
The Menace of Vote-Buying In Elections in Nigeria. Need To Enforce Applicable Law

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Abstract

This paper appraises vote-buying under Nigerian law. It defines vote-buying as postulated by various scholars. It traces the history of voters' right in Nigeria and states the prevalence of vote-buying in the political landscape of Nigeria. It examines the law governing vote buying which is the Electoral Act and states that the law is adequate but lacks enforcement by way of prosecution. The paper mentions that vote-buying if not checked is a threat to Nigeria's nascent democracy as 2023 elections draw near. It states that extant provisions of the Electoral Act dealing with vote-buying must be invoked in cases where they have been breached and alleged offenders arraigned before the courts. It concludes by proffering solutions to vote buying in Nigeria by making reference to the United States where the issue of vote-buying has been minimally reduced amongst others through the economic empowerment of the citizenry by the government.

Key Words: Vote-Buying, Electoral Act, Elections, Political Parties, Electorates

1. Introduction

The most well-known instances of vote-buying occurred in 18th-century England, when two or more wealthy Aristocrats spent whatever it took to win an election. Three earls spent almost £100,000 apiece to win a seat in Northamptonshire's famous "spend thrift election" in 1768.

Vote-buying is a recurring catastrophe in Nigeria's electoral campaigns and regimes, where the distribution of face caps, t-shirts, food, drinks, small amounts of cash and other gifts are common and used in varying degrees as a dominant campaign tool in wooing the electorates for their "cherished votes" as it may seem. Vote-buying is widespread during political parties primaries, electioneering campaigns and days scheduled for elections.

In Africa, vote-buying is very prevalent in Nigeria, Kenya, Ghana, Sao Tome Principe, Rwanda, Equatorial Guinea, Burundi, Uganda, Liberia, Togo, Sierra Leone, Democratic Republic of Congo, and Tanzania [1]. In 2008, vote-buying was reported in Nicaragua's municipal elections, with food stamps, rice, beans, and 25,000 stores being handed to eligible voters in exchange for their votes [2]. Voting in the 2019 general elections in India was nullified in a constituency in the southern state of Tamil Nadu, where 100 million rupees meant for vote-buying was seized.

Vote-buying, according to Kramon, is a sort of clientelism, or the delivery of particularistic or private material rewards in exchange for political support, a method of political mobilization widespread in both impoverished and wealthy countries. Many political parties rely on the giving of private material rewards to attract voters rather than ideological or programme arguments [3].

Succinctly, Sha defines vote-buying as "any form of persuasion in which financial gain is suggested by one person to another with the intention of influencing a person's vote" [4]. On their part, Danjibo and Oladeji define vote –buying as:

A gift or gratuity bestowed for the purpose of influencing the action or conduct of the receiver; especially money or any valuable consideration given or promised for the betrayal of a trust or the corrupt performance of an allotted duty, as to a voter [5]...

Bello-Iman sees vote-buying as a form of bribery consisting of money or other rewards for voting as directed [6].

The several definitions postulated by the various authors pertaining to the menace of vote-buying includes political support, influencing or bribing a person with money or other forms of consideration to obtain votes. Deducible from

these postulations are improper and appalling conducts which constitute aberrations to circumvent the stated provisions of extant law principally the Electoral Act governing elections in Nigeria. In lieu of the above, this paper deals with nine interrelated parts beginning with the introductory part. Part 2 highlights the elements and forms of vote-buying, that is the basic elements of vote-buying, that is, violations include promising offering and actual giving. Succinctly, part 3 identifies the right to vote. It involves five stages. The first being the citizenship theory of voting right, the second is the vested privilege theory in which the right to vote is distributed by reference to pure feudal principles and a host of others. Under part 4, theories on vote-buying was discussed. On this, vote-buying, according to Schaffer and Schedler, is a contract or possibly an auction in which voters sell their ballots to the highest bidder. Pointedly, part 5 discusses the causes, prevalence and incidences of vote-buying. These are the problems of illiteracy, poverty and a host of others. Part 6 examines the applicable law which is the Electoral Act 2010 which create penal offences for vote-buying which is adequate in respect to addressing legally the issue of vote-buying in Nigeria. The lackadaisical manner employed in prosecuting alleged offenders has been a bane in the country's criminal justice system. Part 7 addresses the menace of vote-buying in Nigeria and states that it is great affront to cognizable free and fair elections in Nigeria. The menace must be tackled assiduously as 2023 election approaches. Part 8 discusses vote-buying in the United States and states that Nigeria should take a cue from her on how it tackled it through the emergence of many reforms. Finally, part 9 concludes that the menace of vote-buying in Nigeria cannot be wished away overnight. Amongst others, extant provisions of the Electoral Act dealing with vote-buying must be invoked in cases where they have been breached.

