laws on elections in the country, no candidate will be declared winner and a rerun will be arranged, according to section 179 of the 1999 constitution of the Federal Republic of Nigeria.

Also, the fact that electoral offenders are not summarily brought to book in accordance with the provisions of the electoral law is another factor that brings about inconclusive elections. Since thugs are not dealt with, they are emboldened to be willing tools in the hands of unscrupulous politicians to disrupt the electoral process for selfish reasons. That is why Isah (2019) reasoned that “it is thus high time to call out politicians who are the major actors in the electoral process to desist from disrupting the process or face the wrath of the law. It will be even better if these electoral offenses that lead to cancellation of hard-earned votes can be investigated and when linked to principal perpetrators they should be punished accordingly. Come to think of it, has the Inspector General of Police ever made an effort to hold Commissioners of Police responsible in states where electoral violence occurs? It’s high time Commissioners start holding Divisional Police Officers responsible at the Locations where there are disruption of election. He went further to explain that Reports abound on how political thugs inspired by desperate politicians disrupt the process or destroy election materials especially when their personal interest is at stake. The sudden inferno at a number of INEC offices close to the elections still await investigation. More so, whether the security agencies involved in the election claim that they are being impersonated by political thugs in their uniforms or not, the security

agencies also have a large chunk of blame when it comes to disruption of elections leading to cancellation and most times the infamous inconclusive election declaration”.

Election officials “cannot be harassed, intimidated or assaulted and then still take the blame for snatching the ballot box while security agents who as a matter of fact are mandated to protect everyone including the materials remain exonerated. The best INEC can do in such a scenario is to cancel elections in such polling units or collation centers and if the total number of registered voters surpass the margin of lead between the two major candidates, the credible thing to do is conduct a supplementary election”.

And closely related to the above mentioned factor is INEC’s ill-preparedness for the conduct of election, as much as the electoral umpire has tried in preparing for elections, it is as if they have not prepared well enough and it is some of the lapses noticeable particularly in the area of security and logistics that have sometimes precipitated inconclusive elections in the polity.

Oni, Chidozie and Agbude (2013) assert that “one of the major causes of inconclusive election is poor logistics on the part of INEC and in most cases; it is the complete responsibility of the Commission”. Berating the poor logistical set up of INEC, Olayiwola, (2014) and Ojo, Adewunmi, and Oluwale (2013) opined that “in most other situations INEC is responsible for failure to deliver election materials on time. However, unless materials arrive extremely late in the afternoon, elections will still be held in the polling unit that day. This means that logistics is very rarely a major contributor to not holding elections in a polling unit unless as in cases where security concerns did not permit materials to be delivered within a reasonable time”.

However, Ibrahim (2019) said “the number of inconclusive elections has grown because opposition parties have grown stronger and become more competitive. In addition, the introduction of technology, especially the use of the smart card reader has been a real check on the old practice of the illegal allocation of votes, reducing the number of landslide results. One of the interesting things about the governorship elections is that the pattern

of voting changed in certain states in relation to the presidential vote, due to local political dynamics. When local dynamics are reflected in results, it's a clear message that the votes of ordinary people are counting and both the Peoples Democratic Party and the All Progressives Congress have good and bad stories to tell on the matter. It is widely known that those who seek rig elections act on the principle of getting fraudulent results announced through any means and forcing the opponent to go and prove fraud in court, which we all know is very difficult. The approach of INEC since 2011 is not to rush to announce results when there are suspicions of fraud and to organise supplementary elections to protect the integrity of the outcome. This trend should be understood for what it is, improving the integrity of elections and supported”.

2.4 Implications of Inconclusive Election in Nigeria

Inconclusive election has plethora of implications on Nigeria's electoral process and political economy, many observers have argued that the idea should be done away with completely or reduced to the barest minimum if need be. Oni, Chidozie, and Agbude (2013) opined that “where the polemics lie, is on the impact of inconclusive elections with regards to democratic consolidation in Nigeria. To some scholars and commentators, inconclusive elections have strengthened the Nigerian electoral praxis as put forward by the apologists of INEC whereas to others inconclusive elections portend serious negative danger to our electoral sanctity as argued by its traducers and polemicist”.

For instance, Abah E. O. and Nwokwu P. M. (2016) contended that “the frequent cancellations and subsequent reruns would confirm that the Nigerian electoral system is flawed and vulnerable to manipulations. This implies that it may be possible for wrong candidates to emerge and have access to state funds that could be easily looted before they are sacked through judicial pronouncements. To that extent good governance will continue to elude Nigerians as long as they do not elect those they considered qualified to run the state affairs. Although some individuals hold the opinion that canceled polls will sanitize the electoral system, the fact remains that reruns will come at higher costs to the nation and taxpayers. The INEC will have to spend more funds to reorganize the polls.

One could wonder the financial stress our country will bear, especially now we are battling with severe economic recession and cash crunch”.

Voter's apathy is another implication of inconclusive elections in the polity. It takes tremendous hard work and relentless advocacy to get electorates out to cast their votes for their preferred candidates in the main election. And, this largely attributable to bad governance and poor leadership, as good and credible election does not necessarily translate to good governance which enables the dividends of democracy to percolate to the grassroots. Therefore, “supplementary is seen as burdensome and onerous leading to “voter's fatigue” and they become disinterested in the electoral process. Hence, inconclusive election is a veritable disincentive to the conduct of supplementary elections in the country”. In this vein, Akinyeni (2019) is of the view that “instead of majority rule, there is ‘minority rule’ in Nigeria because in a population of almost two hundred million there were 82.3 million registered voters as collated by the Independent National Electoral Commission (INEC) and only 28.6 million voted in the 2019 elections. A mere 35% of the registered voters voted in the past election! The voter apathy situation becomes direr when you consider the numbers that voted for the top two presidential candidates – Muhammadu Buhari and Atiku Abubakar. Of the 28.6 million that voted, President Muhammadu Buhari of APC, the declared winner got 15,191,847 votes to beat his closest rival, Atiku Abubakar of PDP who polled 11,262,978 votes. As percentages of the registered voters, Buhari and Atiku were elected by a paltry 18.5% and 13.7% of the total registered voters. President Buhari was declared the winner because he polled the majority of the votes. But does that really represent the opinion of the majority in the country? Do 15 million votes represent the opinion of the majority of the registered voters?”

Furthermore, inconclusive elections bring about trust issues as voters' or electorates do not trust the electoral umpire enough to carry out free, fair, credible and generally acceptable elections that can truly stand the test of time. They perceived INEC has been partial, more so, that the Election Management Body (EMB) does not enjoy full autonomy in terms of appointments and financial control. Hence, inconclusive election is seen as a

method or strategy of making those who would not have ordinarily won elections, to be declared victorious at the end of the day. Noticeably in most of the inconclusive elections conducted in the country so far, it is not those that were leading initially in the main election that eventually win the supplementary elections, this pattern or trend looks suspicious, thereby casting doubts on the integrity, credibility and sanctity of the electoral umpire. Bratton. M and Gyimah-Boadi. E (2016) pointed out that “public trust is an essential lubricant for the workings of any political system. Good governance does not rely solely on the mechanical enforcement of administrative standards or the legal enforcement of constitutional rules. It also requires that citizens share a widespread culture of social confidence that public officials, and the institutions they represent, will instinctively “do the right thing.” In a democracy, for example, citizens ought to be able to reasonably expect that public officials will govern on their behalf. If, however, government officials are perceived to violate the public’s trust, then people will feel justified in withholding their voluntary compliance”.

Also, inconclusive elections as a result of the combination of factors pointed out above creates unnecessary anxiety, unhealthy political cum electoral rivalry as well as protracted litigations and in some cases, the courts have made profound pronouncements and unassailable judgements which have rubbished the results INEC declared.

Inconclusive election creates a situation in which political gladiators and political parties deliberately cause violence in the strongholds of political opponents with the sole aim to make the election inconclusive. And, by working with other interests and tendencies to ensure their victories at the end of the day, by exploiting gaps in the electoral law to claim victory through the backdoor. Therefore, inconclusive election has provided fertile ground for the scheming of devious political elements to satisfy their venal interests. This creates the problem of illegitimacy and the wanton development of underdevelopment, thereby the electorate do not feel the impact of governance, as governance will be in abeyance.

Again, voters will be expected to file out again at the polling units against their wish. We should be mindful of the amount of mobilization and public enlightenment to get most of

the voters to exercise their civic duties. There is no doubt that they would not be enthusiastic to go through the same rigours so soon again. The point being made is that many electorates will never vote again because of fears or simply because they do not want to wait in a long queue. This circumstance could result in unpopular candidates emerging because the majority would have been induced to stay away from the election”.

