

# Beyond Legal Infrastructure

## Echoing Issues and Contradictions in Nigeria's Electoral Sector

Adeniyi S. Basiru

### Abstract

This essay, based on desk studies, engages and problematizes issues and contradictions in Nigeria's electoral sector in the post-authoritarian era, against the background of the 2022 Electoral Act. It notes that in spite of numerous electoral reforms, inclusive of the latest Electoral Act, Nigeria's journey towards a stable electoral climate, and by extension a healthy electoral sector, has remained tortuous. The essay concludes that in spite of the coming of the 2022 Electoral Act, it is no celebration yet, as engendering a stable electoral sector goes beyond legal infrastructural provisioning.

**Keywords:** Authoritarianism, democracy, elections, Electoral Act, electoral reform.

---

### Introduction

In 1960, the year described by many observers as Africa's year, Nigeria was ushered into the comity of nations.<sup>1</sup> Indeed, not only was the country admitted into the league of states, but most fundamentally, her polity was fashioned in line with the liberal democratic model, by the departing colonial power.<sup>2</sup> By this arrangement, the country was expected to be a model for other African countries, given the enormous resource potentials at her disposal.<sup>3</sup> However, unfortunately, barely six years into independence, the military abandoned its

---

**Adeniyi S. Basiru** (PhD) is a Policy Analyst and Senior Faculty in the Department of Political Science and International Studies, Crescent University Abeokuta, Nigeria. <asbash2000@gmail.com>

<sup>1</sup> Idowu Johnson, "Leadership Role Conception and Nigeria's Foreign Policy at the Regional Level: An Appraisal," in *Six Decades of Nigeria's Foreign Policy: Old Visions, New Issues*, eds. Solomon Akinboye and Adeniyi Basiru (Lagos, Nigeria: University of Lagos Press and Bookshop Ltd, 2021), 35.

<sup>2</sup> Adeniyi Basiru, "From 'Militocracy' to Illiberal Democracy: An analytical Discourse on Nigeria's Struggle with Liberal Democracy," *Taiwan Journal of Democracy* 17, no 2 (2021): 149.

<sup>3</sup> Johnson, "Leadership Role Conception and Nigeria's Foreign Policy at the Regional Level," 35.

constitutional role to supplant the democratic order.<sup>4</sup> Alas! the development did not only lead to the jettisoning of many democratic institutions, but also ushered-in an order in which all sectors of the national life were praetorianized.<sup>5</sup> However, by the 1990s, as a result of pressures for democratic opening in the Global South, the military had no other option than to embark on a programme of military disengagement.<sup>6</sup>

Thus, on May 29, 1999, the military, after fifteen years of rule, transited Nigeria into the league of electoral democracies.<sup>7</sup> Interestingly, as the new dispensation beckoned, expectations were high that the new order would engender the dividends associated with electoral democracy.<sup>8</sup> More fundamentally, it was expected that a new order, in which elections would constitute the frameworks for leadership recruitment, had beckoned. However, unfortunately, after two decades of re-democratization, the performance of the electoral sector has been rather appalling.<sup>9</sup> Even though electoral activities have become regular occurrences in the country, elections in particular and the electoral sector in general would appear to have been characterized by all manners of malfeasance, to the extent that some observers even doubt if electoral democracy is feasible in the country.<sup>10</sup> This development, in the last few years, has sparked a series of electoral reforms and legislations, the latest being the 2022 Electoral Act.<sup>11</sup> Indeed, since its promulgation into law on February 25, 2022, there has been huge expectations and optimism from the critical stakeholders regarding its potentials for institutionalizing stability and sanity in the country's electoral sector.

---

<sup>4</sup> Akinbode Fasakin, "Beyond the Rhetoric of Democratic Consolidation: The Subversion of Democracy in Nigeria Since 1999," in *The Dynamics of Democratic Practice in Nigeria, 1999-2015*, eds. Haruna Wakili, Habu Muhammed, Moses Aluaigba, and Nu'uman Habib (Kano: Aminu Kano Centre for Democratic Studies, 2020), 29.

<sup>5</sup> See Julius Ihonvbere, "The Military and Political Engineering under Structural Adjustment: The Nigerian Experience," *Journal of Political and Military Sociology* 20, no. 1 (1991): 107-131.

<sup>6</sup> Emmanuel Ojo, "The Military and Political Transition," in *Nigeria's Struggle for Democracy and Good Governance: A Festschrift for Oyeleye Oyediran*, eds. Adigun Agbaje, Larry Diamond, and Ebere Onwudiwe (Ibadan, Nigeria: Ibadan University Press, 2004), 77.

<sup>7</sup> Moses Aluaigba, "The Challenges and Prospects of Fortifying Democratic Culture in Nigeria's Fourth Republic," in *The Dynamics of Democratic Practice in Nigeria, 1999-2015*, eds. Haruna Wakili, Habu Muhammed, Moses Aluaigba, and Nu'uman Habib (Kano: Aminu Kano Centre for Democratic Studies, 2020), 148.

<sup>8</sup> Adeniyi Basiru and Kola Adesina, "Electoral Reforms and the Administration of the 2015 General Elections in Nigeria," *Democracy and Security* 15, no. 3 (2019): 208.

<sup>9</sup> See Emmanuel Ojo, "Nigeria's 2007 General Elections and Succession Crisis: Implications for the Nascent Democracy," *Journal of African Elections* 6, no. 2 (2007): 14-32; Festus Iyayi, "Election, INEC and the Problem of Election Mindsets in Nigeria," *The Electoral Journal* (2007): 14-26; and Sylvester Akhaine, Dele Seteolu, Bona Chizea, and Akinbode Elijah, "Fair Polls or Foul Polls: The Controversy Goes on," *The Constitution* 11, no. 2 (2011): 121-139.

<sup>10</sup> See Adigun Agbaje and Said Adejumo, "Do Votes Count? The Travail of Electoral Politics in Nigeria," *Africa Development* XXXI, no. 3 (2006): 25-44.

<sup>11</sup> See Segun Adewole, "Buhari Signs Electoral Act Amendment into Law," *The Punch* (Lagos), February 25, 2022, p6.

It is against this background that this essay problematizes issues and contradictions in Nigeria's electoral sector in the post-authoritarian era. Specifically, the essay seeks to examine the prospects of the nascent electoral law for engendering electoral stability and by extension a healthy electoral sector. The essay argues that the quest for a stable electoral climate, and by extension a healthy electoral sector, in contemporary Nigeria goes beyond legal infrastructural provisioning, but requires behavioral re-orientations of members of the political class. The essay not only identifies issues and drivers of this state of affairs, but also attempts to provide critical explanations. In doing so, the essay seeks to be descriptive and analytical in methodology. In furtherance of these objectives, this essay is structured around certain analytical themes vis: electoralism; electoral reforms; historiography of elections in Nigeria; and elites behaviors, among others.

### **Conceptual and Definitional Issues**

In a discourse as this, it is germane to unearth the conceptual “personalities” of certain concepts germane to analysis, starting with the concept of democracy. Interestingly, elections are not intrinsic to democracy; yet it is unthinkable to grasp the ontology of democracy without the import of elections.<sup>12</sup> Indeed, in spite of its recognition as the most acceptable form of government, in the aftermath of the Cold War, democracy remains an essentially contested concept.<sup>13</sup> Put differently, it cannot be pigeon-holed into one definitional sect because of its eclectic nature.<sup>14</sup> In the words of Przeworski, Alvarez, Cheibub, and Limongi:

Almost all normatively desirable aspects of political life, and sometimes even of social and economic life, are credited as definition features of democracy: representation, accountability, equality, participation, dignity, rationality, security, freedom-the list goes on. Indeed, according to many definitions, the set of true democracy is an empty set.<sup>15</sup>

---

<sup>12</sup> J. Shola Omotola, “Trapped in Transition? Nigeria’s First Democratic Decade and Beyond,” *Taiwan Journal of Democracy* 9, no. 2 (2013): 187.

