

## Inconclusive Elections In Nigerian Democracy: Causes And Cures

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### Abstract

The Nigerian quest for democratic consolidation has in recent time been facing serious challenge owing to the spate of inconclusive elections. This study is therefore a bold attempt to critically examine the causes and cures of the new political development in Nigeria. The study is anchored on Systems theory propounded by Von Bertalanffy (1956). Content analytical method was adopted wherein data for the study were generated from the secondary sources such as articles in reputable journals, newspapers, relevant legal instruments, etc. After careful data analysis, the study came up with the following findings among others - that the series of inconclusive elections recorded overtime is majorly blamed by the inability of politicians to play by the rule; the declaration of inconclusive election is usually based on INEC guidelines and that laws on electoral violence before, during and after elections have not been strictly enforced, hence the high incidence of unimaginable violence during each election period. On the basis of the foregoing revelations, we made efforts to recommend as follows – that the Constitution and the Electoral Act must have overriding powers on matters relating to elections; that there should be renewed effort on the strict enforcement of laws bordering on electoral violence which has been recognized as the bane of Nigerian democracy.

**Keywords:** *Democracy; Election; Inconclusive election; Electoral violence; Politics*

### Introduction

Since Nigeria returned to democratic rule in 1999, elections have been a regular feature in the polity. This is so because democracy according to Appadorai (1975), is the system of government under which the people exercise the governing power either directly or through representatives, periodically elected by themselves. In other words, democracy ensures involvement of people in their governance through election of their representatives. Election has been perceived generally as a formal process of decision-making which provides eligible electorates with ample opportunities to choose from among contestants who stand on various political platforms to vie for elective positions. It creates avenue for qualified voters to cast their votes to select suitable candidates who would be entrusted with the reins of government for the purpose of good governance. Elections became fashionable because direct democracy, which was practised in the then Greek City States, has become a near impossibility owing to population explosion.

The desire to guarantee free, fair and credible electoral processes necessitated the institution of Election Management Bodies. In Nigeria, there have been changes in the nomenclatures as well as the structures of the electoral commission. It was first known as the Federal Electoral Commission (FEC), Federal Electoral Commission (FEDECO), National Electoral Commission (NEC), National Electoral Commission of Nigeria (NECON), while the Independent National Electoral Commission (INEC) is the current electoral umpire that is charged with the onerous responsibility to ensure free, transparent, fair and credible elections in the country. It is noteworthy that INEC is the only electoral commission truly established to be independent from the stranglehold of any arm of government. That explains why it is emphasized by its name the **Independent** National Electoral Commission (INEC). This independence is to allow it free hand to conduct general elections that will be acceptable to all wherein true winners of elections could be returned.

In the performance of its constitutional role, the Independent National Electoral Commission (INEC) received widespread global condemnations, especially as it concerns its role in the conduct of both the general elections of 2003 and 2007, which were adjudged to be highly riddled with irregularities, violence and massive rigging. The enormity of the irregularities that characterized the electoral processes made the former President, Late Alhaji Umaru Yar' Adua to admit that the election that brought him into power was massively rigged. Fortunately, the 2011 and 2015 general elections conducted under the chairmanship of Prof. Attahiru Jega were perceived by both local and foreign observers to be relatively free, fair and credible thereby raising the hope and confidence of the Nigerians in the capacity of the electoral umpire to guarantee the popular choices of the masses who could be held accountable and responsive to their yearnings and aspirations. This is not to say that there were no pockets of violence and some other irregularities that usually feature in Nigerian elections.

Unfortunately, the successes recorded by the electoral body appear to be gradually giving way to an emerging strange trend –inconclusive election. Inconclusive election is a situation where no winners are returned after the conclusion of election exercise due to cancellation of substantial election results in some polling units. In most cases, such cancellations have been blamed on alleged violence and other sundry irregularities. What appeared to be the first inconclusive election recorded in Nigerian polity was the 12<sup>th</sup> June 1993 presidential election between MKO Abiola and Alhaji Bashir Tofa conducted by Prof. Humphrey Nwosu, then chairman of National Electoral Commission of Nigeria (NECON).

