

A CALL FOR A POSITIVE ELECTORAL SYSTEM FOR THE PROTECTION OF THE RIGHTS OF VOTERS, MINORITIES AND PUBLIC ACCOUNTABILITY IN NIGERIA DEMOCRACY*

Abstract

One of the cardinal achievements of any nation is the principle of democracy which is the architect of a free and fair election. No nation can move forward where democracy and rule of law are lacking. In Nigeria for example, there have been series of elections dating back to colonial days up to the present time. In order to ensure that there is a positive electoral system for example in the country Nigeria, protection of the rights of the electorates, minorities and public accountability must be watchword of the government. This is because where these are undermined they became attack on rule of law and democracy. This paper aimed at ensuring that there should be adequate protection of the rights of voters. For this purpose, the paper adopted a doctrinal research method. Findings were revealed on the challenge to the protection of voters, minorities to wit; election violence, vote buying, bullying among others. The above necessitated recommendations to the effect that adequate protections should be available to voters, minorities and equally, there should be public accountability in our democratic process. The paper concluded that if all these views and recommendations are put into practice, Nigeria democracy or electoral system will be one of the best which would be emulated by other parts of the world.

Keywords: Constitution, minorities, electoral system, right of voters, public accountability, Nigeria

1. Introduction

The most visible manifestation of a democracy system in any nation is the electoral process whereby the people participate in the selection of those who will handle the affairs of the nation. In any political system, traditional or modernized electoral system plays a significant role in the political life of the citizens. It is an instrument used in determination of changes in the leadership positions of all levels of political organogram and authority in a political system, especially in a democratic political system. Precisely, it is a mechanism for making political choices in a political system. Electoral system is human oriented and human based. It exists where there is a concentration of human being because government and governance are facts of collaborative human existence. Since democracy as a concept of collective welfare of citizens and social mobilization, there is a systematic leadership between electoral system and democracy in their responses to environment stimuli.

In a well structured political system in which cognitive orientation of citizens is high, citizen-participation in electoral process is likely to square with basic principle of democracy. In a traditional political system, electoral system is also in existence though in a rudimentary form. Similarly, in modern political system, democratic essence is discernable but it is essentially people based, not people oriented. This work discusses how best to evolve a pattered positive electoral system that can be of help. This is aimed at protecting the rights of voters, minorities and public accountability with particular reference to the electoral system that the 1999 constitution provides.

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2. Election

Election as an expression is a word that emanated from Latin expressions “*eligere*” which implies to “pick out”. This implies that election is the process of picking out one’s preferred candidates.¹ It is equally regarded as “decision-making process by which the electorate chooses an individual to hold public office². It is also seen as “an established way through which members of a community, society are allowed to choose representatives to control the government.³ “Elections” can equally be viewed as “critical aspect of democratic framework for governing modern political societies.⁴ In another related development, ‘Elections’ are; the procedures typical for democratic systems, but also systems which do not respect the principle of democracy often imply them.⁵

In Nigerian position, the expression could be seen as the way of choosing representatives to political positions in the Federal, State and Local Government. Election is a process where people vote in order to elect someone in a political position.⁶ Schumper⁷ posits that “Election” is an: Institutional arrangement for arriving at political legislative and administrative decision, it is a method by which the individual acquires the power to participate in decision by means of a competitive struggle for the people’s votes.

In another broader analysis, Onyemu⁸ went further to explain more on “election” by stating that it is:

The critical aspect of the democratic framework for governing modern political societies. They serve as instrument of political choice, mobilization and accountability. In the context of liberal democracy, that has become the most popular form of democracy in the modern world, elections are to civilian administration to the other as we about to experience in 2015, and it also helps in legitimizing sitting governments. In a democratic system where elections are devoid of crisis, long term disputes or political violence are amicably resolved.

Also, in the words of Yusuf Isma’ila and Zaheruddin⁹ Othman “Election means the following “in a democracy is very important because it is a medium through which that the expression of the people are shown via legitimacy and leadership succession”. Diskerson¹⁰ posits that “Election” is post mortem that investigate the record of office holders whose actual performance may have little to do with promises made when they were previously elected.

