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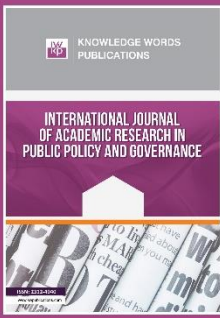
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Electoral Fraud and the Performance of the Judiciary in the Post 2007 General Elections in Nigeria: An Empirical Assessment of Nigeria

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Abstract

In this study we interrogated whether the judiciary in the post 2007 general election has played any significant role in adhering to the issue of electoral fraud since after the general election on Nigeria in 2007. We argued that the Nigerian judiciary in the fourth republic has overcome the drawbacks in the sector as it favours the dominant economic class in Nigeria to liberate the judiciary from the clutches of the executive intimidation. This new turn of the judiciary in Nigeria, has the capacity to turn the table around positively for the polity. This study recommends that the Uwaigbo electoral reform blueprint should be strictly adhered to in ensuring a transparent, free and fair 2011 general election.

Keywords: Judiciary, Electoral Fraud, Reform and Economy.

Introduction

The Nigeria electoral fraud in Nigeria is an indication that the political personalities that emerged to struggle power from the British colonisers for their own selfish interests have survived till the Nigerians fourth Republic. These cabals survive through exploitation of certain parochial variables at the detriment of the national unity and development. Attachment to State power becomes the only means of survival to these cabals while detachment from the State power equates detachment from life and an invitation of war. These groups are so powerful and hence exist in every human association. However, many other names have been given to these groups ranging from spirits, guardian class, ruling class to the dominant elites. These groups also ensure that the economic benefits attached to their status is maintained and transferred from one generation to the other.

Generally, the judiciary is given the opportunity to determine whether or not a person has been duly elected into office, which he seeks to occupy. It is then practically impossible for that arm not to be

saddled with onerous responsibility in administering the State under the setting (Egbewole, 2006:2 17). The Electoral Act gives the court the opportunity to look into the question of whether or not a person is elected (1981)2 NCLR 358. The court has consistently performed this role; the extent to which this duty is responsibly discharged is a different ball game. The courts have not shied away from pronouncing on its role in this regard. The Nigerian judiciary has overtime been regarded as a weak, inactive, dependent, vulnerable organ of government, which has failed entirely to perform its function, has not defended the common man, has seized to be custodians of the law and many more derogatory terms were used to define the inertia of the Nigerian judiciary prior to the emergence of the 4th republic. Egbewole (2006; 218-219) asserts that unconstitutional impeachment of the governors of Oyo, Anambra and Plateau States is an indication of the nature of the Nigerian judiciary in the immediate post military era. However, after these cases were decided, the judiciary ceased to be lame duck of the other arms of government, that weak, failed institution that wrings its hand in the midst of injustices and once again rekindled man's hope in it, and served as a wake up call to spoilers in the political system that the era of flagrant disobedience of court's orders and *exparte* application was over.

About eleven years ago when power was handed over to a democratically elected civilian regime after many years of military misrule, the hearts of Nigerians were filled with joy, excitement and hope. May 29, 1999 was a significant day in the political history of Nigeria for many reasons. Thus, it marked the dawn of a new life, free society, economic prosperity, improved standard of living and most importantly, respect for the rule of law, which had eluded the country in the past three decades.

President Olusegun Obasanjo in his inaugural speech on assumption of office in 1999 promised not to spare any sacred cow and to ensure transparency and accountability to all Nigerians in all departments of his administration. Meanwhile, after the conduct of 2003 general election, which was adjudged minimally rigged, it became apparent to Nigerians that the major challenge facing the nation was to consolidate the democratic process by transiting from one democratic dispensation to another. Thus, these cabals survive to initiate electoral violence and fraud to remain in negotiation list of every administration hence continuing to exploit and loot the national treasury.

Hence the greatest challenge that faced the judiciary was in the process of electoral transition from the democratic government of Olusegun Obasanjo to another. In as much as this was going to be the first experience of Nigeria in such democratic experience, it would be expected that a lot of challenges would confront the judiciary, who's primary role in this process is not in question. The legal tussle between the electoral empire, Independent National Electoral Commission (INEC) and the candidates of the major opposition parties provided excellent opportunities for the Nigerian judiciary to permanently break loose from the past that had haunted it and reposition itself for a noble national assignment.

