

NULLIFICATION OF ELECTIONS AND THE NATIONAL QUESTION IN NIGERIA

TERFA C. CHIA

College of Management Sciences
Federal University of Agriculture, Makurdi, Benue State, Nigeria
chiave2013@gmail.com
+2348039318286

AYUA DANIEL ABOMTSE

Joseph Sarwuan Tarka University, Makurdi, Benue State, Nigeria

THOMAS INANGRE OTENCHE

University of Mkar, Gboko, Benue State, Nigeria

ABSTRACT

Since 1960 when Nigeria became politically independent from the British colonial administration up to 2015 when the Independent National Electoral Commission (INEC), conducted an epoch-making election, Nigerians have contended with the pains and consequences of mismanaged elections which are often violent. However, the 2019 elections took a very different dimension from the high expectations and improvements anticipated by the citizenry. This paper aims at an assessment of the trajectory in election administration by Nigerians from 1999 to 2019 during which period Nigerians' perception of election administration plummeted from hopefulness. The era of pessimism is represented by the 2003 and 2007 and to some extent, 2011 general elections when Nigerians lost hope in INEC and the entire electoral process. The era of optimism is hereby represented by the 2015 general elections when INEC conducted credible elections in Nigeria' over twenty years of uninterrupted democracy. Using structural functionalism as a theoretical framework for analysis, the paper relied heavily on secondary source of data collection (documentary sources), and also adopted the content analysis approach. Recommendations are made for sustaining the tempo of credible election delivery as witnessed in the 2015 general elections; some of which are or should be the consistency of policy statements and the strengthening of political institutions over and above political personalities.

Keywords: General Elections, Nullification, National Question, INEC, Nigeria.

Introduction

Since the civil war in Nigeria, elections into any political office have been determined by bias, unfair play and bad blood. This usually ranges from the level of campaign periods that linger on long after the election have come and gone. The problem is with the players of the game whom instead of fully committing themselves to good governance of the state, the so called winners of the election spend the whole of their time settling old scores or anarchy arising from the elections or attending to court cases with their attendant costs which are to the detriment of good governance.

Obviously, the implication of this is that the state elects wrong persons and the commission's failure to conduct free and fair elections may be because of bribery or use of political thugs to intimidate the citizens that have come out to vote for good governance in Nigeria which by and large, culminates into the nullification of elections thereby, impinging on the overall wellbeing of the nation-state.

Nullification of election is an important exercise where the election tribunals need to know if the person elected in the political office rightfully won or not by re-conducting the election with a careful and systematic conduct.

Nullification of election has no generally acceptable definition, because many authors define it according to their own point of view or understanding. In this case, it refers to the systematic and analytical method of cancelling or abolishing any political exercise perceived to have been conducted, through a faulty or fraudulent electoral process.

This definition entails that elections can only be nullified when there is important or relevant evidence to present by the petitioner that the election was wrongly conducted or election can only be nullified when the person or aspirant who obtains the highest votes cast at the election was not qualified to contest the election or that the election was marred by substantial irregularities or non-compliance by the person with the provision of the tribunal or court shall declare the aspirant with the second or highest vote a winner, or shall order for fresh elections. The Rivers State (2015) Gubernatorial Election between Nyesom Wike (PDP) and Dr. Tamuno Dannagogo (APC) is a very good example.

2011 General Elections

In order to change the tempo and improve upon election administration, the Independent National Electoral Commission (INEC), introduced some changes. As part of the reforms towards the 2011 general elections, it introduced a new biometric register of voters, a re-modified open ballot system, security feature on sensitive electoral materials - serial numbering and colour-coding of ballot papers and results' sheets as well as security coding of ballot boxes - others include: modified ad-hoc staff engagement, more transparent framework for results' collation and returns, open and transparent procedures, modalities and processes on election day, closer collaboration and partnerships with critical stakeholders, enhanced voter education and citizen engagement, staff training and retraining, creation of inter-agency consultative committee on election security. This was to ensure the effective engagement of all the security agencies during election periods (INEC, 2014). In addition, it reversed the timetable and sequence of the elections from the earlier ascending to now descending order, so that elections into national offices were conducted first before those of states. From the level of preparations, there was every indication that INEC was disposed to addressing the past hitches that hindered Nigeria's electoral process: to assure the democratic world that votes will start to count in Nigeria.

