

Examination of electoral process and standards: Nigerian perspective

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Resumen: La integridad de los procesos electorales es fundamental para el mantenimiento de la democracia. Sin embargo, en Nigeria, la credibilidad de las elecciones se ha visto frecuentemente empañada por irregularidades, violencia y debilidades institucionales. El artículo examina el proceso y los estándares electorales en Nigeria, centrándose en el marco legal, los mecanismos institucionales y las tendencias históricas que influyen en los resultados electorales. Mediante el análisis de elecciones pasadas, las reformas y el papel de la Comisión Electoral Nacional Independiente (INEC), destaca los desafíos persistentes y evalúa el grado de adecuación de los procesos electorales a los estándares democráticos internacionalmente reconocidos. Los hallazgos subrayan la necesidad de mayor transparencia, educación electoral y reformas sistémicas para fortalecer la gobernanza democrática en Nigeria.

Palabras clave: Sistemas Electorales / Proceso electoral / Conservación del acto electoral / Reformas electorales / Observaciones electorales / Transparencia / Nigeria.

Abstract: The integrity of electoral processes is fundamental to the sustenance of democracy. Nevertheless, in Nigeria, the credibility of elections has often been marred by irregularities, violence, and institutional weaknesses. This study examines the electoral process and standards in Nigeria, focusing on the legal framework, institutional mechanisms, and historical trends shaping electoral outcomes. By analyzing past elections, reforms, and the role of the Independent National Electoral Commission (INEC), this research highlights the persistent challenges and evaluates the extent to which Nigeria's electoral processes align with internationally recognized democratic standards. The findings highlight the need for enhanced transparency, electoral education, and systemic reform to strengthen democratic governance in Nigeria.

Key Words: Electoral Systems / Electoral Process / Preservation of the Electoral Act / Electoral reforms / Electoral observations / Transparency / Nigeria.

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1. INTRODUCTION

Elections represent the cornerstone of democratic governance, providing a mechanism through which citizens exercise their political rights and influence government decisions (Adebayo, 2021). In Nigeria, elections are not only a vital part of the political landscape but also a barometer of democratic maturity and institutional integrity (EU EOM, 2023). Despite the return to democratic rule in 1999 after years of military dictatorship, the Nigerian electoral system has consistently struggled with credibility issues, including electoral malpractice, voter suppression, political violence, and weak enforcement of electoral laws (Ibrahim, 2009).

This paper seeks to examine the Nigerian electoral process with a view to evaluating its effectiveness, transparency, and compliance with international standards. It critically reviews the role of institutions such as the Independent National Electoral Commission (INEC), the judiciary, political parties, and security agencies. In doing so, it explores how historical, social, and political dynamics influence electoral behavior and outcomes in Nigeria (Independent National Electoral Commission, 2022).

Nigeria, Africa's most populous nation, has had a tumultuous electoral history marked by repeated transitions between civilian and military rule. Since gaining independence in 1960, the country has conducted several general elections, many of which were either annulled or heavily contested due to widespread irregularities (Omotola, 2010). The 1999 general elections marked a significant turning point as Nigeria transitioned back to civilian rule, initiating the Fourth Republic (Independent National Electoral Commission, 2023).

The legal framework governing Nigeria's elections is primarily enshrined in the 1999 Constitution (as amended) and the Electoral Act, which outlines the roles, responsibilities, and powers of INEC. While these legal instruments provide a foundation for democratic elections, their implementation has often been undermined by corruption, political interference, logistical challenges, and limited civic engagement (International Crisis Group, 2019).

International observers and domestic monitoring groups have consistently raised concerns about the credibility of Nigeria's elections. Reports highlight issues such as vote-buying, underage voting, result manipulation, and

violence as recurring challenges (Nwosu, 2018). Although recent reforms, such as the use of biometric voter registration and electronic result transmission, represent progress, substantial gaps remain in aligning Nigeria's electoral process with global best practices (Yagboyaju y Akinola, 2019).

