



The Power of the Ballot and the Role of Tertiary Institutions in the Shaping of Nigeria's Democracy

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ABSTRACT

The state of the political health of the voter has become an issue of concern in recent time. In electoral malpractice matters the voter is viewed as the victim but as it often turns out, the voter fails to appreciate the value of what he has – the franchise? He has no qualms to sell his vote for bags of salt and rice. The power of one-man-one-vote to an individual who cannot act independently but must depend on the head of his family, the village or his church to be told how and where to vote is worrisome. The challenge of this paper is to undertake a study of how we can make the right to vote effective. What this means that the people must be allowed to elect their representatives, express their choices and make their preference at the polls, i.e. free from force or fraud; free from intimidation and corrupt or undue influences. Citizens must be given the opportunity to cast their votes without any form of intimidation. This study which is done within the context of certain issues peculiar to Nigerian democracy addresses education and awareness of civic duties for the voter and the role of tertiary institution to address the defects. The paper acknowledges the unique role of these institutions in the context of the demographic advantage they hold as being custodians of these large potential voters to institute campus outreach.

Keywords: Right to vote, the ballot, tertiary institutions & Nigerian democracy

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1. INTRODUCTION

It would be churlish, even in this paper devoted to a critical analysis of the subject, not to acknowledge that the world has in this century, more than any other, been pre-occupied with the issue of democracy, human rights and good governance. The cataclysmic and momentous events of Arab "spring", the post-elections violence in Kenya and Cote D' Ivoire bear testimony to this era. The democratisation of many African countries no doubt gave birth to an acknowledgment of the "power of the ballot" with the resultant effect of the increased "pariahisation" of regimes adjudged guilty of blatant violations of the democratic rights of citizens. Yet, at the core of this exercise of free choice of representatives, is question about the state of such democracy especially that which pertains to the nature of the election. The issue of free and fair election has become necessary requirements for political stability, global peace and economic development.

For the purpose of this paper, however, the challenge is to undertake this study in the context of certain issues peculiar to Nigerian democracy even where some may argue that there is nothing as Nigerian democracy. Or put differently, is there a brand of democracy that is peculiar to Nigeria or that should be peculiar to Nigeria? Further, shall we say that the recent elections conducted by the Nigerian electoral umpire, the Independent National Electoral Commission (INEC) in Ekiti, Osun States in the South-West Nigeria and the parties primaries preparatory to the General Elections of 2019 clearly gives a glimpse of how the policy of the political parties, the electoral umpire and the power of the voter to ensure that the issue of one-man-one-vote becomes the order of the day.



Most people would readily agree that some recognisable features of Nigeria's democracy include election rigging, godfatherism, manipulation of the electoral process through corruption, lack of strong institutions and the unresponsiveness of those in power to the yearning of the electorates, etc. This is not democracy. In this vast wasteland of misconception and misunderstanding we shall endeavour to review certain key concepts and their relationships, viz: democracy, human rights and good governance. The concept may have slight variations, depending on the type of regime or system of government adopted by a particular country, nevertheless its core contents are always the same.

2. DEMOCRACY AS PEOPLE- CENTRED CONCEPT

Representative assembly freely elected on a broad franchise to which the government is nominally responsible and from which it must obtain its powers has become one of the cardinal features of democracies in this century. Thus, it can be safely said that the central pillar of democracy the world over is based on the control of the government by the people through free elections and universal adult suffrage. Therefore the term democracy is used to refer to a political hybrid in which the general body of the people ultimately exercises the power of the government. No wonder that Ramson while commenting on President Abraham Lincoln's classical definition of democracy as the "government of the people, by the people and for the people" observed that evidently believed that *"government must exist for the people, not the people for government ; that government does not create rights, and should not be permitted to take them away; that the Constitution of the United States grants limited and defined powers to the national government, but reserves and protects those not granted; and that, in the final analysis, the deliberate will of the people rather than any or all the department of governments, determines the fundamental law."*²⁹

What the above means is that the people are the heart and soul of democracy and hence a major pillar for its sustenance. The people are the main reason why we embark on struggles to enshrine and defend democracy from the intrigues and evil machinations of powerful individuals and groups. The people at all levels of governance of a state must be involved and be willing participants in defining and maintaining their democracy. It is a government in which the citizen can participate in operating it in a particular context, under certain legal rules and through a set of institutions and informal process. The people must not be onlookers, but the driving force behind democracy. Their participation must not be limited to seasons of elections and periods of changing the people in government, but a continuing engagement with the process of democratic governance. In doing so, the people will always be aware of even the intentions of government on issues before they are defined and implemented.

