**CONTRASTING ELECTORAL INTEGRITY, ELECTORAL FRAUD AND LEGITIMACY OF THE PROCESS**

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**Protocol**

**Introduction**

Periodic elections have come to be known as the most visible expression of freedom deemed inherent in democratic governance. Similarly, polling day has become very symbolic by its position in democracies as “an opportunity for the lawful contestation of political power.”[[1]](#footnote-1) In this regard polls present opportunity for political parties to showcase the level of public acceptability of their manifestoes (where they exist), their candidates, or performance (if in power). On the flip side, polls present opportunity for electorates (the ordinary voters) to exercise their voting rights, choose candidates that fit their purpose and or aspiration, or express pleasure or displeasure towards the party in power. To that extent, elections are branded or considered free and fair (or otherwise) depending on the proximity of its outcomes to citizens,’ contestants’ and political parties’ (perhaps observers’) expected outcome.

By its significance therefore, election (everything about elections - Electoral Integrity,[[2]](#footnote-2) Electoral Fraud and Legitimacy of the Process) is a significant event in democracies irrespective of whether it is held in developing or developed countries. Within this milieu, it is during elections that are perceived to be keenly competitive “that political parties and candidates are incentivized to manipulate the process to tip the scales in their favor, especially in the immediate vicinity of polling day.”[[3]](#footnote-3) It is that “incentive to manipulate” that often denies many electoral processes the essential conditions demanded of a “free and fair”[[4]](#footnote-4) election.

It is important to note that it is basically in representative democracies that elections are conducted periodically. In dictatorial regimes (Mugabe’s Zimbabwe, Yoweri Museveni’s Uganda, Teodoro Obiang’s Equatorial Guinea, Yahya Jamme’s the Gambia etc. ), elections are usually a formality as citizens’ choices are often not respected and the electoral systems produce predetermined results. The hallmark of representative democracies revolve around elections that are characterized by liberty of citizens to willingly participate in the electioneering processes and eventually make a choice from among eventual candidates at duly publicized elections. Those elements of freedom (freeness), openness (fairness) “level playing ground,”[[5]](#footnote-5) inclusivity for voters and contestants (franchises), competitiveness (for political parties, multi-party systems as against single party regimes, individuals voters and candidates)[[6]](#footnote-6) determine electoral integrity. While their absence define or portend electoral fraud they also determine the legitimacy accorded to a given electoral process.

**Clarification of concepts:**

The assignment here is to contrast electoral integrity, electoral fraud and legitimacy of the process. Doing justice to that requires a little of clarification of the central concepts.

**1. Election**

Periodic election is the foundation of democratic governance. Elections (voting to choose, expression of choice) provides citizens of democratic states the opportunity to directly exercise many fundamental freedoms (rights) among whom are freedom of expression and the press,[[7]](#footnote-7) freedom of peaceful assembly and association.[[8]](#footnote-8) Indirectly, elections provide citizens of democratic states the opportunity to exercise some other fundamental freedoms (Right to life,[[9]](#footnote-9) Right to dignity of human persons,[[10]](#footnote-10) Right to personal liberty,[[11]](#footnote-11) Right to freedom of movement[[12]](#footnote-12) etc.) whose enjoyment depend on the nature of government in place.

Besides the foregoing, elections grant qualified citizens the equal right to participate in the selection of their government; which concomitantly grants citizens the right to demand certain level of assurances and accordion accountability from their government.

In well-functioning (established) democracies, elections afford citizens a mechanism to challenge ineffective governments by voting them out.

**2. Electoral Integrity (credibility of elections)**

Democracy is an elitist form of government. Therefore electoral integrity is a function of the level of citizens’ political literacy and the level of the development of democratic governance in a given country. The integrity of elections are therefore predicated upon the strength of rule of law and protection of voters’ rights; the capacity of the election management body (i.e. is it properly funded, is it competent, is it sufficiently independent; is future political opportunity available to those who lose (which discourages the win-at-all cost mind-set); is there an atmosphere for universal and equal political participation; and is there transparency in (controlled / disclosed) in political financing[[13]](#footnote-13) in a given state prior and during elections.