Also, “the implication of the rerun predisposes that security agents have to return to the battle fields again for the purpose of ensuring protection of lives and properties in the affected areas. For locations where elections are matters of warfare, the circumstance could certainly overstretch the capacity of the security personnel, especially now that the security outfit is practically at war with Boko Haram in the North East. The impact of inconclusive elections on the health of contestants could be tremendous. News about elections not being conclusive is capable of sending some candidates with chronic diseases to their early graves. The case of Prince Abubakar Audu who died moments after the INEC returning officer declared the election inconclusive is instructive here. This singular situation threw Kogi State and the country into constitutional crises as to how to get his replacement. Inconclusive elections and supplementary elections have started eroding people’s hope, trust and confidence in the electoral umpire. The institution is currently perceived as losing grip on the electoral processes as it is demonstrating poor capacity in conducting multiple elections in the country”.

CHAPTER THREE

RESEARCH METHODOLOGY

This chapter examines the methodology adopted in the study. It covers the research procedure which includes research design, study area and population. It also includes the critical examination of books and journals, newspaper review, commentary and opinion of experts as well as statements of political dignitaries, reports of relevant agencies and departments, reports of local and international observers, internet sources, magazines as well as unpublished sources relevant to the topic. This is in consonance with what research is all about, which is the systematic investigation into as well as study of materials and sources in order to establish fresh facts and reach new conclusions.

3.1 Research Design

This study is a strictly qualitative investigation of the inconclusive 2018 gubernatorial election in Osun State. It is a systematic and exhaustive analysis of secondary materials. Secondary data including published articles in books and journals, newspaper reports, commentary and opinion of experts. Others include statements of political dignitaries, reports of relevant agencies and departments, reports of local and international observers, internet sources, magazines as well as unpublished sources relevant to the topic.

Descriptive, prose and narrative methods involve describing scenarios and events through the prism of scientific observation. It is the systematic and analytical description of events and situations, data and records, trends and histories, occurrences and application of extant laws to similar situations in different environments. It is the methodical presentation of facts and figures without prejudices and prevarications. It is the presentation of established facts, coming up with new ideas, fresh methods of analysis and on this basis draw conclusions and make far-reaching recommendations that can stand the test of time.

3.2 Study Area

The area of study is Osun State, South West, Nigeria. According to **CometoNigeria.com** Osun State, Located in the south-west geopolitical zone of Nigeria, is an inland state with its capital in Osogbo city. The people of the state are warm, hospitable and highly enterprising and could be found engaged in trading all over the country. The state has 30 local government areas and it is also divided into three federal senatorial districts, each of which is composed of two administrative zones.

The modern Osun State was created in 1991 from part of the old Oyo State. The state's name was derived from the River Osun, the venerated natural spring that is the manifestation of the Yoruba goddess of the same name. The 1991 census puts the population of the state at 2.2million. The state is made up of 30 local government areas with over 200 towns, villages and other settlements. The state has a considerable number of highly urbanized settlements some of which are Osogbo, Ile-Ife, Ilesa, Ikirun, Iwo, Ede, Ila-Orangun and Ikire. Others include Ipetumodu, Ejigbo, Ilobu, Gbongan, Okuku, Ifon-Osun, Inisa, Ijebu-Ijesa, Ipetu-Ijesha. Other important cities and towns include Oke-Ila, Ede, Iwo, Esa-Oke, Ilobu and Ilesa.

The major sub-ethnic groups in Osun State are Ife, Ijesha, Oyo, Ibolu and Igbomina of the Yoruba people, although there are also people from other parts of Nigeria. Yoruba and English are the official languages. People of the state practice Islam, Christianity and paganism called traditional faith. The people of the state are mainly traders, artisans and farmers. Their other occupations include hand-woven textiles, tie and dye, leather work, calabash carving and mat-weaving.

The annual Osun Osogbo cultural festival that usually comes up in August is held along the banks of the river bearing its name and it attracts thousands of devotees from across the country and beyond. Visitors at the festival include nationals of the United States, Brazil, Cuba, Trinidad, Grenada, and other nations in the Americas with a significant

Yoruba cultural heritage. Osun-Oṣogbo Grove, the shrine of the annual rites of the deity and an important artistic center, was declared a World Heritage Site in 2005. Osun State is bounded in the West by Oyo State, Ondo and Ekiti States in the East, Kwara State in the North and Ogun in the South. The State runs an agrarian economy with a vast majority of the populace taking to farming. The major occupations in the State are fishing, farming, palm oil milling, lumbering, palm wine tapping, local gin making, trading, carving and weaving.

According to the last population and housing census exercise of 2006, Osun state is estimated to have 3,416, 959 people (NBS, 2012). Currently, the state' population projection stands at 4,705,589 people (LBS, 2015). Similarly, it has a total population of 1, 682,195 registered voters for the 2018 gubernatorial elections in the state (icirnigeria/2018). Voters and other election stakeholders also form part of the population of the study.

3.3 Data Gathering Techniques

This study relied largely on the secondary sources of data collection. These include textbooks, articles, newspapers and other published and unpublished materials such as electoral laws, electoral precedence as well as relevant interviews where absolutely necessary. It involves the use of descriptive, prose and narrative methods in describing scenarios and events through the prism of scientific observation. It is the systematic and analytical description of events and situations, data and records, trends and histories, occurrences and application of extant laws to similar situations in different environments. It is the methodical presentation of facts and figures without prejudices and prevarications. It is the presentation of established facts, coming up with new ideas, fresh methods of analysis and on this basis draw conclusions and make far-reaching recommendations that can stand the test of time.

CHAPTER FOUR

DATA PRESENTATION AND ANALYSIS

This chapter deals with the presentation of data and how it impacted the research on the 2018 Osun gubernatorial inconclusive election, the varieties of literatures used as pointed out earlier and the divergent opinions on the subject- matter, this section will point out the different data collected and analyse them, as well as look at the laws and arguments to lay bare the reasons that shape our conclusion and the recommendations put forward.

4.1 The Concept of Election

Election is a modern and globally accepted method through which electorates vote for those they prefer to preside over their affairs; election is indeed a referendum on the performance of any government in power. It is the power vested in the people to willingly choose their representatives. Periodic elections are a critical part of democratic order without which democracy would not be democracy properly so-called.

Omotola (2010) explained that

“As a major source of democratic instability, electoral violence manifest palpable threats of deconsolidation. On one hand democracy and peace are, ideally, mutually reinforcing, with elections serving as the connecting cord between them. On the other hand elections do not only allow for political competition, participation and legitimacy, but also permit peaceful change of power, thereby making it possible to assign accountability to those who govern”.

Olukotun (2003) contended that

“Elections because they evoke the concepts of representation and voter sovereignty, which are central to the democratic quest. Imperfect or flawed they may be; nonetheless they are an affirmation of the social contract and a renewal of the abiding concerns that propel the democratic enterprise”.

Obi and Abutudu (1999) posited that “election offers the electorate the freedom of choice; the powers to hold elected leaders accountable, and further provide protection against perpetuation of arbitrary rule”.

Whereas, Nnoli (1990) said “an election may be defined as the manner of choice agreed upon by a group of people which enables them to select one or a few people out of many to occupy one or a number of positions of authority”. Crowther (2000) gave a precise definition “as the action or an instance of choosing by vote, one or more of the candidates for a position, especially a political office. For Gwinn and Norton (1992), election is

“The formal process of selecting a person for public office or accepting or registering a political proposition by voting. They state further that an election is one of the means by which a society may organise itself and make specified formal decisions, adding that where voting is free, it acts simultaneously as a system for making certain decisions regarding the power relations in a society, and as a method for seeking political obedience with a minimum of sacrifice of the individual’s freedom. The essence of a democratic election is freedom of choice”.

For Eya (2003), election is seen “as the selection of a person or persons for office as by ballot and making choice as between alternatives”. Eya defines Electoral process “as the method adopted in the selection of persons for political office”. He further sees “electoral frauds or malpractices as improper, illegal, deceitful or immoral behaviours and conducts which vitiate free and fair electoral processes”.

Similarly, the 1987 Political Bureau Report gave a lucid clarification and interpretation of elections and electoral processes. It states that four basic conditions are necessary for the holding and conduct of free and fair elections. These include

- a. An honest competent, non-partisan administration to run elections.
- b. Enabling rules and regulations- Electoral Laws.
- c. A developed system of political parties.
- d. An independent judiciary to interpret electoral laws.

On his part, Bain (1964) defines election “as the formal process by which the electorate selects officials and determines the issues submitted to it”. One can infer from the above definitions, that election is a formal procedure recognised by law through which the electorates choose one or more persons out of many to occupy position or positions of authority on their behalf. Ideally, elections represent a way of making a choice that is fair and acceptable to all. Usually, it involves achieving a certain degree of fairness and justice to all concerned. The element of choice and independence involved in the exercise of this choice distinguish elections from other modes of selection such as acclamation, selection by lot, appointment and cooptation.

4.2 The Concept of Inconclusive Election

According to INEC Chairman, Professor Mahmood Yakubu (2019), an inconclusive election is essentially an election in which a winner has not emerged on the first ballot. So now you mobilize and remedy the problem and make a declaration. Is it strange in Nigeria? It's not strange. In 2013, was the Anambra governorship election concluded on the first ballot? In 2015, the governorship election in Taraba state was declared inconclusive, the commission remobilized and concluded the election two weeks later. In 2011 and 2015, the Imo governorship election was inconclusive, the commission remobilized. In 2015, Abia election was inconclusive, the commission remobilized.