That election was generally adjudged to be the freest, fairest and credible election conducted in Nigeria. However, in the current democratic dispensation, the April 11, 2015 gubernatorial elections in Abia, Imo and Taraba States were declared inconclusive sequel to alleged political manipulations and unprecedented violence that greeted the election exercise. The ugly political development succeeded in adding supplementary poll to Nigerian political lexicon. On 21<sup>st</sup> October, 2015, President Muhammadu Buhari appointed Prof. Mahmood Yakubu to fill the big shoe left by Prof. Jega Attahiru. The expectations of Nigerians were high as we were basking in the euphoria of the commission's success at the 2015 elections. Moreso, there were pockets of several elections waiting to be held across the country and political watchers were keen to observe Mahmood's performance in the elections as Jega had become a cult figure. But contrary to people's expectations, the Kogi and Bayelsa States' gubernatorial and other elections conducted under the chairmanship of Mahmood were declared inconclusive thereby sending fears into the spines of average Nigerians on the capacity of INEC under the current leadership to conduct credible general elections across the country.

The concern on the lips of every average Nigerian has been, if the electoral body could not return winners in the just concluded staggered Kogi and Bayelsa States' elections on their first election days, what could be the fate of the general elections billed to hold across the country by 2019 and beyond? It is against this background that this study is carried out to examine the phenomenon of inconclusive elections in Nigerian democracy with a view to identifying the causes and proffering solutions to end the anomaly in our political system.

### **Conceptual Analysis**

A study of this magnitude cannot be complete without presenting in clear terms the major terms that form the foundations of the study. The concepts of interest to us include: democracy, politics, election, inconclusive election and electoral violence.

**Democracy:** Western democracy has its root in the Ancient Greek city states. In those days male adults met at designated places to collectively discuss and arrive at decisions. Succinctly put, policies emerge as a result of collective decision. Democracy, therefore, means the system of government that gives people ample opportunity to participate in the governance of their state. With population explosion, representative democracy is now fashionable and it is being adopted across countries of the world as military dictatorship is seen as an aberration.

Abbass (2008), conceives of democracy as a system of government elected by persons on periodic elections. In a more elaborate manner, democracy is seen as:

Meaningful and extensive competition among individuals and organized groups (especially political parties) for all positions of government power, at regular intervals and excluding the use of force; a highly inclusive level of political participation in the selection of leaders and policies, at least through regular elections, such that no major (adult) social group is excluded and a level of civil and political liberties, freedom of expression, freedom of the press, freedom to form and join organizations sufficient to ensure the integrity of political competition and participation (Diamond *et al* 1988, p. xvi).

The striking principle of democracy is the unrestricted liberty to people to effectively participate in the governance of all affairs that have direct bearing on them through periodic, free, fair and credible elections. It makes it possible for electorates to periodically make informed choices in the political recruitment of those to steer the ship of leadership in different positions in any given country.

**Politics:** Politics has been of interest to scholars and practitioners. This is due to the realization that politics as a phenomenon is concerned with the daily activities of men. As people go about their daily activities, as they interact with each other and in some situations agree or disagree on how they ought to live as well as how their leaders should be selected, they are involved in politics. Several definitions have been given by scholars based on their individual thoughts and perceptions. Examinations of some of those views will suffice here. Heywood (1997), defined politics as the activity through which people make, preserve and amend the general rules under which they live. His view likened politics to conflict and co-operation, arguing that the existence of different opinions, wants, competing needs and opposing interest give rise to disagreement over the rules under which people live. David Easton (1971), conceptualized politics as the authoritative allocation of values. From this viewpoint, politics is seen as encompassing all processes through which government respond to pressures from the polity as it concerns the allocation of rewards, benefits and penalties. To Nnoli (1986), politics is conceived as those activities which are directly or indirectly concerned with the seizure of state power, consolidation and the use of state power. This definition brings to the fore the essence of struggle in politics which is basically to acquire and utilize state power. Politics simply means the struggle to gain access to elective and appointive positions for the purpose of using state power to govern the people.

**Election:** Election paves way for eligible citizens to have a say in the governance of their country. This is made possible through casting of votes during periodic elections. Dye (2001), sees elections as a major instrument for recruitment of political leaders in any democratic society. It is strategic to effective participation of the citizenry in any democracy. To Heywood (2000), election is viewed as a device for filling an office or post through choices made by a designated body called electorates. Election, according to him, provides ample opportunity for eligible electorates to make choices as to the calibre and nature of people (contestants) to be chosen for the purpose of holding public offices in trust for the people. Elections provide avenues for qualified citizens to participate in the selection of those who run for various elective positions through casting their votes.