In the midst of the identified “roadblocks,” the Kofi Annan Foundation defined electoral integrity as “any election that is based on the democratic principles of universal suffrage and political equality as reflected in international standards and agreements, and is professional, impartial, and transparent in its preparation and administration throughout the electoral cycle.”[[14]](#footnote-14) To wit, electoral integrity is touted as the magic wand that compels leaders and elected officials to assume a sense of indebtedness to electorates and the duty of accountability to the public. Without electoral integrity voters confidence in the election results would be weak, and the eventual government would lack the necessary legitimacy. Similarly, electoral integrity encourages peaceful resolution of eventual conflict.[[15]](#footnote-15)

However, electoral integrity is a complex phrase. The elements that define it, as exemplified by the Kofi Annan Foundation’s definition, obfuscate the phrase rather than clarify same for easy of appreciation and possibly measurement. For instance, while “universal suffrage” appears to be a cardinal democratic principle, does its limitation (example to adults, adult male, male only, land owners, or Electoral College) by law condemn elections conducted under such circumstance as unlawful or dishonest. As per “political equality as reflected in international standards and agreements,” does limitations posed by the absence of legal provisions for independent candidacy, requirement of geographic spread before the registration of political parties (political parties are expected to have offices in 23 states in Nigeria to qualify for registration by INEC), huge sums as party registration fees etc. derogate from the concept of “political equality.” How would an election conducted by an institution designated “Independent” National Electoral Commission (that employ Professors as Returning Officers in elections) be assessed for professionalism. Similarly, impartiality and transparency in the preparation and administration of elections are difficult variables to measure, because they are subjective / based on human (voters, candidates, political parties, observers, and courts) perception/believe. Being a process, “each step of an election process is critical to the integrity of the election.”[[16]](#footnote-16) In that case every step of the process (constitution of the electoral body, voter registration, party registration, campaigns, Election Date, voting, result collation, declaration of winners, access to data on elections after elections) are supposed to be fairly acceptable to the electorate. Has that ever happened? The answer is No.

Contestations as to the integrity of elections (Electoral integrity) are not confined to developing democracies only.[[17]](#footnote-17) They have been recorded (times and times again) in developed democracies. For instance, Fisher & Sällberg recorded that in matters of (comparative) electoral integrity in the Americas, the United States (the promoter and defender of democracy) ranks below Argentina and Chile; whereas in Europe, the United Kingdom is ranked below Portugal and Spain.[[18]](#footnote-18) In recent history, presidential elections in the United States have been smeared by happenstances that cast aspersion on the integrity of the elections (allegations of vote manipulation in Florida in favour of President Bush, allegations of vote (by mail) manipulation by Donald Trump in favour of Joe Biden).

**3. ELECTORAL FRAUD**

Democracy is all about the people. Democratic governments are therefore rightly defined as “government of the people, by the people and for the people.” To actualize this rudimentary definition of democracy elections are conducted periodically to allow the people to choose their own governments in democratic states. In that case, any departure from acceptable norms in the conduct of election are regarded as fraud.

Defined as the manipulation of electoral processes and outcomes so as to substitute personal or partisan benefit for the public interest,”[[19]](#footnote-19) electoral fraud is therefore considered the gravest form of election malpractices,[[20]](#footnote-20) and injustice to the state.

The reverberation of allegation and accusations of election manipulation in Florida during the 2000 US Presidential Election positioned electoral fraud as a subject of global interest in the study of democratic governance.[[21]](#footnote-21) Since then issues of electoral fraud has become significant in the management of elections. Studies in electoral fraud have shown that electoral fraud has been recorded in presidential elections in Italy, Mexico and several former Soviet Republics,[[22]](#footnote-22) and many African countries including Nigeria.