2. Elements and Forms of Vote –Buying

The basic elements of vote-buying violations include promising offering and actual giving:

- [1] Money, food, shirts, goods, and other consideration (such as promises of employment *etcetera*) to the electorates or voters and others, including voters' families, neighbours, friends or communities. This is usually done in the run-up that is during campaigns to an election that has been announced.
- [2] Money, food, shirts, goods and other consideration (such as) promises of employment *etcetera*) by a candidate, political party or candidate, political party, or others usually through their agents acting on their instructions in a way which is reasonably intended and expected, to influence how voters cast their vote.
- [3] The following forms of vote-buying amongst others are specified in the 2010 Electoral Act [5]. Among them are:
 - [4] direct inducement of the electorate with money to influence votes in favour of a particular political party or candidate.
 - [5] inducement of local political elites with money or materials in order to gain the block vote of a particular constituency.
 - [6] providing wards or electrical constituencies with materials such as clothing or food with the intention of getting their votes.
 - [7] purchasing cars or motor bikes, building houses and providing contracts for traditional rulers and local elites in order to get the votes of their subjects.
 - [8] paying political thugs to intimidate and harass the electorate to force them to vote for a particular political party or candidate.
 - [9] paying political thugs to snatch ballot boxes.
 - [10] paying security agents to aid in electoral fraud.
 - [11] paying electoral officials to aid in electoral fraud

3. Right to Vote

Kirby identifies five stages in the historical evolution of the right to vote [7]. Among primitive peoples in the city states of antiquity and during the Renaissance, the citizenship theory of voting right prevailed. Under this theory, the right to vote is an attribute of citizenship. This theory holds true to this day, going by the practices of many countries which make the right to vote contingent upon citizenship. The second is the vested privilege theory in which the right to vote was distributed by reference to pure feudal principles. It was in this conception a vested privilege, an incident of a particular status and usually connected to land or other property ownership. The third theory Kirby identifies is the natural right theory in which the right to vote like all other such rights are abstract and founded on basis of natural law, a consequence of a social contract and an incident of a popular sovereignty. Kirby claims that when a voter casts a ballot, they are performing a public role similar to that of a legislator or judge, according to the government function theory of the right to vote, which is based on modern political science ideas [7]. As a result, the voter becomes a government organ. The ethical theory, which is the last that Kirby identifies, suggests that the right

to vote is essential to the development of the individual character, a condition necessary for the realization of the full worth of the human personality.

Suffice to state that in historical terms, the development of voting rights in Nigeria followed a somewhat similar trajectory to Kirby's outline above from the period when efforts were concentrated on restricting or depressing the voting field [7]. According to Ayoade, the development of voting rights in Nigeria could be divided into three historical periods which are from 1922 – 1950, 1950 -1958 and 1958 – 1966 respectively [8]. The first period, 1922 – 1950, according to Ayoade, was the period in which the right to vote was a vested privilege as with Kirby's 'vested privilege theory' stated above. At that time, Ayoade informs that the voting franchise was restricted both spastically and numerically [8]. It was available in only two cities: Lagos and Calabar which were both prosperous and commercially cosmopolitan. These cities also had the highest percentage of educated people in the country at the time. During this time, voting laws reduced the number of people who were eligible to vote. Only male citizens aged 21 and above were granted this right. In addition to citizenship and residency, potential voters needed to have earned at least £100 in the calendar year preceding the election. Ayoade concludes that this period, these restrictions and a further one which placed the onus of registration on the prospective voter rather than the state appreciably cut down the number of voters.

