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The Sanction Regime in the 2010 Electoral Act and Recurring Infractions in the Electoral Process in Nigeria

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Abstract

The article relies on the theory of post-colonial states and argues that the nominal penalties prescribed for electoral offences in the 2010 Electoral Act largely accounts for the recurring infractions in the electoral process in Nigeria. This view was premised on the lack of deterrence purposes by those penalties, as politicians prefer serving out the penalties in as much as indulgence in electoral fraud guarantees electoral victory. The documentary method and content analysis were employed for data collection and analysis, respectively. The findings indicate that those penalties were incommensurate with the gravity of the electoral offences and the benefits of holding public offices acquired through indulgence in fraud. The article recommends drastic cut in the benefits accruable to public offices as disincentive for political desperadoes, who perceive such positions as lucrative ventures that must be ascended at all cost, given that such mind set predisposes them to engage in electoral fraud.

Keywords: Electoral Act, Sanction Regime, Electoral Process, Infractions, Nominal Penalties, Post-Colonial State Theory

1. Introduction

The third wave of democratization, which began in the late 19th century no doubt, reinforced the centrality and indispensability of elections as a framework for smooth and peaceful transfer of power from one government to another. Elections provide the medium through which the electorate can exercise their franchise by voting for their preferred political parties and candidates, and by so doing participate in the formation of government and engage in governance. For this process to be free, fair and credible, the state has to make laws that guide the conduct of elections. These laws provide the framework upon which political parties and other stakeholders are regulated and monitored. This implies that these laws cover pre-election, election and post-election activities of all stakeholders in the electoral business.

In the case of Nigeria, the legal framework for the administration of elections is an aggregation of constitutional provisions, electoral acts and allied legislations. These legislations are usually unequivocal in policy directions and provide the basis upon which Electoral Management Bodies (EMBs) and other stakeholders in the electoral process operate. These laws invest on the Independent National Electoral Commission (INEC) the mandate to conduct elections and ensure in conjunction with other law enforcement agencies that the provisions of these laws are strictly adhered to by political parties, candidates and the electorate. Therefore, by this mandate INEC is empowered to issue guidelines, manuals, handbooks, codes of conducts where and when necessary, in discharge of its duties.

In view of the above and in an effort to deepen democratic governance through competitive multiparty electoral politics, successive regimes, both military and civilian, had put in place several legislations which began with the introduction of Elective Principle in the 1922 Sir Hugh Clifford Constitution (Eko-Davis, 2011). Since then, constitutions and other legal enactments by colonial administrations provided the bases upon which elections were conducted including the 1959 independent election (Igini, 2015). While the 1963 election was organized using the Republican Constitution, decrees and other military directives were used to conduct the 1979 and 1993 elections. The 1998/99 transition programme was organised under Decree No.34 of 1998, Decree No.5 of 1998 and Decree No. 6 of 1999 (Akinboye and Anifowose, 2011). The Electoral Acts of 2002, 2006 and 2010 were enacted for the conduct of 2003, 2007 and 2011 elections, respectively, while the 2010 Electoral Act was subsequently amended to guide the conduct of the 2015 and 2019 general elections. These laws provide mechanisms for smooth conduct of elections, and also make provisions for penalties for various electoral offences.

However, it is worrisome that despite these legislations and other innovations introduced in the electoral process, elections in Nigeria's present democratic dispensation have seriously been marred by irregularities. Therefore, the loss of confidence and legitimacy by the electorate on their leaders on account of poor governance and the leaders' insistence to remain in power had turned elections into war theatres in recent years, as elections must be won at all cost amidst mounting opposition. This mind set has eroded the integrity of elections and made conduct of elections vulnerable to all forms of malfeasances such as colossal abuse of electoral laws, snatching of electoral materials at gunpoint, brazen and

criminal manipulation of voters' list and electoral results and illegal deployment of security agencies and thugs to intimidate political opponents and their supporters (Omotola, 2011; Bekoe, 2011; Ali *et al.* 2018; Imosemiet. *al.*, 2019). The spate of irregularities including electoral violence which reached a crescendo in 2011, accounting for the loss of over 3000 lives and property estimated at three trillion Naira, not only questioned the rationale for democratic rule but threatened the corporate existence of Nigeria (Orji *et al.*, 2013). Thus, the fourth republic has witnessed unprecedented electoral malfeasance, raising doubts over the effectiveness of the operation of electoral laws, and particularly the sanction regime for electoral offences in Nigeria.

Existing analyses accounting for the recurring electoral infractions in Nigeria had focused mainly on the character of the Nigerian state, ethno-religious rivalry and weak electoral institutions. For instance, Omotola (2011) and Francis *et al.* (2015) averred that electoral violence and irregularities in Nigeria are linked to the nature, character and the primacy of the material conditions of the Nigerian state. In a related contribution, Igini (2015) and Yusuf (2015) argued that the absence of relevant electoral laws is responsible for rising incidences of electoral violence and other irregularities. However, Jeja (2014) was of the opinion that the culture of repression inherited from the military into the fourth republic principally accounted for the crises in the electoral system. Obakhedo (2011) and Nnamani (2014) contended that corruption, ethno-religious rivalry, poverty, illiteracy, lack of internal party democracy, absence of electronically generated voters registers, greed, impunity, alienation and marginalization of the electorate, among others, impacted negatively on the electoral system.

According to Aderemi (2018), the quality of the electoral process is a manifestation of the character of both the regulative and constitutive frameworks that govern the society. This implies that the extent INEC could make elections free, fair and credible depends on its competence and those of other affiliated agencies and in addition to the legal regime upon which they operate. Ismaila and Othman (2016) identified corruption, insecurity and weak democratic institutions as major challenges to the electoral process in Nigeria. These views were shared by Ali *et al.* (2018) as they noted that bribery and corruption are major challenges undermining the credibility of elections in Nigeria, since 1999. The outline of electoral offences in Nigeria as presented by the Policy and Legal Advocacy Centre (PLAC, 2019) shows clearly all these offences.

Though the views canvassed by scholars above may not be entirely wrong as possible explanations for the recurrence of electoral irregularities in Nigeria, however, they glossed over the implications of the inadequacy of existing legal framework, particularly the sanction regime on the continued indulgence in electoral offences by the political class. Hence the abiding explanation is that prescription of nominal penalties for electoral offences was deliberate and reflects the desire of the ruling class to remain in power as contemporary experience showed that electoral victories of the dominant parties are largely predicated on the degree of engagement in outlawed electoral irregularities and practices. Such penalties do not serve deterrence purposes as the political class prefers serving the penalties, in as much as engaging in irregularities will facilitate electoral victories.

Thus, the contradictions in the sanction regime in the 2010 Electoral Act involving prescription of nominal penalties for electoral offences and its implications for the recurring infractions in the electoral process in Nigeria are yet to be given adequate and systematic scrutiny. In the light of the above gap, this article becomes imperative as it will rely on existing data to demonstrate that nominal penalties prescribed in the 2010 Electoral Act which lacked deterrence purposes is implicated in the recurring electoral infractions in Nigeria.

1.1. The Sanction Regime in the 2010 Electoral Act and Recurring Infractions in the Electoral Process in Nigeria: Theoretical Expositions

The study adopted the post-colonial state abstracted from the Marxist theory of the state and expounded by Alavi (1972), Ake (1985, 2003), Ekekwe (1986), Ihonvbere (1989, 2000) Ibeanu (2003). The post-colonial state attempts to explicate tersely how the serving ruling class in the post-colonial country like Nigeria has slowed down the pace of the development of the electoral system. The theory is hinged on the assumption that the political class of the contemporary post-colonial state relentlessly devises several means to perpetuate their stay in power, hence utilizing all machinery of the state power to assume dominance over others.

According to Ake (1985), all post-colonial states are usually associated with very limited autonomy. Thus, post-colonial states are usually programmed to reflect and indeed protect the selfish individual interests of the greedy political elites. This tendency seems to have stunted efforts towards democratic consolidation in Nigeria. As Jakubowski (1973) earlier observed, the ruling class is both politically and economically dominant and constantly creates new avenues for holding down and exploiting the ruled or proletarian class. This was premised on the understanding that interpretation of the link between resources and politics most times is anchored on the pluralist and investment theories, though not without the theoretical and methodological challenges such pose to the budding post-colonial democracies.

