

Legislating on Electronic Process: A Panacea to Corruption in Electoral Process in Nigeria

By

Jaleelah F. Idris, Saliu Jimoh, and Oloyede Oyediran*

Abstract

The electoral system is one of the major pillars of a democratic political structure; it is a system through which the pilots of the government are given the control of the nation. The traditional analogical method of conducting election has not been yielding the much needed credible, free and fair election results and legitimate government as it is easily corrupted hence the yearning for an alternative. Although the electronic process can provide the means of solving a range of problems in the existing electoral system including corruption, it comes with concerns and reservations. It has been established by research that corruption is a factor among others which is responsible for such political ills as democratic instability, poverty, endless and senseless bloodshed, insecurity and chronic economic underdevelopment. This paper examines the electronic process as a panacea to corruption in the electoral system in Nigeria by reviewing the nature, causes and effect of election related corruption; the establishment and control of the electoral system and the extent to which corruption has affected the electoral system as well as the prospects or otherwise of introduction of electronic process in Nigerian elections as a panacea in this regard. Lessons shall be drawn from other jurisdictions. The methodology of this research is doctrinal, drawing from content analysis of primary sources such as statutes, case laws as well as secondary sources such as scholarly texts, internet materials, theses, newspapers and relevant journal articles. This paper concludes by recommending that with proper legislation on electronic processes and all the needed logistics in place, it can serve as a panacea to corruption in the electoral system in Nigeria.

Key words: Panacea, electoral system, electronic process, corruption

Introduction

Corruption has been described in so many ways and forms but one thing that is common with all the definitions is that corruption is a violation of the law and the ethics of either public or private office. It is sheer abuse or misuse of power, status or privilege by persons in authority, or very close to it whether in private, or public life for his personal gain or those of his privies. A working definition can be given as

[A]ny transaction or dealing which violates the duty of an office holder whether in private or public office, whether proscribed by law or moral with a motive of acquiring or amassing resources illegally or unlawfully for his personal advancement and self or privies' gratification.¹

¹□ Authors are lecturers at Bola Ajibola College of Law Crescent University, Abeokuta, Nigeria. The article is a revised text of a paper delivered by the authors at the 53rd Conference of Nigerian Association of Law Teachers which was held at Bayero University Kano from 7 – 11 February 2022

Okwara, Emmanuel Chukwuma, 'Systemic Corruption and its Multiplier Toll on the Electoral System: A Study of Nigeria' [2021] (7)(1) *IJCSIRD* 27 <<https://link.springer.com/chapter/1001057/9780330117594>> see further Okoosie –Simbine, Antonia.T, 'Corruption in Nigeria' in Adejumo S (ed) 'State, Economy, and Society in Post Military Nigeria' (Palmgrave Macmillan, New York 2011) <https://link.springer.com/chapter/1001057/9780330117594> accessed 3 January 2022

In the Economic and Financial Crimes Commission (EFCC) Act² Corruption is an illicit, non-violent crime which can be committed by an individual or by a group of people with the objective of earning money or money's worth, or other advantages illegally or in an illegal manner-this has the potential of disrupting the economic activities and administration of government. Electoral fraud is any form of unlawful or illegal interference with the electioneering process with intention to tilt the scale of the result of the election against the normal run of event³ thereby reducing the credibility and acceptability of the process. Electoral corruption include vote buying, buying of election officers, party agents and security personnel, voters registration manipulation, election manipulation, vote buying and selling and security, stifling opposition movement, media domination⁴ and rigging of election⁵.

The electronic process in elections involves the deployment of technology and computers in the electoral system. It includes electronic voting and counting⁶ electronic registration and biometric data capturing. The casting of votes and counting of votes is the core of the electoral system.⁷ Therefore, one can safely say that technology in this case regulates the electoral system as against the traditional analogous electoral system which is gradually becoming obsolete universally⁸. Adoption of the electronic process opens the electoral system to a lot of challenges one of which is the unauthorized intervention of third parties, errors and technical malfunction which may not be easy to detect as in the physical process⁹. The use of electronic process of voters' accreditation at the 2015 elections, the controversy which arose from the proposal to amend the Electoral Act to accommodate electronic voting and transmission of results prior to the 2019 elections¹⁰ and the subsequent use of electronic voting in Kaduna State¹¹ brought the subject of electronic voting into the awareness of the political class as well as the electorate in Nigeria. This paper examines the Nigerian political structure and the electoral system; the electronic process and corrupt practices in the electoral system with the

²S 46 EFCC Act. 2004

³ Stephen Dawson, 'Electoral Fraud and the Paradox of Political Competition' [2019] (3)(5) *Journal of Election, Public Opinion and Parties*; 10 < <https://doi.org/10.1080/17457289.2020.1740716>. accessed on 6 January 2022

⁴ Ibid note 4

⁵Babayo Sule, Mohammed Azizuddin Mohammed and Sani, Bakri Mat, 'Corruption and Electoral Process in Nigeria: Examining the 2015 General Election'[2018](10)(1) *Journal of Techno Social* ; 26007940 <https://researchgate.net/publications/326695348_corruption_and_electoral_process_in_nigeria_examining_the_2015_elections> accessed on 1 January, 2022

⁶ Afe Babalola, 'The E-voting System Vis-a Vis Nigeria's Electoral Challenges' *Vanguard News online* (December 22 2021)

<<https://www.vanguardngr.com.cdn.ampproject.org/v/s/www.vanguardngr.com/2021/12/the-e-voting-system-vis-a-vis-nigerias-electoral-challenges>> accessed on the 7January 2022. .

⁷ Ibid.

⁸ Emad Abu-Shanab, HabaRefa and Micheal Knight, 'E-voting System: A Tool for E-Democracy'[2010](2)(3) *Knowledge Management Research and Practice*; 264

⁹ Obinne Obiefuna Oguejiofor, Advancing Voting System in Nigeria's Electoral Process: Legal Challenges and Future Directions [2018](9)(2) *Journal of Sustainable Development Law and Policy*;

¹⁰The House of Representative and the Senate differing views on subject matter wherein the House of Rep's version gives Independent National Electoral Commission(INEC) the power to determine the procedure for voting and transmission of results, the Senate states that INEC could only act with the approval of National Communication Commissions (NCC). See EDITORIAL, 'Electronic Voting and Transmission of Results – The Imperative to Safeguard Democracy' *Premium Times* (2 October, 2021) <<https://premiumtimesng.com/news/top-news/487878-editorial-electronic-voting-and-transmission-of-results-the-imperative-to-safeguarding-democracy>> accessed 1January, 2022

¹¹In 2018, Kaduna State introduced the electronic voting system. EDITORIAL, 'Electronic Voting and Transmission of Results – The Imperative to Safeguard Democracy' *Premium Times* (2 October, 2021) <<https://premiumtimesng.com/news/top-news/487878-editorial-electronic-voting-and-transmission-of-results-the-imperative-to-safeguarding-democracy>> accessed 1January, 2022

aim to establish that although with a lot of challenges, adopting the electronic process can still go a long way in providing a far-reaching cure to electoral corruption in Nigeria.