¹ Kofa study, “What is Election, “(www.document), (n.d), available at <https://www.kofa-study.com/course/1jss3civi-educaiton-3rd-term/lesson/election-and-election-bodies-in-nigeria-week-//topic/definition-of-election-1>.

² Ibid.

³ Ibid.

⁴ OC Onyemu < ‘The Quest for Democratic Sustenance in Nigeria; the Role of Police Force’ in *IOST Journal of Humanities and Social Science* vol. 20, issues1, ver. Iv (journal of democratic sustenance in Nigerian: Role of the Police (www. Document), available at www.iosrjournals.org. 134, accessed on 3/1/2023

⁵ W Weitask ‘Function of Election” in Democratic System’, www.document, (2013), available at pdf functions of election <http://www.research-gate.net>, 25.

⁶ Rofa Study, note 1.

⁷ JA Schumper, *Capitalism, Socialism and Democracy*, (London: Routledge, 1942). In .O.C. Onyepueme, O

⁸ OC Onyepueme, Ibid.

⁹ Y Isma’ila and Z. Othman, “Challenges of electoral process in Nigeria’s quest for Democratic Governance in the Fourth Republic, (www.document), (2015), available at, www. Listed.org, accessed on 28/12/2023; IY Isma’ila and Z Othman, Challenges of Electoral Processes’ in Nigeria’s Quest for Democratic Governance in the fourth republic, (www.document, (2015), available online at www.liste.org at *Research on Humanities and Social Science ISSN (paper) 2224-5766 ISSN (online) 2225-0484 (online) vol.5, No. 22, 2015.*

¹⁰ Dickerson et al, cited in IY ISma’ila and Z. Othman, Ibid.

In line with the espoused below on the conceptual clarification of election, it is our views that an election is the process by which a government of a nation or state select the leader of the state through voting processes, the governmental affairs of the federation for a given stipulated number of years before a fresh conduct of another election will be organized in such a state.¹¹

3. Electoral System

Electoral System being a concept in politics has been viewed in different ways by several authorities in this area of research. These views are going to be analyzed as follows: According to the *New International IDEA Handbook*¹² “Electoral System” as a concept: translates the votes cast in general election into seat won by parties and candidates. Electoral System implies:

A set of rules through which people get to choose their representatives or political leaders. It shapes the outcome of the election by providing for an election mechanism and election process through which representation of several political parties is determined in the legislature. Electoral systems not only work at the national level but are also used extensively in determining the composition of local bodies. It is the deciding factor for the various combination of political parties to get into the legislature, and their election manifestoes, all depend on what kind of electoral system exist in their political system. An electoral system if not a static concept; rather it is a dynamic system which has been evolving continuously as needed by the electoral system well-defined facilitates the democratic culture to perform its true spirit.¹³

Furthermore, Dr. Brain F. Crisp¹⁴ in his erudition opines that:

Electoral System are made up of rules that govern a host of issues related to how election work, including rules about how candidates get access to the ballot; the extent to which voters can disturb the ballot presented to them to what level voters votes will be pooled before seats are awarded ; how many vote each voter gets to cast and whether they can select individual candidates or just party banners; how seats are allocated within a district or tier once all the voters and counted; and whether certain thresholds must be met before a seat can be worn.

Sequel to these views on electoral system, it is our own position that electoral system is the arrangement and procedure by which qualified candidates are elected into the government positions (legislative and executives) by a body that is in-charge of conducting and supervising elections in Nigeria.¹⁵

4. Types of Electoral System

Electoral System as a concept has different type, some of which are:

¹¹ In Nigeria, elections are statutory slated to be conducted in every four years for presidential and gubernatorial elections. Also National Assembly and State Houses of Assembly, elections are equally organized once in four years. While in Local Government Administration, Elections are usually conducted after two years. See section 7 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

¹² The New International IDEA/Handbook” Electoral System design”, (www.document), (2005), available at electoral syst...ummaru. Pdf phonix file, accessed on 28/12/2023 at 4.40pm.