In the context of the foregoing discourse, a viable judiciary became absolutely necessary to ensure that the Nigeria's infant democracy grows. In the immediate post-military regime era under Obasanjo between 1999 and 2003, the image of the judiciary largely remained battered following the bastardisation the sector suffered under the protracted military rules in Nigeria. Remarkably, Eso (1999) noted that: They have since reminded the judiciary that the institution is permitted to exist. But they have done worse. They litter their legislation with ouster clauses, thus in effect rendering

the judiciary, the legendary third arm of government, which they probably in their benevolence have left extant, impotent.

Between 1999 and 2003, conflicting court pronouncements was in common place in Nigerian judiciary. Nonetheless, the judiciary began to record a tremendous progress from the last years of President Obasanjo's first term between 1999 and 2003. The level of electoral fraud that characterized the 1999, 2003 and 2007 general elections has remained the worry of most scholarly papers. The judicial overturn of some gubernatorial elections across the country is an indication that the Nigerian judiciary has emerged to play its central role in the democratic consolidation of Nigeria. Against this backdrop, this paper examines the role of the judiciary in the post - 2007 general election in Nigeria with a view of recommending a more transparent, free and fair election in 2011 general elections.

Conceptual Clarification of Electoral

Fraud

Electoral fraud refers to any illegal interference with the process of an election. Acts of fraud tend to involve affecting vote counts to bring about a desired election outcome, whether by increasing the vote share of the favored candidate, depressing the vote share of the rival candidate, or both (Wikipedia, 2008). Electoral fraud is probably as old as elections themselves. A first instance of electoral fraud, therefore, dates back to 471B, in the Athenian democracy. Nonetheless, Stiglitz (2001) noted that: Secrecy is corrosive; it is antithetical to democratic values and undermines democratic processes; it serves to entrench incumbents and discourage public participation in democratic processes; and it is based on mistrust between those governing and those governed, and at the same time, it exacerbates that mistrust..., by undermining confidence that supposedly democratic process are working in the general interests, it feeds those who argue against democratic processes.

Electoral fraud involves rigging, thuggery, kidnapping, assassination, forgery of electoral materials and results, among others. However, this act takes places in virtually every democracy but the extent to which this is managed determines the level of political and economic development of such people. In Nigeria, electoral fraud is so pervasive thus, the level of political development is rudimentary.

Judiciary

The judiciary is regarded generally as the symbol of justice (Egbewole, 2006). The judiciary is the body of judges and courts that interpret the constitution and the laws and adjudicates conflicts and crises between the various institutions of government, groups and individuals (Ikelegbe, 2006). The judiciary also possesses the power of judicial review through which they could examine and determine the constitutionality of legislative, executive and bureaucratic actions and policies. Through this, the judiciary ensures that every governmental action conforms to the intent and letter of the laws. These powers of adjudication, interpretation and review make the judiciary an actor in the policy process in the sense that it could make pronouncements as to the propriety, fairness, legality and constitutionality of laws or proposed laws: The judiciary could, therefore, make laws, kill laws by declaring them null and void and unconstitutional, change the course of policy activity and action, and enhance policy choice by lending the weight of legality and propriety to a policy alternative and moderate implementation activity particularly the conduct and manner of

bureaucratic officials and implementation. Sections 1, subsection 1:5 of the 1999 Constitution of the Federal Republic of Nigeria (Section 1, Chapter 1:5) provides that: Judicial powers shall extend to all matters between persons, or between government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person. Hence, the judiciary is the moderator of other arms of government and the guarantor of justice in every modern democracy thus the last hope of the common man for redress.

The General Election

The 2007 general elections in Nigeria were held to be far from being free and fair and lacking credibility. Some say it was a rape of democracy, a charade, an electoral rot, a sham, a fraud, and selection, an election that is worse than a military coup, an action to perpetuate dictatorship in the country and failed elections among others. In a nutshell, this election has been the most controversial and fraudulent ever in the history of elections anywhere in the world (Ilallah, 2007:13).

