

LEGAL ISSUE BRIEF

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Legal Regime to Curb Vote-buying in Nigeria

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Introduction

Vote buying has been described as “an auction in which the voter sells his or her vote to the highest bidder”¹ Vote buying is not a new phenomenon, neither is it limited to a particular region of the world, in elections around the world, large numbers of voters are influenced by promises or threats that influences people’s choices on how they vote.² In Nigeria the concept has taken a frightening dimension with incessant cases of vote buying in recent times. According to survey-based estimates, one out of five Nigerians is personally exposed to vote

buying.³ The impact and dangers of vote buying on Nigeria’s nascent democracy cannot be underestimated. It subverts the integrity of the electoral process which is the very means by which a society democratically translates human rights to political participation (section 14(2) (a) 1999 const.)⁴ This brief therefore seeks to explore legislative options in curbing the menace.

EXISTING LEGAL FRAMEWORK

i. Constitution of the Federal Republic of Nigeria 1999 (as amended)

¹ See Frederic Charles Schaffer ‘What is Vote buying?’ Being a paper delivered at “Trading Political Rights: The Comparative Politics of Vote Buying,” International Conference, Center for International Studies, MIT, Cambridge, August 26-27, 2002. Available at www.gsdr.org/docs/open/pol14.pdf. accessed 21/01/19

² See generally Isabela Mares & Lauren Young ‘Buying, Expropriating, And Stealing Vote’ Journal of Department of Political Science, Columbia University, New York. Available at https://www.buffalo.edu/content/www/.../jcr.../A_RPS_MaresYoung_Final.pdf. accessed 21/01/19

³ Michael Bratton ‘Vote Buying and Violence in Nigerian Election Campaigns’ A publication of Afro Barometer A comparative series of National Public Attitude on democracy, markets and civil society in Nigeria. Working Paper no.99 available on <https://www.files.ethz.ch/isn/91313/AfropaperNo99.pdf>.

⁴ Prof. M.T Ladan ‘Vote Buying and Improving Electoral Processes in Nigeria’ Being a Presentation Made At A – One- Day Public Hearing on Vote Buying and Improving Electoral Processes in Nigeria. Organized By the National Assembly Joint Committee on INEC December 10, 2018

Section 14(2) (c) of the 1999 Constitution provides that; the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution. Section 15(5) equally states that the State shall abolish all corrupt practices and abuse of power. The constitution established the Independent National Electoral Commission (INEC) with powers to carry out the function of conducting elections starting from the registration of political parties to the general conduct of elections in Nigeria.⁵ A combine reading of these provisions of the 1999 Constitution shows citizens participation in the electoral process is the right of every citizen whom the constitution recognizes and protects, it also shows that by the constitutional provisions, elections should be conducted in a peaceful orderly manner, devoid of any act that will undermine the integrity of the system. Vote buying has been viewed as a corrupt Act capable of undermining the integrity of the electoral process.⁶ It is therefore submitted that vote buying is a violation of the constitution and should be abolished.⁷

ii. The Electoral Act 2010

The Electoral Act 2010 as amended is the extant law regulating the conduct of elections in Nigeria. The Act empowers INEC to issue guidelines relating to conduct of Elections in Nigeria⁸. The Act covers issues relating to

political parties, registration of voters and electoral offences and penalties. It is noteworthy that the Act recognizes vote buying as an offence with attendant consequences. Under section 23 of the Electoral Act, buying or selling of voter's card by a person on his own behalf or on behalf of another person is an offence punishable by maximum fine of N 500, 000 Naira fine or two years imprisonment or both. Furthermore section 130 of the Act provides that; A person who-

(a) *corruptly by himself or by any other person at any time after the date of an election has been announced, directly or indirectly gives or provides or pays money to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election; or*

(b) *being a voter, corruptly accepts or takes money or any other inducement during any of the period stated in paragraph (a) of this section, commits an offence and is liable on conviction to a fine of N100,000 or imprisonment for a term of 12 months or both.*

It is clear that the legal framework to curb vote buying in Nigeria, is not lacking, what then could be responsible for the increase in this trend?

⁵ See Section 153(g) and paragraph 15 of the Third schedule to the 1999 Constitution.