From the foregoing, it is evident that the post-colonial states do not represent the public welfare but that of the dominant ruling classes. Accordingly, Ekekwe (1986, p.12) averred that "in the periphery of capitalism factors which have to do with the level of development of productive forces make the state, through its several institutions and apparatuses, a direct instrument of accumulation for the dominant class or its elements". Essentially, the theory views the state as an instrument of primitive accumulation by the dominant class and their collaborators (Alavi, 1972).

The theoretical expositions above aptly capture the substance of this article. Firstly, the sanction regime in the 2010 Electoral Act was skewed to favour the political class which comprises the ruling and governing elites, who are the major stakeholders and players in the electoral process. As gladiators in the electoral process, they are constantly interfacing with the electoral management body and the electorate; and their crave to secure success at polls makes them vulnerable to indulge in electoral malpractices, thus perhaps making them the major violators of electoral laws. Therefore,

to ensure that the sanction regime in the previous and subsisting Electoral Acts do not inflict colossal injuries on them, they usually prevail on law makers, who inadvertently are their counterparts and cronies in the Parliament to ensure that penalties to be prescribed for various electoral offences are not severe. Secondly, the drafters of the 2010 Electoral Act deliberately incapacitated INEC from vigorous detection and prosecution of violators of electoral laws by lumping prosecution to the mandate of the agency that is already overwhelmed by the task of conducting elections. This made it impossible for the agency to be aggressive in the enforcement of the provisions of the Act particularly as it relates to prevention, dictation and punishment of perpetrators of electoral offences. Therefore, the apparent laxity in the prosecution of electoral offences was expected because the Commission is already over-burdened by the task of conducting elections.

Therefore, the prescription of nominal penalties for electoral offences by the law makers is a reflection of the interest of the dominant class that had captured the legislature. This serves as a clear manifestation of the relative autonomy of the Nigerian state and also as an admission that the dominant political class who at inception of the fourth republic formed and funded political parties had successfully appropriated the legislature, to a point of influencing the content of legislations they make. Contemporary experience has proven that the Nigerian state is a veritable instrument for primitive accumulation; hence the political class sees politics as commercial portfolios that accrue tremendous returns in investment. The returns are usually in form of the largesse that go with public offices, award of contracts and appointments to cronies and use of public office to promote private businesses as with case with post-colonial states, Nigeria included (Ekekwe, 1986).

Given the enormous premium attached to public offices, electoral contest is akin to warfare, with each opposing party/candidate employing as much rigging tactics as it/he could muster even if it entails serving out the penalties, which usually is very insignificant and incommensurate with the expected gains if the party/candidate is elected into office. With this siege mentality, politicians in most cases prepare for elections like warfare, deploying all available machineries to achieve electoral victory including flagrant violation or circumvention of electoral laws and guidelines. The unhealthy competition among the gladiators is expressed in the intimidation and deployment of thugs and security personnel against opposition parties/candidates, vote buying and bribing of electoral official to alter electoral results, snatching of electoral materials and excessive deployment of funds above the limits provided by law in the prosecution of elections.

This theory is fundamental to this study because it has been able to explain that the post-colonial character of the Nigerian state leveraged the dominant class to circumvent the sanction regime in the electoral laws which made it possible for them to continue to indulge in electoral malpractices, as that has proven very effective in accelerating electoral victories. It is therefore within the context of the above theoretical expositions on the specific nature and character of the Nigerian state that one can fully appreciate and analyse the interface between the sanction regime in the 2010 Electoral Act and recurring infractions in the Nigerian electoral process.

2. Methodology

Documentary and observation methods were deployed in gathering data for the study. These methods help the researchers to glean information and data from already documented sources and ongoing activities in the electoral process in Nigeria. The justifications for these methods are that it is well-suited for contextual analysis and useful when the task is to glean, illuminate, interpret and extract valuable information in order to draw inference from the available evidence. Above all these methods were considered most appropriate given that secondary data constitute the bulk of the data used in the analysis. Besides opinions of experts and critical stakeholders in Nigerian politics as expressed in the leading print and electronic media were equally elicited to validate and support data generated from documentary and observation methods. Therefore, we essentially relied on articles in journals and Nigerian newspapers, official publications of Federal Government of Nigeria, political parties and non-governmental organizations on the subject matter. The merits of secondary sources of data are that of economy and the fact that gathering of information does not require the co-operation of the concerned subjects of research (in this case the political class) about whom information are being sought. Content analysis based on logical deduction was applied in the analysis of data generated in the study. It is the technique for making inference by objectively and systematically identifying specified characteristics of message (Stone 1966). The application of this technique involves examination of documents in order to generate information or inference based on the canons of scientific research. The justification of this method is that it enables political inquirer to scrutinize the content of a document in order to understand its underlying structure, ideas and concepts and to quantify the message it relates (White 1983). Besides, content analysis can be used to delineate the characteristics of the communication itself, the causes or circumstances of the communication, and the effects of the communication on the audience. Moreover, content analysis is descriptive, dialectical, interactive, and multi-dimensional and falls within the intersection of the quantitative and qualitative continuum, hence most appropriate for the analysis of documentary evidence.

2.1. An Overview of the Sanction Regime in the Nigerian 2010 Electoral Act

The Electoral Acts enactments from the National Assembly in the present dispensation have been the major legal instruments that guide conducts of elections in Nigeria. Besides the Acts, extracts of the 1999 Constitution, Companies and Allied Matters Act 2020 and INEC Regulations and Guidelines, are also other components of electoral laws. Besides spelling out functions and structures of INEC, political parties and processes of elections, the 2010 Electoral Act (as Amended) clearly articulated various electoral offence and accompanying penalties as shown in table one below.

Sections	Offences	Penalties
12	Qualification for registration	₦1,000,000- or 1-year imprisonment or both
16	Powers to print and issue voters cards	₦100,000- or 1-year imprisonment or both
18	Powers to issue duplicate voters cards	₦200,000- or 2-years imprisonment or both
23	Offences of buying or selling voters cards	₦ 500,000- or 2-years imprisonment or both
24	Offences relating to registration of voters	Ranges between ₦100,000 or 1 year imprisonment or both – ₦500,000 or 5 years imprisonment depending on the gravity and violator involved
31	Submission of list of candidates and their affidavits by political parties	₦ 500,000
32	Prohibition of double nomination	₦ 100,000- or 3-months imprisonment or both.
77	Access to election documents	₦ 2,000,000 or 1year imprisonment or both.
81	Contravention of section 227 of the 1999 Constitution	₦ 500,000; ₦700,000 for any subsequent offences; ₦50,000 for every day the offence is committed and ₦500,000 or 3 years imprisonment or both for aiding and abetting
86	Monitoring of political parties	₦ 500,000
88	Offences in relation to finances of political parties	₦ 500,000
91	Offences in relation to limitation on election expenses	Ranges between ₦1,000,000 or 1 year imprisonment or both to ₦ 100,000- or 1-month imprisonment or both depending on the position; ₦500,000 or 9 months imprisonment or both for donating more than ₦1,000,000 to a candidate; 10 years imprisonment for aiding and abetting by an Accountant
92	Election expenses of political parties	₦1,000,000 for failure by a party to submit record of election expenses within 6 months after election; ₦200,000 for each day after the 6 months; ₦1,000,000 for election expenditure beyond the limits permitted by law
94	Conduct at political rallies and processions etc	₦ 2,000,000- or 2-years imprisonment or both
95.	Prohibition of certain conduct etc at political campaigns	₦1,000,000 for individuals or 1 year imprisonment; ₦2,000,000; ₦1,000,000 for subsequent offences; ₦500,000 or 3 years or both for aiding and abetting
96	Prohibition of use of force or violence during political campaigns	₦ 1,000,000- or 1-year imprisonment for individuals, ₦2,000,000 for political parties; ₦ 500,000 for every subsequent offence
99	Limitation on political broadcast and campaign by political parties	₦ 500,000
100	Campaign for election	₦ 500,000 in the first instance and ₦1,000,000 for subsequence offence
101	Prohibition of broadcast, etc 24 hours preceding or on election day	₦1,000,000 for body corporate and ₦500,000 or 1 year imprisonment for individuals
102	Campaign based on religion, tribe etc.	₦1,000,000
117	Offences in relation to registration, etc	₦1,000,000 or 1 year imprisonment or both
118	Offences in respect of nomination, etc.	Ranges between 2 years imprisonment to ₦50,000,000 or 10 years imprisonment or both depending on the gravity of the offence
119	Disorderly behaviour at political meeting	₦500,000 or 1 year imprisonment or both
120	Improper use of voter's cards	₦1,000,000 or 1 year imprisonment or both
121	Improper use of vehicles	₦500,000 or 6 months imprisonment or both
122	Impersonation or voting when not qualified	₦500,000 or 1 year imprisonment or both
123	Dereliction of duty	Ranges between ₦500,000 or 1 year imprisonment or both to 3 years imprisonment
124	Bribery and conspiracy	₦500,000 or 1 year imprisonment or both
125	Requirement of secrecy in voting	₦100,000 or 6 months imprisonment or both
126	Wrongful voting and false statement	₦100,000 or 6 months imprisonment or both
127	Voting by unregistered person.	₦100,000 or 6 months imprisonment or both
128	Disorderly conduct at election	₦500,000 or 1 year imprisonment or both
129	Offences on election day	Ranges from ₦100,000 or 6 months imprisonment or both to 2 years imprisonment depending on the gravity of the offence.
130	Undue influence	₦100,000 or 1 year imprisonment or both
131	Threatening	₦100,000 or 1 year imprisonment or both