“There are two sections of the Electoral Act that we need to focus on. The first one is Section 26, which says “in the event of violence or natural disaster, INEC should not proceed with an election and if the total number of registered persons in the place affected is more than the margin of lead where you have conducted the election, then don't make a declaration until you go back and complete the election.

“Section 53 of the Electoral Act is very clear, in the event of over-voting, INEC is prohibited by law from making a declaration. The law says ‘don't make a return until you go back to those polling units and you conduct an election where the number of registered voters will

make a difference to the margin of lead. It is debateable whether or not this commission has declared any election inconclusive outside the law.

According to Babatola et al, (2019) Politics of the inconclusive elections usually begins from “the moment the political parties start to field their candidates for the elections. The plans of ensuring that the candidates of the various political parties win the election at whatever cost using all techniques always informs the conduct of inconclusive elections. The struggle and desire to win the elections at all cost normally propels the hideous activities in which the political thugs are used to perpetrate evil acts such as ballot snatching, beating of the electoral officers, in some cases even killing the officers like, the security personnel, election observers either local, national or international. For instance, the killing of the returning officer for gubernatorial poll in Rivers State accounted for the inconclusive election in the state”.

However, Udenhele G.I. (2019) noted that It is clear from the above provision of the law that “a call for a re-run election can only happen when the result of voided votes in a polling unit affect the overall result of the constituency which, in this case is the whole of the state. In addressing the issue, INEC has mischievously changed the word “Polling unit” to “Polling units” in Regulation 34(e). By this, it imposes on itself the duty of collating canceled votes in a constituency to determine margins of win. No law permits INEC to collate canceled votes after an election”.

Margin of win has never constituted any impediment to electoral victory of a winner in Nigeria until the current dispensation of Prof. Mahmood Yakubu’s INEC. “In Agagu v. Mimiko, INEC declared the appellant winner of the governorship election in Ondo State with 349,288 votes whilst the respondent garnered 226,021 votes. At the trial, the actual votes were found to be 313,355 and 195,030 respectively. Thus, 248,724 were canceled. In view of the fact that Section 179(2) of the Constitution had been satisfied, the Court of Appeal of old, not the current one that has become deeply and thoroughly controversial and unpredictable, affirmed the respondent’s return as governor. In INEC v. Oshiomhole, INEC had earlier declared 329,740 for PDP and 197, 472 for Action Congress (AC) i.e.

for Mr. Oshiomhole. In setting aside INEC's decision and declaring Oshiomhole as winner, the Court of Appeal of old canceled 200,723 of votes scored by PDP and 30, 895 of votes scored by AC (canceling a total of 231,618 votes). The court did not find any reason to call for a rerun because the petitioner satisfied the requirements of Section 179 (2) (a) & (b)".

In "Aregbesola v. Oyinlola, INEC had earlier declared 426,669 votes for Oyinlola, and 240, 722 for Aregbesola. The margin of win was 185,947 votes. The Court however nullified votes in 10 disputed local government areas when 41, 923 votes were cast for Aregbesola and 253,789 votes were cast for Oyinlola. Total canceled votes were 298,712. In declaring the petitioner as winner of the election, the Court of Appeal then referred to Section 179 (2) of the Constitution and held that the appellant satisfied the requirements of the law".

"Governor Fayemi of Ekiti State was also a beneficiary of canceled votes without a re-run. From the foregoing, it is clear that in the entire circumstances of the current events, Section 179 of the Constitution is the applicable provision and not INEC Guidelines or Manual. Again, unfortunately, in Faleke's case, and for some inexplicable reasons, the Supreme Court elevated INEC Guidelines and Manual above the Constitution. That is the grave damage the Supreme Court has done to our jurisprudence by its politically motivated decision in Faleke's case. Surreptitiously, Yakubu's INEC has re-written our Constitution, and for want of integrity and foresight, our courts, from the lowest tribunal to the highest court, have not been vigilant enough to appreciate it".

Regulation 34 (e) of the INEC Guidelines for elections is unconstitutional, self-serving and apparently intended to serve the interest of the party in power in connivance with INEC and therefore should be so declared as unconstitutional, because the guideline is not in sync with extant provision of the 1999 constitution on election matters. The constitution of the Federal Republic of Nigeria must remain sacrosanct, sacred, unfringeable and firm.

According to Nkolika (2015)

“(a) Inconclusive election exacerbates voters apathy (b) Inconclusive elections hamper the judgmental competence of voting citizenry ultimately undermining people’s franchise. (c) It challenges the credibility of Nigeria’s electoral umpire, INEC, to manage the effective conduct of elections in the country”.

Moreover, there is an ongoing debate over a single, universal definition of electoral integrity, but it can generally be defined as "any election that is based on the democratic principles of universal suffrage and political equality as reflected in international standards and agreements, and is professional, impartial, and transparent in its preparation and administration throughout the electoral cycle." (Kofi Annan Foundation, 2012).

In the words of Noris “electoral integrity refers to international standards and global norms governing the appropriate conduct of elections”. (Noris Pippa 2014; P 9).

Moreover, it has been suggested that “electoral integrity is the degree of the freeness and fairness of elections which is surrounded by several factors including the following (a) legal framework; (b) electoral system; (c) technical efficiency of electoral management authority; (d) relative autonomy of the electoral agency from interference by other organs of government and the ruling party; and (e) degree to which electoral processes, decisions, participation and outcomes are insulated from manipulation, corruption and violence”. (Alemika E. E. 2007; P3).

And, it has also been argued that “electoral integrity is a situation whereby all the necessary processes taken before, during and after elections are seen to be fair, transparent and trustworthy” (Amuwo K. 2005, P119). Electoral integrity, therefore, is a democratic culture where the will of the people is treated as sacred and immune to subversion by any anti-democratic and anti-people element.

Such democratic principles as outlined thus:

- Majority rule,
- Rule of law,
- Equality before the law, and free choice, and
- Absence of any form of partisan manipulations. (Maduagwu, M.O. 1996, P13).

Without electoral integrity, leaders and officials lack accountability to the public, confidence in the election results is weak, and the government lacks necessary legitimacy. Electoral integrity allows for peaceful resolution of conflict, open dialogue, debate, and information sharing among leaders and the public. Integrity depends on public confidence in electoral and political processes.

It is not enough to reform institutions; citizens need to be convinced that changes are real and deserve their confidence. To ensure that elections have integrity, other factors outside of the electoral institutions themselves need to be taken into account and strengthened. Election officials, judges and courts must have independence that is respected by politicians.

4.3 Presentation of Data and Analysis

From the literature consulted and analysed, a number of closely intertwined as well as divergent reasons occasioned the inconclusive election in Osun state in 2018 and some of the observable issues under the supplementary election are highlighted here. Some of the reasons that were given include violent disruption of voting, massive rigging as seen in over-voting, vote buying and other electoral malpractices. It shows that INEC has failed to live up to expectations in providing adequate security for elections in Osun State and it is important to point out that provision of adequate security remains a key function of the electoral body before, during and after elections. There is no excuse for this negligence, over the years the EMB has given unpardonable excuses for insecurity in elections, this has not only called to question the integrity of the electoral process, it has equally led to glaring voter's apathy arising from frustrations in the electoral process.

According to Lai Olurode (2013) Security is indispensable to the conduct of free, fair and credible elections. From the provision of basic security to voters at political party rallies and campaigns to ensuring that result forms are protected, the whole electoral process is circumscribed by security considerations. In view of the scale of general elections, the

number of people involved, election materials that need to be moved, difficulty of the terrain to be traversed, as well as the physical locations that need to be protected, such an operation is complex. It represents logistics and planning challenges that require a wide range of stakeholders, processes, locations, and issues in time and space. Whether we are talking of electoral staff, voters, or other stakeholders such as candidates and their agents, parties, civil society organizations, domestic and international observer groups and security agencies themselves, security is critical in the protection of electoral personnel, locations and processes; in ensuring that voters exercise their civic duties without fear or hindrance; in creating a level playing field for all political parties and candidates to canvass for support; in protecting domestic and foreign observers in discharging their duties and obligations, and in maintaining the overall integrity of the democratic and electoral processes.

The significance of electoral security cannot, therefore, be overemphasized. Electoral security “is crucial for creating the proper environment electoral staff require to carry out their duties; for voters to freely and safely go to their polling units to vote; for candidates and political parties to organize rallies and campaigns; and for other numerous stakeholders to discharge their responsibilities under the Constitution and the Electoral Act. In planning, coordination and deployment matters pertaining to electoral processes, well-coordinated security is a fundamental requirement for success. Adequate security ensures the free movement of electoral staff, voters, candidates, observers and other stakeholders on Election Day”, which, in turn, adds to the credibility of the electoral process. Similarly, “adequate security is an important precondition for the deployment of valuable electoral assets and sensitive materials to registration and polling sites. Adequate security increases the level of participation of political parties, candidates and voters in an election. It also enables a more objective coverage of events by the media and easier circulation of voters' education, message and materials”.

