

Electoral Reform In Nigeria: The Challenges Ahead

Okechukwu Innocent Eme

Abstract

It is axiomatic to argue that each Election Day in Nigeria has raised new alarms that threaten the foundation of Nigerian's democracy. That is, Nigeria's democratic field is filled with various landmines. Years after serious problems were exposed to the public; it has become increasingly apparent that our electoral system and process are technologically, legally and administratively inadequate and unfair to the majority of the electors. Over the last few years, INEC, politicians, organized civil society and international community have all sought to learn from 1999- 2007 election by launching projects that aim to improve the Nigerian electoral system. Given the above antecedents, one would posit that there are possible scenarios in our electoral process that needs to be reformed. And this is why electoral reform agenda is a welcome development in the Nigeria's electoral history. This paper seeks to contribute to this debate. It starts by examining the problematizing the need for electoral reform by defining the concept in a theoretical perspective. The paper goes on to identify the areas that needs to be reformed; the challenges and opportunities in the current electoral reform in Nigeria and suggest ways of correcting the negative impact of our electoral process. The paper concludes by positing that if INEC still remains under the presidency that controls its budget and appointments, there may be a crash of democracy in Nigeria before 2011.

Introduction

Our experience as a nation during the 1999, 2005 and 2007 elections have shown beyond reasonable doubt that Nigeria is in dire strait for a good electoral system that will enthrone free and fair and the attendant effects of good governance, peace and stability in the polity. A flawed electoral system, as we have today, is a big threat to democracy, peace and unity in the country. In a transparent electoral democracy, there is a strong link between sustainable development and elections. In an open, competitive and free and fair electoral process, the government is always a custodian of the peoples' will and can therefore galvanize the people into positive actions. The victory of a political party at the polls simply means an endorsement of its manifesto and that of the government to be formed by it.

The fallout of a good electoral system cannot be over emphasized. Not only that it encourages popular participation in governance, it promotes respects for rule of law, due process, civil liberties and human rights and makes government accountable.

Therefore, as we mentally straddle the current political landscape of Nigeria, it has become imperative for us to review the country's electoral system in order to avoid the general outcry against the last April election in the country. The outcry was deafening and heated the polity. The setting up of the Electoral Reform Committee by the Yar'Adua's administration presents auspicious opportunity to the country to sincerely overhaul its electoral system. Democracy will remain a mirage in Nigeria if the issue of enduring and transparent electoral system is treated banally.

As Nigeria continues its democratic journey, it has become very imperative that the populace are not only interested in good electoral system but also in institution and agencies that promote good democratic governance, respect for rule of law, due process and civil liberties. This aspiration has also raised the imperativeness of independent/autonomous commissions in the country. So, there is an urgent need to strengthen the executive bodies listed in section 198(1) of the 1999 constitution these bodies are to be granted autonomy to carry their constitutional duties. It is believed by many that these bodies are more toothless bulldogs. To Nigerians, these bodies have performed below expectations. The poor performances of these bodies are linked to their status. The fundamental contention is that these bodies are not truly independent and are therefore suffocation under the crushing weight of the chief executives. So there is

an increasing clamour that those bodies are strengthened for relevance, effectiveness and fulfilment of their mission.

Also, certain functions and powers of some of these bodies have some under severe criticisms as likely to be abused or unconstitutional. So, there is the challenge of reviewing the power and function of these bodies to make them subject to the constitution and the judicial power of the courts.

It has equally been posited that in establishing these bodies, some relevant issues and segments of the polity were left out. Such areas include gender, mass media and civil society and the need to deal with public complaints.

It is significant to, however, state that the focus of this paper shall be more on the Independent National Electoral Commission, the reason seems fairly self evident enough. It is beyond argument that electoral matters have become the most controversial in Nigeria at the moment and there seems to be increased urgency to build an enduring electoral system for Nigeria.

According to Transition Monitoring Group (2005:13) it is widely believed that at the root of corruption, lack of due process, insensitivity and impurity on the part of government functionaries is a deformed or rather uninformed electoral process. Allegation of election rigging, electoral violence and intimidations, inducement of voters, stuffing of the ballot boxes, and dilatory indicial process routinely attend every election. Nigerians no longer believe that persons occupying elective offices were truly elected. In the pervading atmosphere of lack of legitimacy, there is general disconnect between the people and the government. All these have far reaching implications for good governance and the accountability, and sustainable development.