Table 1: Electoral Offences and Penalties as Provided in the 2010 Electoral Act in Nigeria-Maximum Fine and Prison Terms

Source: Electoral Act 2010 (As Amended)

A critical evaluation of the above offences and penalties left much to be desired. The major inadequacy is the nominal nature of the penalties prescribed for the various electoral offences; hence making such penalties not to serve deterrence purposes. Therefore, it is on the account of the failure of the penalties to discourage potential violators that electoral irregularities remain a recurring decimal in Nigeria. The logic of every penal code is to discourage potential violators of the law; however, when the expected gains for breaking the laws far outweigh the punishment, violation of such laws becomes a norm. In Nigeria, enormous premium accrues to public offices, hence the political class will prefer to serve out the penalties in as much as engaging in irregularities will facilitate victory at the polls. The above scenario explains the deterioration of the electoral process in Nigeria.

To achieve the above, most times the electoral laws are couched in an ambiguous manner, leaving loopholes politicians, including EMBs, could manipulate to achieve undeserved electoral victories for themselves or their preferred candidates, respectively. For instance, Section 92 of the 2010 Electoral Act provides punishment for political parties that incurred electoral expenses beyond the limits set by law but failed to indicate the limits. Furthermore, Section 91 limited contributions to a candidate to one million Naira and provided punishment for same but made no provision for political parties (Electoral Act 2010). These contradictions are deliberate schemes by the ruling class to ensure that they remain in power and as well control state machineries for primitive accumulation. This becomes a vicious circle in the sense that most times politicians whose conducts and activities are expected to be moderated by these legislations are at the same time the framers of the electoral law regime. The fact that INEC and other agencies in electoral management lack both administrative and financial independence further reduces them as a tool for the advancement of the interests of the powerful class. Because of the above, even when legislations are not couched ambiguously, the enforcement had remained very poor and inefficient.

2.2. Nominal Penalties for Electoral Offences and Recurring Electoral Irregularities in Nigeria

Electoral malpractices have been on the increase since 1999, assuming different dimensions, becoming more complex and sophisticated. The irregularities associated with these elections have not only threatened the democratization project but challenged the corporate existence of the nation. This has led to poor rating of elections in Nigeria by both local and international observers. Thus, the rating of elections had fluctuated from 43% in 1999, 37% in 2003, 31% in 2007, 52% in 2011, and 47% in 2015 to 29% in 2019, raising serious concern among stakeholders (EU, 2019).

The failure of penalties for various electoral offences to deter potential violators largely accounted for the recurring incidence of electoral malpractices in Nigeria. These range from criminal manipulation of voters' registration to large-scale violence and alteration of electoral results. Common infractions in the Nigerian electoral process include vote buying, underage/ multiple registration and voting, thuggery, snatching and destruction of electoral materials, falsification of electoral figures, and excessive deployment of funds far above the limits permitted by law.

Monetization of the electoral process has become an endemic feature of Nigerian politics in the present democratic dispensation, specifically the use of money to secure the votes of the electorate. It has become a norm for candidates seeking for electoral offices to distribute food items, cash and other household materials for the electorate during campaign and voting period in exchange for their votes. This practice is common in rural areas where majority of the electorate are uninformed and illiterate. According to Ovawasa (2013), the incidence of vote buying has become a norm in Nigerian politics since 1998. This reached its peak in the 2019 general elections. Since 1998, the menace has become institutionalized, as such become substantial medium for rigging and subsequent victories at polls. According to Suberu (2011) quoted in Ovwasasa (2013), "if the use of money in the 1999 elections was open and shameless, that of 2003 was outrageously indecent". Ovwasasa noted that the extent to which money politics was implicated in electoral irregularities pushed the former President Olusegun Obasanjo to state the following:

With so much resources being deployed to capture elective offices; it is not difficult to see the correlation between politics and the potential for high level corruption. The greatest losers are the ordinary people, those voters whose faith and investment in the system are hijacked and subverted because money, not their will, is made the determining factor in elections. Can we not move from politics of money materialism to politics of ideas, issues and development? (Obasanjo, 2005, p.17).

Human Rights Watch report on the 2003 elections revealed a strong correlation between excessive deployment of funds and increasing electoral violence in Nigeria. The report indicated that members and supporters of the then ruling PDP were largely responsible for the large-scale infractions recorded in the election (HRW, 2003).

Likewise, findings of an Afro-barometer research quoted by Alfa and Maragos showed that over 28% of the electorate received various material and cash incentives from candidates and political parties during the 2003 campaigns. Furthermore, as indicated by the survey report, 48% of the respondents strongly agree that, while 33% was of the opinion that excessive deployment of funds for campaign purposes is largely responsible for electoral malpractices including large scale violence. In the same vein 48% of the respondents vehemently held that while 33% was of the view that unrestrained deployment of money by the political class reinforces thuggery.

The incidence of vote buying is not limited to general elections in Nigeria, as it has also been experienced during party primaries for aspirants who openly engage in financial inducement of delegates to secure their votes. Francis *et al* (2015) confirmed the above assertion as he averred that some delegates in the January 2011 PDP presidential primary, confirmed receipt of \$3,000 and \$10,000 for their votes from the major contenders, Atiku Abubakar and Goodluck Jonathan, respectively. By estimation, Atiku Abubakar must have spent about \$25.5 million on vote buying, considering that about 8500 delegates were said to have attended the primaries. Similar incidents were repeated in the 2014 and 2018 APC and PDP presidential primaries in Lagos and Rivers states, respectively. It was widely alleged that Atiku Abubakar and

other major presidential aspirants in APC and PDP shared various sums of monies to secure the votes of the delegates (*Vanguard*, 2018).

Francis, *et al* (2015) further alleged that apart from commodification of votes, it has become a common practice for political parties in desperate ploy to win elections to bribe electoral officers to alter electoral figures in their favour. According to them, a Presiding Officer who was on duty in Osun State during the 2011 general election recounted his experience thus:

Bribery was introduced in one form or the other; financial gratifications to all officers with the hope that the presiding officers will be manipulated in their favour. I can specifically speak of the PDP a total of ₦1,000,000 million were given to us at our first meeting. We were told, "if they catch you, you cannot mention us" ... They wanted us to inflate the number of accredited voters.

The INEC officer interviewed also narrated the experience of his colleagues who worked in the eastern part of the country, Imo State, to be precise. According to him, his colleague informed him that there was no election in his polling unit in the 2011 presidential poll because:

... at the INEC distribution centre as early as 8am in the morning, they told them everyone had agreed that the PDP would win the presidential election. But for coming, you should all (the presiding officers) have ₦25,000 each. So, I am not surprised at the bogus number of votes in the East.

