

**E-VOTING IN NIGERIA ELECTIONS: AN APPRAISAL OF INTERCONNECTEDNESS
BETWEEN E-VOTING, CREDIBLE ELECTION AND GOOD GOVERNANCE**

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Abstract

Elections are the foundations and cornerstone of representative democracy all over the world including Nigeria. For election to serve this foundational tenet or purpose, it has to be credible. Credible election provides foundations for strong and virile democracy to ensure legitimacy of political leaders and invariably accountability in governance resulting in good governance which has been elusive in Nigeria. In the quest therefore for credible electoral process, suggestions have been made that Independent Electoral Commission employs E-voting as a way to reduce or curb various election malpractices like multiple registrations, vote buying violence and other malpractices in electoral process. Therefore, this paper examines elections in Nigeria, credibility of elections held so far, the legal frameworks and international standards on election, and the interconnectedness between E-voting, Credible election and good governance in Nigeria. Doctrinal research methodology was employed in examination of the concepts. It is the findings of this work that flawed elections and electoral process affects our democracy and good governance and that though E-voting is desideratum but, it has its own short comings and will not cure all the defects in election and electoral process in Nigeria. It will however reduce election and electoral process malpractices to the barest minimal and foster credible elections. This paper concludes by offering recommendations that will improve our electoral process and elections and usher in true democracy and good governance.

Introduction

Election is an integral part of a democratic process that enables the citizenry to determine fairly and freely who should lead them at every level of government periodically and take decisions that shape their socio-economic and political destiny and in case they falter, still possess the power to recall them or vote them out in the next election. Election has been defined in so many ways which because of limitation placed by space cannot be exhausted here, but conceptually, election has been summarized as a major instrument for the recruitment of political leadership in democratic societies, the key to participation in a democracy and the way to giving consent to government. (Obakhedo, 2011).

So, in its strict sense, there can never be a democracy without election. In fact, a political system is democratic to the extent that its most powerful collective decision makers are selected through free, fair,

honest and periodic elections in which candidates freely compete for votes and in which virtually all the adult population is eligible to vote. (Huntington, 2017).

The aim of an electoral process should therefore be free, fair and credible elections where the candidate with the highest number of valid votes wins. A major determinant of democracy is the electoral institutional framework for choosing representatives through a competitive free, fair and credible election. Credible election provides foundations for strong and virile democracy to ensure legitimacy of political office holders, accountability in governance resulting in good governance which has been elusive in Nigeria. In desperation for credible elections and credible electoral process in Nigeria, suggestions have been made to independent Electoral Commission (INEC) to introduce E-Voting as a way to reduce or curb various election malpractices ranging from multiple registrations, vote buying, violence and other related electoral problems in Nigeria electoral process.

Voting and E - Voting

In a very simple language, vote denotes a formal expression of one's opinion or choice on a matter, the right to express one's choice by a vote, elect to a position by votes (Lucinda,2014) There is no gain saying that voting is a very important electoral process and vital mechanism for election and should be well managed to ensure credible election. The right to vote (which includes right to be voted) is not only constitutionally guaranteed, it is also recognized and protected under international human rights laws. (Achpr,2016) International covenant on civil and political rights, 1966 provides that.

The right to vote shall not be subject to any unreasonable restriction as race, colour, sex, language, religion, political or other opinion, natural or social origin, property, birth or other status and where the right is violated effective remedies are to be provided,(ICCPR,1966)

Similar provisions exist in other instruments national and international emphasizing on the right to vote of Citizens in democratic enclaves. It is only when citizens or electorate exercise their right to vote without any restrictions in electing their leaders and representatives and no flaw in any other electoral process that electoral process and election will be said to be credible and government resulting from it legitimate.

It is therefore because of the importance of voting in electoral process that people clamor for E-voting knowing that the perfect management of voting can ensure credibility of election. E-voting from basic transmission of tabulated results to full-function on-line voting through common connectable household devices means electronics voting. It is voting that uses electronics means to take care of casting and counting of votes. Depending on the e-voting particular implementation policy, e-voting may use standalone electronic voting machines (also called EVU) or computer connected to the internet services.

