

Democracy and Good Governance: Investigating How Demonetization of Elective Offices Can Produce Dividends of Democracy in Nigeria¹

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Abstract

The concept of sharing dividends of democracy has always been examined from the angle of civil administrations and good governance in Nigeria. Not much thought has however been given to why dividends of democracy have always been elusive to most citizens who are outside elective and political offices. This study therefore seeks to examine how good governance built on democratic ethos can be sustained by the application of moderate and regulated funding of electoral activities. Political parties sensitize citizens on political participation and offer programmes and candidates capable of realizing them. As such, the study finds that on account of the elitist conception of Nigerian democracy, in terms of property ownership to vote and to be voted for, public governance is largely influenced by the mode of sponsorship of electoral activities. There is a distortion of political leadership processing such that citizens who genuinely opt to serve their constituents without ‘profit motives’ get disqualified. Consequently, the high cost of political campaigns to elective and political offices usher in candidates who power brokers sponsor with motives of having profited from their financial commitments and political relevance through abuse of public offices. The study further finds that it has not been easy to identify and prosecute those who violate the law on spending limits on elections because of the difficulty in monitoring candidates’ election expenses. The high cost of election expenses and political activities then violates the ordinary citizen’s right to political participation and access to democratic returns. The study therefore argues that for the laws and regulations prohibiting a candidate and political party from accepting un-authorized monetary or other contributions to be effective, there should be a synergy among the three organs of government towards putting an end to bad governance. This facilitates transparency and efficiency in public space and this paves the way for the administration of dividends of democracy and enforcement of citizens’ welfare. The paper adopts doctrinal mode of investigation of primary and secondary materials as it recommends

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making political offices less attractive financially such that citizens opt to serve their constituencies without financial motivations.

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1 INTRODUCTION

In a democratic society, prevalent honest and fair elections are used to elect key elected officials. Nearly all adults are entitled to vote in these elections, which give candidates the platform to compete for votes and elective offices.² Without forcing personal interests on people or other elements of society, this procedure guarantees that the majority's will is expressed.³ Nonetheless, there are worries that election results do not represent the people's ultimate will fairly. Problems can occur in election petition tribunals and during the voting procedure, vote counting, or results announcement. This questions whether democratic elections are fair and the people's will is represented.

The elective principle as a constitutional development was first introduced in Nigeria under the Clifford Constitution of 1922 and it aided the attainment of Nigerian self-government.⁴ The preference for democratic governance is ultimately for the development of the individual and the Nation, which it brings. To some writers, Nigerians under the almost three-decade democracy have not sufficiently enjoyed democratic returns. To this school of thought, references are made to the increasing poverty level, the falling standards of living, lack of security of lives of the citizens as well as their properties, which explain in part, the growing apathy of the people on electoral processes. For this school of thought, franchise turns out as a process which is abused, as it is

² JK Akokpari, 'Meeting the Challenge of Sustainable Democracy' in T Assefa, SM Rugumamu and AGM Ahmed, 'Globalization, Democracy and Development in Africa: Challenges and Prospects' (2001) 84; John Cantius Mubangizi 'Democracy and Development in the Age of Globalisation: Tensions and Contradictions in the Context of Specific African Challenges' *Law, Democracy & Development* (2010) (14) 4.

³ Nimer Sultany, 'The State of Progressive Constitutional Theory: The Paradox of Constitutional Democracy and the Project of Political Justification' *Harvard Civil Rights-Civil Liberties Law Review* (2012) (47) 382, 383.

⁴ Toriola Oyewo & John Ademola Yakubu, '*Constitutional Law in Nigeria*' 1998, pages 11 – 12; According to Aguda, the elective principle is 'the acorn seed of Constitution-making in the country...' See Oluwadare Aguda, 'Understanding the Nigerian Constitution of 1999': (M.I.J. Professional Publishers Limited, 2000) 5.

negotiated and sold to the highest bidder.⁵ This establishes that the people's confidence in democratic self-government in the circumstances is decreasing.⁶

While democracy is a dynamic process that allows people to exercise their fundamental rights, such as voting, participating in governance, and influencing decision-making processes, socio-economic rights and political/civil rights are critically interdependent; that is, having socio-economic rights, such as access to economic opportunities, healthcare, and education, which is necessary to enjoy political and civil rights fully.⁷ As such, the welfare and quality living condition for citizens are not met without accompanying social-economic rights (SERs).⁸

The Nigerian Constitution provides that the national resources of the Country shall be deployed to the attainment of maximum welfare and happiness of every citizen by way of suitable and adequate shelter, suitable and adequate food, provision of national living wage and old age care and pensions and unemployment, sick benefits.⁹ When elections are manipulated, wrong leadership choices are made, affording democratic returns as such becomes elusive.¹⁰ Corruption and abuse of office are entrenched in the circumstances, and it hinders the free expression of the will of the electorates during periodic elections.¹¹

Nigeria runs one of the most expensive political systems in the world, considering in particular, the desperation of candidates and political parties to win elections. This in turn corrupts the Nigeria's electoral process, and the

⁵ Burt Nueborne, 'One Dollar-One Vote: A Preface to Debating Campaign Finance Reform,' *Washburn L.J.* (1997) 37 1.

⁶ YT Fessha, 'Judicial Review and Democracy: A Normative Discourse on the (Novel) Ethiopian Approach to Constitutional Review' *African Journal of International and Comparative Law* (2006) (14) 60.

⁷ See the Preamble to the African Charter. See also N Haysom 'Constitutionalism, Majoritarian Democracy and Socio-Economic Rights' *South African Journal on Human Rights* (1992) (8) 452.

⁸ These are called the second and third-generation rights. D M Davis 'The Case Against the Inclusion of Socio-economic Demands in a Bill of Rights Except as Directive Principles' *South African Journal on Human Rights* (1992) (8) 475.

⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended) Section 16 (1)(2).

¹⁰ P Wanyande, 'Electoral Politics and Election Outcomes in Kenya' (2006) Vol. XXXI (3) *Africa Development*, 63.

¹¹ See Article 25(a) and (b) of the International Covenant on Civil and Political Rights ("ICCPR") See, art 25; art 25 United Nations International Covenant on Civil and Political Rights, art 13(1)(2) African Charter on Human and Peoples' Rights art. 13(1)-(2) (entered into force Oct. 21, 1986) [hereinafter African Charter], available at https://achpr.au.int/%20english/_info/charter_en.html see also Maia Sophia Campbell, 'The Right of Indigenous Peoples to Political Participation and the Case of *Yatama v. Nicaragua*,' *Arizona Journal of International & Comparative Law* (2007) 24(2) 499-518.

governance structure,¹² and results in flawed elections.¹³ Given the desperation of the political class for elective offices, a class of thought argue that a downward review of salaries and allowances of political office holders is desired to ensure that only citizens who are ready to serve occupy elective positions.

The paper is divided into seven sections. Section one gives the background; Section two explains democracy and electoral integrity; Section three investigates issues on voter apathy and the link with political corruption; Section four considers democracy and democratic returns; Section five discusses political party funding and delivery of democratic returns; Section six makes recommendations on how to attain democratic returns; Section seven makes a conclusion.

