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**EXCLUSION OF INTERVENING EVENTS PERIOD IN
COMPUTATION OF TIME FOR DETERMINING
PRE-ELECTION MATTERS, ELECTION
PETITIONS, AND APPEALS:**

**AN ANALYSIS OF NIGERIA'S CONSTITUTIONAL
AMENDMENT BILL NO. 22, 2022**

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INTRODUCTION

The integrity and transparency of any democratic system hinge on the constitutional framework governing its electoral process. Over the past two decades¹ of Nigeria's Fourth Republic, the 1999 Constitution of the Federal Republic of Nigeria ("**Constitution**") has undergone numerous amendments to adapt to the evolving needs of the nation. Among these amendments, the fifth (5th) Alteration of the Constitution, Bill No. 22, 2022 ("**the Bill**"), signed into law by the former president of Nigeria, Muhammadu Buhari, on 17th March 2023, stands out. This Bill introduced a significant change² by excluding intervening events from the computation of time for determining pre-election matters, election petitions, and appeals arising therefrom. This

holds paramount importance in shaping the practice and procedures involved in conducting pre-election and election matters in the Nigerian electoral process.

Recognizing the need for continuous improvement in the adjudication of electoral matters in Nigeria, this article aims to provide an analysis of intervening events, the implications, and potential challenges brought forth by Bill No. 22, 2022.

THE JURISPRUDENCE ON ELECTORAL TIMELINES

A wealth of insightful judicial decisions emphasize that statutory timelines governing the initiation and conclusion of pre-election and election matters are highly rigid and inflexible. These decisions maintain that the time slot³ must be strictly adhered to, with no room for exceptions or extensions under any circumstances. In **CHINDA V. INEC & ORS**⁴ the court held that "*this matter along with election matters are sui-generis and fidelity to time slot is sine qua non to the*



¹The Fourth Republic took off on May 29, 1999 and Nigeria ever since then has held seven (7) general elections (1999, 2003, 2007, 2011, 2015, 2019 and 2023).

²The amendment introduces a new subsection (13A) to Section 285 of the Constitution.

³Section 285 (5), (6), (7), (9), (10), (11) and (12) of the Constitution provide timelines for pre-election and election matters.

⁴(2019) LPELR-47902(CA) (Pp. 9-11 paras. A)

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hearing of the matter. Considering the time constraint and rigidity introduced by the amended Section 285 of the 1999 Constitution, it is expected that Parties keep to time in filing their processes as the Court has no jurisdiction to extend time...”

For instance, Section 285(5) of the Constitution stipulates a 21-day period following the declaration of results for the filing of an election petition, which unequivocally means precisely 21 days. This requirement remains unchanged even if the 21st day falls on a public holiday or coincides with a day marked by natural disaster, war or state/national emergency. The rule is clear: parties must file within the stipulated time frame, or they forfeit the opportunity. A petition filed after the specified period may be subject to scrutiny and liable to dismissal. See **PDP V. OKOROCHA & ORS**⁵ where the court held that *“an election petition that is filed after 21 days from the date of the declaration of result is statute-barred and a fortiori incompetent.”*

The rigidity in complying with constitutional time frames for electoral matters was likened to immovable landmarks, such as the rock of Gibraltar and Mount Zion, by the apex court in the case of **ANPP V. GONI**.⁶ The basis for this position is widely echoed by the fact that election and pre-election matters are sui generis,⁷ signifying their unique, distinct, and exclusive nature. This uniqueness manifested the intention to expedite the resolution of pre-election matters and election petitions in both courts and tribunals, preventing proceedings from being prolonged by politically motivated litigants.

However, recognizing the challenges posed by this rigidity, the lawmakers amended Section 285 of the Constitution to introduce an exception that excludes intervening events or force majeure acts in the computation of time for electoral matters.

⁵(2012) LPELR-14187(CA) (Pp. 24-25 paras. B-B)

⁶(2012) LPELR-7830(SC) (Pp. 28-35 paras. C)

⁷Of its own kind.