2. ELECTION OBSERVATION AND MONITORING

Ordinarily, elections in various countries are the internal affairs of such countries. No other country or international organizations have rights to interfere in the internal affairs of another country's elections or electoral processes. This is because sovereignty resides and belongs to the people of that particular country and the country itself is a sovereign state. However, the above assertion notwithstanding, it is submitted that the world has become a global village, therefore, incredible and unfair elections in one country could adversely affect other countries and this has orchestrated global concerns. It is against this background that one can safely say that elections are no more the sole business of a country but has become the business of the international community, and this is where the internationalization of elections might come to play in spite of the sovereign nature of every state. The question is if sovereignty of the state is supreme and absolute why would international Communities or organizations be allowed to monitor elections in other countries? One would reason that elections, like trades are no more limited to a country. It has degenerated into a global affairs and this is good for democracy as it tends to ordinarily reduce malpractices and electoral frauds across the universe.

Election observation could be traced to 1857 in Moldavia¹ sequel to the UN mandate to maintain peace and security. Series of UN agencies have been involved in election observation activities the world over. This is done before, during and even after the elections, all in a bid to enthrone and strengthen democracy and ensure participation by the citizenry. Election observers are permitted to observe proceedings but not to campaign or otherwise participate in voting. Impartial, credible election observers play a key role in shaping perceptions about the quality and legitimacy of electoral processes. The presence of domestic and international election observers in the evolving

¹ See B. Gray and T. Laanela, International Election Observation (2002), cited in P. O. Okonkwo, (n. 1), 151.

democracies tends to bring credibility and legitimacy to the election process being observed and serves to deter overt acts of electoral fraud, especially during the elections (IDEA, 2001). An observer merely observes the activities surrounding an election even from registration to the election proper and after the election.

Election monitoring is more tasking because the monitors have a role to play in determining the outcome of an election (Hughes y May, 1988). The reports and recommendations of accredited election monitors goes a long way to determining the resultant effect or outcome of an election especially in the election petition tribunals or Courts as it concern pre-election and post-election matters. Such reports from both the monitors and observers are cogent and verifiable evidence in Courts and tribunals saddled with the responsibility of determining the outcome of an election if challenged. Therefore, the reports of election monitors are very important as they form part of the evidence to be considered by election tribunals or Courts in determining the matters before such Courts subject however to accreditation criteria of the country.

Election observers and monitors must be accredited or invited by the electoral body in a particular country. In January, 2023, the Independent National Electoral Commission (INEC) accredited 171 domestic observers, 18 foreign observers, and 4 international organizations were invited by the commission, including African Union (AU), Commonwealth, ECOWAS and European Union (EU) to monitor the 2023 general elections in Nigeria (This Day, 2023). Election observation and monitoring is non-partisan and inter-governmental and non-governmental (Hayde and Marinov, 2012). In Nigeria, election observers and monitors are insufficient to man or monitor the activities of the electoral commission, voters and political parties, considering the verse landmass and population of the country (Cornel University, 1989). Less than 40 percent of the electoral activities carried out in the country are observed or monitored sequel to the large nature of the country. Every election year, it is one form of electoral malpractice and another. Many of the activities are not reported because of the insecurity in the country (European Union Election, 2019). The hinterlands and remote areas are abandoned by the observers and monitors for fear of being maimed, kidnapped and abducted or any form of criminality being orchestrated by errant bandits and hoodlums. One may consider or venture to say that election monitoring and observation in Nigeria is a mirage as it has yielded

no positive result since its inception. This notwithstanding, election monitoring and observation remain a focal point in international electoral standards and it must be encouraged. The rights and responsibility of election observers has been enshrined in two declarations acknowledged by the United Nations as a Declaration of principles for international election observation and Code of conduct for international election observers of the 2005 and Declaration of global principles for non-partisan election observation and monitoring by citizen Organization (DOGP) of the 2010 (National Democratic Institute, 2023).

It is so disheartening that even when the EU observers stated that the 2007 general elections in Nigeria was marred with irregularities, and openly acknowledged by the then President of Nigeria, Yar'Adua, the Court of Appeal as the Court of first instance in the Presidential election and the Apex Court upheld the election of Musa Yar'Adua (Omotola, 2010).