2 DEMOCRACY AND ELECTORAL INTEGRITY

Democracy is a form of representative government where the rule of the people, which is sometimes confused with the rule of the majority, is the fundamental principle. The majority ‘carry the day’ in a way that the will of the majority does not lead to the imposition of the private ends on the citizenry on other members of society.¹⁴ The Universal Declaration of Human Rights, 1948 in Article 21(3) provides on democracy thus:¹⁵ ‘The will of the people shall be the basis of the authority of government: this will shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.’ By emphasizing democracy’s indirect, representative, and competitive facets, Ferejohn and Pasquino provide a useful example. They contend that democracy is the process of choosing representatives through planned elections who then deal with urgent issues on election day and those expected to arise in the future.¹⁶

In a democracy, elections signify citizens’ direct or indirect participation in governance; political authority is granted to the government for a specific

¹² Adigun Agbaje & Said Adejumo, ‘Do Votes Count? The Travails of Electoral Politics in Nigeria’ *Africa Development* (2006) XXXI, (3) 26.

¹³ Ibid 37.

¹⁴ Nimer Sultany, ‘The State of Progressive Constitutional Theory: The Paradox of Constitutional Democracy and the Project of Political Justification’ *Harvard Civil Rights-Civil Liberties Law Review* (2012) (47) 382, 383.

¹⁵ The Declaration was adopted by the General Assembly of the United Nations on 10 December 1948. The Declaration applies in Nigeria as domesticated law. (2010) 13(2).

¹⁶ John Ferejohn and Pasquale Pasquino, ‘The Counter majoritarian Opportunity’ *Journal of Constitutional Law*, (2010) 13(2) 363.

duration. It is the method by which citizens elect their government.¹⁷ Compared to direct government, representative government is preferred since it allows everyone to congregate in one location to decide on the best policies for everyone.¹⁸ The elected officials in a representative democracy represent the people's will, and the people themselves are represented.¹⁹ In this approach, all citizens believe in democratic self-government because they believe the political community works for them;²⁰ this helps to maintain public trust in democratic governance.²¹

In a democracy, the supreme power is vested in the people,²² in a way by which the electorates enjoy the freewill to make their choices of candidates in such manner that is pleasing to them. To Mubangizi, democracy is all-inclusive governance as distinct from monarchies and aristocracies' system of governance particularly as it provides opportunity for the greater number of people to use their human potentials to survive in dignity.²³ To Regassa, democracy accords the power to make, run, and even break one's own government.²⁴ The electorates in the circumstances are deemed to have the power to appoint their representatives and to terminate such appointments. Every individual of voting age participates in an election, which vests a mandate on elected officials for a period certain. Elections and the emergence of elected representatives are expected to extend the standards of living of citizens, the omission to realize this is attributed to the absence of voter education and growing apathy of the people on electoral processes.

¹⁷ Xolela Mangcu, 'Election and Political Culture: Issues and Trends' *Journal of Public Administration* (2011) 46 (1) 1154. See also Olayinka, Felix Olaniyi 'The Impact of Parties' Internal Democracy on Nigeria's Development' *Akungha Law Journal* (2016) 4(1) 87, section 16 (1)(2)

¹⁸ John Ferejohn and Pasquale Pasquino, 'The Counter majoritarian Opportunity' *Journal of Constitutional Law*, (2010) 13(2) 363.

¹⁹ John Ferejohn and Pasquale Pasquino, 'The Counter majoritarian Opportunity' *Journal of Constitutional Law*, (2010) (15) 364.

²⁰ Nimer Sultany, 'The State of Progressive Constitutional Theory: The Paradox of Constitutional Democracy and the Project of Political Justification' *Harvard Civil Rights-Civil Liberties Law Review* (2012) (2) 393.

²¹ John Ferejohn and Pasquale Pasquino, 'The Counter majoritarian Opportunity' *Journal of Constitutional Law*, (2010) (5) 60.

²² BK Twinomugisha, 'The Role of Judiciary in the Protection of Democracy in Uganda' *African Human Rights Law Journal* (2009) (9) 4.

²³ John Cantius Mubangizi, 'Democracy and Development in the Age of Globalization: Tensions and Contradictions in the Context of Specific African Challenges' *Law, Democracy & Development* (2010) (14) 4.

²⁴ T Regassa, 'Making Legal Sense of Human Rights: The Judicial Role in Protecting Human Rights in Ethiopia,' *Mizan Law Review* (2009) (3)(2) 300

In a representative democracy however, a political party is a platform through which the electorates participate in the electoral processes. A political party is an association of people who share the same political ideology, sponsors candidates for elective offices to execute a catalogue of manifesto if elected into office.²⁵ Parties offer voters the candidates and programmes, which they plan to execute if voted in. They equally offer an avenue for activism and the opportunity to take part in debate and political decision-making.²⁶ To guide the electorate and the government on the manner of participation, the electorates are sensitized on a political thought, ideology and programmes, and the party affords a forum to conveniently disseminate information to members and to the government.²⁷

The elective principle as a constitutional development was applied for the first time in Nigeria under the Clifford Constitution of 1922. It stimulated the growth of Nigerian nationalism and eventual self-government.²⁸ The Composition of Legislative Council consisted of 27 official members, which included the Governor; 19 un-official members, of which 15 were nominated by the Governor and four were elected. Lagos, the capital city was accorded three of those elected seats and Calabar had the remaining one seat. The electorates of the two cities consisted of adults who were British subjects, who had a residential qualification of 12 months and a gross income of \$100 per annum.²⁹

The elective principle continued under the Richard Constitution, 1946, with the Legislative Council having 28 un-official members of which four were elected and the remaining 24 were nominated members.³⁰ The franchise was more liberal in contrast to the 1922 Constitution. The income qualification was

²⁵ N Anstead, 'Internal Party Democracy in Europe and the United States: Different Models in a Changing Environment' 58th Political Studies Association Annual Conference on *Democracy, Governance and Conflict: Dilemmas of Theory and Practice* 1-3 April 2008, 2.

²⁶ Anstead, *ibid*; See also Olayinka, Felix Olaniyi 'The Impact of Parties' Internal Democracy on Nigeria's Development' *Akungba Law Journal* (2016) (16) 87.

²⁷ Y Mersel, 'The Dissolution of Political Parties: The Problem of Internal Democracy' *International Journal of Constitutional Law* (2006) (4) 90.

²⁸ Toriola Oyewo & John Ademola Yakubu, '*Constitutional Law in Nigeria*' 1998, pages 11 – 12; According to Aguda, the elective principle is 'the acorn seed of Constitution-making in the country...' See Oluwadare Aguda, '*Understanding the Nigerian Constitution of 1999*': (M.I.J. Professional Publishers Limited, 2000) 5.

²⁹ According to Aguda, the elective principle is 'the acorn seed of Constitution-making in the country...' See Oluwadare Aguda, '*Understanding the Nigerian Constitution of 1999*': (M.I.J. Professional Publishers Limited, 2000) 5.