This paper is not assuming that it has captured all these issues and problems bedevilling our electoral system. It is an attempt to raise some critical issues and make suggestions with a view of contributing to the present day course on the way forward for democratic march.

Theoretical Clarification of Concepts – Electoral Reforms

According to Electoral Reform Network (ERN) (2005: 3) when changes to Nigeria's political institutions are contemplated, whether by politicians or civil society in general, electoral reforms is often near the top of the list. Establishing and appropriate legal framework is an important step towards achieving a credible electoral process.

The 2007 election generated a flurry of comments in favour of major changes to our electoral process. The remarks of Nigerians about the polls do not inspire confidence. Constitutional lawyer professor Itse Sagay said concerning the polls:

I have been observing elections in Nigeria for 47 years starting with the 1960 federal elections. This is obviously the worst election we have ever had. It is not the first in which there was rigging, but this is the first election in which there was rigging in such a massive, brazen, odious, shameless and disgraceful manner. There was no attempt to hide the fact of rigging. They used sheer force to overwhelm everybody and brought out names that were not elected and therefore imposed unelected people on this country (Balogun, 2007 : B14).

Innocent Chukwuma, chairman of the Transition Monitoring Group (TMG) also returned a poor verdict. He said the polls were seriously flawed. “My opinion on how election went is best captured by title of the report issued by domestic observation group after the presidential election; it was titled “An Election programmed to fail. In every aspect of that election, you cannot escape the conclusion that it was designed to fail” (Balogun, 2007: B14).

It is axiomatic to posit that electoral reforms are adjudged to be meaningful if it improves the responsiveness of the electoral process to public desire and expectations. In view of this thesis, many scholars agree that electoral change, for the purpose of such improvement; it is a subset of the wider framework of electoral reform. For a democratic polity to embrace it, it must foster impartiality, inclusiveness, transparency, integrity and accuracy. According to Oladesu (2007), Balogun, (2007) and Obia (2008) among others, three approaches are universally adopted – The legal, political and administrative frameworks to the understanding of electoral reform. The legal framework involves the amendment of the constitution, the electoral laws and other related rules and regulations.

The objective of this framework is to enhance the integrity, relevance and adequacy of the legal provisions in defense of the electoral system.

Olisa Agbakoba, one of the frontline advocates of electoral reforms, called for a far-reaching. Constitutional review that will take care of the impediments already noticed in the policy. He said:

Nigeria is like a limited liability company owned by 140 million shareholders, the company's shareholders elect the company's employees at the Annual General Meeting (AGM). Tasks are shared among the elected employees. Tenure of officers is established with a provision for re-election at the next AGM based on performance. The dilemma in Nigeria is that the elected employees have stolen the electoral process. They do not want to go. How will the shareholders reclaim their company? (Balogun, 2007 : B15).

Itse Sagay seems to have an answer for Agbakoba's poser. He suggested that all sitting executives should not be allowed to conduct elections in the country. According to him:

I will suggest that three months to elections all the executives should quit, that is their term of office should end and so officials should take over the reins of government for that period. It could either be the Chief justice of Nigeria or Senate president. I prefer the Chief justice because he is not a politician and therefore he would, hopefully, be apolitical. He will organize the elections and there after hand over and step back into his job (Balogun, 2007: B15).

The Administrative framework covers new and better strategies, structures, policies procedures and technical innovations, better model of electoral staff recruitment, enhancement of accessibility to inform voting, and special consideration to the physically challenged electors. More significantly, this framework equally includes the introduction of new technology for voting, registration of voters; counting and security.

The political approach argues for the autonomy of the electoral umpires to be widened, improved funding to guarantee its independence,

efficiency and, accountability. Interestingly, the 2005 National Political Reform Conference had recommended that the organized labour women groups, youths, the Nigerian Bar Association, the media, among other patriotic bodies, be allowed to nominate members to the commission, while its operation would be raised beyond partisan interests. Rather than the president appointing the chairman, it was suggested that the members of the neutral INEC should be allowed to elect its presiding officers.