Despite the unprecedented enthusiasm of a wide spectrum of voters, which enabled them to bear the long hours of delay and the dangers they faced from anti-social elements, ended in dashed hopes and aborted dreams. In certain parts of the country, the election defied heavy rain to cast their votes. The elections were spontaneously condemned by opposition parties, political parties, voters, domestic and foreign observers from ECOWAS, EU, UN, UK, US and other well meaning individuals, civil society groups, organizations and countries among others. This is a clear indication that the elections were marred by serious irregularities and malpractices.

The former Vice President, Atiku Abubakar was the first to condemn the 2007 general elections. Atiku described the elections as a sham. According to Atiku who was a Presidential Candidate of the Action Congress, the magnitude and nature of the electoral fraud introduced by the ruling Peoples Democratic Party, PDP in the final desperation moves by Obasanjo to remain in power till eternity was insurmountable. Again, Major General Muhammadu Buhari, the Presidential Candidate of the All Nigeria Peoples Party, ANPP rejected the election results and added that it is the worst ever in the history of Nigeria.

The data released by INEC basically seals its conquest of the Nigerian people and their resources. Obasanjo and Iwu have authored one of the most embarrassing episodes in Nigeria's history (Ndibe, 2007). Also, Gbadegesin (2007) remarked that the nightmarish experience of Nigerians in the elections of 2007 is only the most recent in the history of election nightmares in Nigeria. Similarly, Eso (2007) observed that "Obasanjo's transition is the darkest in Nigeria's history. It is the most heinous in Nigeria's attempt at democracy". The Transition Monitoring Group, TMG, along with six other civil society groups namely Labour Election Monitoring Group, LEMG; Citizens Forum for Constitutional Reforms, CFCR; Electoral Reform Network, ERN, Muslim League for Accountability, MULAC; Centre for Democracy and Development, CDD and Alliance for Credible Elections, ACE also seriously criticised the elections and called for its cancellation and the conduct of a fresh exercise. Alaba (2007) also noted that massive fraud and disorganisation, including result being passed around to politicians who simply filled in numbers as they chose while bribed returning electoral officers looked away. Osundare (2007) also re-echoed that from the south to the north, from the east to the west, your "victory" like a behemoth, trampling all rules of decent engagement, raw, astonishingly

greedy and disdainful of the will of the Nigerian people. He concluded that president Obasanjo in collaboration with his party and INEC have stolen the people's voice, trampled their integrity in the dust and frustrated their common wealth.

European Union Election Observer Mission, lead by Max Van Den Burg concluded that the elections fell far short of basic international and regional standards. It noted that in view of the lack of transparency and evidence of fraud, there could be no confidence in the results. It saw the elections as being hailed by very poor organisation, widespread procedural irregularities, voter disenfranchisement and lack of equal conditions for political parties and candidates, etc. The Mission advised that Nigeria should begin the process of establishing an independent and capable election administration (Musa, 2007:14). These expressions point to the same direction that the 2007 general elections in Nigeria were massively rigged in favour of the then incumbent President and Governors across the federation.

Okoronkwo, (2007:9) add that the Role of the Judiciary in the Post- 2007 General Elections in Nigeria. Since the judiciary, overturned the decision of INEC and removed a candidates who had been declared winners by the Commission after the April 2007 polls, it becomes apparent that the wave of change has began in the Nigerian judicial circle and political history. Today, the Nigerian judiciary appears resolved to frustrate the evil trinity of selfish politicians operating in cohorts with compromised electoral umpire and the Police to run Nigeria's democracy stuck via rigging if general elections. The courage shown by the judiciary in the adjudication of disputes arising from April 2007 elections has given hope to Nigerian

After the Supreme Court's ruling in Anambra State that nullified the 2007 gubernatorial elections that produced Andy Uba of the PDP as Governor based on the fact that Peter Obi's tenure was still running the judiciary restored the hope of the common man in search of justice (Obiagwu, 2008:1). Similarly, in Kano State, the Appeal Court on October 10, 2007 upheld the ruling of the lower election tribunal nullifying the election of Governor Ibrahim Idris because of .the unlawful exclusion of the ANPP Governorship candidate, Prince Audu Abubakar by NEC and by this ruling NEC fixed March 28, 2008 for the conduct of a fresh poll (Obiagwu, 2008:2). The election has been conducted and the PDP candidate was returned in the polls.