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

**Electoral Violence:** Violence is the illegitimate or unauthorized use of force to effect decision against the will or desires of others (Kolawole, 1988). Nwolise (2007), defined electoral violence as all forms of organized acts or threats— physical, psychological and structural geared towards intimidating, harming, blackmailing a political stakeholder before, during and after an election with a view to determining, delaying or otherwise influencing an electoral process. Simply put, it is the use of force or threat to intimidate, harass, coerce and influence electorates' choice before, during and after elections.

### **Theoretical Framework**

The study is anchored on Systems Theory propounded by Von Bertalanffy (1956). Systems theory is an interdisciplinary theory that is concerned with every system in the society and several scientific domains which places much premium on the understanding of a given phenomenon through adoption of a holistic approach (Capra, 1997). The main concern of systems thinking is a shift of attention from the part to the whole (Checkland, 1997; Jackson, 2003). Thus, systems theory places much emphasis on the relationships between parts themselves and the events they produce through their interactions because system elements are rationally connected (Luhmann, 1990). Put differently, the idea behind systems

theory is that we cannot fully understand a phenomenon by simply breaking it up into elementary parts and reforming it; rather we need to adopt a global vision to analyze its functioning. Therefore, for one to understand a phenomenon, although he can start from the analysis of the constituent parts but to fully comprehend the phenomenon he invariably has to take a holistic view or observe it from a higher level (Von Bertalanffy, 1968).

As pointed out earlier on, the fundamental assumption of systems theory is interactions. That explains why Von Bertalanffy (1956), sees a system as a complex of interacting elements. In other words, a system is composed of constituent parts which interact to function at optimal level. Any dysfunction of a part or more can have a considerable adverse effect on the whole system. In an open system, there are exchanges of energy, matter, information etc with the external environment. The system receives inputs/feedbacks from the environment which are processed in order to produce acceptable outputs.

The relevance of the theory to the study is that the conduct of free, fair and credible election is a shared responsibility among several critical institutions (election management body, security agencies, political parties, politicians, electorates, civil society organizations, etc). For any election to be free, fair and credible devoid of inconclusiveness, these critical stakeholders should be alive to their responsibilities. Any malfunction in any or combination of some of the stakeholders is capable of undermining the conduct of the election as desperate politicians or their thugs could cash in on the lapses to disrupt the elections. For instance, failure of security agents to enforce electoral laws before, during and after each election has been severally implicated for massive electoral violence that disrupt the election exercise, thus leading to cancellation of substantial election results. Moreso, desperation on the part of politicians to win elections at all cost have equally vitiated our collective effort to enthrone enduring democracy as violence has often been fingered as the main reason behind election results cancellation. Therefore, we could safely argue that inconclusive election stems from institutional failures on the part of any or a combination of critical stakeholders in the conduct of election exercises in the country.

### **Inconclusive Elections In Nigeria: Views On The Root Causes**

Opinions have been divided on the underlying reasons for inconclusive elections in Nigeria. On the one hand, the Nigerian election management body, INEC, more often than not, anchors the inconclusiveness of election results on cancellations of election results due mainly to electoral violence. There is no gain saying the fact that election-related violence

has become a major bane of politics in Nigeria. It has been working against our collective quest for sustainable democracy in the country.

The history of electoral violence is as old as Nigeria because at any point elections are conducted, there are usually tendencies for massive violence to trail the electoral processes. To buttress this point, Abbass (2008, p.2) captured the political situations of Nigeria during election periods in the following words:

Conflict ridden situations have historically featured in all elections conducted in Nigeria since the 1950s. Hence, issues surrounding the electioneering processes potentially related to violence and violation of the rights of individuals. Thus, rather than serve as a means and a process of exercising legitimate political rights, elections in Nigeria have since independence, turned out to be serious political liability, causing serious political turmoil and threatening the survival of corporate Nigeria.

