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Electoral Integrity, Democratic Governance and Rights Violations in Africa: The Nigerian Experience

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Abstract

The democratic process fundamentally depends on legitimate electoral systems worldwide. They are the yardstick upon which other democratic ideologies are established. Regular polling cycles promote civic freedoms and citizen autonomy within nations. While voting procedures alone cannot guarantee democracy, they represent crucial mechanisms that prevent authoritarian governance. Nevertheless, throughout emerging African democracies, electoral processes—despite their critical importance—frequently endanger fundamental rights due to political leadership behaviour. Systematic violations of citizen rights during elections have become increasingly normalized across African territories, particularly within Nigeria. Nigerian electoral contests, along with those throughout much of the continent, exhibit significant turmoil and aggression, producing widespread rights infringements. These dynamics undermine democratic transitions and governmental legitimacy. This paper examined relevant legal provisions aimed at promoting international electoral standards within Nigeria. Utilizing doctrinal research methodologies, the study concluded that democratic advancement within Nigeria remains contingent upon attitudinal transformations among political actors regarding rights protection. Key recommendations included Nigeria's compliance with United Nations obligations as a signatory state, consistent observation of international human rights standards during electoral periods, and comprehensive stakeholder education regarding global best practices for democratic contests.

Keywords: Election, democracy, citizen rights, electoral misconduct

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1. Introduction

Elections alone do not create democracy.¹ Electoral processes represent important steps toward democratic governance rather than final objectives, serving as mechanisms for realizing

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¹ Report of the Secretary-General, 'Enhancing the effectiveness of the principle of periodic and genuine elections', UNGA 46th sess. 98(b) UN rep.A/46/609, Nov. 1991, para. 76, available at: https://digitallibrary.un.org/record/132012/files/A_46_609-EN.pdf.

fundamental participatory rights in national governance as outlined in international rights instruments.² Democracy by itself cannot ensure rights enjoyment but provides pathways toward that goal.³ Democratic systems depend upon social equity.⁴ True democracy extends beyond intermittent ballot casting to encompass continuous citizen engagement in their nation's political landscape.⁵ Reliable, equitable, and trustworthy electoral cycles constitute democracy's defining characteristic globally.⁶ These contests provide citizens opportunities to exercise sovereign authority in leadership selection.⁷

Genuine periodic elections serve as essential instruments for safeguarding citizen rights and enabling fundamental freedom enjoyment across economic, political, social, and cultural dimensions.⁸ Western democratic concepts embody liberal, substantive, and idealistic forms compared to African democratic manifestations.⁹ Western systems feature expressive freedoms, press liberty, associational rights, assembly freedoms, religious choice, and conscience protection.¹⁰ African democratic practice often lacks these characteristics.¹¹ Democratic ambiguity within Africa manifests clearly through electoral processes.¹² African elections characteristically involve rights violations and substantial dishonesty.¹³ Continental electoral standards fall dramatically short of global expectations.¹⁴ Evidence from nearly every African nation reveals massive electoral fraud and unpunished rights abuses.¹⁵ This situation further demonstrates democratic failure across Africa.¹⁶ African political figures perpetrate violence and violate citizen's fundamental rights.¹⁷ Sitting governments employ all means to retain power, including deliberately orchestrating violence against opponents and voters.¹⁸ This pattern repeats across

² *Ibid.*

³ Article 5, Charter of Paris for a New Europe (1990). See also I.J. Gassama, 'Safeguarding the Democratic Entitlement: A Proposal for United Nations Involvement in National Politics', (1997) 30(2) *Cornell International Law Journal*, 287.

⁴ *Ibid.*

⁵ M.T. Shaibu, L. Olu-Adeyemi and O.O. Raphael, 'Elections and Human Rights Violations in Africa: The Nigerian Experience' (2020) 25(8) *Journal of Humanities and Social Science* 39-54.

⁶ A. Hadenius and J. Torrel, 'Authoritarian Regimes: Stability, Change and Pathways to Democracy, 1972-2003' (2007) 18(1) *Journal of Democracy* 143-157.

⁷ *Ibid.*

⁸ General Assembly Resolution 46/137 of 17 December 1991, para. 3. Available at: <https://docs.un.org/en/A/RES/46/137>.

⁹ D.R. Assana, 'The diffusion of the Western model of democracy to sub-Saharan (French-speaking) organisations and the theoretical partitions between actors in international relations' (2023) 11(1) *Global Journal of Political Science and Administration* 68-96.

¹⁰ O.C. Arisukwu, J. Nweke, and F. Asamu, 'Western Democracy and the Dilemma of Nation Building in Africa, the Nigerian Experience (1999-2007)', (2015) 3(6) *The International Journal of Humanities & Social Studies*, 156; B. K. Nehru, 'Western Democracy and the Third World', (1979) 1(2) *Third World Quarterly*, 53-70.

¹¹ UN Secretary General, United Nations Electoral Assistance Report 2019, UNGA A/74/285, 6 August 2019, 74th Sess. Item 72 (b), available at: https://dppa.un.org/sites/default/files/sg-electoral_assistance_report_final_20191114_e.pdf.

¹² Shaibu, Olu-Adeyemi and Raphael (n 5).

¹³ United Nations Electoral Assistance 2019, (n 11) 4-5.

¹⁴ E. Comfort and M. Murithi, 'The Crisis of African Democracy' *Foreign Affairs Magazine*, available at www.foreignaffairs.com accessed 10/9/2025.

¹⁵ A.D. Attoe, 'Why democracy fails in Africa' (2024) 55(2) *The Philosophical Forum* 1-20.

¹⁶ *Ibid.*

¹⁷ C. Taylor, 'Shared Security, Shared Elections: Best Practices for the Prevention of Electoral Violence' A Study by the American Friends Service Committee (AFSC), 2019, pp.1-82. Available at: <https://afsc.org/sites/default/files/documents/Electoral-violence-report-web-version.pdf>.

¹⁸ *Ibid.*

Africa—Nigeria, Ghana, Cameroon, Kenya, South Africa, and elsewhere.¹⁹ Some countries experience diminished voter participation due to political intimidation fears.²⁰ For instance, Nigeria's 2023 general elections witnessed many voters denied franchise rights through thug-induced fear.²¹ African electoral contests feature violence, vote purchasing, deception, corruption, and extensive numerical manipulation.²²

Ultimately, candidates become imposed upon populations while aggrieved politicians approach already compromised judicial systems.²³ Elections should advance civil and political citizen rights, characterized by transparency and accountability, while respecting all fundamental rights—voting rights, expressive freedoms, information access, assembly rights, associational liberty, movement freedom, legal rule adherence, non-discrimination, and equality.²⁴ Governments owe these rights to citizens continuously.²⁵ Unfortunately, many African elections fail these standards.²⁶ Elections hold irreplaceable democratic significance.²⁷ They perform crucial functions in establishing and merging democratic practice with rights protection.²⁸ This paper specifically examines Nigeria's electoral processes to ascertain the degree to which elections represents the yearning of the Nigerian electorates, and the credibility and integrity of elections in the country.²⁹ To accomplish this, the paper divides into six parts. Part I provides this introduction; part II establishes conceptual frameworks; part III addresses democracy, elections and rights in Africa; part IV examines democracy, elections and rights violations in Nigeria; part V discusses global electoral standards; and part VI presents conclusions and recommendations.³⁰

2. Conceptual Clarifications

2.1 Democratic Systems

Democratic concepts trace back to humanity's earliest existence.³¹ The term 'democracy' derives from Greek words 'demo kratia', signifying popular leadership.³² It represents 'governance of, for, and by the populace'.³³ Democracy stands opposite to autocracy or oligarchy.³⁴ It embodies

¹⁹ B. Sule et al, 'Nigerian 2015 General Election: The Successes, Challenges, and Implications for Future General Elections' (2018) 1(2) *The Asian Institute of Research Journal of Social and Political Sciences* 183-204.