With the introduction of the card reader and customization of voting materials in the 2015 elections and beyond, vote buying got to a crescendo, gradually displacing snatching of ballot materials. The implication of customization of voting materials is that the usefulness of such materials is limited to areas they are meant for, hence while incidents of snatching was going down, vote buying both in party primaries and general elections got escalated. The 2015 transition election including the primaries witnessed massive deployment of funds. It was reported that Atiku Abubakar who contested the APC presidential primaries with Muhammadu Buhari gave the sum of \$5000 to each of the delegates. Similar scenario played out in the 2018 PDP primaries in Port Harcourt, Rivers State (*Sahara Reporters* 4th December, 2018). Also, report from EFCC showed that substantial part of the diverted \$2.1 billion arms procurement fund went into the electioneering campaign of PDP, part of which was used in lobbying delegates and voters (EFCC, 2016). Figures 1 to 5 below demonstrate the changing trends in electoral irregularities in Nigeria.

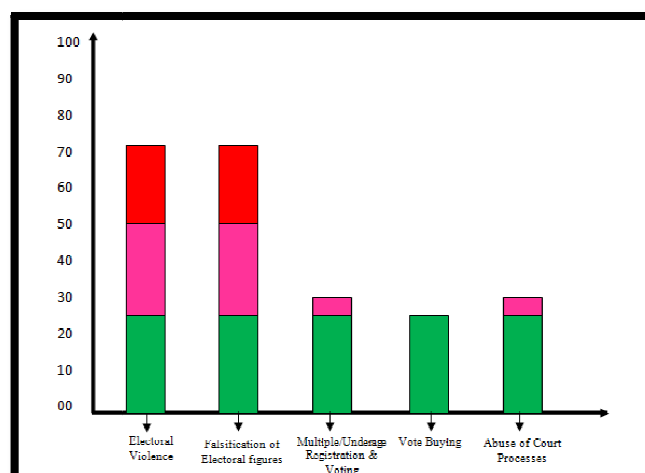


Figure 1: Survey of Electoral Offences in the 2003 General Elections

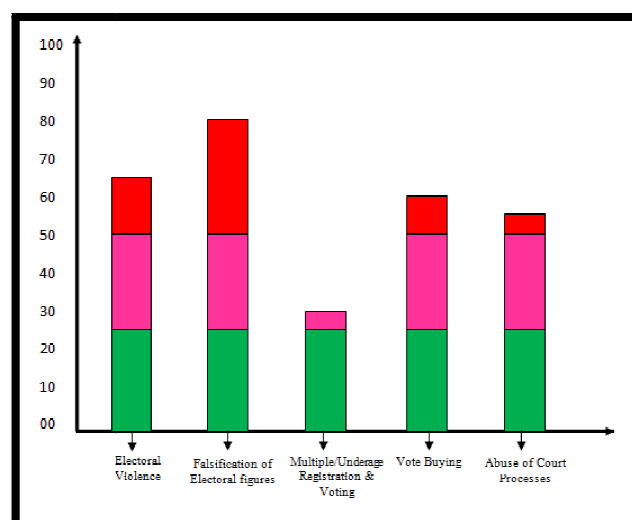


Figure 2: Survey of Electoral Offences in the 2007 General Elections

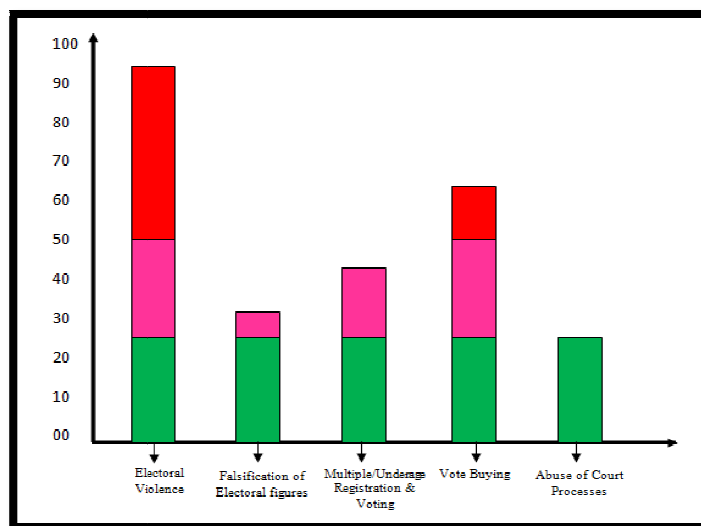


Figure 3: Survey of Electoral Offences in the 2011 General Elections

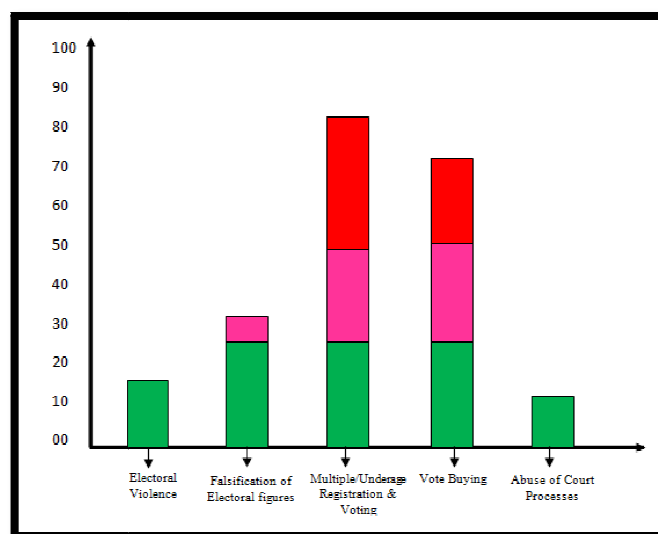


Figure 4: Survey of Electoral Offences in the 2015 General Elections

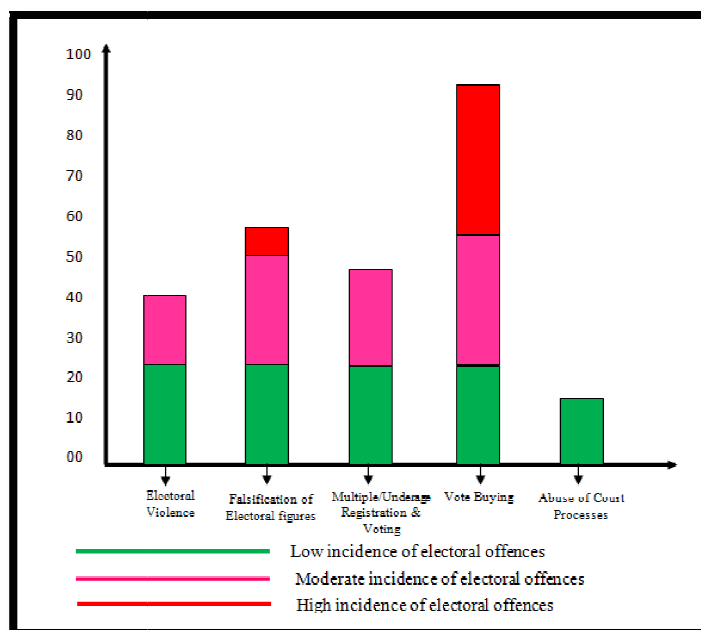


Figure 5: Survey of Electoral Offences in the 2019 General Elections

Source: Developed by the Author from Reports of NCSSR 2007-2019, EU Department for Electoral Justice in Africa, 1999-2015

Furthermore, the inadequacy of the sanction regime is also implicated in political thuggery and other forms of electoral violence in Nigeria. Aniekwe and Kushie (2011) noted that according to a USIP report, the 2003 elections recorded blatant and unchecked hiring and arming of militias to serve narrow political ends. They also argued that the 2007 election was worse than the 1999 and 2003 elections. Quoting a research carried out by IFES, Aniekwe and Kushie (2011) noted that electoral violence got to its peak in 2011 elections as it was verified and reported that there were about 967 incidents. The preceding elections in 2003 and 2007 were not spared. The Human Rights Watch reported that few days to the 2007 polls were characterized by violent campaigns, bombings, politically-motivated assassinations and fierce and armed clashes between supporters of the major contending political parties. They argued also that this formed part of the broader pattern of violence inherent in Nigeria's electoral process (HRW, 2007). The violence experienced in the 2011 general elections was the worst in Nigeria's electoral history as over 30,000 lives and property estimated at ₦2 trillion were lost (HRW, 2011; Orji & Uzodi, 2012). In 2015 and 2019, despite the peace accord signed by the presidential candidates, electoral violence was recorded in a number of states such as Rivers, Kogi, Bauchi, Akwa-Ibom, Cross River, Lagos, Kano, Ebonyi, etc. However, it was at a much smaller scale compared to violence witnessed in previous years.