The rulers should act in the best interest of the ruled. In a pure democracy, the will of the people is expressed by the supreme document of governance, the Constitution. They will be able to hold the leaders accountable and the leaders knowing they are being watched by active participants will be more circumspect in their undertakings. An uneducated populace cannot effectively participate in modern day democracy, because they can easily be manipulated by their better educated leaders. It is therefore important to state that the better educated and active people are the ones that can sustain spirited democratic discourse. The people must be aware of their rights and politicians must respect the rights of the people to choose who represents them. It is a tragic misrepresentation of democracy for elected or appointed public servants to decide behind our backs and above our heads on matters of life and death or bread and butter under the misguided assumption that we are not smart enough, not educated enough or that they love this country more than us. **Elections can be described as the litmus test of a democratic system.**

Advantages of democratic Rule

Compared with authoritarian regimes, whether they be based on a controlling military, a single party, a ruling family, personalized dictatorship, or some combination of these, democracies can claim significant advantages for their citizens:

- [1] **Ensuring basic freedoms:** In a democracy, people are able to think, say and do what they wish within the law and with respect for others, to practise their beliefs and to live the kind of life they choose. Free societies have always facilitated artistic innovation, scientific enquiry and philosophical speculation.
- [2] **Meeting popular needs:** the more influence ordinary people have over government policy through democratic channels, the more likely government will reflect their concerns and aspirations, and meet their basic needs.

²⁹ William L. Ramson, "Abraham Lincoln...Profession, a Lawyer" in Eugene C.Gerhart, (ed.) *The Lawyers Treasury*,(Bobbs and Merilll 1956) p.477



- [3] **Treating people equally:** This basic democratic principle demands that government to attend to people's interest equally in its policy and administration, without favour or discrimination. Although the practise may fall short of this standard, it is always open to improvement through campaigning by and on behalf of disadvantaged groups.
- [4] **Solving disagreement or conflict through debate, persuasion and compromise:** The democratic emphasis on open debate assumes not only that there are differences of opinion and interest on most questions of policy, but that such differences have a right to be expressed and listened to. When such diversity finds expression, both open conflict and the resolution of differences is achieved through discussion, persuasion and compromise, and rather than the simple assertion of power
- [5] **Enabling societal renewal:** By providing for the routine and peaceful removal of politicians and policies that have failed or outlived their usefulness, democracies are able to ensure societal and generational renewal without the massive upheaval or disruption that attends the removal of key personnel in non-democratic regimes.

3. DEMOCRATIC GOVERNANCE AS HUMAN RIGHTS ISSUES

Many contemporary international jurists and scholars had long argued on the need to recognise the right to democratic governance as a human right. This is not unexpected. This right affects not only the peripheral aspects of human affairs, but those at the heart and centre of human existence. It is a human right component that is founded on fundamental dignity of each person, especially the stewardship (authority, freedom and accountability) of man to be responsive and responsible to the electorate.

For most of these advocates this "democratic entitlement" seem to be anchored on two main notion: firstly, the idea that government derive their just powers on the consent of the governed³⁰ - a Lockean philosophy- and secondly, the idea that the international legitimacy of the state requires acknowledgment of mankind According to Franck the "democratic entitlement" is gradually being transformed from moral prescription to international obligation largely because such entitlement results from 'the cravings of government for validity'.³¹ It is his argument that '[In order to] achieve such a system of autochthonous validation (and thus to facilitate governing), those who hold or seek political power have made a far-sighted bargain comparable to John Locke's social compact. They have surrendered control over the nation's validation process to various others: national electoral commission, judges, an inquisitive press and above all the citizenry acting at the ballot box'³². Democracy, thus, is on the way to becoming a global entitlement one that increasingly will be promoted and protected by collective international processes.³³

Its significance is underscored by both municipal and international laws. The African Charter on Human and Peoples' Rights which has been domesticated into Nigerian Law as required by section 12 of the Constitution of the Federal Republic of Nigeria 1999(as amended) and of course, treated as an existing law, following section 315 of the Constitution of the Federal Republic of Nigeria 1999 provides that every citizen shall have the right to participate freely in the government of his or her country either directly or indirectly through a freely chosen representative in accordance with the provision of the law. In the same vein, Article 21(3) of the Universal Declaration of Human Rights(UDHR) stipulates that the will of the people shall be the basis of the authority of government, this shall be expressed in periodic and genuine elections which shall be held by secret votes by equivalent free voting procedures. The African Charter on Human and Peoples Right which is part of the Laws of the Federation of Nigeria (LFN) has in very clear terms provided for this right under its Article 3. For ease of reference Article 3 of the African Charter reads as follows: "every citizen shall have the right to participate freely in the Government of his Country either directly or through freely chosen representatives in accordance with the provisions of the law." This right has been affirmed by section 14(1)(c) and 40 of the 1999 Constitution.

