

Smart Card Reader and the 2015 General Elections in Nigeria

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Abstract

The real issue in the 2015 general elections in Nigeria was the use of the smart card reader. The smart card reader was a critical component in the elections. It was used for the first time in the electoral process of Nigeria and it remains one of the greatest technological innovations of the 2015 general elections. The smart card reader is a technological device setup to authenticate and verify on Election Day a Permanent Voter Card (PVC) issued by Independent National Electoral Commission (INEC). The fundamental basis for the deployment of the technologically-based device by INEC was to ensure a credible, transparent, free and fair election in order to deepen Nigeria's democracy. However, the use of the card reader generated debate among the election stakeholders before, during and after the 2015 general elections. One of such debates was the legality for the use of the device. This paper therefore examines the debate and the role of the card reader in the 2015 general elections. The paper also looks at the challenges and impact of the card reader on the election. The paper argued that considering the massive electoral fraud witnessed in general elections since Nigeria's independence, the card reader should be used for future elections. Consequently, subsequent general elections in Nigeria should gradually continue to be technologically driven.

Keywords: *democracy, election, electoral democracy, electoral fraud, smart card reader, permanent voter card, technology*

Introduction

Election is the process of choosing a candidate for public office. Election is a critical component of any democratic society. As such, Nigeria's returned to democratic rule and engagement with the democratic process led to the conduct of its general elections in 1999, 2003, 2007, 2011 and 2015. General elections are elections conducted in the federation at large for federal and state elective positions (The Electoral Institute, 2015).

The 2015 general election appears to be the most keenly contested in the history of elections in Nigeria because it was the first time about four major opposition parties came together to form a very strong party, All Progressive Congress (APC) in order to challenge the dominance of the ruling party, Peoples Democratic Party (PDP) in the polity. Indeed, according to Omotola (2013: 172), the election became the only game in town, shaping and reshaping public discourse and political actions.

Prior to the 2015 general elections, a number of technologically based reforms (e.g. biometric Register of Voters, Advanced Fingerprints Identification System) were embarked upon by the new leadership (headed by Prof Attairu Jega) of the Independent National Electoral Commission (INEC), the election management body empowered by the 1999 Constitution (as amended) of the Federal Republic of Nigeria to organize, undertake and supervise all elections in Nigeria.

The more general use of biometric in African elections is on the rise. No fewer than 25 sub-Saharan African countries (e.g. Sierra-Leone, Democratic Republic of Congo, Zambia, Malawi, Rwanda, Senegal, Somaliland, Mali, Togo, Ghana etc.) have already held elections employing a biometric voter register (Piccolino, 2015). The Automated Fingerprint Identification System was used in the 2011 general elections as a digital register to eliminate doubles from the list, and was not capable of verifying the identity of voters at the polling stations (Piccolino, 2015).

These technologically based reforms by INEC were further taken to another height in the 2015 general elections with the use of the Permanent Voter's Card (PVC) and introduction of Smart Card Reader technology, a device used to scan the PVC in order to verify the identity of a voter in a polling booth. The smart card reader was one of the greatest innovations of biometric verification technology and controversial crucial aspect of the 2015 general elections

in Nigeria. African countries like Ghana, Kenya, Somaliland etc had adopted the biometric verification technology.

Concerned about the massive electoral fraud witnessed in the past general elections in Nigeria, INEC deployment of the card reader in 2015 general elections was to ensure a credible, transparent, free and fair election in order to deepen Nigeria's electoral democracy. However, the used of the electronic device in the 2015 general elections generated debate among election stakeholders before, during and after the elections.

Consequently, this paper focused on the roles and challenges of the card reader in the 2015 general elections. Furthermore, the paper critically analyzes the debate and impact of the card reader on the 2015 general elections; and also attempt to look at the way forward for the card reader in future elections in Nigeria. The paper however examines other selected issues around the election. It is believed that the paper will contribute to the ongoing debate on the use of technology in the electoral process especially in the underdeveloped and developing countries of Africa.

Selected Issues in the 2015 General Elections in Nigeria

The 2015 general election was the closest electoral contest since the country's post-1999 transition to multi-party democracy (International Republican Institute, 2015). The election is the most politically engaged in the history of electoral democracy in Nigeria. Huge resources were used for the elections including 120 billion naira expended by INEC, 750,000 ad-hoc election staff with over 360,000 security personnel. The presidential election was contested by fourteen candidates from different political parties. However, the candidates of the PDP (Dr Goodluck Jonathan) and APC (General Muhammadu Buhari) were the major contenders in the election.

The 2015 general election was the fifth general elections since Nigeria returned to democratic rule in 1999. Nigerians went into the general elections with renewed determination to exercise their voting rights and stood stoutly to monitor and protect their votes with anything and everything (Momodu, 2015). Though, the 2015 general election has come and gone. The elections was bedeviled with issues that almost denied Nigeria and Nigerians the opportunity of voting in their representatives in government for another four years.