<sup>13</sup> See Walter B. Gallie, “Essentially Contested Concepts,” *Proceedings of the Aristotelian Society* 56 (1956): 167-98.

<sup>14</sup> See Nathaniel Danjibo, “Can Federal Democracy Manage Identity Conflict in Nigeria,” in *Dynamics of Peace Processes*, eds. Isaac Albert and Ishaq Oloyede (Ibadan/Ilorin: John Archers, 2010), 52.

<sup>15</sup> See Adam Przeworski, Michael Alvarez, Jose Cheibub, and Fernando Limongi, *Democracy and Development: Political Institutions and Well-Being in the World, 1950-1990* (Cambridge: Cambridge University Press, 2000), 64.

Notwithstanding this reality, the liberal conception of democracy, since the end of the Cold war, has been the most widely acceptable.<sup>16</sup> Generally, in liberal sense, democracy is conceived as a political arrangement that limits the power of the institution of the state, within an established constitutional framework.<sup>17</sup> As Hague and Harrop<sup>18</sup> aver, “liberal democracy is limited government. The goal is to secure individual liberty, including unwarranted demands by government.”

Viewed in the context of the foregoing, therefore, without basic freedoms as guaranteed by the constitution, any country’s claim to being democratic is pretentious. In other words, democracy has worthwhile meaning if defined in the context of freedoms-free elections, free speech, freedom of movement, free press, etc.- enshrined in a country’s constitution as fundamental human rights.<sup>19</sup> For the purpose of this essay, however, the minimalist conception of democracy, which extols electoralism, best serves the purpose.<sup>20</sup> Here, the concept of elections comes into the picture. Interestingly, like democracy itself, the concept of elections also has divergent interpretations. Thus, to Bain, “it is a formal process by which electorates select officials and determine the issues submitted to it.”<sup>21</sup> According to Ojo,<sup>22</sup> elections are institutional mechanisms that implement democracy by allowing citizens to choose among candidates or issues. Relatedly, Cyril Obi views elections as the modality of freely choosing leaders/representatives.<sup>23</sup>

From the perspectives of Bain, Ojo, and Obi, it can be deduced that elections are institutions through which the citizens exercise their rights of choosing those to manage their affairs for a specific period. It is in this sense that Agbaje and Adejumbi<sup>24</sup> submit that elections are viable mechanisms for institutionalizing representative government. At this juncture, it is worthy to emphasize that elections, no doubt, are a key democratic institution;

---

<sup>16</sup> Basiru and Adesina, “Electoral Reform and the Administration of the 2015 General Elections,” 209.

<sup>17</sup> Adeniyi Basiru, “Democracy Deficit and Deepening Crisis of Corruption in Post Authoritarian Nigeria,” *Taiwan Journal of Democracy* 14, no. 2 (2018): 124.

<sup>18</sup> Roy Hague and Martins Harrop, *Comparative Government and Politics: An Introduction* (New York: Palgrave Macmillan 2007), 49.

<sup>19</sup> Basiru and Adesina, “Electoral Reform and the Administration of the 2015 General Elections,” 210.

<sup>20</sup> See Joseph Schumpeter, *Capitalism, Socialism and Democracy* (London: Allen and Unwin, 1952): 250.

<sup>21</sup> Chris W. Bain, “Election,” in *Dictionary of Political Science*, ed. John Dunner (New York: Philosophical Library, 1964), 162.

<sup>22</sup> Ojo, “Nigeria’s 2007 General Elections and Succession Crisis,” 7.

<sup>23</sup> Cyril Obi, “International Election Observer Missions and the Promotion of Democracy: Some Lessons from Nigeria’s 2007 Elections,” *Politikon: South African Journal of Political Studies* 35, no. 1 (2008): 73.

<sup>24</sup> Agbaje and Adejumbi, “Do Votes Count?” 25-44.

nevertheless, they are not restricted to polling days alone.<sup>25</sup> Elections symbolize activities occurring before, during, and after polls. Putting the “electoral sector” in perspective, Ahmadu Kurfi remarks, “election process begins with the delimitation of constituencies or electoral districts, progresses through the interim stages and terminates with the final adjudication of election disputes or petitions at an ordinary court or election tribunal.<sup>26</sup> Suffice to stress that while many institutions and actors could, unarguably, be involved in these processes and stages as captured by Kurfi, what matters is the credibility and legitimacy of the processes, under the direction of the Electoral Management Bodies (EMBs). As it will soon be shown, the 2022 Electoral Act not only regulates the activities in the electoral sector, but also vests the EMB with the primus role in the processes. Notwithstanding, generally, an electoral process can only be deemed democratic if it conforms to liberal standards, as enshrined in international normative instrument. According to the Universal Declaration on Human Rights,<sup>27</sup> these are:

- Elections are held periodically;
- Elections are fair;
- There is a right to universal suffrage;
- There is a right to equal suffrage;
- Elections are based on the free will of the voters;
- The right to a secret ballot.

To be sure, it is by conforming to liberal democratic standards that elections would appear to facilitate choice, accountability, and legitimacy. Viewed in this context, therefore, an electoral sector that is imbued with legitimacy, defined here as wider acceptability, ensures a stable electoral climate, which is characterized by a reduction in the domain of societal dissension and by extension forecloses democratic break-down. In converse, an electoral sector that is devoid of widespread acceptability, as a result of flawed process, not only creates an unstable electoral climate, but also escalates the domain of societal dissension which may trigger democratic breakdown.

The concept of electoral reform also has variegated perspectives.<sup>28</sup> For instance, Katz<sup>29</sup> views it as a wholesale replacement of the electoral formulae

---

<sup>25</sup> Basiru and Adesina, “Electoral Reform and the Administration of the 2015 General Elections,” 211.

<sup>26</sup> Ahmadu Kurfi, *Election Contest: Candidates Companion* (Lagos: Spectrum, 1998), 22.

<sup>27</sup> UN, *Universal Declaration on Human Rights* (New York: UN, 1948), 40.

<sup>28</sup> Hakeem Onapajo, “Nigeria’s 2015 General Elections: The Salience of Electoral Reforms,” *The Round Table* 104, no. 5 (2015): 575.

<sup>29</sup> Richard Katz, “Why Are There so Many (or so Few) Electoral Reforms?” in *The Politics of Electoral Reform*, eds. Michael Gallagher and Paul Mitchell (Oxford: Oxford University Press, 2005), 8.

of national electoral systems. Suffice to stress that while the perspective of Katz is no doubt illuminating, it offers a narrow view of the concept. The author limits the concept to changes in representational structure. The position of Jacobs and Leyenaar, however, is broader and serves the purpose of this essay. Electoral reform, to them, “is the change in the legislation that regulates the process of voting, which includes who can vote, what voters are allowed to do in the voting booth, what they vote for and how these votes are afterward translated into seats.”<sup>30</sup> Thus, for the purpose of this essay, beyond changes in the electoral formulae, electoral reform depicts legislation and other legal frameworks that seek to promote transparency, accuracy, integrity, and legitimacy of the electoral process, the purpose being to ensure a stable electoral climate.