Underage and multiple registrations and voting are other forms of electoral rigging that are common, yet perpetrators go scot-free and even when apprehended, prosecutions are often treated with laxity. This is further compounded by trivial penalties prescribed for such offences as shown in Table 1. This has led to its escalation as the 2015 general elections represented the peak of the menace. The menace has gradually replaced rigging by snatching of ballot materials, which before the introduction of card readers and the customisation of voting material was the most common means of turning out in large numbers illegitimate votes. As illustrated in figures 1-5, customization of voting materials and the introduction of card readers limited the usefulness of voting materials to designated pulling units, therefore snatched voting materials become irrelevant as the card readers could only process voters' cards tied to it and a particular pulling unit. To make up for this particularly in the northern parts of the country, under-aged children were conscripted to register and vote, in an effort to scale up votes for their choice candidates in the 2015 general elections. Similar incident was recorded in 2019 general elections in favour of incumbent President, MuhammaduBuhari.

These developments and other infractions must have informed Sagay (2011) to dismiss the claims that the 2011 general elections were free, fair and credible. According to him, election did not take place in South-South and South-East geopolitical zones as elections in those areas were ruined by multiple registrations and voting, ballot box snatching and monumental fraud. He drew attention to huge disparity between the votes secured by PDP and other parties as being suspicious. Similarly, the European Union Election Observation Mission Reports on 2015 elections noted that multiple registrations were a common concern during the registration exercise and INEC declared to have identified 870,512 duplicate entries in 2011 and over one million in 2015 (EUEOM, 2015). Hence, underage registration and voting became a common phenomenon particularly in Northern Nigeria and largely accounted for the victory of President MuhammaduBuhari in the 2015 general elections. The trend continued in the 2019 general elections.

Lastly, the increasing incidents of monetization of the electoral process including party primaries and campaign financing despite subsisting provisions of the electoral laws also attest to the triviality of penalties attached to various electoral offences. Excessive deployment of funds and failure by INEC to control same played out in the manner party flag-bearers were chosen ruling political parties. In the PDP, some persons who won primary elections were substituted with candidates whom the party patrons were more comfortable with. Udeuhele (2015) argued that the conduct of parallel primaries in PDP was the consequence of the problematic nature of its congresses and conventions. According to him, the 2006 congresses and convention ended in chaos, confusion and defections. He further observed:

In fact, the PDP gubernatorial primaries led to a series of litigations and threw the party into further turmoil. What distinguished the 2006 exercise is that many candidates that had been elected at the congresses were later changed by the party. For example, in Lagos State, Mrs. Hilder Williams won the primary election, but Senator MusliuObanikoro was officially declared the candidate. In Rivers state, Speaker RotimiAmaechi won the primaries only to be expelled by the party and Celestine Omehia used as substitute. It took the Supreme Court to upturn the result (Udeuhele, 2015, p.115). Furthermore, he noted that:

In Imo State, Senator IfeanyiArarume won the primary election but the party replaced him with Charles Ugwu who came last at the election. However, Ararume took his case to the Supreme Court, which overturned the decision of the PDP and ruled that the party did not follow democratic processes and violated its constitutions in replacing Ararume, declaring that he remained the candidate of the party (Udeuhele, 2015, p. 117).

Ararume was expelled from the party by the NWC two days to the general elections. Indeed, the history of the PDP is replete with cases of candidate imposition, parallel primaries and resultant defections. The conduct of the 2018 primaries in the ruling APC was also marred by crisis and flagrant abuse of the provisions of the electoral laws. In most situations, primaries in ruling political parties tend to be more competitive than general elections, as emergence in such primaries is approximated to victory at the general elections.

Besides flawed primaries, contributions to political parties/candidates and their campaign expenditure since 1999 have been outrageously above the ceiling set by various Electoral Acts. Increasing indulgence in the act is largely on account of the weakness of penalties to discourage potential violators. Wealthy members of the party deploy such donations as means of controlling the party and state resources, leveraging the party to engage in sharp practices. For instance, the table below shows contributions to the presidential candidates of the then ruling People's Democratic Party, Goodluck Jonathan, in the run up to the 2015 general elections.

S/N	Contributors	Amount
1	Ajuji Best Hotel	₦1 million
2	Alhaji Mahammed Ahmed	₦4 million
3	Ambassador Shehu Malami	₦14 million
4	BalaShagaya Representing the Oil and Gas sector	₦5 billion
5	Chief Femi Otedola	₦1 billion
5	Cizally Limited	₦250 million
6	Col. Sani Bello (Rtd)	₦5 million
7	Construction Sector	₦310 million
8	Food and Agric Sector Represented by Chief OmenifeUzegbu	₦500 million
9	General Abdulsalami Abubakar	₦10 million
10	Jerry Gana and friends	₦5 billion
11	Mr. Charles Momoh	₦5 million
12	Mr. Sam Egwu	₦1 million
13	National Association of Stevedores	₦25 million
14	National Automotive Council	₦450 million
15	PDP Governors Forum (N50 million each x 21 governors)	₦1.05 billion
16	Power Sector Represented by Tunde Ayeni	₦5 billion
17	The Real Estate Sector Represented by OluchiOkoye	₦4 billion
18	Tope Sonubi and Tonye Cole	₦1 billion
19	Transport and Aviation Sector Represented by DidiNdimou	₦1 billion
20	Tunde and Group of Friends	₦2.6 billion

Table 2: List of Contributors to Goodluck Jonathan Presidential Campaign in 2015

Source: Authors' compilation from This Day Live, 21st December, 2014

Besides the contributions as displaced in table 2 above exceeding the one million Naira (₦1,000,000) limit as provided in Section 91 of the 2010 Electoral Act, the provisions of the Act on expenditure limits have equally been subject of gross abuse. While table three below shows the provisions of the Act on expenditure limit, table four provided sufficient evidence to demonstrate that the Act was observed more in the breach.

S/N	Position	2003	2007	2011	2015	2019
1.	Presidential Candidates	NA	₦5000,000	₦1,000,000,000	₦1,000,000,000	₦1,000,000,000
2.	Governorship Candidates	NA	₦100,000,000	₦200,000,000	₦200,000,000	₦200,000,000
3.	Senatorial Candidates	NA	₦20,000,000	₦40,000,000	₦40,000,000	₦40,000,000
4.	House of Representatives Candidates	NA	₦10,000,000	₦200,000,000	₦200,000,000	₦200,000,000
5.	House of Assembly Candidates	NA	₦5,000,000	₦10,000,000	₦10,000,000	₦10,000,000
6.	Chairmanship Candidates	NA	₦5,000,000	₦10,000,000	₦10,000,000	₦10,000,000
7.	Councillorship Candidates	NA	₦5,000,000	₦1,000,000	₦1,000,000	₦1,000,000

Table 3: Provisions of the Electoral Acts on Expenditure Limits by Candidates in the 2003-2019 Elections in Nigeria

Source: Authors' Compilation from the Electoral Acts 2002, 2006 And 2010

S/N	Election Year	Presidential Candidates/Party	Amount Spent
1.	2003	Olusegun Obasanjo/Atiku Abubakar PDP	₦4,209,118,342:17
		MuhammaduBuhari/ChubaOkadigbo ANPP	₦1,027,414,302:52
2.	2007	UmaruYar'Adua/Goodluck Jonathan PDP	₦6,480,280,302:12
		MuhammaduBuhari/Edwin Umezuoike ANPP	₦2,817,227,984:55
3.	2011	Goodluck Jonathan/NamadiSambo PDP	₦7,460,280,302:5
		MuhammaduBuhari/Ben Obi CPC	N4,349,453,962:15
4.	2015	Goodluck Jonathan/NamadiSambo PDP	₦8,749,987,962:11
		MuhammaduBuhari/YemiOsinbajo APC	₦7,412,685,967:20
5.	2019	MuhammaduBuhari/YemiOsinbajo APC	₦17,460,280,302:5
		Atiku Abubakar/Peter Obi PDP	₦14,324,123,402:5