The citizens have rights to participate in the governance and public affairs of their countries and as such, citizens have such rights to observe and monitor elections in their various countries in order to strengthen good governance and democracy. Elections must not only be free, fair and credible, it must also be seen to be free, fair and credible. The rights of election monitors and observers include: right to participate in their country's political process in the case of domestic observers, right to security; right to co-operation; right to access and information to governmental affairs, association and others. Their responsibilities include: to remain neutral, co-operate, be impartial, practical, maintain integrity, corruption free and be constructive. Election observation and monitoring have some goals to achieve. Some of these goals are: to involve the citizens of a country to participate in the democratic processes; to expose electoral fraud and irregularities; to promote confidence and provide recommendations for improving the electoral and democratic processes and standards in the polity (National Democratic Institute, s. f.). Observers and monitors also ensure that there is integrity in elections, encourage citizens participation in elections, advocacy and foster governmental accountability within and well beyond the election cycle. International election observers are saddled with the responsibility of examining an election and ascertaining whether it conform to international standards and highlight specific recommendations for improvement; demonstrate the support of the international community for genuine

democratic elections. It can equally orchestrate public confidence in an election².

The will of the people shall be the basis of the authority of government and such will, shall be expressed in periodic elections. The basis of maintaining international standards is to ensure that the people fully and genuinely participate in the election of their representatives. Votes must count and all the sections of the results must be seen; elections must be free and voters must be allowed to make their choices without coercion and electoral bodies must be impartial and unbiased umpires; political parties must be allowed to carry out campaigns with a view to showcasing their manifestoes to the people; it is the responsibility of the government of the day to endeavour to provide an enabling environment for the participation of the candidates and political parties. Security apparatus must be available to foster peace and an election must be rancor free and non-discriminatory. Fair and just criteria for elections must equally be put in place. One would reason that international standard is somewhat elusive bearing in mind that states are sovereign. A state is bound by its constitution and not international laws which may not be enforceable. Suffice to submit however, that the world is now a global village, and no one state can survive independently without another. Again, it must be noted that elections have been made a subject of international scrutiny and control. Therefore, it is no longer a particular country's affair but it cut across the globe in order to enthrone global peace. Meanwhile, it should be noted that globalization and internationalization of elections is now the new order. Thus, Hart posited that:

One of the most persistent sources of perplexity about the obligatory character of international law has been the difficulty felt in accepting or explaining the fact that a state which is sovereign may also be 'bound' by, or has an obligation under international law. This form of skepticism is, in a sense, more extreme than the objection that international law is not binding because it lacks sanctions for whereas that would be met if one day international law were reinforced by

² See the Declaration of Principle for International Election Observation, developed in a multi-organization process initiated by the United National Electoral Assistance Division, NDI and the United Nations in 2005, which has been formally endorsed by more than 45 of the leading International Observation Organizations and Recognized with appreciation by the UN General Assembly. The Goals of Electoral International Standards.

a system of sanctions, the present objection is based on a racial inconsistency, said or felt to exist, in the conception of a state which is at once sovereign and subject to law. (1961, p. 220).

The truth of the matter is that sovereignty of a state is not absolute as a state or country needs the support of others for its survival and co-existence, growth and economic sustainability. International best practices in electoral processes would be encouraged to enhance unity, inclusiveness and socio-economic growth. The choice of electoral process in a country is the bedrock of such country's democratic processes. It is incumbent on a particular country to choose a standard and effective electoral process bearing in mind the instruments discussed above in order to enthrone growth and positive tendencies in her electoral processes. Although, there is no known acceptable electoral process the world over, a country's choice of a process should be able to accentuate the country's needs, programmes and policies. International electoral standard is very germane because it encourages global peace, unity, equity and international best practices. It has been argued that going by the U.S Supreme Court decision in *South v Peters* (1950), where the Federal District Court was held to be right in dismissing the case which challenged the election in Georgia's county unit for being in contravention of the 14th and 17th Amendments to the U.S constitution. The question is whether going by this decision, a foreign nation can dabble into the political affairs of another state?