²⁰ Dorina Bekoe, 'Nigeria's 2011 Elections: Best Run, but Most Violent', United States Institute of Peace (USIP) Peace Brief, August 15, 2011, available at: <https://www.usip.org/sites/default/files/PB%20103.pdf>.

²¹ F. Olorok, '450 rights violation cases recorded during elections-NHRC', Punch newspaper, 29th March 2023, available at: <https://punchng.com/450-rights-violation-cases-recorded-during-elections-nhrc/>.

²² T. Onimisi and O.L. Tinuola, 'Appraisal of the 2019 Post-Electoral Violence in Nigeria' (2019) 4(3) *Malaysian Journal of Social Sciences and Humanities* (MJ-SSH) 107-113.

²³ O. Olakunle et al, 'Trends in Electoral Violence in Nigeria' (2019) 11(1) *Journal of Social Sciences and Public Policy* 37-52.

²⁴ *Ibid.*

²⁵ UN Human Rights Report, 2019, United Nations Office of High Commissioner for Human Rights, available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHRreport2019.pdf>.

²⁶ A. Hadenius and J. Torrel, 'Authoritarian Regimes: Stability, Change and Pathways to Democracy, 1972-2003' (2007) 18(1) *Journal of Democracy* 143-157.

²⁷ D. Moehler and S. Lindberg, 'Narrowing the Legitimacy Gap: The Role of Turn Overs in Africa's Emerging Democracy' (2009) 71(4) *Journal of Politics* 1448-1466.

²⁸ *Ibid.*

²⁹ O.A. Ayanleye, 'Elections as a Tool of Democratization in Africa' (2013) 6(6) *OIDA International Journal of Sustainable Development* 143-156.

³⁰ *Ibid.*

³¹ *Ibid* at 145

³² Abraham Lincoln, the 16th president of the United States during a speech he gave in Gettysburg, Pennsylvania on November 19, 1863, available at: <https://www.abrahamlincolnonline.org/lincoln/speeches/gettysburg.htm>.

³³ *Ibid.*

³⁴ Ayanleye, (n 29) 143-156.

the principle of populations selecting representatives to govern through regular, free, and fair contests.³⁵ Regrettably, democratic ideals remain vague and frequently misused throughout Africa.³⁶ Democracy establishes platforms for effective rights protection.³⁷ It represents self-governance where populations decide through voting processes how they should be governed and who should lead them.³⁸ Explicitly, it constitutes the methodology where majority decisions determine every citizen's welfare, including minorities who may have disagreed during voting.³⁹ It represents majority representation wherein they commit their resources among competing interests.⁴⁰

Democracy as a concept lacks definitive description; however, various definitions indicate it provides platforms allowing populations to accept or reject their leaders.⁴¹ While Schumpeter viewed democracy as conducting elections for choosing majority representatives, Rousseau and Rivero conceptualized it as popular authority manifesting in thought patterns, behaviours, and participation or decisions affecting daily existence.⁴² As Nwokeke and Jayum correctly noted, democracy functions as a non-partisan system featuring periodic free elections where politicians organize into political parties prepared for competitive polling to establish legitimate government.⁴³ Huntington viewed democracy as a political framework where popular contestants win election through periodic, fair, and honest competitive contests by eligible adult populations.⁴⁴ Free electoral participation by voters authenticates governmental authority.⁴⁵ Thus, if democracy provides platforms for governmental selection by populations, then elections constitute vital instruments recognizing popular sovereignty.⁴⁶ Democracy achieves full establishment only when certain values receive complete consideration.⁴⁷ This requires deliberate social and institutional transformations through good governance, rights and civil liberties security, local autonomy respect, and accountability from both politicians and electorates.⁴⁸ For democratic sustainability, both leaders and electorates must maintain faith in its indispensability, with everyone willing to ensure its functionality.⁴⁹

³⁵ K. M Quinn and A. D Martin, 'An Integrated Computational Model of Multiparty Electoral Competition' (2002) 17(4) *Statistical Science* 405-419.

³⁶ Assana, (n 9) 68-96.

³⁷ S. Kaur, 'Institutional Development as a Challenge to Democratic Sustenance in Nigeria' (2007) 44 *International Studies* 217.

³⁸ J.A. Schumpeter, *Capitalism, Socialism, and Democracy* (Harper and Brothers, New York 1947).

³⁹ *Ibid.*

⁴⁰ K.M. Quinn and A.D Martin, 'An Integrated Computational Model of Multiparty Electoral Competition' (2002) 17(4) *Statistical Science* 405-419.

⁴¹ Schumpeter, (n 38).

⁴² D.M. Rousseau, & A. Rivero, 'Democracy, A way of Organizing in a Knowledge Economy' (2003) 12(2) *Journal of Management Inquiry* 115-134.

⁴³ N.P. Osinakachukwu and J.A. Jawan, 'The Electoral Process and Democratic Consolidation in Nigeria' (2011) 4(2) *Journal of Politics and Law* 129.

⁴⁴ S.P Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, Norman 1991) 23.

⁴⁵ Osinakachukwu and Jawan (n 43) at 130.

⁴⁶ *Ibid.*

⁴⁷ S. Kaur, 'Institutional Development as a Challenge to Democratic Sustenance in Nigeria' (2007) 44 *International Studies* 217.

⁴⁸ B. Eyinla, 'The Political Transition and the Future of Democracy in Nigeria' (2000) 1(1) *Political Science Review*.

⁴⁹ *Ibid.*

2.2 Electoral Processes

Elections represent true democracy's hallmark.⁵⁰ They constitute the medium through which populations exercise political rights to vote and seek office.⁵¹ They represent free and fair exercises through which populations elect their leaders.⁵² Elections prove crucial to liberal democracy.⁵³ Through periodic, free and fair contests, underperforming politicians face replacement by electorates.⁵⁴ This encourages political office performance since leaders recognize possible electoral removal.⁵⁵ It discourages revolt and anarchy within systems and ensures nonviolent power transitions between administrations through honest electoral processes.⁵⁶ Elections reveal collective agreements between governors and the governed.⁵⁷ They also improve political responsibility between leaders and populations through mutuality and interchange.⁵⁸ In essence, they provide means for periodic governmental change; promote leadership transitions; encourage leadership accountability; allow participation; and uphold popular sovereignty.⁵⁹ For success, there must exist well-established, proficient, independent and non-partisan democratic bodies for oversight.⁶⁰ Additionally, there must be independent judiciaries to interpret electoral laws and arbitrate election disputes.⁶¹ There should be objective mass media free from political figure guidance.⁶² Police should remain impartial in conducting duties throughout electoral processes.⁶³ Electoral laws of each country should capture all these elements.⁶⁴

2.3 Electoral Fraud

Electoral fraud characterizes African elections, especially Nigerian contests.⁶⁵ As Ibrahim correctly observed, it assumes many forms.⁶⁶ It manifests as infant voting, illegal voter card production, unlawful ballot box custody, ballot box stuffing, result fabrication, illegal ballot paper thumb-printing, fabricated name collation on voter lists, unlawful separate voter list collation, illegal result from printing, deliberate electoral material withholding from some zones, result declarations where no voting occurred, unlawful result pronouncements, contestant representative and electorate persecution, illegal electoral officer changes, box-snatching and fact distortion, willful polling booth destruction, and gross rights violations by political thugs and law

⁵⁰ Osinakachukwu and Jawan (n 43) at 130.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ R. Sandbrook, 'Liberal Democracy in Africa: A Socialist Revisionist Perspective' (1998) 22(2) *Canadian Journal of African Studies*.