¹³Dr. T. Gaur Faculty, non-collegiate Women’s Education Board, University of Delhi, Delhi. See also, Dr. T. Gaur, Electoral Systems and Electoral processes, (www.dcoument), (nd), available at unit-7.pdf phonix filesp.2.

¹⁴ Dr. B.F. Crisp, “Political Science 381: The Politics”, of Electoral Systems (www.document), (nd), available at crisp-132-281. Pdf phoenix files, accessed on 28/12/2023 at J: 11pm .1.. or see crisp@wustl.edu.1.

¹⁵ This role is bestowed on the independent electoral commission (INEC); at the state level, there is state independent electoral commission (SEC)

a. Simple Majority: This is also referred to as plurality system or first past the post system. In this form of electoral system, the candidate who wins the highest number of votes in an election is the person who will be declared the winner irrespective of the fact that he did or did not pull the majority of the votes cast in an election.¹⁶

b. Absolute Majority System: This rule in this form of electoral system is that the winner of such election must score at least fifty percent of the total votes cast in an election. Where no candidate scored the majority member of votes from the entire votes cast in an election, a second voting usually referred as the second ballot will be the least member of votes cast will be withdrawn from the electoral race before the second ballot will be conducted. Also a candidate must usually obtain the majority of votes cast in the second ballot. Where this fails to occur, the candidate with the highest number of votes cast will be declared the winner and also elected.¹⁷

c. Proportional Representation: This has to do with the ratio of total number of votes to number of seats. It is a method of awarding seats to parties in the same proportion as the popular votes they obtained in an election¹⁸. Here the party that wins fifty percent of votes will win fifty percent of the seats. One advantage of this form of electoral system is that it has the advantage of giving equal value to all votes and representation of ...

5. Democracy

The expression “democracy” emanated from two Greek words “*Demos* which means people and ‘*Kratem*” which means ruling power.¹⁹ It is formed from the principles of popular sovereignty, political equality, popular consultation, majority rule and protection of the majority.²⁰ In the eruditions of Jufferson²¹ he posits that Democracy is cumbersome slow and inefficient, but is due in time. The voice of the people will be heard and their latent wisdom will prevail. In the understandings of Ikenga and Chime²², the word ‘Democracy’ means: ‘A broad model of government that is epitomized by good governance, the rule of law, security and protection of individual rights, vibrant civil society and shared economic property.’ Steve, Nwocha and Igwe noted that democracy ‘is a system of government in which citizens give terms of political leaders the right to rule in periodic elections.’²³

Again, Onyeuemu²⁴ highlights that democracy is built on the existence of statutory institutions where different opinions and interests are harmonized. Democracy as the government of the people (majority has a duty of equal protection of her citizens, their possessions and their rights). People under democratic society have their welfare and security taken care of by the government.

¹⁶ A Wall. ‘Electoral System briefing paper, (www.document), (nd) available at doc – 20230825 – WA 0002 phonexi file accessed on 30/12/2023 at 1.25pm 5.

¹⁷ This System is usually applied in French presidential elections and in some primary elections in United States of America

¹⁸ Varied interest among others, it is expensive and invariably produces coalition governments which more often than not are unstable in nature.

¹⁹ E Okwudili Bonaventure and IO Igwe, Critically examine the role of Judiciary in the sustenance of the nascent democracy in Nigeria, an unpublished LL.M Seminar paper presented at the Faculty of Law Ebonyi State University, Abakaliki 2009 2.

²⁰ Wole Olanipekun SAN, available at ww.wolelanipekunlaw.com/spegct accessed on Tuesday, October 7, 2008, cited in C. Okwudili Bonaventure and IO Igwe *Ibid*.

²¹ O Okpara, et al, understanding government, (Abakaliki, folsun technologies, Nigeria, 2008) 18.

²² FA Ikenga and Chima, “Fundamentals of good governance: the penance for development performance in Nigeria, (www.document), (2001), available at <https://dioorg/10.47743/jopaf1-2021-22-20.7>

²³ AA Steve, ME Nwocha & IO Igwe, ‘An Appraisal of Electoral Malpractice and Violence as an Albatross in Nigeria’s Democratic Consolidation’ (2019) 10 *Beijing Law Review* p. 77.