The Nigerian Political Structure, Corruption and the Electoral Process

The modern democratic state is centred on the electoral process in that the social, economic and political order is determined and much influenced by elections and electoral practices¹². It is the electoral process that gives birth to democratic governance¹³. Elections, often defined as a procedure which gives opportunity to members of a state, organisation or community to choose representatives who will hold positions of authority within it for a predetermined period¹⁴ provides the medium through which the different interest groups and stakeholders within the state particularly in a multi-ethnic state like Nigeria resolve their claim to power through peaceful means; it determines the process of power change.¹⁵

The three levels of government consisting of the executive, the legislative and judiciary are controlled by the Constitution¹⁶ and other legislations which are administered by elected members of the executive. According to the Constitution of the Federal Republic of Nigeria (CFRN) 1999, every citizen of Nigeria who has attained the age of eighteen has the right to vote.¹⁷ The election process is conducted and supervised by the Independent National Electoral Commission¹⁸ in accordance with provisions of the Constitution and the Electoral Act. The Constitution provides for and guarantee every Nigeria citizen of above 18 years and who resides in Nigeria at the time of voters' registration the right to participate in the election into political offices as follows: 'Every citizen of Nigeria, who has attained the age of eighteen years residing in Nigeria at the time of the registration of voters for the purpose of election to the legislative house, shall be entitled to be registered as a voter for that election'

The above constitutional provision and many other local statutes¹⁹, International Conventions and Covenants guarantee²⁰ the right of every Nigerian of the requisite age to participate in an election either as a voter or as a candidate or both in a free and fair election. While the local

¹² Aule Oravee, Matthew Funsho Bello and Mohammed Idris Danjuma, 'Elections and Good Governance in Nigeria's Fourth Republic 1999-2010' [2017](2)(2) *University of Benin Journal of administration and Development*; 4

¹³ Ibid note 9

¹⁴ Osita Agbu, 'Election Rigging And The Use Of Technology: The Smart Card Reader as the Joker in Nigeria's 2015 Presidential Election'[2016](15) (2) *Journal of Africa Elections* ;92.
<<https://eisa.org/pdf/JAE/15.2Agbu.pdf>>

¹⁵ Ibid (note 1) see further, Daniel Egigba Agbiboa, 'Between Corruption and Development: the Political Economy of State Robbery in Nigeria'[2013](108)(3) *Journal of Business Ethics*; 325-345
<https://www.researchgate.net/publication/241761025_Between_Corruption_and_development_the_political_Economy_of_state_Robbery_in_Nigeria> accessed 2 Jan, 2022

¹⁶ Section 1, 2, 3, 4, 5 and 6 of the Constitution of Federal republic of Nigeria 1999 as (altered).

¹⁷ Ibid. Section 77(2)

¹⁸ INEC, Established by the Constitution of the Federal Republic, 1999 to among other things organise elections into various political offices. See s. 15, part of the third schedule to the constitution, s, 2 of Electoral Act.

¹⁹ Section 12(2) Electoral Act LFN 2004. Section 1(2) Registration of Voters Act LFN 2004

²⁰ Section 25 International Covenant on Civil and Political Rights Adopted by the General Assembly of the United Nations on the 19th December 1966 which has subsequently passed the test of Section 12 of the CFRN1999 as altered).

laws and Constitution appear not to guarantee a free and fair election, the International Covenant on Civil and Political right does.²¹

One of the impediments, perhaps the main one to free and fair elections in Nigeria is political corruption²². The resultant effects of political corruption on democracy and politics of the country are weak political institutions, lack of party ideology, political violence, economic underdevelopment and crisis of legitimacy.²³ Electoral fraud in the electoral process can be said to be one of the major factors responsible for the ripples of corruption in the public sector in Nigeria. This manifests in every aspect of the Nigerian polity because the leaders are elected into political offices through a corrupt process.²⁴ Studies show that electoral corruption is not limited to the position seekers but also to the voters.²⁵

The Constitution²⁶, the Electoral Act²⁷, and the Independent National Electoral Commission (INEC) Regulations and guidelines²⁸ are the main sources of electoral laws in Nigeria; they govern the process of electing people into political offices and the conduct of the elections. They further regulate the right to form or belong to a political party, right of INEC to restrict the formation of political parties²⁹, qualifications and disqualification for election³⁰ and supervision of elections³¹ among others. The Electoral Act provides for the establishment and function of the Commission³², for the regulation of the electoral process including registration of voters.³³ The INEC regulations and guidelines on its own provide for the activities of the election and the process of ensuring that the activities are in accordance with the law.

Analysis of Corrupt Practices in the Electoral Process

According to Nwabueze³⁴ 'electoral malpractice' means 'illegal act done with a corrupt, fraudulent or sinister intention to influence the election in favour of a candidate'.³⁵ As stated by the author, these acts are mostly illegal as they are proscribed and defined as offences by an

²¹ Art. 25(b). states that 'every citizen shall have the right and the opportunity... to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot guaranteeing the free expression of the will of the voters' (emphasis mine)

²² Catherine E. DeVries and Hector Solaz, 'Electoral Consequences of Corruption' [2017] (20) *Annual Review of Political Science*; 391

²³Ibid note 6

²⁴ Okwara, Emmanuel Chukwuma, note1

²⁵ See Eniola Akinkuotu, '42% of Citizens Believe all Nigerians are Corrupt- Report' *Punch Newspaper* (13 July 2021), <<https://punchng.com.cdn.ampproject.org/v/s/punchng.com/42-of-citizens-believe-all-nigerians-are-corrupt-report>> Accessed on the 7 January 2022.

²⁶The Constitution of the Federal Republic of Nigeria 1999.

²⁷The Electoral Act 2010

²⁸The INEC Regulations and Guidelines for the Conduct of Elections, 2019

²⁹s.40, s.222

³⁰s. 65, 105, 131

³¹ss 66.107, 137, 182

³²s 2 of the Act, s159 of the constitution.

³³ss. 9, 12, 25, 31 and 69 of the Electoral Act.

³⁴ Ben O Nwabueze, "The Electoral Process and the 1999 Constitution" in A. Umezulike (Ed.), *Democracy beyond the Third Republic* (Enugu: Fourth Dimension Publishers, 1993) cited in A Steve, M Nwocha and I Igwe, "An Appraisal of Electoral Malpractice and Violence as an Albatross in Nigeria's Democratic Consolidation", [2019](10) *Beijing Law Review*; 77-97.

<<https://www.scirp.org/journal/paperinformation.aspx?paperid=90402>> accessed 06 January, 2022.

³⁵ Ibid.

Act of Parliament³⁶, but in some other cases they are not illegal having not been proscribed by law. However, all such acts are inherently corrupt in nature. Corruption in the electoral process manifests itself in different ways; all leading to the same result of hijacking or tickling with the minds and choice of the electorates³⁷. As Rowland³⁸, opined in the case of *Sadu Malumfashi v. Usman Yaba and Ors.*³⁹ electoral related corruption can occur in a situation where the votes scored by the parties exceed the number of accredited voters. While the court's position is very accurate, it is not total as these corrupt practices may take other several forms such as rigging, vote buying, hijacking of ballot boxes, intimidation of voters and security personnel, announcement of final result different from ballot count and result announced at the polling unit, etc.⁴⁰

As aptly stated by Steve, Nwocha and Igwe, "corrupt practices in the electoral process are indeed as old as the practice of democracy in the world... (and) are prevalent during registration of voters exercises and in the course of campaigning..."⁴¹ this means the electoral umpire can be moved to either wilfully refuse to register able, qualified and eligible electors in a given unit or ward with the primary aim of disenfranchising them for the sake of an anointed candidate or inflate the register of voters at a given constituency in favour of candidate for monetary or political gain. This is closely followed up by campaign related corruption.

