
Voting Rights for Members of the Nigerian Diaspora

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In 2012, six Members of Nigeria's Federal House of Representatives led by Abike Dabiri-Erewa, House Committee Chair on Nigerians in the Diaspora sponsored a Legislative Bill that seeks to amend Nigeria's Electoral Act 2010 in order to grant Nigerians in the Diaspora the right to vote during general elections in Nigeria. This article provides a detailed review of the provisions of the proposed legislation in order to ascertain and expand the rationale for the Bill, the advantages and disadvantages of the Bill, constitutional and legal issues around the Bill and a comparative analysis of similar legislation in other countries.

Nigeria's Electoral Act 2010 is divided into 9 major Parts, 158 Sections and three Schedules. The Act provides for the establishment and functions of the Independent National Electoral Commission (INEC)¹, the Procedure at Elections; National Voters Register and Voters Registration; Formation, Functions and Powers of Political Parties; Electoral Offences, among other things.

The Act however, does not make provision for voting rights for Nigerians in the Diaspora during general elections. This is the problem the sponsors of the Bill want to address. The Bill is targeted at the Nigerian electorates, the electoral system and Nigerians in the Diaspora. If passed into law, the outcome will empower over 17 million Nigerians in the Diaspora² to vote during general elections. Nevertheless, the introduction of the Bill has generated thorny debates among scholars, policy analysts, political commentators and Parliamentarians. Some have argued that the promulgation of the Bill into law is necessary given the urgent need for a legal provision that will empower Nigerians in the Diaspora to vote during general elections³. Their argument is predicated upon the premise that it has become a global practice in modern democracies for citizens in Diaspora to vote in general elections of their countries of origin^{4 5}. Others have however, argued against the

provisions of the Bill principally from institutional and economic point of view⁶. The central thesis of the argument here is that passing the proposed legislation into law will bring much pressure to bear on the human and institutional capacities of the Independent National Electoral Commission (INEC) given that the electoral body as it is currently constituted, lacks the capacity to conduct overseas elections⁷. Others have also submitted that the proposed legislation will bring financial pressure on the Nigerian economy if promulgated into law⁸.

Summary of the Provisions of the Bill

Structurally, the Bill is divided into 5 Sections. Section 1 deals with the proposed amendment of the Principal Act; the Electoral Act 2010; Section 2 provides for the establishment of the offices of the electoral commission within and outside Nigeria. Specifically, it seeks to amend Section 6(1) of the Principal Act to read "there shall be established in each State of the Federation and Federal Capital Territory or any other designated country⁹, an office of the Commission which shall perform such functions as may be assigned to it, from time to time, by the Commission." Section 3 seeks to introduce a new Subsection 4 into Section 9 and to renumber of the existing Sub-section 4 to read 5. Section 4 provides for the qualification for registration for the purposes of voting in elections. Specifically, it seeks to amend Section 12(1)(c) of the Principal Act by adding the words "or is a Nigerian in Diaspora" while Section 5 provides for the interpretation and citation of the Bill.

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Constitutional Issues around the Bill

The proposed amendment of the Electoral Act 2010 by the legislative Bill, to grant voting rights for Nigerians in the Diaspora contravenes neither the Nigerian constitution nor any other known law in Nigeria. Rather, it revolves around and seeks to strengthen the following constitutional issues as provided for in the 1999 Constitution of the Federal Republic of Nigeria¹⁰ as amended;

- i. Franchise: Right to vote and be voted for;
- ii. Rights of representation;
- iii. Right to choose a candidate in an election;
- iv. Right to be informed of what representatives are doing with your mandate (Constituency Briefing);
- v. Right to ascertain the level of constituency development; and
- vi. Right of recall.

The fact that the proposed Bill does not contravene the provisions of the 1999 Constitution of the Federal Republic of Nigeria has added to the strengths of the arguments for the passage of the Bill.