³⁰ See Oluwadare Aguda, '*Understanding the Nigerian Constitution of 1999*': (M.I.J. Professional Publishers Limited, 2000) 5.

reduced to S50 (N100) under 1946 constitution. Elective principle here was described as the germination of acorn seed in constitution making in Nigeria.³¹

This constitution established varied justification for voting by electorates. Indirect election as was the practice under the 1951 Macpherson Constitution gave way to direct election. This was such that Northern region gave franchise to every male adult who were tax – payers. Western Region gave franchise to tax payers and Eastern Region adopted Universal Adult Suffrage. The right to vote in Nigeria is presently a constitutional issue. Sections 65, 77, 106, 117, 131 and 132(1), (4) and (5) of the Nigerian Constitution of 1999 are very relevant here.³² Article 21(1) of the Declaration of the General Assembly of the United Nations,³³ allows everyone to take part in the government of his country, directly or through freely chosen representatives.

2.1 Corruption And Voter Apathy

Voting at elections is one of the easiest ways for citizens to participate in the democratic process.³⁴ Political participation is an ingredient of democracy and is desired if democracy is to be sustained.³⁵ Participatory democracy is attained when a variety of interest groups and the general public are involved in the electoral process. Participatory democracy entails having a genuine public involvement in government, which is crucial to both the proper functioning and the legitimacy of democratic institutions.³⁶ Benson gives two reasons why people's votes do not count.³⁷ To the writer, under a 'voter-initiated' fraud, a voter registers many times; registers while being underage or otherwise ineligible. A voter impersonates others, as he casts votes in the name of others, and votes multiple times. 'Voter-targeted' fraud incorporates deceptive acts that others commit and that are aimed at defrauding voters. These include acts of fraud that seek to deceive or use falsehood to intimidate voters, giving false information about the voter's precinct or polling place, the date and time of the election. It

³¹ See Oluwadare Aguda, 'Understanding the Nigerian Constitution of 1999': (M.I.J. Professional Publishers Limited, 2000) 5.

³² Basil Ugochukwu, 'Ballot or Bullet: Protecting the Right to Vote in Nigeria' African Human Rights Law Journal (2012) (12) 539, 549, 550.

³³ 10 December 1948.

³⁴ Nuka Saturday Amanyie et al, 'Electoral Violence and Political Apathy in Nigeria: Issues and Challenges' British Journal of Humanities and Social Sciences (2015) 13(1) 155.

³⁵ *Ibid.*

³⁶ Jeffrey A. Benjamin 'Pushing Democracy: Content-Based Regulations of the Press in Campaign Finance Law' NYU Journal of Law & Liberty (2007) (2) 610.

³⁷ Jocelyn Friedrichs Benson, 'Voter Fraud or Voter Defrauded? Highlighting an inconsistent Consideration of Election Fraud' Harvard Civil Rights-Civil Liberties Law Review (2009) 1 (44) 6.

also includes the use of ‘force, coercion, violence, restraint, or infliction of harm to compel a person to vote or refrain from voting or to register or refrain from registering to vote.’³⁸

In that wise, financial inducement of the electorates³⁹ qualifies as a fraud, which nullifies an electorate’s intention or free will and as such should be absolved of the result of an action. In every election in which an electorate is coerced into voting for a candidate, that qualifies as an aberration of democracy. Experiences gathered from the political terrain in Nigeria reveal that a ruling party engages political party thugs to cause violence in the opposition’s stronghold, and law enforcement agencies are equally deployed to cover the atrocities of the thugs. Eventually, loyalists of opposing candidates, in fear, stay away from the polling booths. Notwithstanding the quality and the quantity of the votes at the polls, given the violation of democratic integrity, as it operates in Nigeria, candidates are returned as having been elected. The fraud factor gives the general impression in the Country that votes do not count; this explains why the people choose to save time and money, as they opt out of electoral processes.⁴⁰ Katz and Mair as such rightly observe the declining level of participation and involvement in party activity, with citizens opting to invest their efforts in some other narrower range ventures that can bring good returns.⁴¹

The will of the people is the basis of general elections and even, party internal democracy, and this should determine who emerges as a political party candidate. In Nigeria, majority of the electorates are passive members of political parties, room is now created for the few active party members to determine who becomes a party candidate.⁴² In that regard, the hopes of the majority of citizens on the

³⁸ *Ibid.*

³⁹ Burt Nueborne, ‘One Dollar-One Vote: A Preface to Debating Campaign Finance Reform,’ Washburn L.J. (1997) (37) 1.

⁴⁰ In the 2007 general election, the percentage of voter turnout stood at 32 per cent; in the April 2011 general election, the percentage of voter turnout stood at 35 per cent. In Nigeria’s Presidential Election, the voters’ turnout in 2015 stood at 44 per cent. See Amanyie (n 33) 162, 163, 164; Temitope Christopher Fagunwa, ‘Voter Apathy and Nigeria’s Electioneering Process: A Synopsis on the 2015 General Elections’ 19. The 2023 general elections witnessed the lowest voter turnout rate in the country’s history of presidential elections with a turnout of about two out of every 10 registered voters performing their civic obligations. Adebayo Folorunsho-Francis, ‘2023 Voter Turnout Hits 44-Year-Low, Drops to 27%’ 30th March 2023 <<https://punchng.com/2023-voter-turnout-hits-44-year-low-drops-to-27/>> Accessed 20 December 2024.

⁴¹ RS Katz & P Mair, ‘Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party’ (1995) 1(1) *Party Politics* 15; Olayinka (n 16) 88.

⁴² See also Timothy K. Kuhner, ‘The Democracy to Which We Are Entitled: Human Rights and the Problem of Money in Politics’ *Harvard Human Rights Journal* (2013) (26) 43.

democratic governance is now dashed and the citizens' apathy in the electoral process now manifests as unclaimed voters cards for general elections of 2019 reached millions, just as only a few of registered voters eventually cast their votes. The INEC recently raised the alarm that no fewer than 6.7 million Nigerians are yet to collect their PVCs in 17 states and the Federal Capital Territory (FCT).⁴³

3 GOOD GOVERNANCE, DEMOCRACY AND DIVIDENDS

Democracy is a process towards the enjoyment of political right to vote and be voted for, and the right to participate and influence how one is governed. There is however a reciprocal linkage between the socio-economic rights and the political/civil rights and this emphasizes that without the socio-economic rights, the political/civil rights cannot exist in a meaningful way.⁴⁴ Davis however contends that the welfare and quality living condition for citizens are not met without accompanying SERs.⁴⁵ To Udu, affording socio-economic rights, otherwise called 'empowerment rights',⁴⁶ to people, particularly the less privileged that have no food, clothing or shelter is a condition precedent to their enjoyment of civil and political rights.⁴⁷ The rights are thus intimately linked, notwithstanding that the enforcement mechanisms in respect of each category of rights differ.⁴⁸ Civil and political rights as well as social economic rights are thus interrelated and mutually complementary.