## Theoretical Framework

To be sure, engaging the central question of the extent to which electoral reform, via legislations, could engender a stable electoral climate (electoral stability) requires revisiting theoretical literature, which espouses the behavioral requirement of democratic consolidation.<sup>31</sup> Although, this framework has generally been deployed in the literature on precondition for democratic consolidation, its agential focus makes it handy and germane for this study. More importantly, electoral democracy, beyond being “personified” by procedural and institutional elements, also has a behavioral dimension. The central thesis of this perspective is that certain behavioral dispositions are supportive of democracy. In his contribution to theoretical literature on democratic consolidation, Andreas Schedler<sup>32</sup> postulates a model of democratic consolidation, by identifying three ingredients.

These ingredients, to him, underwrite the consolidation of democracy, on the condition that they are entrenched in a democratizing society. These ingredients are the structural, behavioral, and attitudinal foundations of democratic consolidation.<sup>33</sup> The author contends that the structural edifice emphasizes issues such as socio-economic prosperity, as well as institutional parameters, such as free and fair elections, competitive party system, etc. The behavioral element, the adopted framework for this study, hinges on the

---

<sup>30</sup> Kristof Jacobs and Monique Leyenaar, “A Conceptual Framework for Major, Minor and Technical Electoral Reform,” *West European Politics* 34, no. 3, (2011): 500. See also International IDEA, “Reforming Electoral Processes,” in *Electoral Management Design: The International IDEA Hand book* (Stockholm: International Institute for Democracy and Electoral Assistance, 2006), 3.

<sup>31</sup> See Andreas Schedler, “What Is Democratic Consolidation,” *Journal of Democracy* 9, no. 2 (1998): 91-107; and Andrea Schedler, *Expected Stability: Defining and Measuring Democratic Consolidation* (Vienna: Institute for Advanced Studies, 1997).

<sup>32</sup> Andreas Schedler, “Measuring Democratic Consolidation,” *Studies in Comparative International Development* 26, no. 1 (2001): 66-92.

<sup>33</sup> Omotola, “Trapped in Transition,” 180.

capacity of the political elites (democrats) to jettison anti-democratic behaviors and conduct, such as violence against rule of law etc.<sup>34</sup> In other words, major political elites must be willing to eschew negative habits, such as assaulting the rule of law, violating the constitution, and not accepting mutually accepted norms of democratic behavior.<sup>35</sup> Putting this more clearly, Omilusi<sup>36</sup> avers that the behavioral dimension of democracy entails shared norms of political trust, tolerance, loyal disposition, and more.

From the foregoing theoretical expose, it may, arguably, be posited that the inability of certain institutions of democracy to mature could be explained by the anti-democratic behaviors of major political actors in a country. Indeed, as it will soon be discussed in this essay, the behavioral thesis could be the core explanatory framework for understanding why, in spite of numerous electoral reforms via legislations, electoral democracy has not been deepened in many developing democracies. In the light of the foregoing, a question is apt: where does Nigeria's electoral sector lie in the comity of developing democracies? This will be addressed in detail shortly, but first, it is germane to put Nigeria's electoral history in proper perspective.

## **The Electoral Sector in the Nigerian Dock**

To start, it has to be emphasized that the crisis of electoral democracy in many democratizing African countries is well known and well researched.<sup>37</sup> As regards Nigeria, the focus of this study, since elections debuted long before the exit of colonial rule,<sup>38</sup> the country has not really had a credible and transparent electoral process devoid of controversies and acrimonies.<sup>39</sup> To be sure, this has a historical background. In retrospect, the history of electoral process in Nigeria could be traced to 1922.<sup>40</sup> In that year, the colonial Governor, Sir Hugh Clifford, dissolved his predecessor's Advisory Council on the ground of inefficiency.<sup>41</sup> In the aftermath, he created opportunity for the election of Africans into the Central Legislative Council.

---

<sup>34</sup> Schedler, "Measuring Democratic Consolidation," 67.

<sup>35</sup> Ibid, 68

<sup>36</sup> Mike Omilusi, *Democratic Governance: Key Issues and Challenges* (Akure, Nigeria: Adex Printing Press, 2013), 16.

<sup>37</sup> See Said Adejumo, "Elections in Africa: A Fading Shadow of Democracy?" *International Political Science Review* 21 (2000): 59-73; Joseph Kijem, "The Shortcomings and Loopholes of Elections Cameroon within the Electoral Dispensation of Cameroon," *Cameroon Journal of Democracy and Human Rights* 4 (2010): 97.

<sup>38</sup> Adeniyi Basiru, Martin Arogundade, and Adewale Adepoju, "Nigeria: Consolidating Democracy? A Critical Reflection on the 2015 Presidential Election," *Africa Journal of Democracy and Governance* 4, no. 1 & 2 (2017): 140.

<sup>39</sup> See Odia Ofeimum, "Elections and Electioneering in Nigeria: How We Got to Where We Are Today," *The Constitution* 11, no. 2 (2011): 72.

<sup>40</sup> Basiru, Arogundade, and Adepoju, "Nigeria: Consolidating Democracy," 146.

<sup>41</sup> Ibid, 147.

Prior to Clifford's historic action, few educated elites, concentrated mainly in the colony of Lagos, had complained about their marginalization in governance of their society. Indeed, these elites did not only complain about their marginalization, they demanded the institutionalization of elections.<sup>42</sup> Thus, in 1923, the first election was conducted by the colonial Governor to fill the vacant seats, allocated to the cities of Lagos and Calabar.<sup>43</sup> This first experiment was followed by other polls, organized by the colonial administrations into the Central Legislative Council between 1927 and 1946.<sup>44</sup> Suffice to stress, however, that the elections during this period were not governed by the doctrine of universal suffrage, as only the British citizens residing in Lagos and Calabar, with annual income of 100 pounds, were permitted to vote.<sup>45</sup> However, between 1951 and 1954, following the enactments of the Macpherson and Lyttelton Constitutions coupled with the emergence of regional-based political parties, general elections were held to fill vacant seats in the Central Legislative Council.

Interestingly, as colonial rule was winding up and the need to hand over power to indigenous political elites became inevitable, the various regulations governing the electoral sector were considered inadequate and thus needed overhauling. Indeed, this became an issue during the 1957 Constitutional Conference where the delegates decided that future federal elections should be conducted in line with universal principles.<sup>46</sup> The new order formed the basis for the conduct of the 1959 general elections, upon which the country was launched into independence on October 1, 1960.<sup>47</sup> At this juncture, it has to be stressed that the 1959 election, under the supervision of the departing colonial authorities, did not threaten the political system. However, it appeared to have given an indication of how unstable the electoral atmosphere would become, when the colonial authorities might have left.<sup>48</sup> In his reminiscence of the 1959 election as an electoral officer, Kurfi<sup>49</sup> notes,

---

<sup>42</sup> Tekena Tamuno, *The Evolution of the Nigerian State: The Southern Phase 1898-1914* (London: Longman, 1972), 130.

<sup>43</sup> Dele Seteolu, "Historical Trajectories of Elections in Nigeria: The State, Political Elite and Electoral Politics," in *Elections and the Future of Democratic Consolidation*, eds. Godwin Onu and Abubakar Momoh (Lagos: Nigerian Political Science Association/ A-Triad Associate, 2005), 34.

