

THE ELECTORAL ACT, 2022: IMPLICATIONS FOR DEMOCRATIC DEVELOPMENT IN NIGERIA

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ABSTRACT

This study investigated the implications of the new electoral act, 2022 on the democratic development of Nigeria. The study revealed lack of political participation, poor accountability in governance and inadequate electoral process as some of the major constraint to democratic development in Nigeria. Additionally, the study identified provision of electronic data base and electronic transmission of elections result as well as the restoration of political participation, accountability in governance and effective electoral process as the implication of the new electoral act, 2022 on the democratic development of Nigeria. Based on the findings, recommendations were made that INEC and other electoral stakeholders in the country should ensure that the new electoral act 2022 is religiously observed, implemented and defaulters are severely punished at all level of elections.

Keywords: Electoral Act, Democratic, Development, Election and Implication

Introduction

Elections all over the world is been regarded as the most important as well as the most participated by people. This perhaps may be due to the fact that election is the foundation of every

democratic pursuits, which is expected to confer legitimacy on elected representative and provides opportunities for citizens to determine who and which political party can govern on their behalf. According to Yiaga Africa (2022) elections is the process where people select their preferred candidates to represent their interest in government and it constitutes the bedrock upon which the entire democratic system is built. Similarly, Ayeni (2018) sees it as the process of voting that allows the people in a given country to vote for leaders to represent their interests for a period of time and in line with the law. The implication of all the above is that election is an important instrument or tool for achieving sustainable democracy. It is also an ideal and integral part of the democratic process, whether in developed or developing nation. A malfunctioning electoral system is capable of producing maladministration or bad governance [Gabriel, 2022].

The signing of the new electoral act 2022, into law by the former president of the Federal Republic of Nigeria Retired General Mohammadu Buhari on the 25th of February, 2022 was appreciated by many Nigerians who considered the act as good opportunities for improving the electoral process as well as the democratic development of Nigerian society. The goal of the electoral act is to equip Nigerians with credible electoral knowledge and opportunities as well as enhancing the capacity of the Election Management Bodies (EMBs) to deliver on their mandate of conducting free, fair and inclusive elections in the country.

Concept of Electoral Act, 2022

Electoral act can be described as a branch of public law that relates to the democratic processes of a country, it is a set of rules that determine how elections are to be conducted in a country and how their results should be determined. The provisions of the Electoral act, according to the Federal Republic of Nigeria (FRN2022) are presented as follows:

1. Section 3 (3) of the act provides that funds for general elections must be released to INEC at least one year before the general elections.
2. Section 21 (1) of the act states that political parties shall hold primary elections and submit the list of their candidates not later than 180 days before the date appointed for the general election.
3. Section 29 (5) of the act provides that only the aspirant who participated in a primary election of a political party can approach the federal high court for review where there are allegations for falsification of information.
4. Section 47- 50 (2) of act gives legal backing for the use of the smart card reader, electronic accreditation of voters and any other voter accreditation technology that INEC deploys. It also gives legal backing to the electronic transmission of election results as INEC now has the power to determine the manners of the transmission of the result.
5. Section 84 (12) also provides that any political appointees must vacate the position before he or she can be eligible to participate in a primary election, or congress of the political parties either as a candidate or as a delegate
6. Section 54 provides that voters with disabilities or incapacitations should be assisted at the polling unit by a person choosing by him or she and the commission shall take reasonable steps to ensure that these persons are assisted.

7. Section 51 of the act provides that the total number of accredited voters will become a factor in determining over-voting at election tribunals. Thus, where the number of vote cast at an election in any polling units exceed the accredited voters in that polling unit, the presiding officer shall cancel the result of the election in that polling unit

8. Section 65 of the act also provides that INEC can now, within seven days review results of elections declared by returning officer under duress or where such a declaration was made contrary to the provision of the law, regulations, guidelines and election manual.

9. Section 94 of the act provides that political campaign shall commence 150 days before the election days and ends 24 hours to the elections.