The political parties and various political gladiators have constantly engaged in unhealthy political competition and rivalry, always wanting to capture power at all cost without recourse to the will and wishes of the electorates. It is this desperation that has brought

about massive rigging, over-voting, vote buying and other factors that have undermined the electoral process. To make matters worse, the electoral umpire has not been able to bring erring politicians and political parties forward to be properly tried in a law court of competent jurisdiction. Hence, the inability to punish electoral offenders has emboldened the culprits to perpetuate more heinous crimes during elections. ***Premium Times of 28th November, 2012 reported that INEC says lack of funds and personnel hamper prosecution of electoral offenders. The Independent National Electoral Commission (INEC), former Chairman, Professor Attahiru Jega in Abuja said the commission cannot successfully prosecute electoral offenders because it lacks adequate funds and manpower. The commission, during the course of various elections across Nigeria, apprehended about 870,000 electoral offenders, Mr. Jega said.***

The ubiquitous poverty and high level of socio-economic deprivation has necessitated a situation in which the mass of the people are willing to accept pittance from unscrupulous politicians to become thugs or assassins or to foment trouble, wreak havoc, commit arson, kill, maim, steal, kidnap and heat up the polity as well as putting undue pressure on the electoral process. ***According to Premium Times of 4th May, 2020, the National Bureau of Statistics (NBS) said more than 82.9 million Nigerians are poor. According to the NBS, 40.1 per cent of the total population in Nigeria was classified as poor, which implies that an average four out of 10 individuals in Nigeria had real per capita expenditures below N137,430.00 for 2019. Invariably, the report said, the monthly income of an individual in this category is less than N11,500 while income per day is N38.00.***

INEC provision in paragraph 41(e) says the State Collation/Returning Officer for the Governorship election shall where the margin of lead between the two leading candidates is not in excess of the total number of registered voters of the Polling Unit(s) where election was canceled or not held in line with Sections 26 and 53 of the Electoral Act, the returning officer shall decline to make a return until polls have taken place in the affected Polling Unit(s) and the results incorporated into new form EC 8D and subsequently

recorded into form EC 8E for Declaration and Return. The fact remains that desperate politicians can exploit the provision of the law to their own advantage. The political parties and their candidates know their strengths and weaknesses on the political turf, they know if they can win or lose, therefore, they create a situation in which election will become inconclusive and after due consultation and negotiation win the supplementary election, which was what happened in the case of 2018 Osun State gubernatorial election. The Premium Times of 26th of September, 2018 reported that the candidate of the Social Democratic Party, Iyiola Omisore, asked his supporters to vote for the All Progressives Congress (APC) in the supplementary election in Osun State. Mr Omisore stated this when he addressed journalists in Ile-Ife, Osun State. Mr Omisore, who came third in the main election, has been courted by both the APC and the Peoples Democratic Party. PREMIUM TIMES reported how delegates from the two major parties held separate meetings with Mr Omisore to seek his support. Mr Omisore whose party, SDP, came third in the governorship election, stands no chance of being elected governor after the supplementary poll.

Also, Premium Times of 9th December, 2019 reported that the Independent National Electoral Commission (INEC) has said it has challenges prosecuting electoral offenders. INEC Chairman, Professor Mahmood Yakubu, listed the challenges in his remarks at the commission's regular meeting with Resident Electoral Commissioners (RECs) in Abuja. Professor Yakubu said while INEC was at the moment saddled with the responsibility of prosecuting electoral offenders, it had no capacity to arrest offenders and conduct investigation "without which successful prosecution is impossible." "Over the years, we have worked closely with the Nigeria Police. Since 2015 we have received a total of 149 case files, including 16 cases arising from the 2019 general election," he said. "The cases are prosecuted in the states where the alleged offenses were committed. "Unlike pre-election and post-election cases, there is no timeframe for the prosecution of electoral offenders. A case may go on for several years. "Some of the cases were dismissed for want of diligent prosecution while in some states, the attorneys-general entered nolle prosequi to get the alleged offenders off the hook. "Even where the commission recorded the most successful prosecution of electoral offenders following the violence witnessed

in a bye-election in Kano State in 2016, it is unclear how many of the 40 offenders sentenced to prison with the option of fine actually spent time in jail. "The fine was paid presumably by their sponsors. "That is why we believe that the Electoral Offenses Commission and Tribunal will dispense justice dispassionately and speedily in the same way that the Electoral Court deals with violators in other countries such as South Africa."

Furthermore, the Punch Newspaper of 30th September, 2018 with a caption "Inconclusive elections in the eyes of legal heads" reported that the candidate of the Peoples Democratic Party, Ademola Adeleke, had polled 254,698 votes ahead of the All Progressives Congress candidate, Gboyega Oyetola, who polled 254,345 votes. However, due to irregularities which marred the election at some polling units in the Ife North, Ife South and Orolu local government areas, including cases of card reader malfunctioning, ballot boxes snatching, among others, 3,498 votes were canceled in the affected polling units.

The Returning Officer, Prof. Joseph Fuwape, who is also the Vice-Chancellor of the Federal University of Technology, Akure, citing INEC's Standing Rules at the commission's headquarters in Osogbo, said since the margin between the two leading candidates was lower than the registered canceled votes, the election had to be declared inconclusive.

Following a rerun held in seven polling units across four council areas, Oyetola was ultimately declared the winner with a total of 255,505 votes, edging out Adeleke, who polled 255,023 votes. Several PDP members have, however, criticised INEC and contested the result. Incidentally, some of the elections organised by INEC over the past few years have also been declared inconclusive, leading to reruns in several states, including Imo (2011 and 2015), Anambra (2013), Abia (2015), Taraba (2015), Kogi (2015) and Bayelsa (2015).

To this end, a Lagos-based lawyer and human rights activist, Jiti Ogunye, criticised the wave of inconclusive elections, "describing the recurrence as an aberration". Ogunye

stated, “Inconclusiveness of elections occasions electoral uncertainty and lack of predictability in outcomes. It can be said that when an election is conducted, its outcome ought not to be predetermined and that surprises can come, fronting the predictions and forecasts of pundits. However, there is a certain degree of predictability that people anticipate when an election is to be conducted.

According to him, the predictability is that the election will be conducted; the winner will be declared and if the other candidates, who lost the election, are not satisfied with the outcome, they can go to the tribunal and file a petition for the resolution of the electoral dispute. “So, my view has been that it is an aberration, which shouldn’t happen normally because when an election is coming, there is a lot of preparations, rehearsals and mobilisation of resources, including human and material resources. You do not expect any truncation,” he added.

Similarly, a former President of the Nigerian Bar Association, Mr. Onueze Okocha, (SAN), described the trend of inconclusive elections as a worrisome development, adding that INEC should be seen as an impartial and unbiased referee.

Okocha argued that “every Nigerian was interested in the outcome of an election, adding that free and fair elections were the desire of every citizen”. He said, “I am not comfortable with what is going on and I think most Nigerians would not be comfortable with it. Conduct of elections is full of inconsistencies. The one that happened recently in Osun is similar, in some respect, to what happened in Kogi, Bauchi and others, and we have discordant tunes played by INEC. It is a very worrisome development.”

Moreover, a Senior Advocate of Nigeria, Otaru Roland, who spoke on the election in Osun, argued that “Adeleke should have been declared the winner based on Section 179 of the constitution. Section 179(2) reads, “A candidate for an election to the office of governor of a state shall be deemed to have been duly elected where, there being two or more candidates – (a) he has the highest number of votes cast at the election; and (b) he

has not less than one-quarter of all the votes cast in each of at least two-thirds of all the local government areas in the state.”

Roland said, “INEC is very wrong in ordering a rerun. This is because section 179 of the constitution is very clear. The PDP candidate defeated the APC candidate hands down. How can you now be talking of a rerun when the man complied with Section 179 in terms of having one-third of the votes? He has two-thirds of the local government areas in the state and the majority, leading with 353 votes.

“So, Section 179, particularly, sub-section 2, is very clear. He had the highest, whether it was one vote or not and he didn’t have less than one-third of all the votes. So, there’s no default of the candidate that won, in accordance with sub-section 2 of Section 179 that will make INEC say they want to do a rerun in some polling units. “That argument does not fly at all. It is a rape on our democracy for INEC to have resolved to a rerun.”

Furthermore, a Lagos-based lawyer, Wahab Shittu, however, blamed the political class for the string of controversial election outcomes. Shittu observed that inconclusive elections were becoming frequent because of the attitude of the political elite, who, according to him, deploy all manner of tactics to win at all costs. He said, “I think this same political elite are unfair to the umpire because INEC can only proceed on the basis of applicable law, the dominant one being the constitution, followed by the electoral law. Under these three broad statutory provisions and regulations, INEC is entitled to declare an election inconclusive for a variety of reasons, even for violence. “So, I think what INEC has done in the case of Osun is within its powers and there is precedence for that in the Kogi election involving the late (Abubakar) Audu and the then governor of Kogi (Idris Wada). So, there is nothing wrong in declaring the election inconclusive.”

