

ELECTION OBSERVATION AND QUEST FOR ELECTION INTEGRITY IN NIGERIA

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Abstract

The international community and domestic stakeholders have invested lots of resources in strengthening democratic governance in Nigeria. The investments are driven by the understanding that democracy is a vital component of human development. A major aspect of this investment is on strengthening electoral integrity. Prospecting for electoral integrity in new democracies is essential because popular elections are frequently challenged by fraud and irregularities, which affect public confidence in democracy and regime legitimacy. For this reason, international standards for conduct of elections are developed, monitored and observed, to deter frauds that compromise free and fair elections. The election observation is one of the strategies designed to maintain standards that promote electoral integrity. In this concern is the effectiveness of the deterrent effect of Election Observation in Nigeria. Drawing from this track, we examine the concept of deterrence in relation to the role of election observers in 2015 general election and to determine the deterrent effects of election observation on Nigerians and governments of Nigeria. On this perspective, we ask; do international and domestic election observers deter electoral fraud in Nigeria? The paper argues that there is insignificant deterrent effect of election observation on Nigerians due to little or no implementation of recommendation of accredited observers as well as lack of legal backing to present it reports as evidence in tribunals. The study maintains that electoral integrity is possible in Nigeria if the Election management body, that is, Independent National Electoral Commission (INEC) and government of Federal republic of Nigeria must take action to grant more powers and responsibility that can make observatory role more effective to deter the vices of elections in Nigeria.

Keywords: Election observation. Election Integrity. Democratic governance

1 INTRODUCTION

The contestation for control of political power, ascendancy into political authority and exercise political authority in a polity is a challenge and problematic due to multi-variant interests seeking relevance and representation. There is no exception to this, as contest for political power both in democratic and non – democratic polity is confronted with the difficulty of how one or group of persons ascend(s) into governance. To provide equal opportunities and standards of procedure for attainment of political power in any democratic polity is the introduction of ‘elections’. Elections “are the means through which the people exercise their sovereign right to choose who governs them and what the political and other priorities of their government should be” (INEC,2013:6). Democratic elections are thus the opportunity for the people to express their sovereignty through the ballot to confer legitimacy to their government, renew its mandate if necessary or withdraw from it the authority to govern. (INEC, 2013) and a process through which the people choose their leaders and indicate their policies and program preference and consequently invest a government with authority to rule (Osumah & Aghemelo, 2010).

Elections and electoral politics across the globe are known to generate myriad of interests among political actors and election management bodies. However the acquisition of the political power through election is challenged time and again by several degrees of electoral fraud. The fraud is attributed to illegal interference in process of election by governments, election management bodies, politicians and their cohort, that act under unguarded desperation and a zero –sum activities of political contenders, who utterly disregard procedures, rule of law and respect for political rights in pursuit of victory at polls. Elections in Nigeria share a number of these, given that its chequered political and democratic history is riddled by electoral frauds. Such electoral frauds include, though not limited to under age voting, voting by unregistered citizens (neither qualified to register nor even registered to vote); snatching of ballot boxes, stuffing thumb- printed votes for party candidates, switching of results before or after collation to favour a preferred party, intimidation at the polls by political thugs and even security agencies. Consequently all these have contributed to compromise of electoral integrity, which in turn affect peoples' confidence in democracy and regime legitimacy.

Taking into account the dangers associated with electoral irregularities and the need to deter political actors and institutions from such frauds, is the call for strategies and actions to mitigate electoral frauds and promote electoral integrity in Nigerian polity. For this reason, support for observer missions become cogent and a central aspect of democracy-promotion efforts by international and domestic actors in countries with new or fragile electoral institutions (Hyde, 2011; Kelley, 2012). This consideration justifies the deployment of domestic and international election observers to enhance the integrity of elections across the globe and in Nigeria including 2015 general elections.

This paper focuses attention on the deterrent effect of election observation on electoral integrity with particular reference to 2015 general elections. From this perspective, we ask, does election observation deter electoral fraud in Nigeria and how effective has the deterrent effect of election observation impacted on the election integrity in Nigeria?