3. ELECTORAL PROCESSES IN NIGERIA

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) states that:

The constitution and rules of a political parties shall provide for the periodical election on a democratic basis of the principal officers and members of the executive committee or other governing body of the political party and ensure that the members of the executive committee or other governing body of the political party reflect the federal character of Nigeria. (Art. 223 y 224)

The programme as well as the aim and object of a political party shall conform to the provisions of chapter II of the constitution. Chapter II bothers on fundamental objectives and directive principles of state policy. It states

that “The Federal Republic of Nigeria shall be a state based on the principles of democracy and social justice” (art. 14). And sovereignty belongs to the people of Nigeria from whom government through the constitution derives its powers and authority. The National Assembly may by law provide guidelines and rules to ensure internal democracy within political parties including making laws for the conduct of the party primaries, party congresses and party convention. The National Assembly may equally confer such powers to the Independent National Electoral Commission enabling the commission to ensure that political parties observe the practices of internal democracy, including fair and transparent conduct of party primaries, party conferences and conventions (Ibrahim and Egwu, 2016). From the foregoing, it is crystal clear that elections and electoral processes are governed by the constitution and other statutory provisions.

The Electoral Act, Section 14 provides that the Independent Electoral Commission (INEC) shall compile, maintain and update, on a continuous basis, a National Register of voters which shall include the names of all persons entitled to vote in Federal, State, Local government or Federal Capital Territory Area Council elections and with disability status disaggregated by type of disability (Section 288). The Act also stated that the Registration of voters, updating and revision of the Register of voters shall stop not later than 90 days before any election covered by the Act (Section 9). Notwithstanding this, the Act stated that there shall be continuous registration of all persons qualified to be registered voters (Section 9). For the purpose of maintaining and updating the voters’ register, the Act provides that the Independent Electoral Commission shall appoint such registration, revision or update officers as it may require, provided that such officers shall not be members of any political party.

A person shall be qualified to be registered as a voter if such a person:

- a) is a citizen of Nigeria;
- b) has attained the age of 18 years;
- c) is ordinarily resident, works in, originates from the Local Government Area Council or ward covered by the registration centre;
- d) presents himself to the registration officers of the commission for registration as a voter; and
- e) is not subject to any legal incapacity to vote under any law, rule or regulations in force in Nigeria (Section 12).

Again, a person who before the election is resident in a constituency other than the one in which he or she was registered may apply to the Resident Electoral Commissioner of the state where he or she is currently resident for his or her name to be entered on the Transferred Voters' List for the constituency (Electoral Act, Section 3). In the event of emergency affecting an election, the commission shall as far as practicable, ensure that persons displaced as a result of emergency are not disenfranchised while voting shall be by open secret ballot. The Electoral Act was amended in 2022 to facilitate the 2023 elections and to bring inclusiveness and international standard even though there is no one recipe for elections the world over. The truth is that there is no perfect electoral process anywhere in the universe. Some hindrances, such as corruption, insecurity, illiteracy, poverty, greed, inadequate extant democracy, are the bane of elections in some countries especially the Sub-Saharan Africa.

The challenges abound in Nigeria as there are a whole lot of people with disabilities. It was revealed by Arise Television (2023) that Albinism in Nigeria has a population of 21,150 (24,5%); physical impediment – 13,387 (15,7%); autism – 3,481 (4,1%); down syndrome – 660 (0,8%); blindness – 8,103 (9,5%); little stature -2,288 (2,77%); Cognitive Learning Disa – 1,719 (2%); Spinal cord injury -779 (0,99%); deafness – 6,159 (7,2%); others – 27,636 (32,4%). The question that is begging for answer is whether the Independent National Electoral Commission (INEC) has made provisions for the above persons with disabilities and others to participate in the election bearing in mind their disabilities in order to cushion the effect of disenfranchisement?

Again, Nigerian politicians have not exhibited maturity in their campaigns. Aspirants in their campaigns exhibit animosity and hatred forgetting that politics is a game and that there is always a winner and a loser. Name calling, personality attacks, violence, vote buying and selling, imposition of candidates by the so-called leaders, insecurity, distrust and inducement are some of the impediments to periodic elections in Nigeria. Thus, in *Abubakar v Yar'Adua*, Tobi JSC stated that:

