

Why a New Electoral Act?

Understanding the Context: What the 2023 Elections Revealed and what Legal Review Aims to Fix



What this factsheet does

- Explains the rationale for reviewing the Electoral Act 2022 after the 2023 elections
- Highlights provisions that worked well and areas where challenges emerged
- Shows how implementation experience informs post-election legal review

1. Electoral Law in Nigeria is a Living Framework

Nigeria's electoral legal framework consists of:

- **The Constitution**, which establishes INEC, sets foundational electoral principles, key timelines, tenures, and the role of courts in elections.
- **The Electoral Act**, that provides detailed rules on electoral procedures, timelines, party regulation, electoral offences, and election dispute resolution.
- **INEC Regulations and Guidelines**, which are operational instruments that outline detailed procedures to give effect to the law.

These instruments are designed to work together. However, practical application during elections can expose gaps, ambiguities, or unintended consequences that are not always evident on paper.

2. The Electoral Act 2022: A Strong Framework, Tested in Practice

The Electoral Act 2022 introduced major reforms and was widely regarded as a progressive framework. The 2023 general elections marked its first full national test. Key innovations included:

- Extended timelines for notice of elections and submission of candidate lists (360 days under the 2022 Act, compared to 90 days under the 2010 Act for notice of elections);
- Mandatory early release of funds to INEC, improving planning and procurement;
- Powers for INEC to review declarations made involuntarily or contrary to law;
- Legal recognition of technology in elections, including biometric accreditation and electronic viewing of results;

- A tighter definition of over-voting based on accredited voters rather than registered voters;
- Stronger regulation of party primaries, including requirements for membership registers.

3. Why Electoral Laws Are Reviewed After Elections

Electoral laws are reviewed because real elections reveal operational and legal issues that may not be apparent during drafting. Post-election reviews allow lawmakers to:

- Identify provisions that were unclear or contested in court
- Clarify responsibilities and procedures
- Reduce future disputes by tightening legal language
- Align the law more closely with practical realities

The Electoral Act (Amendment) Bill 2025 is part of this normal post-election learning process, informed by how the 2022 Act operated during the 2023 elections. Civil society assessments, such as [PLAC's assessment of the implementation of the Electoral Act](#) examines these gaps and suggests how legal revisions might support smoother implementation in future elections.

4. What Worked Well Under the 2022 Act

Post-election assessments by CSOs, including PLAC's review, found that several provisions of the Act functioned largely as intended:

- **Biometric Voter Accreditation (BVAS):** Widely deployed and effective in reducing multiple voting and impersonation.
- **Early funding of INEC:** Improved preparedness and procurement planning compared to previous election cycles.
- **Clearer legal backing for technology:** Provided stronger justification for the use of technological tools in accreditation.
- **Extended candidate submission timelines:** Helped impose greater discipline on political parties. All parties concluded primaries by June 2022 and submitted candidate lists by the deadline, reducing the level of pre-election disorder seen in 2019.

These examples demonstrate that clear legal provisions can positively shape electoral practice.

5. Where Implementations Challenges Emerged

Despite these gains, the 2023 elections also exposed gaps between the law and practice. Examples include:

- **Implementation pressures:** Some provisions, while well-intentioned, created operational strain when multiple statutory obligations converged within tight timelines.
- **Judicial interpretation disputes:** Ambiguous language, particularly around electronic results transmission (e.g. "transfer" versus "transmit"), led to contested interpretations during post-election litigation.
- **Electronic result transmission delays:** Inconsistencies in uploading results undermined transparency and public confidence, despite legal recognition of electronic result viewing (IReV portal).
- **Conflicting timelines in voter registration provisions**

Section 9(6) of the Electoral Act requires voter registration, updating, and revision to stop

not later than 90 days before an election, while **section 19(1)** requires the voters' register to be displayed for public scrutiny not later than the same 90 days to a general election. This created uncertainty about how objections and corrections could be meaningfully processed once registration had formally ended.

- **Limited access to challenge false candidate information:** Sections 29(5) and (6) of the Electoral Act restricted who could challenge false affidavits submitted by candidates and attached severe consequences, discouraging legitimate challenges.
- **Persistent violations of party primary rules:** Some parties conducted primaries contrary to legal requirements, including venue changes, opaque processes, and submission of unusable membership registers. There were also late party defections.
- **Administrative and technical challenges:** Technical glitches and communication failures around BVAS and the INEC Results Viewing Portal (IREV) affected public trust.
- **Weak enforcement of offences:** Although penalties for some electoral offences were increased, enforcement remained limited in the absence of an Electoral Offences Commission and INEC's constrained prosecutorial capacity.

6. What the Law Can Fix and What Depends on Election Administration

Public debate and politicians often treat election challenges as mostly legal issues. In reality, there is a distinction between:

- Issues the law can address: e.g., unclear procedures, conflicting timelines, weak or ambiguous legal language; and,
- Issues of election administration: e.g., logistics, technology performance, adhoc staffing, training, and stakeholder communication.

The review of the Electoral Act focuses on improving the law itself, not managing elections. For instance, legal refinement can:

- Clarify timelines, definitions, and procedures;
- Reduce ambiguity around technology and results transmission;
- Strengthen compliance rules for party primaries and nominations.

However, not all election problems are legal problems. A clearer law supports better elections, but it cannot replace effective planning, enforcement, and institutional capacity.

7. Importance of Early Reform and Legal Certainty

Electoral law reform is most effective when completed well ahead of elections. Early reform provides legal certainty for electoral bodies, political parties, candidates, courts, and voters, allowing time to understand and apply the rules. Late changes to electoral laws can create confusion, strain election administration, and increase the risk of disputes, particularly where institutions are required to adjust procedures, timelines, or technologies close to polling day.

Regional standards reinforce this principle. Article 2 (1) of the **ECOWAS Protocol on Democracy and Good Governance (2001)** provides that “*no substantial modification should be made to electoral laws in the last six (6) months before an election*”, except with broad political consensus.

Completing reforms early helps INEC plan and prepare effectively, enables parties and candidates to organise under settled rules, and reduces last-minute disputes and litigation. Legal certainty strengthens electoral credibility - not by constant change, but by timely clarification followed by stability.

8. Key Takeaway

Nigeria's review of the Electoral Act after the 2023 general elections reflects a normal democratic practice: learning from experience to strengthen the legal framework governing elections.

The Electoral Bill 2025 aims to build on the strengths of the Electoral Act 2022 while addressing gaps revealed during its first full implementation. By clarifying how existing provisions should operate, reducing ambiguities that fuel litigation, and strengthening compliance mechanisms, legal reform can support more predictable and credible elections. However, the law alone cannot guarantee electoral integrity. Effective institutions, enforcement, accountability and responsible conduct by electoral actors remain essential.

For a detailed assessment of how the Electoral Act 2022 performed, including implementation challenges, gaps, and recommendations, see PLAC's publication, ***Assessing the Electoral Act 2022: Implementation and Gaps After the 2023 Elections***.

Available at: <https://placng.org/i/wp-content/uploads/2025/10/Assessing-Electoral-Act-2022-Implementation-and-Gaps-after-the-2023-Elections.pdf>



About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making process.

The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.

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