⁵⁵ *Ibid.*

⁵⁶ Osinakachukwu and Jawan (n 43) at 130.

⁵⁷ *Ibid.*

⁵⁸ Sandbrook (n 54).

⁵⁹ A.E. Ojie, 'Democracy, Ethnicity, and the Problem of Extrajudicial Killing in Nigeria' (2006) 36 *Journal of Black Studies* 546.

⁶⁰ L.A. Jinadu, 'Historical Analysis of Elections and Election Management in Nigeria', Paper prepared for presentation at the Civil Society Organization meeting on electoral reform organized by the Open Society Initiative for West Africa (OSIWA) in Abuja, Nigeria, October 19, 2007.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ S. Adejumo, 'The Two Political Parties and Electoral Process in Nigeria, 1989-1993', in G.N. Ntalaja and M. Lee (eds.) *The State and Democracy in Africa* (AAPS, Harare 1997).

⁶⁵ J. Ibrahim, 'Nigeria's 2007 Elections: The Fitful Path to Democratic Citizenship' UNIP Special Report 182, January 2007, available at: <https://www.usip.org/sites/default/files/sr182.pdf>.

⁶⁶ *Ibid.*

enforcement.⁶⁷ Politicians hire thugs to fire indiscriminately at polling centers to frighten voters while thugs steal ballot boxes.⁶⁸ This greatly limits genuine voter turnout as people prefer staying home fearing death or injury.⁶⁹

2.4 Fundamental Rights

These represent basic rights and fundamental freedoms to which every human being holds entitlement.⁷⁰ These fundamental rights include life rights, discrimination freedom, liberty rights, thought and expression freedoms, legal equality, voting and candidacy rights, etc.⁷¹ States remain obligated to protect these rights continuously.⁷² They constitute natural rights, which cannot face deprivation based on status, sex, race, ethnicity, color, religion, origin, birth, political affiliation, and nationality.⁷³ These rights appear in treaties, human right bodies, customary international law and other international law sources.⁷⁴ They receive legal assurance by human rights law to protect both individual and group rights against violations interfering with human dignity.⁷⁵ Respecting some rights while abusing others remains wrong.⁷⁶ Shaibu, et al clarified that any form of disrespect or denial of these rights constitutes violation.⁷⁷ Human rights violation represents disrespect of rights guaranteed under international, regional and local laws.⁷⁸ Such violations can originate from states, state representatives or non-state parties.⁷⁹ It involves civil, political, social, cultural and economic rights abuse.⁸⁰ Rights can only face denial when there are contrary to others' rights enjoyment and such limitations are resolved by law for protecting others' rights and public order purposes.⁸¹

2.5 Democracy-Rights Interconnection

Democracy constitutes the required foundation to advance human rights.⁸² It safeguards human freedoms and encourages equality.⁸³ Alston traced human rights origins in democratic government to the 19th century during movements to end transatlantic slave trade.⁸⁴ There existed need to encourage universal freedom and equality where people freely govern themselves through elected governments.⁸⁵ Democratic ideals aimed to build governments based on social

⁶⁷ *Ibid.*

⁶⁸ Osinakachukwu and Jawan (n 43) at 131.

⁶⁹ *Ibid.*

⁷⁰ Dahniar et al, 'Gross Violation of Human Rights in Aceh Patterns of Violence through the Indonesian Government's Policy', (2017) 22(5) *Journal of Humanities and Social Science* 19-40.

⁷¹ UN Human Rights Report, 2019, (n 25).

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ Shaibu, Olu-Adeyemi and Raphael (n 5).

⁷⁵ *Ibid.*

⁷⁶ P. Mbah and O. Augustine, 'Security, Human Rights and Elections in Nigeria: A Perspective Analysis of the Militarization of the 2007 General Elections', (2014) 5(4) *Afro Asian Journal of Social Sciences* 1-30.

⁷⁷ Shaibu, Olu-Adeyemi and Raphael (n 5).

⁷⁸ M. Eseyin and S.E. Udoh, 'When Rights Violate Rights: International Protection of Human Rights, Some Necessary Considerations', (2015) 5(6) *International Journal of Humanities and Social Science* 78-87.

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ T. Evans, 'If Democracy, then Human Rights? (2001) 22(4) *Third World Quarterly* 623-642.

⁸² *Ibid.*

⁸³ T. Matthews, 'To Be Equal and Free: the Nexus Between Human Rights and Democracy' *A Publication of Heinrich Boll Foundation*, December 2019.

⁸⁴ P. Alston, 'Book Review: Does the Past Matter? On the Origins of Human Rights' (2013) 126(7) *Harvard Law Review*, 2043.

⁸⁵ *Ibid.*

welfare.⁸⁶ Democracy and human rights prove so indispensable in society and are governed by superlative ideologies, documentations, and processes codified in country constitutions.⁸⁷ Populations elect representatives to legislate laws for common interests.⁸⁸ Democracy entails state institutions run by constitutions, which clearly define rule of law boundaries respected by all, built on accountability, freedom, non-discrimination, accentuating citizen rights, power separation, and systematic, free, fair and credible election conduct.⁸⁹ It represents states putting citizen interests first through economic, social and political resource use.⁹⁰ As Thandiwe correctly opined, human rights constitute democracy rudiments.⁹¹ So, human rights codification or constitutional inclusion makes such states democratic.⁹² However, whether human rights constitute democracy's main element remains debatable.⁹³ It proves safer stating that human rights represent true democracy ingredients.⁹⁴ Nowadays, and especially in Nigeria, it becomes normal seeing leaders deliberately undermining constitutional power limits; they deny citizens fundamental human rights, including leader selection rights.⁹⁵ It now appears usual seeing politicians impose leaders on populations.⁹⁶ Voting rights, which constitute human rights and specifically receive protection by international and regional legal instruments, now appear illusory in most African states, particularly Nigeria.⁹⁷ Human rights receive protection by many international norms and institutions yet rights abuses continue worldwide, and perpetrators continue with impunity and without accountability.⁹⁸

3. Democracy, Elections and Rights in Africa

As noted earlier, elections alone may not establish democracy but constitute substantial true democracy elements.⁹⁹ Many writers agree that elections represent landmarks to African democracy.¹⁰⁰ As Abiodun correctly observed, elections have become crucial democracy elements and archetypes upon which other copious democratic ideologies establish themselves.¹⁰¹ The writer stated that election consistencies have probabilities of improving African democracy.¹⁰² Elections deepen democratic values, generate office-bearer motivations, and encourage state growth and development.¹⁰³ Elections provide avenues for populations to express franchise, replace leaders and consent to democratic outcomes.¹⁰⁴ According to Lindberg,

⁸⁶ G. Esping-Anderson and K. van Kersbergen, 'Contemporary Research on Social Democracy', (1992) *Annual Review of Sociology*, 18, 187-208.

⁸⁷ J. Tully, 'The Unfreedom of the moderns in comparison to their ideals of constitutional democracy', (2002) 65(2) *Modern Law Review*, 204-228.

⁸⁸ D. Baron et al, 'A Dynamic Theory of Parliamentary Democracy' (2011) 49 *Econ Theory* 703-738.

⁸⁹ Evans (n 80) 623-642

⁹⁰ *Ibid.*

⁹¹ Matthews (n 83).

⁹² M. Kurki, 'Human Rights and Democracy Promotion: Reflections on the Contestation in, and the Political-economic dynamics of, Rights promotion' (2011) 32(9) *Third World Quarterly* 1573-1587.

⁹³ Matthews (n 83).