These issues almost affected the integrity, quality and management of the election. Indeed, quality election management is crucial to the sustenance of democracy. This is because, if the citizenry does not believe in the fairness, accuracy, openness, and basic integrity of election process, the very basis of any democratic society might be threatened. This implies that public faith in the integrity of election system is a cornerstone of democratic government (Alvarez and Hall, 2008: 134). Therefore, a legitimate electoral process and public confidence in democratic governance depends on both the actual and perceived integrity of an election (International Foundation for Electoral Systems, 2015).

Therefore, the just concluded elections subsisted on some issues that cannot be ignored. These issues were the introduction of technology into the 2015 general elections with special focus on mart card reader; the expiration of tenure of the INEC Chairman; security threats and election postponement.

Security Threats and Election Postponement

The 2015 general election was conducted amidst security threats and challenges especially the Boko Haram insurgency. The Boko Haram insurgents had engaged in kidnapping, massive killings and wanton destruction of properties. The terrorist group had also captured some territories (about twenty local government areas) in Nigeria which was effectively under their control. Furthermore, the insurgents had also threatened to disrupt the 2015 general elections and intend to ensure that the elections were not held. Against this background, the 2015 general elections which was schedule to hold on February 14 and 28, 2015 was postponed by INEC to March 28 and April 11, 2015.

The National Security Adviser (NSA), Col. Dasuki had claimed in a statement that the general elections as schedule for February, 2015 cannot be guaranteed in view of the security threats and challenges across the country. According to him, this was because most of the men of the Nigerian Army are engaged in Nigeria's north east, confronting the Boko Haram insurgents. He therefore contended that the six weeks postponement of the general elections will enable the armed forces to subdue and reclaimed the territories under the effective control of Boko Haram. Prior to this poll shift, INEC had repeatedly assured Nigerians of its readiness to conduct the general elections.

The postponement was received with mixed feelings. Some individuals, groups and political parties especially the Peoples Democratic Party (PDP) supported and hailed the decisions of the poll shift. Supporters of the general elections postponement were of the belief that the period of the election rescheduling will guarantee peace and security across the country. Meanwhile, other individuals, groups and political parties particularly the All Progressive Congress (APC) outrightly rejected the rescheduling of the 2015 general election. Some of the political parties including the APC accused the PDP led Federal Government of deliberately allowing insurgency in the north-east, an opposition stronghold, to fester so it can cash in on it to get re-elected.

Chimamanda Adichie argued that the postponement was a flailing act of desperation by Dr Goodluck Jonathan (Nigerian President, 2011-2015 and PDP Presidential candidate in the 2015 general elections) not to lose the election. Similarly, Chief Olusegun Obasanjo, former Nigerian President (1999-2007) described the poll shift as PDP Presidential candidate grand plans to win the election by all means. Clement Nwankwo believed that the intention of the election rescheduling was to undermine the democratic process and to stop the growing support for the APC in the country.

No doubt, INEC was arm-twisted by the security apparatus of the Nigerian state in rescheduling the 2015 general elections; and this singular act embarrassed Nigeria and Nigerians. Indeed, the postponement of the general election appears to almost erode public credibility and confidence in the elections. It must also be stated that billions of naira of public fund had been expended towards preparations for the election but the truth remains that the Boko Haram insurgents are in effective control of some territories (which size is up to Belgium) where elections needed to be conducted.

Considering the security threats and challenges, how can men, materials and other logistical arrangements be effectively distributed and managed for a violent free election during or after the poll? The contention by some stakeholders in the 2015 election that the territories under the captive of the terror group could have been excluded from the poll appears to me as irrational. The question would be; are these groups of people not Nigerians? Had these categories of people excluded in the 2015 general elections, it would have amounted to a breach of their democratic and fundamental human rights. This may have led to legal actions that would have impacted on the general elections negatively.

Some of the 2015 general election stakeholders were also quick to mention that countries like Afghanistan and Iraq successfully held elections even though they were in a state of war. Again, this is completely untrue of the true situations in these countries. However, let me very quickly state that the security of an election is unique to the circumstances in which it is conducted. The stakes of any given election are different- even if it is held periodically in the same country- due to the changing forces that shape the national interest and corresponding political agenda (Dunne, 2006).

Let it be categorically stated that none of the two countries of Afghanistan and Iraq had any of their territories under the effective control of the terrorist groups (Taliban in AFGHANISTAN; Islamic State of Iraq and Levant in IRAQ) operating in these countries as at when their general elections were conducted in April, 2014. What the terror groups in these countries usually embarked upon were suicide bombing and attacks. In fact, forty eight hours to their respective general elections, security personnel and civilians' lives and properties were destroyed.