³⁰ See Thomas Franck, "The Emerging Right to democratic governance," 86 Am.J. Int'l L.46 (1992)

³¹ Ibid.p.50

³² Ibid

³³ See the resolution of the African Commission on Human and People's Rights on the Military (Resolution 1994 ACHPR compiled in Resolution 22 December 2002) (That the trend worldwide and in Africa in particular is to condemn military takeovers and the intervention by the military in politics'. The resolution calls on incumbent military government to hand over [sic] political power to democratically elected governments without prolonging their incumbencies and unnecessarily delaying the return to democratic civilian rule'.



4. CHALLENGES TO DEMOCRATIC GOVERNANCE

Electoral malpractices are palpable illegalities committed with a corrupt, fraudulent or sinister intention to influence an election in favour of a candidate(s) by means such as illegal voting, bribery, undue influence, intimidation and other acts of coercion exerted on voters (or electoral officials), falsification of results, fraudulent announcement of losing candidate as winner (without altering the recorded results). The objective is to frustrate the democratic aspirations of citizens who have voted, or would have voted into office someone other than the rigged individual".³⁴

Other forms include the registration of underage children, multiple registration, appointment of politically based or affiliated resident electoral commissioners and election officials, use or threat of use of violence to discourage voters turnout, registration and compilation of fictitious voters register, abuse of revision of voter's list exercise, connivance of resident electoral commissioners with state police chiefs and state Governors to rig or foreclose elections; harassment of opposition party agent by security forces.

Several shortcomings in the political process have also affected election performance in Nigeria. These include:

- [1] The highly disproportionate resources available to the government in contrast to the opposition parties;
- [2] Persistence of the overhang of military power structures;
- [3] Overlap between the state and the ruling party;
- [4] The self-dealing and corruption by government in implementing economic reforms;
- [5] Official distrust of autonomous civil society organizations.
- [6] Determination of parties in power not to allow others to come to power.

But for an election to be truly democratic, it must be

- [21] **Universal:** all citizens of a country must have the right to vote and to be elected, without discrimination based on sex, race, language, religion or political affiliation.
- [22] **Equal:** the value of each vote must be the same.
- [23] **Secret:** the balloting must be private so that citizens can participate without being afraid; only the voter must know for whom she or he votes.
- [24] **Direct:** the voters must be able to choose their own leaders without an intermediary.
- [25] **Wide:** The voters must have the opportunity to choose from among several available candidates.

The credibility and legitimacy of elections, however, depends on how the various structures, institutions and processes related to elections make for free and impartial electoral competition.

5. THE NIGERIAN ELECTORAL SYSTEM AND THE CHALLENGES OF A NATION

The bedrock of any stable and functional democratic state is the electoral process.³⁵ But since the inception of civilian rule in 1999 our elections have been anything but credible. However Nigeria's electoral process is marked by incidents of ballot box snatching and stuffing, doctored electoral results, corruption and thuggery, these ideals remain distant goals. Each Election Day in Nigeria raises alarm that threatens the foundation of our democracy. Most of the pains and agonies associated with the practice of democracy in Nigeria are brought upon us by the unwillingness of the politicians to abide by the principles of democracy.

Nigerian politicians have a high tendency to limit the rights and freedom of fellow Nigerians in an attempt to muzzle the opposition and hold on to power. Whereas those of 1999 and 2005 were adjudged to be bad, the elections of 2007 were even, worse; in fact there were no elections. Specifically, Electoral Reforms in the popular parlance refers to the antidote to electoral fraud. That is, it is a change in the electoral process or system that is geared towards improving how the electors' desires are expressed in election results. The aim is to improve the responsiveness of the electoral process to meet public desire and expectations. As a subset of a wider framework for any electoral process to be meaningful it must foster impartiality inclusiveness, transparency, integrity and accuracy.

³⁴ **Nwabueze, 2005**

³⁵ See E. Osakwe, navigating the nation through Today's shame to Tomorrow's fame: Social Studies as pilot "17th in series of inaugural lectures of Delta State University, Abraka 2009) quoted in Dan I. Mezieobi," Social Studies Education as an instrument for building sustainable Democratic values in Nigeria, Journal of Cultural Studies Vol.1,2008; 45



6. THE SEARCH OF A TRANSPARENT ELECTORAL PROCESS

A transparent electoral democracy encourages popular participation in governance, promotes respect for the rule of law, due process, civil liberty and human rights and makes government accountable. In an open, competitive and free and fair electoral process, the government is always a custodian of the people's will and can therefore galvanize the people into positive actions³⁶. Additionally, freedom to express one's distaste of government policies by critics is equally as important as the freedom of government's supporters to sing praises of the government. This is the true spirit of democracy.