Indeed, a former United State Ambassador to Nigeria; Princeton Lyman, had canvassed for such reforms as early as 2005. To him, lack of reform could spell doom. In a lecture: “Electoral Reform; the next Milestone in Nigeria’s Democracy”, the diplomat had suggested:

INEC must be seen as independent of partisan bias or control, even of the incumbent administration. That relates to the selection of its members, the autonomy of its budget, and the authority it exerts to enforce the election laws and regulations. These reforms must extend down through the State and local government levels. The system for counting and aggregation of votes must be made more transparent and verifiable. There must be evidence of prosecutions of violators. A climate of impurity will undo the best rules or regulations (Balogun, 2007: B14).

The several goal of the reform curators’ world wide is to make the exercise a compelling and permanent characteristic of democracy. The short-time objective is to ensure the enhancement of an orderly transfer of power in a free and fair and transparent election.

Specifically, Electoral reform in a popular parlance refers to the antidote to electoral fraud. That is, it is a change in the electoral process or system that is geared towards improving how the electors’ desires are expressed in election results. These desired changes brings about sound innovations and initiatives that can better the lots of the populace in terms of conducting free and fair elections and bringing culprits in election rigging to justice. Electoral Reforms covers electoral issues such as reforming the registration and voting systems, vote counting procedures; rules about political parties; eligibility to vote; how candidates and political parties get their names onto ballot papers; ballot design aid,

voting equipment, political finance, safety of votes and electoral officers and agents, campaign and other factors which affects the rate of voter's participation among others.

How far reaching this will be is yet unknown, but suffice to say that any electoral reforms that would restore the confidence of the citizen in the political process would be welcomed. It must deal with personnel composition of the Independent National Election Commission (INEC); funding of the body, review of the relevant legal instruments; empowerment of the people and the establishment of a transparent voting process and gender question.

Views on Electoral Reforms in Nigeria: The Thesis and Anti-thesis

A major pronouncement of President Musa Yar'Adua on May 29, 2007, the day of his inauguration, was his commitment to reform the existing electoral system. Despite the fact that he is alleged to be a beneficiary if the electoral fraud that characterized the April 21 Presidential elections, he acknowledges the imperfections of elections. According to him:

This is a historic day of our nation, for it marks an important milestone in our march towards a maturing democracy. For the first time since we cast off the shackles of colonialism almost a half century ago, we have at last managed an orderly transition from one elected government to another. We acknowledge that our elections had some shortcomings. Thankfully, we have well-established legal avenues of redress, and I urge anyone aggrieved to pursue them (Igboanugo, 2008: B12).

Yar'Adua promised that his administration would review the electoral system to ensure a comprehensive overhaul of Nigeria's electoral process, which Professor Maurice Iwu, the chairman of the Independent National Electional Commission (INEC) inherited from the past administration. Yar'Adua goes on to posit:

I also believe that our experience represent an opportunity to learn from our mistakes. Accordingly, I will set up a panel to examine the entire electoral process with a new to ensuring that

we raise the quality and deeper our democracy (Igboanugo, 2008:B12).

In keeping to his pledge, the president on August 29, 2007 inaugurated a 22-man Electoral Reform Committee headed by retired Justice Mohammed Lawal Uwa is to activate the process of electoral reform in the country. Other members of the panel are Professor Bolaji, Akinyemi, Attahiru Jega, Grace Alele-Williams, Okon Uya; Dr. Matthew Hassan Kuka, a reverend Father who served Nigeria in many capacities including participation in the Human Rights Violation Investigation Commission where he distinguished himself. There is also Olisa Agbakoba, President of the Nigerian Bar Association in the panel. There are equally eminent Nigerian drawn from various background of civil society, labour, academia, the police and army, religious groups, electoral experts and the media.

The committee is charged with the task of evolving and enduring electoral process with the highest internationally acceptable quality and standard. The panel, the president said, is expected to make general and specific recommendations including, but not limited, to constitutional and legislative provisions and or amendments, mistake a review of Nigeria's history with general elections and identify factors, which affect the quality and credibility of the electoral and their impact on the democratic process; and examine relevant provision if the constitution, the Electoral Act, and other legislation that have bearing on the electoral process and assess their impact on the quality and credibility of general elections (Chesa and Ebhuomhan, 2007:1).