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DEPARTURE FROM THE ESTABLISHED POSITION: EXCLUDING INTERVENING EVENTS

Intervening events, often referred to as intervening acts or *novus actus interveniens*,⁸ refer to “... some event occurring naturally which, if unforeseeable, breaks the chain of causation” (Oxford Reference).⁹ Put simply, intervening event is such act or event that breaks the causal connection between a wrong committed by the defendant and subsequent happenings which therefore relieves the defendant from responsibility for these happenings. The Bill, under **Clause 2**, explicitly elucidates the nature of such events. It provided that “*for the purpose of this section, where there is a natural disaster, war or any State or national emergency or any other “force majeure”¹⁰ that prevents the filing of a pre-election matter, election petition, sitting of a court over a pre-election matter or the sitting of an election petition tribunal or appellate court, the period of the natural disaster, war, State or national emergency or any other “force majeure” shall not be reckoned with in the computation of time under subsections (5), (6), (7), (9), (10), (11) and (12) of this Section*”.

This amendment represents a departure from the established legal position regarding rigid timelines for electoral matters and applies only in cases where natural disasters, wars, state or national emergencies, or other force majeure events occur within the stipulated timeline for performing a particular act related to the commencement and

determination of pre-election or election matters and appeals therefrom. The exclusion of intervening events in this context serves a crucial purpose and allows for the days of the intervening event(s) to be excluded in the time computation.

IMPLICATIONS OF THE AMENDMENT

Efficiency: The primary implication of this constitutional amendment is the enhancement of efficiency in the electoral dispute resolution process. By excluding intervening events from the computation of time, the Bill provides a buffer for unforeseen circumstances that could hinder the timely filing and determination of pre-election matters or election petitions. This ensures that aggrieved parties have a reasonable opportunity to seek redress within the prescribed legal timelines.

Fairness and Justice: The Bill promotes fairness and justice by recognizing that natural disasters, wars, emergencies, or other force majeure events are beyond the control of litigants. It prevents these events from unfairly curtailing the rights of aggrieved parties to access the legal system and present their cases before the appropriate judicial bodies.


POTENTIAL CHALLENGES

While the importance of rigid timelines is undeniable, the exclusion of intervening events or force majeure acts can pose significant challenges. The scope of “natural

⁸This is a latin maxim that means new intervening act (or cause).

⁹Intervening act - Oxford Reference <https://www.oxfordreference.com/display/10.1093/acref/9780195557558.001.0001/acref-9780195557558-e-1800>. Accessed on 7th September 2023.

¹⁰It is a French term that literally means a superior or irresistible power. It is used in the legal system to refer to natural and unavoidable catastrophes that interrupt the expected course of events and to protect the parties in the event duties cannot be performed due to causes outside their control.



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disaster” and “any other force majeure” is susceptible to multiple interpretations, which mischievous litigants or politicians may exploit to their advantage. Force majeure acts include events beyond human control that make it impossible to fulfill an obligation and may accommodate widespread violence, protests, public unrest and the destruction of courts/tribunals, among others.

It is crucial to recognize that politicians are skilled at navigating legal complexities and may intentionally create or exacerbate crises to disrupt the electoral process, knowing that the timelines will work in their favour. Such manipulation threatens the integrity of the electoral judicial system and undermines the purpose of rigid adherence to timelines for electoral matters. The successful implementation of the amendment will require careful consideration of potential challenges and the development of clear guidelines to ensure its fair and equitable application. In doing so, Nigeria can continue to strengthen its democratic foundation and uphold the principles of free and fair elections.

CONCLUSION

The amendment represents a significant step in reforming the adjudication of electoral matters in Nigeria. By excluding intervening events from the computation of time, it aims to promote efficiency, fairness, and justice in the electoral dispute resolution

process. However, while we appreciate the positive aspect of introducing the exclusion of intervening events and/or force majeure, it is crucial to strike a balance between strict adherence to timelines and upholding fairness and justice in electoral matters. To achieve this equilibrium, it is advisable to specify natural disasters, emergencies, and force majeure events rather than keeping them in a broad and general context. This specificity will help prevent malicious interpretations and ensure the integrity of the electoral process.

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