10. Section 34 provides that INEC is empowered to suspend poll and fix a new date for the election within 14 days of the death of a candidate who died before the polls and where a nominated candidate dies after the commencement of the poll and before the final result and declarations of a winner, INEC is empowered to suspend election for a period not more than 21 days.

The electoral act 2022 as described above has realistic and laudable goal which if adequately implemented will no doubt improves the participations of Nigerian citizens in electoral process and enable them to contribute meaningfully to the democratic development of the Nigerian state.

Concept of Democratic Development

Democracy which is described as the system of government by popular will is traceable to two Greek's words Demo and Kratia, meaning people and government respectively. According to Ogbonnaya, (2009) democracy is a system of government in which all qualified adult citizens share the supreme power directly or through their elected representatives. Okeke (2017) sees democracy as a people-centered system of government. All over the world, democracy is prioritized because it is assumed to have the magic word that will effectively deal with inter and intra group conflict arising from the allocation of socio-economic gains. According to Moses & Ugo (2020) democracy with social, economic and political development will engender good governance and foster national development. What this means is that, democracy is regarded as the best form of government that can be adopted in a country because it offers good prospect for achieving national development of especially heterogeneous societies. Development is a normative concept referring to a multi-dimensional process. It is described as the gradual growth of something to become more advanced and perhaps stronger. According to Moses & Ugu (2019), the various conceptions of development include economic growth, increased welfare and human development, modernization, elimination of dependency, dialectical transformation and capacity building. To the United Nations (2021), development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from.

Democratic development therefore, can be summarized as having a sustained improvement in the electoral process, government functions, political participation, and accountability as well as in civil liberties of the citizens of a country (Economist Intelligence Unit, 2021). In its strong sense, democratic development may implies improvement in the totality of the individual in his/her economic, political, psychological, social and cultural relations among others.

Reasoning along similar line, Okeke and Idike (2016), posits that democratic development implies the elimination of inter-ethnic bitterness and antagonisms in the inter-group and interpersonal relationships in nation-state.

Electoral Act, 2022 and Democratic Development: The Relationship

Having presented the concept of electoral act and the democratic development, it is imperative to examine the relationship between the two concepts. In all nations, Nigeria inclusive, electoral act remain the instrument for achieving credible elections. Democratic development is said to be championed through credible electoral process which is often assumed to depend largely on the effective implementation of the electoral act. Electoral act as described is a policy document or a branch of public law that relates to the democratic processes of a country, it is a set of rules that determine how elections are to be conducted in a country and how their processes should be determined. A credible electoral act therefore, is the foundation of every democratic pursuits, which is expected to confer legitimacy on elected representative and provides opportunities for citizens to freely determine who and which political party can govern on their behalf in a democratic system. Democratic development is associated with a positive change in the condition of either individual groups, communities or even a country as a whole, the ultimate purpose of democratic development is to achieve sustainable governance and positive change in the quality of life of citizens who inhabit a certain social space, usually a nation state (ajaebili, 2013 in Moses & Ugo, 2019). The relationship between Electoral act and Democratic development are closely interconnected. While on the one hand democratic development is geared towards producing or creating a sustained improvement in the democratic factors such as: inclusiveness, accountability and civil liberties of the citizens of a country. On the other hand, electoral act is a tool which can enhance the attainment of the desired sustainable improvement. Abutu (2022) therefore, affirmed the electoral act and democratic development as two sides of the same coin. The fact that electoral act and democratic development shows glaring connectivity probably explained why electoral stakeholders in Nigeria emphasized the need for the new electoral act 2022 for the purpose of achieving the desired democratic development in Nigeria. Democratic development in the context of this study therefore is a sustainable transformation in Political participations, Accountability and Electoral process in Nigerian society.