Table 4: Summary of Presidential Election Campaign Expenditure of Major Political Parties/Candidates in Nigeria, 2003-2019

Sources: Compiled by the Authors from USAID and SERAP Reports, 2003-2019

In sum, the analysis of the sanction regime as provided in the 2010 Electoral Act and the realities in the electoral process in Nigeria reveals two major issues. The first is that the aspects of electoral offences that political gladiators are unlikely to commit attract severe penalties while regular offences they commit go with light sentences. To illustrate this, Section 118(3) prescribes ₦50,000,000 or 10 years imprisonment or both for the offence of printing, manufacturing, importing or possession of electoral materials without the authorization of the Commission, but provides trivial ₦500,000 or one year imprisonment or both for such a grave offence of funding all manners of electoral fraud, bribery and corruption as provided in Section 124. Likewise, Section 91(12) provides for an accountant who aids a candidate to falsify documents relating to his/her electioneering campaign expenses and income 10 years imprisonment but provides in Section 91(10) between ₦1,000,000 or one year imprisonment or both for contravention of provisions on campaign expenditure limit for various positions. The same light sentences – ₦500,000 or 9 months imprisonment or both were provided in Section 91(11) for any person or entity that donates more than ₦1,000,000 for a candidate for election purposes (Electoral Act 2010).

Secondly, investigation into the sanction regime demonstrated that those offences that attract severe penalties are not common in Nigeria's electoral process unlike those that attract light sentences. The explanation for this disparity in occurrence rate is deterrence capacity of the penalties attached to the offences. This implies that the more severe a penalty for a particular offence becomes, the less the offence is committed.

2.3. Implications of the Infractions on Post-Election Litigations, Inconclusive/Suspended and Rating of Elections in Nigeria

One of the major implications of the flawed electoral system in Nigeria is the multitude of pre- and post-election litigations that usually flood the courts after almost every election. INEC in its report on the 2015 general elections stated that about 600 petitions were filed at the various elections petition tribunals set up in all the states across the six geo-political zones of the country. In 333 of the cases (59.4%), the decisions of the election tribunal were appealed across the states of the federation and FCT while petitioners in at least 227 cases (40.5%) decided not to contest the judgments (NCSSR, 2017).

According to the National Democratic Institute report on the 2011 election, about 7,268 election petitions were filed for the 2007 elections. The report states the petitions filed after the 2011 elections were far less than that of 2007, being less than 500. By the end of February 2012, more than two dozen elections were overturned, including the gubernatorial election results in Kebbi State. Eight elections were initially nullified in Katsina; subsequently, they were reversed on appeal (NDI, 2012). Similarly, the 2015 and 2019 general elections attracted several petitions following sharp irregularities (USAID, 2019). Table 5 below shows the analysis of total number of petitions filed challenging the outcome of the 2011, 2015 and 2019 elections for various positions.

S/N	Positions	Election Years				
		2003	2007	2011	2015	2019
1	Presidential Election	01	04	08	02	02
2	Gubernatorial Election	41	1	29	37	47
3	Senatorial Election	33	28	62	51	78
4	House of Representative Election	102	117	88	112	95
5	State House of Assembly Electives	87	112	122	182	67

Table 5: Election Petitions for Various Positions in Nigeria, 2003-2019

Source: Compiled by the Authors from Reports of INEC, NDI, and USAID on Electoral Justice in Nigeria 2003-2019

Another consequence of electoral malpractices orchestrated by failure of the subsisting electoral penal code to compel conformity is the increasing incidence of inconclusive or suspended elections. This was a new phenomenon in Nigeria's electoral history and had gained currency since the 2011 general elections. It was initially devised as a mechanism to address shortfalls especially in voting areas elections could not hold following irregularities, particularly in situations where if margin of lead principle is applied, the result of the poll could be altered. However, the concept is currently being manipulated and abused as ruling political parties and INEC in recent elections had relied on that to subvert the victories of opposition parties. The concept in its current application serves as a retreat, a war tactic that enables the weaker to recuperate and refortify for possible victory. The implication is that such has been the tactics of the ruling parties since 2011; it created opportunity where they leveraged on the power of incumbency to postpone elections mostly if the opposition candidate is winning, and at a later day employ all kinds of machinations, including use of state security agencies, to achieve victory. Such isolated elections are usually accompanied by massive deployment of security personnel, intimidation of voters they could not buy, disruption of voting in opposition strongholds or deliberately delaying supply of voting materials. PDP employed the tactics in Ekiti State election in 2014 and APC did same in Ekiti and Osun States elections in 2018. Kogi State election suffered same; the election was declared inconclusive. It was subsequently repeated after the replacement of the late Abubakar Audu with a controversial candidate who later became Governor, Yahaya Bello. The 2015 elections in Abia and Taraba States were also declared inconclusive. It became a norm in the 2019 general elections as several gubernatorial, senatorial, federal and state constituency elections were either declared inconclusive or suspended. Table 6 below shows increasing incidence of inconclusive and suspended elections in Nigeria.

Election Year	Categories of Election	Inconclusive Election	Remark	Suspended Election	Remark
2003	Presidential Election	-	-	-	-
	Senatorial Election	4		1	
	House of Representatives Election	7		-	
	Governorship Election	-	-	-	-
	State House of Assembly Election	14		3	-
2007	Presidential Election	-	-	-	-
	Senatorial Election	5	-	1	
	House of Representatives Election	11		2	
	Governorship Election	1	-	-	-
	State House of Assembly Election	21		3	
2011	Presidential Election	-	-	-	-
	Senatorial Election	6		-	-
	House of Representatives Election	14		1	
	Governorship Election	-	-	-	-
	State House of Assembly Election	33	-	2	-
2015	Presidential Election	-	-	-	-
	Senatorial Election	7		-	-
	House of Representatives Election	16	-	-	-
	Governorship Election	1		-	-
	State House of Assembly Election	19	-	3	-
2019	Presidential Election	-	-	-	-
	Senatorial Election	8		1	-
	House of Representatives Election	23	-	2	-
	Governorship Election	7		3	
	State House of Assembly Election	51	-	12	-
Total		248	-	34	-

Table 6: Trends in Inconclusive and Suspended Elections in Nigeria, 2003-2019

Source: Compiled by the Authors from

<https://www.legit.ng/1226713-updated-list-states-governorship-elections-declared-inconclusive-far.html>

Lastly, the unabated electoral malpractices in Nigeria since 1999 have worsened her reputation in the international community. This is evident in the poor ratings Nigeria has got from different international observers and agencies in charge of election ratings. Thus, rating of elections by local and international observers has fluctuated from 43% in 1999, 37% in 2003, 23% in 2007, 52% in 2011, 54% in 2015 to 29% in 2019 (EU, 2019). Furthermore, tables 8 and 9 below show the Perception and rating of Electoral Integrity (PEI) of countries around the world.