Scholarly works indicate that electoral fraud has multiplicity of varieties. They include but not limited to:

* vote buying, ballot stuffing and snatching and intimidation[[23]](#footnote-23)
* representations that are false, allegations that are misleading and facts that are concealed[[24]](#footnote-24)
* voter registration process problems, violence against electorate and opposition groups during campaign, vote buying that is extensive[[25]](#footnote-25)
* felon voter fraud, voter impersonation
* fraud by election officials, Mis-recording of votes[[26]](#footnote-26)
* double voting, [[27]](#footnote-27) vote suppression, under age voting
* “procedural violations of electoral laws (that may or may not distort results)
* outright use of violence against voters
* coercing voters at the polling station to cast ballots for party X or ﬁlling the ballot box with votes for party X
* polling station opening late and closing early or failing to advertise its location before election day”
* questioning whether voters met suffrage requirements
* population densities manipulation
* parties making election precincts safe for their followers and dangerous for their adversaries [[28]](#footnote-28)
* paying citizens to vote or paying them to stay at home on election day[[29]](#footnote-29)
* packing the electoral registry with the names of dead people
* violation of campaign finance laws
* manipulation of the voting process through the count.[[30]](#footnote-30)

In authoritarian regimes, “leaders tend to employ forms of electoral abuse that entail giving unfair advantage to pro-regime electoral competitors, rather than excluding either voters or competitors from the electoral arena altogether. When such regimes become weakened, they tend to ramp up forms of manipulation that favour pro-regime political forces.”[[31]](#footnote-31) Others include the manipulation of electoral rules shortly before elections;[[32]](#footnote-32) adjustment of electoral institutions: Voter manipulation by the alteration of voters’ true preferences through ensuring media bias, blocking oppositional media channels, engaging in slanderous smear campaigns against the opposition; the use of state resources for partisan electoral campaign ends that gives an unfair advantage into the electoral campaign; and through the courts.

**Electoral Integrity and Electoral Fraud**

The obvious variations in the forms and nature of electoral fraud (across time and politico-legal jurisdictions) has made it a complex concept. The first challenge is that “electoral fraud” may also present as behaviours that are fraudulent, immoral, or unsatisfactory but do offend and known laws therefore cannot be truly classified as unlawful.[[33]](#footnote-33) The other challenge is that “electoral fraud” varies in meaning in the social and legal contexts. In the social contexts, electoral fraud connotes intentional deception aimed at getting an unlawful and unfair benefit from elections;[[34]](#footnote-34) “purposeful steps embarked on to temper election activities and its related materials so as to affect the results of the election, which may possibly interfere with the will of the voters or thwart it;” [[35]](#footnote-35) and or “clandestine and illegal efforts to shape election results.”[[36]](#footnote-36) In the legal context however, electoral fraud is offence against electoral laws only.

This variation in the social and legal contexts of electoral fraud has undue influence of election outcomes. Oftentimes visible acts of malpractice at elections do not justify cancellation of elections or the return of candidates as they are not substantial offences known to law.[[37]](#footnote-37) The best they achieve is to have the electorates grumble or protest in the streets. But it does erode citizens’ trust in the democratic process and perhaps the state.

Where the outcome of elections are challenged in courts, it has revolved around the impact of electoral fraud on the integrity of the election. Therefore the extended connotation of electoral integrity is that citizens must have access to credible mechanisms to challenge contested results and such a mechanism must not retain a posture that justifies its decisions as an extension of electoral fraud. To that extent, the judiciary, the media, electoral institutions and oversight bodies, electoral rules, should be made strong enough to withstand manipulations by willing perpetrators.[[38]](#footnote-38)

Electoral fraud rise to dent electoral integrity the most in democratic elections where the transfer of executive power is genuinely at stake. Such circumstance serve as the incentives to manipulate the ballot box.