Cross Country Comparisons

The use of absentee voting dates back to the period of the Roman Emperor Augustus (c.62 BC – 14 AD), who is said to have “invented a new kind of suffrage under which the members of the local senate in 28 newly established colonies cast votes for candidates for the city offices of Rome and sent them under seal to Rome for the day of the elections.”¹¹ The practice has since then spread across the world. Currently, there are around 115 countries and territories¹² – including nearly all developed nations – that have systems in place that allow their citizens in the Diaspora to vote. A breakdown of the figure is as follows:

- a. 28 African countries;
- b. 16 countries in the Americas;
- c. 41 countries in Western, Central and Eastern Europe;
- d. 10 Pacific countries; and
- e. 20 Asian countries¹³

In 1862, Wisconsin became the first of a number of US states that enacted provisions to allow absentee voting by soldiers fighting in the Union army during the Civil War. By 1968, the absentee voting system through legislations applied to all US citizens (military and civilians) abroad and in 1975, registration provisions for overseas voting

became mandatory for States in the US.¹⁴ While New Zealand introduced absentee voting for seafarers in 1890, it was adopted by Australia in 1902. In the United Kingdom, the introduction of absentee voting system for military personnel was in 1918 but by 1945, the right to vote had been extended to cover “merchant seamen and others working overseas on matters of national importance” and by the 1980s, all British Citizens overseas had been enfranchised.¹⁵

In Canada, absentee voting was introduced principally for military personnel between 1915 when it was first debated at the federal level and 1917 when the federal elections took place, in France 1924, in India 1951, in Indonesia 1953, in Colombia 1961, in Spain 1978, in Argentina 1993 and in Austria 1990, amongst others.¹⁶

According to Andy Sundberg,¹⁷ the reasons for the introduction of external voting differ from one country to another but are largely determined by “historical and political contexts.” For instance, in the US, UK, New Zealand, Australia, amongst others, “the introduction of the right to vote for overseas citizens was an acknowledgement of their active participation in World War I or World War II”¹⁸ and other military engagements. In other countries, absentee voting was introduced for the purposes of enhancing the political fortunes of the ruling political parties and elite but the case of the United States, according to Sundberg, “provides an example of those rare cases where external voting was finally enacted in response to the demands of the citizens residing overseas.”¹⁹

Even countries with a large number of their citizens in the Diaspora like Italy have recently allowed them to vote and the number is increasing. In Latin America generally, the arguments have focused extensively on the influence of Diaspora votes on the outcomes of their elections. Here, the focus was on the Dominican Republic, Mexico and Venezuela.²⁰ Prior to its presidential election on May 20, 2012, The Dominican Republic seriously debated the matter and eventually granted voting rights to its citizens in the Diaspora. Mexico also debated the possibility of its citizens in Diaspora voting and finally legislated in its favour given the overwhelming support the debate enjoyed²¹. Venezuela also permits its citizens in the Diaspora to vote in general elections, though this has been considered as being of much less potential in deciding the outcome of elections as in the case of Dominican Republic.²²

Analytics

Amongst other things, it is my view here that not allowing Nigerians in the Diaspora to vote in general elections amounts to a denial of their fundamental political rights of voting and being voted for as provided for in the 1999 Constitution of the Federal Republic. Secondly, since Nigerians in the Diaspora are making meaningful contributions to the socio-economic development of the country through investments, remittances²³ and attraction of foreign investors, it is reasonably logical that they are granted the right to vote in general elections that determine, in the long run, their political and socio-economic fate. Thus, granting them voting rights may guarantee greater chances of the further contribution to socio-political development and economic growth of Nigeria. Thirdly, the votes of about 17 million Nigerians²⁴ of voting age who live and work outside Nigeria will make significant impact in determining the outcome of elections in Nigeria and in conferring credibility to the entire electoral process and the outcomes of elections.