<sup>44</sup> James Coleman, *Nigeria Background to Nationalism* (Los Angeles: University of California Press, 1958), 62.

<sup>45</sup> Basiru and Adesina, "Electoral Reforms and Administration of the 2015 General Elections," 213.

<sup>46</sup> David Moveh, *The Impact of Election Administration on Nigerian Democracy: A Study of the Structure and Process of Nigeria's Presidential Elections (1999-2011)*, A PhD Dissertation for the Department of Political Science (Zaria, Nigeria: Ahmadu Bello University, 2012), 43.

<sup>47</sup> Basiru, Arogundade and Adepoju, "Nigeria: Consolidating Democracy," 147.

<sup>48</sup> *Ibid.*, 140.

<sup>49</sup> Ahmadu Kurfi, *Nigerian General Elections: My Roles and Reminiscences* (Ibadan: Spectrum Books, 2005), 11-12.



As the ballot paper were not marked but merely dropped into a candidate's individual ballot box in a screened booth, there was the possibility of party supporters smuggling in extra ballot papers and putting them into a candidate's box ... voting in a screened compartment made it possible for some voters to refuse to insert the ballot paper in any ballot box but *pocket it* and *bring it* out for sale to the highest bidder outside the polling station. These ballot papers eventually found their way into the polling booth to be dropped into the appropriate ballot box by party faithful. This gave rise to the phenomenon of women pregnant with ballot papers which were safely delivered in the right ballot box and the women disappearing after the delivery (The italicized are Kurfi's).

The 1964 general election was the first to be conducted by an indigenous administration, and as it was predicted by many observers of the 1959 general elections, it was a caricature of electoral democracy. As a matter of fact, all known rules of electoral fairness were breached by the ruling party and the opposition parties, in their struggles to capture the soul of the Nigerian state.<sup>50</sup> To be sure, the incumbent Prime Minister, Alhaji Tafawa Balewa and his agents, perhaps, in attempt to remain in power would appear to have deployed state resources to subvert the process.<sup>51</sup> As Professor Billy J. Dudley<sup>52</sup> remarks, "even before the election it was clear from the extreme positions taken by the two major alliances of political groups that no matter which one of the two groups won, the result would be contested." Lending credence to Dudley's submission, Ahmadu Kurfi<sup>53</sup> notes that agencies of the Federal Government flagrantly connived with the electoral officers to prevent opposition candidates from complying with the nomination process, withheld permits for party meetings, and denied opposition parties rights to procession.

Under the supervision of the Federal Electoral Commission, the 1964 poll was held in an atmosphere that could not be described as free, fair, and peaceful.<sup>54</sup> Indeed, the boycott of the poll by the opposition parties in protest against the uneven playing field, robbed the election of widespread acceptability. Resultantly, the President of the Republic, Dr Azikwe refused

---

<sup>50</sup> Basiru, Arogundade, and Adepoju, "Nigeria: Consolidating Democracy," 141.

<sup>51</sup> Douglas Anglin, "Brinkmanship in Nigeria: The Federal Election of 1964-65," *International Journal* (Spring 1965): 173.

<sup>52</sup> Billy Dudley, *An Introduction to Nigerian Government and Politics* (London: Macmillan, 1982), 74.

<sup>53</sup> Kurfi, *Nigerian General Elections*, 62.

<sup>54</sup> Eghosa Osaghae, *The Crippled Giant: Nigeria Since Independence* (London: Hurst and Company, 1998), 32.

to call the Prime Minister to form a new government.<sup>55</sup> However, eventually, following days of constitutional logjam, a political solution was worked out and the Prime Minister was returned to power.<sup>56</sup> Soon after, another political crisis erupted in the western region of the country in 1965. The crisis was a fallout of a disputed regional parliamentary election, which was publicly perceived to have been “rigged” in favour of the ruling party in the region, by the government at the center.<sup>57</sup> Perhaps, in a desperate move to contain the wanton killings and destruction of properties, following the disputed poll, the Federal government deployed the military.<sup>58</sup>

The military opportunistically capitalized on the ugly events to intervene in the politicians’ feud and thus brought the country’s First Republic to an end on January 15, 1966.<sup>59</sup> Consequently, for thirteen years, the country was ruled by military regimes.<sup>60</sup> To be sure, these regimes initiated myriads of reforms purported to correct the political mistakes of the past and also to re-engineer a new order. Interestingly, the last regime in the chain of military regimes led the country into the Second Republic on October 1, 1979.<sup>61</sup> This followed a successful conduct of the presidential election. Suffice here to stress that the 1979 elections were the first to be conducted by the military.

Really, transition elections in Nigeria could be classified into three, namely: first, the 1959 general elections organized by the British authorities; second, those supervised by the military in 1979, 1993, and 1999; and third, elections organized under incumbent civilian administrations in 1964, 1983, 2003, 2007, 2011, 2015, and 2019. However, historical evidence suggests that the colonial- and military-organized elections were more credible and less acrimonious than the incumbent-organized elections.<sup>62</sup> For instance and in comparative terms, the 1979 general election, if compared with the 1964 general elections, were held with minimum irregularities, fraud, and violence.<sup>63</sup> Also worthy of note is the fact that elections that were conducted by an electoral umpire in which the

---

<sup>55</sup> Odia Ofeimum, “Elections and Electioneering in Nigeria: How We Got to Where We Are Today,” *The Constitution* 11, no. 2 (2011): 72.

<sup>56</sup> Basiru and Adesina, “Electoral Reforms and Administration of the 2015 General Elections,” 215.

<sup>57</sup> Adele Bamgbose, “Electoral Violence and Nigeria’s 2011 Election,” *The Constitution* 11, no. 2 (2011): 45.

<sup>58</sup> Bayo Adekanye, “Elections in Nigeria: Problems, Strategies and Options,” *Nigerian Journal of Electoral and Political Behaviour* 1, no. 1 (1990): 23.

<sup>59</sup> Fasakin, “Beyond the Rhetoric of Democratic Consolidation: The Subversion of Democracy in Nigeria Since 1999,” 29.

<sup>60</sup> Between 1966 and 1979, Nigeria was ruled by four military juntas: Aguiyi Ironsi; Yakubu Gowon; Murtala Muhammad; and Olusegun Obasanjo.

<sup>61</sup> Basiru and Adesina, “Electoral Reforms and Administration of the 2015 General Elections,” 215.

<sup>62</sup> See Samuel Egwu, “Electoral Violence and Democratization: The Nigerian Experience,” in *Violence in Nigeria: Issue and Perspectives*, ed. B. Olasupo (Lagos: Fredrich Ebert Stiftung, 2003), 29.