Good governance is attained when elected officers live by the oath of office they swear to. Selflessness is an attribute of a leader such that puts the welfare and security of citizens above misappropriation of funds to repay funds borrowed earlier for election purposes. The efficacy of Socio-economic rights is as such contingent upon available resources,⁴⁹ while political / civil rights is less dependent on any material or financial resources for its enforcement.⁵⁰ Political

⁴³ NAN 'Over 7 million voter cards not yet collected nationwide – INEC' <<https://www.premiumtimesng.com/news/more-news/259915-7-million-voter-cards-not-yet-collected-nationwide-inec.html>> accessed 23 April 2018; Amanye et al (n 33)155; Daily Trust Editorial, 'Low PVC collection, threat to 2023 elections' 9 Jan 2023 <<https://dailytrust.com/low-pvc-collection-threat-to-2023-elections/>> Accessed 6 November 2024.

⁴⁴ See the Preamble to the African Charter. See also Haysom (n 6) 452,

⁴⁵ These are called the second- and third-generation rights. Davis (n 7) 475.

⁴⁶ CC Ngang, 'Judicial Enforcement of Socio-Economic Rights in South Africa and the Separation of Powers Objection: The Obligation to Take 'Other Measures,' *African Human Rights Law Journal* (2014) (14) 658.

⁴⁷ Ibid.

⁴⁸ Haysom (n 6) 451. The enforcement of SERs has to do with available state resources, while this is not necessary to enforce civil and political rights.

⁴⁹ See Article 22 UDHR.

⁵⁰ Haysom (n 6) 454.

and civil rights however do not require the Government to commit its resources before such rights are enforced. Article 25(1) of the UDHR provides on the entitlement of citizens to SERs as follows:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in the circumstances beyond his control.

The Bill of Rights in South Africa has drawn from the UDHR's very rich provisions in terms of the right to health care, food, water and social security,⁵¹ right to an environment, which is conducive to good health,⁵² and other desirable provisions. The economic objectives of Nigeria as contained in section 16 links with the UDHR provisions.⁵³ The qualities of good government is the ability to realize the provisions of Section 16 CFRN to the effect that the national resources of the Country shall be deployed to the attainment of maximum welfare and happiness of every citizen. It mandates the State to provide suitable and adequate shelter, suitable and adequate food, provision of national living wage and old age care and pensions and unemployment, sick benefits.⁵⁴ The Limburg Principles as such clearly mandate the States to take all legislative, administrative, judicial, economic, social and educational measures to fulfil the obligations under the ICESCR.⁵⁵ The Principles restate that the legislative measures alone are not sufficient but should be complemented by appropriate judicial remedies.⁵⁶ The legislature and the executive as the political organs bear the major responsibility of ensuring the progressive realization of socio-economic rights, while the courts also complement the two organs.⁵⁷

⁵¹ See Article 25 UDHR, Section 27(1) CSA.

⁵² Section 24.

⁵³ Article 25 UDHR.

⁵⁴ See section 16(1)(2) CFRN.

⁵⁵ The Limburg Principles on the Implementation of the ICESCR para 17. A group of 29 experts in international law adopted the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights on 6 June 1986 70 at para 17. See The (UN Doc. E/CN.4/1987/17, 1987) & (1987) 7 Human Rights Quarterly 122-135. Journals are NOT to be in italics Limburg guidelines are not legally binding *per se*, they provide a subsidiary means for the interpretation of the Covenant See also E. Taiwo, 'Defining the nature and content of the right to education in Nigeria: A call towards a positive realization' Seminar paper presented at the Tilburg Law School during a Lunch Seminar Series of the Netherlands Institute of Advance Studies. 08 December 2011, 14.

⁵⁶ Para 19 of the Limburg Principles. Taiwo id at 16.

⁵⁷ Secs 34 & 38 Constitution of the Republic of South Africa, 1996; Ngang (n 45) 658.

This obligation is a positive one, as it requires the State to move its machinery towards the actual realization of SERs. Article 2(1) ICESCR mandates each state party to the Covenant to take steps,⁵⁸ individually and in collaboration with others to realize in full, though progressively, the rights recognized in the Covenant to the maximum of its available resources. This may also be realized either through the creation of a conducive and enabling atmosphere to allow individuals to realize their own SERs. It is submitted that the right of every citizen to employment when enforced is a condition precedent to the enjoyment of other rights.⁵⁹ It then becomes feasible for an individual, hitherto having no means, to now provide his basic needs such as food or social security.

There is a need to create an environment conducive to the realization of SERs, legislation, which empowers other stakeholders to contribute their quotas to promote the provision of adequate housing to every citizen.⁶⁰ The duty to fulfil requires the state to take appropriate steps to ensure the realization of the right to improved living conditions.⁶¹ Article 11(1) of ICESCR mandates member states to recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.⁶²

The empowerment of citizens to fulfil their obligation to their dependents was considered in Grootboom's case, which is of persuasive influence to Nigeria.⁶³ In that case, children's right to basic shelter was construed as an aspect of socio-economic rights. The Court held that the primary duty to fulfil children's socio-economic rights in section 28(1)(c) rests primarily on parents. The State however has the duty to assist the family to discharge its role

⁵⁸ NW Orago, 'Limitation of Socio-Economic Rights in the 2010 Kenyan Constitution: A Proposal for the Adoption of a Proportionality Approach in the Judicial Adjudication of Socio-Economic Rights Disputes,' (2013) (16)(5) PER / PELJ 179.

⁵⁹ See Article 23(1) of the UDHR. See also Orago (n 57) 178.

⁶⁰*The Government of South Africa v Irene Grootboom*, 2001 1 SA 46 (CC), www.ivr.uzh.ch/dam/jcr:00000000-3c97-4228-ffff-ffffb4fdb418/Grootboom.pdf accessed 10 March 2022. See also L. Love 'Are we Depoliticising Economic Power?: Wilful Business Irresponsibility and Bureaucratic Response by Human Rights Defenders' SUR - *International Journal on Human Rights* (2014) (20) 107.

⁶¹ Citizens are capacitated to enjoy their rights to *decent life with dignity, to be free from want, poverty and illiteracy*.

⁶² See also Regassa (n 23) 323.

⁶³*The Government of South Africa v Irene Grootboom*, 2001 1 SA 46 (CC), www.ivr.uzh.ch/dam/jcr:00000000-3c97-4228-ffff-ffffb4fdb418/Grootboom.pdf accessed 10 March 2022. See also L. Love 'Are we Depoliticising Economic Power? Wilful Business Irresponsibility and Bureaucratic Response by Human Rights Defenders' SUR - *International Journal on Human Rights* (2014) (20) 59.

as a vital unit of the nation.⁶⁴ To that effect, an average South African should be able to access economic infrastructure to discharge his obligations to his immediate family.

To the Nigerian political officeholders, cash flow in state governance is likened to the blood which should not drain from the body if one is to stay alive. The democratic space is filled with siren-blowing large convoys of choice vehicles, flaunting wealth in a manner apparent to the victims of misgovernance, parading of bullion vans and equating personal wealth with that of a state. Governance style which allows an elected representative to relocate his nuclear family from his constituency; to keep a distance from his constituency, only to re-appear before another round of election is a ruse. However, most political officeholders consider it burdensome, having to relate with their constituents in periods other than election time.