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ B.N. Nwokeke and D.O. Nwaokugha, 'Electoral Frauds as Human Rights Abuse: The Case of Nigeria' (2024) 12(2) *International Journal of Innovative Social Sciences & Humanities Research* 55-69.

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

⁹⁹ A. Fatai, 'The Significance of Elections in Africa: 2015 Elections and Democratic Consolidation in Nigeria', (2018) 12(10) *African Journal of Political Science and International Relations* 208-219.

¹⁰⁰ A. Schedler, 'The Menu of Manipulation', (2002) 13(2) *Journal of Democratization* 36-50.

¹⁰¹ Fatai (n 99).

¹⁰² *Ibid.*

¹⁰³ S. Lindberg, 'The Surprising Significance of African Elections', (2006) 17(1) *Journal of Democracy* 139-151.

¹⁰⁴ Huntington (n 44).

frequent elections have constructive influences on public sovereignty and democratic ideals and assist in democracy institutionalization.¹⁰⁵ Free and fair elections help masses express voting rights, exercise choice freedoms, and affirm democratic power over governments.¹⁰⁶ Elections constitute Africa's change movers.¹⁰⁷ Granted that substantial numbers of African nations have made commendable marks in election conduct and are peaceably merging their democracies, facts still remain that human rights face endangerment in most developing African democracies due to political actors' opportunist outlooks.¹⁰⁸ Their uncivilized and selfish dispositions to power and wealth constitute gross rights threats before, during and after elections.¹⁰⁹ From party rallies through nominations, campaigns, voter registration, accreditation, voting, vote collation, winner announcements and post-election litigation, all are masked by violence, corruption, thuggery, and general rights abuse.¹¹⁰ The UN Electoral Assistance (UNEA) noted some challenges characterizing free, fair and credible election holding in many African countries.¹¹¹ Countries like Nigeria, Ghana, Kenya, Burundi, Zimbabwe, Sri Lanka, Ethiopia, Sudan, Equatorial Guinea, and Cambodia have persistent electoral malpractice and violence histories.¹¹² Taylor was not exaggerating when he stated that incumbents and their devotees are the most violence perpetrators in bids to hold power and manipulate electoral processes.¹¹³ In 2011, the United States Institute of Peace (USIP) pronounced the 2011 Nigerian election, though commendable in some aspects but marred by violence, wherein 800 persons lost lives and 65,000 were displaced; in 2015, there were evidence of vote buying and poor vote handling; 2019 elections also suffered various irregularities, figure distortions and manipulations, all heavily flawed by violence.¹¹⁴ Many youths and hoodlums transform themselves into machineries for token payments and promises of appointments to juicy positions by political officers.¹¹⁵ Elections should promote human rights not mar them.¹¹⁶ However, in most African states, the reverse occurs.¹¹⁷ Instead of portraying people's strength, elections rather project masses' weakness before political elites.¹¹⁸ Many African elections feature breakdowns of all citizen rights, especially civil and political rights.¹¹⁹ They lack transparency, confidence, accountability, respect for fundamental rights including life rights, torture freedom, fair hearing, association freedom, assembly, movement, expression and information, effective remedy access, rule of law adherence, equal citizen rights, and non-discrimination.¹²⁰ Voting rights constitute human rights; states hold duties to protect these rights and ensure effective measures are placed for these rights' realization and breach remedies.¹²¹

¹⁰⁵ Lindberg (n 103).

¹⁰⁶ A. Fatai, '2007 General Election Campaign Strategy and Democratic Consolidation in Nigeria' (2008) 8(2) *Journal of Constitutional Development* 15-32.

¹⁰⁷ G.O Donnel and P. Schmitter, *Transition from Authoritarian Rule: Tentative Conclusion about Uncertain Transitions* (John Hopkins University Press, Baltimore 1986) 112.

¹⁰⁸ Shaibu (n 5).

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

¹¹¹ United Nations Electoral Assistance (n 11)

¹¹² Shaibu, Olu-Adeyemi and Raphael (n 5).

¹¹³ Taylor (n 17).

¹¹⁴ United States Institute of Peace (USIP) (n 20).

¹¹⁵ Olakunle et al (n 23).

¹¹⁶ Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR, 2010)

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ Shaibu, Olu-Adeyemi and Raphael (n 5) at 40.

¹²⁰ *Ibid.*

¹²¹ United Nations Office of High Commissioner for Human Rights (UNOHCHR) (n 25)

4. Democracy, Elections and Rights Violations in Nigeria

Nigerian elections lower expectations Nigerians had upon their 1960 independence attainment.¹²² Elections have disillusioned the very grounds upon which democracy is founded.¹²³ Elections are hardly successful and credible in Nigeria.¹²⁴ Electoral rules and regulations are officially non-operational.¹²⁵ Political elites are ferocious.¹²⁶ Political godfathers enforce contestants on populations.¹²⁷ Nigerian elections go with bloodsheds, life and property destruction, and rights abuses.¹²⁸ They threaten both contestant and electorate rights.¹²⁹ Politicians engage hired assassins to eliminate anyone perceived as threats to their political ambitions.¹³⁰ This has weakened the system and many Nigerians deliberately boycott elections because they feel there is no need risking their lives and wellbeing to come out and vote, especially when their votes will not count.¹³¹ The few that come out to vote do so at risks of being intimidated, forced to vote contrary to their will, beaten up, or even killed.¹³²

Contestants have no clear agendas to offer populations but to fulfill their selfish interests.¹³³ Kurfi observed that rigging is one and the same with Nigerian elections.¹³⁴ The main objective of electoral malpractice is to discourage democratic ambitions of populations who would have voted into office someone else instead of the winner.¹³⁵ The country has recorded some elections since civil rule's 1999 return.¹³⁶ It has on record some elections held consecutively from 1999 to 2023.¹³⁷ According to Abiodun, all these elections had their notable flaws.¹³⁸ They have been popularly condemned by both contestants and electorates.¹³⁹ Transparency lack is the underlying cause of political crisis, which encouraged the 1966 military take-over and which eventually led to the 1967 to 1970 Nigerian civil war; which took much life and property; and which has caused some irreconcilable divisions in the country till date.¹⁴⁰ The military has always claimed that their interventions resulted from poor democracy management by political elites.¹⁴¹ Nigerian elections feature electoral procedure manipulation by politicians to impose their candidates on electorates.¹⁴² According to Obi, elections have become democracy's cover-up.¹⁴³ The 1993 election was adjudged free and fair in Nigerian election history; unfortunately, the democratically

¹²² Osinakachukwu and Jawan (n 43) at 58.

¹²³ *Ibid.*

¹²⁴ *Ibid* at 129.

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*

¹³¹ *Ibid.*

¹³² *Ibid.*

¹³³ *Ibid.*

¹³⁴ J. Kurfi, *Nigerian General Elections, 1951-2003: My Roles and Reminiscences* (Spectrum Books, Abuja 2005)123.

¹³⁵ Fatai (n 99) at 210.

¹³⁶ *Ibid*

¹³⁷ These include 1999, 2003, 2007, 2011, 2015, 2019 and 2023.

¹³⁸ Fatai, (n 99).

¹³⁹ J.S. Omotola, 'Trapped in Transition? Nigeria's First Democratic Decade and Beyond', (2013) 9(2) *Taiwan Journal of Democracy* 171-200.