<sup>63</sup> See Anthony Kirk-Greene and Douglas Rimmer, *Nigeria Since 1970: A Political and Economic Outline* (London: Hodder and Stoughton, 1981), 39.

incumbent had direct stake, arguably, have tended to be crisis-ridden, flawed, and controversial.<sup>64</sup> For instance, in an attempt to retain the presidential seat and to win many states for his party, the 1983 elections were massively rigged in favor of the ruling National Party of Nigeria (NPN).<sup>65</sup> Indeed, the crisis generated by the flawed elections triggered reactions, which led to the collapse of the Second Republic on December 31, 1983. Disappointingly, similar trends have been observed since 1999. The two general elections conducted in 2003 and 2007 under the incumbency of President Olusegun Obasanjo would appear, in term of character, to have mimicked the 1964 and 1983 episodes.<sup>66</sup> Indeed, the only difference is that the 2003 and 2007 episodes did not truncate the Republic as did those of 1964 and 1983. As a matter of fact, the attitudes of the incumbent and the key stalwarts of his party suggested that they were not interested in a credible electoral sector. For instance, a key player in the President's party, Alhaji Adamu Ciroma, openly boasted before the 2003 general election that the forthcoming elections were a done deal. In his words, "if we won an election organized by the military, how can we lose an election that we ourselves would organize?"<sup>67</sup>

With such mindsets, it was not therefore surprising to many observers that the first two elections in post-authoritarian Nigeria were marred with fraud, violence, and all manners of malfeasance. As Obianyo and Emeribe<sup>68</sup> aver, "since the nascent democratic rule in Nigeria, the various succeeding elections of 2003 and 2007 were embroiled in controversy, rejection and legitimacy crisis given the massive fraud and violence that attended them." Indeed, the 2007 general elections were marred with immense flaws, to the extent that not only were they condemned by major stakeholders in Nigeria, but also disparaged by many election observers. As the Human Rights Watch reported, "the April 2007 elections were riddled by fraud and violence and were universally condemned by domestic and international observers."<sup>69</sup> In his own assessment of the 2007 elections, Nwachukwu Orji<sup>70</sup> notes, "the 2007 elections, in particular, severely

---

<sup>64</sup> Adewale Aderemi, "Electoral Commission and the Construction of Democratic Rule in Nigeria, 1979-to Date," in *Elections and the Future of Democratic Consolidation*, eds. Godwin Onu and Abubakar Momoh (Lagos: Nigerian Political Science Association & Triad Associate, 2005), 328.

<sup>65</sup> Omotola, "Trapped in Transition," 183.

<sup>66</sup> Basiru, Arogundade and Adepoju, "Elections and Electioneering in Nigeria," 145.

<sup>67</sup> Quoted in Odia Ofeimun, "Elections and Electioneering in Nigeria," 71.

<sup>68</sup> Nkolika E. Obianyo and Vincent Emesibe, "Independent National Electoral Commission (INEC) and the Administration of 2015 Elections in Nigeria: The Strengths, the Weaknesses and the Challenges" (A paper presented at a Two-Day National Conference on the 2015 General Elections in Nigeria, organized by the Electoral Institute, Abuja on July 27-8, 2015), 10, <http://www.inecnigeria.org/wpcontent/uploads/2015/07/Conference-Paperby-NkolikaObiano.pdf> (accessed August 20, 2022).

<sup>69</sup> Quoted in Martins Onoja, "Nigeria's Politics Mired in Corruption and Violence," *Guardian* (Lagos), October 10, 2007, 9.

<sup>70</sup> Nkwachukwu Orji, "The 2015 Nigerian General Elections," *Africa Spectrum* 50, no. 2 (2015): 75.

denied Nigeria's democratic credentials due to the national and international condemnation they elicited." Indeed, the 2007 elections were so ridiculed to the extent that the major beneficiary of the flawed presidential election, President Umaru Yar'Adua, condemned them. In his inaugural address as the third democratically elected President of Nigeria on May 29, 2007, he read, "we acknowledge that our elections had some shortcomings."<sup>71</sup> Again, a few months later, at another public function, he declared,

One sad recurrent feature of our political developmental history has been the consistency with which every general election result has been disputed and contested. Beginning with the 1959 general elections, almost every poll has suffered controversy resulting from real and perceived flaws, structural and institutional inadequacies and sometimes deficiencies in the electoral laws and even the constitution.<sup>72</sup>

At this juncture, it is important to stress that even though the outcomes of the 2011, 2015, and 2019 general elections were less controversial and less acrimonious, extant challenges that have worked to undermine credible electoral processes have remained unmitigated. Interestingly, since 2007, the government and the major stakeholders in civil society have taken up the gauntlet, on how to address the pervasive crisis in the electoral sector. For instance, following the sad episode of 2007, the administration of the late President Yar'Adua set up an Electoral Reform Committee to look into the country's electoral system.<sup>73</sup> The Committee completed its work and submitted its report to government.<sup>74</sup> Although, the government did not implement the recommendations of the Committee, a series of reforms introduced by the electoral body in the aftermath of the Committee's report have been implicated to have accounted for the "relative" credibility, transparency, and fairness recorded in the post-2007 electoral cycles.<sup>75</sup>

It is clear from the foregoing historical narrative that Nigeria has a dated history of elections and that her electoral sector has not been appreciably conducive for the flourishing of conditions that could support electoral democracy. However, the awareness of the gaps have, in the last few years, led

---

<sup>71</sup> Quoted in Akhaine, Seteolu, Chizea, and Elijah, "Fair Polls or Foul Polls, the Controversy Goes on," 130.

<sup>72</sup> Quoted in Hakeem Onapajo, "Nigeria's 2015 General Elections: The Saliency of Electoral Reforms," *The Round Table* 104, no. 5 (2015): 579.

<sup>73</sup> Emmanuel Ojo, "Dimensions of Electoral Reforms in Nigeria," *Brazilian Journal of African Studies* 6, no. 11 (2011): 194.

<sup>74</sup> *Ibid.*

<sup>75</sup> Basiru and Adesina, "Electoral Reforms and Administration of the 2015 General Elections," 217.

to a flurry of activities on the part of Civil Society Organizations (CSOs) and other critical stakeholders, which culminated in the promulgation of the 2022 Electoral Act.

### **The 2022 Electoral Act: The Game Changer or What?**

Aside the country's Constitution, which creates the electoral body and defines its powers,<sup>76</sup> the Electoral Act is the legal framework guiding the electoral process in Nigeria.<sup>77</sup> To be sure, the 2022 Electoral Act, signed into law by President Muhammadu Buhari on February 25, 2022, was an amendment to the extant 2010 Electoral Act No.6. The 2010 Electoral Act was the legal framework for the conduct of the 2015 and 2019 general elections. It is instructive to note that the demands to amend the 2010 Electoral Act gathered momentum in 2018, before the 2019 general elections. By this time, major stakeholders in the country's democratic project had expected that the new Electoral Act would be enacted before the 2019 election. However, the hope of a new electoral legislation before the 2019 general elections was dashed, as the government was not favourably disposed to the project.<sup>78</sup> Notwithstanding, the citizens went into the 2019 elections with the same old electoral framework that the major stakeholders had wanted the Parliament to amend as part of the reform agenda.<sup>79</sup> Indeed, the excuse given by the government was that there would be no time to effect the amendments before the 2019 general elections. Interestingly, after the 2019 general elections, the new Parliament, the ninth National Assembly, started afresh the process of amending the 2010 Electoral Act. Following months of painstaking process involving many stakeholders, mostly civil society organizations, in November 2021, an Electoral Act Bill was forwarded to the President for assent.<sup>80</sup>

It is instructive to stress that by virtue of Section 58, sub-section 4 of the 1999 Constitution, the President has a window of thirty days in which he grants or withholds his assent, and in the event of the latter, he can be overridden by the Parliament.<sup>81</sup> As a matter of fact, the President almost exhausted the entire thirty-day window, only to refuse his assent to the bill. He cited as reasons the cost of conducting a party primary and the infringement on the rights of the citizens to participate in governance.<sup>82</sup> Moving forward, he suggested that, if

---

<sup>76</sup> *The 1999 Constitution of the Federal Republic of Nigeria* (Abuja: Federal Government Printer, 2003).