Obiagwu, (2008:2;3) noted that in Rivers State, after Chief Celestine Omehia lost the governorship seat to another PDP Chieftain and former Speaker of the Rivers State House of Assembly, Chief Rotimi Amaechi. The Supreme Court on October 25, 2007 ruled that Amaechi was wrongly substituted as the PDP candidate. Also, the gubernatorial election produced Murtala Nyako as governor was nullified due to unlawful exclusion of Aihaji Ibrahim Bapetal of the Action Congress (AC) in the electoral process. Nyako, however, appealed against the ruling at the Supreme Court but the higher court upheld the decision of the tribunal which later necessitated a bye-election in Adamawa State on Saturday 26th of April, 2008. Though Murtala Nyako was returned as the governor of Adamawa State without much rancour which was described as an anti-climax by observers (Ugbechie, 2008:12).

This wind of change touched virtually every State of the federation though some of these petitions were rendered null and void. Among other States are Enugu, Bayelsa Edo, Kebbi, Kogi, Ekiti and Ondo states which also witnessed nullification of elections in those States by the election petition tribunal set up in the respective States under varying irregularities.

Nwankwo, (2008:1) asserts that the elections that produced some of the legislators were also questioned nullified and re-conducted. The Senate President; David Mark was affected in the serial nullification of election results in Benue State. The State Election Petitions Tribunal sitting in Makurdi struck down his victory in the disputed April polls on the basis of allegations of forgery and alternations on the result forms, over a petition tendered by Usman Abubakar, an All Nigerian People Party (ANPP) candidate to argue a case of over-voting in two council areas of the State.

Among others whose elections were nullified include Senator Ikechukwu Obiora representing Anambra South Senator Geoge Akume of Benue State due to non-compliance with the 2006 Electoral Act following the petition of Dr. Simon Lim of the Action Congress (AC), Senators John Shagaya of Plateau North, Sati Godwin of Plateau Central, Ayogu Eze of Enugu South, Tanko Ayuba of Kebbi South, Mohammed Bello of Kano Central and Jubril Usman Wowo of the Federal Capital Territory (FCT) Abuja have all had their elections nullified by the tribunals due to the various petitions field ranging from irregularities to other forms of malpractices. Many of these cases are currently at the Court of Appeal and are likely to proceed to the Supreme Court. (Obiagwu, 2008:2).

In the State Houses of Assembly, the following elections were also cancelled:

1. Nasarawa State House of Assembly; Abduhamid Kwara (PDP), certificate forgery.
2. Adamawa State House of Assembly; Ahmed Mohammed; Yola South, unlawful exclusion of ANPP candidate, Aihaji Waziri Ibrahim.
3. Adamawa State House of Assembly; Former Speaker Mohammed Hassan Turaki (PDP); Yola North, unlawful exclusion of Thomas Jonathan Dinnang of the Labour Party.
4. Edo State House of Assembly; Ovia North East constituency; Bright Osayande (AC), substantial noncompliance with Electoral Act 2006 (failure to distribute election materials).
5. Kogi State House of Assembly; Speaker Clarence Olafemi (PDP), substantial non-compliance with the Electoral Act 2006 (election manipulation).
6. Adamawa State House of Assembly; Mr. Audu Buba Ngete (PDP); Shelleng Constituency.
7. Kebbi State, Senator Tanko Ayuba (ANPP) lost his seat.
8. Oyo State, Justice Sidi Bage ruled that a fresh election be conducted in Jseyin-Itesiwaju State Constituency where PDP's Waheed Olaniyan had earlier been elected.
9. FCT, Abuja, Senator, Jubril Wowo (ANPP) had his election annulled because the AC candidate, Isa Ndako was unlawfully excluded from the polls.
10. Oyo State, the election of AC lawmaker, Jon Olaoye Oyedokun of Iwajowa Constituency was voided (Okonkwo, 2007:9).