¹⁴⁰ Fatai, (n 99)

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*

¹⁴³ C. Obi, 'Taking back our Democracy? The Trials and Travails of Nigerian Elections since 1999', (2011) 18(2) *Democratization* 366-387.

elected president late MKO Abiola was later denied his mandate and this was a direct affront on populations who massively voted him.¹⁴⁴

Since the present democracy emerged in 1999, reports by both international and local election observers have shown steady decline in Nigerian election propensities.¹⁴⁵ Abiodun attributed this to electoral supervision decline and ethically permeable political parties.¹⁴⁶ Nigerian elections have been ingrained in disaster and characterized by electorate rights abuses, massive rigging, manipulations, and corruption since 1999.¹⁴⁷ Political elites enforce credulous electoral officials who rig elections for them through various gimmicks.¹⁴⁸ From INEC constitution to its post-election activities show its independence and skill lack.¹⁴⁹ The body which would have been neutral to ensure free and fair elections, is heavily compromised.¹⁵⁰ It lacks autonomy, funding and job security.¹⁵¹ It is easily compromised because it is fully under executive influence.¹⁵² Any perceived stubbornness will cost them their jobs.¹⁵³ The executive uses funding to bring the electoral body upon its knees ready to do its bidding.¹⁵⁴ Omotola was able to identify another flaw to Nigeria's electoral process, which is the fact that parties themselves lack basic democratic standards and ideologies.¹⁵⁵ Party primaries are no more than mere celebrations.¹⁵⁶ They employ many undemocratic procedures stretching from violence, manipulations, vote-buying, and intimidation; all of which occasion citizen rights abuses.¹⁵⁷ The electorate votes do not count.¹⁵⁸ And because their votes do not count, they are powerless to decide who leads them or to remove non-performing and corrupt leaders.¹⁵⁹ Also, electorate safety is not guaranteed.¹⁶⁰

The unsatisfactory conduct of Nigerian elections is evident by the usual contestation of presidential and governorship elections in the country.¹⁶¹ The only known election that was not contested was the 2015 elections, which saw the end of Goodluck Jonathan administration and ushered in Muhammadu Buhari.¹⁶² It is normal to see contestants rush to court over their rigged mandates.¹⁶³ Political elites find it hard to consent to democratic verdicts irrespective of who is affected.¹⁶⁴ Their accepting democratic election outcomes will boost their confidence in both

¹⁴⁴ S. Agbaje and A. Adejumo, 'Do Votes Count? The Travails of Electoral Politics in Nigeria', (2006) 31(3) *Africa Development* 25-44.

¹⁴⁵ Omotola (n 139).

¹⁴⁶ Fatai (n 99) at 211.

¹⁴⁷ Agbaje and Adejumo, (n 144).

¹⁴⁸ *Ibid*

¹⁴⁹ Independent National Electoral Commission is the main electoral body in Nigeria.

¹⁵⁰ Omotola (n 139).

¹⁵¹ *Ibid*.

¹⁵² *Ibid*.

¹⁵³ Some INEC officers removed in the past include Professor Eme Awa (INEC Chairman 1987-1989) and Professor Humphrey Nwosu (1989-1993).

¹⁵⁴ H. Onapajo, 'The Positive Outcome of Nigeria's 2015 General Elections: The Saliency of Electoral Reforms', (2015) *The Round Table; Commonwealth Journal of International Affairs*.

¹⁵⁵ Omotola (n 139).

¹⁵⁶ *Ibid*.

¹⁵⁷ *Ibid*.

¹⁵⁸ *Ibid*.

¹⁵⁹ *Ibid*.

¹⁶⁰ *Ibid*.

¹⁶¹ Fatai (n 99) at 214.

¹⁶² *Ibid*.

¹⁶³ *Ibid*

¹⁶⁴ A. Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge University Press, Cambridge 1991) 234.

electoral processes and in democracy.¹⁶⁵ Free, fair and credible elections build trust and confidence in government organizations and heighten peaceful democratic transition.¹⁶⁶ After protracted military rule with characteristic vicious abuses and suppression of masses' economic, social and political rights, only true democracy can restore hope and renew people's expectations and aspirations.¹⁶⁷ For these expectations to materialize, periodic, free, fair and credible elections are needed.¹⁶⁸ According to Larry, elections can only be better when they are administered by neutral power; when electoral administration is sufficiently competent and resourceful to take specific precautions against fraud; when police, military and courts treat competing candidates and parties impartially; when contenders all have access to public media; when electoral districts and rules do not grossly handicap oppositions; when ballot secrets are protected; when virtually all adults can vote; when vote organization and counting procedures are widely known; and when there are transparent and impartial procedures for resolving election complaints and disputes.¹⁶⁹

4.1 Electoral Integrity Challenges in Nigeria

Nigeria is an exceptionally delicate country and has many failed country characteristics.¹⁷⁰ There are divisions all over the country with many groups feeling relegated and left out in the scheme of things; there is crime and civil viciousness rise; there is ethnic, cultural and religious hostility rise; food shortages and economic hardship; weak institutions; extreme inflation; unemployment; collapsing infrastructure; deteriorated health sector; high illiteracy level; high corruption and embezzlement rate; insecurity; terrorism and porous borders.¹⁷¹ All these clog the fight for enthronement and the desire to merge democracy and good governance in the country.¹⁷² Hopes were high during the 2023 general elections;¹⁷³ Nigerians were fed up with recycling old politicians with high corruption and embezzlement records.¹⁷⁴ Some welcome innovations were noted in the 2022 Electoral Act.¹⁷⁵ More parties emerged besides the two dominant parties—the People's Democratic Party (PDP) and the All Progressive Congress (APC).¹⁷⁶ The emergence of Peter Obi under the Labour Party (LP) brought life back to the already disinterested Nigerians.¹⁷⁷ Peter Obi who was the youngest of the presidential aspirants and full of ideas, attracted Nigerian youth attention.¹⁷⁸ Nigerians massively went out to get their voter cards ready to vote out the old folks with high corruption history.¹⁷⁹ Again, their hopes were dashed to pieces through massive rigging and figure distortions and an unpopular candidate was foisted on them.¹⁸⁰

¹⁶⁵ N. Cheeseman and M. Hinfaller, 'Parties, Platforms and Political Mobilization: The Zambian Presidential Election of 2008' (2009).

¹⁶⁶ *Ibid.*

¹⁶⁷ E.E. Osaghae, 'Democratization in Sub-Sahara Africa: Faltering Prospects, New Hopes' (1999) 17(1) *Journal of Contemporary African Studies* 4-25.

¹⁶⁸ *Ibid.*

¹⁶⁹ L. Diamond, *The Spirit of Democracy: The Struggle to Build Free Societies Throughout the World* (Times Books, New York 2008), 25.

¹⁷⁰ G.U. Ojukwu, 'Democracy and 2023 General Elections in Nigeria: Retrospect and Prospects', (2023) 11(4) *Direct Research Journal of Social Science and Educational Studies* 54-56.

¹⁷¹ *Ibid.*, 54-66.

¹⁷² Punch Newspaper, July 7th, 2005.

¹⁷³ Ojukwu et al. (n 171).

¹⁷⁴ *Ibid.*

¹⁷⁵ The 2022 Electoral Act introduced electronic transmission of results and the Bimodal Voter Accreditation System.

¹⁷⁶ Ojukwu et al. (n 171).