In the circumstances, the Wings Foundation which is a philanthropic outfit as well as Agidigbo FM as media partners planned to host five thousand (5000) children from age one to thirteen. The program was to start by 10.00 am on Wednesday 18 December 2024 at the Islamic High School, Bashorun, Ibadan. News had it that the children that spent the night at the venue were more than 5000 hoping to collect promised ₦5,000 and a plate of rice each. Joy turned into disaster with the over 7500 children that eventually converged as they struggled to collect freebies. Not less than 35 lives were lost during a stampede that happened. President Tinubu has called for an urgent investigation into the cause of the tragic stampede where over 30 children died and many more in critical health conditions.⁶⁵ The paper argues that outcome of investigation is obvious. Since the children of elected and appointed political office holders past or present were not party to the scramble for petty cash and plate of rice, good governance has been missing, and the democratic exercise since 1999 has not met the welfare needs of the people being governed. The people have been left without due democratic returns, leading to loss of almost 40 children.

⁶⁴ See also Article 18(1)(2) of the African Charter mandates States to give desired assistance to the families. The family is the natural and fundamental group unit of a society and is entitled to protection by the State, see Article 23 of ICCPR.

⁶⁵ Nosakhale Akhimien, 'Ibadan Funfair Tragedy: Ooni's ex-wife, Others Arrested as Police Confirm 35 Deaths' 19 December, 2024 <<https://www.premiumtimesng.com/news/top-news/762630-ibadan-funfair-tragedy-oonis-ex-wife-others-arrested-as-police-confirm-35-deaths.html>> Accessed 27 December 2024; WADR, 'NIGERIA: President Tinubu Orders Probe Into Ibadan Christmas Stampede' 20 December 2024 Accessed 27 December 2024 <<https://wadr.org/nigeria-president-tinubu-orders-probe-into-ibadan-christmas-stampede/>>; Matthew Ozah, 'Poverty and Hunger Amid Opulence,' The Guardian 23 November 2016.

Consequently, there emerges a wide gap between political officeholders and the masses. The pomposity about ill-gotten wealth and show-off by the political elite is evidence that opulence has found a new home in Nigeria.⁶⁶ An Akure Magistrate's Court sentenced a middle-aged man, Ajibola, to two months imprisonment for stealing cobs of maize worth N1,000.⁶⁷ In another development, a seven-year-old boy in Lagos was lynched for allegedly stealing Garri, perhaps to quench hunger. Heartbreaking news of the crime commission comes on account of inflation and economic hardship arising from bad leadership in the country.⁶⁸ It is therefore disappointing that politicians are insensitive or pretend not to have any clue about the sufferings of the masses, of whom they cajole with mouthwatering promises during election campaigns. They fight for their selfish aggrandizement once in power.

A case in point is a recent report of N3.6 billion expended on exotic cars for members of the House of Representatives in the 8th Assembly. They chose to splash money on luxury cars at a time the country's economy was down.⁶⁹ The price of crude oil, being the major foreign exchange earner for the country was dropping on a daily basis. In defence, they argue that the people voted for them, to represent them in grandeur and flamboyant lifestyle.

The Socio-economic Rights and Accountability Project (SERAP) has directed the attention of the President of the Senate, and the Speaker of the House of Representatives to possible waste in the 2025 budget. The budget for 'rehabilitation and repairs of fixed assets' in the 2024 budget was N14bn, the budget for the same item in the 2025 budget has gone up to N26bn without justification. The SERAP further demands a downward review of the N9.4 billion earmarked for travel, meals, and catering for the presidency, alongside the proposed N344.85 billion for lawmakers in the 2025 budget.⁷⁰ "The proposed huge spending is neither necessary nor in the public interest, especially given the country's dire economic situation and the level of proposed borrowing to fund the 2025 budget." The exorbitant funds committed to President's travelling will be justified if by such the citizens can feel any positive impact. In the

⁶⁶ Ibid.

⁶⁷ Peter Dada, 'Akure Man Jailed for Stealing N1,000 Maize' <<http://punchng.com/man-jailed-for-stealing-n1000-maize/>> accessed 6 August 2022.

⁶⁸ Matthew Ozah, 'Poverty and Hunger Amid Opulence,' The Guardian 23 November 2016.

⁶⁹ Matthew Ozah, 'Poverty and Hunger Amid Opulence,' The Guardian 23 November 2016.

⁷⁰ Tosin Oyediran, 'Cut Allocations to the Presidency, Lawmakers in 2025 Budget, SERAP urges N'Assembly' 22nd December 2024 <<https://punchng.com/cut-allocations-to-presidency-lawmakers-in-2025-budget-serap-urges-nassembly/>> accessed 23 December 2024; Olusola Oludiran, 'Budget 2025: SERAP Wants National Assembly to Reduce Allocations to Presidency, Lawmakers' 23 December, 2024 <<https://www.ndr.org.ng/budget-2025-serap-wants-national-assembly-to-reduce-allocations-to-presidency-lawmakers/>> Accessed 23 December 2024.

circumstances, there is no positive effect other than courtesies and ceremonial moves. Section 88(2) of the Nigerian Constitution mandates the National Assembly to 'expose corruption, inefficiency or waste in the running of the state. The major challenge now is the unethical alliances between the executive and legislature towards purposes other than for the welfare and security of citizens. The Legislature demands choice vehicles from their Governors citing what treatment their colleagues in other states receive. The political leadership in Nigeria is quick to ask Nigerians to endure more economic hardship and sacrifice more for the nation while they enjoy the grandeur of office.

Not many people in Nigeria can afford more than a meal per day. This reveals that poverty is still deeply rooted in the country. Yet, instead of focusing on how to improve the lives of the citizens, the political class widened the gap between themselves and the citizens. Some Governors undertake to create a number of millionaires during their terms of office without any explanation of the relevance of that to mal-nourished children, high levels of child and maternal mortality and limited access to clean water and sanitation, health and education among others.⁷¹ Nothing will make Nigerians happier than to see politicians carry out people-oriented projects. It appears a great betrayal when politicians amass the nation's wealth and display their affluence in the faces of victims of bad governance, who are soaked in poverty. The political elite should avert impending revolution by giving good governance and well-being to the people.⁷² Democratic governance should ensure that everyone lives within his means. Thus, when the national purse is lean, nobody, even political office holders should be seen living above that reality.

4 PARTY FUNDING AND DIVIDEND OF DEMOCRACY

Section 89(1) of the 2022 Electoral Act defines election expenses as expenses incurred by a party from the date the Independent National Electoral Commission (INEC) issues notice for an election up to the day of the election. The provisions of sections 89 and 90 provide laid down procedures on how political parties are expected to deal with contributions and election expenses. The process of electing the party's nominees who contest for public positions is called primary election. Funding as it relates to aspirants contesting in primary election covers maintenance of campaign office, supporting campaign staff, procurement and maintenance of campaign vehicles, accessing internet services, advertising on radio and television, and meeting litigation expenses

⁷¹ Matthew Ozah, 'Poverty and Hunger Amid Opulence,' *The Guardian* 23 November 2016.