Unarguably, Security is a critical component of electoral democracy. Indeed, security is part of the measures for credible and transparent election. Ensuring a fairly secure environment for voters and sensitive materials on Election Day in all areas of the country is a necessary condition for holding democratic elections. The absence of basic security measures will jeopardize, if not severely harm, the acceptability of the results (López-Pintor, 2010: 15).

To ensure the integrity of the electoral process, various security measures would need to be instituted during all phases of an election (International Foundation for Electoral Systems, 2015). Indeed, the assurance of equitable security during an electoral process is essential to retaining the participants' confidence and commitment to an election. Consequently, security is both integral to the goal of an electoral process (Dunne, 2006).

In view of this, INEC could not have continued with the 2015 general elections, if the security agencies cannot guarantee the safety of lives and properties before, during and after the elections. This however, calls to question the primary responsibility of government which is to provide security and welfare for its citizens as enshrined in Section 14 (b) of the 1999 Constitution (as amended) of the Federal Republic of Nigeria.

Furthermore, the 2015 general election rescheduling was still under the constitutionally stipulated period for the conduct of the elections by INEC. The 1999 Constitution (as

amended) stipulated that elections into the offices of the President and Vice President; Governors and Deputy Governors; membership of the National Assembly and Houses of Assembly shall hold not earlier than one hundred and fifty (150) days and not later than thirty (30) days before the expiration of the term of office of the last holder.

In addition, Section 25 of the Electoral Act (as amended) further empowers INEC to appoint date not earlier than one hundred and fifty (150) days but not later than thirty (30) days before the expiration of the term of office of the last holder. It is important to state that Section 26 of the Electoral Act, 2010 (as amended) empowers INEC to postpone elections where there is reason to believe that a serious breach of the peace would occur if the election hold on a said date. Therefore, the postponement of the election is within the purview of INEC's powers following security concerns raised by the NSA (Policy and Legal Advocacy Centre, 2015).

It is therefore my opinion that the postponement of the 2015 general elections was not in breach of any law in Nigeria. Consequently, the rescheduling of the election was in order considering the fact that May 29, 2015 (sixty three days from March 28, 2015) was the handover date; and because the Nigerian armed forces was able to reclaimed the territories during the period of postponement and subsequently went on to integrally involved the military under a special arrangement in the 2015 general elections.

However, the deployment of the military for the 2015 elections generated controversy among stakeholders in the election to the extent that court judgment was delivered on the issue. Femi Falana, a human right activist argued that the military involvement in providing security for the elections was unconstitutional. He maintained that INEC was wrong to insist that only the military could guarantee security during the 2015 general elections. He noted that the obligation to provide security and maintain law and order during the elections rests on the police and not the military.

The deployment of the military in the 2015 general elections became an issue in view of the massive deployment of the military in the Ekiti and Osun States Governorship Elections 2014, wherein some of the political parties accused the military of playing out a script in the elections. However, let me categorically state that the military were not directly involved in the 2015 general elections. The roles of the military in the elections were very limited.

No military officer was posted to any polling booth. They were deployed to major roads for security checks in order to prevent security breach during and after the elections. While the issue of security, deployment of the military and postponement of the 2015 general elections was still generating controversy among the election stakeholders, the sudden debate on the expiration of tenure of the INEC Chairman and subsequent call for his removal almost disrupts the elections.

Expiration of Tenure

In the midst of issues calling for attention among the 2015 general elections stakeholders came the speculation that the INEC Chairman might be asked to proceed on a terminal leave in March, 2015 before the expiration of his tenure in June, 2015. This issue further compounded the fears in some quarters that the 2015 general elections might not hold after its rescheduling.

The PDP led federal government was accused of plotting this inordinate agenda. Various individuals and groups including the Movement for the Actualization of the Sovereign State of Biafra (MASSOB), the Oodua People's Congress (OPC), the Afenifere Renewal Group (ARG) as well as some former militants in the Niger Delta and even some state governors (e.g. Ekiti State Governor, Ayo Fayose) call for the sack of the INEC boss (Ebhomele, 2015). Other groups and individuals kicked against the removal of Prof Jega.

Let me however state that INEC is a body established by law by virtue of Section 153 of the 1999 Constitution (as amended) of Nigeria. Furthermore, Section 157 categorically states that for the removal of the INEC boss, two-thirds majority of the Senate must support the prayer of Mr President. This must however be as a result of the inability of the chairman to discharge the functions of its office (whether arising from infirmity of mind or body or any other cause) or for misconduct. Has the chairman of INEC been declared medically unfit? Has the INEC boss failed to discharge his duties for any reason? Has he engaged in any misconduct while carrying out his responsibilities?