The second era of 1950 – 1958 saw the promulgation of regulations universally applicable throughout the country. Despite their apparent universality, federal electoral regulations took regional differences into account.

This framework was consolidated during the third era, which lasted from 1958 to 1966, when there was a significant improvement in federal competence in the regulation of federal elections.

For example, the elections (House of Representatives) Regulations of 1958 stipulated that its provisions shall apply throughout the entire country. However, in some areas, regional peculiarities still prevailed. It is therefore significant for these purposes that, while the above regulations endorsed universal adult suffrage in both the eastern and western regions, it approved only male suffrage in the northern region. These two latter periods appeared to accept the right to vote in the east and west based on Kirby's ethical and natural rights beliefs, while keeping feudal traits in the north. In the years following independence in 1960, the entire country received universal suffrage.

This still persists till this present day as this has been applicable in successive elections that have been held in the following years thus: 1979, 1983, 1993, 1999, 2003, 2007, 2011, 2015 and 2019.

4. Theories on Vote-Buying

According to Ojo, vote-buying as a phenomenon is neither system specific nor space bound in both historical and comparative perspectives [9]. Vote-buying occurs in all systems, whether developed or developing, medieval or current, and in all geographies and climates [10]. The only distinction is that the size and manifestation of it vary from one polity to the next. Money appears to have taken centre stage in most countries' political processes, and it is unhappily now playing an increasingly significant part in Nigerian politics, to the point where the term "money politics" with a derogatory connotation has crept into the country's political language [11].

Candidates, according to Fredrick and Andrea, buy and sell votes in the same way that people buy and sell apples, shoes, or television sets [12]. This point of view regards voting as a contract or possibly an auction in which voters sell their votes to the highest bidder. Parties and candidates buy votes by distributing specialized materials to voters.

According to Owasa, candidates may generally seek to buy political support at the ballot box using the concept of market change. In different cultural contexts, voting can have different connotations [10]. In its most literal sense, vote-buying is a simple economic exchange [10].

According to Bratton, the electorate has the option of refusing, defecting, or complying [13]. To refuse is to decline entering into an agreement to trade one's vote; to defect is to refuse to vote at all or to vote however one wishes; and to comply is to trade one's vote in accordance with the terms of the exchange [13]. Okoli and Iortyer claim that refusal is most likely in a polity with a high level of civic orientation and sound political education [14]. Defection is more likely in situations where voters are subjected to cross-pressure from both sides of a partisan divide, or when voters are subjected to both vote buying and violence at the same time [14].

Kramon believes that in the relatively low socio-economic region, political parties or election candidates are more likely to engage in vote-buying practices [3]. The impoverished may be more prone to vote-buying techniques. Candidates purchase and citizens/electorates sell votes, just as they buy and sell apples, shoes, and television sets, according to Schaffer and Schedler. In their opinion, vote-buying is a contract or maybe an auction in which people sell their ballots to the highest bidder [15]. Parties and candidates buy votes by providing voters with specific material rewards. Candidates may aim to buy political support at the ballot box in accordance with the market exchange concept. They went on to state further that the overarching goal of vote-buying is to sway voters' decisions in favour of bidders. The actors are known as voter compliance, which can take three various forms. They identified three types of voter compliance: instrumental, normative, and coercive compliance [15]. By proposing the concept of voter

compliance, they indirectly acknowledged that vote-buying might impact citizens' political preferences and voting behaviour. Voter's knowledge on vote-buying tends to see money politics practice from the "demand side" only. However, vote-buying practice involves at least two parties, the giver and the recipient.