The degree of automation may be limited to marking a paper ballot, or may be a comprehensive system of vote input, vote recording, data encryption and transmission to servers and consolidation and tabulation of election results.. ([https://en.wikipedia.org/wiki.Election](https://en.wikipedia.org/wiki/Election)).

A worthy E-voting system must perform most of these tasks while complying with a set of standard established by regulatory bodies and specifically INEC, and must also be capable to deal successfully with strong requirements associated with security, accuracy, integrity, swiftness, privacy, audit ability, accessibility, cost-effectiveness and ecological sustainability.([https://en.wikipedia.org/wiki.Election](https://en.wikipedia.org/wiki/Election)).

Electronic voting technology can include punched cards, optical scan voting systems and specialized voting Kiosks (including self-contained direct recording electronic voting systems or DRE). It can also involve transmission of ballots and votes via telephones, private computer networking or the internet.

Types of E-voting

In general two main types of E-voting can be identified:-

- i. E-voting which is physically supervised by representatives of governmental or Independent electoral authorities (e.g. electronic voting machines located at polling stations).
- ii. Remote E-voting via the internet (also called I-voting) where the voter submits their votes electronically to the election authorities, from any location.

No matter the type of e-voting employed, it has the benefits of likely benefits of engaging E-voting in Nigeria elections.

There is no doubt E-voting in Nigeria will speed up the counting of ballots, reduce the cost of paying staff to count votes manually, and can provide improved accessibility for disabled voters.

Also in the long terms expenses are expected to decrease, results can be reported and cost by being able to vote independently from their locations. This is expected to increase over all voters turnouts.

The citizen groups benefiting mostly from electronics voting or elections are one living abroad, those living in rural areas far away from polling stations and disabled with mobility impairments. (Obakhedo, 2011). It is believed that E-voting may improve the electoral process in Nigeria.

Shortcomings of E-voting

It has been shown from experience that as voting systems became more complex and includes software, different methods of election fraud, become possible. From theoretical point of view, humans are not equipped with verifying operations, occurring within an electronic machine and that because people cannot verify these operations, the operation cannot be trusted. Among computer experts, it has been posited that people cannot trust any programming they did not author. Again, computers are manmade and like every manmade object it can malfunction. Again, it can even be compromised. However, the issue of malfunction or issue of compromise can be circumvented by installing a voter verifiable paper audit trails—software used on DRC machines (voting machines) must be opened to public scrutiny to ensure the accuracy of the voting system.

Mention also need to be made of the literacy level in the country. Those in the rural areas cannot have access to computer and even when they have, they do not have knowledge of computer and cannot use same without supervision and consequently, can impede E-voting electoral process.

Free, Fair and Credible Election

Free, fair and credible election confirms the legitimacy of elections. For election to be said to be free, fair and credible, the pre-election and post-election periods must be characterized by the opening up of democratic space, respect for human rights and the protection of fundamental, Civil and political rights of all Citizens. (<http://www.mike.compellfoundation.com./rage/condition>). A free electoral process is one where fundamental human rights and freedoms are respected. These encapsulate; Freedom of speech and expression by electors, parties, candidates and the media. Freedom of Association that is freedom to form organization such as political parties and NGO. Freedom of Assembly, to hold political rallies and to campaign. Freedom of access to and by electors to transmit and receive political and electoral messages. Freedom to register as an elector; a party or a candidate. Freedom from violence, intimidation and coercion. Freedom of access to the polls by electors, party agents and accredited observers. Freedom to exercise franchise in secret and Freedom to question, challenge and register complaints or objections without negative repercussions. (<http://www.mike.compellfoundation.com./rage/condition>)

Furthermore, a free, fair and credible election is one where the playing fields is reasonably level and accessible to all electors, parties and candidates and encapsulates. An independent, non-partisan electorate organization to administer the process through the constitution and electoral regulations and legislations.

Equitable representation of electors provided through the legislation. Clearly defined Universal suffrage and secrecy of the votes. Equitable and balanced reporting in the media and equal access to public media. Equitable opportunity for the electorates to receive political and voter information.