⁷² Matthew Ozah, 'Poverty and Hunger Amid Opulence,' *The Guardian* 23 November 2016.

when necessary, incurring expenses in giving desired support on voter registration, and complementing on regular functions of the party.⁷³

An aspirant may not be able to raise such sums, and which makes it irresistible to look for sponsors who have the financial strength in picking such bills.⁷⁴ Section 88(8) of the Electoral Act provides that no individual or other entity shall donate more than N50 million to a candidate, while section 90(3) prohibits a political party from accepting monetary or other contribution which is more than N50 million unless it can identify the source of the money to the INEC. It is also key to point out that the provisions of the Electoral Act on contributions are in respect of candidates and political parties and not aspirants. Therefore, persons who are aspiring to be the candidates of their political parties and receiving contributions for that purpose are not caught by these provisions.⁷⁵

The outrageous cost of elections has been a challenge and even more challenging are efforts to effectively monitor candidates' election expenses, making it almost impossible to identify and prosecute offenders. The Electoral Act which sets a limit for election expenses for the various elective offices lists out in Section 88 the limits, the maximum expenses for a presidential candidate at N5billion.

In practice, however, a single sponsor would donate as much as is required to out-spend others in a political race. This notwithstanding, the applicable sanction is the payment of fine and imprisonment of the candidate.⁷⁶ The INEC thus observes on sponsorship of candidates for motives other than to give democratic returns to electoral constituencies:⁷⁷

Many Nigerian politicians are 'sponsored' by local and regional power brokers cum political entrepreneurs who finance their campaigns for public office. The 'sponsorship' is effectively a business transaction in which the patron recovers

⁷³ MP Duschinsky, 'Party Political Funding' in Stapenhurst *et al* (eds) *The Role of Parliament in Curbing Corruption* (Washington D.C: The World Bank) 2006 189. See also Patrick Ukase 'Political Parties and Election/Campaign Financing in Nigeria: Interrogating the 2015 General Elections' *Global Journals LATEX Journal Kaleidoscope* (2015) (3) and 6.

⁷⁴ The beneficiary undertakes to use his privileged position, after emerging victorious at the polls, to grant undue financial favour and privileges to the donor. See Ukase (*ibid*) 8.

⁷⁵ Electoral Act, 2022; PLAC, 'Of Elections and Limits to Campaign Finance' 27 April 2022 <https://placng.org/Legist/of-elections-and-limits-to-campaign-finance/> Accessed 5 November, 2024.

⁷⁶ The law is however not effectively applied.

⁷⁷ See 'INEC and Challenges of Monitoring Political Party Campaign Financing in Nigeria' 1, See Olayinka, Felix Olaniyi 'The Impact of Parties' Internal Democracy on Nigeria's Development' *Akunba Law Journal* (2016) 4(1) 85.

the ‘investment’ in the form of public works and procurement contracts...on assuming public office.

From the observations of INEC, the foundation for a compromised public governance is laid and sharing dividends of democracy becomes secondary while consolidation of political gains is primary focus. Compromises are often made on political party membership’s pre-eminence and party internal democracy.⁷⁸ INEC further observes that funding of political activities distorts the candidate’s selection process within parties and largely influences who wins an election.⁷⁹ The wide discrepancies in levels of spending by candidates within political parties constrain opportunities for political competition and tend to disenfranchise challengers.⁸⁰ As such, aspirants seek to out-spend one another to emerge victorious at the party nomination processes.

On the other hand, incumbent candidates at primary elections pick party tickets with less stress. This development establishes that there is an uneven playing field whereby the incumbent controls the political apparatus and uses it to his advantage.⁸¹ Today, the role of money in politics is arguably the biggest threat to democracy worldwide.

Nigeria runs one of the most expensive political systems in the world, considering in particular, the cost of mobilizing not less than 85,140 national delegates for the presidential primary election.⁸² The financial demands in party politics is more

⁷⁸ This development to Minier denies a Nation of due development in the area of social, economic and political developments otherwise known as dividend of democracy. J Minier, ‘Democracy and Growth: Alternative Approaches’ 3(3) 3 *Journal of Economic Growth* 241. See <http://www.jstor.org/stable/40215985> (accessed 2 March 2015) 3; Olayinka, Felix Olaniyi ‘The Impact of Parties’ Internal Democracy on Nigeria’s Development’ *Akungba Law Journal* (2016) 4(1) 86.

⁷⁹ NAN ‘Over 7 million voter cards not yet collected nationwide – INEC’ <<https://www.premiumtimesng.com/news/more-news/259915-7-million-voter-cards-not-yet-collected-nationwide-inec.html>> accessed 23 April 2018; Amanye et al (n 33)155; Daily Trust Editorial, ‘Low PVC collection, threat to 2023 elections’ 9 Jan 2023 <<https://dailytrust.com/low-pvc-collection-threat-to-2023-elections/>> Accessed 6 November 2024

⁸⁰ See ‘INEC and Challenges of Monitoring Political Party Campaign Financing in Nigeria’ 1, See Olayinka, Felix Olaniyi ‘The Impact of Parties’ Internal Democracy on Nigeria’s Development’ *Akungba Law Journal* (2016) 4(1) 1.

⁸¹ INEC observes that incumbents seeking re-election have better access to state resources, thereby increasing their opportunity for further electoral successes. See ‘INEC and Challenges (n 76). See also Ukase (n 72) 4.

⁸² This huge population cut across the grassroot and the national level. See Patrick Cole ‘Financing Political Parties, Elections and Corruption’ <<http://www.vanguardngr.com/2016/03/financing-political-parties-elections-and-corruption>> (accessed 18 June 2024).

felt in the procurement of nomination and expression of interest forms by all aspirants. The ruling All Progressives Congress (APC) announced the cost of expression of interest and nomination forms for various elective positions ahead of the 2023 elections. The nomination fee of N100 million was condemned as outrageous by citizens who never held political or elective positions. The main opposition People's Democratic Party (PDP) settled on a presidential ticket costing N40 million. The APC argued that the nomination fee was fixed at N100 million 'because of the importance of the office of the Nigerian president.'⁸³ Thus, by implication, most aspirants who could not afford such sum because they never held or abused public offices got disqualified from the race.

There are arguments in favour of political parties raising revenue from the sale of forms and thereby meeting some electioneering expenses, which such parties bear.⁸⁴ It may even be said that some aspirants who are not so committed may be scarred out of the political race on account of the financial demands. The cost to sustainable democratic ideals, however, outweighs whatever benefits. Thus, to Aminu Jonathan, the high cost involved in picking party tickets prevents people who have the genuine desire to serve the public from doing so.⁸⁵ It further explains why government most times conceive and execute policies and projects which makes it possible for elective office seekers to misappropriate public funds for elections and political party activities. The higher this trend goes, the less the national development and the more the poverty level of citizens.