**The legitimacy of the electoral process**

Governments in democracies derive their legitimacy (or test same) from periodic elections. This is by the fact of the opportunity elections present for citizens to determine who governs them. Elections present citizens opportunity to hold their leaders accountable by voting them into, or out of, office. For any election to meet this need, it must be substantially inclusive, transparent, and competitive in such a manner that would permit citizens to participate without let or hindrance as well as accept an election process and its outcome as representing their will, and election data must be open to citizens during and after an election.[[39]](#footnote-39)

On its apart, the legitimacy of an election depends to a large extent on the actual and perceived integrity of the electoral process. If voters and candidates believe that an election is fraudulent or has been poorly administered, they may not accept the outcome. At best, this can breed public dissatisfaction or disinterest; at worst, violence, ineffective governance and long-term instability.[[40]](#footnote-40)

The concept of electoral integrity, electoral fraud and legitimacy of the process are intimately intertwined and mutually inclusive. While the concept of electoral integrity is responsive to or measured by the level of adherence or conformity to democratic standards of electoral conduct (i.e. inclusiveness, transparency, impartiality); electoral fraud is responsive to or measured by the level of deviation from electoral laws, rules and regulations or by the level of corruption[[41]](#footnote-41) of the electoral process (i.e. “illicit manipulation of electoral rules, the illicit manipulation of electoral procedures and the illicit manipulation of the behaviour of voters.”[[42]](#footnote-42))

Elections devoid of legitimacy due to the presence of fraud ushers in corruption due to the fact that such elections often “projects into positions of supreme power individuals who are prepared to sacrifice democracy to their own personal and partisan ends.” “Moreover, many forms of electoral malpractice are costly, which puts further pressure on elected politicians to engage in corruption in order to fill their electoral war chests. A vicious cycle thus forms between electoral malpractice and corruption in public office.

Electoral fraud also undermines regime legitimacy, which makes it more difficult for leaders to lead, reduces the willingness of citizens to comply with the law, and undermines citizen efficacy and political engagement. In some circumstances, electoral malpractice can even prompt widespread violence, as has happened in recent elections in Cote d’Ivoire, Libya and elsewhere. Far from being a minor irritant to a well-functioning state, electoral malpractice eats away at the very fabric of good governance and prevents democracy from taking hold.”[[43]](#footnote-43)

**Conclusion**

It is not entirely bad. As observed by Sarah Birch, elections often need to become problematic before they can get better. This condition is more particularly described in the Lenin’s famous phrase ‘electoral tango’ - a two-step-back-one-step-forward process.”[[44]](#footnote-44)

Theconsolation for democracies is that the intensification of electoral fraud may often be a harbinger of impending improvement[[45]](#footnote-45) - that is - if the deterioration in election quality is just sufficient only for a popular uprising that will bring about democratic change,”[[46]](#footnote-46) but not sufficient to bring the state to its knees.

However, **PLEASE** note that the operative word in the description of the “benefit” electoral fraud brings to the development of the integrity of state’s electoral process and its accordion legitimacy is “**MAY.**”