Consequently, the National Assembly Elections was held on Saturday the 9th of April, 2011; the Presidential Elections on Saturday the 16th April, 2011; which the Gubernatorial and State Legislative Elections held on Tuesday the 26th of April, 2011 being a new date the election was rescheduled to hold after the earlier date was cancelled. The two major contenders in the

Presidential election were the former President, Dr. Goodluck Ebele Jonathan of the Peoples Democratic Party (PDP) and General Muhammadu Buhari of the Congress for Progressive Change (CPC). Noteworthy is the fact that it is the first elections to be conducted by INEC under the leadership of Prof. Attahiru Jega. At the end of the election, the then incumbent President Goodluck Jonathan won. Political analysts share the view that the 2011 general elections signaled the era of optimism in Nigeria's electoral process when Nigerians began to witness a relatively free and fair election due to INEC's effectiveness in preparations and actual conduct of credible election as well as the collation of results and prompt announcement of the outcome. The disposition of INEC to conduct credible elections no doubt changed the disposition of the political elites towards rigging of the 2011 general election. Arguably, it is suggested that INEC's improvement in the conduct of the elections does not imply that there were no problems associated with the elections or that INEC got it fully right as far as election administration in Nigeria is concerned. The Human Rights Watch Group notes that despite the improvements, there were still incidents of violence, hijacking of ballot boxes by party thugs, and reports of police misconduct, particularly in southeastern Nigeria and the volatile Niger Delta region. According to the reports, the elections were also marred by allegations of vote buying, ballot-box stuffing, and inflation of results, most noticeably in southeastern Nigeria - Jonathan's stronghold - where official results in the presidential election in some rural areas recorded close to 100 percent voter turnout (Human Rights Watch, 2011).

Nonetheless, the ugliest twist was the post-election violence that heralded the declaration of the incumbent President Goodluck Jonathan as the winner of the presidential election. Those who had supported General Muhammadu Buhari and envisaged that he would win vented the anger inflamed by their loss on innocent citizens. It is reported that as much as 800 persons lost their lives and 65, 000 people were displaced as a result of post- election violence (Human Rights Watch, 2011). This was perpetuated by ethnic jingoists who clamored for their turn in the presidency and were bent on getting it at all cost.

2015 General Elections

The landmark elections of all times conducted by the Independent National Electoral Commission (INEC) were in 2015. In significant ways, the elections demonstrated the willingness of the governing elites to lay some formidable foundations for sustainable growth in our democratic practice. However, by the published election timetable, the national and states elections were originally scheduled to take place on the 14th and 28th February, 2015 but were later rescheduled as a result of security challenges. The Presidential election was contested by 14 political parties but the Peoples Democratic Party and the All Progressive Congress (APC) were the more visible ones. The Peoples Democratic Party nominated the then incumbent President, Goodluck Ebele Jonathan and his vice, Architect Namadi Sambo while the All Progressive Congress, had General Muhammadu Buhari as its candidate and Yemi Osibanjo, as his running mate. The Presidential and National Assembly and State Houses of Assembly elections were held in all the 36 states, while gubernatorial elections were held in 29 states. The Presidential and National Assembly elections held on March 28th; while Governorship and State Assembly elections held on April 11th.

The run up to the election was emotive, tension-soaked and many Nigerians feared that it will plunge the country into serious crises. In fact, Nigerians had expected war at the end of the election and everybody was apprehensive of what would become of the country thereafter. Abubakar (2014), in Ojonemi, et al (2015) captured the scene and mood of the moment and admitted inter alia, that:

“As political animals that we are, nothing seems to have gripped the imagination of Nigerians as the issue of the coming 2015 general elections, which in my view is a watershed moment in the history of our dear country. The way we are able to handle this very important event will largely determine how successful we will be in our efforts at remaining a united, indivisible and stable country. Already, the fault lines are apparent and politicians are ready to exploit them to the fullest to achieve their sometimes not so noble objectives. The North is determined to have it back and its leaders are pulling all the stops to see that, that happens. On the other hand, the body language of the incumbent president strongly suggests he wants another term in office. The unfolding scenario may portend danger to our nation if Nigerians from all parts of the country do not close ranks and put the interest of the nation first. The post-election violence of 2011 should be a reminder that election matters in the country have become serious business, which must be handled with the utmost seriousness and patriotism in order to avoid repeat of history”.