⁸³ AA Maishanu, 'Why we are Charging N100m for Presidential Nomination Form – APC National Chairman' <https://www.premiumtimesng.com/news/top-news/526573-why-we-are-charging-n100m-for-presidential-nomination-form-apc-national-chairman.html> > accessed 20 December 2024; See 'Lawmakers Decry High Cost of Parties' Nomination Forms' News Agency of Nigeria (NANS) <<http://www.premiumtimesng.com/news/top-news/170219-lawmakers-decry-high-cost-of-parties-omination-forms.html>> accessed 15 June 2016. Sani Tukur 'APC sets Edo governorship election form at N5.5 million' <<http://www.premiumtimesng.com>> (accessed 15 June 2022); PLAC, 'Of Elections and Limits to Campaign Finance' 27 April 2022 <<https://placng.org/Legist/of-elections-and-limits-to-campaign-finance/>>

⁸⁴ NAN 'Over 7 million voter cards not yet collected nationwide – INEC' <<https://www.premiumtimesng.com/news/more-news/259915-7-million-voter-cards-not-yet-collected-nationwide-inec.html>> accessed 23 April 2018; Amanyie et al (n 33)155; Daily Trust Editorial, 'Low PVC collection, threat to 2023 elections' 9 Jan 2023 <<https://dailytrust.com/low-pvc-collection-threat-to-2023-elections/>> Accessed 6 November 2024.

⁸⁵ To Umar Jubril, the costs of the forms would make qualified politicians to shelve their ambitions. See NANS, *ibid*.

To Kuhner, the payback of campaign debts in the form of political favours breeds a type of corruption that is commonly encountered around the world.⁸⁶ Corruption hinders the electorates' chances of political participation in the conduct of public affairs, directly or through freely chosen representatives; and by way of voting and electing at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.⁸⁷ Towards the enforcement of the right to political participation, the high cost of political campaigns promotes corruption in public offices, which in turn hinders the people's access to the political space. The right of all citizens to political participation is broadly recognized in international laws as a fundamental human right and is enshrined in several international instruments.⁸⁸

Democracy as a way of governance runs where there is a fair, honest and periodic election in which candidates freely compete for votes, and in which virtually all the adult population are eligible to vote.⁸⁹ When elections are held, emerging leaders are made accountable to voters in which the best interest of the people is the basis of decisions that are reached.⁹⁰ When elections are however

⁸⁶ Timothy K. Kuhner, *The Democracy to Which We Are Entitled: Human Rights and the Problem of Money in Politics* *Harvard Human Rights Journal* (2013) (26) 40, 41.

⁸⁷ See Article 25(a) and (b) of the International Covenant on Civil and Political Rights ("ICCPR") *See, art 25*; art 25 United Nations International Covenant on Civil and Political Rights, *art 13(1)(2)* African Charter on Human and Peoples' Rights art. 13(1)-(2) (entered into force Oct. 21, 1986) [hereinafter African Charter], available at http://www.achpr.org/english/_info/charter_en.html. see also Maia Sophia Campbell, 'The Right of Indigenous Peoples to Political Participation and the Case of *Yatama v. Nicaragua* Vol. 24, No. 2 *Arizona Journal of International & Comparative Law* (2007) (499) 518.

⁸⁸ See Article 25(a) and (b) of the International Covenant on Civil and Political Rights ("ICCPR") *See, art 25*; art 25 United Nations International Covenant on Civil and Political Rights, *art 13(1)(2)* African Charter on Human and Peoples' Rights art. 13(1)-(2) (entered into force Oct. 21, 1986) [hereinafter African Charter], available at http://www.achpr.org/english/_info/charter_en.html. see also Maia Sophia Campbell, 'The Right of Indigenous Peoples to Political Participation and the Case of *Yatama v. Nicaragua* Vol. 24, No. 2 *Arizona Journal of International & Comparative Law* (2007) (499) 518.

⁸⁹ JK Akokpari, 'Meeting the Challenge of Sustainable Democracy' in T Assefa, SM Rugumamu and AGM Ahmed, 'Globalization, Democracy and Development in Africa: Challenges and Prospects' (2001) 84; John Cantius Mubangizi 'Democracy and Development in the Age of Globalisation: Tensions and Contradictions in the Context of Specific African Challenges' *Law, Democracy & Development* (2010) (14) 4.

⁹⁰ John Ferejohn and Pasquale Pasquino, 'The Counter majoritarian Opportunity' *Journal of Constitutional Law*, (2010) 13(2) 363.

inefficiently and incompetently managed, democratic returns are not realized and the validity and credibility of such elections are contested.⁹¹

Nigeria's electoral process, the political parties, the governance structure, and the entire system are decidedly rigged against the ordinary person, and it is an understatement and almost absurd to talk of rigging when the entire system is all about rigging.⁹² In the context of a weak electoral body, a perverted electoral process and undemocratic political parties, the stage is set for flawed elections. Agbaje and Adejumobi capture the plight of innocent electorates who seek to determine who wins elections by their vote thus:⁹³

While the voters waited and persevered in the polling stations to cast their votes, the political class and the political parties had different ideas. The voters wanted their votes to determine the winner of elections while the political class wanted to corrupt the process and rig their way into elective office... On the whole, the results can be said to marginally reflect the choice and will of the Nigerian people.

In the circumstances that the peoples' mandate does not count, it then becomes absurd to expect democratic returns to such unrepresented people.

5 RECOMMENDATIONS

5.1 Making political offices less attractive financially.

Democratic returns can be guaranteed where political offices are made less attractive financially. A huge chunk of the national income that goes into salaries and allowances of political officeholders can be committed into more viable ventures where the legislature is made to operate on a part-time basis. Shehu Sani is a former senator who asserts that each senator receives a monthly running cost of N13.5m in addition to ₦750,000 monthly payment prescribed by the Revenue Mobilization Commission and not less than N15m is paid as monthly salary.⁹⁴

The high cost of seeking nomination and mandate is beyond the qualified people with the genuine intention to serve the people. This paves the way for

⁹¹ P Wanyande, 'Electoral Politics and Election Outcomes in Kenya' (2006) Vol. XXXI (3) *Africa Development*, 63

⁹² Adigun Agbaje & Said Adejumobi, 'Do Votes Count? The Travails of Electoral Politics in Nigeria' *Africa Development* (2006) XXXI, (3) 26.

⁹³ Adigun Agbaje & Said Adejumobi, 'Do Votes Count? The Travails of Electoral Politics in Nigeria' *Africa Development* (2006) XXXI, (3) 39.

⁹⁴ Damilola Aina, '109 Senators Earn ₦1.4bn Annually' 14th August 2024 <<https://punchng.com/109-senators-earn-n1-4bn-annually-rmaf/>> Accessed 6 November 2024.

political contractors whose purpose is to make profit from their political investment on their candidates. The political parties on that account lose their powers to play by the internal party democracy. It has thus been difficult for party members in primary election to vote out a chief executive who is no longer popular. Incidentally, where the cost of seeking election is cheap and minimal, there will not be a reason for projects to be awarded for reasons other than public interests. There will not be a reason to inflate cost of executing a contract nor to eventually deliver compromised quality jobs. Worst cases are where bailout funds for the payment of salaries to the civil and public servants are diverted into projects execution, for obvious reasons.