Elections are the midwives in the birth of democracy and the presiding pastor at the wedding when the people and the government renew their marital vows at stated intervals. It is a very important pillar that can sustain or destroy democracy. The electoral process by design and implementation must be transparent. It must not only be free and fair but must be seen by all as being so. Nigeria has so far failed in the area of democracy. Another important factor for the entrenchment of a viable electoral democracy is the voter. In most cases of electoral malpractice the voter is viewed as the victim. But what if, as it often turns out, the voter fails to appreciate the value of what he has – the franchise? Or what of where the voter sells his votes for bags of salt and rice? Even worse, what is the power of one-man-one-vote to an individual who cannot act independently but must depend on the head of his family, the village or his church to be told how and where to vote?

7. THE VOTER AS THE DRIVER OF DEMOCRACY

The plight of the Nigerian voter described above would not be different from that told by the great playwright, Chinua Achebe in the story entitled "The Voter"³⁷. This was the story situated in the village of Umuofia where the villagers had after feasting with their representative, the Chief Honorable Marcus Ibe, reminded themselves like most Nigerians voters are wont to do, that "they had underrated the power of the ballot paper before and should not do so again"³⁸. But when the test came, a particular voter, Rufus Okeke collected money from both Chief Ibe of the People's Alliance Party (PAP) and Mr Maduka, the candidate of the opposing party, the Progressive Organization Party (POP). This voter in the later case was made to swear to a traditional oath. On the D-day, when Mr. Okeke went into the polling booth to cast his vote, a quick thought leaped into his mind; i.e. to cast the single vote for both candidates. But how can this be done? Mr. Okeke had the answer, "**he folded the paper (ballot paper), tore it in two along the crease and put one half into Maduka's box and confirming the action verbally with the words, 'I vote for Maduka'**". He also voted for Chief Ibe with the other half.

To this very simple puzzle has the voter exercised his franchise or exorcised his franchise? The answer to the question is obvious, and that is that the "voter" has not only disenfranchised himself but has also deprived his community of the benefit of his vote.

³⁶ Okechukwu Innocent Eme, "Electoral Reform in Nigeria: The Challenges Ahead" *Journal Of Cultural Studies*, Vol.1, 2008: 58

³⁷ Ulli Beier, (ed.) *Political Spider* (Heinemann 1978), 88.

³⁸ P.89



8. THE VOTER OUTREACH OF TERTIARY INSTITUTIONS AND THE SUSTENANCE OF DEMOCRACY

The University environment provides the most conducive environment to train and retain potential voters. With a demographic advantage of students who are required to be at least 16 years before being admitted, it means that these students in the next two years become potential voters. This group has often been ignored and over the years no deliberate attempt has been made to harvest or engage these persons.

Gratify as it may be that the lecturers are often engaged as electoral personnel, it is strongly suggested that the Academic Staff Union of Universities should embark on voters' education and awareness.

9. CONCLUSION

The eternal beauty of elections and the argument that links democracy to greater quality of governance is that democracies allow the people to peacefully and regularly oust, inept, inefficient and corrupt governments, while allowing them to keep more efficient, successful regimes; this tends to make the quality of government on the average higher in the long run. The principle of periodic and genuine elections aim at developing, nurturing and maintaining a system that provides for the free and fair expression of the people's will. Secondly, democratic elections give the rulers the incentive to listen to what people want if they have to face their criticisms and seek their support in future elections Free, fair and competitive elections give democratic leaders stronger incentives still to explain and justify their decisions and to consult a broad range of constituencies before making divisions.

However let us not get deceived as to the nature of elections alone. Nothing in what has been said so far about elections and democracies is intended to suggest that elections are equal to or can replace democracy. Although essential, elections do not suffice to install and consolidate democratic governance; elections do not equal democracy. It is simply a step, albeit a major step, towards the achievement of democracy. Electoral Responsibility is the pivotal thrust on which every democracy revolves. Electoral Responsibility encompasses free and fair election, election of the real choice of people and ultimately ensuring that the vote of the people counts. Electoral "Responsibility" eschews electoral irresponsibility such as election rigging, godfatherism, manipulation of the electoral process etc and affirms the notion of good governance.