One last word – politics as it is played in Nigeria leaves much to be desired. There is so much acrimony, bitterness and violence. Nigerians play politics as if they are in a battle field. It is not so. I do not agree that politics is a dirty game. It is a decent game; only some Nigerians

make it dirty. The problem in Nigeria is the gain from it. I will suggest that politics should be made less attractive. If that is done, there will be less fight, acrimony and bitterness. In years back, the fight in politics was within, in the sense that only the players of the game were involved. In more recent times, they have involved the judiciary. Nigerian judges are called all sorts of names by litigants. They are suspected for the slightest action. Parties do not seem to believe that judges can dispense justice in the light of the law alone. The insults are getting too much. Some of us have always taken the matter as one of occupational hazards. It is gone beyond that and that is very worrying. In administration of justice, somebody must be trusted. Why not the judges...? (Supreme Court Nigeria, 2008)

Rather than engage in issue based campaigns, Nigerian politicians, their political parties and allies, resort to personality attacks and character assassination against one another. It is submitted that politicians should campaign vigorously by propagating their manifestoes and political ideologies to the electorates rather than engage in name calling and character assassination.

Nigeria is Africa's largest democracy and 5th largest in the world, and also Nigeria and Nigerians are highly esteemed by the USA, no wonder the US is interested in Nigeria's general elections (Abuya, 2023). The introduction of Bimodal Voters Accreditation System (BIVAS), e-voting and transmission of results electronically, assistance to voters with disabilities (Electoral Act, Section 54); redefining over voting to the effect that where the votes cast at an election in any polling unit exceeds the number of accredited voters in that polling unit; the presiding officer shall cancel the result (Electoral Act, Section 51), review of election results declared under duress (Electoral Act, Section 65); provision for early campaigns etc. (Electoral Act, Section 92), are some of the innovations introduced into the electoral process by the Nigerian Electoral Act, 2022 (as amended) probably to pursue international standards in elections. In spite of all these innovations international standards in electoral process remains a myth in Nigeria.

Elections must be conducted within the ambit of the constitution of the land, which is the ground norm, Electoral laws and the rule of law. Violation of the people's rights as enshrined in any law, charter, conventions, etc., which Nigeria is a signatory by virtue of the provision of the constitution is an affront against the people or electorates³. In *All Nigeria People's Party (ANPP) and 2 Ors v Benue State Independent Electoral Commission & 5 Ors*. It was stated that:

The Nigeria Constitution is founded on the rule of law, the primary meaning of which is that everything must be done according to law. It means also that the government should be conducted within the framework of recognized rules and principles which restrict discretion of power which Coke colourfully spoke of as golden and laws as opposed to the uncertain and crooked cord of discretion. (Court of Appeal Nigeria, 2005)

Another issue bedeviling elections in Nigeria is the way and manner the various state electoral bodies controlled by the various state Governors in the country carry out their functions. Rather than conduct democratic elections where aspirants of the various political parties are given fair treatment, the state electoral bodies handpicks candidates of the Governors who appointed them as chairmen and councilors in various local government areas of the states in the country. This is an indication that no opposition party member can win as chairman or councilor of a local government or ward. What a shame to the various state electoral bodies. It must be reiterated that the Independent National Electoral Commission (INEC) could have as well do what the state electoral bodies are orchestrating in Nigeria. The 1999 Constitution guaranteed the system of local government by democratically elected local government councils, yet the state governors have become thin gods towards the administration of the local government system⁴. Again, some state governors appoint caretaker committees to run the affairs of the local government area councils instead of the democratically elected governments prescribed by the constitution⁵.

³ See section 12 Constitution Federal Republic Nigeria.

⁴ See section.7 Constitution Federal Republic Nigeria.

⁵ Governor Obiano and Soludo of Anambra State of Nigeria did not organize local government elections for a long period. Instead local government administration in Anambra State was by caretaker committee. This is unknown to law and it goes a long way to showing how state governors display their impunity in governance in Nigeria.

The Supreme Court of Nigeria had voided a law enacted by Ekiti State House of Assembly over the dissolution of 16 elected local government council executives. The Court held that Section 23(b) of the law which empowers the governor to terminate the tenure of elected local government executive powers is contrary to Section 7 of the Constitution and it is unconstitutional⁶. Despite election matters being *sui generis* in nature, the constitutional issues of fair hearing as enshrined in the constitution is a condition precedent for the determination of election petitions⁷. Again, the difficulties associated with proving an election malpractice which is criminal in nature is not an easy task to come by and this renders many petitions illusory as proof is beyond reasonable doubt⁸.