Eventually, those negative expectations became defeatist dreams as the election turned out to be a huge success and a different ball game. As a matter of fact, what became the outcome of the 2015 general elections surprised Nigerians and the global community, many of who had looked forward to our disintegration. In other words, everybody was dumbfounded and flabbergasted by the goodwill of President Goodluck Jonathan and the Presidential Candidate of the Peoples Democratic Party (PDP) when he humbly, patriotically and dispassionately conceded defeat and congratulated his rival, General Muhammadu Buhari of the All Progressive Congress (APC), even before the results were finally announced. It caught war-mongers napping as well as disarmed those wielding arms preparatory for assault on the nation and her hapless citizens. Generally, that singular nationalistic action by President Goodluck Jonathan saved the country from imminent war and therefore, unprecedented in the turbulent electoral history of Nigeria where every qualified and unqualified contestant in election wants to win by hook or crook.

The election was praised by both electorates and the observers as not only unique but a pacesetter for future elections. The European Union Election Observation Mission (EU EOM 2015) in its reports observed that “Election day overall passed peacefully with appropriate performance by security agencies and EU EOM observers saw no evidence of systematic manipulations”. Also, the Commonwealth Observer Group (COG 2015) noted that: “Notwithstanding the organizational and technical deficiencies, the conduct of the Presidential and National Assembly Elections were generally peaceful and transparent”. The United States government in a press statement released through the Secretary of State, John Kerry, congratulated Nigerians and the Nigerian government on the historic and largely peaceful, elections. It applauded all voters who showed patience and demonstrated commitment to participate in the democratic process. It commended Nigeria's Independent

National Electoral Commission (INEC) and its Chairman, Attahiru Jega on the generally orderly vote, on the use of technology such as card readers to increase the credibility and transparency of the electoral process and on prompt communication of the results. The statement noted that while there were reports of logistical problem, such incidents did not undermine the overall outcome of the election (Kerry, 2015). The government of the United States lauded both the former President Goodluck Jonathan and Muhammadu Buhari for their public commitments to the "Abuja Accord" signed in January and reaffirmed on March 26, respecting the official results and encouraging their supporters to do same (Kerry, 2015). The success of the election is attributed to the leadership dynamism of Prof. Attahiru Jega, the Chairman of INEC who in his wisdom introduced some technological innovations especially the Plastic Voters Card (PVC) and the card reading machine, aimed at checkmating rigging, impersonation and related electoral malpractices. In any case, it must be noted that Nigeria is an emerging democracy and is currently grappling with its electoral process and Nigeria's electoral umpire, the Independent National Electoral Commission is gradually learning the ropes of the electoral process, for instance, while the Card Readers aided in keeping away fake voters, it however had its faults as in most of the polling units visited, especially in the finger print identification. Incredibly, the Card Reader was also reported to have failed Mr. President Jonathan himself while standing for accreditation in his village polling unit at Otuoke in Bayelsa State. This means that even though the 2015 general election was an improvement when compared to other elections conducted in Nigeria's sixteen years of uninterrupted democracy then, it was still far from being perfect. To this extent, Udu (2015) notes:

Despite the acceptance of the outcome of the presidential election and the subsequent and historic concession of defeat by the incumbent president; the 2015 election like its predecessors witnessed some documented electoral flaws. Some of these deficiencies in INEC management of the election included but not restricted to: late arrival of election materials, overcrowding, failure of the card reader, result manipulation and voting of under-aged in some units in the Northern part of the country.

Though the INEC Chairman, Prof. Jega is applauded for conducting a seemingly free and fair election, some commentators denounced him for skewing the election in favour of General Muhammadu Buhari, a Northern candidate. Femi Aribisala in a media article, titled: "How Jega Executed Jonathan's fall." asserts vehemently, that Buhari prevailed as a result of a deliberate disenfranchisement of the Igbo by INEC through the manipulation of the PVC distribution and the failure of the Card Reader in the South-East and the South-South zones of the country (Citizens' Advocate, April 19, 2015:11). According to the report, INEC ensured that, far more disproportionately and relative to other geopolitical zones, millions of South-East voters disappeared from the voters register, between 2011 and 2015 to pave way for the emergence of a Northern presidential candidate. It cites as an example, the failed attempt to create 29,000 additional polling units: allocating 21,000 of these to the north and only 8,000 to the entire south. It notes that, had this arrangement succeeded, it would have meant that more additional polling units were allocated to Abuja alone than the entire South-East. The failure of the polling units' proposal however, gave rise to another alternative game plan evidenced in the bogus and lopsided, distribution of the PVCs, apparently skewed against the south where only 7.6 million were registered and 5.6 million PVCs collected, comparable to the war-

torn North-East with 9.1 million registered voters and 7.4 million PVCs collected (Aribisala. 2015).