Political participation

Political participation in any political system is a function of the awareness and positive involvement of the citizens in the civic and political activities. Adelekan cited in Falade (2014) described political participation as the process through which the individual plays a role in the political life of his society and has the opportunity to take part in deciding what common goals of the society are and the best way of achieving these goals. During political participation, citizens are expected to be involved in the political process and decision making by joining political party, voting during election, participating in electoral campaign, community affairs and other political activities. The level and pattern of the political participation of the citizens determine, to some extent, the success of the political system. This is the reason why democracy demands from the common man a certain level of ability and character: rational conduct and active participation in the government. But the Nigeria experience with political participation is not very pleasant. Right from the First Republic, the country's politics is characterized by greed, love of power, violence,

assassination and electoral thuggery. The people's votes in most cases have refused to count. While ethno-religious violence is rife in the polity such that virtually all elections held so far in the country are violent-ridden (Falade 2014). Although the Nigeria general election which was held in the recent times was relatively peaceful, however, it was also marked with some irregularities. During the election, there were allegations of cases of underage voting, distribution of money at the polling centers, non-transmission of election result, unlawful possession of firearms and other electoral offences. Similarly Yiaga Africa (2023) revealed that since Nigeria returned to democratic rule in 1999, the quality of political participation has remained a recurring issue in its governance and administration. The issues of inclusivity, transparency and accountability have more relevant as the country continues to circumvent the practice of democracy. In a related view, the World Democracy Index (2021) affirmed Nigeria as a nation with hybrid democracy with a 4.11 score in the latest ranking; the country is very close to being defined as an authoritarian regime in the sub-Sahara region. An authoritarian government is the kind of government which always strives to undermine the democratic principle of the citizen of a country such of freedom of assembly, association, property rights, freedom of religion and speech, inclusiveness and equality, citizenship, consent of the governed, voting rights, accountability among others cornerstones of democracy.

Accountability in governance

Accountability is described as the state of being responsible for the effect of one's actions and the willingness to explain or be criticized. It involves responsibility, answerability, control, productivity, performance, responsiveness and evaluation of specified goals (Ogbonnaya, 2021). This implies that any leader or representative of the citizen who is appointed or elected into any office must be responsible, answerable or accountable for the effective accomplishment of the job given to him or her. Anukam, Okunamiri and Eresimadu (1997:180) cited in Ogbonnaya (2021) asserted that the objective of accountability is to relate results to resources and efforts in a ways that are useful for policy making. The concept of accountability in a democratic system could also imply a movement geared towards ascertaining the extent to which the manifestos and programmes of the government are achieved. But sadly the Nigerian experience with the democratic accountability is different. The Nigerian accountability problem began shortly after independence when the country discovered crude oil, the volume of government fiscal and economic operations improved dramatically, as a consequence of the windfall. This sudden rise in the financial resources of government placed a very serious pressure on the already fragile financial management institutional systems inherited from the colonial masters, so even the primary goals of control and accountability, which is the hereditary bureaucratic structure sought to maintain, collapse under the weight of the government's extended financial activities (Okpala, cited in Oluwatoyin. elate 2019). Lack of accountability has been identified as the single most challenging problems in Nigeria democracy. According to Dayo (2021) "In the last 20 to 21 years of Nigeria's democracy, Nigeria has made some appreciable and commendable progress to modernize its laws, to improve transparency and accountability, but by far, the biggest challenge or gap is in the terms of how we operate those laws, those rules, those improvements in laws and processes and procedures is to be able to make them deliver democratic promises". Commenting on the lack of accountability in the Nigeria democracy, Yiaga Africa (2023) revealed suggestive factor to include

poor political leadership, which has in the previous year's failed to provide a democratic dividend. This according to the source is connected to the culture of impunity, which has largely created political leaders who are not accountable to the people. The growing trends of executive impunity, the enabling of electoral violence and irregularities, the consequence has always been the deep-rooted political apathy among the Nigerian populace which will always have some negative implication on the country's electoral process.