Electoral contests in Nigeria have been perceived as a do or die affair. Ogefere (2015), stated that it has been claimed that more than 15,700 people have been killed in political related, inter-communal and sectarian violence since Nigeria returned to democratic rule in 1999. It has been argued that the spate of electoral violence has often been orchestrated by desperate politicians who are hell bent on securing electoral victories by all means at the polls. They, in an effort to attain their sordid objectives, deploy their thugs armed to the teeth with harmful weapons of mass destruction to intimidate, harass, coerce the electorates as well as disrupt the electoral processes. In extreme situations, lives and properties worth billions of Naira are maimed before, during and after the elections. It is most unfortunate that our security agents have been severally implicated to connive with political gladiators and the shameless thugs to disenfranchise electorates in a broad day light.

Ogefere (2015), while citing Human Rights Watch, revealed that election-related casualties and communal violence in the Northern part of Nigeria following the April 2011 Presidential elections resulted in over 800 deaths even when the poll was acclaimed to be one of the freest and fairest in the country. The point we are trying to emphasize here is that electoral violence before, during and after elections has been a regular feature in every democratic dispensation in the country. This menace has cost the country its hard earned democracy at different Republics. For instance, the first military intervention which abruptly ended the First Republic with Major Kaduna Nzeogwu's coup of 1966 was blamed majorly on the inability of politicians to keep to the rule of the game of politics (Ndoh, 1997). The Second Republic was not spared and the list is endless.

However, it was believed that the Kogi State governorship election could have returned the winner if not the avoidable political violence witnessed in the November 21, 2015 election that precipitated the cancellation of votes in 91 polling units out of the 2,400 polling units. The chief returning officer of the poll, Prof. Emmanuel Kucha while declaring the election inconclusive premised his actions on provisions of electoral guidelines arguing that the total number of cancelled votes exceeded the difference in vote between the two major candidates (Ibrahim, 2015). Specifically, Kucha said that the All Progressive Congress (APC) candidate, Prince Abubakar Audu got 240,867 votes while the incumbent governor, Idris Wada of Peoples Democratic Party (PDP) scored 199,514. The difference between the two major candidates was 41,353 votes while the total cancelled votes were 49,000 votes. A supplementary election was therefore scheduled to determine the true winner.

The case of Bayelsa State was not different either. A State, with only eight local government areas, was marred by unprecedented violence and sundry irregularities that necessitated cancellation of the result of the election in one local government area – Southern Ijaw. It is now abundantly clear that INEC declares elections inconclusive because of cancellations of results at the polls due to violence. According to the INEC chairman represented by the Director of Voter Education in the Commission, Mr. Oluwale Osaze Uzzy at one-day Civil Society/Stakeholders round-table on INEC and Inconclusive Elections, desperation of most politicians to win election is responsible for inconclusive elections in the country. He went further to state that elections are disrupted by way of violence, intimidation and bribery of poll officials and voters because the political class see election as a “do or die.” (Ugwuanyi, 2016).

It is noteworthy that section 128 of the Electoral Act states that “Any person who at an election acts or incites others in a disorderly manner commits an offence and shall be liable on conviction to a maximum of ₦500,000.00 or imprisonment for a term of 12 months or both.” It is instructive to note that in spite of the existence of this Act and other relevant laws; there has been no high profile prosecution and conviction for election violence or malpractices since the return of democracy in 1999, which is an indication of laxity in the enforcement of laws relating to electoral offences.

Furthermore, the problem is oftentimes compounded by the fact that security operatives charged with the task of providing security before, during and after the elections are usually overwhelmed by the hoodlums and miscreants. In addition, the security agents are poorly equipped so that they are always ill-prepared to tackle security threats as they rear

their ugly heads during the elections. In several occasions, the security agents have been accused of playing partisan politics during elections as they use force or coercion, intimidation, harassment, etc, to achieve the inordinate goal of their pay masters.

In addition, there are cases of fraudulent INEC officials who always connive with contestants to manipulate the election processes to the favour of their desperate masters. A case in point was the arrest of an INEC official by police in a recently conducted election with three different result sheets. Unfortunately, till this day, the official has not been prosecuted. There are other numerous cases of corruption among INEC officials in the discharge of their functions. As corollary to the above, there have been shortcomings in INEC technological voting materials. Whenever, the technological gadgets develop faults or inappropriately handled by inexperienced INEC staff, there are tendencies that desperate politicians could cash in on it to achieve their inordinate ambitions. In this situation, failure of security agents to save the situation could result in violence and other irregularities that could mar the conduct of the elections.