These questions are fundamental to the ongoing discussion in order to put the issue in perspective. That, the INEC boss predecessor, Prof Iwu was removed illegally in a manner that was undemocratic and was not challenged, call to question the practice of rule of law and constitutionalism in Nigeria's democratic process. The hullabaloo about the removal of the INEC boss appears to me as an attempt to coerce him to rescind from some of the reforms he

embarked upon in the Nigerian electoral democracy towards the preparations for the 2015 general elections.

Prof Jega is the first Nigerian to ever conduct two consecutive general elections (2011 and 2015) in Nigeria. His appointment came at a time when the democratization process was bedeviled by badly conducted elections that left Nigerians frustrated and questioning the value and validity of electoral democracy (Jega, 2013: 4). To address this ugly situation, Prof Jega started series of reforms in order to deepen Nigeria's electoral democracy. Chief among these reforms was the introduction of the smart card reader for the 2015 general elections.

Smart Card Reader: The Real Issue in the 2015 General Elections

The smart card reader was the most highly contentious and the real issue in the 2015 general elections in Nigeria. The smart card reader was a critical component in the 2015 general elections. It was used for the first time in Nigeria's electoral process and it remains one of the greatest innovative technologies in the 2015 general elections.

Past elections in Nigeria had witness the desperate bid for political power by some stakeholders with vested interests in the Nigerian electoral process. Some of these stakeholders engaged in all forms of electoral malpractices including multiple voting, impersonation, manipulation and falsification of results which had led to legal actions, electoral conflicts and violence.

Electoral malpractices make the citizens to lose confidence in the electoral process; and lack of confidence by the citizenry in the democratic process is an impediment in deepening electoral democracy because if the citizenry does not believe in the fairness, accuracy, openness, and basic integrity of the election process, the very basis of any democratic society might be threatened (Alvarez and Hall, 2008: 134).

Electoral fraud according to López-Pintor (2010: 9) has more serious political implications, in that it allows a party or candidate to take over public positions contrary to the popular will. This undermines the democratic process and usually leads to electoral violence, insecurity and political instability. The governments of Cote d'Ivoire, Peru, and Serbia all fell in the year 2000 as a result of popular rebellions against fraudulent elections. Similarly, the so called "Orange Revolution" in Ukraine in 2004 caused presidential elections to be completely re-held after extensive fraud was demonstrated (López-Pintor, 2010: 5).

In view of the negative impacts of electoral malpractices, global attention is now focusing on how to mitigate this undemocratic behaviour and improve the electoral process. One of such strategies to combat electoral malpractices is the introduction of information and communication technology into the electoral process. Though, the use of technology in elections is not an end in itself, but assists in the various aspects of electoral administration (ACE Project, n.d). It is against this background that an electronic technologically based device, the smart card reader was introduced into the Nigerian electoral process in 2015 to help improve and deepen electoral democracy.

The smart card reader is a technological device setup to authenticate and verify on election day a Permanent Voter Card (PVC) issued by INEC. The device uses a cryptographic technology that has ultra-low power consumption, with a single core frequency of 1.2GHz and an Android 4.2.2. Operating System (INEC, 2015). In other words, the INEC card reader is designed to read information contained in the embedded chip of the permanent voter's card issued by INEC to verify the authenticity of the Permanent Voter's Card (PVC) and also carry out a verification of the intending voter by matching the biometrics obtained from the voter on the spot with the ones stored on the PVC (Engineering Network Team, 2015).

The ability of the card reader to perform the above described functions as well as keeping a tally of the total numbers of voters accredited at the polling unit and forwarding the information to a central database server over a Global System for Mobile (GSM) network makes the card reader most welcome at this point in time in the nation's electoral history (Engineering Network Team, 2015).

Among the fundamental basis for the deployment of the technologically-based device in the 2015 general elections by INEC was to prevent electoral fraud; to allow the electorates votes to count; to reduce litigations arising from elections; to authenticate and verify voters; to protect the integrity and credibility of the election; to audit results from polling units across the federation; and to ensure transparency and accountability. Others are to do a range of statistical analysis of the demographics of voting for the purposes of research and planning; to build public confidence and trust in the election; to reduce electoral conflicts; to ensure a free and fair election and to further deepen Nigeria's electoral and democratic process.

In spite of the laudable goals and objectives of the smart card reader, it generated debate among the 2015 general elections stakeholders before, during and after the polls. On the one

hand, proponents of the card reader have viewed the innovation as a deliberate effort in ensuring the conduct of a free and fair election while on the other hand there have been arguments that INEC neither has the legitimate authority nor capacity to use the card reader (Policy and Legal Advocacy Centre, 2015).