However, the most outrageous were the figures recorded in the North-West, where 17.6 million registrations took place and 15.1 million PVCs collection was recorded, much more than the entire South-East and South-South put together.

2019 General Election

Despite some shortcomings, the 2015 elections had set a new benchmark for democratic elections in Nigeria by expanding the space for democratic participation, improving the environment for political competition as well as raising the standard for electoral fairness. Much as that was expected, the reverse was the outcome during the 2019 general elections, where killings and maiming of political opponents was the order of the day in Kogi, Rivers and Lagos states respectively.

Prof. Mahmud Yakubu, the chairman, Independent National Electoral Commission (INEC), had announced a lot of improvements and preparedness on the part of the commission to deliver credible, fair and free elections. The Presidential elections which was hotly contested by the incumbent president, Muhammadu Buhari of the All Progressive Congress (APC) and a former Vice President, Atiku Abubakar of the Peoples Democratic Party (PDP) which originally slated to hold on 16th of February, 2019 but was later cancelled in the early hours of the election day and moved to 23rd February, 2019 while that of Governorship and States' Assembly was moved from 23rd February to 9th March, 2019. Reasons were that, election materials could not reach all polling points on time. An action which most political pundits called a "sham", while other critics stressed several factors like that of not being sure of victory by the incumbent president who ordered the postponement of the presidential elections on the eve of the polls.

Challenges of Re-running Elections

Following intrigues that have trailed most of the reruns in Nigeria since January 2016 and the fears over the outcome of the remaining ones, Associate Editor, Sam Egburonu, reports on the causes of the rerun election challenges thus:

There is tension in Rivers State as the Independent National Electoral Commission (INEC) concludes its preparation for the March 19, 2016 legislative rerun. The anxiety fueled by the rivalry between the Peoples Democratic Party (PDP) and the All Progressives Congress (APC), is worsened by repeated murder cases in the area, alleged to be politically motivated.

Following the heinous killings, allegations and counter allegations by major stakeholders, observers are worried that on the day of the rerun, the situation may get out of hand. The situation is the same in virtually all the affected states, zones and units where about 80 rerun elections were scheduled to be held that year. The Nation gathered that just like the general elections in these areas, the acrimony is rather worrisome to observers of Nigerian democracy. This is because this seems to be the first time since Nigeria's return to civil democracy in 1999 that a general election would produce up to 80 nullifications and consequent re-runs. After the 2011 general Elections, 34 elections were nullified while 20 were nullified in 2007. But in the 2015 elections, the Independent National Electoral Commission (INEC) acknowledged

nullification of a whopping 82 polls. This development created an unusual tension, as reports from Bayelsa to Kogi and Benue as well as, from Rivers to Anambra centred on disputation and heightened tension.

Apprehension began in earnest early January 2016 ahead of the Bayelsa State governorship election rerun, when ex-militants from the state issued a public warning to Government Ekpemupolo, known as Tompolo and the leader of the Niger Delta People Volunteer Force, Alhaji Mujaheed Asari-Dokubo, to stay clear of Bayelsa State ahead of the rerun elections. Before the warning, there have been fears that some militants may have perfected plans to turn the polling units at the rerun to theatres of war.

It would be recalled that the December 5, 2015th Bayelsa State Governorship Election was marred by irregularities, prompting the Independent National Electoral Commission (INEC) to nullify the election in Southern Ijaw and in 101 other units. INEC had explained then that the election was nullified due to violence, abduction of electoral officials and ballot box snatching in Southern Ijaw Local Government Area and some other units. The two leading candidates, Governor Seriake Dickson of the Peoples Democratic Party (PDP) and former Governor Timipire Sylva of All Progressives Congress (APC) are known to be very popular amongst the common people of Bayelsa State, including the restive youths.

This explains why, when some ex-militant leaders, under the aegis of the Niger Delta Peace Yoke Leadership Initiative, led by Comrade Excel Toriomo, issued the warning to Tompolo and Dokubo, many feared that except something tangible was done immediately, the January 9, 2016 rerun would be more violent than the marred general election.

According to Toriomo, 'Our group strongly warns Tompolo and Asari Dokubo to steer clear from the collective decision of the Bayelsa people. They should be saddled with the challenges of facing the EFCC rather than coming over to Southern Ijaw to foment non-existing troubles and crises in Bayelsa State'.

