Electoral Reform in Nigeria: Prospects and Challenges

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ELECTORAL REFORM IN NIGERIA: PROSPECTS AND CHALLENGES

BY

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BEING AN ESSAY SUBMITTED TO THE NATIONAL ORIENTATION AGENCY
“Unconventional responses can have a better chance of Working than following old ways that are known to fail”

INTRODUCTION

A brief definition of terms is pertinent in an essay like this within the context. “Electoral” means connected to elections. “Reform” means to improve something by making changes to it. “Challenges” mean a difficult task, and “opportunities”, circumstances being right to do something. Elections can be defined as a formal act of collective decision that occurs in a stream of connected antecedent and subsequent behaviour. It involves the participation of the people in the act of electing their leaders and their own participation in governance. Elections are not only about the Election Day activities although it forms an important component. It encompasses activities before, during and after election and includes among other things, the legal and constitutional framework of elections, the registration of political parties, party campaigns and financing, activities of the electoral agencies, media, security agencies, and the government in power, voters registration, independence of the adjudicating bodies, etc.

THE ELECTORAL ADVANTAGE AND NIGERIA’S IMPORTANCE

Elections are such a routine event, and so common around the world that it is easy to lose sight of its importance for democratic development. Elections shape the fate of any nation and determine the way changes in the social order may be brought about. It is an affirmation of the rule of the people which is the foundation of democracy. When elections are flawed it becomes a threat to the survival of democracy.

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1 Oxford Advanced Learner’s Dictionary
Nigeria with an estimated population of about 150 million people, and an abundant human and natural resources has played and continues to play a vital role in Africa’s political development. It has been canvassed that for policymakers everywhere, Nigeria should be the central African question as no country’s fate is so decisive for the continent. If Nigeria works so might Africa. If the democratic experiment in Nigeria stalls, and development and governance stagnate, the rest of Africa suffers and loses hope⁴. There is thus, the need for Nigeria to have credible elections.

**ELECTIONS AND ELECTORAL PRACTICES IN NIGERIA**

Notwithstanding her strengths and her enviable role in the political development of Africa, general elections in Nigeria from 1959 to 2007 have been characterised by malpractices and controversies⁵. Thus, how to purge our electoral process in Nigeria of the flaws that have prevented it from achieving even modicum credibility is a great concern in the polity today⁶.

Realising that the 2007 general elections that brought him to power were flawed, President Umaru Yar’dua set up the Electoral Reform Panel (ERP) headed by retired Chief Justice of Nigeria, Muhammed Uwais, currently on a public sitting collecting ideas on the way forward. (This was at the time of writing the essay submitted to the National Orientation Agency. At Present, the ERP has submitted its report). The envisioned reforms are targeted at strengthening our institutional capacity for conducting transparent elections in order to restore integrity to the process. However, the 22-member panel with a mandate⁷ has been criticised for lacking critical stakeholders- politicians, political parties, civil society, etc. in

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⁵ See for instance, Kenneth Wollack’s (President, National Democratic Institute) statement before the Committee on Foreign Affairs Sub-Committee on Africa and Global Health, U.S. House of Representatives, June 7, 2007 retrieved from the website: [http://foreignaffairs.house.gov/110](http://foreignaffairs.house.gov/110)


⁷ Under its terms of reference, it is to inter alia, undertake a review of Nigeria’s history with general elections and identify factors which affect the quality and credibility of the elections and their impact on the democratic process, etc.
Perhaps the government needed non-partisan men and women of integrity. In other words, being part of the problem, politicians/political parties could not be part of the search for solution. It is observed that this is ridiculous, because a problem creator should be able to use his experience to find solutions to it being “field men”. Also, although some have argued that electoral reform before constitutional reform is like putting the cart before the horse in that many electoral problems facing the nation were constitutional, yet the ERP may make recommendations to that effect where necessary.

**CHALLENGES AND OPPORTUNITIES**

There is the urgent necessity for fundamental electoral reform so as to set a solid foundation for a stable democracy in Nigeria. The challenges and opportunities for electoral reform are so numerous, but in this essay top priority will be given to substantive issues of electoral reform for obvious reasons. They are discussed in the following headings:

**POLITICAL VIOLENCE**: This has been aggravated by the unwillingness of politicians to play by the rules of the game. The rising spate of unemployment and the proliferation of small arms and light weapons have increased this phenomenon. More often than not, law enforcement agents who are ill-equipped and ill-trained to handle outbreak of political violence contribute to the problem.