On the other hand, some concerned stakeholders hold the opinion that the main reason for cancellation of votes and consequent declaration of inconclusive results by Prof. Yakubu led INEC was to execute a hidden agenda from higher quarters which viciously did not want the declaration of a winner. To buttress this point, it was alleged that Yakubu Mahmood, the INEC boss, held a secret meeting with Buhari just days to the Kogi governorship election. This goes to suggest that he may have been acting a script handed down to him by the presidency. Be that as it may, inconclusive election has been gradually gaining momentum in the Nigerian political system and concerted efforts are required to bring such ugly political phenomenon to a halt not minding its root causes.

### **Inconclusive Elections And Constitutional Position In Nigeria**

As clearly stated earlier in our discourse, INEC has consistently hinged inconclusive elections on cancellation of election results at some polling units wherein the total number of cancelled votes is higher than the difference of vote between the leading contestants. INEC has oftentimes cited relevant provisions of its guidelines to back up her argument/position.

An investigation into the provisions of the 1999 Constitution of the Federal Republic of Nigeria as amended will be helpful at this point of our political development. Constitution as we all know is the fundamental law according to which a given country is governed. It provides for institutions of government and spells out the do's and don'ts and as well prescribes punishments in the event of breach of any of its provisions. In that respect, the

constitution has clearly made abundant provisions for how and the requirements to declare a person for the post of President or Governor winner after the polls. To that extent no other law can add or subtract from those requirements as provided by the grundnorm. This might have informed the National Assembly at section 69 of the Electoral Act to defer to the Constitution where it states inter alia: “In an election to the office of the President or Governor or, whether or not contested and in any contested election to any elective office, the results shall be ascertained by counting the votes cast for each candidate and subject to provisions of Sections 133, 134 and 179 of the Constitution, the candidate that receives the highest number of votes shall be declared elected by the appropriate returning officer.”

There seems to be no provisions either in the Constitution or Electoral Act where it is provided that where a certain number of votes are cancelled at the polling units or where election did not take place because it was deliberately made possible through violence, the returning officer should declare the elections inconclusive.

However, in giving explanation for the spate of inconclusive election, the INEC chairman stated that inconclusive election occurs when after polls; no candidate meets the condition precedent for the declaration of a winner of the election. He maintained that a candidate must satisfy all conditions stipulated by the law before he could be declared a winner, noting that he or she must satisfy all legal requirements; score the majority of lawful votes cast at the election in which all eligible voters have been given the opportunity to exercise their franchise and for executive positions, the stipulated spread in the constituency. He argued that doing otherwise would amount to a breach of the Constitution, the Electoral Act and fundamentals of democratic ethos. It could mean returning people as winners who have not scored the majority of lawful votes at the elections (Daily Nigeria News, June 18, 2016).

As sound as the above argument could appear, concerned citizens believed that the INEC guidelines have been the basis for the introduction of inconclusive election in the Nigerian political lexicon. The question that keeps agitating every political keen watcher is how did INEC arrive at the decision to base its actions on its own derivative guideline which is absolutely inferior to the Constitution that has sufficiently covered the subject and the Electoral Act that deferred to the same provisions of the Constitution? Although, people hold divergent views on the actions of INEC in declaring both Kogi and Bayelsa States' elections inconclusive, the fact remains that our Constitution and Electoral Acts should always serve as guiding compass on grey areas in our electoral process. Supposing the INEC maintained this

posture in the 2003 and 2007 general elections, the elections could have failed in returning winners as the polls were riddled with unprecedented violence and sundry irregularities. We should be quick to point out at this juncture that we are not encouraging violence and irregularities during elections rather we are trying to emphasize that our grundnorm and Electoral laws should supersede any other laws on matters bordering on our electoral processes so that the fast emerging culture of inconclusive elections could be nipped in the bud.