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ *Ibid.*

¹⁸⁰ *Ibid.*

5. Global Electoral Standards

5.1 International Framework

The Universal Declaration of Human Rights states that everyone is entitled to the rights and freedoms contained in the Declaration, without discrimination as to race, sex, religion, language, color, nationality, origin, birth, status, or political affiliations.¹⁸¹ It prohibits any discrimination based on political, jurisdictional or international status of one's country.¹⁸² Every citizen has the right to participate in government of his country, either directly or through freely elected representatives.¹⁸³ Every citizen has the right to equal access to public services of his country.¹⁸⁴ Citizen will is the basis of governmental authority; and this shall be expressed through periodic and genuine elections through universal and equal suffrage held by secret voting or by other equally free voting processes.¹⁸⁵ Similarly, the International Covenant on Civil and Political Rights (ICCPR) provides that state parties shall respect and guarantee citizen rights enjoyment as contained in the Covenant, without discrimination as to race, color, sex, language, religion, political affiliation, nationality, birth, status, or class.¹⁸⁶ State parties shall take positive steps to guarantee citizens the rights provided in the Covenant.¹⁸⁷ State parties shall ensure effective remedy to anyone whose rights under the Covenant are violated, notwithstanding whether violators are persons acting in official capacities; such remedy shall be determined by competent judicial, administrative or legislative authority or any other competent authority as may be provided by the legal system of the state party for judicial remedy purposes; and to ensure that such remedies are enforced by competent authority when granted.¹⁸⁸ Everyone shall have the right to participate in public affairs without unreasonable restrictions, either directly or through freely elected representatives; to vote and be elected through periodic and genuine elections held in universal and equal suffrage and held in secret ballot; and everyone shall have equal access to public services in his country.¹⁸⁹ The International Convention on the Elimination of All Forms of Racial Discrimination encourages state parties to prohibit racial discrimination and to take appropriate steps and without delay to eliminate all forms of racial discrimination within its territory.¹⁹⁰ In agreement with the provisions of article 2 of the Convention, state parties shall take positive and legislative steps to eliminate all forms of racial discrimination and secure the right of all human beings without discrimination as to race, sex, nationality, ethnic group, or color; and to ensure equality in all rights enjoyment, including political rights, which include their rights to participate in elections, vote and be voted for on equality basis, and to participate in public affairs conduct at all levels and to have equal opportunities to public services.¹⁹¹

The Convention on the Elimination of All Forms of Discrimination Against Women obligates state parties to take appropriate steps to eliminate all forms of discrimination against women in political and public state dealings; and to ensure equal rights of women and men to vote and be voted for in all elections and public consultations; to take part in government policy creation and implementation, and to hold public offices and take part in all public functions at all government

¹⁸¹ Universal Declaration of Human Rights, (UDHR) 1948, article 2.

¹⁸² *Ibid.*

¹⁸³ Universal Declaration of Human Rights, article 21(1) (n 181)

¹⁸⁴ *Ibid.*, article 21(2).

¹⁸⁵ *Ibid.*, article 21(3).

¹⁸⁶ International Covenant on Civil and Political Rights (ICCPR), 1966, article 2(1).

¹⁸⁷ *Ibid.* article 2(2).

¹⁸⁸ *Ibid.*, articles 3(a), 3(b), and 3(c).

¹⁸⁹ *Ibid.* articles 25(a), 25(b), and 25(c).

¹⁹⁰ International Convention on the Elimination of All Forms of Racial Discrimination, (1966) 5 *I.L.M.* 352, article 2.

¹⁹¹ *Ibid.*, articles 5 and 5(c).

levels; to take part in non-governmental organizations and associations that concern state political life.¹⁹² The Convention on the Political Rights of Women provides that women are entitled to vote in all elections on equal basis with men, without discrimination.¹⁹³ Women are eligible to vote and be voted for in all elections to all public bodies established by national law on equal basis with men.¹⁹⁴ Women are entitled to hold public office and to exercise all public functions, as established by their national law, on equal basis with men, and without discrimination.¹⁹⁵ The United Nations Charter states that its purpose, which among other things, is to develop friendly relations among state parties on respect basis, equal rights and peoples' self-determination, to take other appropriate steps to strengthen universal peace; and to achieve international cooperation in solving international problems of economic, social, cultural or humanitarian nature, and by promoting human rights respect and fundamental freedoms for all without discrimination as to race, nationality, language, sex, or religion.¹⁹⁶ State parties yet to attain self-governance are required to take inhabitants' interests of their territories as paramount and to take steps to promote their wellbeing, within international peace and security system; and to develop self-government, and encourage citizens' political aspirations.¹⁹⁷ The Charter in line with its laid down objectives, encourages political, economic, social, and educational development; all humans' independence; and human rights respect and fundamental freedoms for all, without discrimination as to race, sex, religion, or language.¹⁹⁸ The Declaration on the Granting of Independence to Colonial Countries and Peoples provides that all humans have the right to self-determination to freely decide their political status and follow their economic, social and cultural advancement.¹⁹⁹ It urges state parties to take immediate steps to transfer all powers to citizens within their territories, without any form of discrimination as to race, creed or color in order to empower them to enjoy their independence.²⁰⁰ Similarly, the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights both state that every human being has the right of self-determination and therefore shall freely determine their political status and freely pursue their economic, social and cultural advancement.²⁰¹

There is also the Draft General Principles on Freedom and Non-Discrimination in the Matter of Political Rights, which in its Preamble reaffirms faith on fundamental human rights, human person dignity and worth, men and women equality and nations small and large, and social progress promotion and better living standards for all, without discrimination; and everyone's right to take part in government of his country.²⁰² It reaffirms self-determination right and people's right to pursue their economic, social and cultural growth.²⁰³ It specifically points out that everyone is entitled to full and equal political rights without any kind discrimination and that

¹⁹² Convention on the Elimination of All Forms of Discrimination against Women, (1979), articles 7, 7(a), 7(b), and 7(c).

¹⁹³ Convention on the Political Rights of Women, article I

¹⁹⁴ *Ibid*, article II

¹⁹⁵ *Ibid*, article III.

¹⁹⁶ Charter of the United Nations, 1945, articles 1(2) and 1(3).

¹⁹⁷ *Ibid*, articles 73 and 73(b)

¹⁹⁸ *Ibid*, articles 1 and 76(b) and (c)

¹⁹⁹ Declaration on the Granting of Independence to Colonial Countries and Peoples, 1960, article 2, UN General Assembly Resolution 1514 (XV) on December 14

²⁰⁰ *Ibid*, article 5.

²⁰¹ International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, common article 1.

²⁰² Draft General Principles on Freedom and Non-Discrimination in the Matter of Political Rights; Annexed to Resolution 1 (XIV) adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fourteenth session, in 1962; Preamble.

²⁰³ *Ibid*, Principle I.

no one shall be denied of his nationality or political right.²⁰⁴ It emphasized opinion freedom, expression, association and peaceful assembly of all at all times.²⁰⁵ Everyone is entitled to vote and be voted for in national elections, referendum, polls or every public consultation of his country.²⁰⁶ Voting right shall not depend on literacy or other educational qualification.²⁰⁷ Everyone is entitled to vote in any election or public consultation for which he is eligible and each vote shall carry equal weight and should reflect people's will; and every national election shall reflect on general role for voters.²⁰⁸ Voting should be secret, without any form of force, or publicity.²⁰⁹ It provides that elections shall be periodic and at reasonable intervals.²¹⁰ Electorates are at liberty to vote for their preferred candidate(s), and shall not be bound to vote for any particular candidate(s); and elections shall be supervised by independent and impartial authorities whose decisions can be appealed against before judicial or other independent bodies; there is freedom for peaceful expression of political oppositions.²¹¹ It went on to provide access to elective public office; non-elective public office; limitations; constitutional guarantee; and recourse to independent tribunals.²¹² International law heightens the use of standard, periodic and credible elections to encourage its Commission on Human Rights Resolution.²¹³ This Commission believes that citizen will conveyed in periodic and genuine elections is the bases of state authority, which must be done through universal and equal suffrage; everyone has the right to participate in his country's elections directly or through representative(s); everyone has right to equal access to public services; the need for secret voting system; the importance of citizen's right to freedom of peaceful assembly, association, opinion, expression; information and citizen right to change their leaders through constitutional means; everyone has the right to run for public office and personally or collectively put out his political views; government or other national institutions must guarantee universal and equal suffrage and impartiality in election administration; there should be independent observation, proper voter registration, dependable balloting processes to check fraud and laid down means of solving disputes; lastly, the state may invite observers and or seek consultative services from regional bodies or from the United Nations.²¹⁴

5.2 Regional Framework

The African Charter on Human and People's Rights is committed to human rights promotion and protection in Africa.²¹⁵ The African Commission requested the Special Rapporteur on Freedom of Expression and Access to Information in Africa to develop regional guidelines to access information and elections to encourage credible elections and democratic governance among state parties.²¹⁶ Its objectives and principles were stated in its Constitutive Act for good governance importance, free participation, human rights and rule of law.²¹⁷ The African Charter obligates

²⁰⁴ *Ibid*, Principle II.