1. Stephen Dawson (2020): Electoral fraud and the paradox of political competition, Journal of Elections, Public Opinion and Parties, DOI: 10.1080/17457289.2020.1740716 To link to this article: https://doi.org/10.1080/17457289.2020.1740716 [↑](#footnote-ref-1)
2. Alvarez RM, Hall TE and Hyde SD (2008) Election Fraud: Detecting and Deterring Electoral Manipulation. Washington, DC: Brookings Institution. [↑](#footnote-ref-2)
3. Stephen Dawson (2020): Electoral fraud and the paradox of political competition, Journal of Elections, Public Opinion and Parties, DOI: 10.1080/17457289.2020.1740716 To link to this article: https://doi.org/10.1080/17457289.2020.1740716 [↑](#footnote-ref-3)
4. Bishop, Sarah, and Anke Hoeﬄer (2016) “Free and Fair Elections.” Journal of Peace Research 53 (4): 608–616. [↑](#footnote-ref-4)
5. Birch S (2011) Electoral Malpractice. Oxford: Oxford University Press. [↑](#footnote-ref-5)
6. Sarah Birch (2016) “The Electoral Tango: the Evolution of Electoral Integrity in Competitive Authoritarian Regimes.” The lecture was delivered on 17 February 2016. Max Weber Lecture No. 2016/02, European University Institute [↑](#footnote-ref-6)
7. Section 39 of the Constitution of the Federal Republic of Nigerian, 1999 [↑](#footnote-ref-7)
8. Section 40 of the Constitution of the Federal Republic of Nigerian, 1999 [↑](#footnote-ref-8)
9. Section 33 of the Constitution of the Federal Republic of Nigerian, 1999 [↑](#footnote-ref-9)
10. Section 34 of the Constitution of the Federal Republic of Nigerian, 1999 [↑](#footnote-ref-10)
11. Section 35 of the Constitution of the Federal Republic of Nigerian, 1999 [↑](#footnote-ref-11)
12. Section 41 of the Constitution of the Federal Republic of Nigerian, 1999 [↑](#footnote-ref-12)
13. See the Kofi Annan Foundation (2012) (the items listed are positive assertions of the items listed therein as roadblocks) [↑](#footnote-ref-13)
14. Ibid [↑](#footnote-ref-14)
15. See https://aceproject.org/ace-en/topics/ei/explore\_topic\_new [↑](#footnote-ref-15)
16. https://openelectiondata.net/en/guide/electoral-integrity/ [↑](#footnote-ref-16)
17. See Alvarez RM, Hall TE and Hyde SD (2008) Election Fraud: Detecting and Deterring Electoral Manipulation. Washington, DC: Brookings Institution. See also Justin Fisher and Yohanna Sällberg (2020) “Electoral integrity – The winner takes it all? Evidence from three British general elections”. The British Journal of Politics and International Relations 2020, Vol. 22(3) 404 –420 © The Author(s) 2020 [↑](#footnote-ref-17)
18. Norris P (2018) Electoral integrity. In: Fisher J, Fieldhouse E, Franklin MN, et al. (eds) The Routledge Handbook of Elections, Voting Behavior and Public Opinion. Abingdon: Routledge, pp.220–231. [↑](#footnote-ref-18)
19. Sarah Birch (2012) electoral malpractice. Oxford Scholarship Online [↑](#footnote-ref-19)
20. Lopez–Printor, R. (2010). Assessing electoral fraud in new democracies: A base conceptual framework international foundation for electoral system white paper. [↑](#footnote-ref-20)
21. Alvarez, R. M., Hall, T. E. & Hyde, S. D. (2009). Election fraud: Detecting and Deterring Electoral Manipulation. Washington: Brookings Institution Press. Retrieved July 1, 2019, from Project MUSE database. [↑](#footnote-ref-21)
22. Edori D. S. Major Harvest I., Ohaka J. “Forensic Investigation and Electoral Fraud in Nigeria” Journal of Accounting and Financial Management E-ISSN 2504-8856 P-ISSN 2695-2211 Vol 6. No. 3 2020 www.iiardpub.org [↑](#footnote-ref-22)
23. Ibid [↑](#footnote-ref-23)
24. Edori, D. S. & Edori, I. S. (2018). Auditing and fraud control in corporate organization. Research journal of finance and accounting, 9(8), 190 – 196. [↑](#footnote-ref-24)
25. See Kerr, N. (2013). Popular evaluations of election quality in Africa – Evidence from Nigeria. Electoral studies 32(4): 819 – 837. See also EDORI D. S. Major Harvest I., OHAKA J. “Forensic Investigation and Electoral Fraud in Nigeria” Journal of Accounting and Financial Management E-ISSN 2504-8856 P-ISSN 2695-2211 Vol 6. No. 3 2020 www.iiardpub.org [↑](#footnote-ref-25)