Campaign related corrupt practices are another prominent and well pronounced form of electoral corruption.⁴² The purpose is solely to position a given candidate in a vantage point where the adversary cannot attain in a very corrupt and obscured manner. Campaign related corrupt practices are tailored to a well-defined result, and that is to ensure at all cost that the voters cast their votes for the anointed candidate, who is often the brain behind the fraud.⁴³ Though we acknowledge the prevalence of this scourge, knowledge of the happenings on election days make it more difficult to agree with these authors on their joint position that corrupt practices in the course of campaigning for an election is the most pronounced form of corruption in the electoral process. The magnitude of fraud and electoral malpractices perpetrated on the Election Day or after the election before the result is announced is huge. No matter the point at which it is done, corrupt electoral practices are geared towards the attainment of the sole interest of subverting the will of the people whose judgement or choice is the actual idea behind the democratic process.

It must be clearly stated from inception that there is no known electoral offence tagged as corruption or fraud. The words 'Corruption' and 'fraud' are not offences on their own; they are just group or generic names for certain kinds of peculiar offences, acts, omissions and behaviour that are either legally or morally proscribed. Therefore, since we have defined corruption to be abuse or misuse of position or authority, practices such as election rigging which includes; vote buying, hijacking of ballot boxes, candidate kidnapping, ballot snuffing, printing fake voters card, ballot box snatching, intimidation of voters and security personnel,

³⁶ *ibid.*

³⁷ Catherine E. DeVries and Hector Solaz note 22.

³⁸ Hon Justice Roland is a justice of the Court of Appeal Nigeria.

³⁹ (1999) LCN/0540 (CA).

⁴⁰ A Steve, M Nwocha and I Igwe, 'An Appraisal of Electoral Malpractice and Violence as an Albatross in Nigeria's Democratic Consolidation', (2019) 10 *Beijing Law Review* pp.77-97.

<<https://www.scirp.org/journal/paperinformation.aspx?paperid=90402>> accessed 06 January, 2022.

⁴¹ *Ibid* (note 34)

⁴² *Ibid.* (note 34)

⁴³ *ibid.*

blocking or restraining the movement of the opposition as well as the manipulation of election results have been in the Nigerian electoral process for as long as Nigeria has been holding elections⁴⁴. A cursory look at the past elections in Nigeria will drive home the point.

The 1999, 2003 and 2007 elections were reported by The National and International Election Observers as well as the Commonwealth Election Monitoring Group to be the most fraudulent, disorientated and disorganised elections where mandates of candidates were openly stolen⁴⁵, and the echoes of mass rigging and open sale and purchase of votes were heard before, during and even after the elections⁴⁶. Umaru Musa Yar'dua⁴⁷ who won the 2007 Election admitted that the election that brought him to power was marred with electoral fraud⁴⁸. Though he promised to address the challenges in the subsequent election, he did not live to witness the 2011 election.

The 2011 General Election was not different from the ones before it as the election itself was not spared by mass electoral fraud, vote buying, and ballot snuffing to mention but a few.⁴⁹ Because of this trend, Nigerian election results and her democratic process have not gained any nationwide or universal acceptability as is expected of the most populous African nation.⁵⁰ The gains that were recorded by the introduction of biometric data capturing and the use of card reader electronic machine during the 2015 Election was commendable applauded universally⁵¹ but all the gains and accolades the election got from the use or the partial use of electronic voting machines were casted to the dust bin of history by the Nigerian Appellate courts particularly the Supreme Court who in their opinions, for wants of adequate provisions in the Electoral Act permitting the use of the electronic devices discountenance its uses irrespective of whatever is contained in the electoral guidelines⁵². Petitioners who had successfully relied on the use of the card reader machines in their pleadings were disappointed when they were by the apex court's superior opinions required to have proved over voting not with the use of card reader machines but with the voters registers⁵³. Justice Peter-Odili opined thus:

⁴⁴ Babayo Sule, Mohammed Azizuddin M, Sani, Bakri Mat., note6

⁴⁵ Chigozie Okonkwo and Uche Eme Uche, 'Card Reader and the 2015 General Election in Nigeria' Researchgate.(2018)
<https://www.researchgate.net/publication/338992039_card_reader_and_the_general_election_in_nigeria>. Accessed on the 10 January 2022.

⁴⁶ Ani Casimir, Emma Omeh, and Chinedu Ike, 'Electoral Fraud in Nigeria: A Philosophical Evaluation of the Framework of Electoral Violence' [2013](3)(4) *Open Journal of Political Science*; 1

⁴⁷ He was the president of Nigeria and the flag bearer of Peoples Democratic Party of Nigeria in the 2007 Presidential Election.

⁴⁸ *ibid*

⁴⁹ Ugo Jim-Nwoko 'Nigerian Elections: A history of loss of Memory' *The Cable*, (18th May, 2019). <<https://www.thecable.ng/nigerian-elections-a-history-and-a-loss-of-memory/amp>>. Accessed on the 7 January 2022.

⁵⁰ Ugo Jim-Nwoko, 'Nigerian Elections: A history of loss of Memory' *The Cable*, (18th May, 2019). <<https://www.thecable.ng/nigerian-elections-a-history- and -a-loss-of-memory /amp>> Accessed on the 7th January 2022.

⁵¹Chigozie Okonkwo and Uche Eme Uche, 'Card Reader and the 2015 General Election in Nigeria' Researchgate.(2018)
<https://www.researchgate.net/publication/338992039_card_reader_and_the_general_election_in_nigeria>. Accessed on the 10 January 2022.

⁵² *Ogboru vs Arthur* (2016) All FWLR (Pt. 833) 1805 S.C.

⁵³ *Ibid*.

My understanding of the function of the card reader machine is to authenticate the owner of a voter's card and to prevent multi-voting by a voter. I am not aware that the card reader machine has replaced the voters register or taken the place of statement of result in appropriate forum⁵⁴.

All the respondents who had their petitions and other processes based on the Card Reader Reports and in fact who had won both at the Election Tribunals and even at the Court of Appeal were shocked by the pronouncement of the Apex court condemning the use of the card readers by the Independent National Electoral Commission of Nigeria as having been done without statutory foundation and as such was against the provisions of the Electoral Act. The words Rhodes-Vivour⁵⁵ in *Ikpeazu v. Otti*⁵⁶ which is hereunder reproduced:

The National Assembly, that is, congress, made the Electoral Act. The Electoral Act is an Act of the National Assembly, the arm of government that makes laws for Nigeria.

Now, section 49 of the Electoral Act says in simple English that a person would be allowed to vote if and only if his name is in the voter's register. It was introduced to improve the accreditation process. It does not violate any law.

Where a petitioner seeks to prove that there was over-voting in the election in which he participated, he would succeed if he is able to show that the number of votes exceeds the number of would-be voters in the voters register. If the petitioner decides to rely on the card reader report as in this case to show that the number of votes exceeds the number of voters recorded by the card reader but less than would-be voters on the voters' register, he would fail. That explains the plight of the petitioner in this petition/appeal. The card reader may be the only authentic document if and only if the National assembly amends the Electoral Act to provide for card readers. It is only then that card readers would be relevant for nullifying elections.

The Supreme Court emphasised that unless backed by legislation, the card reader cannot be used to curb practices such as the manipulation of the design of institutions governing election to the advantage of one party over another, the violation of the principle on inclusion, impartiality and transparency by establishing over-restrictive candidacy regulations and campaign regulations that lead to inequality among contestants and inaccessibility by electoral observers still characterised the 2015 elections.⁵⁷

Little wonder, candidates in Nigeria elections want to be declared as winner somehow or anyhow by the electoral umpire as this guarantees the winner's access to state resources and control until the otherwise is established by the terminal appellate court⁵⁸ which until recent may take the period of the tenure of the office being challenged. The declared candidate by

⁵⁴ Ibid.