Equitable treatment of electors, candidates and parties by election officers, the government, Police, military and the judiciary. Open and transparent ballot counting process, and Election process not disrupted by violence, intimidation and coercion. (Universal Declaration of Human rights, 1948).

The above is the criteria for free, fair and credible elections but most times, the government and ruling party have used state structures to systematically erode the norms, and standards required to facilitate a true democratic process. Legislation has been used not only to disenfranchise the public or opposition parties, but also in the process has been used to exert considerable repression against individuals and groups perceived to be unsympathetic to the government. There can therefore be no free, fair and credible election and electoral process where people are either forced or restrained from voting or denied vital information to enable them make an informed political decision.

Moreso, when it is an essentially principle of election that:

Everyone has the right to take parts in the government of his country, directly or in through freely chosen representative. The will of the people shall be expressed in period and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure (Rotberg,2014).

Any process or design in election or electoral process that circumvent free expression of will of electorates will not be regarded as free, fair and credible election.

Good Governance.

Good governance is used in the context of countries and for that reason difficult in finding unanimous unique definition for it. Two dimensions has however been used to qualify governance as good or bad but this paper will only discuss only on dimension perceived relevant to this paper and that is good governance through outcomes. Since government carry out with goals like provision of public goods to its Citizens, there is no better way to think of good governance other than through deliverables, which are precisely the one demanded by citizens like security, health, education, water, protection of property, environment, their ability to vote, work and get paid fair wages,(Grundle,2014).

Similarly, good governance might be approximated with provision of public services in an efficient manner, higher participation given to certain groups in the population like the poor and the minorities, the guarantee that citizens have opportunity of checks and balances on the government, the establishment and enforcement norms for the protection of the citizen and their properties and existence of independent judicial system.

In the Nigerian context, it has been suggested that good governance aims at achieving the idea enumerated in the fundamental objections and directive principles of State Policy contained in Chapter 2 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). In very simple language, in so far as it concerns good governance in Nigeria, the actions of democratic government, must be directed at poverty alleviation and providing a reasonable standard of living for the populace guaranteeing the security of life and property of the people, the maintenance of law and order and the provisions of an accepted level of infrastructural development in Nigeria. (Guobadia.2000).

It is necessary to emphasis that even though scholarship is not settled as to all encompassing definition of good governance, but the former U.N secretary-general Kofi Annan Opined that, "Good governance is perhaps the single most important factor in eradicating poverty and promoting development. (Guobadia.2000).

Be that as it may, the relevance of getting good governance comes precisely from its relationship with the development of a country and the reduction of poverty. Good governance in any country can be deciphered

by features summarized in this paper as participation, accountability, strategies vision, Concession oriented, transparency, repulsiveness, equity and inclusiveness, effectiveness and efficiency and rule of law. It is by the harmonization of these features that corruption is minimized, the views of minorities and most vulnerable in the society are heard in decision making process, and all will produce good governance in Nigeria. It will in turn ensure enjoyment of benefits of good governance which is summarized to include but not limited to:

- Promotes Community Confidence
- Encourages elected members to be confident
- Leads to better decisions
- Helps elected members meet its legislative responsibilities.
- Supports ethical decision making.

There are some constraints to institution of good governance, but certainly these are major benefits of good governance.

- Poverty and ignorance
- Corruption
- Corrupt leadership
- Lack of vibrant and robust society and government constraint on civil society organizations.
- Unresponsive government
- Conflicts
- Denial of human right.

All these constraints manifest in bad government, but credible elections results in institution of strong democratic institutions that will eradicate these constraints and results in good governance.

Legal Frame Works On Elections:

The legal status of elections in Nigeria like in most democracies is enshrined in the constitution (presently in the 1999 Constitution of the FRN (as amended). The reason is to limit the possibility of arbitrary reform by ordinary law or by pressure from the executive or even the political class generally.