It was also asked to examine the roles of institutions, agencies and stakeholders in shaping of the electoral process. These should include: Government, electoral commissions, security agencies, political parties, non-governmental organizational (NGOs) media, general public, media, and the international community and to make any other recommendations deemed necessary to the panel (Fafowora, 2007 : 48). The panel has one year to submit its report.

The most interesting aspect of the composition of the panel was the omission of politicians in the committee. There are insinuations that politicians were excluded probably because they are believed to the cause of the bitter electioneering experiences in the country.

The committee swung into action in early January, 2008 by inviting memoranda from Nigerians to assist the panel realize its

assignment. Those invited include, former Heads of the States that conducted elections during their tenure. The committee has also written to all electoral commission chairmen and secretaries and other key actors in past election. The panel has constituted six sub-committees saddled with various responsibilities ahead of the necessary session of the general body. The committee would after collating the memoranda hold a public hearing in each of the six geo-political zones to get input of Nigerian's at the grassroots levels. The committee would also seek the input of the stakeholders at the state and national levels. The panel has in addition to these prominent Nigerians also reached out to 50 fifty political parties for inputs into the fund out to the various elections petitions tribunals nationwide for insights into what went wrong with the last general elections.

However, opinions of Nigerians are divided on the inauguration of the electoral reform panel while a good number questioned the rationale behind the action and posited that the president is not in a better position to dabble into such a project, other say the constitution of the panel is timely.

The Action congress (AC), which is still contesting the validity of the election restricts that catapulted Yar'Adua to office; doubted if the panel would be given a free hand to dissect and resolve the mounting electoral process. Its National publicity secretary, Alhaji Lai Mohammed, feared that government may move swiftly to teleguide the committee while its report may be subjected to doctoring later. The Conference of National Political Parties (CNPP) equally rejected the panel on the ground, that it is ill-timed. CNPP National chairman, Balarabe Musa, described the proposed panel as a political deceit, adding that it is diversionary. He emphasized that electoral reform cannot take the front seat when the forged results of the controversial, April 2007 election have not been reversed. "How can Yar'Adua, a beneficiary of the fraudulent election reform the electoral process," he queried, stressing that the exercise could have been delayed till after the tribunals have resolved the multiple electoral litigations (Oladesu, 2007: 4).

Dr. Junaid Mohammed, the National Chairman of Peoples Salvation Party (PSP), Alhaji Muhammed Buhasi, The All Nigerian Peoples Party presidential candidate, chief Okey Nwosu, the National chairman of Africa Democratic Congress (ADC) Wole Soyinka and Afenifere chieftains among others, had inception of the committee said that the Uwais-led panel would come out with edifying based on his antecedents on the bench. For example, according to Okey Nwosu:

For me the electoral reform committee is absolute and share nonsense. This is because the PDP members and their government are not sincere yet. When they are sincere Nigerians will know. What you think will come out from the people who did not win election, people? The same people that usurped government powers are now tacking of reforms. For them to now come up with a different agenda of reforming the electoral system that produced the shame that brought them to office is first another fraud. He argued that the same panel would end up. Serving the agenda of the government that set it up (Ugborgu, 2007: B8).

The fear may have been doused by the remark by Jadesola Akande, law professor and Vice Chancellor, Lagos State University, Ojo, that Mohammed Uwais who heads the panel will give it a mature touch. She is also of the opinion that those, on the panel are men of integrity. "Their integrity is good. They are people of honour who are equal to the task ... Uwais for instance, as the chairman has a lot of time on his hands to devote to the electoral panel. He will give the deliberations matured touch, she said. ('Ugborgu, 2007 B8).

Emmanuel Anaegbulam, a lawyer said that he was convinced that the panel would do a good job because of the high expectation from Nigeria and the antecedents of members of the panel. According to Anaegbulanm;

The moment the electoral reform panel was formed, I heard a sigh of relief. Again when I looked at the composition of the electoral panel, I was convinced beyond doubt that men who are on the commission are men of substance, men of volume, men of integrity, men who have distinguished themselves in their various professions and people who will bring about genuine democracy in Nigeria (Ugburgo, 2008:B9).