⁵⁵ Rhodes-Vivour was a former Justice of the Supreme Court of Nigeria

⁵⁶(2016) All FWLR (Pt. 833) 1946 S.C.

⁵⁷Osita Agbu, 'Election Rigging And The Use Of Technology: The Smart Card Reader as the Joker in Nigeria's 2015 Presidential Election'[2016](15)(2) *Journal of Africa Elections*; 92. <https://eisa.org/pdf/JAE/15.2Agbu.pdf> accessed 4 January 2022

⁵⁸ A G Umar Kari, 'Issues in election Petition Adjudication in Nigeria's Fourth Republic: Sociological Critique of the Role of the Judiciary' [2017](5)(7) *Global Journal of Politics and Law research*

virtue of the declaration becomes a respondent in case of the loser filing petition at the Election Tribunal. It is rare for a petitioner to win in an election petition in Nigeria particularly if he is challenging over voting as the Electoral Act and the Election guidelines appear designed to favour the respondents. The most onerous of the challenges posed to petitioner in an election petition is the difficulty of proving multiple voting in election with the limited allotted time⁵⁹. For instance, a petitioner who desires to prove over voting in governorship or presidential election where all the voters' cards used nation-wide become an issue is required to call party agents from all the electoral wards if not from all the polling units nationwide so that his evidence do not become hearsay or caught to by the doctrine of classical dumping. In the case of *Ngige v Obi*,⁶⁰ over 425 witnesses were called and examined in the case alone and lasted for over 35 months before it was finally determined on appeal.

As one of the pillars of democracy, credible elections are critical in ensuring participatory governance and when it is credible, free and fair⁶¹; it protects the sovereignty of the people, ensures and strengthens their control over their leaders.⁶² An election is free if at all the stages of the process, there are no inhibitions and contradictions, where it shows no favour to person, party or side. It must be stated that acts which amount to electoral fraud or electoral corruption is not closed⁶³. It is therefore fraudulent and illegal where legislation has so declared it to be so and a mere moral wrong where it has not been so codified⁶⁴. Therefore, corrupt practices such as influencing peddling, godfatherism, manipulation of media reports, influencing the posting of staff of electoral body or security personnel to be posted to particular places are yet to be criminalised in Nigeria and so remained an unenforceable moral wrong.

We shall now analyse a few of these forms of corrupt electoral practices particularly those that have been criminalised.

Rigging

Election rigging is not a crime on its own but is an aggregate of acts or omissions such as ballot stuffing, ballot hijacking, vote buying. These are some of the acts that amount to electoral offences. 'Rigging' is the present continuous form of the verb 'rig', which means to manipulate in a fraudulent manner.⁶⁵ It is used in the Nigerian electoral context to mean the same. It is a blanket word for all fraudulent electoral practices that has to do directly with tampering with choice of the electorate⁶⁶with an utmost intention of undermining the free choice of the electorates. It presupposes that the electoral process that has been fraudulently manipulated so as to achieve a favourable outcome, a victory at the polls, for the undeserving candidate⁶⁷.

⁵⁹ Ibid.

⁶⁰ (2016) NWLR (pt 999) 1-241.

⁶¹ Olatunji Okesola, and others 'E-Voting: The pathway to Free and Fair Election in Nigeria' [2019](15)(1) *Electronic Government an International Journal*; 3.

⁶²Ibid (note 7)

⁶³ Olatunji Okesola, and others ibid note 43.

⁶⁴ *Aoko vs Fagbemi* (1961) 1 All NLR 400, Chief *Bode George v. FRN* (2013) LOR (13/12/2013. Delivered on the 13th December 2013.

⁶⁵English Dictionary, <<http://wordnet.princeton.edu>> accessed on 2 January 2022.

⁶⁶ Professor B . O Nwanbueze note 34

⁶⁷Amaramiro A Steve, Mathew Enya Nwocha, and Igwe Onyebuchi Igwe, 'An Appraisal of Electoral Malpractice and Violence as an Albatross in Nigeria's Democratic Consolidation', (2019) 10 *Beijing Law Review*; 77-97. <<https://www.scirp.org/journal/paperinformation.aspx?paperid=90402>> accessed 06 January, 2022.

The manifestation of rigging in our electoral system is different in forms. This includes allowing underage voting, permitting people not registered or registered in a different polling unit to vote where they were not registered, with intention of conferring benefits on a party unduly, monetary or material inducement. It can also take the form of announcement of results other than that of the actual votes cast during the election or changing the result announced at a polling unit on transit by the already influenced electoral officers. It must be noted that rigging of election does not know whether an election is manually done or electronically conducted. Electronically conducted elections can still be rigged one way or the other. What differs is the degree of fraudulent influence on the electoral mandates.

Various reasons account for the prevalence of rigging in our electoral system. Some of the reasons are economic, the need to partake in the sharing of the commonwealth of the country to improve a person's personal economy, the depth of poverty among the people, the corrupt tendency or nature of the electoral umpires and security operatives, and the passive support of the rather unrealistic judicial process.

Vote buying

This is the act of inducing voters to vote or refraining from voting in a particular manner by offering some incentive as consideration for compliance. The incentive could be monetary or otherwise but must be offered for the sole purpose of influencing the voter's choice at the polls. Vote buying is illegal and criminal in the Nigerian setting and carries weighty punishment under sections 23, 124 and 130 of the Electoral Act, 2010 (As Amended).⁶⁸

According to Adetula,⁶⁹

Vote buying is a corrupt act which usually takes the form of a gift or gratuity bestowed for the purpose of influencing the action or conduct of the receiver, especially money or any valuable consideration given or promised for the betrayal of a trust or the corrupt performance of an allotted duty, as to a fiduciary agent, a judge, legislator or other public officer, a witness or a voter.

This definition sees the target of vote buying as just not the voter, but the public officials that are involved in the electoral process. While we acknowledge the influence of the other classes in the outcome of the electoral process, we opine that the definition is rather ambitious as these other classes have no vote to exchange for the consideration they receive, thus are best suited under some other categories of electoral malpractices.

In section 24 of the Electoral Act⁷⁰, the offence of buying and selling votes includes the unlawful possession, sale or purchase, including attempt, of any voter's card whether issued in the name of any voter or not, for oneself or on behalf of another. Receipt of gift offers loans and other forms of inducement⁷¹ to manipulate election results carries a maximum punishment of N500,000.00 (Five Hundred Thousand Naira) fine, two years imprisonment, or both. In the same vein, section 130 of the Electoral Act, 2010 criminalises the giving, providing or paying of money to any person or the acceptance or taking of money or any inducement by a voter for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at an election, or on account of such person or any other person having voted or refrained

⁶⁸ Cap. E6 LFN. 2004.

⁶⁹ Adetula VOA, 'Money and Politics in Nigeria: An overview' (DFID 2008)

⁷⁰ Cap E6 LFN 2004.

⁷¹s130 Electoral Act Cap E6 LFN 2004.

from voting at such election. A conviction there carries a fine of N100,000.00 (One Hundred Thousand Naira), or imprisonment for a term of 12 months, or both.