26. Eg This involves diverse methods or tactics used with the aim of reducing the number of voters in an election. This was alleged in 2015 presidential election in Nigeria due to the lopsided distribution of permanent voters card (PVC). A situation where the voters card distributed in the NorthEast of Nigeria that was under attack by the Boko Haram insurgence got more per cent of voters card collected that the peaceful South-East of Nigeria. See Edori D. S. Major Harvest I., Ohaka J. “Forensic Investigation and Electoral Fraud in Nigeria” op cit [↑](#footnote-ref-26)
27. See ibid [↑](#footnote-ref-27)
28. Fabrice Lehoucq (2003) “Electoral Fraud: Causes, Types, and Consequences” annual review of political science [↑](#footnote-ref-28)
29. Cox GW, Kousser JM. 1981. Turnout and rural corruption: New York as a test case. Am. J. Polit. Sci. 25:646–63 [↑](#footnote-ref-29)
30. Birch S (2011) Electoral Malpractice. Oxford: Oxford University Press. [↑](#footnote-ref-30)
31. Sarah birch (2016) “The Electoral Tango: the Evolution of Electoral Integrity in Competitive Authoritarian Regimes.” The lecture was delivered on 17 February 2016. Max Weber Lecture No. 2016/02, European University Institute [↑](#footnote-ref-31)
32. This is arguably the easiest, cheapest and safest form of electoral manipulation, as it involves subtle and not-so-subtle alterations to the laws and other rules governing the electoral process. They eventually are not deemed electoral fraud or illegal. See Sarah birch (2016) “The Electoral Tango: the Evolution of Electoral Integrity in Competitive Authoritarian Regimes.” Op cit [↑](#footnote-ref-32)
33. For example, “landlords are not guilty of electoral fraud when all their retainers vote for their party. Regardless of whether peasants have been duped into voting in favor of the landlord’s party or wish to avoid the reprisals associated with voting against their employer, these activities are not really fraudulent, even if they are morally reprehensible. Even if we can demonstrate that retainers voted against their own interests, we cannot call this fraudulent unless a law has been broken.” Fabrice Lehoucq (2003) “Electoral Fraud: Causes, Types, and Consequences.” Op cit [↑](#footnote-ref-33)
34. See Edori, D. S. & Edori, I. S. (2018). Auditing and fraud control in corporate organization. Research journal of finance and accounting, 9(8), 190 – 196. [↑](#footnote-ref-34)
35. Lopez–Printor, R. (2010). Assessing electoral fraud in new democracies: A base conceptual framework international foundation for electoral system white paper. [↑](#footnote-ref-35)
36. Fabrice Lehoucq (2003). Op cit [↑](#footnote-ref-36)
37. This is the reason why incumbents are often tweaking the electoral laws shortly before elections. [↑](#footnote-ref-37)
38. See Molina, Ivan, and Fabrice Lehoucq (1999). “Political Competition and Electoral Fraud: A Latin American Case Study.” Journal of Interdisciplinary History 30 (2): 199–234; see Lehoucq, Fabrice, and Kiril Kolev (2015). “Varying the Un-variable.” Political Research Quarterly 68 (2); see also Birch, Sarah, and Caroline Van Ham (2017). “Getting Away with Foul Play? The Importance of Formal and Informal Oversight Institutions for Electoral Integrity.” European Journal of Political Research 56: 487–511. [↑](#footnote-ref-38)
39. https://openelectiondata.net/en/guide/electoral-integrity/ [↑](#footnote-ref-39)
40. https://www.ifes.org/issues/electoral-integrity-assessments [↑](#footnote-ref-40)
41. “The abuse of the electoral process for private or partisan ends.” See Sarah birch (2016) “The Electoral Tango: the Evolution of Electoral Integrity in Competitive Authoritarian Regimes.” The lecture was delivered on 17 February 2016. Max Weber Lecture No. 2016/02, European University Institute [↑](#footnote-ref-41)
42. Birch, Sarah (2011). Op cit. [↑](#footnote-ref-42)
43. Ibid, p 2 [↑](#footnote-ref-43)
44. Sarah birch (2016) “The Electoral Tango: the Evolution of Electoral Integrity in Competitive Authoritarian Regimes.” The lecture was delivered on 17 February 2016. Max Weber Lecture No. 2016/02, European University Institute, p 4 [↑](#footnote-ref-44)
45. Ibid, p 10 [↑](#footnote-ref-45)
46. Ibid [↑](#footnote-ref-46)