The validity of the foregoing arguments notwithstanding, the proposed Bill in its current state is inadequate to address the issues of absentee voting. For instance, the Bill does not categorically provide for the type of elections in which Diaspora voting will be permitted. For instance, from the countries examined, there are four principal types of elections where absentee voting takes place as shown in Table 1;

Table 1:
Different Types of Elections in Which Absentee Voting is Permitted

Type of Election	Number of Countries
Presidential Elections	64
Legislative Elections	92
Sub-National Elections	25
Referendums	38

Source: Compiled with information from Andy Sundberg, “The History and Politics of Diaspora Voting in Home Country Elections”

Secondly, the Bill does not provide the voting methods or options that will be adopted for absentee voting during the elections. Available statistics indicate that there are about five different methods of

voting adopted by countries where absentee voting is currently permitted as shown in Table 2;

Table 2: Voting Methods and Options in Use

Voting Methods/Options	Number of Countries
Voting in Person	79
Voting by Post	47
Voting by Proxy	16
Voting by Fax	2 (Australia & New Zealand)
Voting by Internet	2 (Estonia & Netherlands)

Source: Compiled with information from Andy Sundberg, “The History and Politics of Diaspora Voting in Home Country Elections.”

Thirdly, the Bill places no restrictions whatsoever either in terms of time (maximum number of years spent in abroad), condition of stay in abroad, income level or any other. For instance, Andy Sundberg has submitted that 14 countries that allow voting by their Diaspora communities impose some time restrictions on such electoral participation. This is as shown in Table 3.

There is no doubt however, that granting voting rights to Nigerians in the Diaspora will be at additional financial and material cost to the country. Obviously, this will bring some pressure to bear on the Nigerian state and its economy.²⁵ This is because, the process will require the expansion of the electoral institutions beyond Nigeria, which will require the expansion of its workforce, creation of new offices and the provision of other logistics that may result in increased financial costs. In addition, the passage of the proposed Bill will task the institutional adequacies and human capacities of Nigeria’s electoral institution. Unfortunately, the Bill has provided no clue as how these challenges could be tackled.

The shortcomings and anticipated disadvantages of the proposed Bill notwithstanding, it is expected that in the long run, Nigeria stands to benefit politically from the introduction of absentee voting. Apart from being in line with current global trend, it will enhance the credibility and international rating of general elections in Nigeria.

Table 3
Restrictions on Diaspora Voting

S/N	Country	Only a Provisional Stay Abroad Allowed	Maximum Time Abroad (Years)	Other
1	Australia		6	
2	Canada		5	
3	Chad			Voter must be enrolled in the consular registry six months before the beginning of the electoral process
4	Cook Island		4	Exceptions for those abroad for medical care or education
5	Falkland Islands			Only a temporary stay in the UK is allowed
6	Gibraltar	1		
7	Guernsey	1		
8	Guinea		19	
9	Isle of Man	1		
10	Jersey	1		
11	Mozambique			Voter must spend at least one year abroad before beginning registration as a voter abroad
12	New Zealand		3	
13	Senegal			Voter must spend at least six months in the jurisdiction of a diplomatic representation abroad
14	UK		15	

Adopted from Andy Sundberg, “The History and Politics of Diaspora, Voting in Home Country Elections” (p.6)

Conclusion

Nigerians in the Diaspora currently have no voting rights in Nigeria. The situation is becoming somewhat unusual in the light of current global developments. Thus, providing voting rights for Nigerians in the Diaspora as the Bill seeks to do is in line with the current global trend as has been shown above.

Thus, the non-provision of voting rights for Nigerians in the Diaspora in the Electoral Act 2010 is therefore, the major focus of this Bill. Its provisions as highlighted above are aimed at ensuring that the Act is amended to provide voting rights for Nigerians in the Diaspora.

The proposed amendment of the Principal Act in Sections 6(1), 9(4) and 12 (1) (c) by the Bill and the insertions in the Bill do not contradict the 1999 Constitution of the Federal Republic of Nigeria or any other known law in Nigeria. However, a comparative analysis of what obtains in other countries shows that the proposed Bill in its current state is inadequate to address the issue of absentee voting as it obtains in other countries. There is therefore, need for the provisions of the Bill to be expanded to provide for issues such as methods of voting, types of elections and eligibility for voting by Diasporas.

It is however, expected that granting Nigerians in the Diaspora voting rights will create a sense of belonging and will boost their interests in contributing to Nigeria's socio-economic and political development. In addition, it is believed that this proposed electoral system will enhance the integrity and credibility of the outcomes of elections in Nigeria.