Such precautionary step exists in *S I (2) of the 1999 Constitution of FRN (as amended)* thus:

The Federal Republic of Nigeria shall not be governed, nor shall any person or group of persons take control of any part thereof, except in accordance with the provisions of this constitution”.

To ensure safeguard of this provision, the constitution provided for suffocating stifling mode of amendment or alteration of the previous of the constitution(FRN, 1999). Furthermore, the Constitution is made supreme and if any law is inconsistent with it, will to the extent of the inconsistency with the constitution will be, void and of no effect.

The effect of this on provision on election, electoral administration and management is that there is both protection and direction constitutionally. (Azinge. 2011).

The inference to be drawn from the foregoing is that the first legal framework on elections in Nigeria is the Constitution.

i. The Constitution of the federal Republic of Nigeria (as amended).

The 1999 constitution of FRN, (as amended) provided for elections in many sections of the constitution. This includes S.153 (1) if) establishing the Independent Electoral Commission (INEC).In part 1 of the third schedule to the Constitution. The areas of the said provision relevant to this paper are the composition and powers of the INEC. It provides in *S. 14(1) the Independent National Electoral Commission* shall comprise the following members:-

- a. A chairman who shall be the Chief Electoral Commissioner, and
- b. Twelve Other members to be known as National Electoral Commissioners, who shall be persons of unquestionable integrity and not be less than fifty and forty years respectively.

- a. S.14(2) there shall not be for each State of federation and the federal Capital territory of Abuja, a Residential electoral commission who shall be
- b. Appointed by the president.
- c. Be persons of unquestionable integrity.
- d. Not be less than forty years of age under S.15 of the said part of the third schedule to the 1999 Constitution (as amended) provides that:

The commission shall have power to

- a. Organize, undertake and supervise all elections to the offices of the President and vice President, the Governor and deputy governor of a State and to the membership of the senate, the House of Representatives and House of Assembly of each State of the federation (S.15a, FRN, 1999).
- b. Register Political parties in accordance with provisions of constitution and an Act of the National Assembly (S.15a, FRN, 1999).
- c. Monitor the organization and operation of the political parties including their finances (S.15b, FRN, 1999).
- d. Arrange and conduct the registration of persons qualified to vote and prepare maintenance and govern the political parties (S.15c, FRN, 1999).

On explicit terms S.78 of the 1999 constitution provides that registration and the conduct of elections shall be subject to the direction and supervision of the Independent National Electoral Commission

The community reading of elections S. 153 (i) (f) and SS. 14 and 15 of part I of the third schedule of the constitution. And S. 78 of the constitution will leave no one in doubt as to the constitution being a legal framework in election. There are others that cannot due to limitation as to space in this paper be exhausted, but we single out S.144 of the Constitution for mention because of its appealing provision as a framework for elections, democracy and good governance.

S. 14(1) provides that the Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.

ii. The Electoral Act, 2010 (as amended).

This act which was signed into law by former President Goodluck Jonathan on 20th Aug. 2010 after it was passed by both houses of the National Assembly on 29th July, 2010. The Electoral Act 2010 is a comprehensive Electoral management enactment.(Azinge,2015).The Electoral Act 2010 (as amended) has ten parts and one hundred and fifty-six sections. It covers matter relating to the establishment, functions and management of the independent Electoral Commission (Electoral Act,2010), voters procedure at elections, Political parties, procedure for election to council, electoral offences, determination of election of politicians and issues arising from elections, and miscellaneous matters. To this extent the Electoral Act, 2010 (as amended) is a legal framework in elections and offers legal backing and operational template to INEC as an election management body in Nigeria.

To re-affirms this, in seeming supportive acknowledgement of its constitutional function. The Electoral Act provided explicitly that;

In addition to the functions conferred on it by the constitution, the commission shall have the power to conduct voter and civic education, promote knowledge of sound democratic election processes, and conduct any referendum required to be conducted pursuant to the provisions of the 1999 constitution or any other Act of the national Assembly (Electoral Act, 2010)

The summary encapsulates in elaborate terms everything concerning elections, legislation of political parties, registration, eligibility etc.

iii. Regional and International frameworks on election

There are multifarious regional and international legal frameworks on elections which Nigeria and other civilized countries look up to as universal standards, principles and guidelines that promote genuine democratic election process. These international standards have evolved from protocols, declarations,

treaties and other international instruments that safeguard democracy and human rights. There are all traced the Universal Declaration of Human Rights, 1948, which provides that;

The will of the people shall be the basis of the authority of government. This will, shall be expressed in periodic and genuine elections which shall be universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures(UDHR.1948).