⁶ See Prof. M.T Ladan 'Vote Buying and Improving Electoral Processes in Nigeria' supra

⁷ See Section 15(5) of the 1999 Constitution

⁸ See Section 153 of the Act

FACTORS INFLUENCING VOTE BUYING IN NIGERIA

- i. **Enforcement of Electoral Laws:**
One major factor that is encouraging vote buying relates to the enforcement of electoral laws and regulations. The problem is not the dearth of laws and regulations prohibiting vote buying but of enforcing these laws. Those who violate electoral laws often get away with their crimes. Hence would be offenders are not deterred. The issue of enforcement is very vital because enforcement of electoral laws gives effect to the credibility of the entire electoral process. It has been opined that enforcement of electoral laws is “*ensuring compliance with the rules and regulations governing the conduct of elections: - pre, during and post. It refers also to regulating and monitoring the behavior or activities of both political parties and politicians as well as other electorates before, during and post-election periods in order to ensure a free and fair elections in the interest of*

democratic governance and respect for popular will.”⁹

- ii. **Desperation of politicians:**
Secondly there is the issue of desperation amongst politicians. Often times Politicians see political office as an investment or a business. The display of opulence and disregard for the electorates when they get to public office promotes this culture. While electorates see election period as an opportunity to get what they can from the politicians, the politicians see it as an investment.¹⁰
- iii. **Poverty:** Poverty has also been a major factor in encouraging politicians to engage in vote buying. The poor have often been the target of politicians as regards vote buying. This has made vote buying more effective with the poor. Often, the effectiveness of vote buying with poor voters is interpreted as a reflection of the fact that small material goods have a greater marginal utility to poor voters¹¹. What then is the way forward?

⁹ M.T Ladan “Enforcement of Electoral Law and Electoral Violence in Nigeria’ being a Paper Presented at A 2-Day Seminar on Enforcement of Electoral Law and Reduction of Electoral Violence in Nigeria Organized By: Afstrag- Lagos Nigeria, in Collaboration with Institute for Democracy in South Africa July 2006.

¹⁰ See generally See Prof. M.T Ladan ‘Vote Buying and Improving Electoral Processes in Nigeria’ supra

¹¹ Frank Lord Baidoo et al ‘Culture Of Vote Buying And Its Implications: Range Of Incentives And Conditions Politicians Offer To Electorates’ International Journal of Developing and Emerging Economies Vol.6, No.2, pp.1-20, November 2018 Published by European Centre for Research Training and Development UK available at www.eajournals.org.

RECOMMENDATIONS ON THE WAY FORWARD

A. Legislative Options

It has been established that there are no dearth of laws or regulations criminalising vote buying, but the problem of enforcement, how best then can this menace be curbed?

- i. **Empowering the Police to curb Electoral offences/ vote buying:** The Nigerian police are saddled with the constitutional responsibility of assuring the success and credibility of elected government in Nigeria. To a very large extent, the success or failure of any elections is dependent on the conduct and performance of police officers on election duty.¹² The menace of vote buying and other electoral offences is a threat to Nigeria's nascent democracy. It is a serious matter that must be given the needed attention. The Nigerian Police as currently constituted appears to be overwhelmed. There have been several calls for the revamping of the Nigeria Police Force, to this end it is hereby recommended that the Government must support the police with boosted manpower, fire power and communication equipment and vehicles to enhance police operational effectiveness especially

as it affects their preparedness for elections.

Other factors affecting their posting and welfare during elections must be considered to effectively reposition the Nigeria police for the onerous duty of apprehending electoral offenders and ensuring a smooth electoral process. For instance, where police officers are posted out on election duty far away from their base and are not provided with logistics in terms of vehicles to take them to voting venue. The implication is that, police officers on election duty are at the mercy of politicians who are ever financially equipped to provide logistics for the police officer on election duty. What this means, is that the police who is normally saddled with the responsibility to maintain law and order at the voting centre will do the biddings of his/her beneficiary. Adequate provisions to enhance the welfare of the police through the provision office accommodation, vehicles, and special allowances during elections duty are hereby advocated and recommended.¹³

- ii. **Empowering INEC to prosecute Electoral Offences:** There is the need to strengthen the capacity of INEC to prosecute electoral offenders. In doing so, it reserves the right to engage the services of private legal practitioners in the prosecution of

¹² Philip Oyediran & Simeon Olurungbemi 'Police and The Challenge of Conducting Credible Elections in Nigeria: An Examination Of the 2007 Presidential Election' *Global Journal of Arts, Humanities and Social Sciences Vol.3, No.6, pp.57-85, June 2015*