Another Senior Advocate of Nigeria, Emeka Ngige, also supported INEC’s decision to declare the Osun election inconclusive. According to the senior lawyer, the legal contest was settled by the Supreme Court in the case between James Faleke, the running mate to Audu, who won the 2015 Kogi governorship election and died before INEC announced

the results. Ngige added, "The Supreme Court held that the INEC guidelines provided for a rerun where voting did not take place and the margin was more than the margin of victory; that there should be a rerun in those places so as to enable disenfranchised voters there to participate in the process. What INEC has done is right, legal, proper and constitutional. "Those who are making a noise that INEC cannot do it were the same people making arrangements, talking to (Iyiola) Omisore to support them in the rerun. You can see that there is no sincerity in those who are making the noise. "INEC did it in Anambra in 2013, where elections did not take place in some local governments, some polling units and some wards. So, they postponed the election and it took place, after which they compiled the votes and declared Obiano the winner. So, this has been the pattern. There is nothing wrong with what they did in Osun."

However, Ogunye faulted the arguments of his colleagues who justified the actions of INEC, insisting that the postponement of elections were "an aberration" incorporated by INEC over time. According to him, the provisions of Section 26 of the Electoral Act (2010) and the constitution show that the ongoing regime of inconclusiveness is not what was originally anticipated. Section 26(1) of the Electoral Act reads, "Where a date has been appointed for the holding of an election and there is reason to believe that a serious breach of the peace is likely to occur if the election is proceeded with on that day, or it is impossible to conduct the elections as a result of natural disasters or other emergencies, the commission may postpone the election and shall, in respect of the area, or areas concerned, appoint another date for the holding of the postponed election."

Ogunye also cited the postponement of the 2011 election by the erstwhile INEC chairman, Prof. Attahiru Jega, because of logistic issues. "Going forward, I hope that we will not become too comfortable with this aberration and that we will cure our electoral system of elements that may cause inconclusiveness in the handling of elections," he stated.

Shittu, on the other hand, argued that inconclusiveness of elections was not the issue, but that one should ask oneself whether an election was in conformity with the international standards. Citing vote buying in particular, he said, "I think we should worry

about sanitising the electoral process, not about whether elections are declared conclusive or inconclusive. The bigger question is, what manner of democracy are we practising? The entire political process needs to be completely sanitised going forward. “The world is increasingly getting digital and our country has no concern but to only follow the trend. I think the best way is to be guided by international standards and best practices for conducting elections and that includes electronic voting. So, I think it is a viable option. But beyond that, our people need to be sensitised to voter education.”

Similarly, Ngige said there was nothing that could be done about inconclusive elections because according to him, they are part of human life. He explained that there must be one thing or the other that might lead to disruption. “For instance, if someone carries the ballot paper meant for a polling unit and runs away and people there cannot vote, won’t you do a rerun? A rerun is necessary when the margin between the leading candidate and the runner-up is less than the number of canceled votes. It is automatic; once something happens, there must be a rerun,” he said.

But Okocha, the former NBA boss, queried the autonomy of the commission, which he said was a root cause of inconclusiveness in election results. He further cited the delay in the approval of the electoral body’s budget for the 2019 elections as a sign that “somebody somewhere is up to some gimmicks.” He added, “Is INEC independent as its name portends? It certainly is not because the powers that be will not release funds to it to do its work. How come it is after the presentation of the 2018 budget, which is still being debated, that they suddenly wake up and say INEC needs this amount of money and they want a supplementary budget for INEC?”

“If INEC was independent, its budget should have been settled when the 2018 budget was prepared and we wouldn’t have these difficulties that we have now.” The submissions of the legal experts and comments of pro-democracy activists clearly show that a Supreme Court verdict on when, how and why INEC can declare an election inconclusive is urgently needed to put to bed the highly contentious issue.

At that election, the late Prince Audu of APC had won 240,867 votes while Idris Wada of the PDP had scored 199,514 votes. There was a margin of win of 41,353 votes between the leading candidates and at the rerun election only about six thousand votes were added to that. There were insinuations that forces in the APC which were opposed to the ascendancy of the party's National Leader, Senator Bola Ahmed Tinubu, had moved to push INEC in the direction it took.

INEC again repeated the inconclusive game in January 2016 when the Bayelsa State governorship election was declared inconclusive. INEC said that disruptions of the election process in the Southern Ijaw axis made a declaration impossible. And again in the Osun State governorship election last year, the same inconclusive headache harassed the electoral circles.

4.4 Discussion and Analysis of Results

Table 1. Results of 2018 Governorship election in Osun State					
Local Government Area	Total Votes by Parties				
	ADC	ADP	APC	PDP	SDP
BOLUWADURO	69	858	3843	3779	1786
ATAKUMOSA WEST	106	718	5019	5401	1570
IFEDAYO	52	176	3182	3374	1377
EDE SOUTH	83	357	4512	16693	855
OROLU	79	388	5442	7776	2043
OBOKUN	106	663	7229	10859	1907
ILESA EAST	188	1275	9790	8244	3720
BORIPE	137	1137	11655	6892	2730
ILESA WEST	127	2363	7251	8286	2408
ORIADE	109	1224	9778	10109	2265
IREPODUN	158	2564	6517	8058	4856
ILA	96	183	8403	8241	3134
ISOKAN	56	682	7297	9084	3460
AIYEDADE	145	1654	10861	9836	2767
ATAKUMOSA	60	629	7073	5218	2140
ODO OTIN	1034	1112	9996	9879	2441
EDE NORTH	89	758	7025	18745	1380
IFELODUN	236	2844	9882	12269	1920
AIYEDIRE	144	1642	5474	5133	2396
IFE NORTH	94	745	6527	5486	5158
EJIGBO	258	5921	14779	11116	4803
EGBEDORE	119	650	7354	7231	3367
IFE CENTRAL	194	1053	6957	3200	20494
IREWOLE	249	1950	10049	13848	1142
OLORUNDA	335	1409	16254	9850	7061
OLA OLUWA	1408	2194	5025	4026	2104
IFE SOUTH	136	561	7223	4872	6151
IFE EAST	237	509	8925	6608	17643
IWO	1164	16425	7644	6122	4153
OSOGBO	413	2478	23379	14499	10188

Source: Vanguard Newspapers- <https://www.vanguardngr.com/2018/09/results-of-osun-governorship-election/>

The Candidate of the People’s Democratic Party, (PDP), Senator Ademola Adeleke, polled 254, 698 votes while his closest marker, Alhaji Gboyega Oyetola, of the All Progressives Congress, (APC), scored 254, 345 votes. The Social Democratic Party, (SDP), Senator Iyiola Omisore, polled 128, 049 votes to be in third position. Adeleke led

with 353 votes, and there are 3, 498 voided votes in Orolu LGA (three units, 947 votes), Ife South (two units, 1,314), Ife North (one unit, 353 votes). And Osogbo (one unit, 884 votes).

From the figures above, it is evidently clear that the PDP not only won the election with majority of lawful votes cast, but equally satisfy the geographical spread of vote as stipulated by section 179 (2) of the 1999 of the Constitution of the Federal Republic of Nigeria which says “a candidate for an election to the office of Governor of a State shall be deemed to have been duly elected where, there being two or more candidates- (a) he has the highest number of votes cast at the election; and (b) he has not less than one-quarter of all the votes cast in each of at least two-thirds of all the local government areas in the state.”

Not only did the PDP win the election it defeat the incumbent government in her strongholds, this can be seen in the results from Obokun and Ilesa West, the APC marginally won Ilesa East. The reason for this development is not far-fetched, the electorates were not satisfied with performance of the APC led government then, particularly as it regards the non-payment of monthly salaries, gratuities and pensions as well as a the very poor handling of the education sector in the state at the time. In addition, the PDP won her stronghold of Ede South and Ede North overwhelmingly.

When compared with the supplementary elections there was greater voter's turnout and more enthusiasm for voters to troop out and cast their ballot during the main election and the reason for this can be attributed to supplementary results as we pointed out earlier is a disincentive to voters to come out and vote because they think that the election has been won and lost, hence, there is no need for a run election. And, supplementary election encourages voter's apathy.

As pointed out earlier too, the electoral umpire applies different rules to similar electoral situation and this gives room for suspicion and lack of trust which is a major issue in electoral matters. It is common knowledge that if any laws contradicts any section of the 1999 Constitution of the Federal Republic of Nigeria, the constitution shall prevail. And,

the INEC guideline which is relied upon for supplementary election does not complement the constitution but contradicts it.