²⁴ OC Onyeuemu “the quest for Democratic sustenance in Nigeria; the Role of Police Force in IOST Journal of Humanities and Social Science vol. 20, issues1, ver. Iv January, 2015. . 134 – 140

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There is equal right to political participation, freedom from undue interference, equal opportunity to pursue their career and freedom of speech and religion.

In another related vein, “Democracy” implies rule by the people.²⁵ In this particular position on the meaning of democracy it sees people as the arrow head of any democratic government. Elizabeth Powley and Sanam Naraghi Anderlini²⁶ posit that democracy is ‘A system of government in which power is vested in the people (the population) and exercised through representatives chosen in free and fair elections. But a democracy does not just mean that “the majority rules.’ A democracies also includes and protects the human rights of minorities and respect multiple or plural views and opinions. In a democracy, people have rights as citizens, but they also have responsibilities to participate in the governance system. In this view, democracy incorporates not only rule by the majority which is exercised through representation in an election, it equally includes the protections their participation minorities and also their participation in elections and governance of the country.

It is a system of government where the opinion of the majority is taken as the decisions of everybody. Democracy also ensures that vote’s lat by the majority of the electorates in favour of a particular candidate or candidates from a given political party in an election or elections become a winner or winners.

6. Electoral System and the Constitution of Nigeria 1999

The Constitution of Nigeria 1999²⁷ provides for the agencies in charge of conducting various elections in Nigeria²⁸. According to paragraph 14 of part 1 in the third schedule to the 1999 Constitution²⁹, the Independent National Electoral Commission shall comprise of the following members:

- a. A chairman who shall be the chief electoral officer; and
- b. Twelve other members be known as National Electoral Commissioners.
2. A member of the Commission shall
 - a. Be non-partisan and a person of unquestionable integrity.
 - b. Be not less than 40 years of age in case of the chairman and not less than 35 years of age. In case of the National Commissioners.
3. There shall be for each state of the Federation and the Federal Capital Territory, Abuja, a resident Electoral Commissioner who shall;
 - a. Be appointed by the President subject to confirmation by the Senate;
 - b. Be a person of unquestionable integrity and shall not be a member of any political party and
 - c. Not be less than 35 years of age.

In line with the provisions of the Constitution³⁰ in paragraph 15 of the same part, the Commission shall have power to-

²⁵ The Concept and Fundamental Principles of Democracy (www. document), (n.d), available at democracy 9.pdf phoenix files accessed on 30/12/2023 at 5:38 pm..2

²⁶ E. Powley and S.N. Andertini Democracy and good governance “(www.document) (n.d) available at democracy 9.pdf phoenix flies accessed on 30/12/2023 at 5:38 pm..2.

²⁷ Constitution of the Federal Republic of Nigeria 1999 (as Amended).

²⁸ Independent National Electoral Commission (INEC) which is in charge of conducting Federal elections and state election and the state electoral commission (SEC) that is in charge of overseeing the local government elections in Nigeria.

²⁹ Constitution of the Federal Republic of Nigeria 1999 (as Amended).

³⁰ Constitution of the Federal Republic of Nigeria 1999 (as Amended).

- a. Organize, undertake and supervise all elections to the office of the President and Vice-President, the Governors and Deputy Governor of a State, and to the membership of Senate, the House of Senate, the House of Representatives and the House of Assembly of each state of the Federation;
- b. Register political parties in accordance with the provisions of this constitution and an Act of the National Assembly;
- c. Monitor the organizations and operation of the political parties, including their finances, conventions; congresses and party primaries.
- d. Arrange for the annual examination and building of the funds and accounts of political parties, and publish a report on such examination and audit for public information;
- e. Arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of election under this Constitution;
- f. Monitor political campaigns and provides rules and regulations which shall govern the political parties;
- g. Ensure that all electoral Commissioners,
- h. Electoral and returning Officers take and subscribe to the oath of office prescribed by law; Delegate any of its power to any resident Electoral Commissioner; and
- i. Carryout such other functions as may be conferred upon it by an Act of the National Assembly.