Despite the clear wordings of the Electoral Act in proscribing vote buying, it is still the order of the day during elections in Nigeria as agents of the various candidates and political parties brazenly offer cash and other material incentives to voters to secure votes. Bags of rice and other food items are distributed to voters with the party logo and candidate's picture and name boldly printed on them. This is done with so much impunity that it is even difficult to believe that it is illegal. Arrests are seldom heard of to have been made, if it has ever been.

The implication of vote buying is usually felt after the party or candidate has been declared winner and returned elected. As Steve, Nwocha and Igwe⁷² put it: "administrations that have forcefully come to power through vote buying spend considerable time recouping from its political investment, usually through the pilfering of state resources. Consequently, little resources are available for the fulfilment of campaign promises and peoples' livelihood expectation. Worse still, little attention is paid to the development of democracy."⁷³

Hijacking of ballot boxes

Hijacking of ballot boxes is an expected occurrence in every election in Nigeria. There are so many instances of hijacking of ballot boxes in Nigeria that a random search on the internet would reveal so many cases since the beginning of the fourth republic,⁷⁴ the argument not being that the problem did not exist before 1999, when the fourth republic began.⁷⁵ It entails the often forceful and violent seizure of ballot boxes for the sole purpose of influencing the voting process or the election in favour of a desired candidate. It can be deployed to allot more votes to one's candidates or a means to remove votes from the opponent. When deployed for the former purpose, fake ballots are then cast in the ballot box and then counted in favour of the preferred candidate. On the other hand, when deployed for the latter purpose, valid ballots cast for the opponent are withheld by the hijackers and as such do not count for the candidate.

Given that the action is an attempt to disenfranchise voters or not to make their vote count; it is often met with resistance. Consequently, ballot box snatchers have become violent and often resort to the use of lethal weapons to achieve their goals.⁷⁶ There have also been several accusations of ballot box snatchers working with the law enforcement personnel in the past. The long aftermath of ballot box snatching coupled with the attendant violence is that it often results in voter apathy. Voters overtime lose faith in the election process, believing that their votes do not count and so, do not see the need to waste their time participating in elections, more so at the expense of their lives and safety. This conduct is proscribed by section 129(1)(j)

⁷² Steve, M Nwocha and I Igwe, note 68

⁷³ Ibid.

⁷⁴ Q E Iroanusi, '#AnambraDecides2021: INEC confirms ballot snatching reports, police feign ignorance', *Premium Times*, (06 November, 2021) <<https://www.premiumtimesng.com/news/headlines/493878-anambradecides2021-inec-confirms-ballot-snatching-reports-police-feign-ignorance.html>> accessed 05 January, 2022; R Ajakaye, 'Nigerian general polls see violence, ballot snatching *Anadolu Agency*, (23 February, 2019) <<https://www.aa.com.tr/en/africa/nigerian-general-polls-see-violence-ballot-snatching/1401155>> accessed 05 January, 2022.

⁷⁵ C K C Ani, E Omeh and I Chinedu, 'Electoral Fraud in Nigeria: A Philosophical Evaluation of the Framework of Electoral Violence' (2013) 3(4) *Open Journal of Political Science*; 170. <https://www.researchgate.net/publication/275999171_Electoral_Fraud_in_Nigeria_A_Philosophical_Evaluation_of_the_Framework_of_Electoral_Violence> accessed 05 January, 2022.

⁷⁶ Agency Report, 'Shooting, ballot box snatching spread in Kogi capital', (*Premium Times*, (09 March, 2019) <<https://www.premiumtimesng.com/news/headlines/318785-shooting-ballot-box-snatching-spread-in-kogi-capital.html>> accessed 05 January, 2022.

and (4) of the Electoral Act, 2010. A conviction there carries a sentence of imprisonment for a term of 24 months without an option of fine.

Intimidation of voters and security personnel

This is otherwise known as electoral violence or voters' harassment. It refers to overt acts or violent acts calculated and orchestrated to affect the outcome of elections, and may include the use of thugs, ballot snatching or harassment of voters or opponents⁷⁷. It denotes "...the use or threat of force against an opponent (or voters) within the context of electoral competition for state power".⁷⁸The political opponent, voters and security personnel are the common targets of such infraction, as their successful intimidation portends a favourable outcome for the assailant or his preferred candidate.

It is proscribed by section 131 of the Electoral Act, 2010. The provision considers the following acts as voter's intimidation, to wit: Use or threat to make use of any force, violence or restraint; Infliction or threat to inflict injury, damage, harm or loss; Abduction, duress or fraudulent device or contrivance.

Also, section 129(1)(f)⁷⁹ of the Electoral Act, 2010 further proscribes the intimidation of voters. According to the section, it is unlawful for any person to be in possession of any offensive weapon or wear any dress or have any facial or other decoration which in any event is calculated to intimidate voters on an election day. Like all other electoral malpractices, the end game is to compel or prevail on a voter to give or refrain from giving his vote as he would have ordinarily done; and to prevail on electoral officials and security personnel from discharging their lawful duties as they would in the ordinary course of events.

A conviction under section 131 of the⁸⁰ Act carries a fine of N1,000,000.00 (One Million Naira), or imprisonment for a term of 3 years; while a conviction under section 129(1)(f) of the Electoral Act, 2010 carries a fine of N100,000.00 (Hundred Thousand Naira) or imprisonment for a term of 6 months for every such offence.

Announcement of Result Different From What Transpired at the Polling Unit

Another way in which malpractice manifests in our election is substitution of results. It happens most times when results of elections are being transported to the collation centre, which in most cases are located at the city centre of the states. Staff of the election umpires sometimes connive with politicians who have interest in the result to change the actual result to another. This has led to so many cancellations of votes and election petitions in Nigeria.

According to section 123(4)⁸¹ of the Electoral Act, 2010, 'any person who announces or publishes an election result knowing it to be false or which is at variance with the signed certificate of return commits an offence and is liable on conviction to 36 months imprisonment'.

⁷⁷ A Steve, M Nwocha and I Igwe, note 68.

⁷⁸ *ibid.*

⁷⁹ Cap E6 LFN 2004.

⁸⁰ Electoral Act 2010

⁸¹ Electoral Act 2010

Electronic Voting and the Experience of 2015 General Election in Nigeria.

The various forms of electoral malpractices discussed above are forms of corruption that have for long characterised Nigeria's electoral process. The interesting thing however, is the realisation of these happenings and the interest of the majority, especially outside the ruling class to effect a change in it. A significant effort towards this change was the open acknowledgment of the then President Umar Musa Yar' Adua⁸², that the election which produced him as the winner of the coveted seat was fraught with irregularities and the readiness of his government to change the status quo. It should be noted with importance that the introduction of electronic media into electoral processes has the potential to eliminate, or at least, reduce to the barest minimum all the manifestation of corruption as stated above⁸³. Thus, the effort to go the electronic way began with the introduction of the use of permanent voters' card and the use of card reader machine as tools for accreditation for election in 2015⁸⁴. The idea was to ensure that only registered voters in a particular polling unit would be able to cast votes there. This reason received the backing of Courts in a plethora of cases which were decided after the 2015 elections.⁸⁵

It is however to be noted, and rather sadly, that at the time of the introduction of the card reader electronic device to the accreditation process, what Nigerians expected was that a person whose accreditation was not captured by the card reader machine would not be deemed to have been accredited to vote. So, if a 'vote' is purportedly cast by such a person, it would be unlawful⁸⁶. The expectation was that once accreditation was sanitised through the electronic process of card reader machines, many electoral frauds would have been eliminated⁸⁷ most of the issues and fraudulent practices as being connected with it as discussed above, would be done with. Most unfortunately however, the expectation did not receive the backing of the apex court which decided that the introduction was not to dispense with the initial mode of accreditation by the voters register as contained in the Electoral Act hence its use was of no assistance to the appellants⁸⁸. The court insist that to prove over voting in an election, the law is trite that the petitioner must do the following: Tender the voter's register used for the election, tender the statement of result in the appropriate forms which would show the number of registered accredited voters and number of actual voters in the election under consideration, relate each of the document tendered as exhibits to the specific area of his case, in respect of which the documents are tendered and show clearly that the figure representing the over-voting if removed, would result in victory for the petitioner⁸⁹.