As many feared, in spite of the heavy presence of security forces before and during the rescheduled Bayelsa rerun, it recorded widespread violence, which claimed the lives of about 17 people. On the eve of the rerun election, five people were shot dead in Ogbolomabiri, Nembe L.GA, while six others were killed in different parts of the state on the Election Day. Heavy shooting and snatching of ballot boxes made it difficult for elections to hold in some polling units in Nembe, Bassambiri and in Otuopoti Town. At the peak of the confusion, Governor Seriake Dickson condemned what he described ".....as the electoral malpractice and violence that marked the elections in Brass, Nembe. Ekeremor town and parts of Southern Ijaw local Government Area". The tension-soaked rerun dragged on all through the weekend until January 10th, when Dickson was finally returned as the winner of the Bayelsa State governorship election.

Nullification of Elections in Nigeria

In 2019, Presidential and National Assembly elections were originally slated for 16th February, 2019 but shifted to 23rd February, 2019 while that of Government and States' Assembly was moved from 23rd February, 2019 to 9th March, 2019.

Cases of Election Nullification

Rivers State

In Rivers State, the rerun challenges dates back to October, 2015, when the River State Election Petition Tribunal initially sacked Governor Nyesom Wike of the Peoples Democratic Party (PDP) as the governor of Rivers State. The petition challenging the election of Wike was filed by Dakuku Peterside, the candidate of the All Progressives Congress (APC) in the election.

In its ruling, the tribunal had ordered that a fresh governorship election be conducted in the state. Considering that the Rivers State elections were criticised by local and international observers for witnessing what was described as the “largest amount of violence both in its build-up and after the elections”, observers had expressed misgivings over the likely outcome of reruns in the politically charged state.

The tension was further heightened when Wike challenged the tribunal’s ruling but the Court of Appeal also upheld the ruling of the tribunal. The matter however changed dramatically in January, 2016, when the Supreme Court upturned the ruling of the lower courts and upheld Wike’s election as Rivers State Governor. This reduced the tension in the politically volatile state but did not remove it completely as PDP and APC continue to exchange verbal attacks over the legislative rerun elections scheduled for Saturday, March 19, 2016.

It would be recalled that the elections of Osinakachukwu Idoezu (Rivers South-West Senatorial District) and John Olaka-Nwogo (Rivers South-East) were nullified for irregularities the previous December. Earlier, George Sekibo (Rivers East District) was also sacked. The three senatorial districts' elections were nullified.

The Appeal Court had observed that INEC failed to comply substantially with the provision of the Electoral Act and other guidelines for the March 28, 2015 National Assembly Elections. This means that all the senatorial zones in the state would be involved in the rerun election. To worsen the tension, the rerun was initially fixed for February 6, 2016 but suddenly postponed at the last minutes without any official reason, prompting the political atmosphere to become charged and built up following allegations by the stakeholders. The situation assumed a more frightening dimension following reports of heinous murder cases in the state alleged to be politically motivated.

Recently, Nyeson Wike, the Governor of Rivers State alleged that Dr. Davis Ikanya, the Chairman of the All Progressives Congress (APC), Rivers State Chapter, has written a letter to the Director-General of the Department of State Services (DSS) and the Army High Command, requesting that prominent leaders and members of the Peoples Democratic Party (PDP) be arrested on the eve of the March 19, 2016 rerun legislative elections in the state.

Governor Wike made this allegation openly while addressing PDP members at Luuwa in Khana Local Government Area during the 50th birthday of Senator Lee Maeba on Saturday, February 20, Wike said the people of the state will resist any attempt to use the security forces to rig the rerun elections, adding. “We will support INEC to conduct free and fair elections, but nobody who rigs the election will go free.”

In his reaction, Ikanya denied ever writing any letter to security agencies to arrest members of the PDP, adding, "Is the governor now a mail-runner? Did he go to the DSS office to collect the letter? It's all issues of lies dished out for cheap popularity; I challenge him to produce the letter."

Davis Ikanya said the only letter he wrote to security agencies was for them to protect the lives and properties of APC members who are daily slaughtered. He also said he asked security agencies to arrest those whom, the surviving victims have alleged attacked them and butchered their loved ones. He said: "As the Chief Security Officer of the State how many of the areas where citizens of the state are wantonly slaughtered has Nyesom Wike visited to condemn the heinous crimes or commiserate with victims since he became governor?"

"If our people are being killed and the governor is insensitive, when has it become a crime that a political party ask security agencies to be alive to their duty" "Those criminals are butchering our people and carrying away their heads Ogba/Egbema/ Ndoni local government areas. Is Governor Wike saying they are PDP members? If they are, are they above the law?" "When has it become a crime for an individual or group to ask for protection from law enforcement agencies? Must the governor only be concerned about winning elections? Those being butchered don't they have right to life?"