Published by European Centre for Research Training and Development UK. Available at (www.eajournals.org)

¹³ Ibid

electoral offenders. In which case, it can make regulations requiring the establishment of Mobile Courts to prosecute electoral offenders on Election Day. Alternatively an Electoral Offences Commission should be established vested with the power of arrest and prosecution of electoral offenders under a separate mechanism that is independent of the government in power. Although this may impact on the cost of governance, it should be seen as a long term plan, while empowering INEC in the interim to prosecute electoral offenders as suggested above.¹⁴

iii. Amending the rules of court to give accelerated hearing to electoral offences: The role of court in curbing crime generally cannot be underestimated. It is therefore expedient to give the courts the power to give electoral offences accelerated hearing to bring offenders to book. Justice delayed as they say is justice denied. There should be specified timeframe for hearing of electoral offences as it's applicable to fundamental human rights proceedings or election tribunal.

B. Other Options

- i. **Reducing Poverty:** reducing poverty can be seen as a strategy to reduce vote buying. Since it has been established that there is a relationship between economic status and voters' decisions, governments should make it a point to reduce poverty by enhancing wealth redistribution. This can be done by creating or providing sustainable jobs, especially for the rural folks.¹⁵ This may be seen as a long term plan, but it is inevitable, if the poverty reduction must be achieved. The issue of poverty reduction and even distribution of wealth is a primary function of government embedded in our constitution¹⁶ Vibrant economic policies must therefore be developed by the government to enrich the welfare of the citizens, it may be impossible sensitizing a hungry man against selling his votes.
- ii. **Ensuring Electoral justice:** Electoral justice must be assured at all times, without fear or favour or discrimination. This requires the cooperation and alertness of all the stakeholders: the

¹⁴ See generally Available online at Festus Okoye 'The Prosecution of Electoral Offenders in Nigeria: Challenges and Possibilities' Discussion Paper No.5, September, 2013. Published by Friedrich Ebert Stiftung Available at <https://library.fes.de/pdf-files/bueros/nigeria/10405.pdf>

¹⁵ Frank Lord Baidoo et al 'Culture Of Vote Buying And Its Implications' supra

¹⁶ See section 14(2)(b) of the 1999 Constitution

government, the electoral commission (INEC) the political parties and their candidates/aspirants, the electorates and the civil society organisations including the media, must cultivate the right attitudes to believe in democratic values and make democracy work by ensuring that the game of politics is played according to the rule of law, political rights and freedoms of all stakeholders, equality before the law and equal opportunities for all in the political space.¹⁷

- iii. **Increased Voter Education and Sensitization:** There is the need for more voter education and sensitization campaigns or awareness of citizens about the malpractice of buying votes. This strategy seemed to have worked in India, where Anti- vote- buying radio campaign reduced the vote-share of the vote buying parties significantly and had a negative effect on voter turnout.¹⁸ Voters, governments, NGOs, electoral bodies, civil societies, and non-state actors should find it an

activity to spearhead and strengthen democracy by mounting vigorous campaigns to educate the electorates not to accept financial or material rewards before they vote for a particular candidate or party as this amounts to selling one's conscience.¹⁹ The current partnership between INEC and the National Orientation Agency (NOA) in this regard is a welcome development, which should be sustained. Sensitization of the public on this all important task is in line with the mandate of the agency²⁰

CONCLUSION

It has been established that the issue of vote buying hampers on the democratic process of entrenching credible leaders, it is therefore an issue that calls for a national emergency in that regard. All hands must be on deck to fight against the menace. It is not a task for the government alone to tackle although they have a very vital and significant role to play. The few recommendations highlighted above can go a long way in reducing the spate and negative consequence of vote buying in Nigeria.

¹⁷ M.T Ladan 'Vote Buying and Improving Electoral Processes in Nigeria' supra

¹⁸ D Green, S Laura & V Srinivasan 'Diminishing the Effectiveness of Vote-buying in India' A publication of J-PAL 2014. Available at

<https://www.povertyactionlab.org/evaluation/diminishing-effectiveness-vote-buying-india>

¹⁹ Frank Lord Baidoo et al 'Culture Of Vote Buying And Its Implications' supra

²⁰ See section 1 subsections (a), (b), (e), (h) and (k) of the National Orientation Agency, Cap 64 LFN 2004.