The proponent of the device according to Peters (2015) believed that the card reader procedure has the capacity to prevent or minimize rigging in the sense that there would not be multiple voting while the opponents believed that in the peculiar circumstances of the Nigerian situation, the card reader is designed to assist a certain political party to win the general election. Peters (2015) maintained that the major plank of their argument is that the card reader must have been programmed to assist a pre-determined winner of the election by ensuring that so many persons would discriminately be disenfranchised to deny other parties of favourable votes thereby ensuring the winning of an INEC preferred or pre-determined party. There is also the sentiment about the use of a faith based bank to transfer money for printing of permanent voters' card and the configuration of the card reader.

The socio-political sentiments advanced against the use of the card reader could not be established. The allegation of the card readers being designed to favour a political party turned out to be completely baseless and unfounded as we have seen before and after the elections. This unsubstantiated statement led to the invasion and destruction of the APC Data Center in Lagos and subsequent arrest of the supplier of the card readers by the Department for State Security (DSS).

The DSS subtly apologized to the APC and later released the supplier of the card readers when no evidence was found. The contention that a faith based bank (JAIZ Bank) was use for the payment of the supply of the card readers appears to me as ridiculous. Was the transaction illegal? Was the bank not a license financial institution in Nigeria? Investigations show later that another bank (First City Monument Bank) was used in the electronic payment transfer for the supply of the card readers.

The use of the card reader for the 2015 general elections was also criticized on the premise that its timing was too close for over a sixty eight million Nigerian voters. Considering the fact that the device was relatively a new technology that has not been tested or tried in Nigeria, it was therefore argued that INEC should step aside the card reader in the 2015 general elections. This argument appears to me to be valid to the extent that INEC will conduct an election with

such magnitude and deploy a device that will have a far reaching impact on the electoral process, would not have used the device in previous smaller bye-elections to effectuate its effectiveness and efficiency.

Moving from manual process to infusing technology in voting process is a milestone that requires high efficiency. Between 2011 and 2015, INEC conducted Governorship Elections and bye-elections in some states of the federation. Why would INEC wait for 2015 general elections to use the card reader?

To address the issue of the card reader not been tested, INEC hurriedly conducted a test-run for the device on March 7, 2015 (21 days to the commencement of the polls) in twelve states (consisting of 225 polling units and 358 voting points) of the federation. Some of the card readers could not function effectively during the test-run. However, INEC promised to deal with the issue. This test-run exercise was carried out after the general elections were rescheduled. In other words, INEC could have conducted the general elections without test-running the device. This could have created a disaster for INEC that could only be imagined.

The legality of the use of the card reader in the 2015 general elections was one crucial aspect of the debates that critics of the card readers contested. To examine this debate, a careful study of the Nigeria's electoral jurisprudence is needed to determine whether the use of the smart card reader by INEC falls within the confines of the law. Firstly, as argued earlier, it is clear that INEC is a creation of the law as it is established under Section 153 of the 1999 Constitution (as amended) as a Federal Executive Body.

Under paragraph 15 of Part 1 of the Third Schedule to the 1999 Constitution (as amended), INEC is mandated to organize, undertake and supervise all elections in Nigeria, conduct the registration of persons qualified to vote and prepare, maintain and revise the registration of voters for the purpose of any election (Policy and Legal Advocacy Centre, 2015). It is also empowered to carry out the functions conferred upon it by virtue of the Electoral Act, 2010 (as amended).

In addition, the Policy and Legal Advocacy Centre (2015) argued that Section 118 of the 1999 Constitution (as amended) subjects the registration of voters and the conduct of elections to INEC's discretion while Section 16 of the Electoral Act, 2010 (as amended) gives power to INEC to cause to design, print and control the issuance of a voters card to voters whose names

appear on the register. Therefore, according to the Policy and Legal Advocacy Centre (2015), INEC has express and implied powers to design means, procedures and processes that enable it exercise the powers granted to it under the Constitution including for example, the use of permanent voter cards in the 2015 general elections.

No doubt, the legal framework for the 2015 general elections empowers INEC to be the electoral umpire. However, Sections 49 and 52 of the Electoral Act 2010 (as amended) had been subjected to legal debate in respect to the use of the card reader for the 2015 general elections. To some, the deployment of card readers for the accreditation of voters at the elections tactically meant adoption of electronic voting, which the 2010 Electoral Act outlaws (Oderemi, 2015). Section 49 states that:

(1) Every person intending to vote shall present himself to a Presiding Officer at the polling unit in the constituency in which his name is registered with his voter's card. (2) The Presiding Officer shall, on being satisfied that the name of the person is on the Register of Voters, issue him a ballot paper, and indicate on the Register that the person has voted. Section 52 stipulates that: (1) Voting at an election under this Act shall be by open secret ballot. (2) The use of electronic voting machine for the time being is prohibited. (3) A voter on receiving a ballot paper shall mark it in the manner prescribed by the Commission. (4) All ballots at an election under this Act at any polling station shall be deposited in the ballot box in the open view of the public.