2. ELECTION OBSERVATION AND DETERRENT FACTOR

The general concept of 'election observation' represents acceptance of the fact that election is imperative for consolidation of democracy. However "establishing and maintaining a system of free and fair elections is a delicate and complex process" (Clark, 2006:3). Free elections are considered to be an essential steps in the democratic process and as such "supposed to promote good governance, respect for the rule of law as well as wide range of human rights" (EU, 2000:3-4). This consideration brings to fore the need for assistance and cooperation from intergovernmental and non-governmental organizations to uphold the norms of genuine elections. Election is genuine if political competition that takes place in an environment characterized by political pluralism, confidence, transparency and accountability .Such election provides voters with an informed choice between distinct political alternatives. (OSCE/ODIHR, 2010). The assistance is very crucial because election period is a very sensitive and provocative times in the political life of a nation and any derailment could be ruinous. To avoid the wrecks of failed election as well as the need to safeguard democracy is the basis for Election Observation.

2.1 Origin and Nature of Election Observation

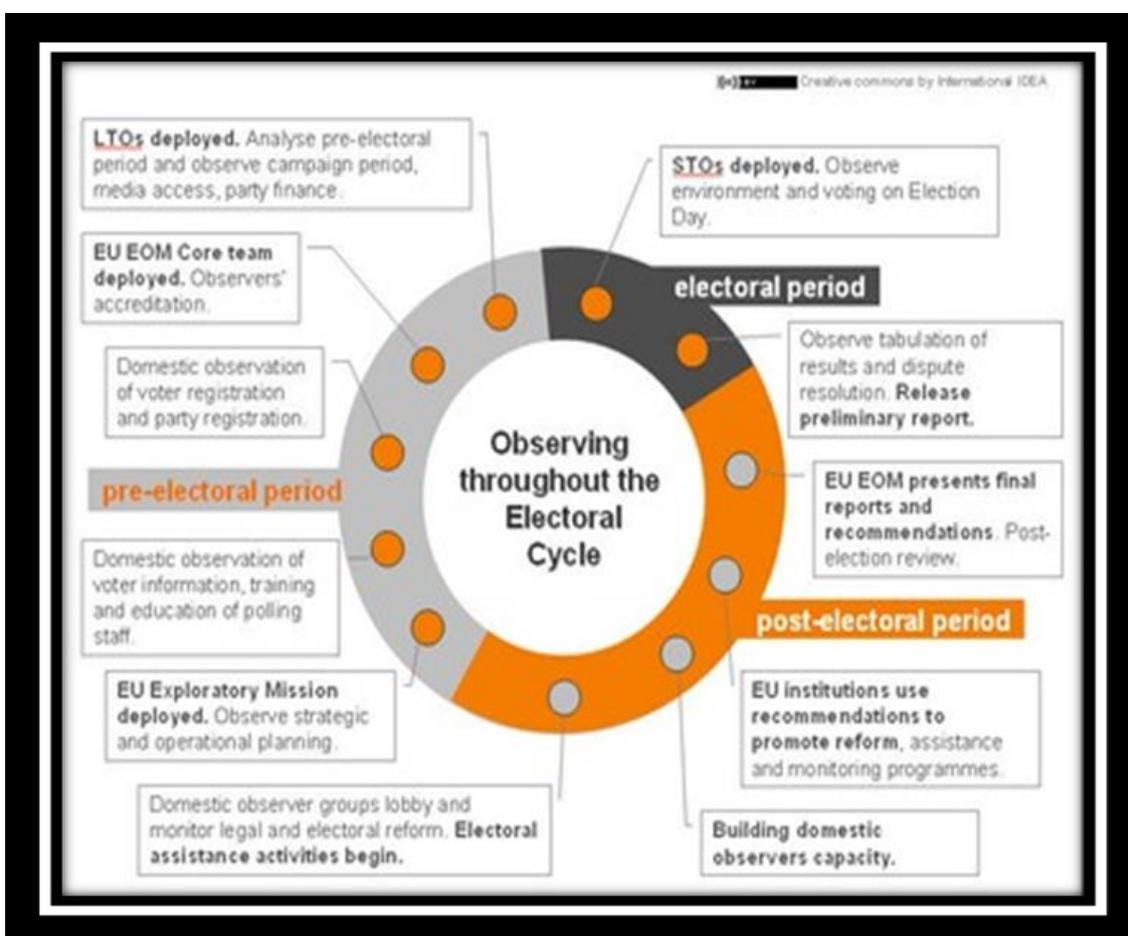
The history of election observation originates from the era of "Self Determination through Plebiscites" that arose from French Revolution. The philosophers of the revolution promoted the enthronement of people's sovereignty that brought about the first electoral consultation under international monitoring where the General Election organized (plebiscite) in Moldavia and Wallachia in 1857 under the supervision of European Commission composed of French, British, Prussian, Russian, Australian and Turkish representatives.(Wambaugh,1933). However, while the monitoring marked assistance for nations to conduct election, election observation remained low until after the World War II when international standard was developed. The principle is also linked to the era Samuel P. Huntington refers as the "third wave" of democratization that began in southern Europe in the 1970s, passed through Latin America and parts of Asia in the 1980s, swept across Eastern and Central Europe after the fall of the Berlin Wall in 1989, and reached Africa and the rest of Asia in the 1990s. (Clark, 2006, OSCE/ODIHR 2010).