²⁰⁵ *Ibid*, Principle III.

²⁰⁶ *Ibid*, Principle IV.

²⁰⁷ *Ibid*.

²⁰⁸ *Ibid*. Principle V.

²⁰⁹ *Ibid*. Principle VI.

²¹⁰ *Ibid*. Principle VII.

²¹¹ *Ibid*. Principle VIII.

²¹² *Ibid*. Principle IX - XV

²¹³ Commission on Human Rights Resolution 1989/51 of 7 March 1989, annex (Official Records of the Economic and Social Council, 1989, Supplement No. 2 (E/1989/20), chap. II, sect. A).

²¹⁴ *Ibid*.

²¹⁵ The African Commission on Human and People's Rights- ACHPR/Res.433, 1981.

²¹⁶ The African Commission on Human and Peoples' Rights adopted its Resolution ACHPR/Res. 307 (EXT.OS/ XVIII) at its 18th Extra-Ordinary Session, held in Nairobi, Kenya in August 2015.

²¹⁷ *Ibid*, articles 3 and 4.

state parties to adopt means to implement all rights and duties protected in the Charter.²¹⁸ The Commission recognizes the fact that everybody has information right and no one should be sanctioned for releasing information in good faith.²¹⁹ Relevant stakeholders are expected to disclose information to general public about its functions, powers, structure, decisions, expenditure and revenue as it concerns electoral procedures.²²⁰ It creates obligation to keep, organize and uphold information on all electoral stakeholders.²²¹ Information can only be justifiably withdrawn, if releasing it can be prejudicial to such stakeholders or other third party; or against national security and state defense.²²² State parties must ensure that electoral body member appointments are transparent, widely publicized and permit public participation as spelt out in the law. It is the duty of the Election Management Body to disclose comprehensive electoral calendar, power limits, constituent lists, voter registration process details, and all other necessary election information, including law enforcement officer code of conduct.²²³ It provides duties of Election Observers, law enforcement agents. It provides for media coverage and internet regulations, civil society organization duties; state parties are enjoined to adopt administrative, legislative, judicial and other measures to observe guidelines, train relevant election stakeholders in line with African Charter provisions and provide detailed information on measures to be taken to facilitate compliance with guideline provisions.²²⁴

State parties are under obligation to ensure that stakeholders adequately provide information about elections to electorates.²²⁵ It guarantees every citizen the right to freely participate in political activities of his country directly or through his representatives.²²⁶ It recognizes women's right; and persons with disabilities to vote.²²⁷ State parties should take legislative steps and policy frameworks to strengthen democracy and peace in their various states.²²⁸ It was very specific on election in its Charter on Democracy, Elections and Governance; where it guarantees information access.²²⁹ It regards information access as valuable democracy constituent because it encourages people to partake in public affairs.²³⁰ Information access encourages people to participate directly or through their representatives in government of their country.²³¹ In *S.P. Gupta v. Union of India*,²³² it was held that no democratic government can survive without accountability and accountability's basic postulate is that people should have information about government functioning. Information access enlightens populations about political practices that best represent their interests.²³³ Costa Rica's Supreme Court reiterated that it is state parties' duty to

²¹⁸ African Commission on Human and Peoples' Rights, Guidelines on Access to Information and Elections in Africa, p.4, article 1.

²¹⁹ *Ibid*, article 2.

²²⁰ *Ibid*, article 3.

²²¹ *Ibid*, article 4

²²² *Ibid*, article 8.

²²³ *Ibid*, article 12 & 17

²²⁴ *Ibid*, articles 23, 24, 25, 30, 31, and 32.

²²⁵ The African Charter, article 62.

²²⁶ *Ibid*, article 13.

²²⁷ *Ibid*, articles 9 and 21.

²²⁸ *Ibid*, article 11

²²⁹ African Charter on Democracy, Elections and Governance- Statute of the African Union Commission on International Law (AUCIL), adopted on January 30, 2007 and entered into force on February 15, 2012.

²³⁰ African Charter on Human and People's Rights (the African Charter), Article 9.

²³¹ The African Charter, article 13.

²³² *S.P. Gupta v. Union of India* [1982] AIR (SC) 149 at 232.

²³³ African Commission on Human and Peoples' Rights, Guidelines on Access to Information and Elections in Africa, p.4.

boost information access and guarantee that information is effectively disseminated to its citizens.²³⁴

As already noted, the ultimate constituent of democracy is the free will of the people to choose their leaders through regular and credible elections.²³⁵ African states are generally slow in disclosing information of how they run the government. The failure to provide adequate information in an electoral process builds distrust and erodes the confidence of the electorate. As the African Commission rightly noted, lack of information adds to the existing ethnic and religious discontents among the people and result into violence and frustration among the electorate who feel disenfranchise and left out of the entire process.²³⁶ Such conflicts result in loss of life and property, internal displacements and post-election discontentment. These guidelines are to complement and not to replace legislative provisions, policies, procedures and practices in line with international and regional best practices.²³⁷ State parties are to promote democracy, rule of law and human rights.²³⁸ The state is to identify general participation through collective suffrage as the immutable right of the citizens.²³⁹ It shall take apposite actions to ensure constitutional transmission of power.²⁴⁰ The state is under obligation to guarantee the enjoyment of fundamental human rights, having regard to their universality, interdependency and distinctiveness.²⁴¹ They are to take cogent steps to strengthen all human rights institutions and to empower them against impunity.²⁴² States are to eliminate all forms of discrimination on political opinions, sex, religion, ethnicity, race and any other form of xenophobia; and adopt administrative and legislative measures to guarantee the rights of women, people with disabilities, migrants, ethnic minorities, internally displaced persons, refugees and other marginalised groups; and they shall have regard for religious, cultural, and ethnic diversity.²⁴³ There should be equality before the law and equal fortification by the law as a vital prerequisite for a fair and independent society.²⁴⁴

5.3 National Framework

Nigeria is a state party to both the United Nations and the African union. It is under obligation to observe all international and regional provisions on human rights and the international best practices on election. The country is also bound to observe its local legislations, especially its Constitution.²⁴⁵ The Constitution provides the fundamental human rights.²⁴⁶ These are the civil and political rights of the people.²⁴⁷ It provides among other things, the right to peaceful assembly, which includes the right to belong to a political party, trade union, or other association

²³⁴ *Navarro Gutierrez v. Lizano Fait* [2002] Annual Report of the OAS Special Rapporteur on Freedom of Expression 2003, 159-160.

²³⁵ African Commission on Human and Peoples' Rights, guidelines on Access to information and Elections in Africa, p.4.

²³⁶ *Ibid.*

²³⁷ Lawrence Murugu Mute, Special Rapporteur on Freedom of Expression and Access to Information in Africa and also the Vice-Chairperson of the African Commission on Human and People's Rights, 2017.

²³⁸ African charter on Democracy, Elections and Governance, article 4 (1).