<sup>77</sup> Basiru and Adesina, "Electoral Reforms and Administration of the 2015 General Elections," 218.

<sup>78</sup> See Reuben Abati, "2023 Elections and Electoral Bill 2022, Mr President Signs the Bill, History Should Not Repeat Itself," *Premium Times*, February 2022, p6.

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> Section 58 (4) of the *Constitution of the Federal Republic* (Lagos: Government Printer, 1999).

<sup>82</sup> *Ibid.*

this could be reviewed to allow for both direct and indirect primaries, he would assent to the bill. In response to the President's *volte face*, the Parliament threatened to override the President's veto. However, the body was unable to implement the threat. Rather, the body danced to the tune of the President by reviewing the contentious clause 84 of the bill.<sup>83</sup>

In essence, the body replaced direct primaries with an option of indirect primaries and consensus candidacy. To be sure, the Parliament replaced the clause on direct primaries, and the new clause defines what constitutes consensus and the other two options. Interestingly, in the course of reworking clause 84, the Committee of the whole of the Parliament decided to insert a new provision in clause 84. This provision stipulates that anyone holding a political office must relinquish a position before he or she can be eligible to participate in the electoral process, either as a candidate or as a delegate.<sup>84</sup> The point being stressed here is that the Parliament reviewed clause 84 and then went beyond the President's demand.<sup>85</sup> Of course, the new insertion by the Parliament further deepened the rifts between it and the Executive. In fact, many political appointees in the Executive branch vehemently opposed the clause, claiming it was a violation of their rights to participate in politics.

In the end, following weeks of bickering from both camps amid growing discontents from the CSOs,<sup>86</sup> the President eventually signed the law on February 25, 2022. The Electoral Act has about 153 Sections, and each Section deals with specific subject-matter.<sup>87</sup> Part I deals with Establishment and Functions of the electoral body-INEC (Sections 1-7).<sup>88</sup> Part II focuses on the staff of INEC (Section 8),<sup>89</sup> while Part III is headed "National Register of Voters and Voters' Registration" (Sections 9-23).<sup>90</sup> Part IV is on the procedures at elections (Sections 24-74),<sup>91</sup> while Part V deals with Political Parties (Sections 75-97).<sup>92</sup> Part VI is headed "Procedures for Election to the Area Council," and it spans Sections 93-113.<sup>93</sup> Part VII is titled "Electoral Offences" (Sections 114-129),<sup>94</sup> while Part VIII runs through Sections 130 to 140.<sup>95</sup> Part IX captioned "Miscellaneous Provision" covers Sections 141-153.<sup>96</sup>

---

<sup>83</sup> This was originally Section 87 of the 2010 Electoral Act.

<sup>84</sup> Previously, government appointees and political office holders could serve as delegates, go into elections, lose, and then return to their jobs.

<sup>85</sup> Abati, "2023 Elections and Electoral Bill 2022."

<sup>86</sup> See Enough is Enough's Advertorial in *This Day Newspaper* (Lagos), February 20, 2022, p10.

<sup>87</sup> *Electoral Act, 2022* (Lagos: Federal Government Printer, Lagos, Nigeria, 2022).

<sup>88</sup> Sections 1-7, *Electoral Act, 2022*.

<sup>89</sup> Section 8, *Ibid*.

<sup>90</sup> Sections 9-23, *Ibid*.

<sup>91</sup> Sections 24-74, *Ibid*.

<sup>92</sup> Sections 75-97, *Ibid*.

<sup>93</sup> Sections 93-113, *Ibid*.

<sup>94</sup> Sections 114-129, *Ibid*.

<sup>95</sup> Sections 130-140, *Ibid*.

<sup>96</sup> Sections 141-153, *Ibid*.

A careful reading of the Act indicates that the 2022 Electoral Act introduced some changes which, arguably, could contribute to the jurisprudence of elections and by extension electoral democracy. To be sure, six of these provisions, which were not captured by the 2010 Electoral Act, are germane for the purpose of this essay and are thus examined below.

### ***Financial Autonomy for the Electoral Management Body (EMB)***

This is one provision in the Act that could ensure the autonomy of the Electoral Management Body (EMB), from the unwarranted control by the government. Specifically, Section 3, sub-section 1 of the Act provides *inter alia*, “There is established the Independent National Electoral Commission Fund.”<sup>97</sup> Sub-section 2 adumbrates the nature of Fund that could be paid into the Fund vis: (a) such sums and payments received from the Federal Government available to the Commission for the performance of its functions under this Act; (b) such sums as may be credited to the Fund by way of interest from investments made from the Fund; and (c) aids, grants, or any other accruals to the Commission in order to perform its functions.<sup>98</sup> Still further, sub-section 3 reads, “The election funds due to the Commission for any general elections are to be released to the Commission not later than one year before the next general election.”<sup>99</sup>

### ***Extension of Time Frame for Publication of Election Notice***

Some months until every election, the EMB publishes, as part of the requirements, election notice. Before the coming of the Act, the body was expected to publish the notice 90 days before the general election. This was by virtue of Section 30, sub-section 1 of the 2010 Electoral Act.<sup>100</sup> The 2022 Electoral Act extends the time frame to 360 days. Specifically, Section 28, sub-section 1 reads, “The Commission shall, not later than 360 days before the day appointed for holding of an election under this Act, publish a notice in each State of the Federation and the Federal Capital Territory.”<sup>101</sup> The import of this change is that it would afford the electoral body more time to prepare for elections.

### ***Early Party Primaries***

Unlike the 2010 Act that prescribed a period of 60 days for the submission of candidates’ names to the EMB, the 2022 Electoral Act mandates parties to submit candidates’ names not later than 180 days. Section 29, sub-section 1 reads, “Every political party shall, not later than 180 days before the date appointed for a general election under this Act, submit to the Commission, in

---

<sup>97</sup> Section 3 (1), *Ibid.*

<sup>98</sup> Section 3 (2), *Ibid.*

<sup>99</sup> Section 3(3), *Ibid.*

<sup>100</sup> Section 30 (1), *2010 Electoral Act.*

<sup>101</sup> Section 28 (1), *2022 Electoral Act.*

the prescribed Forms, the list of the candidates the party proposes to sponsor at the elections, who must have emerged from valid primaries conducted by the political party.”<sup>102</sup> This change would appear to give the political parties more time to conduct their primaries.

### ***Central Electronic Voter Database***

Digitization of electoral records is so central to deepening the electoral process, yet under the old Act, the electoral register was kept in manual or hard copy form only. The 2022 Act digitizes the process. In Section 9, sub-section 2, “The Commission shall compile, maintain, and update, on a continuous basis, a National Register of Voters.”<sup>103</sup> It is submitted here that this provision would promote transparency, thereby curbing non-registered voters.