Election observation is "the process whereby elections in a particular country or locality are observed against set standards by an independent and impartial body of Observers with the aim of identifying whether the elections conform to accepted guarantees of democratic participation, identifying flaws and challenges, and also making recommendations on how the process can be improved in the future" (INEC, 2013:3).The INEC guidelines further groups election observation into four; Observe processes and activities organised during elections; Collate facts and observations; .Interpret the facts gathered against the laws governing elections

as well as basic democratic standards in order to see whether or not the elections meet the threshold of credibility as defined by law and accepted by the international community; and outline the findings so collated and the interpretation based on them in a document or report.

In addition, electoral observation covers three stages of electoral circle namely; **pre-electoral, electoral and post-electoral**. Each stage has electoral activities that impact directly and determine the outcome of the other beginning with the pre-electoral activities. The activities in each stage must be adequately observed, reported and recommendations provided. On this account we note, that election observation is beyond an event of Election Day, rather it is a process with the checks-and-balances that protect the viability and honesty of election circle. The circle comprises of; appropriateness of legal framework, training of election staff , delimitation of electoral districts; registration of voters, information and education programs; registration of political parties and candidates; freedom of assembly and movement; freedom from fear and intimidation; freedom of expression and equal access to the media; use of public resources for campaign purposes; activities on election day; vote counting and compilation of the results; and dispute resolution mechanisms for resolving them. The diagram below shows activities in each stage of the Electoral Circle

2.1.1 The Electoral circle



Source: **ACE Electoral Knowledge Network**

The Election observers should be comprehensive and cover the entire electoral process to achieve desirable effectiveness. It is within this ambit of responsibility that election observation brings to bear its deterring effects. By this objective, the extant laws of the states and international conventions on the conduct of free and fair elections prevail on election observation to deter questionable activities and potential conflicts associated with elections. Essentially the electoral fraud actors can only be deterred if electoral observation affords the burden of promoting compliance and following up election management bodies and governments to sustain good practices, make adequate reforms and prosecute electoral offenders. The next concern therefore examines the deterrence theory as framework for analyzing the synergy between the deterrent effects of election observation and promotion of electoral integrity in Nigeria.

3. THEORETICAL ANALYSIS

The philosophy of election observation hinges on preserving the norms of elections by deterring electoral detractors from committing crime against electoral process. It is on the strength of this concern that Deterrence theory is adopted as framework of analysis to explain how election observation can enthrone electoral integrity. Deterrence is based on the notion that people consciously try to avoid pain and seek pleasure. It follows that by making a choice painful enough—such as the choice of crime—individuals will choose not to engage in the act. (Nagin, 2011). Deterrence involves the threat of punishment by means of some form of sanction as well as achieving control through fear.