Abia State

Another state where significant election rerun challenges were recorded after the 2015 general elections is Abia state, where the governorship election was resolved after a very contentious rerun in three local government areas of Osisioma, Isiala Ngwa and Obioma Ngwa.

The conclusion of the governorship election, through the Supreme Court's ruling, leading to the emergence of PDP's Okezie Ikpeazu as the governor of Abia state, failed to extinguish the tension generated by the senatorial rerun election in Abia North.

Added to the intriguing pre-rerun campaigns carried out by the candidates, the charged political atmosphere seemed sustained by the curious way INEC announced Senator Mao Ohuabunwa of PDP as the winner of the keenly contested election.

Former governor Orji Uzor Kalu's party, the Progressive Peoples Alliance (PPA), which dismissed the result of the election, described it as a "robbery." According to the result, Kalu, who flew the flag of PPA in the election, came second after Ohuabunwa. The National Chairman of PPA, Chief Peter Ameh, who announced the party's rejection of the result said: "The National Working Committee (NWC) of PPA strongly disagrees with and rejects the result of the Abia North senatorial re-run election announced by 1:45 on March 6. We state that it is indecorous to announce one result in the morning and another in the afternoon."

"We believe that the decision of the Returning Officer for the Ohafia Collation Centre, Dr. Ojike Nwankwo to cancel results of some polling units in Ohafia and Arochukwu local governments for irregularities and declaring the election inconclusive is correct, fair and even handed. "We state that what happened later the same day is a product of compromise and

arm-twisting. INEC having done its (duty) fairly and correctly in the morning should never have allowed itself to be prevailed upon to shift ground.” he said.

Benue State

Benue state, where the former Senate President David Mark, contested in a rerun election in March, 2016, is another state where analyst predicted possible crises or challenges. As soon as the Court of Appeal, sitting in Makurdi, capital of Benue State, agreed with the petition of Comrade Daniel Onjeh of the APC and said Mark’s election did not comply with electoral provisions and therefore ordered a rerun, observers paid particular attention to the election primarily, because of Mark’s domineering personality. Other commentators observed that it was a ploy to demystify Mark’s towering and domineering political stature. Some analysts said the odds were strongly against Mark in the rerun because he no longer had the federal might to bank on. This analysis heightened the tension even as Mark assured that he would still win the rerun. He eventually did.

Role and Place of the Independent National Electoral Commission (INEC)

There were many criticisms leveled at INEC after the 2003 elections, most importantly, the charge that the voters register was so seriously flawed as to undermine the credibility of the entire election. The Chief Press Secretary to the Chairman of INEC, Andy Ezeani, admitted to Human Rights Watch (HRW) that, the 2003 register was “25-30 percent fiction,” in that it was full of ghost voters and fake names, Chief Fawehinmi (SAN, 2007).

According to the European Elections-Observer Mission, in Nigeria in the run up to the general elections of 2003, “serious shortcomings were noted in relation to the voters’ lists and the transparency of the implementing bodies.” In its final report, the EUEOM made numerous recommendations for the overhaul of INEC to remedy many of the shortcomings of its performance in 2003 elections. In particular, it recommended that the 36 state-wide voters’ registers be merged into one public, challengeable document. It also recommended that INEC’s independence be strengthened to enable it carry out its duties free from political influence.

“As Nigeria approaches its next general election, it appears that INEC has not learnt the lessons of its previous failures. The registration of voters and the transparency of the register are once more the subject of controversy and the independence of INEC is again, in question in the run up to the April elections in 2003.”

Independence of the INEC: A myth or a Farce?

The way in which INEC has carried out its duties has drawn criticisms from all political parties, the Nigerian Bar Association (NBA) and Nigerian Civil Society groups as well as Human Rights Watch. Controversy has surrounded INEC's claim that it has the right to screen candidates and bar them from competing if it finds them ineligible to contest under the provisions of Nigeria's constitution. On the basis of these powers, INEC has said that, unless instructed otherwise by the courts, it will bar a number of prominent opposition candidates from appearing on the ballot paper in the general elections. In 2003, despite a Court of Appeal ruling that Atiku should be allowed to contest, INEC had resisted implementing the judgment and contested it in the Supreme Court. At same time, the then chairman of INEC, Professor

Maurice Iwu, had indicated that INEC may conceivably decide not to comply with any eventual court ruling ordering it to reverse its actions; Iwu argues that by then, there would be no time for the ballot papers to be re-printed before the polls.