**RECOMMENDATIONS**

(a) There should be a comprehensive employment policy to cater for the needs and aspirations of the Nigerian youths so as to remove them from the evil grip of idleness and re-channel their energies into productive undertakings.

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9 Kayode Akinmade, Ibid.
(b) Efforts should be geared towards reducing the proliferation of arms and weapons especially in the Niger delta.

(c) Law enforcement agents should be well-equipped and adequately trained on electoral laws and guidelines to change their regimental attitude and see their duties more as civic responsibilities.

(d) Civil society organisations (CSOs) and community based organisations (CBOs) must intensify efforts in sensitising communities about the need for conflict resolution, consensus-building and the prevention of violent-related elections.

**COMPETITIVE RIGGING AND ELECTORAL PARTICIPATION**: Nigerians do not have a voice and choice in elections. The pervasive culture of impunity and executive lawlessness in governance has nourished and intensified this phenomenon of competitive rigging thereby affecting participation in elections. More so, the Independent National Electoral Commission (INEC) is only independent in name.

**RECOMMENDATIONS**

(a) Effective punitive measures with stiff penalties should be applied to electoral fraudsters to discourage perpetrators. Although the Electoral Act 2006 makes provision for the punishment of offenders\(^\text{10}\), prosecution for offences are to done by INEC\(^\text{11}\) even when it is common knowledge that INEC and its agents are involved. The indictor and the indicted are one and the same\(^\text{12}\). Hence there should be the establishment of both an Election Offences Tribunal and an Electoral Offences Commission\(^\text{13}\). Conducts to be punished should include

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\(^{10}\) See Part VIII, Sections 124-136  
\(^{11}\) See Section 158(2)  
\(^{12}\) See generally, Part X, Sections 157 and 41 on a certificate of indemnity to be issued to honest witnesses at an Election Petition Tribunal  
\(^{13}\) See The Guardian (Nigeria), Friday, June 27, 2008
paying voters to participate in elections, preventing voters from participating in elections, ballot-box stuffing, rendering false tabulation of votes, etc.\(^{14}\)

(b) INEC must be truly independent both financially and administratively. Financial autonomy will be attained if INEC is financed through the first line charge i.e. directly from the Consolidated Revenue Fund in line with the practice in the judiciary\(^{15}\). Administratively, its ownership must be removed from the executive incumbents and transferred to a multi-stakeholder platform of political parties, civil society movements, labour, women organisations, National Assembly, etc. Commissioners should be representatives of the stakeholders, while the chairman should be elected from among the commissioners\(^{16}\).

(c) CSOs should be empowered through financial, regulatory and logistical support by the state and international partners to enhance their watch dog and civic education roles. Both INEC and political parties’ mandate should extend to voter education\(^{17}\). The National Orientation Agency (NOA) should be well-funded to intensify its role in this regard.

(d) Communities must be made to know and appreciate the importance of their right to vote and strive to defend the integrity of their mandate. Electorates should be given the power to uphold their voting rights to sovereignty in a court of law.

(e) The winner takes all attitude of the ruling class needs to be combated; they must recognise the need for the existence of a vibrant opposition as one of the requirements for deepening our democracy.

(f) The plurality of the mass media must be encouraged and laws that prohibit monopoly of airtime by incumbent government should be made and strictly applied.


\(^{17}\) Under the extant Electoral Act, INEC’s mandate does not include voter education
POLITICAL PARTIES / PARTY SYSTEM: Contemporary political parties do not seem to belong to the people; lack ideology and respect for and compliance to the party constitution; lack of transparency and accountability in the management of its funds, etc. Thus there is no internal democracy.

RECOMMENDATIONS

(a) Stakeholders should strive to make political parties ideologically oriented; issue-based; characterized by discipline and internal democracy in the conduct of their affairs; mass-based and not elite or tribal-based.

(b) Though INEC legally has no business with party primaries it will help democratize the candidate selection process if INEC and other stakeholders participate in the process. The reality is that INEC cannot avoid intra-party affair since it must choose which list of party candidates to recognise.

(c) Political parties should not be funded by government, but should source funds from independent sources in order to run their activities, but this does not preclude political parties from charging reasonable fees from members and candidates under their platform. There must be limits to campaign financiers, and donations to political parties and candidates must be publicly declared. In fact, there is need to enact comprehensive new legislation on campaign finance.