Electoral process

The presence of democracy in any system, presupposes that leaders of such system are chosen in a periodic, transparent process and that the leaders are accountable to their people. Electoral process therefore exists to ensure that the people have unrestricted freedom to choosing their leaders and to change them through free and fair elections rather than a system where an individual remains in office forever. An election is a major feature of democracy and remains a fundamental right of the people who are empowered by law to vote for individuals who will represent them in government. A democracy cannot exist without a credible electoral process in place but the Nigerian experience is different. Itodo (2022) revealed that there is an attempt to capture INEC ahead of the 2023 general elections alleging that some of the Commissioner's nominees to INEC are either politically aligned, or previously indicted for corrupt practices. Additional reports from Bratton (2019) revealed that many politicians have been involved in money laundering and buying of voter's conscious with money through bribery during elections in Nigeria. Reporting further, Yiaga Africa (2023) posits that political apathy or more specifically lack of interest in elections and politics in Nigeria is still on the rise especially when juxtaposed with the continuous decline in voter turnout, suggesting factor like executive interference with the electoral process and lack of citizen's trust in political leadership that failed to provide credible elections and democratic dividend to the Nigerian citizens.

The above sad record has serious negative implications for Nigeria's democratic development. Nigerian democracy aims to ensure political stability and promote fundamental human rights. Elections in Nigeria which should have been a prelude for achieving a stabilize government accompanied with people's consent have contradicted these standards due to poor political participation, poor electoral process and lack of accountability in governance by the democratic system of the country. Hence the problem of this study put in a question form is "What is the implication of the Electoral act, 2022 on the democratic development in Nigeria?"

The Importance of the new Electoral Act 2022 for Democratic Development in Nigeria

The electoral process of a country goes a long way in the determination of the level of governance in the country. The electoral process is an ideal and integral part of the democratic process whether in a developed or developing country. A malfunctioning electoral system inadvertently produces maladministration or bad governance. In most developing countries Nigeria inclusive, the crisis of governance is usually the major problem because of the manner people ascend into political power. So for the country to thrive in good governance, it must strives to have credible electoral laws to meet modern-day and developmental challenges. The signing of the new electoral act 2022, by the former president of the Federal Republic of Nigeria, President

Mohammadu Buhari on the 25th February, 2022 was appreciated by all Nigerian. According to Gabriel and Agbakoba (2022) the new electoral act 2022 introduced a lot of changes that without a doubt will immensely impact on the electoral process in Nigeria. This innovation will go a long way in reducing manipulation of the electoral process or rigging of elections in Nigeria. The key changes according to the scholars include the following:

Financial independence of INEC and early release of election funds to INEC

The Electoral Act 2022 has created room for INEC to have financial autonomy by receiving funds for the conduct of elections directly as opposed to getting funds subsequent to vetting by the ministry of finance. Section 3(3) of the electoral act 2022 provides that funds for general elections must be released at least one year before the election.

Early conduct of primaries and submission of candidates list

The new Act stipulates that political parties shall hold a primary and submit the list of candidates not later than 180 days before the date appointed for a general election. The change in the timeframe to submit the names of party candidates from 60days to 180 days makes it mandatory for parties to conduct primaries early enough.

Aspirants having power to institute action for false information

Section 29(5) of the electoral act 2022 provides that only aspirants who took part in a primary election can challenge candidates who submit false information to INEC. Unlike the repealed Act, where any member of the public can challenge a candidate with false information, the new Act has restricted that to those who participated in primaries wherein the candidate with false information emerged.

Legal backing of electronic voting and transmission of result

Section 47 and 50(2) Electoral Act 2022 gives legal backing for the use of smart card readers, electronic accreditation of voters and any other voter accreditation technology that INEC deploys, Where the card reader deployed by INEC fails to function and a fresh card reader or technological or technological device is not deployed, the election shall be cancelled and another election scheduled within 24 hours.

Political appointee not eligible as a voting delegate or aspirant

Section 84 of the Electoral Act 2022 makes provision for the nomination of Candidates by political parties; one of its provisions is the exclusion of political Appointee from acting as a Voting Delegate. Subsection 12 provides that no political appointee at any level shall be a voting delegate or be voted for at the convention or congress of any political party.