Sohner puts the phenomenon of vote-buying this way when he states that "money has, in fact, been made to become the mother's milk of politics, which the political gladiators must drink to remain in business"[16]. In the same vein, while contributing to this vexed issue of vote-buying, Vicente supports the view that vote-buying has significant effect on voting behaviour. "Our major findings provide evidence that vote-buying is effective in modifying voting preference/behaviour" he said, citing his research in West Africa [17]. He also states that the practice of vote-buying has boosted election enthusiasm. "People of integrity and those who sincerely want to serve the people but don't have money to buy votes may lose out in the electoral race"[17]. Milbrath states emphatically, "while terrible candidates with enormous financial resources or those with corrupt tendencies may get elected [18]. When this happens, the immoral and condemnable use of money to buy votes is then celebrated to high heavens as a good and effective weapon in electoral battles by successful contestants [18].

The corollary effects of the views posited by scholars is that good governance and patriotism suffer based on the social menace of vote-buying as vote-buying is now the norm on election days in Nigeria. The menace of vote-buying has led to unsuitable and incompetent persons occupying political leadership positions which invariably has caused leadership crises in Nigeria's political landscape. Nigeria is in dire need of capable and competent political leaders.

5. Causes and Prevalence and Incidences of Vote-Buying

There are several reasons for the causes and prevalence of vote-buying. These are discussed as follows.

a. Illiteracy: In the words of Ajakaiye *et al*, the low level of education contributes to low political awareness thus making it easy for the State to manipulate the poor majority by greedy and self-seeking politicians [19]. This is in tandem with axiom "knowledge is power, ignorance is a disease".

b. Poverty: Poverty makes a people powerless and easily susceptible to political manipulation. People who are poor and whose next meal is not guaranteed can easily sell their conscience /votes for any amount (cash, kind) offered [9]. With Nigeria's high level of poverty and acute hunger in the land, it is expected that the poor will become vulnerable to vote selling.

c. Nature of Politics: The nature of politics as a winner-takes-all affair and a means for self-aggrandizement results in politicians deviating from moral principles to secure victory [5]. Politicians' desire to win elections at all costs, even at the party primary level, drives desperate candidates to participate in a variety of unethical methods, including offering cash and material incentives to voters. Nigerian politicians have been known to provide food and other edible goods to voters just before elections and sometimes on election day, despite restrictions in the current electoral law prohibiting such behaviour.

d. Political Cynicism: Voters believe that politicians are inherently corrupt, self-serving, and inept, that politics is an evil, dirty, and dishonourable enterprise, and that the entire political process is a sham and a breach of public trust. Unfulfilled promises made by previous election winners accentuate this jaded perspective of politics. Thus, to these set of people, vote-buying is another form of pay-off, through which the people receive their own share of the national cake. On the other hand, the candidates who give money to voters probably believe that they are investing against electoral failure.

Clearly, incidences of vote-buying abound. The reason for the huge finances associated with elections is the special budget used for vote-buying by parties and politicians. For example, it was widely reported and verified by a delegate at the People's Democratic Party (PDP) presidential primaries in January 2011 that the contending camps of Atiku Abubakar and Goodluck Jonathan each budgetted US\$3,000 and US\$10,000 for each delegate to buy their votes [20]. Given that 8,500 delegates were said to have attended the primaries, the Atiku campaign is estimated to have spent \$85 million on vote-buying alone at the preliminary stage before the general elections. Interestingly, Reuters reported that a substantial part of the money used by the incumbent was withdrawn from the Nigerian National Petroleum Corporation (NNPC) account which affected the country's foreign exchange market leading to high exchange rate of the country's currency with that of others [20].

Furthermore, the level of commercialization of votes was an eyesore to our democracy in the Anambra State gubernatorial elections. The Transitioning Monitoring Group, TMG in its assessment of the election condemned the widespread vote-buying by agents of the candidates.

This emerging impunity of vote-buying appears to be a dangerous trend in our elections and needs to be addressed urgently according to Nwankwo's group (Nigeria Civil Society Situation Room - NCSSR) in its interim report. Nwankwo's group portrayed the Anambra governorship election as one of the worst electoral bazaars since our return

to democracy in 1999. Reports from our observers in the field on the widespread open selling of votes by civilians cast a serious stain on the integrity of the ballots according to Amadi while presenting the group's (Independent Service Delivery Group - ISDMG) interim assessment on the election. In Anambra, the menace of vote-buying, which has become a key element of previous elections, unfortunately repeated itself.