In his contribution, Falana (2015) averred that the deployment of the card reader by INEC is not illegal. He submitted that INEC has the constitutional power to set the standards and guidelines for elections. In view of this, he argued that the card reader is part of accreditation and not voting. He maintained that what the law proscribed is electronic voting and not the card readers. Therefore, according to him the use of the card reader in the 2015 general elections is legal and legitimate (cited in Oderemi, 2015).

The Society for Advancement and Protection of Public Rights (SAPPR) (2015), a civil society in its submission argued that the deployment of the card reader is illegal because it is in violation of Section 52 (1) of the Electoral Act, 2010 (as amended). SAPPR opined that the use of the card reader for screening of voter cards or which has the effect of preventing a registered voter to vote is beyond the powers of INEC. As such, the civil society maintained that by virtue of Sections 77 (2) and 117 (2) of the 1999 Constitution (as amended) of Nigeria,

INEC had no power to deprive eligible Nigerians of the right to vote at the election (cited in Oderemi, 2015).

Banire (2015) contended that the electronic voting machine and the card reader are two different devices that are not necessarily deployed together for all purposes. He explained that a card reader is not an electronic voting machine but a machine to be used for accreditation of voters only before the actual voting. According to him, electronic voting requires no ballot papers whereas the 2015 general election was ballot paper-based. He submitted that what Section 52(2) prohibits as indicated earlier is the use of electronic voting machine but not the use of card reader for accreditation of voters.

Banire (2015) therefore argued that the use of the card reader is not prohibited. In view of this, he argued, what is not prohibited is permitted in law. He cited the case of *Ojo Bolarinwa Theophilous vs. Federal Republic of Nigeria (2012) LPELR-9846 (CA)*, wherein the Court of Appeal declared that “The basic canon of interpretation or construction of statutory provisions remains that what is not expressly prohibited by a statute is impliedly permitted”.

Thus, since the use of card reader for the purpose of accreditation of voters is not prohibited by the Electoral Act 2010 (as amended), same is definitely permitted (Banire, 2015). Furthermore, Banire maintained that accreditation of voters is not the same thing as casting of vote as a person may be accredited without presenting himself to vote. The difference between accreditation and voting is underscored according to him by Section 49(1) and (2) of the Electoral Act 2010 (as amended). In order to separate accreditation from actual voting, he opined that the 2015 INEC Guidelines and Manual for Election Officials provides that accreditation shall hold between 8.00 am and 1pm or such time as the last person on the queue finishes while, voting commences at 1.30pm or so soon thereafter when accreditation must have been completed till the last person concludes.

Citing Section 52 of the Electoral Act, 2010 (as amended), Peters (2015) argued that the use of the card reader is illegal. Section 52 clearly stipulates that the use of electronic voting machine for the time being is prohibited. He maintained that INEC has in respect of the introduction of the card reader gone beyond its limits. He submitted that the card reader was only mentioned and introduced in the Electoral Manual 2015. In view of this, according to him, it is illegal and void because the ever green policy of the law is that where a statute provides a method of

doing a particular thing, no other method would be accepted. He cited the case of *Ajuta II v. Ngene* (2002) 1 NWLR (Part 748) at p. 300 para. C. Muhammad J.C.A said;

“It has become trite that where a statute provides for the manner of doing a particular act, only that manner as provided by the enabling legislation would be acceptable. The doing of the act by a vehicle other than that provided by law for its attainment would be declared void”.

To that extent, according to Peters (2015) every other requirement including the card reader outside the said Section 49 (1) (2) of the Electoral Act that is contained in the Electoral Manual 2015 is illegal and void. He accused INEC of developing false confidence that it can do and undo under the cover of “an umpire” instead of pursuing the amendment of the law to accommodate the new invention (card reader). He advised that the Electoral Act, 2010 (as amended) be amended to bring in the card reader. Until it is done, he posited that the use of the card reader is illegal.

Peters (2015) went further to observe the contradiction between the Electoral Act, 2010 (as amended) and the Electoral Manual 2015 wherein the card reader was introduced for the accreditation process of the 2015 general elections. According to him, Section 49(1) of the Electoral Act 2010 (as amended), mandatorily stipulated that an intending voter shall present himself to the Presiding Officer for accreditation processes. Contrary to this, the Electoral Manuals 2015 said the intending voter shall rather present himself to an Assistant Presiding Officer (APO).

Peters (2015) cited the Latin maxim – “*expressio unius est exclusio alterius*” - which means that the express mention of a name or thing in a statute excludes the applicability of the things or names not specifically mentioned therein. To that extent the absence of the name of Assistant Presiding Officer (APO) in Section 49(1) of the Electoral Act underscored the position of the Electoral Act, 2010 (as amended) that an APO has nothing to do with the accreditation process in our electoral system.