Factors that Prompt Nullification of Election in Nigeria

Elections cannot just be nullified. The following factors promote irregularities during elections:

- ❖ The use of political thugs to steal ballot paper or cards. Election can be nullified with proper evidence, when thugs intimidate political opponents by forcing them to vote for their party (disfranchisement).
- ❖ Forging of certificates, is a criminal action against emerging candidates and can result into nullification of elections.
- ❖ Indulgence of underage persons in electoral activities promotes nullification of elections.
- ❖ Lack of internal democracy or intra-party conflicts arising from party primaries.
- ❖ Killing of members of the opposition parties can result into election nullification.

The National Question: A Prognosis

National Question here is construed as the Federal Character in Nigeria and on the other hand, it simply means questions that occur during enquiries on some issues of inequality, issues of prebendalism, corruption, nepotism and tribalism in governmental shades to ensure a balance of power in the state operations or apparatus.

The above definition entails that National Question arises to clear the air on issues that affect certain governmental parastatals with regards to the way or pattern in which they are ran.

Practices that Affects National Questions

- i. Inequality in the sharing formula;
- ii. The existence of tribal domination in government parastatals;
- iii. When government administrators are full with egoism;
- iv. Autocratic elements prevalent in both administrative and political leadership positions and;
- v. When there is a deficiency between What Is, and What Ought to Be.

Interface between Nullification of Election and the National Question

- Using of political thugs in one region aggravates or gives rise to the same vice in other regions. Reprisal actions during elections can throw up such national questions like why is there political intimidation in this region, and there is no such in one or other regions?
- Hijacking of ballot boxes or voters card give rise to issues of the national questions to occur. For instance, national question like, why is there a high rate of disenfranchisement in this state(s) and you cannot find it in another state or in others
- Tribalism and domination is another relationship between nullification of election and the national question.
- High rate of prebendalism: this brings about national questions like why is it that the person we elected to represent us, has in practice, turned the office into a personal business.

Conclusion

Since 1999, our political leaders have taken shade under the immunity clause of section 308 of the 1999 constitution to render section 15 (5) of the same constitution ineffective. Section 15 (5) emphatically abhors all forms of corrupt practices and abuse of offices of power. Hence, these political chieftains cannot be removed from office no matter how corrupt they might be. They have become swollen-headed, so daring and so diabolical in their brigandage and very dictatorial with the use of state apparatus that has become brazing and bizarre in high places – either at the federal, states and local governments’ level – so shameless in their ungodliness. It is therefore, our position that the political and administrative elites should know that, there are two sets of people who are unconstitutionally injured during the electoral robbery. First, it is the voters who by virtue of Article 13 of the African Charter on Human and Peoples’ Rights CAP. A9, Laws of the Federation of Nigeria, which became part of our laws on the 17th March, 1983 and was confirmed by the Supreme Court as part of our laws in the case of *Abacha v. Fawehinmi* (2000) 6. NWLR (pt. 660) 228, which provide that: “13(1) Every citizen shall have the right to participate in the government of his country, either directly or through freely chosen representatives in accordance with provisions of the law”. This goes a long way to say that, the voters have a fundamental right. While the second set of injured Nigerians are those who contested but were robbed of victory. In both cases, citizens have constitutional rights which obviously give them a locus to vent their grievances through respective Tribunals. It is sacrosanct that, the Nigerian Judiciary, should courageously and honestly right the wrongs inflicted on the Nigerian electorates during fraudulent polls in the country’s annals of history.

Brazing and bizarre corruption by highly placed public officers at the federal and in the States caused the unprecedented electoral robbery in the April 2007 Elections. Our failure as a nation to punish corruption and corrupt practices clearly manifested in the April 2007 Elections. The unfathomable scale of the electoral robbery was a measure of the large-scale corruption in our society – where the outgoing president then, Chief Olusegun Obasanjo openly in a peoples’ Democratic Party (PDP) campaign rally in Yola, Adamawa state, stated that victory for his party was “a do or die affair.”

The voters whose votes were not made to determine who should govern them either at the centre or in the states have no *locus standi* to petition the tribunals. This is one instance of a wrong without a remedy. How can the voters approach the tribunals set up under the same Constitution when they are not contestants? This puts another responsibility on the tribunals to ensure that “any robber” in the electoral robbery does not profit by its corruption, abuse of power and the denial of the voters to choose their representatives or leaders.