We posit that what could be more in this situation is that the highest bidder will likely win such an election in most cases thereby not reflecting the true wishes of the electorates. Such candidates emerging from such a flawed process will not be accountable to the people and this becomes a threat to the survival of democracy, a trend dangerous to those governing and the governed citizens.

The governorship election in Ekiti state was also characterized by incidence of vote-buying. One wonders whether the phenomenon of vote-buying has come to stay in Nigerian politics.

Bolanle expressed surprise that vote-buying surfaced in 2019 general elections [21]. Money was prevalent as a major factor in Nigeria politics, focusing on the poor. Voters' wish to sell their voting rights is associated to the level of poverty in Nigeria and the poor perceived their voters' cards as a source of generating resources [21]. Vote-buying limits voters to exercise their voting rights, coupled with fear of intimidation to comply with the terms of contract.

According to the International Republican Institute and the National Democratic Institute, various electoral malpractices and crimes were identified during the 2019 general elections [22]. Vote-buying and electoral violence were identified as some of the failures in the election's conduct by IRI/NDI electoral observers in several Nigerian locations [22].

According to Olorunmola, money is a critical factor for political parties to run their operations during and after elections [23]. Unregulated use of private or public resources for political purposes has the potential to reverse democratic ethics and practices; it confers unfair advantages and improperly influences electorates' choices. The 2015 general election was one of the most intensively monetized elections in history, with the two major candidates competing for money [24]. Vote purchasing was carried out with bravado and audacity in the 2015 and 2019 elections, in some cases with the help of electoral officials and security personnel [24].

Furthermore, the Independent National Electoral Commission (INEC) conducted governorship election in Ekiti State on June 18, 2022. It was marred by allegations of vote selling and buying by unscrupulous politicians. The British High Commission expressed concern about reports of vote-buying during the election and urged the appropriate authorities to hold those responsible accountable, emphasizing that "buying and selling of votes has no place in a democracy." Further more, the Independent Corrupt Practices and Other Related Offences Commission (ICPC) arrested three persons suspected of vote buying during the Osun State gubernatorial election held on July 16, 2022 [25].

6. The Applicable Law – Electoral Act 2010

Section 23 (1) of the Electoral Act states that any person who is in unlawful possession of any voter's card, whether issued in the name of any voter or not; sells, attempts to sell, or offers to sell any voter's card, whether issued in the name of a voter or not; or buys or offers to buy any voter's card, whether on his own behalf or on behalf of another person, commits an offence and is subject to a fine of not more than ₦500, 000 or a sentence of not more than two years in prison, or both.

Furthermore, section 120(1)(d) of the Electoral Act prohibits the sale of voter's card and prescribes punishment for offenders if liable on conviction. Section 123(2) and (4) provides penal sanction upon conviction for the offence of bribery by stating that a voter commits this offence where before or during an election, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any such election, directly or indirectly, himself or by any other person on his behalf.

In the same vein, section 130 (a) explicitly provides penal sanction for any person or voter who, after being corruptly announced, gives, 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 in such election, or on account of such person or any other person having voted or refrained from voting in such election. Such a person or a voter under section 130(b) of the Electoral Act is liable on conviction to a fine of ₦100,000 or imprisonment for a term of 12 months or both.