Task before Uwais' Electoral Reform Panel

According to the President Musa Yar'Adua, reforms of the electoral process would take-off soon as the petition tribunals are disposed of. How for reaching this would be is yet unknown, but suffice to say that any electoral reform that would restore confidence of the people in the

electoral process would be welcomed. It may deal with personnel Composition of the INEC, funding of the body, renew of the relevant legal instruments', empowerment of the populace and the establishment of a transparent voting process. I shall now discuss them briefly.

INEC's Composition, Funding and Autonomy

While section 153 of the 1999 Constitution established INEC, the mode of staffing the commission was set us in the third schedule, Part 1. However, INEC is only independent in name. The chairman, secretary and resident electoral commissioners are all appointed by the president who is the leader of his political party who wants his party to emerge victorious at the pulls. The only check in the appointive power of the president is the senate, whose membership is dominated by the president's political party and is therefore duty bound to approve his nomination.

Resident Electoral commissioners (RECS) who supervised the conduct of elections at the state level also owe their appointment to the presidency. Other political parties, the organized civil society, and the general populace had no input in their selection. Political observers contend that such scenario does not present a level playing ground.

Beside the issue of personnel selection, the funding of INEC is also a suspect that is capable of eroding the impartiality of INEC. Unlike the judiciary, the fund needed for elections and running of the commission are not charged on the consolidated fund. The commission has to submit its budget to the executive for approval and where they are passed with the national budget, the release of such fund is subjected to bureaucracy at the Partisan Federal Ministry of Finance.

Interestingly, the weapon had a devastating effect in the days leading to the last general elections. Funds needed to execute items on the electoral time table, including the registrations of voters, were not released until late in 2006. Curiously, INEC chairman, Iwu always maintained that the scheme was on course (Eme and Ede, 2007:8). The electoral act designed to provide legal frame work for conducting the election, was not passed until July 2006. In the absence of a legal instrument, the electoral commission could only group in the dark.

The Electoral Act

Apart from personnel selection and funding, the instrument overseeing the election needs to be re-engineered. All bobby traps and ambiguous clauses in the law should be expunged. The Electoral Act (2006) has tragically

failed to prevent the use of public funds by incumbents to finance campaigns and re-elections. It has also failed to check the abuse of the role of money in politics. Again, the law apportioned too much power to INEC. Presently, Sections 86, 87, 88, 89 and 90 of the Act give it extensive and strangulating powers over political parties. For instance, Section 86 requires that every registered political party shall give INEC, at least, seven days notice to any convention, conference or meeting for the purpose of electing members of the executive committee.

According to Section 87 of the Act, a political party cannot change its registered name without INEC's approval. Political parties' symbols must be approved by INEC; according to section 88. For two or more parties to merge, strict requirement must be met to qualify for INEC approval. Gani Fawehinmi who fought for the expansion of the political space in 2002 believes these laws make INEC too powerful and should be whittled down.

Party System

The political party system deserves another look. As at today, there are more than fifty political parties in Nigeria, many of them exist only in name. Not many of them contested the last general elections at any level. Many of them are also not in a position to participate in the impending elections in the 774 local government councils in Nigeria. It is more ridiculous that some of these parties, who could not field candidates for any of the state legislative houses, paraded presidential candidates. In the main, leaders of many of these parties merely exploited the liberal registration clauses to float "political parties" in order to defraud Nigeria by obtaining statutory grants from INEC.

Security Agencies

Security agencies deserve another look. The committee should examine the role of security agencies in elections and how they impact on elections. It should equally examine why criminal activities like murder and arson usually associated with election are treated casually as "electoral violence" and why in most cases the culprits are never prosecuted.

Conclusion

It is axiomatic to conclude by positing that the litmus test for a viable democratic Nigeria will be the extent to which her electoral process and laws are able to promote fair, participatory and electoral participation

of the electors. If the electoral law and legislation are weak, deficient, or poorly enforced, the electoral process will be easily subverted. There is need therefore to reform and strengthen the electoral law and an institution beyond what is proposed by INEC and ensure total adherence of those laws and legislations.