Table 2: Result of the 2018 supplementary gubernatorial election in Osun State

Table 2: Result of the 2018 supplementary gubernatorial election in Osun State		
Local Govt. Area	Total votes by parties	
	APC	PDP
OSOGBO LGA: Unit 17 Ataoja ward 5	299	165
OROLU LGA: Units 1&4 ward A	280	122
IFE SOUTH LGA: Unit 12 ward 7	455	36
IFE NORTH LGA: Unit 02 ward 10	126	02

Source: Channels TV- <https://www.channelstv.com/2018/09/27/live-collation-of-results-for-osun-governorship-supplementary-election/>

The candidate of the All Progressives Congress in Osun State, Alhaji Gboyega Oyetola, was declared the winner of the governorship election in the state by the Independent National Electoral Commission. The Returning Officer, Prof Joseph Fuwape, declared Oyetola the winner of the election after the collation of the results of the supplementary election in seven polling units. Oyetola polled a total of 255,505 votes to emerge the winner of the poll while the candidate of the Peoples Democratic Party polled a total of 255,023 votes to come second in the contest.

In discussing the results a number of things are noticeable, namely,

- (1) As noted earlier, the supplementary election is a waste of public funds and it also resulted in voter's apathy.
- (2) The whole idea of inconclusive election is nebulous as paragraph 41(e) says the State Collation/Returning Officer for the Governorship election shall where the margin of lead between the two leading candidates is not in excess of the total number of registered voters of the Polling Unit(s) where election was canceled or not held in line with Sections 26 and 53 of the Electoral Act, shall decline to make a return until polls have taken place in the affected Polling Unit(s) and the results incorporated into new form EC 8D and subsequently recorded into form EC 8E for Declaration and Return, seems to contradict

section 179 of the 1999 constitution which emphasises simple majority plus geographical spread which is in sync with the electoral system First-Past-The-Post (FPTP) which Nigeria has always used in its electoral history.

(3) The 2018 inconclusive/supplementary election in Osun State cannot be said to truly reflect the wishes and desires of the electorates because of the wanton political scheming, negotiations, “gentleman’s agreement” and horse-trading that went on before the supplementary elections without any consultation or input from the electorates or their representatives, it was simply an elitist conspiracy, this behind-the-scene dealings have deleteriously affected the integrity of the electoral process.

(4) As vividly discussed and identified above, the electoral umpire has not applied the same rule to similar situations in the country in electoral matters. This calls to question the integrity of the electoral process. For instance, INEC has been unable to justify the refusal to apply the inconclusive appellation to some elections and why the logic is only applied haphazardly. For instance, critics of the commission had raised issues as to why the governorship election in Ogun and Kaduna states were not declared inconclusive, especially when the results declared fell within the “margin of win” description.

(5) There are contradictory provisions in the different electoral laws, the 1999 constitution of the Federal Republic of Nigeria, the Electoral Law 2010 as amended and INEC Regulation and Guidelines that can generate unnecessary polemics, controversy, tension, litigation, inconclusiveness and confusion in the electoral process. This is because as they are presently, they constitute impediment to a transparent and credible electoral system.

(6) The different electoral offenders that caused pandemonium and violence in the polling booths in the 2018 governorship election in Osun state which led to the cancellation of election results that brought inconclusive election were not apprehended and prosecuted, thereby giving the erroneous impression that thuggery, mayhem and bedlam are part and parcel of the electoral process. Not trying electoral offenders in a court of

competent jurisdiction is an aberration and has damaging as well as undesirable consequences on the integrity of the electoral process.

(7) The electorates do not trust the electoral umpire in part because of the usage of inconclusive/supplementary elections. This is because of the noticeable pattern or trend to the effect that the political party that usually leads in the first round of elections is not the political party that eventually wins the supplementary election, this process etiolates the confidence of the electorates and engenders voter's apathy as well as impedes the integrity, credibility and sanctity of the electoral process.

(8) Inconclusive election that necessitated inconclusive/supplementary election is incompatible with the obtainable electoral system in the polity which is FPTP. Inconclusive election questions the motive of the electoral umpire. It is the people that chooses those they want to preside over their affairs, not the EMB, not even the law courts. And, this is a serious challenge to the integrity of the electoral process.

(9) Without the 2018 supplementary election in Osun State, the winner of the first round of election would have still legally won the election satisfying the legal provision of the law of simple majority and geographical spread. Therefore, what is the essence of the inconclusive/supplementary election?

(10) According to Channels TV report of 27th September, 2018 ***The missions of the United States, the European Union, and the United Kingdom faulted the supplementary election held in Osun State.*** According to the missions, which observed the poll, incidents noted during the process are very worrisome. The missions said this in Osogbo, the Osun State capital. "We witnessed what appeared to be incidents of interference and intimidation of voters and heard reports of harassment of party monitors, journalists and domestic observers," ...Some election observers said they were prevented from moving freely or gaining access to polling units, while the Independent National Electoral Commission also expressed concern about reports it received.

Also, Thisday Newspaper of 29th September, 2018 reported that a coalition of civil society organisations under the aegis of Eastern Consultative Assembly (ECA) and the Transition Monitoring Group (TMG) condemned the “brazen manipulation of the poll to subvert the will of the people.” The TMG further warned that the desperation of the political class had grievous implications for the credibility and legitimacy of the entire Osun supplementary exercise. TMG said that the development in the re-run if not addressed quickly has the potential of undermining the confidence people have built overtime on the electoral system and could send ominous signals for 2019 general elections. TMG observed that the supplementary election which took place on the 27th of September, 2018, across the seven polling units in four-local government councils, namely Orolu, Ife North, Ife South and Osogbo where elections were canceled and a rerun ordered by INEC was not credible. It revealed that in the four local governments, there were 3,498 registered voters, 2,637 numbers of PVC collected, while the number of PVC not yet collected were 861 as at the time of the elections. The group in a statement jointly signed by its Chairperson, Dr. Abiola Akiyode-Afolabi and its Southwest Coordinator, Mr. Sulaimon Arigbabu, said that one of the major concerns of the election was the protection of the secrecy of voting; stressing that INEC needs to devise a more effective strategy that would further protect the secrecy of the votes.

Furthermore, TMG noted that most of the voting cubicles were situated in the open, making it possible for persons, other than the voter, to view voters’ preferences. “TMG observers reported several incidents of intimidation and harassment of voters. In Orolu Local Government in particular, some observers and journalists were arrested and detained by some security agents, while some other observers were prevented from accessing the polling units, by some hoodlums. “By these acts, we observed that sizeable number of voters were therefore prevented from performing their civic duties particularly in Kajola, Orolu Local Government, Oyere and Osi in Ife South Local Government. “Our observations also show that several party agents were prevented from observing the process. There were also sporadic gunshots in some locations in Osogbo and Ife.”

(11)The 2018 supplementary election in Osun is a pointer to the need for INEC to be fully independent in terms of appointments and finances as well as fully implement the Justice Uwais Electoral Commission of Inquiry report.

(12) Article 7 (1) of the Constitution of the Social Democratic Party (SDP) states that the party shall ensure the attainment of political power through democratic means and thereby provide qualitative and effective leadership at all levels of government for the purpose of cultivating an egalitarian society based on the principles of equality, freedom and social justice. Also, chapter 1, Article 7 (2c) of the Constitution of the Peoples Democratic Party (PDP) States that the party shall promote the security of life and property, and enhance family values; while Article 7 (2g) states that the party shall promote an egalitarian society founded on freedom, equality and justice. Article 7 (ix) of the Constitution of the All Progressives Congress (APC) states that the party shall institutionalise, maintain and foster representative democracy, discipline and strict observance of rule of Law in the Federation of Nigeria. This shows that none of the political parties is not averse to having violent-free, credible, transparent, free and fair elections.

(13) The margin of win or votes or lead as the case may is a fraudulent because it is predicated on the entire number of voters registered in any particularly polling booth, and not on the actual numbers of voters accredited to vote on Election Day. On the day of election, not every voter come out to cast their ballot, in fact, not every accredited voters eventually vote, in fact, not all registered voters are eligible to vote because not all of them have collected their PVC's. Therefore the margin of vote is a needless electoral exercise that ought to be promptly discarded.

4.5 Issues of Inconclusive Elections in Nigeria

The 2019 general elections were completed in some states and incomplete in states whose governorship and state assembly results were declared inconclusive by the state returning officers of the Independent National Electoral Commission. The polls, initially

fixed for February 16 and March 2, were shifted to February 23 – March 9 by INEC, attributing the decision to logistic problems. Inconclusive polls are fast becoming a regular feature of Nigeria's electoral process and many people are getting worried about the situation.

Verdicts of inconclusive poll did not start with the 2019 general elections. Some polls organised by INEC as far back as 2011, in Imo State and the Osun State governorship election held on September 22, 2018 were declared inconclusive. But the magnitude of inconclusive polls in 2019 shows that more winners in future elections may be determined after supplementary elections.