The above listed laudable provisions of the Electoral Act which create penal offences for vote-buying are adequate in respect to addressing legally the issue of vote-buying in Nigeria. However, the lackadaisical manner employed in prosecuting alleged offenders when they breach these penal provisions has been a bane in the country's criminal justice system. The major reason being that the political will on the part of government to prosecute such alleged offenders is lacking in form and substance. Probably, the prosecuting agency which is primarily the Police which would have set the judicial system in motion most times have one form of political inclination or loyalty to the ruling

party or to the opposition party thereby obscuring their sense of responsibility in taking the desired action when such issues of vote-buying occur. The police as the prosecuting agency is weak because the Nigerian Federation wants it so by starving it of needed funds to carry-out its mandatory duties. The police as an institution, a prosecuting agency lacks independence in carrying-out its constitutionally assigned roles and is most times is subject to the whims and caprices of the ruling government in place at that material time. In some cases, officers of the police force that would have set the judicial system in motion have been outrightly compromised by contestants or political parties taking part in such elections.

It is submitted that the enabling law pertaining to vote-buying is laudable but the functionality of this law is hindered or hampered by the non-cooperation of the “powers to be at the corridors of power” with the prosecuting body. An attitudinal pro-active change is desired and needed on the part of government to reverse this menacing trend of vote-buying.

7. Addressing Vote-Buying In Nigeria

The recurring problem of vote-buying remains a big threat to Nigeria’s nascent and surviving democracy as it is great affront to cognizable free and fair elections and on this rests the legitimacy of political office holders. The menace must be tackled assiduously as 2023 election approaches to saving our democracy from collapse since our democratic culture should be hinged on best practices. Therefore, these suggested steps are needed in addressing vote-buying.

Political parties’ whether in power or in opposition are the major perpetrators of vote-buying.

There is the urgent need for voter education on the issues as 2023 elections approach. The Independent National Electoral Commission (INEC) in collaboration with other relevant organizations must mount vigorously campaigns to sensitize and educate the electorates on the need not to accept monetary or material rewards before they cast their votes for a particular candidate or party as this amounts to selling one’s conscience and impugns the electorates unqualified right to demand for accountability, transparency and good governance.

Prosecution of offenders should be done within a timeline as anyone found to have breached the penal provisions of the Electoral Act pertaining to vote-buying no matter how highly placed that individual(s) may be. There should not be scared cows in fully enforcing the provisions of the EA when it pertains to the infractions of the offences of vote-buying.

8. Vote Buying In United States

The United States has to large extent solve the specific problem of vote-buying. Certain aspects of the United States' historical strategy to combat vote - buying may be relevant to Nigeria's current situation. These are as follows:

a. A Truly Secret Ballot: A truly secret ballot was a critical reform. However, as long as other informal methods of voter monitoring are available, this alone is insufficient [26]. Additional reforms to the secret ballot that reduce informal voter monitoring include prohibiting electioneering near polling places and randomly assigning non-locals to staff election booths.

b. Systematizing Social Spending: In the nineteenth and twentieth centuries, political parties in American cities offered targeted assistance (cash, jobs, etc.) to poor voters in exchange for their votes [26]. As Stokes documents, progressive-era reforms in the United States formalized, regulated and programmatic social spending. As a result, political parties could no longer penalize or reward voters based on their voting choices on election day [26].

c. Civil Service Reforms: Civil service reforms, like social spending reforms, play an important role in combating vote-buying. Jobs are likely to be the most valuable handouts that a winning party can provide to its supporters [26]. The Hatch Act enacted in 1939 expressly prohibits bribing voters and it also severely limits the campaign activities that federal employees may engage in.

9. Conclusion

The menace of vote-buying in Nigeria cannot be wished away overnight. To some, tomorrow is thousand years away not knowing that it is today. Extant provisions of the Electoral Act dealing with vote-buying must be invoked in cases where they have been breached. There should be no sacred cow in bringing alleged offenders to book by the necessary government prosecuting body. Government should reduce the level of poverty in the society. This can be achieved by the government as it is the major employer of labour. It should empower the citizenry by providing massive job employment and other forms of incentives such as providing soft loans on regular basis for small scale business to thrive.

There should be conscious, deliberate and persistent actions such as enlightenment on voters education on the need to protect their votes as provided under the Electoral Act. This should be embarked on frequently by relevant government and private bodies saddled with these responsibilities.

It is also imperative on the part of all to play their roles if our hard earned democracy must survive and be sustained in this 21st century and beyond.

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