The position of the Supreme Court was made clearer in a similar manner by Rhodes-Vivour JSC in *Ikpeazu v. Otti*⁹⁰ This opinion of the apex court therefore presents the state of the law

⁸² The President of the Federal Republic of Nigeria after the 2007 Election.

⁸³ Osita Agbu, note 56.

⁸⁴ Ibid.

⁸⁵ The point of the argument was the legality of the use of PVC and CRM considering the prohibition of electronic voting by s.49 of the Electoral Act 2010. That was laid to rest and it was declared that their use in the election was legal. In *CPC v INEC* (2011) 18 NWLR (Pt 1279) 493 at 542 the Supreme Court held that INEC has the power to make rules governing the conduct of elections.

⁸⁶ Independent Electoral Commission of Nigeria Guidelines for the Conduct of Election 2015.

⁸⁷ Obinne obiefuna Oguejiofor, note 10.

⁸⁸ *Ogboru v Arthur* (2016) All FWLR (Pt. 833) 1805 S.C., *Ikpeazu v Otti* (2016) All FWLR (Pt. 833) 1946 S.C..

⁸⁹ Justice Peter-Odili Jsc.

⁹⁰ Ibid, note 56

and it is to the effect that as far as the general election is concerned, the use of electronic devices though partially deployed in the 2015 election has no room in Nigeria elections.⁹¹ What is the place of electronic process in elections in Nigeria? The answer to this question, we would attempt to provide hereunder.

The Application of Technology in the Electoral Process

The important and usefulness of technology in our everyday lives is something that we cannot disregard any more. Many things that cannot be done promptly in yesteryears require just a button touch today. The deployment of information and communication technology in the electoral process is aimed at improving the sanctity and to bring sanity to the electoral process. There is hope that its use can produce a result that will reflect the wishes and yearning of the electorates. It involves the digitization/digitalization and the use of electronic and internet devices in the election process.⁹² The use of technology in the electoral process, otherwise called E-voting, goes beyond voting alone as the technology can perform many other complex tasks ranging from biometrics capturing of voters to collating and computation of election results with little or no human support. The electoral tasks that can be undertaken by electoral technology are enormous and are only limited by the enabling Electoral Act⁹³. Some of the electoral activities that take longer period if embarked by manually can be processed and easily handled by information and communication technology promptly⁹⁴. Electoral activities such as:

- 1) confirmation of the eligibility of the voters as well as that of the candidate to be voted for
- 2) registration of credible voters and assignment to voting stations
- 3) ensuring that registered voters are not robbed of the right to cast their votes for the candidate of their choice
- 4) Ensuring the security of the voters, the vote casts while the voting activity is going on.
- 5) To ensure the transmission of votes and collation of election results.
- 6) Transmitting the results to the people and` announcing the winner of the election⁹⁵ are speedily processed and accomplished by the deployment of electoral technology thereby reduced to bearable minimal human influence which is more prone to electoral corruption.

Corruption can affect and helps in the manipulation of any of these stages if it is manually undertaken. Again, this does not suggest that e-voting is fraud proved⁹⁶. Experience from different countries of the world that have adopted e-voting has shown that with the adoption of information technology, electoral fraud can be drastically minimised if not totally eradicated. It is equally recommended for poverty ridden states where there is limitation to her financial resources⁹⁷. Globalisation has made it so that the interconnection among states can easily be made and sustained through information and communication technology⁹⁸. There are certain

⁹¹ Until the relevant legislation is made or amended to accommodate everything that has to do with the use of electronic devices in elections.

⁹² Leontine Loeber 'Use of Technology in the election Process: Who Governs?' [2020](19)(2) *Election Law Journal: Rules, Policies, and Policy*; 2.

⁹³ Ibid, note 46.

⁹⁴ Charney, Computer Crime: Law Enforcement's Shift from a Corporeal Environment to the intangible, *Electronic World of Cyberspace*[1994](41)(7) *Federal Bar News* ; 489.

⁹⁵ Ibid.

⁹⁶ Reuben Abati, 'Kaduna and Electronic Voting: Lessons for Nigeria' *Premium Times* (7th September, 2021). Also available at <https://www.premiumtimesng.com/opinion/483504-kaduna-and-electronic-voting-lessons-for-nigeria-by-ruben-abati.html>>. accessed on the 7th January 2022.

⁹⁷ Nic Cheeseman, Gabrielle Lynch & Justin Wills, 'Digital Dilemmas: the Unintended Consequences of Election Technology'[2018](25)(8) *Democratization*

⁹⁸ Ibid.

standards that states are required to maintain considering the dictates of global governance and democratisation; these standards are further propelled by technology, especially communication technology⁹⁹. It is believed that adopting the use of technology in electoral processes such as e-voting could lead to remarkable improvements in democratic practices in various democracies around the world, including Nigeria¹⁰⁰ where electoral fraud has attained the level of right. It is however observed that despite the importance of the internet, cultural lag and academic backwardness in some societies affects the perception of the people in this regard such that it takes time for culture to accommodate the material conditions embodied in technological change¹⁰¹

Electronic voting or e-voting is no longer a new phenomenon in the African continent¹⁰² as well as in Nigeria electoral space¹⁰³. There has been partial use of technology in the Nigeria electoral process at National level in the 2015 general elections where accreditation of voters were done electronically¹⁰⁴ and a full blown e-voting mechanism was deployed by the Kaduna State Independent Electoral Commission in the conduct of its local government election in year 2018¹⁰⁵. Electronic voting is the voting process where an electronic means and devices are used for vote casting, a system where the identification of voters, casting and counting of votes in elections are done through the use of electronic devices¹⁰⁶. It is the expression of choice and exercise of fundamental democratic rights and duties online through specially developed digital platforms.¹⁰⁷ It further describes a 'component of e-democracy being concerned with the electronic realisation and execution of electoral practices including both online and electronic voting machines'¹⁰⁸ it involves technologies such as the internet, specialised kiosks, scanning technologies or digital telephone networks¹⁰⁹. The use of e-voting may be partial or total; it may be limited to the use of biometrics for accreditation of voters via card readers only as done during the general elections of 2015 in Nigeria¹¹⁰ and in Ghana in 2012, it may also include vote casting and counting of votes. It may also refer to the three put together and more¹¹¹.

The functionality of the electronic process includes encryption, randomization, communication and security systems which can serve the end users in different ways. To the voters and the election officials it provides an electronic voters' list which can be used to verify eligible voters

⁹⁹Osita Agbu, 'Election Rigging and the Use of Technology: The Smart Card Reader as the Joker in Nigeria's 2015 Presidential Election' [2016](15)(2) *Journal of Africa Elections*; 92. <<https://eisa.org/pdf/JAE/15.2Agbu.pdf>> accessed on 3 January 2022

¹⁰⁰Note 98

¹⁰¹ibid

¹⁰² Asiamah Yeboah, 'Electronic Voting in Ghana: is it the solution to Ghana's Perceived Electoral Challenges after Biometric Registration?' [2013] (3)(1) *Journal of Information Engineering and Applications*

¹⁰³ Reuben Abati, note 49.