5.2 Increasing the level of political awareness and participation

Democracy may only be strengthened where there is a high level of political awareness with a genuine interest in political activities on the part of the citizens. Participatory democracy can be sustained if the identified stakeholders put in their best. The government in power has to meet the citizens' needs on political, economic, social, educational and other matters.⁹⁵ The citizens' needs in respect of social, political and economic needs cannot be over-emphasized.⁹⁶ Dwindling state resources hinders the realization of the SERs and this position is compounded by misappropriation and corrupt dispositions of public officials. Section 15(5) of the Directive Principles, Chapter II of the CFRN provides that the State shall abolish all corrupt practices and abuse of power. This assumes that abuse of office and administrative excesses can hinder citizens' enjoyment of political rights. It is the absence of economic rights that leads the electorates to sell their votes for a pot of soup. As such, Ramanujam and Gorvie task the civil society to embark on enlightenment of the members of the public on their civil responsibilities.⁹⁷ Consequently, a political party which denies the electorates of dividends of democracy should be considered as being unfit to continue in office.

5.3 Adhering to the principles of separation of powers

The principles of separation of powers are presently held in abeyance in Nigeria. The excesses of the Executive organ are most times condoned by the Judiciary and the Legislature. President Buhari was not comfortable with the speed of

⁹⁵ GN Okeke, 'Fundamental Objectives and Directives Principles of State Policy: A Viable Anti-Corruption Tool in Nigeria' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, (2011) (2) 175.

⁹⁶ 'As hunger worsens' The Guardian Editorial 14 March 2017 p 16.

⁹⁷ Nandini Ramanujam and Miatta Gorvie, 'Shifting Ground, Solid Foundations: Imagining A New Paradigm For Canadian Civil Society Engagement' *Windsor Yearbook of Access to Justice* (2015) (32)(1) 141-172.

litigation on the policy initiatives on the anti-corruption drive.⁹⁸ In a bid to replace the Chief Justice of Nigeria (CJN), he was subsequently alleged of violating the Declaration of Assets Code and was removed in controversial circumstances. The Court of Appeal in *Nganjima v Federal Republic of Nigeria*,⁹⁹ condemned the removal of Chief Justice Onnoghen from southern Nigeria and his replacement by a northerner. He was tried before the Code of Conduct Tribunal, an agency under the federal executive. This much was done in a manner which violates the principles of separation of powers. The unjust removal from office establishes the impression that the political leadership in Africa continues to see the judiciary as an appendage, having to give endorsement to all actions of the executive, just as it was under colonial administration and the military.

The unceremonious removal of the Chief Justice of the Federation could not have been condoned by the judiciary if not for the over-ambition of serving judicial officers. A house divided against itself cannot stand. Where electoral integrity has been compromised, there should not be any hindrance in accessing the court. The political infringements on the judiciary however cast a doubt in the minds of members of the public, on whether they will be able to use the instruments of law to attain dividends of democracy, and whether an election petition can succeed against a sitting chief executive.

On the part of the legislature, rather than to come up with good legislation that can ensure dividends of democracy get to the electorates, it prefers most times, to be in the good books of the chief executive, to have bountiful cut from the national cake. Legislation which aims at making Nigerians happier are those that make it difficult for political officeholders to misappropriate the nation's wealth. The legislature should as such be working towards the removal of the immunity clause for the executive.¹⁰⁰

5.4 The Media and Watch-dog Role

The media is a monitor of the political officeholders and the government.¹⁰¹ This is attained as the media disseminates its information correctly, responsibly and in

⁹⁸Taiwo-Hassan Adebayo, 'Anti-corruption: Buhari Appeals to Judiciary to Expedite Process of Justice', <<https://www.premiumtimesng.com/news/top-news/434256-anti-corruption-buhari-appeals-to-judiciary-to-expedite-process-of-justice.html>> accessed 1 July 2021.

⁹⁹ *Nganjima v Federal Republic of Nigeria*, (2017) LPELR-43391(CA).

¹⁰⁰ Matthew Ozah, 'Poverty and Hunger Amid Opulence,' *The Guardian* 23 November 2016.

¹⁰¹ B.A. Adejumo, (PNIC, OFR) *The Judiciary and the Rule of Law: Challenges of Adjudication in the Electoral Process* Being Text of a Paper Delivered at the Series of Events Organised to Mark the 2011 Law Week of the Law Students' Association of the University of Abuja, at the University of Abuja, Gwagwalada Campus, on the 23rd May, 2011

line with media ethics. The media affords the veritable platform to air public opinion, which plays the watchdog role:¹⁰²

A learned and distinguished public servant once said: “We have in this country but one security. You may think that the Constitution is your security -- it is nothing but a piece of paper. You may think that the statutes are your security -- They are nothing but words in a book. You may think that elaborate machinery of government is your security -- it is nothing but an organization of mortal men. All of these things are nothing without strong, sound and uncorrupted public opinion and respect for the law.”

A Government will seek to avoid a public outcry, capable of bringing it down after losing its popularity. The press is however expected to cover public opinion on issues that are trending particularly at the democratic parlance and at the level of the judiciary. The media covers election campaigns and puts on record the campaign promises, which serve as the assessment yardstick for a political party in subsequent elections.¹⁰³ The press constitutes opinion moulders under a participatory democracy, and this assists in making a government to be accountable to the people.

6 CONCLUSION

The study focused on processing and emergence of elective leadership under the Nigerian democracy and the financial encumbrances put in place to disqualify intending citizens that are ordinarily qualified to seek elective positions. It particularly stressed that the development adversely affected having collective decisions which could ensure citizens’ welfare and access to the dividends of democracy. Attention was drawn to the increasing poverty level the falling standards of living, and the lack of security of lives and properties, which has contributed to the declining interest of the electorates in electoral processes.

The question on whether there can be an inclusive democracy with a level playing ground for every participant in the electoral race was raised. It was found that the political leadership in the Country deliberately raised the cost implications of active participation in elections to make it really exclusive and elitist. It was further found that public sector corruption thrived to get funds for political activities, such that further prejudiced the socio-economic rights and by extension the political and civil rights of citizens.

¹⁰²*Hayes v The Trustees of Indiana University* (2008) WL 5585906 (Indian Appeal). See Savich’s restatement of the essential issue on appeal, in his Appellants Reply Brief. See also *State ex rel. Mass Transp. Authority v. Indiana Revenue Board*, 146 Ind. App. 334, 335-337, 255 N.E.2d 833, 834-835 (Ind. Ct. App. 1970).

¹⁰³ C. Edwin Baker, *The Media That Citizens Need*, 147 U. PA. L. REV 317, 328-29 (1998- 99)

It was argued that the national resources of the Country were reserved for political elites and omitted to deploy to the attainment of maximum welfare and happiness of every citizen by way of adequate food, provision of national living wage and old age care and pensions and unemployment, sick benefits. It was further argued that the political leadership programmed the citizens in the state of want and avarice to make them susceptible to manipulation in the way they cast their votes during general elections.

It was finally argued that the desperation for elective offices, which has defied legislation and judicial intervention, corrupts the Nigeria's electoral process and public projects. A downward review of salaries and allowances of political office holders and blockage of leakages in the public treasury were recommended as necessary steps to draw genuine citizens into elective positions.