### ***Redefinition of Over Voting***

One of the maladies that has undermined the credibility of elections in contemporary Nigeria is the issue of over voting. In the new Act, over voting is defined in Section 51, sub-section, “No voter shall vote for more than one candidate or record more than one vote in favour of any candidate at any one election.”<sup>104</sup> Sub-section 2 of the same section provides that, “Where the number of votes cast at an election in any polling unit exceeds the number of accredited voters in that polling unit, the Presiding officer shall cancel the result of the election in that polling unit.”<sup>105</sup> Still further, sub-section 3 reads, “Where the result of an election is cancelled in accordance with subsection (2), there shall be no return for the election until another poll has taken place in the affected polling unit.”<sup>106</sup> By way of clarification, number of accredited voters refers to the number of intending voters accredited to vote in an election on the election day.<sup>107</sup> Clearly, this was an improvement on the old Act. Under the old Act, it is when the number of votes cast at an election in any polling unit exceeds the number of registered voters in that polling unit that the Presiding shall cancel the results of the election in that polling unit.<sup>108</sup>

### ***Technological Changes***

The 2022 Act provides that electronic gadgets should be deployed to aid the voting process on poll days. According to Section 47, sub-section 2, “to vote, the presiding officer shall use a smart card reader or any other technological device that may be prescribed by the Commission, for the accreditation of

---

<sup>102</sup> Section 29 (1), *Ibid.*

<sup>103</sup> Section 9 (2), *Ibid.*

<sup>104</sup> Section 51(1), *Ibid.*

<sup>105</sup> Section 51 (2), *Ibid.*

<sup>106</sup> Section 52 (3), *Ibid.*

<sup>107</sup> Section 153, *Ibid.*

<sup>108</sup> Section 53(2), *2010 Electoral Act.*



voters, to verify, confirm or authenticate the particulars of the intending voter in the manner prescribed by the Commission.”<sup>109</sup> Still further, Section 41, sub-section 1 stipulates *inter alia*, “The Commission shall provide suitable boxes, electronic voting machine or any other voting device for the conduct of elections.”<sup>110</sup> Most importantly, the 2022 Electoral Act legitimizes the electronic transmission of results. In section 50, sub-section 2, the Act provides that “subject to section 63 of this Act, voting at an election and transmission of results under this Act shall be in accordance with the procedure determined by the Commission.”<sup>111</sup> This is another worthy change that the 2022 Act has brought to the country’s electoral sector. The provision would, as envisaged, not only allow for speedy transmission of results from the polling units to the central server at the INEC office in Abuja, but importantly would ensure the transparency of the process.

What the analyses above suggest is that few provisions in the 2022 Electoral Act have introduced new legal regimes to Nigeria’s electoral sector, which may contribute to deepening electoral democracy. Perhaps, this may have been the expectations of the drafters that inserted these provisions into the new legislation. However, as it will soon be demonstrated, ensuring a stable electoral climate goes beyond legal infrastructural provisioning.

### **Behavioral Environ and Electoral Democracy in Nigeria: Some Contextual Issues**

As remarked in the preceding section of this essay, the 2022 Electoral Act would appear to be a watershed in Nigeria’s electoral sector. However, this author contends that sound legal regimes, as the provisions analyzed above would appear to be, are *sine qua non* for a stable electoral climate and by extension a healthy electoral sector. However, they are incumbent on other variables, chief among which is the behavioral environment. In other words, the behavioral dispositions of the political elites (politicians) to rule of law and democracy itself, are pivotal to understanding the pervasive crisis of electoral democracy in contemporary Nigeria. Indeed, as Omotola<sup>112</sup> notes, the roles of actors in terms of behavior and attitude are now factored into the issue of democratic consolidation. Observably, members of the political class in Nigeria, arguably, tend to be averse to the rule of law and due process.<sup>113</sup>

---

<sup>109</sup> Section 47 (2), 2022 Electoral Act.

<sup>110</sup> Section 41(1), Ibid.

<sup>111</sup> Section 50(2), Ibid.

<sup>112</sup> Omotola, “Trapped in Transition,” 187.

<sup>113</sup> Chukwuemeka Chinedu Ejiofor and Celestine Uchechukwu Udeogu, “Political Culture of Impunity and the Challenges of Democratic Consolidation in Nigeria,” *South East Journal of Political Science* 3, no.1 (2017): 80.

As averred earlier in this essay, democratic consolidation is incumbent on the capacity of politicians to do away with behaviors that undermine the democratic process and cultivate values such as tolerance, shared norms, and loyal dispositions.<sup>114</sup> Indeed, it is the acculturation of these norms that sustain the democratic process, inclusive of the electoral sector. Unfortunately, in Nigeria, it would appear that such values have not been internalized by the greater percentage of politicians. As Nwankwo, Olofin, Okoye, and Ohakwe<sup>115</sup> note, perfidy, institutionalized by politicians, has permeated Nigerian politics, and treachery has become a culture. Indeed, it has been posited that what would seem to matter to a typical Nigerian politician is capturing political power “any how,” including subverting the rule of law and due process. To be sure, those in power in Nigeria at different levels of government tend to deploy whatever means to consolidate power, including deploying governmental resources to suppress due process.<sup>116</sup> On the other hand, those in the opposition have also perfected mechanisms through which to “outflank” those in power. Even within the same political party, democratic contests are contested in such a bellicose and fierce manner that an observer might wonder if, indeed, there are regulations guiding the internal selection processes.<sup>117</sup>

The point being teased out here is that capturing power, to many politicians in Nigeria like in most post-colonial enclaves in Africa, is a matter of “do or die.” Interestingly, in such politics, which have become part and parcel of the electoral game in Nigeria, conforming to rule of law and due process becomes secondary. Claude Ake<sup>118</sup> argues that in such a model of politics, the winners in the competition for power win everything, and the losers lose everything. Nothing can be worse than losing; nothing can be better than winning. Thus, everyone seeks power by every means, legal or otherwise. Resultantly, Ake<sup>119</sup> adds, what emerges from such behavior is politics which does not know legitimacy or legality.

Framed in the context of the foregoing analyses, therefore, it may be argued that Nigeria’s journey to achieving a stable electoral sector, even with the new electoral framework, may remain tortuous. The new legal regime, in spite of the innovations that some of the provisions adumbrate, may not be able to address some of the contradictions that have, over the years, bogged

---

<sup>114</sup> Schedler, “Measuring Democratic Consolidation,” 67.

<sup>115</sup> Okechukwu Nwankwo, Temidayo Olofin, Victor Okoye, and Gift Ohakwe, “Psychology of Politics and Politicians in Nigeria: The Human and Social Governance Consequences,” *Global Journal of Politics and Law Research* 8, no.1 (2020): 2.

<sup>116</sup> Ibid.

<sup>117</sup> See Adeniyi Basiru, “Pervasive Intra-party Conflicts in a Democratising Nigeria: Terrains, Implications, Drivers and Options for Resolution,” *African Journal on Conflict Resolution* 19, no. 1 (2019): 109-130.

<sup>118</sup> Cited in Naheem Mimiko, *Crises and Contradictions in Nigeria's Democratization Programme, 1986-1993* (Akure, Nigeria: Setback Printers Ltd., 1995).

<sup>119</sup> Ibid.

down the electoral sector in the country. This may be unconnected to the unfavorable behavioral environment, symbolized in the aversed dispositions of the members of the political class over the years to rule of law and due process. To be sure, engendering a stable electoral sector lies in cultivating values and ethos conducive to the promotion of rule of law and accountability.