²³⁹ *Ibid*, article 4(2).

²⁴⁰ *Ibid* article 5.

²⁴¹ *Ibid*, article 6.

²⁴² *Ibid*, article 7.

²⁴³ *Ibid*, article 8 (1) to (3).

²⁴⁴ *Ibid*, article 10.

²⁴⁵ Constitution of the Federal Republic of Nigeria (CFRN), 1999.

²⁴⁶ *Ibid*, sections 33 – 46.

²⁴⁷ Adedapo Salmon, 'Guaranteeing Nigerian Voter Rights: A Look at the legal Measures in Place', *The Monitor* [2022] available at <https://ymonitor.org/guaranteeing-nigerian-voter-rights-a-look-at-the-legal-measures-in-place/> accessed 2nd December, 2024.

of choice.²⁴⁸ Every Nigerian who has reached 18 years and above has the right to vote and be voted for.²⁴⁹ Therefore, the right to vote and be voted for is a fundamental human right, denial of which is dehumanising. Besides the Constitution, is the Electoral Act.²⁵⁰ The 2022 amendment brought significant innovations believed could reduce election rigging in the country. It introduced some scientific innovations and provided substantially for voters protection. It considered persons with disabilities. They are to be provided suitable aids, which include braille, sign language interpretation, other electronic devices, and adequate assistance at the polling points.²⁵¹ INEC²⁵² must take measures to protect voters and ensure a free and fair election. Citizens have the right to canvas for changes that can encourage justice in the voting process. It is the duty of INEC to create awareness and carry out enlightenment campaigns to educate the people about elections. The Act particularly established INEC;²⁵³ it encourages the release of funds to the Commission not later than one year before the general elections;²⁵⁴ it grants financial independence to the Commission;²⁵⁵ the Commission is required to keep states informed and updated;²⁵⁶ it should encourage early primaries by political parties;²⁵⁷ it provides a time frame of 150 days before election day for campaigns;²⁵⁸ it provides for a central voters database;²⁵⁹ the Act reviews the powers of INEC;²⁶⁰ it excludes political appointees from seconding as delegates or aspirants. Meaning that political appointees must give up their positions before they can qualify for election either as delegates or as candidates;²⁶¹ this is probably to stop political appointees from using their office to influence the elections and recycle themselves over and over again instead of creating room for fresh aspirants. This section of the Act has generated some controversies in recent times. The Federal High Court has ruled against it as unconstitutional.²⁶² The National Assembly moved against this decision but until it is successfully expunged, it remains the law.²⁶³

The amended Electoral Act also provides that if a candidate dies before the polls, the electoral processes will be postponed for 14 days;²⁶⁴ where the death occurred after the polls and before the announcement of the final result, the electoral process will be pursued for 21 days.²⁶⁵ But where the election is for a legislative position, the election must commence afresh, there should be a fresh primaries within 14 days of the demise of that candidate, and the bereaved party must submit another name to the Commission in place of the deceased candidate.²⁶⁶ If it is a

²⁴⁸ CFRN, section 40.

²⁴⁹ CRFN, Chapter 5, section 77.

²⁵⁰ The Electoral Act, 2022 repealed the Electoral Act No. 6, 2010.

²⁵¹ Salmon, (n 247).

²⁵² Independent National Electoral Commission (INEC) is the main electoral body to oversee elections in Nigeria.

²⁵³ Electoral Act, 2022, section 3(1).

²⁵⁴ Electoral Act, 2022, section 3(3).

²⁵⁵ Electoral Act, 2022, section 5.

²⁵⁶ Electoral Act, 2022, section 28 (1) and (2).

²⁵⁷ Electoral Act, 2022, sections 29 to 31.

²⁵⁸ Electoral Act, 2022, sections 94 to 99.

²⁵⁹ Electoral Act, 2022, section 9.

²⁶⁰ Electoral Act, 2022, sections 65 to 68.

²⁶¹ Electoral Act, 2022, section 84(12).

²⁶² 'Court nullifies Section 84(12) of the amended Electoral Act,' *The Vanguard* (Lagos: 18th March 2022), available at <https://thenationonlineng.net/national-assembly-to-appeal-judgment-voiding-electoral-act-section-84-12/> accessed 12th December, 2024.

²⁶³ 'National Assembly to Appeal Judgment Voiding Electoral Act Section 84(12),' *The Nation* (Lagos: 24th March, 2022).

²⁶⁴ Electoral Act, 2022, section 34(1).

²⁶⁵ Electoral Act, 2022, section 34(3) (a).

²⁶⁶ Electoral Act, 2022, section 34(3) (b).

presidential, gubernatorial or Federal Capital Territory council elections, the running mate of the demised candidate will continue in his place and appoint a new running mate.²⁶⁷ The amended Act introduced the use of automated devices in the accreditation of voters as well as in the general elections.²⁶⁸ These include electronic voting machines; smart card readers and other technological devices. It also approves the electrical transmission of results.²⁶⁹ All of these is to ensure a transparent and credible election by the Commission. Unfortunately, while all these were in place on white paper in the amended Act, the 2023 general elections, which saw the President Bola Tinubu administration into power was far from being credible, free and fair; and a far cry from international best practices on election much to the dissatisfaction of the majority of Nigerians.

6. Conclusion and Recommendations

Elections are important democratic tools and vital means for human rights enjoyment. African elections are far cry from global standards. African elections are mere gimmicks. African political elites have killed true democracy meaning. Democratic legitimacy in Africa is daunting. The ability to organize credible, free and fair election is prerequisite to democratic alliance in the continent. For elections to be credible, free and fair, human rights must be upheld. Stakeholder involvement in elections is high in Nigeria; and these are mainly people who abuse electorate human rights. Their activities weaken democracy fabrics in the country thus, widening the gap between human rights and election conduct in Nigeria. This casts doubts on election credibility in the country.

To this end, several critical recommendations emerge. Nigeria being state party to the discussed treaties above, must rise up to its obligation under international and regional laws, which is to uphold human rights at all times. All stakeholders must uphold human rights or face disqualification from electoral participation. People should be encouraged to vote without intimidation, discrimination and undue restraint. There should be extensive awareness campaigns by government to masses on election importance and their fundamental right to participate freely in electoral processes.

There is pressing need to form strong democratic institutions and to work towards good governance at all costs. Electoral management bodies must be granted genuine autonomy, adequate funding, and complete independence from executive interference. Members of electoral commissions should enjoy security of tenure to prevent manipulation and intimidation. The judiciary must be strengthened to serve as impartial arbiter in electoral disputes, with expedited procedures for resolving election-related cases.

Political party regulations must be overhauled to ensure internal democracy, transparent primaries, and adherence to democratic principles. Political actors who engage in violence, rights violations, or electoral fraud should face severe sanctions including disqualification and prosecution. Law enforcement agencies must receive training on human rights protection during electoral periods and must operate impartially without political influence.

Civil society organizations and election observers should be empowered to monitor elections effectively without restrictions. Media freedom must be protected to ensure transparent coverage of electoral processes. Technology adoption for voter registration, accreditation, and result transmission should be strengthened with adequate safeguards against manipulation.

²⁶⁷ Electoral Act, 2022, section 34 (3).

²⁶⁸ Electoral Act, 2022, section 47 (2) and 41.

²⁶⁹ Electoral Act, 2022, section 50 (2).

It is true that African Union has done well to form the African Charter on Democracy, Elections and Good Governance to guide states but the problem is not that Africa lacks good laws, the problem is always in implementation. The regional body should take implementation issue very seriously and seek how to hold state parties more accountable through effective monitoring mechanisms, sanctions for non-compliance, and peer review systems that ensure adherence to democratic standards and electoral best practices across the continent.