(d) The two party system canvassed by Prof. Humphrey Nwosu and others should be jettisoned. The political space should remain enlarged in order to deepen democracy as a two party system is antithetical to the true spirit of democracy. Rather, independent candidature should be adopted in the interest of discontented party members. However, strict criteria should be evolved so as to avoid mushroom candidacy.

18 Sections 21-23 of the 2002 Electoral Act
ELECTORAL LAW/ELECTION ADMINISTRATION/MONITORING: There are various flaws in the electoral laws; unwholesome delay in the determination of petitions at the Elections Tribunals, INEC has been inefficient in election administration; the late release of election monitoring guidelines by INEC, lack of funding and late preparations have hampered past monitoring exercises

RECOMMENDATIONS

(a) There is need to amend the Electoral Act 2006 and excise its provisions from the constitution by inserting a clause in the latter that will make all electoral matters subject to an Act of the National Assembly.

(b) The need for INEC’s autonomy in funding and administration has been emphasized. It also needs more funding to carry out its onerous task.

(c) There is need for improved capacity building for electoral administrators and monitors through workshops and seminars.

(d) INEC should intensity its efforts in the areas of continuous registration of prospective voters; introduction of the electronic voter’s register and the Geographic Information System.

(e) Computerized identity cards should be introduced and used for elections. The National Identity Card can serve the purpose.

(f) The amended new Electoral Act should make a specific provision recognizing the vote and responsibilities of domestic and international election observers. There is also the need to fashion an acceptable framework and criteria for determination of election outcomes as the use of International standards to access elections success in Africa seem inappropriate. There is, thus, the need for the development of an African Regional Standards for Election Observers.
(g) Stakeholders in the electoral process should fashion out ways to bring more women into the process. This is in recognition of the strategic location of women to the political development of the country. Thus, the Electoral Act must be gender sensitive.

(h) In recognition of the crucial role played by civil society in the electoral process, INEC should resuscitate the Civil Society/INEC Consultative Forum.

(i) Because elections under incumbent rulers are usually less free and fair, incumbents must leave office 3 or 6 months to the elections, while an Interim National Government (ING) headed by the CJN or Chief Judge as the case may be holds sway.

(j) Despite the clamour for proportional representation, I strongly recommend that Nigeria maintain the “First-Past-The-Post (FPTP) electoral system. All electoral systems have their advantages and shortcomings. Proportional representation though ensures better representation and reflection of public opinion, yet it tends to link parliamentarians to parties rather than to the electorate.

(k) In the area of secrecy of ballot, the polling station should be laid out in a way that secrecy of voting is ensured and providing necessary assistance to disabled, illiterate and elderly voters. Ballot papers should be designed so that they can be easily understood by voters and sensitive materials (ballots boxes, ballot papers) should be stored and delivered under strict security.

(l) Collation of results should be done in the presence of party agents and election monitors, and results should be signed by party agents and released immediately at each stage of the counting and collation process.

**POST-ELECTION DISPUTES:** This has been the case in Nigeria where parties/candidates who have lost do not accept the results for obvious reasons.
RECOMMENDATIONS

(a) All election disputes should be dispensed with by the tribunals before swearing in of elected candidates as was in the case in 1979 involving Shagari and Awolowo.

(b) There should be a time-limit for the adjudication of election petitions tribunal, say 90 days or three months. This will guarantee an accelerated hearing and adjudication.

(c) Appeals from the Governorship and Legislative Houses Elections Petitions Tribunal should terminate at the Supreme Court rather than the Court of Appeal.

(d) Alternative Dispute Resolution mechanisms should also be explored in addition to recourse to the appropriate jurisdictions to facilitate the settlement of disputes.

OTHERS AREAS

(1) The electoral cycle should be looked at to see the relevance or otherwise of staggered elections because it has both merits and demerits.

(2) The delimitation of constituencies is another issue for concern. The process must not be politically influenced.

(3) Given the fact that many of the recommendations would require constitutional and other legislative amendments, steps should be taken to do it in good time.

CONCLUSION

Nigeria faces a critical moment in her electoral reform efforts which are the next milestone in Nigeria’s democracy. The current Nigerian ruling class is doomed following its antecedent of total ineptitude, lunatic greed, pride, shamelessness and leprous treachery. Thus, there is always the lack of political will to bring these reforms into being. But, being an optimist I believe that with great leadership it can be done. Truly great leaders who see beyond the shorter term gains into the future abound, including Nigeria that are yet to be
discovered. Electoral reform is the key to opening up the political system and restoring hope and confidences to the Nigerian people. There is hope!
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