Unfortunately, members of the political class in Nigeria have acculturalized the culture of impunity in which the law and the constitution are subverted at will.<sup>120</sup> As Soyombo notes, “our political leaders make promises that they break with impunity without any sense of accountability or responsibility to the people. They cannot be taken up on their promises and many consider it demeaning to explain or justify their actions to the people.”<sup>121</sup> Lending credence to the position of Soyombo, Ekanem avers, “It is commonplace to find impunity arrogated by the Nigeria’s political class at will. Since the inception of the oil boom and the appealing financial gains that accrue to politics, politicians are now playing god by reason of the paraphernalia of office. The law of the land seems not to affect these classes of persons because they know how to bend the law to their advantage.”<sup>122</sup>

Indeed, one area in which impunity and anti-democratic dispositions of politicians have manifested is vote-buying. To be sure, in spite of the extant law against the practice, members of the political class still indulge in them.<sup>123</sup> The case of the leader of the ruling party in Nigeria is illustrative of this contention. On the day of the presidential election in 2019, the politician in question was captured in a viral video, distributing cash stocked in a bullion van to would-be voters in his house. Ironically, when asked by journalists if he knew he was breaching an extant law of the land, his response was that the cash being distributed was “his money.”<sup>124</sup> Interestingly, while many politicians may not have the temerity like the politician just mentioned, in the business of open vote-buying, they have also devised various mechanisms of vote buying in contravention of extant law. The recently concluded gubernatorial elections in Ekiti and Osun states<sup>125</sup> are reference points. During the course of

---

<sup>120</sup> See Nasir El-Rufai, *Impunity, Injustice and Insecurity: What Is the Role of the Law?* An Address Delivered by at the NBA Ikeja Branch Aka-Bashorun Memorial Lecture, Ikeja, Lagos State, May 23, 2013; Francis Ekanem, “Culture of Impunity and the Ambivalence of Nigeria’s Political Class,” *America Journal of Social Issues and Humanities* 2, no. 2 (2012): 48-56.

<sup>121</sup> Omololu Soyombo, “Leadership and the Crisis of Legitimacy in Nigeria,” in *Society and Governance: The Quest for Legitimacy in Nigeria*, eds. Felicia O. Oyekanmi and Omololu Soyombo (Lagos: University of Lagos and Friedrich Ebert Stiftung, 2006), 273.

<sup>122</sup> Ekanem, “Culture of Impunity and the Ambivalence of Nigeria’s Political Class,” 52.

<sup>123</sup> See Phillip T. Vande, “Vote Buying and Credible Elections in Nigeria: An Opinion Survey of Voters on the 2019 General Election in the Federal Capital Territory (FCT),” *NILDS Journal of Democratic Studies* 1, no. 1 (2020): 154-178.

<sup>124</sup> See Bola Tinubu, “Alleged Money in Bullion Vans at Bourdillon: What Is Your Headache?” *Vanguard* (Lagos), February 23, 2019, <https://www.vanguardngr.com/2019/02/money-in-bullion-vans-at-bourdillon-what-is-your-headache-tinubu> (accessed September 5, 2022).

<sup>125</sup> Ekiti and Osun States are federating units in Nigeria, with their autonomous governments.

the elections, politicians across party lines, on behalf of their parties deployed huge financial resources to buy votes from the electorates.<sup>126</sup>

The foregoing analyses could be pointers to the reality that the existence of a legal regime may not necessarily guarantee electoral stability, so far as members of the political class are predisposed to behavioral orientations aversed to respect for rule of law and due process. This leads to the question of how this state of affairs can be explained. The first explanatory thesis has to do with poor institutionalization of western-imposed liberal values.<sup>127</sup> This can be explained. Britain, the country's former colonial lord, bequeathed a legal system with its own logic and language.<sup>128</sup> However, this is at variance with the indigenous legal order, which is intertwined with social and cultural norms of the indigenous communities.<sup>129</sup> This may explain the aversive dispositions of members of the political class to rule of law and due process.

Related to the above thesis is the nature of opposition politics. To the British and Americans whose constitutions were adopted, opposition exists as a counter check on the excesses of the majority.<sup>130</sup> However, in the Nigerian context, the opposition politicians are seen as sworn enemies to be destroyed, even to the extent of not following the rule of law. Perhaps, this could explain why electoral politics is devoid of tolerance and accommodation. Another lens through which the contradictions in Nigeria's electoral sector could be explained is linked to how members of the political class perceive power. In Nigeria, like in many neo-colonies, acquisition of power by politicians is not for promoting the greatest happiness for the greatest number, but for primitive accumulation of wealth and a means to security. It is this perception of power that leads to desperation and bellicose attitude to electoral contest and in most cases, subversion of laid down procedures.

There is also the issue of the culture of impunity which itself is a throwback of the military era. As teased out earlier, prior to 1999 when the country re-democratized, the military held the society by the jugular.<sup>131</sup> By the time the institution's game was up, the culture of impunity and arbitrariness that characterized military autocracy had pervaded society and the democratic project. This could explain the aversion of politicians to rule of law and due process.<sup>132</sup>

---

<sup>126</sup> See Tunde Oguntola, "Unlike Ekiti, Vote-buying in Osun Was Coded-CSO Situation Room," *Leadership*, July 17, 2022.

<sup>127</sup> Shade Ifamose, "The Behaviour and Attitude of the Political Class in Nigeria with Particular Reference to Democratic Ethos, Culture and Practices," *Journal of the Historical Society of Nigeria* 18, Special Edition (2009): 61-78.

<sup>128</sup> *Ibid.*

<sup>129</sup> *Ibid.*

<sup>130</sup> *Ibid.*

<sup>131</sup> Basiru, "From Militarocracy to Illiberal Democracy," 173.

<sup>132</sup> See Godwin S. M. Okeke, "Demilitarization and the Emergence of 'Retired Soldiers' in Nigerian Politics," in *Society and Governance: The Quest for Legitimacy in Nigeria*, eds. Felicia A. Oyekanmi and Omololu Soyombo (Lagos, Nigeria: Irede Printers, 2006), 212-233.

## Concluding Remarks

The essay set out to engage issues and contradictions in Nigeria's electoral sector in the post-authoritarian era, against the background of the newly enacted Electoral Act. To achieve this objective, it identified and clarified concepts that are germane, teased out the theoretical framework of analysis, reviewed extant literature on Nigeria's electoral history, and analysed germane provisions in the 2022 Electoral Act. It also discussed the prospects of a stable electoral sector via the 2022 Electoral Act and provided an explanatory framework for understanding issues that have nurtured aversive behaviors of members of the political class in contemporary Nigeria. Emanating from these, it found that Nigeria's journey towards a stable electoral sector has been tortuous. It also notes that even though the 2022 Electoral Act is a sound legal framework, its prospect for engendering a stable electoral climate and by extension a healthy electoral sector is incumbent on many factors, chief among which is the behavioral environment.

This is against the background of the fact that the behavioral dispositions of the political elites to rule of law and due process are central to understanding the crisis of electoral democracy in Africa. Unfortunately, the behavioral idiosyncrasies of politicians in Nigeria are not supportive of due process and rule of law. It is in this context that the prospects of the 2022 Electoral Act to engendering a stable electoral sector can better be understood. The essay further explained how the aversive behaviors of the political elites, over the years have been nurtured. The essay concludes that in spite of the coming of the 2022 Electoral Act, it is not time for celebration yet, as engendering a stable electoral sector goes beyond legal infrastructural provisioning. Against the background of the foregoing, what can be done? Firstly, there is the need for values re-orientation of the members of the political class, through institutions statutorily so charged. The existing institutions should be properly funded, and new ones established. Secondly, there should be the inculcation of the right democratic values in the children and the youths through civic education and the promotion of the same through the national orientation institutions. Finally, there is the need to establish a quasi-judicial body that would be charged with the responsibility of identifying and dealing with cases of impunity. The body should be empowered by law to investigate the activities of politicians, who if found guilty of impunity-related offences, should be punished according to the law.