¹⁰⁴ Osita Agbu, note 50

¹⁰⁵ Ruben Abati, note 49

¹⁰⁶ Asiamah Yeboah, note 103.

¹⁰⁷Kelvin Bwalya and Saul F.C Zulu, 'Handbook of Research on E-Government in Emerging Economies: Adoption, E-Participation, and Legal Frameworks' (IGI Global, 2012) available at <<https://www.igi-global.com/book/handbook-research-government-emerging-economies/59737#table-of-contents>> accessed on 3 January 2022.

¹⁰⁸ibid

¹⁰⁹Available at <<https://www.igi-global.com/dictionary/voters-perception-adequacy-suitability-voting/8953>>

¹¹⁰ Reuben Abati, note 46.

¹¹¹ See also Asiamah Yeboah, 'Electronic Voting in Ghana: Is it the solution to Ghana's Perceived Electoral Challenges after Biometric Registration?' [2013](3)(1) *Journal of Information Engineering and Applications*

and to record their participation in the polls. Voter authentication can also be done electronically. It provides for poll worker interfaces such as resetting the vote count at the opening of polling stations, closing polling, printing and transmission of election results.¹¹² It provides interfaces for casting votes like touch sensitive tablets, push buttons, web pages or special client software for internet voting. It provides special interfaces for handicapped voters such as braille or audio input devices for the blind, easier access for voters with physical disabilities and simpler interfaces for illiterate voters.

The Digitisation/Computerisation of Electoral Process and its Usefulness in Nigeria.

The discourse on digitisation/computerisation of the electoral process in Nigeria cannot come at a better time than now that the general elections in Nigeria are fast approaching¹¹³. The introduction of digital and electro-computer devices partly or fully in the conduct of an election is referred to as digitisation of the electoral process. It is beyond conjecture to say that Nigerian electoral process is synonymous with fraud and massive rigging¹¹⁴. Again, the outbreak of ongoing coronavirus pandemic and controversies surrounding it in Nigeria is likely to be around for a while; hence the next general election is visibly going to be conducted within and in the midst of the pandemic.

There is growing interest in the feasibility of introduction of electronic process in election in Nigeria to arrest the aforesaid challenges of mass electoral fraud that usually characterise Nigerian elections and how the conduct of the election in the usual traditional way of uncoordinated queuing will surely energise the dreaded corona virus that is ravaging every part of the country. This is so because the country is aware of the bad image its electoral system has earned for democracy among nascent democracies of the world coupled with this is the fear of contracting the virus through mass gathering and unavoidable mingling of voters on the voter queues during electioneering processes. This is one of the factors that will drive and give credence to the noble call.

Although, there have been improvements in the past general elections in Nigeria with the introduction of automated card reader to handle accreditation of voters at the election which is a form of introduction to electronic process to an election, however, the improvements are insignificant to deliver credible, free and fair election in Nigeria¹¹⁵ and the success recorded with the use of the election card reader during the general election of 2015 which includes helping the system in curtailing election fraud of double voting, multiple voting and over voting and also made accreditation of voters faster and easier during election were washed away by the appellate courts on the ground that there was no legislation to backup the use of the card readers¹¹⁶ in the Electoral Act. Rhodes-Vivour opined that if the legislature who makes the Electoral Act desires the use of card reader, they would have made provisions for it¹¹⁷.

¹¹²The International Institute for Democracy and Electoral Assistance (International IDEA), 'Introducing Electronic Voting: Essential Considerations' (2011) available at <https://www.corteidh.or.cr/tablas/28047.pdf> accessed on 3 January 2022

¹¹³The Nigerian general elections will come up in 2023. The last general elections in Nigeria were held in 2019.

¹¹⁴Casimir Kingston Chukwunonyelu Ani, Emmah Omeh & Ike Chinedu, "Electoral Fraud in Nigeria: A Philosophical Evaluation of the Framework of Electoral Violence" Open Journal of Political Science, Vol3 No 4 2013 pages 167-174.

¹¹⁵ Ibid.

¹¹⁶*Ogboru vs Arthur* (2016) All FWLR (Pt. 833) 1805 S.C.

¹¹⁷ Ibid, note 56

The above shows that Electronic process in elections is not strange to the country electoral practice though alien to the electoral laws¹¹⁸. It is also not in dispute that Electronic election has been conducted successfully in a State in Nigeria¹¹⁹. Also many countries of the world and even African countries have conducted elections electronically¹²⁰. The outcomes of these elections have been of mixed feelings¹²¹. For example the introduction of electronic voting to their electoral system in Ghana has been commendable and has further written the country electoral process in gold¹²². While the same thing cannot be said about the deployment of electronic voting in for instance, in the United States, during elections, as votes come in, the votes are auto-counted and collated such that people having access to INEC website are able to see the votes that come in thereby making the figures difficult if not impossible to be altered, falsified or manipulated.¹²³ While the idea of electronic processing of election in Nigeria might seem appealing and verily welcoming, many Nigerians still remain sceptical about its validity and safety considering the poor and corrupted network coverage, electricity, mass illiteracy, high level of cyber- crimes, and the endemic culture of corruption that has found its abode in every soul of the citizens of Nigeria¹²⁴. While a computer security expert and the enlightened members of the public will see the dynamism of the new order secured and promising, laymen and the illiterates population may not be easily convinced of its sanctity and security and desirability¹²⁵. The end benefactor of the democratic robbery in the form of electoral corruption particularly the politicians and the corrupt officers of the Electoral body will vehemently oppose its use.

The digitisation and computerisation of elections simply mean the introduction of on-line technological instruments to the conduct of elections. It involves the deployment of electronic ballots that allow duly captured voters to carry out accreditation and secretly cast at his convenience his vote and transmit the vote to designated portal via internet devices.¹²⁶ It includes electronic means of voters' accreditation via card readers, casting or of counting of votes. It may also refer to the three put together¹²⁷. This means that we can have a fully and partly digitised electoral process. It is partial digitisation where an aspect of the election such as the accreditation or voting or both are done electronically, vote counting excluded. It is a fully e-election, where every aspect of the election is conducted electronically. Just as pointed out above, it is a process involving the use of technology in electoral process which if fully

¹¹⁸See the Electoral Act 2011.

¹¹⁹ Reuben Abati Note 49 where it was reported that the Local Government Election in Kaduna State was conducted electronically with a huge success.

¹²⁰United States, India, Australia, France

¹²¹Nic Cheeseman, gabrielle Lynch & Justin Willis, ' Digital Dilemmas: the unintended consequences of election technology,[2018](25)(8) *Democratisation* <https://www.tandfonline.com/doi/full/10.1080/13510347.2018.1470165>>. accessed on the 5th January 2022.

¹²² Ibid.

¹²³ Abiodun Fatai, 'Smart Card Readers and the Quality of 2019 General Elections in Nigeria: Successes and Challenge' Researchgate, July 2020. Also available at https://www.researchgate.net/publication/343764208_Smart_card_and_the_quality_of_the_2019_election_in-Nigeria_succession_and_challenges. accessed on the 10 January 2022.