Election in Nigeria and the free, fair and credibility question.

Elections conducted so far in Nigeria starting with election conducted by the Colonial Administration in 1923 have credibility issues. The 1923 elections from historical findings were selective and restrictive though it was devoid of bitterness and rancor and organized in a peaceful and orderly manner. The election of 1959 that brought the constitutional settlement for Independence witnessed Chaos, violence and political marriages contracted on tribal lines and religious extremism of all parties that contested the election. (Ojike,2016). Since the early elections held in the days of constitutional conference did not awaken the spirit and consciousness of political analysis among politicians and other political actors, elections are seen as do or die affair. The result being that subsequent elections in Nigeria namely 1965,1979, 1983,2003,2007,2011, 2015 and even 2019 were all fraught with problems of different dimensions ranging from electoral practices like manipulations, falsifications, vote buying, violence etc which had consistently diminished the credibility of elections in Nigeria. Comments alluding to this fact are galore. Though all of them will not be exhausted in this paper but a commentator's reference to 2007 election is explicit on violence in the said election, he said:-

It is evident that once election is holding in Nigeria, it always results in loss of lives and properties. The local government elections conducted by various states Independent Electoral Commissions are not different from the one conducted by Independent National Electoral Commission (INEC), many lives and properties were lost in the course elections, thousands of people were killed in a local government Elections related in Kano, Kaduna , Plateau states and many places within Nigeria, although the violence were alleged to be, as a result of religious and ethnic chauvinism but a close look at the origin will reveal otherwise(Aliyu,2017).

Further assessment of credibility of elections in Nigeria was made by Prof. Ben Nwabueze thus:

The travesty was so monumental in its completeness than words; even the word "rigging" are inadequate to describe it. It would simply be an abuse of language to use any of the epithetic, free, fair or credible in connection with the charade that took place in Nigeria on the 14th and 21st April, 2007.(Nwabueze. 2007).

Just singled out these two comments for want of space to support that elections in Nigeria have been anything but free, fair and credible. Similar comments have continued to trail the just concluded 2019 elections.

There is no gainsaying that comments like the above experiences of the past years informed the call for E-voting by some Nigerians to help curb electoral malpractices and ensure free, fair and credible elections in Nigeria even though opinions are divided whether it will cure all incidences of electoral malpractices in Nigeria.

Interconnectedness between E- Voting, Credible Election and Good Governance

Even though E-voting will not solve all the electoral misfeasance or malpractices in our elections, but it will be readily agreed that it will reduce electoral malpractices in our elections to reasonable degree.

Keen observers of the 1999 to the 2019 elections will observe that (INEC which is the electoral umpire in Nigeria has gradually deployed technological devices in conduct of elections in Nigeria. These electronics devices include Electronic voter's register (EVR), Automatic fingerprint identification system (AFIS) and smart card reader, (SCR). These electronic voting devices have drastically reduced the incidences of multiple registrations and multiple voting to the barest minimal. Furthermore, the introduction of server i.e. e-collection platform will reduce incidence of result manipulations at collection centers. (Oyemi, 2015).

In general term, E-voting will reduce the incidences of electoral malpractices such as ballot stuffing, result sheet mutilation, manipulations, over voting, alteration of results, and hijacking of ballot boxes in Nigeria election. (Oyemi, 2015).

It is therefore believed from the foregoing that if the Independent National Electoral Commission (INEC) heeds the clarion call for introduction of e-voting in Nigeria in elections and electoral process, it will reduce excessive electoral fraud to the barest minimum and foster credible elections.