From the foregoing analysis, the proposed amendment of the 2010 Electoral Act to grant voting rights for Nigerians in the Diaspora seems appropriate though the provisions of the Bill need to be expanded. Expectedly however, the passage of the Bill will throw up institutional, logistical and financial challenges, which could be overcome by providing legal framework for their timely provisions. This notwithstanding, the enactment of the Bill is considered necessary.

Notes

- 1 INEC is the statutory body saddled with the responsibility of conducting elections in Nigeria.
- 2 Charles Soludo, "Is Nigeria Losing Her 17 Million Diaspora?", *This Day*, February 2, 2013, <http://www.thisdaylive.com/articles/is-nigeria-losing-her-17-million-diaspora-/138311/>
- 3 Alphosus Agborh, "Group Wants Voting Rights for Nigerians in the Diaspora", *Nigerian Tribune*, September 23, 2011.
- 4 Acho Orabuchi, "Time to Reconsider Diaspora Voting Right Bill", *Daily Sun*, April 19, 2012.
- 5 News Agency of Nigeria (NAN), "Nigerians in Diaspora Collect Signatures to Support Voting Right," *Leadership*, September 5, 2012, http://leadership.ng/nga/articles/34233/2012/09/05/nigerians_diaspora_collect_signatures_support_voting_right.html?quicktabs_1=2&quicktabs_3=1
- 6 Henry Umoru, "Nigeria not Ripe for Diaspora Voting, says Andy Uba," *Vanguard Newspaper*, April 23, 2012. Retrieved June 4, 2012 from www.vanguard.com/2012/04/nigeria
- 7 Nigerian Tribune Editorial, "Voting Rights for Nigerians in the Diaspora," *Nigerian Tribune*, December 13, 2012, <http://tribune.com.ng/news2013/index.php/en/world-news/item/1053-voting-rights-for-nigerians-in-the-diaspora/1053-voting-rights-for-nigerians-in-the-diaspora?start=75>
- 8 Bennie Iferi, "No Voting Right for Nigerians in Diaspora Soon," *Daily Times*, October 21, 2011, <http://www.dailytimes.com.ng/article/no-voting-rights-nigerians-diaspora-soon>
- 9 The highlighted phrase is the new insertion that the Bill seeks to make in Principal Act.
- 10 See Sections 33 to 45, 69 and 110 of the 1999 Constitution of the Federal Republic of Nigeria as amended.
- 11 Andy Sundberg, "The History and Politics of Diaspora Voting in Home Country Elections", Paper prepared based on information from Andrew Ellis and other sources in, "Voting from Abroad," The International IDEA Handbook, 2007.
- 12 Collyer, M and Vathi, Z. (2007: 29 – 36), Patterns of Extra-territorial Voting Sussex: Centre on Migration, Globalization and Poverty.
- 13 Sundberg, p.6.
- 14 Ibid. p.1
- 15 Ibid. p. 2
- 16 Ibid.
- 17 Ibid.
- 18 Ibid. p.1
- 19 Ibid.
- 20 Mark Keller (2012), "Can Diaspora Vote Influence Latin American Elections?" Retrieved June 1, 2012 from www.as-coa.org/article.php
- 21 David Gutierrez, Jeanne Batalova, and Aaron Terrazas, The 2012 Mexican Presidential Election and Mexican Immigrants of Voting Age in the United States, Migration Policy Institute, April 2012, <http://www.migrationinformation.org/usfocus/display.cfm?ID=890#2>
- 22 Mark Keller (2012), "Can Diaspora Vote Influence Latin American Elections?" p. 2.
- 23 According to the World Bank's figures, Nigeria received about 10 per cent of its GNP (about \$21 billion) in 2012 as remittances (see Charles Soludo, "Is Nigeria Losing Her 17 Million Diaspora?" *This Day*, February 2, 2013.
- 24 Charles Soludo, "Is Nigeria Losing Her 17 Million Diaspora?" *This Day*, February 2, 2013, <http://www.thisdaylive.com/articles/is-nigeria-losing-her-17-million-diaspora-/138311/>
- 25 Henry Umoru, "Nigeria not Ripe for Diaspora Voting, says Andy Uba," *Vanguard Newspaper*, April 23, 2012. Retrieved June 4, 2012 from www.vanguard.com/2012/04/nigeria