2011: The Way Forward

As the president indicated, preparation for 2011 must start immediately. Only a thorough, dispassionate review of the relevant sections of the constitution and Electoral Act can give the National Assembly the power for a whole sale consideration of the legal environment and sanitation of the system.

The way forward for the country lies on progressive and popular reforms which include that:

1. There is a need for Nigeria to adopt the electoral model that allows key sectors of the society such as labour, civil society, parties media, and the judiciary to be represented in the commission, as this could help to restore public's confidence in INEC. Rather than the president appointing the chairman, members of the neural INEC should be allowed to elect its own presiding officers.
2. INEC should have power to recruit their staff and determine suitable remuneration for the staff. In this regard, they should not be subjected to the control or direction of any person or authority. The remuneration should be determined by the finance committees of the National Assembly and not by the presidency.
3. On the issue of funding of the commission, it is proposed that the commission, for her autonomy and independence, be funded from the consolidation revenue fund with the power of appropriation residing in the National Assembly. The overriding principle should be that the commission be adequately funded.
4. Political space should not be closed. Only political parties found to have obtained defined minimum standards at the polls should be considered for funding that standard needs to be injected into the constitution and Electoral Act.
5. It is recommended that paragraph 14 (2) (b) of the Third schedule to the 1999 constitution; which empowers INEC to register political parties should be removed and reformed to limit the role of INEC to administrative recognition of political parties. It should be explicit in the constitution that INEC has no power to approve

- merger of political parties, attend their conventions, monitor them or audit their account or disqualify their candidates.
6. It is also suggested that it is very relevant to add a provision in the constitution or the Electoral Act that will ensure and preserve internal party democracy. Political parties belong to members, so should follow due process.
 7. Finally, it is also suggested that appointment in the commission should be gender sensitive and those who abuse the electoral process should be prosecuted.

References

- Akinfenwa, G. (2007) "True confession: INEC Admits Abandoning 65 million Ballot Papers in South Africa", *The WEEK*, Vol. 26. No 13 October 29, 23-26.
- Balogun, O. (2007) "Electoral Reforms: How Feasible?" *Sunday Independent*, July 29, Vol. 2 No. 112
- Balogun, O. (2007) "More Dust As INEC Submit Report", *Daily Independent*, Thursday, 18, B6 -7
- Chesa, C. and Ebhuomhan, S. (2007) "Yar'Adua Demands. Financial Autonomy for INEC", *Daily Independent*, Wednesday, August 29, Vol. 3 No. 1299.
- Daily Independent*, Friday, 18th September, P E 8
- Elekwa N.N. (2008), *The States, 2007 Elections and the Future of Nigeria*. Nsukka: Great AP Express Publishers
- Eme, O.I. and Ede, H. (2007), "E – Registration and Democratic Process in Nigeria: Challenges in Post – 2007 Nigeria" Unpublished Essay
- Fafowora, D. (2007) "The proposed Electoral Reform", *The Nation*, Thursday: August 30, Vol. 1 No. 393
- Federal Republic of Nigeria (1999), *The Constitution*, Abuja: Government printers.
- Federal Republic of Nigeria (2006) *Electoral Act* Abuja: Government printers
- Human Rights Watch (2007) The Problems with April Pools, *The WEEK* Vol. 26. No 13. October, 29, 27-30
- Imobo – Tswan, S. (2007) "Iwu, 2007 Elections and History", *Daily Independent*, Thursday, October 25 B6 -7
- Independent National Electoral Commission (INEC) (2007) *Proceeding and Communiqué of the INEC National Forum on Nigeria's 2007*

General Elections: The Critical Challenges Ahead, Abuja: Government printers.

Nwauzor, J. (2007) "Iwu, INEC, Electoral Reform Panel and Future Elections", *Sunday Independent*, September 2, Vol. 2 No. 117

Olanikpekin, W (2008) "Governance and Policies: Challenges of Electoral reform.

Transition Monitoring Group (2005) *INEC/SIECS and Independent Commission: A Reform Agenda Memorandum*. Abuja: Global Rights.

Ugborgu, V. (2008) "Unending mission on Electoral Reform", *Sunday Independent*, January 27, Vol. 2 No. 138