It is believed that notwithstanding its short comings like voting system becoming more complex for the illiterate Nigerians, other challenges of humans not being equipped with verifying operations occurring within an electronic machine and because people cannot verify these operations, the operations cannot be trusted. Again, computers do malfunction and because it is operated by humans, it can be compromised. However, experts assert that DRE machines to be used in elections must have a voter verifiable papers audit trails. Software used on DRE machines must be opened to public scrutiny to ensure the accuracy of the voting system.

Be that as it may and in all modesty, voting if employed rightly will not only reduce incidences of electoral malpractices and result in credible elections, it will also speed up the counting of ballots, reduce the cost of paying staff to count votes manually and provide increased accessibility for disabled voters. In the long run, expenses are expected to reduce, results can be announced and published faster, voters save time and cost by being able to vote independently from their homes and thereby increase over all voter participation, Nigeria Citizens living abroad and those living in remote or rural areas can equally vote if well planned.

Totality of the effect of this is free, fair credible and transparent election where true leaders emerge from elections and the consequences of that is glaring. Persons elected into office through free, fair, credible and transparent electoral process where the votes of the voters counts are accountable to the voters and can easily be removed by elections or direct democracy instruments like referenda, recall by constituency members etc. This will have the effect of making those elected into office to perform in office knowing that failure to perform in office will result in them being vote out of the office during the next election or immediately other democratic instruments mentioned before. Again, free, fair, credible and transparent electoral process ensures that those elected will not through manipulations be returned or remain in office as a transparent electoral office will defect such scheme. They will be left with no option than to perform and provide good democracy dividends to voters to ensure their continued stay in office.

Therefore, free, fair and credible election will allow the choices of Nigerians to manifest in elections. They will be by their choices confer legitimacy and authority on those who govern, making it easier for them to mobilize public support and co-operation for implementation of development programmes, free, fair and credible elections which will likely result from E-voting in Nigeria election are therefore crucial requirement for good governance in democratic Nigeria.

Conclusion

There is no doubt that there is a strong connection between E-voting, credible election and good governance. This is because E-voting will reduce incidences of electoral malpractices and violence and this will ensure free, fair, credible and transparent electoral process which will result in peoples' choice of their credible leaders deriving legitimacy from the people and because the leaders derive their legitimacy from the people, they will perform by ensuring governance knowing that if they fail to institute governance, they will be voted out in the next election. The good government will manifest in predictable, open and enlightened policy making (that is transparent process), a democracy imbued with a professional ethos, an executive arm of government accountable for its action and a strong civil society participating in public affairs, all subsumed under the rule of law.

Recommendations

This paper will be incomplete if recommendations are not made to curb the electoral malpractices that will usher in free, fair and credible elections.

1. In addition to introducing E-voting process in Nigeria, the federal government should through ratification of the instruments in elections mentioned in this paper and through membership in inter-governmental institutions ensure that Nigeria domesticate and implement the content of these legal instruments like UDHR 1948, ICCPR 1966, CEDAW 1979, ICRD 1966, CRPD 2006, CAC, 2003 e.t.c which are the world best practices on election.
2. The Independence of INEC where it has not been done should be constitutionally guaranteed in all its operations and its management and control of the electoral process.
3. INEC should establish strong enlightenment and education on electoral process and voter education. Adequate enlightenment needs to be done on the electorates or voters on E-voting and use of electronics on all other aspects of the electoral process where it will be introduced. This will not only endear the process to the voters but will ensure good election culture take root in the Country, it is recommended that election/voter education should be a general studies course in secondary and tertiary institutions. The help of civil society organizations and donor agencies should be enlisted to make it more effective and widespread.
4. There is need to effectively police the election process and enforce rules and regulations by assigning well trained impartial and honest enforcement and security agents and agencies to help police to secure the process.
5. It is equally advocated that permanent election / constitutional court instead of the Ad hoc election petition tribunals we presently have in place. This will help the said court to expeditiously conclude pre-election and election cases in time before swearing in.
6. Serious sanctions and punishment should be meted on those involved in electoral malpractices. Candidates and political parties involved in violence or any form of political fraud or malpractice should be sanctioned.

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