Middle East & North Africa			N&W Europe			Asia-Pacific			Americas			C&E Europe			Africa		
Country	PEI index	Global rank	Country	PEI index	Global rank	Country	PEI index	Global rank	Country	PEI index	Global rank	Country	PEI index	Global rank	Country	PEI index	Global rank
Israel	73	21	Denmark	86	1	Republic of Korea	77	13	Costa Rica	80	5	Estonia	79	7	Benin	69	27
Tunisia	67	32	Finland	86	2	New Zealand	75	16	Uruguay	75	17	Lithuania	77	11	Mauritius	64	42
Oman	61	49	Norway	83	3	Australia	70	26	Canada	75	18	Slovenia	77	14	Rwanda	64	43
Kuwait	55	73	Sweden	81	4	Japan	68	29	Brazil	68	30	Czech Republic	76	15	South Africa	63	44
Iran	54	74	Germany	80	6	Tonga	68	31	Chile	66	35	Poland	75	19	Lesotho	63	45
Turkey	48	101	Netherlands	79	8	Mongolia	64	40	Grenada	66	37	Slovakia	74	20	Namibia	60	52
Jordan	46	103	Switzerland	79	9	Micronesia	61	48	Argentina	64	41	Latvia	72	24	Cote d'Ivoire	59	56
Iraq	44	107	Iceland	78	10	Bhutan	61	50	Barbados	62	46	Croatia	66	34	Sao Tomé & Príncipe	58	57
Algeria	43	114	Austria	77	12	India	59	55	United States	62	47	Georgia	59	54	Botswana	58	58
Egypt	42	115	Cyprus	73	22	Solomon Islands	57	62	Panama	61	51	Serbia	58	59	Ghana	57	61
Bahrain	38	122	Portugal	72	23	Maldives	57	64	Colombia	59	53	Moldova	57	63	Sierra Leone	56	67
Afghanistan	33	131	Belgium	71	25	Indonesia	57	65	Mexico	57	60	Bulgaria	56	66	Guinea-Bissau	54	76
Syria	27	135	Spain	69	28	Myanmar	54	77	Cuba	56	69	Hungary	56	68	Burkina Faso	53	83
			Italy	67	33	Nepal	54	80	Bolivia	56	70	Albania	54	75	Nigeria	53	84
			Greece	66	36	Fiji	53	81	Paraguay	55	71	Kyrgyzstan	54	78	Mali	53	87
			Malta	66	38	Singapore	53	86	Ecuador	55	72	Bosnia-Herz.	52	88	Comoros	49	96
			UK	65	39	Sri Lanka	52	89	El Salvador	54	79	Ukraine	51	90	Malawi	48	100
						Thailand	51	91	Belize	53	82	Romania	51	93	Cameroon	46	102
						Pakistan	49	94	Guyana	53	85	Montenegro	49	95	Swaziland	45	105
						Philippines	48	97	Suriname	51	92	Macedonia	48	99	Zambia	44	108
						Bangladesh	38	120	Guatemala	48	98	Armenia	43	111	Mauritania	44	109
						Malaysia	36	126	Venezuela	45	104	Kazakhstan	43	113	Tanzania	43	110
						Cambodia	32	132	Honduras	45	106	Uzbekistan	39	119	Sudan	43	112
									Haiti	28	134	Turkmenistan	38	121	Guinea	42	116
												Belarus	36	124	Kenya	41	117
												Tajikistan	36	125	Madagascar	39	118
												Azerbaijan	35	128	Togo	38	123
															Zimbabwe	35	127
															Angola	35	129
															Mozambique	35	130
															Congo, Rep.	31	133
															Djibouti	25	136
															Burundi	24	137
															Equatorial Guinea	23	138
															Ethiopia	22	139
Number of countries	13		17			23			24			27			35		
Regional average	49		75			56			58			56			47		

= Very High
 = High
 = Moderate
 = Low ('Flawed')
 = Very Low ('Failed')

Table 7: PEI Index and Rank by Country

AFRICA			C&E EUROPE			AMERICAS		
Rank	Country	PEI index	Rank	Country	PEI index	Rank	Country	PEI index
27	Benin	69	7	Estonia	79	5	Costa Rica	80
42	Mauritius	64	11	Lithuania	77	17	Uruguay	75
43	Rwanda	64	14	Slovenia	77	18	Canada	75
44	South Africa	63	15	Czech Republic	76	30	Brazil	68
45	Lesotho	63	19	Poland	75	35	Chile	66
52	Namibia	60	20	Slovakia	74	37	Grenada	66
56	Cote d'Ivoire	59	24	Latvia	72	41	Argentina	64
57	Sao Tome & Princ.	58	34	Croatia	66	46	Barbados	62
58	Botswana	58	54	Georgia	59	47	United States	62
61	Ghana	57	59	Serbia	58	51	Panama	61
67	Sierra Leone	56	63	Moldova	57	53	Colombia	60
76	Guinea-Bissau	54	66	Bulgaria	56	60	Mexico	57
83	Burkina Faso	53	68	Hungary	56	69	Cuba	56
84	Nigeria	53	75	Albania	54	70	Bolivia	56
87	Mali	53	78	Kyrgyzstan	54	71	Paraguay	55
96	Comoros	50	88	Bosnia-Herzegovina	52	72	Ecuador	55
100	Malawi	48	90	Ukraine	51	79	El Salvador	54
102	Cameroon	46	93	Romania	51	82	Belize	53
105	Swaziland	45	95	Montenegro	50	85	Guyana	53
108	Zambia	44	99	Macedonia	48	92	Suriname	51
109	Mauritania	44	111	Armenia	43	98	Guatemala	48
110	Tanzania	43	113	Kazakhstan	43	104	Venezuela	45
112	Sudan	43	119	Uzbekistan	39	106	Honduras	45
116	Guinea	42	121	Turkmenistan	38	134	Haiti	28
117	Kenya	41	124	Belarus	36			
118	Madagascar	40	125	Tajikistan	36			
123	Togo	38	128	Azerbaijan	35			
127	Zimbabwe	35						
129	Angola	35						
130	Mozambique	35						
133	Congo, Rep.	31						
136	Djibouti	25						
137	Burundi	24						
138	Equatorial Guinea	23						
139	Ethiopia	22						
Regional average		47	Regional average		56	Regional average		58
ASIA & PACIFIC			N&W EUROPE			MIDDLE EAST		
Rank	Country	PEI index	Rank	Country	PEI index	Rank	Country	PEI index
13	Republic of Korea	77	1	Denmark	86	21	Israel	73
16	New Zealand	75	2	Finland	86	32	Tunisia	67
26	Australia	70	3	Norway	83	49	Oman	61
29	Japan	68	4	Sweden	81	73	Kuwait	55
31	Tonga	68	6	Germany	80	74	Iran	54
40	Mongolia	64	8	Netherlands	79	101	Turkey	48
48	Micronesia	61	9	Switzerland	79	103	Jordan	46
50	Bhutan	61	10	Iceland	78	107	Iraq	44
55	India	59	12	Austria	77	115	Egypt	42
62	Solomon Islands	57	22	Cyprus	73	122	Bahrain	38
64	Maldives	57	23	Portugal	72	131	Afghanistan	33
65	Indonesia	57	25	Belgium	71	135	Syria	27
77	Myanmar	54	28	Spain	69			
80	Nepal	54	33	Italy	67			
81	Fiji	53	36	Greece	66			
86	Singapore	53	38	Malta	66			
89	Sri Lanka	52	39	UK	65			
91	Thailand	51						
94	Pakistan	50						
97	Philippines	48						
120	Bangladesh	38						
126	Malaysia	36						
132	Cambodia	32						
Regional average		56	Regional average		75	Regional average		49

Table 8: Chart Comparing PEI-4.0 by Country and Region

Source: Norris Et Al (2016). *The Year in Elections 2015, the Expert Survey on Perceptions of Elections*

From the tables above, it is evident that Nigeria has performed poorly with regards to global perceptions and rating about our electoral systems and practices. At the 53rd position, we are just two positions away from the lowest election integrity category. This assessment, based on Nigeria's 2015 general election which was adjudged to be the best elections ever held in the country, leaves much to be desired.

Though several legislations exist, enforcement and compliance have been the major challenges, hence the recurring irregularities. Even President Yar'Adua acknowledged that the election that brought him to power was not democratically conducted. That is to show the extent of PDP hegemony within that period. Similarly, the manner currently ruling APC handled the 2019 general elections confirmed the indispensability of power of incumbency in the electoral

politics in Nigeria. In view of the foregoing discussions and data provided, the study demonstrated that the failure of the subsisting electoral penal code regime to deter violation of electoral laws accounted for increasing incidence of electoral fraud thus validating the hypothesis that the prescription of nominal penalties for electoral offences in the 2010 Electoral Act accounted for the increasing electoral irregularities in Nigeria.