The deterrence theory of punishment can be traced to the early works of classical philosophers such as Thomas Hobbes (1588–1678), Cesare Beccaria (1738–1794), and Jeremy Bentham (1748–1832). These theorists believe that specific deterrence is designed—by the nature of the proscribed sanctions—to deter only the individual offender from committing that crime in the future

In *Leviathan*, published in 1651, Hobbes described men as neither good nor bad. Hobbes assumed that men are creatures of their own volition who want certain things and who fight when their desires are in conflict. In the Hobbesian view, people generally pursue their self-interests, such as material gain, personal safety, and social reputation, and make enemies without caring if they harm others in the process. Deterrence is the reason individuals are punished for violating the social contract, and it serves to maintain the agreement between the state and the people in the form of a workable social contract.

Cesare Beccaria (1963:8) followed Hobbes to note that laws should be judged by their propensity to afford the “greatest happiness shared by the greatest number” It further asserts that since people are rationally self-interested, they will not commit crimes if the costs of committing crimes prevail over the benefits of engaging in undesirable acts.

According to Bentham, in his book, *An Introduction to the Principles of Morals and Legislation*, whereby he proclaimed his famous principle of utility. He argued that “nature has placed mankind under the governance of two sovereign masters, pain and pleasure” (Bentham, 1948:125). Bentham believed that morality is that which promotes the greatest happiness of the greatest number. Also, the duty of the state in Bentham’s view was “to promote the happiness of the society, by punishing and rewarding” (Bentham, 1948:189).

These classical theorists believe that if individuals know that their undesirable acts will be punished, they will refrain from offending in the future. In short, deterrence theorists believe that if punishment is severe, certain, and swift, a rational person will measure the gains and losses before engaging in crime and will be deterred from violating the law if the loss is greater than the gain. This agrees with Hobbes argument that the punishment for crime must be greater than the benefit that comes from committing the crime.

All the same, theorists agree that Deterrence theory is attractive because of its hot-stove phenomenon. The phenomenon explains that when growing up, we learn that when we touch a hot stove top, we get burned. So, we don’t touch hot stoves because we are “deterred.”, Therefore Deterrence is based on the notion that people consciously try to avoid pain and seek pleasure. It follows that by making a choice painful enough—such as the choice of crime—individuals will choose not to engage in the act. (Nagin, 2011).

Building on this theoretical base, we note that the objective of election observation, which is to deter electoral frauds and promote election integrity, is appropriately embedded in Deterrence theory. To broaden this explanation for clarity and understanding, it is therefore imperative to discuss the deterrent effect of election observation on 2015 general elections in Nigeria within the context of three components of ‘severity’, ‘swiftness’ and ‘certainty’ that influence deterrence theory. The next section reflects concern on the question.

4. HAS ELECTION OBSERVATION EFFECTIVELY DETERRED ELECTORAL FRAUDS IN 2015 GENERAL ELECTIONS?

There is need to lay a background, drawing from 2011 election observation report submitted to relevant authorities by European Election Observation Mission. The report collaborates the observation of other domestic and international election observation groups in 2015 general elections. Leaning on this, we recall that in 2011, the following key recommendations for improvement in priority areas of election process were presented to relevant authorities,

- Prompt prosecution of people involved in election-related violence should be pursued as well as prompt prosecution of people involved in election offences.