The second set of injured Nigerians, are those who contested but were robbed of victory. They have a right of access to the Tribunals to ventilate their grievances under the appropriate provision of the Constitution of the Federal Republic of Nigeria, 1999. They obviously have *locus* to lay their grievances before the respective Tribunals. Let us go down in history that the Nigerian Judiciary through its tribunals must courageously and honestly right the wrongs inflicted on the electorate of Nigeria during the fraudulent polls in the nation’s history.

Recommendations

- Electoral processes in Nigeria were basically hampered by the slow passage of the Electoral Act of 2006. The Act became a law on June 22, 2006. Before this statement, there were so many flaws, haphazard preparations and fraudulent delays begetting elections in Nigeria which always culminated into Technical Knock-outs at Election Tribunals. We hereby, recommend that, the Electoral Law be strengthened and observed to the latter. This will be achieved through the establishment of Electoral Offences Commission with clear guidelines for the management of electoral complaints and litigations of criminal electoral offenders.
- There should be a Political Parties Registration and Regulatory Commission, so that INEC can focus on election administration and avoid unnecessary contention with political parties.
- Overhaul and conduct a comprehensive internal review of its performance in the past, communication strategies, enhance logistical and operational capacity.
- Innovate ways that will enfranchise Nigerians who work on election days as well as physically challenged citizens.
- Enable independent candidates to contest elections, in line with international best practices.
- Consider reforms to strengthen and enforce comprehensive political party financial laws.
- Introduce strict timelines for all election-related cases to be heard. This will by and large, engender the process to both international and local civil societies' organizations.
- Re-jig the "Federal Character" principles constitutionally, structurally and politically.
- Re-invigorate sensitization agencies like the National Orientation Agency (NOA), Federal and State Ministries of Information and Commission.
- Start a "catch-them-young" programme in primary and secondary schools across the country.
- The Nigerian tertiary educational institutions should also be targeted as well as National Youth Service Corp members for patriotic sensitizations.
- Above all, the Civil Society Organizations should be given an enhanced environment to promote civil education which encompasses good and better electoral practices.

References

- Aguda, A. (1983) "Development in the Adjudicatory System" in T. A. Aguda (ed.). *The Challenges of the Nigerian Nation: An Examination of its Legal Developmental 1960-1985* Heinemann Educational Books.
- Aiyede, ER. (2007). Electoral Laws and the 2007 General Elections in Nigeria. *Journal of Africa elections*, Vol.6 No.2, p.35.
- Alabi, M.O. (2008). *The Electoral Act 2006 and the Conduct of 2007*
- Alemika, E.E.O. "Nigerian Security Agencies and the 2003 Elections: Lessons for the 2007 Elections" in Albert. 1.0. et al (eds.) *Perspectives on 2003 Elections in Nigeria*.
- Autheman, V. (2004). *The Role of Constitutional Courts in Resolving*
- Authman. V. (2004) "The Resolution of Disputes Related to Election Result" in *International Foundation for Electoral System Report February 2004*.

- Ayoade, J.A.A. (1998) "What is Democracy" in Ayoade J.A.A. (ed.) *Democracy: Its Meaning & Value*, Ibadan, Vintage Publishers.
- Dahi. R.A (2000) "A Democracy Paradox?" *Political Science Quarterly* Vol. 115(1) pp 34-40.
- Danjibo, N. (2007). "Vote- Buying in Nigerian Elections: An Assessment of the 2007 General Elections" *Journal of African Elections*. Vol. 6.No.2. p. 180.
- Diamond, L. (1994). "Rethinking civil society: Towards Democratic Consolidation" *Journals of Democracy*, Vol.5. P. 13.
- Dundas, W.C. (1998) *Discussion of Election Issues in Commonwealth Africa* (London: Commonwealth Secretariat)
- Egbewole, W.O. (2003) "Professional Challenges and Practices in Democratic set up" delivered to 16th Conference of the Institute of Certified Secretaries and Reporters on November, 2003 held at Ilorin.
- Egbewole, W.O. (2007) "Nigerian Judiciary, Globalisation and Democracy" in Taiwo Kupolati (ed) *Current Issues in Nigerian Jurisprudence* p. 279.
- Election Disputes through a Transparent Adjudication Process". A paper presented at IEES Rule of Law Conference Paper Series.
- Elections in Nigeria" in Saliu, H.A et al (eds). *Nigeria beyond 2007- issues, perspective and challenges*. Ilorin, FBSS Unilorin, P. 41.
- European Union Elections Observer Mission (EUOM) Reports 2007 Electoral Act 2006.
- Guillermo, O. (1996). "Illusions About Consolidation" *Journal of Democracy*, Vol.7, p.38.