Death of Candidate Before or After the Election

The new electoral Act, 2022 provides that where before the commencement of polls a candidate dies; the election shall be postponed and shall appoint some other convenient date within 14 days of the candidate's death. However, if after the commencement of the polls and before the announcement of the final winner/declaration of a winner, a candidate dies, the election will be suspended for not more than 21 days. And where the election is for a legislative house, the election shall start afresh and the political party whose candidate died may if it intends to continue to participate in the election, conduct a fresh primary within 14 days of the death of its candidate and submit the name of a new candidate to the commission to replace the dead candidate. Section 34

of the new Act in its provision states that in case of presidential or gubernatorial or federal capital territory area council election, the running mate shall continue with the election and nominate a new running mate.

The Commission's Power of Review of Involuntarily Declared Result

Under the new Electoral Act 2022, INEC now has the power to review within Seven (7) days the declaration and return where the commission determines that the said declaration and return was not made voluntarily or was made contrary to the provisions of the law, regulations and guideline, and manual for the election. The new Act further gave the power to review the decision of the returning officers to an election tribunal or court of competent jurisdiction in an election petition proceeding. This provision will go a long way in curbing the incidents of forcing a returning officer to make a declaration under duress which was alleged against Sen. Rochas Okorocha the former Governor of Imo State by the returning officer in his last election.

Virtually impaired, Special needs, and Vulnerable Voters

Section 54 of the new electoral Act provides that INEC shall take reasonable steps to ensure that persons with disabilities, special needs, and vulnerable persons are assisted at the polling place by providing suitable means of communication, such as Braille, large embossed print, electronic devices, sign language interpretation, or off-site voting in appropriate cases.

However, despite the above importance of the electoral act, 2022 to the democratic development in the Nigeria, there are still allegation of wide spread procedural irregularities, in the just concluded 2023 general elections which include numerous incidence of vote buying, intimidation of the electorate, non transmission of election result among others electoral mal-practices. The outcome of which has always been a challenge to the democratic development of Nigeria.[EU,2023 and Yiaga,2023].

The Implication of the Electoral Act 2022 on the Democratic development in Nigeria

As earlier stated, since Nigeria returned to democratic rule in 1999, the quality of the country's democratic process has remained a recurring issue in her governance and administration. The three-way issue has remained the issue of lack of political participation, accountability in governance and credible electoral process. The country's electoral process has always been in transition with specifically targeted reforms implemented previously to improve the quality of the elections, yet the process still grapples with the challenge of inability to manage diversity and excesses of the politicians which is the root causes of the lack of the citizens' confidence in the country's electoral process (Itodo, 2022). However, the signing of the new electoral Act 2022 is a welcome development to the curbing process of the political actor's excesses in Nigeria. According to Agbakoba (2022) lawmaking is one of the developmental processes of any state. When new laws are made, it brings or introduces new regulation of conduct and this is applicable to the new law made which has the tendency if properly applied or implemented to revolutionize our electoral system. Therefore, the first implication of the electoral act 2022, to the Nigerian democratic development is that it has provided for electronic database and electronic transmission of results as against the old order which is full with irregularities. Secondly, the new electoral Act 2022, if properly implemented will increase political participation, accountability in governance and improves electoral process in Nigeria democratic process. Lack of political participation,

accountability in governance and inadequate electoral process are some of the country's identified constraint to democratic development.

Conclusion

The electoral act, 2022 is a laudable effort to keeping the Nigerian electoral process up to the international best standard, the problem of the country's democratic development is now hinging on the effective implementation of the new electoral act particularly as the 2023 general has left us with several irregularities to be fixed by all the electoral stakeholders in Nigeria.

Recommendations

Based on the above findings, the following recommendations are made:

1. Federal and state governments in Nigeria should allow absolute independency of the EMBs in the conduct of their elections
2. The implementation of the new electoral act 2022 should be monitored by all electoral stakeholders in the country without any restriction at every level of the electoral process.
3. The new electoral Act's defaulter should be severely punished.
4. Federal government should not interfere with elections tribunals' processes on electoral matters in Nigeria
5. Commission for Electoral offences should be established in Nigeria to enable the quickest prosecution of electoral process defaulters.

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