¹²⁴Akande J, ' Corruption and the Survival of Nigerian Nation'(2007) 'Being her address at Fawehinmi Lectures organised by Nigerian Bar Association, Ikeja Branch in Conjunction with The Nigeria Law Publication Ltd. Lagos Page 8-11.

¹²⁵<www.cnn.com>. accessed on the 4 of January, 2022.

¹²⁶ Ibid. Abiodun Fatai, note 126.

¹²⁷ See also Asiamah Yeboah, note 110

digitalised entails; e-voting, electronic transmission of election results, the use of smart card readers for accreditation of voters and data capturing, casting of votes, tallying and automated collation device for collation of results among others¹²⁸.

Ghana in her general election of 2012, just like Nigeria in her General Election 2015 made use of biometric data capturing¹²⁹ while countries such as Somalia, United State of America, Norway have deployed fully electronic general elections a number of times with success.¹³⁰ Though there were some noted and peculiar challenges in their election result particularly that of the United State of America in 2000 which many believed was decided by the court and not by the vote and choice of the electorates.¹³¹ One unique thing to all these mentioned countries, particularly the United State of America, is that their respective electoral laws support the use of electronic voting Devices.¹³² The striking advantage of the switch to e-voting by countries such as United State of America are to achieve election security, efficiency, functionality, accessibility, usability, privacy and transparency in their electoral process¹³³ that are conspicuously lacking in Nigeria.

Just like Ghana, Somalia advanced the use of electronic processes in her electoral system due to lack of trust resulting from the conduct of her 2008 general elections.¹³⁴ Since it was introduced after the 2008 Somalia general election, Somalia has become a regional powerhouse in the production and deployment of the technological know-how that underpins electronic voting. Therefore, since the introduction of e-voting in Somalia, electoral vices have been curbed, free, fair and credible elections have been witnessed. There has been a reduction of voter duplication and the electoral process is more transparent and less expensive.¹³⁵

In Kenya too, electronic voting has been introduced to attend to the perennial electoral violence.¹³⁶ Electronic voting process was born in Kenya as a result of electoral violence of 2007 that rendered more than one thousand people dead and six hundred thousand displaced. The use of electronic voting in Kenya started with biometric voter identification machines and a system for electronic transmission of results. Both worked during subsequent elections although with some challenges.¹³⁷

One major problem that has been identified in the Nigerian electoral system is the dissemination of wrong and fabricated information from voting or collation centres and this is where writing of fake and over bloated results is shown to the annoyance of the electorates

¹²⁸Asiamah Yeboah note 110

¹²⁹Ibid.

¹³⁰Voting System Standards, Testing and Certification, NCSL Electronic Team 11th May 2021. available at <<https://www.ncsl.org/research/election-andcampaign/voting=system-standards-testing-and-certification.aspx>> accessed on the 5th January 2022.

¹³¹Paul S Herrnson, Richard G. Niemi... 'The current State of Electronic Voting in the United State' Researchgate January 2008 also available < https://www.researchgate.net/publication/251243313_The_Current-of_Electronic_Voting_in_the_United_State>. . accessed on the 5th January 2022

¹³²Help America Vote Act (HAVA) 2002, National Voter Registration Act, Uninformed and Oversea citizens, Absentee Voting Act

¹³³Paul S Herrnson, Richard G. Niemi

¹³⁴Calestous Juma. "Somaliland's Voting Technology Shows How Africa Can Lead the World". Culled from the Conversation, November, 13, 2017.

¹³⁵ Ibid.

¹³⁶Rebecca Linke "Electronic System Holds Up During Kenya Election". MIT Management SLOAN School, 9th August, 2017.

¹³⁷ Ibid.

whose electoral choice is systematically assassinated.¹³⁸ One thing that can be done to prevent this is the introduction of an electronic process in Nigeria's electoral process. The electoral umpire has to deploy voters' smart cards, card readers, mobile apps for voting, direct electronic recording machines, electronic voting machines, optical scanning mechanism, satellite phones, digital tracking devices through GPS technology to monitor the movement of election materials and personnel¹³⁹.

Challenges and importance

It has been established that electronic process comes with a lot of usefulness and advantages some of which are:¹⁴⁰

- 1) It allows for higher efficiency and time saving: its use enables faster count of votes and more accurate results because human error is excluded.
- 2) It increased the convenience of voters as they don't have to move from their abode to exercise their right to vote, especially for handicapped voters.
- 3) It enables improved presentation of complicated ballot papers which makes it simpler for users, especially the illiterate voters.
- 4) It has the potential to increase participation and number of voters because of the convenience it provides.
- 5) Electoral fraud is reduced considerably or totally prevented at polling stations and during collation and transmitting of results.
- 6) It saves cost and reduces spending on production and distribution of ballot papers as well as saving poll worker time. Internet voting allows for global reach with reduced overhead cost on logistics¹⁴¹.

And also with Challenges such as

- 1) It is often difficult to establish openness and transparency especially where the level of technological understanding is low.
- 2) The process is susceptible to manipulation by insiders with privileged access to the system as well from outsiders who can hack into electronic devices in order to compromise information.
- 3) It is totally dependent on improved infrastructure and environmental factors such as power supply, communication technology devices, temperature and humidity.
- 4) Increased costs for both purchasing of equipment and maintaining e-voting systems.
- 5) High risk of compromise of the secrecy of the balloting system, especially where voter's authentication is done.

Digitisation can prevent or reduce considerably rigging and other forms of election frauds and malpractices. For instance through e-voting it becomes easier to protect the votes and through on-line security experts, the fears of hacking the INEC database are well monitored and secured. The available statistics in Nigeria show that over 80% of Nigerians have access to smartphones¹⁴² and other digital devices which show that Nigeria is to a large extent ready for the full introduction of electronic processes in this regard.

Conclusion and Recommendations

¹³⁸Ephiraim Okoro, note 146.

¹³⁹Ibid.

¹⁴⁰ibid

¹⁴¹ Babayo Sule, Mohammed Azizuddin Mohammed and Sanni, Bakri Mat, 'Corruption and Electoral Process In Nigeria: Examining the 2015 General Elections'[2018](10)(1) *Journal of Techno Social* ; 2600-7940.

¹⁴² Ibid.

The expectation that the use of electronic process will add to the credibility of the elections was attained to a large extent as a result of the partial use that was introduced from the 2011 electronically compiled voters' register to the 2015 use of permanent voters' card and the card reader. To reduce the massive electoral fraud witnessed in Nigeria since Independence and to restore voters' confidence, Nigeria cannot afford to go back on electronic process therefore the way forward and the most logical thing to do is to amend the relevant legislations to accommodate the complete use of electronic process in the electoral process. Once it is fully backed by law, the challenges posed by its use can be fully addressed and relevant stakeholders' education established to further create awareness and remove misconceptions about its use. To ensure that future elections in Nigeria are technologically driven, information about the technology and the relevant infrastructure to drive it must be effectively placed and properly managed.

To this end, electronic voting has been identified as the best alternative to ensuring credible, free and fair elections in Nigeria. It is submitted that true democracy can only be attained in Nigeria when votes count. It is not just about routine conduct of elections, but the credibility of Nigerian elections will be the bedrock of her democratic tenets and enhance popular participation and voters' confidence. This is the popular practice in a constitutional democracy as practised in advanced climes. A democracy where citizens' votes do not count or which lacks free, fair and credible election is as bad as military dictatorship. An examination of the ways elections are conducted in Nigeria will reveal that the only way to go is the use of electronic process.