When the words used in a statute is clear, it must be given its natural and ordinary meaning. It is therefore clear that electronic voting which the law prohibited in Nigeria is not the same with card reader. As such, the used of the card reader as part of the accreditation process in the 2015 general elections is in tandem with the legal frameworks for the elections. In spite of the hullabaloo about the card reader, it was eventually used for the 2015 general elections. However, the device had some challenges in its operation during the elections.

The Challenges of Smart Card Reader in the 2015 General Elections in Nigeria

In spite of the assurances given by INEC to address the issues that aroused with the card readers after its test-run in twelve states of the federation, the 2015 general elections witnessed the inability of the device to deliver effectively in a large number of polling units especially in the Presidential and National Assembly Elections. Therefore, what are the challenges the card reader was confronted with in its operation for the purpose of accreditation in the 2015 general elections?

The level of awareness among the electorates about the card reader was poor. A large number of Nigerians especially the electorates in rural communities are completely unaware of the device. Many of these categories of people have neither seen nor heard about the card reader until the election day. These categories of people have no information on the role of the card reader in the elections. There was a lot misconception about the device. To some of the electorates, the card reader was a voting device. This inadequate information dissemination and poor sensitization of the electorates on the card reader led to some poor human relations and uncooperative attitudes between some of the illiterate electorates and election officials.

The training given to the ad hoc and INEC staff on the use of the card reader was inadequate. Majority of the Presiding Officers and Assistant President Officers I in the polling units were not effectively trained on the proper use and handling of the card reader. In most cases the venues provided by INEC for their training were crowded and not conducive such that most of the trainees did not properly receive the instructions on the use of the card reader. There were imperfect practical demonstrations of how the card reader would properly be effective. In some cases two card readers were provided for a class of hundred trainees.

A large number of the trainees did not have the opportunities of operating the device. In some few cases, those that received training were replaced with those that have no proper idea of the effective use of the device. All of these led to the poor handling of the card reader during the elections to the extent that the protective film of some the card readers were not removed thereby leading to the impossibility of the device to detect thumbprints in some cases.

Card reader breakdown was also witnessed during the elections. Some of devices malfunctioned on the day of election. Though, INEC had provided back-up in case of any card reader breakdown. However, some of the back-up failed to also function. For instance, five

card readers were deployed for use at the polling unit of the Presidential Candidate for PDP in Bayelsa State yet none of them functioned. Similarly, the card reader at the polling unit of the Vice-Presidential Candidate of APC was non-functional.

A number of the smart card readers were not smart to function effectively. A few of the card readers were unable to function due to blank screen, non activation of the Subscriber Identification Module (SIM) card in the device and low battery. Some INEC officials according to Vanguard (2015) attributed the failure of the card readers to INEC engineers who could not decode the inbuilt security installation in the card reader. The security code in the card reader is reportedly designed to update the time and date of voting. One official claimed that the cards were initially programmed for February 14 that with the postponement to March 28, some of the cards readers had not been re-programmed (Vanguard, 2015).

Wherein the card readers functioned, a few of the devices were confronted with the challenge of PVC authentication and biometric data verification of the voters in the polling units. The authentication and verification of voters was part of the accreditation process for the election. A number of the PVC issued to voters by INEC could not be authenticated thereby disenfranchising some eligible voters in the elections. Wherein some voters' cards were authenticated, their biometric data could not be verified after several trials; and where it is verified, it is slow in some cases especially the fingerprints.

For instance, in Borno State, ten percent of eligible voters cards were authenticated and biometric data verified by the card readers at most of the polling units (Odiakose, 2015). However, the inability of the device to capture the fingerprints of some voters was attributed to greasy or dirty fingers of the voters. In most cases, people had to scrub their hands on the ground just to ensure that the device recognizes their finger prints (Okoro, 2015).

Following the widespread failure of the card reader, Prof. Jega, changed the guidelines (while the election was ongoing and after millions of frustrated voters had gone home disenchanted) in the conduct of the election on March 28 and approved the use of manual accreditation in areas that the smart card readers malfunctioned during the Presidential and National Assembly elections in the country (Odiakose, 2015).

The announcement by the INEC Chairman seemed to have eased accreditation in many places. However, the extent to which this announcement may have inadvertently opened the flood

gates for electoral fraud is yet to be fully analyzed (Amenaghawon, 2015). It is unfortunate that the rules of the game were changed in the middle of the electoral competition. In spite of this, the smart card reader had an impact on the 2015 general elections.

Impact of the Smart Card Reader on the 2015 General Elections in Nigeria

Despite the challenges that confronted the operation of some of the smart card readers during the 2015 general election, a significant impact of the device usage was observed after the elections. First, the use of the card reader led to the increase and reinforcement of public confidence and trust in the electoral process. This public confidence is dependent on the integrity of an election which the 2015 general election appears to possess.