Supplementary polls are usually ordered by the electoral body as a result of violence or other irregularities recorded during the first ballot. But the rerun of the March 9 governorship and state House of Assembly polls was even more violent in some states than the cancelled polls. The governorship elections in Kano, Bauchi, Benue, Adamawa, Plateau and Sokoto states were declared inconclusive due to violence, failure to use the smart card readers, over-voting and other irregularities.

The electoral commission had stated that if the number of registered voters in areas where elections were canceled was more than the margin with which the candidate with the highest number of votes was leading the runner up, such election would be declared inconclusive.

INEC has, however, been accused of seeking to circumvent the provisions of Section 179(2) of the constitution, which states that “a candidate for an election to the office of governor of a state shall be deemed to have been duly elected where, there being two or more candidates – (a) he has the highest number of votes cast at the election; and (b) he has not less than one-quarter of all the votes cast in each of at least two-thirds of all the local government areas in the state.” Despite meeting the requirements of this section, some candidates were not returned as winners and rerun elections had to be conducted in some areas and after which winners were declared.

According to the Punch Newspaper of 31st March, 2019, former Attorney General and Commissioner for Justice in Osun State, Mr Niyi Owolade, in an interview, said no state returning officers had the power to cancel elections and order supplementary polls. He said, “The returning officer does not have the power to cancel an election. This is where inconclusive elections always come in. Elections can only be canceled if the presiding officer at a polling unit notices any infraction that affects compliance to the Electoral Act at the unit level. “He will then fill Form EC40 and the form which originates at the polling unit will now get to the state returning officer. He can now order a supplementary election based on the report originating from the polling unit. “This is so because it is the presiding officer that knows what happened and not the returning officer who is far away at the state capital. Returning officers cannot cancel any election without the report from the affected units because polling units are the fulcrum of elections.”

According to Ogunye, the manual electoral process, was not only expensive but engendered all manner of crises. He argued that Section 26 of the Electoral Act empowered INEC to postpone election before the arrival of the date fixed for it. Ogunye added that the Supreme Court had ruled in favour of INEC on supplementary election in a suit between the electoral body and Timipre Sylva (former Bayelsa State governor). INEC, he said, had been relying on the ruling to postpone elections even after the exercise had started. He said, “Our elections are a burden to the nation even without the supplementary election. The supplementary election is just adding to the burden. Is it not crazy that Nigeria is spending N245bn on elections? We are spending so much money on elections when people cannot eat. For those who live in Lagos, we see a sea of heads at various bus stops looking miserable, not knowing where to get something to do. The poverty in the land is unprecedented and you are spending N245bn to elect public office holders who will go into office to steal and continue to ruin the lives of the people. “Election is already a burden to the country and not just the supplementary. That is why we need to simplify the electoral process. We need to go digital and stop this waste of resources. They print ballot papers in Belgium; we will not need that by the time we go digital. Nigeria is not a rich country like many people think. With a population of about 200 million people,

spending N245bn to conduct elections to elect those who are not accountable to you is a burden. This is a burden but the supplementary elections are just adding to the burden.” Apart from the huge funds committed to the exercise, the lawyer wondered why the nation had spent over a month to hold elections fixed for two different days. “We have to rethink our electoral process and political system and until that, we will not make any progress,” Ogunye said.

In the same token, a professor of law at the University of Jos, Nnamdi Aduba, who is also a member of the board of YIAGA, an election monitoring group, identified desperation on the part of politicians as the reason for violence and other irregularities in elections. He stated, “The perks of office for elective officers are humongous and this is the reason politicians are desperate to win. If you reduce these, you will see that the desperation will stop. Have you ever seen anybody being desperate and ready to kill to go and serve others? They are not desperate because they love the people; they are desperate because of what they will gain. “I heard that members of the National Assembly are usually given a huge amount of money even before they start legislative duties. Which type of work or business do you see where they pay newly employed upfront like that? “The inconclusive elections come with additional costs to the nation. We spend so much to organise elections where in most cases, the corrupt ones will emerge. That is why we have not been able to get our best to lead us and we cannot get the best if we continue this way. The best will not have such a huge amount of money to buy votes.”

Similarly, a former National Commissioner of INEC, Prof. Lai Olurode, said the Supreme Court had ruled that INEC was okay to have its own internal rules to assist it to conduct credible elections as long as such rules would not run afoul of the constitution. He said, “We met that policy when we were sworn in. Prof. Attahiru Jega (the then INEC chairman) and his team thought it was a good policy. Where the number of canceled votes exceeded the distance between the leading candidate and the runner up, it will not be good for INEC to make a declaration. So, what you do is to hold a supplementary election. The policy was targeted at enhancing democracy.

“On reflection now, it seems that the policy is very expensive because INEC needs to mobilise to the field again and this is not good for a country that is not economically buoyant like Nigeria. Although democracy is the best, we have to weigh the cost. Elections in civilised countries should be the simplest thing anybody can think of. On reflection now, I think we need to do a rethink of that policy because it is causing more harm. Unfortunately, all the supplementary elections without exception are a step backward for our democracy. “But at the same time, if we say we should now change it, some people will challenge it in court because I think it has been confirmed by the ruling of the Supreme Court. The ruling has legitimised the internal arrangement of INEC which is ordering supplementary elections.”

In a related development, the Chairman, Nigerian Bar Association, Ikeja Branch, Mr Dele Oloke, also said it was Section 26 of the Electoral Act that INEC had been relying on to declare polls inconclusive. He said, “INEC can declare elections inconclusive by the provision of the Electoral Act but whether the intention of the draftsman is noble in putting that in the Electoral Act is another thing. You have a body that has been given a humongous amount of money to conduct elections; I mean the kind of money that can change the lives of three countries in Africa and you now put a clause that they can declare what they have done inconclusive. The drafting is defective and I do not believe in that clause. “We should not empower the electoral body to declare what it has done or what it is still doing inconclusive because it could be abused. Anybody can influence them to declare an election inconclusive and such person will go and intensify their rigging plans and will be declared winner after the supplementary elections. They are actually abusing that clause and I think it should be expunged.”

Whereas, a Senior Advocate of Nigeria, Mr Abiodun Saka-Layonu, in an interview described inconclusive polls as a big embarrassment to the nation and a failure of INEC as an institution. “INEC should always organise itself to get out of this situation. Inconclusive elections should not be something that is rampant like we had in six or more states in this year’s general elections. INEC needs to always organise itself because we should not continue this way.”

And, a former judge at the Osun State High Court, Justice Olamide Oloyede, said that inconclusive elections showed that INEC lacked the capacity to conduct credible elections. "Even if they have the power to declare elections inconclusive, the trend shows that INEC is incompetent and lacks the capacity to conduct credible elections," Oloyede added.

It is important to point out that according to Premium Times (2018) the candidate of the Social Democratic Party, Iyiola Omisore, had asked his supporters to vote for the All Progressives Congress (APC) in the supplementary election in Osun State. Mr Omisore stated this when he addressed journalists on Wednesday afternoon in Ile-Ife, Osun State. A day to the re-run election. Mr Omisore, who came third in the main election, has been courted by both the APC and the People's Democratic Party. Delegates from the two major parties held separate meetings with Mr Omisore to seek his support. Mr Omisore whose party, SDP, came third in the governorship election, stands no chance of being elected governor after supplementary poll. In the inconclusive election, Ademola Adeleke of the PDP scored 254,698 votes to beat his APC rival, Gboyega Oyetola, who polled 254,345 votes. Mr Omisore, who hails from Ife Central local government, polled 128,049 votes to occupy the third place. This kind of practice tend to corrupt the electoral process as the party with the deepest pocket most likely won the elections after very unhealthy negotiations and horse-trading.

The Osun State governorship rerun election took place on Thursday, September 27, 2018, just days after the Independent National Electoral Commission (INEC) declared the original September 22 election to have been inconclusive. This was because the victory margin of 353 votes of first-placed candidate, Senator Ademola Adeleke(254,698 votes) of the People's Democratic Party (PDP), over second-placed Oyetola (254,345 votes) was less than the 3498 votes cancelled in seven polling units. In the rerun election that took place in those affected polling units, Oyetola won the rerun election with a difference of 835 votes as he acquired a total of 1160 votes to Adeleke's 325. The poll closed with Oyetola winning a total 255,505 votes, 482 more votes than Adeleke's 255,023. INEC's

Chief Returning Officer for the elections, Professor Joseph Afuwape, declared Oyetola the winner in Osogbo, the state capital.

4.6 Summary of Chapter

This chapter undertook data presentation and analysis as well as discussion and analysis of the results therefrom.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATION

This chapter summarises the major findings of the study, gives recommendations and wraps up with the conclusion.

5.1 Summary of Findings

The perennial issue of inconclusive election has become a recurring decimal in Nigeria's elections and it is a very controversial issue that has elicited heated arguments and debates in the polity. It has also affected the turn-out of voters for election, with electorates being skeptical about the impartiality and neutrality of the electoral umpire. Hence, voter's apathy and nonchalant attitude has characterised the electoral process in recent times. Based on the plethora of interviews, secondary data used as well as literatures consulted on the effect of inconclusive elections on the integrity of the electoral process-a study of 2018 gubernatorial election in Osun State, the research was able to look at how inconclusive election affected voter's behaviour and voting pattern, electoral process as well as democratic governance in Osun State. The conclusion drawn from the findings of this study is that inconclusive elections have serious implications for the integrity of the electoral process.