The Constitution also provides for State Independence Electoral Commission³¹ and the office of State Independence Electoral Commission in Nigerian Electoral System. In line with provisions of paragraph 3 of part 11 of the Constitution³² State Independent Electoral Commission shall comprise the following members:

- a. A Chairman, and
- b. Not less than five but not more than seven other persons

The Commission shall have power

- a. To organize, undertake and supervise all elections to local government council within the state;
- b. To render such advise as it may consider necessary to the Independent National Electoral Commission on the compilation of and the register of voters in so far as that register is applicable to local government elections in the state.

From the Constitutional provisions, one can see that the authority and the status of the Chairman of Independent Electoral Commission is wide both the appointments of the Chairman and the resident Commissioners are the responsibilities of the President. This in away weakens the independent status associated with Independent Electoral Commission by virtue of Constitutional Provisions. This apprehension could be derived from the fact that human nature is most likely to compel shadow loyalty towards the executive authority base of the commission.

The majority rights under the 1999 Constitution of the Federal Republic of Nigeria (as amended). Majority is could be described as a smaller unit or tribe in a society, community, village, nation or even a country. *Black's Law Dictionary*³³ sees "minority" as the smaller number of votes of a deliberative assembly as opposed to majority". The Constitution³⁴ makes elaborate provisions for the protection of rights of minority groups in Nigeria. The Constitution³⁵ makes provisions for a Federal, State and local balances in Nigeria

³¹ Constitution of the Federal Republic of Nigeria 1999 (as Amended).

³² Ibid

³³ Black's law Dictionary, 6th Edition (Continental Edition 1991), 1997.

³⁴ Section 14 (3) and (4) of the Constitution of the Federal Republic of Nigeria (as Amended).

³⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended) Section 15 (2).

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democracy. This makes sure that there is absence of predominance of person from a few or from ethnic sectional groups in that government or in any of its agencies.

Equally, the Constitution guards against discriminations in Nigeria thus: 'Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.' Again, the Constitution also makes provision on the rights to freedom discrimination in section 34 as follows:

A citizen of Nigeria of a Particular Community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person;

- a. Be subjected either expressly by or in the practical application of, any law in force in Nigeria or any executive or administrative action, any privileged or advantage that is not accorded to citizen of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions are not made subject; or
- b. Be accorded either expressly by or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizen of Nigeria of other communities, ethnic groups, place of origin, sex, religion or political opinions.

Additionally, the third schedule to the Constitution makes provision that for the establishment of Federal Character Commission which is composed of a Chairman, a representative from each of the state of the federation and a representative from Federal Capital Territory, Abuja. This Commission is responsible for:

Work out on equitable formular subject to the approval of the National Assembly for the distribution of all cadres of posts in the public service of the Federation, the Nigeria Police Force and other government security agencies, government owned companies and parastatals of the state³⁶

7. Recommendations

The following if put in practice will help in surrounding the bottlenecks that encircle Nigerian electoral system.

- a. It is recommendation that thuggery should be made a criminal offence punishable with a death sentence or life imprisonment.
- b. There should also be a legal provision that will make electoral violence a punishable offence.
- c. The Human Right Commission, the Federal; Commission and Public Complaints Commission should be made to be investigating cases bordering on minority right issues and abuses vis-à-vis electoral malpractice in Nigerian electoral system.
- d. It is also our position that absolute majority from of electoral system should be put in place in the future elections hence it has the advantages of formation of true representatives and majority form of government.
- e. It is our further humble recommendation that the supervision of primary elections should be accorded to the independent National Electoral Commission. If this is incorporated in the constitution and the *Electoral Act* vice-versa, it will help in checkmating the imposition of candidate on the electorates.

8. Conclusion

It is a well known fact that Nigeria as a democratic nation has a form of electoral system that she practice. However a critical look at this work will make the reader to understand that if all the necessary recommendations and innovations highlighted in this research are put into practice in Nigerian elections, it will go extra mile to compete with other forms of democratic practices applicable to other African countries and even the Western world generally.

³⁶ Ibid.