Our court system is there to entertain any case bordering on election-related matters. It has for the time being proven to be the last hope for the common man in terms of nullification/cancellation of elections conducted in breach of the electoral laws operational in the country. Better still, there should be establishment of electoral courts whose duty it should be to try and convict election-related cases in Nigeria.

### **Implications Of Inconclusive Elections On Nigerian Democracy**

The emerging inconclusive elections in Nigeria are not without some dangerous effects on her political system. However, the impact of the emerging trend will be discussed hereunder –

The frequent cancellations and subsequent reruns would confirm that the Nigerian electoral system is flawed and vulnerable to manipulations. This implies that it may be possible for wrong candidates to emerge and have access to state funds that could be easily looted before they are sacked through judicial pronouncements. To that extent good governance will continue to elude Nigerians as long as they do not elect those they considered qualified to run the state affairs.

Although some individuals hold the opinion that cancelled polls will sanitize the electoral system, the fact remains that reruns will come at higher costs to the nation and tax payers. The INEC will have to spend more funds to re-organize the polls. One could wonder the financial stress our country will bear especially now we are battling with severe economic recession and cash crunch.

Again, voters will be expected to file out again at the polling units against their wish. We should be mindful of the amount of mobilization and public enlightenment to get most of the voters to exercise their civic duties. There is no doubt that they would not be enthusiastic to go through the same rigours so soon again. The point being made is that many electorates will never vote again because of fears or simply because they do not want to wait in a long

queue. This circumstance could result in unpopular candidates emerging because the majority would have been induced to stay away from the election.

Also, the implication of the rerun predisposes that security agents have to return to the battle fields again for the purpose of ensuring protection of lives and properties in the affected areas. For locations where elections are matters of warfare, the circumstance could certainly overstretch the capacity of the security personnel, especially now that the security outfit is practically at war with Boko Haram in the North East.

The impact of inconclusive elections on the health of contestants could be tremendous. News about elections not being conclusive is capable of sending some candidates with chronic diseases to their early graves. The case of Prince Abubakar Audu who died moments after the INEC returning officer declared the election inconclusive is instructive here. This singular situation has thrown Kogi State and the country into constitutional crises as to how to get his replacement.

Inconclusive elections and supplementary have started eroding people's hope, trust and confidence in the electoral umpire. The institution is currently perceived as losing grip on the electoral processes as it is demonstrating poor capacity in conducting multiple elections in the country.

## **Conclusion/Recommendations**

Democracy as a system of governance has been helpful for popular participation of people in the determination of those who oversee the administration of their own country. It has been instrumental to holding public officers to account for them to be responsive to the yearnings and aspirations of the masses. Any attempt to rubbish our hard earned democratic rule through violence, irregularities and inconclusive elections should be discouraged through strict application of our Constitution and the Electoral Acts because our country cannot afford to slip into military dictatorship any more. Therefore, inconclusive and supplementary elections must be perceived as serious threat to our quest to enthrone a formidable democratic rule in the country, hence concerted efforts must be made to weed it off our political lexicon. It is therefore our avowed belief that the spate of inconclusive/supplementary elections would be drastically reduced or eliminated if the ensuing recommendations are strictly observed –

- 1 That the provision of the Constitution and Electoral Acts should supersede any other laws made in the land which border on the declaration of true winners of each election. The situation where elections are declared inconclusive on the basis of INEC guidelines should be discouraged forthwith.

- 2 There should be effective enforcement of electoral laws in the event of infraction. The 2010 Electoral Act as amended clearly specified penalties for election related offences.
- 3 Our security agencies should be conscientized on the need to play by the rule by ensuring that lives and properties of citizens are adequately protected before, during and after elections. The security outfit should desist from conniving with political gladiators to take actions that would be inimical to the conduct of free, fair and credible elections in the country.
- 4 The INEC in concert with security agencies should be proactive in the identification of areas with high security risks and devise effective security strategy to counteract it. This strategy if adopted will assist greatly to reduce the rate of electoral violence before, during and after elections.
- 5 The INEC should at all times maintain an impartial stance on election matters. Their body languages should not give the impression that they are working for a certain party either in power or out of power. They should try as much as possible to serve as unbiased referee in the course of their duties.
- 6 The INEC guideline should be amended in keeping with the Grundnorm and Electoral Acts as they are fundamental legal instruments with overriding powers on matters of national importance.

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