- The Constitution should be amended to introduce a transparent, inclusive and accountable system so that the INEC's Chairperson, INEC's National Commissioners and Resident Electoral Commissioners would be nominated and appointed through an independent process as opposed to the current Presidential appointment.
- The Constitution should be amended to allow for independent candidates to run for office, in conformity with international principles for democratic elections
- The Constitution should be amended to provide for the establishment of a Constituency Delimitation Commission, a Political Parties Registration and Regulatory Commission and an Electoral Offences Commission.
- To further improve the transparency of the process, official results should be published broken down to polling unit level. The Electoral Act should include detailed provisions for the publication of results per polling unit, collation centres, wards and constituencies.
- Improved and timely training should be put in place for all election staff.
- INEC should ensure a much greater compliance with the elections procedures at all levels to prevent inconsistency in their implementation. Therefore, systems should be put in place to ensure institutional cohesion and sound intra-INEC communication to adequately, and timely inform all employees.
- INEC should improve the quality of the voters' register by thoroughly crosschecking double registration entries and making necessary adjustments. Updating the register should be a continuous process, and sufficient staff and resources should be allocated at State and lower INEC levels.
- INEC should revise and strengthen its voter and civic education programmes. It should develop an overall strategy that takes into account the focus of the educational campaign, the target groups, the development of the messages, their testing and the identification of the appropriate delivery mechanism.
- In close cooperation with INEC, the National Broadcasting Commission (NBC) should establish efficient media monitoring units in all the States of the country and introduce a media monitoring system to ensure broadcasters' compliance with the legal provisions.
- Federal and State government-owned broadcast media should increase prime-time transmissions of election debates. This could strengthen the culture of political debate.
- In order to enforce the provisions for campaign expenditure detailed in the Electoral Act 2010, as amended, political parties should develop internal transparent bookkeeping procedures.
- The Government should strengthen efforts to implement the National Gender Policy which provides for a minimum of 35 percent representation of women at all levels of political participation.
- Reasonable, specific and adequate time limits should be included in the legal framework for the timely and effective filing, consideration and decision of petitions prior to elections.
- The Electoral Act should be amended to allow voters, domestic observers or other national election domestic stakeholders to file election complaints and petitions in all areas of the election process.
- Any future amendments to election legislation should be enacted sufficiently in advance of elections to provide political parties, candidates and voters adequate time to become informed of the rules of the election process, in accordance with the Protocol on Democracy and Good Governance of the Economic Community of West African States (ECOWAS).
- An inclusive and transparent action plan for electoral reform should be agreed and implemented after assessing the 2011 electoral process. Domestic and international seminars and conferences should be considered in order to keep up the momentum (E OM,2011: 6-8)

These recommendations show that election observation groups to great extent work for credible election and by extension promote democratic consolidation and good governance in Nigeria. However the extent the recommendations have deterred electoral fraud remains mirage. This stems from hopeful but demoralizing second preliminary statement released by European Election Observation Mission on 2015 general elections in Nigeria that describes the 2015 election process as ***“More efficient polling although***

increased incidents of violence and interference” (EOM, 2015).

The statement gives hope amid greater danger. The hope is that election management body and personnel improved on the operational and logistical issues that led to efficient poll in 2015. On the other hand, the attitude of political contenders is getting worse as there is ‘increased incidents of violence and interference’. By this implication political gladiators and their agents are yet to improve on the war scenario that always characterizes elections in Nigeria. In view of this, it is asserted that there is failure of deterrent effects of election observation to enhance election integrity in Nigeria.

Hinging on this, the argument that election integrity arises from degree of deterrence upon which election observation exerts on political actors and institutions resides within three components; ‘severity’, ‘swiftness’ and ‘certainty’ that influence deterrence theory. Unfortunately the inability of election observation in Nigeria to effectively deter electoral frauds has led to higher incident of violence and interference in the electoral process and consequent upon lack of severity, swiftness and certainty in punishing of election offenders. The Federal Government of Nigeria, Independent National Electoral Commission (INEC) and Election observation groups share in this blame. On the first instance is the government side that is bestowed with responsibility to accept the recommendation of the observer groups for consideration and implementation. On its part, the election observation group is weak to follow –up its recommendation and it has consequently exposed the inability to act on post- poll affairs. Pointer to this argument is delay in prompt prosecution of people involved in election-related violence and constitution of commissions to regulate political parties, as well as prosecute various aspect of actions that promote electoral frauds.

To enhance the deterrent effect and capacity of election observation beckons on the need to back election observers with powers to stand as witness in election cases before the tribunal and judicial courts. More so election observers should be empowered with powers to make their reports very relevant in declaring election results as well as enjoy prosecution powers.

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