Notably, most of these rulings by the Tribunals and the Supreme Court indicted INEC, but the Chairman of INEC debunking this claim noted that INEC could not be faulted.

In contradistinction to the foregoing irregularities in both State and senatorial elections that produced representatives of the people at different levels, the Presidential Election Tribunal, comprising five Judges led by James Ogege on Tuesday, February 29, 2008 dismissed the petition filed by Muhammadu Buhari of the All Nigeria Peoples Party (ANPP) and Aihaji Atiku Abubakar of the Action Congress (AC) demanding the nullification of President Umaru Yar'Adua and his Deputy, Goodluck Jonathan. The five-Judge tribunal said the petitioners did not prove that Yar'Adua did not win the April 21, 2007 presidential election lawfully. The court also ruled that there was no evidence that the INEC breached the electoral law in such a way that substantially affected the conduct of the election or the result to the disadvantage of the petitioners (Ugbechie, 2008:11).

Conclusion

The study concludes that, the Nigeria judiciary in the fourth republic appears to have over come the drawbacks in the sector as it favours the dominant economic class in Nigeria to liberate the judiciary from the clutches of the executive intimidation. This new turn the judiciary in Nigeria, has the capacity to turn the table around positively for the polity.

Recommendations

1. This study recommends that the uwais electoral reform blueprint should be strictly adhered to ensure international best practice, free and fair roll general election since the judiciary has emerged to overturn every apparent electoral fraud noted during election in Nigeria.
2. That since president umara Yar'Adua acknowledges the massive irregularities that characterized the election that produced him as the president and went as far as instituting on electoral review panel under the chairmanship of a former chief justice of the federation, justice Mohamed legal uwasi to make recommendation for the reform of the electoral system in Nigeria.
3. The study recommend that, the panel should submit its report to the federal government and the whole world anticipates for the implementation of the contents of this report in preparation for the 2011 general election in Nigeria.

References

- Alaba, F. (2007) "Nigeria's Church Speaks", Catholic Bishops Conference in Nigeria, in an International Press Conference, April, 25 2007
- Braithwaite T. (2007). "The Atrocities and Fraud of 'Election' 2007 in Nigeria." *New Age*, Wednesday May 16.
- Chafe, K. S. (1994). "The Problematic of African Democracy: Experience from the Political Transition in Nigeria", *African Zamani*, No. 2, July 1994.
- Egbewole, W. O. (2006). "Independent Judiciary and Sustainable Democracy", in O. Emmanuel (ed.) *Challenges of Sustainable Democracy in Nigeria*. Ibadan: John Archives Publishers.
- Elekwa, N. N. (2007). "An Assessment of April 14th and 21st 2007 Nigeria's General Elections and the State of the Nation" being a paper presented at the Nigeria Political Science Association (NPSA) at Bayero University Kano, Nigeria. 21 stAugust.
- Eso, K. (1999). "The Place of Law in a Democracy" delivered at the first T.O. Elias, Jurist of Distinction Annual Memorial Lecture, University of Ibadan.
- Gbadegehin, S. (2007) "Electoral Fraud and Ethno Religious Ideologies" *The Nation Newspaper*, May 4.
- Ikelegbe, A. (2006). *Public Policy Analysis: Concepts, Issues and Cases*. Lagos; Imprint Services.
- Karl, M., and Engels, F. (1968) *Selected Works*. New York International Publishers.
- Leke, S. (2007). "Guber Polls: An Overview". *New Age*, Wednesday, April 18.
- Ndibe, O. (2007) "Winners of Ghost Mandates" *This Day Newspaper*, May 1.
- Nnadozie, U. (2007). "History of Elections in Nigeria", in Attahiru Jega and Okechukwu Ibeanu, (eds) *Elections and the future of Democracy in Nigeria*. NPSA Publications.
- Oddih, M. (2007). "Electoral Fraud and the Democratic Process: Lessons from the 2003 Elections", in Attahiru Jega and Okechukwu Ibeanu, (eds) *Elections and the Future of Democracy in Nigeria*. NPSA Publications.
- Zanna, M. H. (2007). "Iwu's 419 Elections", *New Age*, Friday, May 11.