3. Conclusion

The prescription of nominal penalties for electoral offences in the 2010 Electoral Act largely accounted for the increasing incidence of electoral irregularities in Nigeria. The inadequacies constituted serious impediments to electoral administration particularly in the control and prosecution of electoral offences and offenders, respectively. This view was premised on the lack of deterrence purposes by those light penalties, as politicians prefer serving out the penalties in as much as indulgence in electoral fraud guarantees electoral victory. This creates a situation where politicians go to the extreme to achieve electoral victory including bribing INEC officials to relax or stay prosecution of electoral offences. Further, the study found that the deliberate prescription of light penalties by the legislature for electoral offenders is largely on account that they and the executive arm of government are the most common offenders. The article recommends drastic cut in the benefits accruable to public offices as disincentive for political desperadoes, who perceive such positions as lucrative ventures that must be ascended at all cost, given that such mind-set predisposes them to engage in electoral fraud.

4. References

- i. Aderemi, A. (2018). The voracity effect and electoral integrity: The challenge of managing elections in Nigeria. Conference paper: Lagos State University.
- ii. Ake, C. (1985). *Political Economy of Nigeria*. Lagos: Longman Publishers.
- iii. Ake, C. (2003). *Democracy and Development in Africa*. Ibadan: Spectrum Books.
- iv. Akinboye, S.O. & Anifowose, R. (2011). Nigerian Government and Politics, in R. Anifowose and F. Enemu (eds.) *Elements of Politics*. Lagos: Sam Iroanusi Publications.
- v. Alavi, H. (1972). State in post-colonial societies: Pakistan and Bangladesh. *New Left Review*, No. 74, pp.59-81.
- vi. Aniekwe, C.C. & Kushie, J. (2011). Electoral violence situation analysis: Identifying hotspots in the 2011 general elections in Nigeria. *A situation analysis, submitted by the National Association for Peaceful Elections in Nigeria*.
- vii. <https://www.unilorin.edu.ng/studproj/law/0640ia070.pdf>. [Accessed 27 April 2019]
- viii. Bekoe, D. (2011). Nigerian's 2011 elections: Best run, but most violent; United States Institute of Peace, Peace Brief, 109.
- ix. Economic and Financial Crimes Commission (2016) *Reports on the diversion of \$2.1 billion meant for arms purchase by the office of National Security Adviser in Nigeria*
- x. Ekekwe, E. (1986). *Class and state in Nigeria*. Lagos: Longman.
- xi. Eko-Davies, O.E. (2011). A critical appraisal of electoral laws in Nigeria.
- xii. European Union Department for Electoral Justice in Africa. (2015) *Reports on electoral malpractices and violence in the 2015 general election in Nigeria*.
- xiii. European Union Election Observation Mission. (2003-2019) *Reports on the conduct of 2003, 2007, 2011, 2015 and 2019 general elections in Nigeria*, Brussels European Union.
- xiv. Federal Republic of Nigeria (1999). *The 1999 Constitution of the Federal Republic of Nigeria*. Lagos: Federal Government Printer.
- xv. Federal Republic of Nigeria (2010). *Electoral Act 2010 (As Amended)*. Lagos: Federal Government Printer.
- xvi. Francis, S., Onapajo, H. & Okeke-Uzodike, U. (2015) Oil corrupts elections: The political economy of vote buying in Nigeria; *African Studies Quarterly*, 15(2).
- xvii. Human Rights Watch. (2003). *Report of the 2003 general election in Nigeria*.
- xviii. Human Rights Watch. (2007). Criminal politics: Violence, "godfathers" and corruption in Nigeria. <http://www.hrw.org/reports/2007/nigeria1007/> (retrieved June 21, 2019).
- xix. Human Rights Watch. (2011). *Reports of high scale violence in the 2011 general election in Nigeria*.
- xx. Ibeanu, O. (2003). The state and the market: Reflections on Ake's analysis of the state in the periphery. *African Development* 18(3).
- xxi. Igini, M. (2015). Amended Electoral Act 2010: The death of Section 87(9) and the internment of internal party democracy. Reported in the *Sunday Trust* under the title 'Candidates list how National Assembly castrated INEC' <http://Sunday.dailytrust.com>
- xxii. Ihonvbere J.O. (2000). Politics of constitutional reforms and democratization in Africa; *International Journal of Comparative Sociology*, 41(1):9-25.
- xxiii. Ihonvbere, J.O. (1989). The 1999 presidential elections in Nigeria: The unresolved issues in transition in Nigeria? *A Journal of Opinion* 27(1), 59-62.
- xxiv. Ihugba, B.U. & Alfred, C. (2019). Political parties and electoral offences in Nigeria: A critical analysis, *Journal of African Elections* 18(2), p.72-92.
- xxv. DOI: 10.20940/JAE/2019/v18i2a4
- xxvi. Imosemi, A., Taiwo, A. & Nzeribe, A. (2019). An exploration of the 2019 general elections in Nigeria: A review of the legal framework; *Global Journal of Politics and Law Research*, 7(5), pp.62-84.
- xxvii. Ism'ila, Y. & Othman, Z. (2016). Electoral malpractice and the challenges of democratic consolidation in Nigeria's Fourth Republic; *European Proceedings of Social & Behavioural Sciences*.

- xxviii. Jakubowski, F. (1973). *Ideology and Super-Structure*. London: Allison and Bissly.
- xxix. Jega, A.M. (2014). Electoral reforms in Nigeria: Challenges and prospects. A presentation at the first University of Abuja public lecture series, Thursday, October 29, 2015.
- xxx. National Democratic Institute (2012). 2011 Nigerian election: *National Democratic Institute for International Affairs Final report on the 2011 general elections*, Abuja.
- xxxi. Nigerian Civil Society Situation Room (2017) *Reportson the adjudication of the 2015 general election petitions in Nigeria*.
- xxxii. Nnamani, T. (2014). Corruption and electoral fraud in Nigeria; *Journal of Development Studies*, 2(2), pp. 12-23.
- xxxiii. Obakhedo, N.O. (2011). Curbing electoral violence in Nigeria: The imperative of political education, in *African Research Review: International Multidisciplinary Journal, Ethiopia*, 5(5).
- xxxiv. Obasanjo, O. (2005). Reported in *Vanguard Newspapers*, October 14.
- xxxv. Omotola, J.S. (2010). Elections and democratic transition in Nigeria under the Fourth Republic". *African Affairs*, 109(437), pp. 535-553.
- xxxvi. Omotola, J.S. (2011). Unconstitutional change of government in Africa. What implications for democratic consolidation. NordiskaAfrikan Institute, Uppsala, Discussion Paper.
- xxxvii. Orji, N. & Uzodi, N. (2012). The 2011 post elections violence in Nigeria; Policy and Legal Advocacy Centre (PLAC).
- xxxviii. Orji, R.O., Eme, O.I., & Nwoba, H.A. (2013). Political party funding in Nigeria: A case of Peoples Democratic Party. *Arabian Journal of Business and Management Review (Nigerian Chapter)* vol. 2, No. 11.
- xxxix. Obvawasa, T. (2013). Vote buying and electoral malpractices in Nigeria; *Nigerian Journal of Development Studies* 2(3): 17-34.
 - xl. Policy and Legal Advocacy Centre (PLAC, 2019). *Outline of electoral offences in Nigeria*.
 - xli. <https://placng.org/i/wp-content/uploads/2019/12/Outline-of-Electoral-Offences-in-Nigeria.pdf>
 - xlii. Sagay, I. (2011). 2011 elections far from free and fair; *Vanguard*, 11th June, 2011.
 - xlili. Sahara Reporters (2018). Reports of vote buying in the PDP primaries in Port Harcourt, Rivers State, 4th December, 2018.
 - xliv. Suberu, R.T. (2011). Can Nigeria's new democracy survive? *Current History*.
 - xlvi. *ThisDay Live* 21/12/2014
 - xlvi. Udeuhele, G.I. (2015). Parties parallel primaries and its limitation to political development in Nigeria. *Developing Country Studies*, 5(10).
 - xlvi. United States Agency for International Development (2015-2019) *Reports on adjudication of electoral petitions in Nigeria*, (2015-2019)
 - xlvi. Vanguard (2018). Dollar rains at Port Harcourt PDP presidential primaries 2018: Available at <https://www.vanguardngr.com/2018/10/dollar-rains-at-port-harcourt-pdp-presidential-primaries-2018/> Accessed on September 8th, 2020.
 - xlvi. Yusuf, M. (2015). Party politics, electoral crisis and democratic consolidation in Nigeria, in *International Journal of Academic Research and Reflection*, 3(1).