This study has revealed that the whole idea of inconclusive election is nebulous as paragraph 41(e) says the State Collation/Returning Officer for the Governorship election shall where the margin of lead between the two leading candidates is not in excess of the total number of registered voters of the Polling Unit(s) where election was canceled or not held in line with Sections 26 and 53 of the Electoral Act, the returning officer shall decline to make a return until polls have taken place in the affected Polling Unit(s) and the results incorporated into new form EC 8D and subsequently recorded into form EC 8E for Declaration and Return, seems to contradict section 179 of the 1999 constitution which

emphasises simple majority plus geographical spread which is in sync with First-Past-The-Post (FPTP) which Nigeria has always used in its electoral history.

Another finding of this study is that the electoral umpire has not applied the same rule to similar situations in the country in electoral matters. This calls to question the integrity of the electoral process. For instance, INEC has been unable to justify the refusal to apply the inconclusive appellation to some elections and why the logic is only applied haphazardly. For instance, critics of the commission had raised issues as to why the governorship election in Ogun and Kaduna states were not declared inconclusive, especially when the results declared fell within the “margin of win” description.

This study has also revealed that the different electoral offenders that caused pandemonium and violence in the polling booths in the 2018 governorship election in Osun state which led to the cancellation of election results that brought inconclusive election were not apprehended and prosecuted, thereby giving the erroneous impression that thuggery, mayhem and bedlam are part and parcel of the electoral process.

Moreover, this study also discovered that without the 2018 supplementary election in Osun State, the winner of the first round of election would have still legally won the election satisfying the legal provision of the law of simple majority and geographical spread. Therefore, what is the essence of the inconclusive/supplementary election? This is a serious impediment to the integrity, credibility, sanctity and transparency of the electoral process.

Furthermore, this study also revealed that the 2018 inconclusive/supplementary election in Osun State cannot be said to truly reflect the wishes and desires of the electorates because of the wanton political scheming, negotiations, “gentleman’s agreement” and horse-trading that went on before the supplementary elections without any consultation or input from the electorates or their representatives, it was simply an elite conspiracy.

Interestingly, this study discovered also that and in tandem with the Channels TV report of 27th September, 2018 ***The missions of the United State, the European Union, and the United Kingdom faulted the supplementary election in Osun State.*** According to the missions, which observed the poll, incidents noted during the process are very worrisome. The missions said this in Osogbo, the Osun State capital. “We witnessed what appeared to be incidents of interference and intimidation of voters and heard reports of harassment of party monitors, journalists and domestic observers.”

Also, Thisday Newspaper of 29th September, 2018 reported that a coalition of civil society organisations under the aegis of Eastern Consultative Assembly (ECA) and the Transition Monitoring Group (TMG) condemned the “brazen manipulation of the poll to subvert the will of the people.” The TMG further warned that the desperation of the political class had grievous implications for the credibility and legitimacy of the entire Osun supplementary exercise. TMG said that the development in the re-run if not addressed quickly has the potential of undermining the confidence people have built overtime on the electoral system and could send ominous signals for 2019 general elections.

The margin of win or votes or lead as the case may is a fraudulent because it is predicated on the entire number of voters registered in any particularly polling booth, and not on the actual numbers of voters accredited to vote on Election Day. On the day of election, not every voter come out to cast their ballot, in fact, not every accredited voters eventually vote, in fact, not all registered voters are eligible to vote because not all of them have collected their PVC’s. Therefore the margin of vote is a needless electoral exercise that ought to be promptly discarded.

This study discovered that inconclusive election leads to voter’s apathy and increases the financial burden on INEC. Another discovery is that without the supplementary elections, the election in Osun in 2018 had been won and lost at the first ballot. The margin of votes had been applied differently by INEC to similar electoral situations in the country. The study also discovered contradictions in electoral laws as it relates to margin of votes in inconclusive elections and many more as shown above.

5.2 Conclusion

This study concludes from the above findings that transparent and credible election is central to any democratic governance which is predicated on the will and the wishes of the generality of the electorates. Anything short of this, does not make elections to be elections properly so-called. And, an inconclusive election is a subversion of the electoral will of the voter's, because the outcome is not a true reflection of their desires and aspirations. The legality of inconclusive elections is contestable as there are contradictory electoral laws guiding the process coupled with the fact that the electoral umpire has not been able to apply similar rules to similar situations across board in the country. Also, inconclusive elections has led to voter's apathy and lack of sustained interest in the electoral process because the integrity of the electoral process as well as the unbiasedness of INEC have been called into question.

5.3 Recommendations

Based on the findings, the study put forward the following recommendations

The idea of inconclusive election based on margin of votes should be done away with completely. It contradicts the electoral system that is operational in the country which is FPTP, predicated on simple majority and geographical spread. And, in almost all the cases so far in the country, it is not the party that leads in the first round of elections that usually wins the inconclusive/supplementary election. In fact, a particular party has been the beneficiary of inconclusiveness across the country.

Also, all contradictory laws in electoral matters should be reviewed and streamlined by the National Assembly to conform to the extant provisions of the 1999 constitution of the Federal Republic of Nigeria. This is because there are contradictory provisions in the different electoral laws; the 1999 constitution of the Federal Republic of Nigeria, the Electoral Law 2010 as amended and INEC Regulation and Guidelines that can generate

unnecessary polemics, controversy, tension, litigation, inconclusiveness and confusion in the electoral process. This is because as they are presently, they constitute impediment to a transparent and credible electoral system.

In a related development, the government should endeavour to fully implement the report of Justice Mohammed Uwais Electoral Report Committee. This will enable the Independent National Electoral Commission (INEC) to be truly independent in terms of appointments and financial autonomy, to this end, it will be able to conduct free, fair and credible elections.

The Uwais Electoral Committee report recommended the setting up of the National Electoral Offenders Commission by the government to take care of the issues of electoral offenders that has become more or less a recurring decimal in the electoral process in the country. The Offenders Commission is more necessary now than at any other time in the history of elections in the country. This is because some of the reasons put forward to justify inconclusive elections such as thuggery, violence, over-voting, vote buying, arson, kidnapping, killings maiming, snatching of ballot boxes, preventing votes from voting peacefully are all electoral offenses that the commission should handle, thereby having more credible elections.

Furthermore, there is a need for further research and academic interest in the area of inconclusive election and its effect on the integrity of the electoral process. Doing so will contribute immensely to the growth and development of electoral process, credible elections, electoral participation, thereby shaping sustainable electoral reforms and deepening democratic ethos in the country.

Moreover, there is the need for more voter education and sensitization campaigns or awareness of citizens about the electoral malpractices and their civil rights and responsibilities. Voters, governments, NGO's, CSO's, EMB and other critical stakeholders should strengthen and spearhead activities around credible elections and unambiguous electoral laws to enhance integrity of the electoral process.

It is equally important to point out that good governance can translate to free and fair election, as the electorates would vote wholeheartedly for parties that have glaringly delivered the dividends of democracy to them and prevent usurpations of votes by watching over the vote cast. But if there is poor governance and leadership, the electorates become lukewarm and indifference to elections and how it is conducted.

Vote buying and money politics in the country must be discouraged and reduced to the barest minimum by EMDs and critical stakeholders in the electoral process. Strict adherence to spending limit during election campaign should be observed, and the Nigerian economy must be repositioned to empower the people economically. This is because where poverty is minimal the electorates can make independent electoral decisions in voting for credible politicians' rather than the least qualified candidate that specialised in spending money.

The 1999 Constitution should be amended to strengthening INEC's legal framework so that there will be no contradictions in the discharge of its duties and responsibilities. In consonance with our position above, to the effect of the inconsequentiality of margin of lead or vote, which had necessitated supplementary elections. The margin of win or votes or lead as the case may is a fraudulent because it is predicated on the entire number of voters registered in any particularly polling booth, and not on the actual numbers of voters accredited to vote on Election Day. On the day of election, not every voter come out to cast their ballot, in fact, not every accredited voters eventually vote, in fact, not all registered voters are eligible to vote because not all of them have collected their PVC's. Therefore the margin of vote is a needless electoral exercise that ought to be promptly discarded.

According to the back page of The Nation Newspaper of 1st of January, 2022, it stated emphatically that "what is clearer than ever before is that the political elite both within and beyond the two dominant parties have no inclinations towards bequeathing to the country credible, transparent and open intra and inter-party elections that reflect the will of the

citizenry at the levels of both party and general elections. Had they any such intention, the report of the Justice Mohammed Uwais committee on Electoral Reforms set up by the late President Umaru Yar'Adua which made far-reaching proposals to strengthen the country's electoral system structurally and procedurally would not have been left to gather dust over the years".

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