4. RECOMMENDATIONS

Having explicitly adumbrated the issues above, this work advanced the following recommendations:

- a. The UN and other international organizations should as a matter of necessity make, review and strengthen the guidelines for international electoral processes and standards and make same mandatory for countries that are signatories to the organizations irrespective of the sovereignty of those countries.
- b. There should be established electoral offences tribunal or Court manned by academics and non-partisan individuals with proven record, saddled with the responsibility of adjudicating on electoral offences and related matters, and electoral offenders should be adequately punished.
- c. A reasonable number of impartial media practitioners, election observers and monitors should be freely allowed and made mandatory to monitor, observe and report election activities in all parts of the country and across the globe before, during and after elections and their reports and recommendations should and must be implemented by the international community by way of economic and political sanctions.

⁶ See, *Ekiti State & Anor v Mr. M.A. Jegede* (2013) LPELR – 21131

⁷ *Paul Unongo v Aper Aku & Ors* (1983) 1 SCNLR 1 and *Ariori v Elemo* (1983) 1 SCNLR 1

⁸ *Muhammadu Buhari v INEC & 4 Ors* (2008) 12 SCN J (Pt. 1)1

- d. The appointment of electoral umpires in every democratic setting should be done by the representatives of the people in the National Assembly and in consultation with the people in every constituency or senatorial zone and not the executive or the government in power.

5. CONCLUSION

This work has x-rayed the importance of strengthening and expanding democracy across the universe. Inclusiveness, free will of the people, best practices in democratic settings have become very imperative in order to promote international peace, tranquility and socio-economic growth in a country and the world over. It is worthy of note that political imbroglio arising from bad political and electoral processes and standards which has fallen short of international best practices has culminated in series of bad governance in sub-Saharan Africa and other parts of the globe. The guidelines for international electoral standards are equitable, fair and just calculus which should be embraced or reckoned with in determining international standards as it propagates fairness and participation by the people. A country that lacks international electoral standards is not demonstrating inclusiveness in its affairs thus such country cannot achieve innovations that drives competition, productivity, growth and an egalitarian society. There is no gainsaying the fact that a country's electoral system goes a long way to adversely or positively affecting her socio-economic and political advancement. Again, the implementation and enforcement of the instruments and international standards matters a lot. Therefore, it is not enough to have the laws and instruments in place but it is necessary to implement them genuinely. When this is done, the people rejoice and peace and tranquility would become the order of the day.

It is submitted that international standards are catalyst for a country's legal framework for elections and these standards should be used as a template to ensure that there is no discrimination against the citizenry of a country in terms of gender, race and any form of disabilities or discrimination. This notwithstanding, international standards in electoral processes are not foisted on any country but it is very necessary that a country should strive to uphold a standard that would be acceptable to the international community. The rationale behind this is to enthrone peace and avoid acrimony across the globe and to reckon with other countries in the comity of nations. Again, it should be noted that a country's standard must be

improved and be updated to meet the standard required in the comity of nations no matter the situation in that country. Each country no doubt has its peculiar problems but transparency, credibility and fairness must be achieved in a country's electoral system and standard. The provision of the constitution, electoral laws and international best practices must be complied with during period elections and such laws must conform to international best practices and modern day realities. In all, the express will of the people without any form of inducement, bribery and coercion should be upheld from the primary elections till after the elections as this determines democracy and international electoral standard. Overall, it is concluded that elections in a particular country is no longer the internal affairs of that country alone but it has become the affairs of the international community akin to the fact that the outcome of elections in a country goes a long way to adversely affecting other countries. The reason is that no country that deserves economic growth can live in isolation from others. The interest of the international communities in elections cannot in any way be over-emphasized as poor electoral processes can make or mar a country since it can go a long way to destabilizing other countries economically. Finally, it must be borne in mind that political awareness across the globe has grown tremendously and there is therefore the need for a paradigm shift from their attitude towards toward imposition of candidates, impunity, coercion, partiality, winners take it all and other forms of political wrangling.

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