Majority of Nigerians after the elections believed that their votes could count and as such their will could be respected in future elections; and this has reinforced the legitimacy of Nigerians in the democratic process. Secondly, electoral fraud was reduced. Inflation of the number of voters present and multiple voting at polling stations were reduced. The device checked the undemocratic attitude of politicians in polling booth electoral malpractices.

Thirdly, election litigations were minimized. There was a departure from the past where every election outcome is being contested at the election tribunal. Most of the candidates that lost in the 2015 general election did not challenge the outcome. In fact, some of the major contenders that did not win in the election embraced and congratulated the winners. For instance, the PDP presidential candidate immediately congratulated the APC presidential candidate, the winner of the presidential election. This attitude also happened across many states of the federation in the governorship and house of assembly elections and national assembly elections.

In addition, electoral conflicts and violence was very minimal as the election was seen to be transparent and credible due to the use of the card reader. The usually excessive and pointless attacking and degrading between the election winners and losers in past electoral contest was significantly reduced. In view of the minimal level of electoral fraud due to the use of the card reader, tensions were reduced among the political gladiators, and as such, electoral conflict and violence was grossly diminished in the 2015 general elections outcome compare to past elections in Nigeria.

Furthermore, Nigeria's democratic capacity has increased and its democratic institutions strengthened. Nigerians and Nigeria's democratic institutions now understood the knowledge needed to have a free and fair election in order to deepen the democratic process.

Smart Card Reader and Future Elections in Nigeria: The Way Forward

The introduction of information and communications technologies (ICT) into the electoral process is generating both interest and concern among voters, as well as practitioners across the globe. Today, most electoral management bodies (EMBs) around the world use new technologies with the aim of improving the electoral process (ACE Project, n.d.). These technological software and devices including the smart card reader must however be deployed in manner that will lead to their effectiveness.

No doubt, the smart card reader had played a very significant role in the 2015 general elections in Nigeria. However, there is need to ensure that the issues and challenges which confronted the use of the device before, during and after the elections do not reoccur in future elections. Therefore, a number of mechanisms would need to be in place by INEC for the deployment of the card reader in future elections so as to strengthen the democratic process.

INEC should ensure that its conduct and activities in future elections is transparent especially with the use of technology like the card reader. This is because transparency is a key principle in credible elections; and this will bring about trust and public confidence in the electoral process. Also, INEC should consult widely and carryout effective campaigns on the card reader and any other technology to be deployed in future elections.

Stakeholders including the media, political parties, civil societies, national assembly and the electorate should be adequately consulted. INEC should partner with them to carryout massive dissemination of information; sensitize them on the need to key into the technology in order to improve the electoral process and deepen the democratic process.

INEC should endeavour to manage information about the technology and changes so that stakeholders do not have unrealistic expectations and do not impose impossible deadlines (ACE Project, n.d.). These stakeholders can be engaged to make rules and regulations on the electoral process

The need to strengthen the electoral law in conformity to the technology deployed for future elections is germane. The Electoral Act, 2010 (as amended) should be amended to include the use of the card reader for biometric verification of voters for the purpose of accreditation in future elections. Therefore, the National Assembly should quickly be approached by INEC to amend the electoral legal frameworks on the use of card reader in order to address the issue of legality which the card reader had generated.

Furthermore, adequate training of election officials both temporary and permanent staff of INEC should be conducted in a conducive environment ahead of time in future elections so as to give rooms for practical demonstrations of how to use the device effectively. Enough card reader should be made available during the training session. Every one of the trainee should undergo a mock test during training. Strict compliance with all instructions handed down to the trainees should be monitored. The trainees' allowances should be paid in full in order to motivate them in handling the device properly.

INEC must regularly update and re-examine the relevance of the card reader to future elections in Nigeria because technology is not static and the level of technological change is rapid such that a device used five years ago may not be too relevant to the present day. Therefore, to conduct a credible, transparent, free and fair election in the future with the use of the card reader, INEC must invest in regular staff training and development in order to be in tune with modern day technological changes that is fast occupying the democratic landscape and electoral process. Consequently, future general elections in Nigeria should gradually continue to be technologically driven.

Conclusion

The use of the card reader generated debate before, during and after the 2015 general elections. However, the significant impact of the device despite its challenges during the election cannot be quantified. Though, INEC deployment of the card reader was to improve the electoral process and deepen the democratic process. However, lack of trust, suspicion and altercations among the stakeholders with vested interest in the election created tension within the body polity. With the use of the card reader in the 2015 general elections and the gradual deployment of technology in subsequent general elections in Nigeria, the prospect of Nigeria belonging to one of the countries of the world where elections are driven largely by technology is nearby.

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