

Imperatives for electoral reform in nigeria essay sample



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In the context of a weak electoral body, a perverted electoral process and undemocratic political parties, the stage is set for flawed elections. Thus, the 1999 and 2003 elections, like virtually all the preceding elections in Nigeria's post-colonial history, were classic cases of electoral fraud. In broad terms, there have been two kinds of elections in Nigeria's post-colonial history. These are the 'transition' and 'consolidation' elections[1]. The transition elections are those organized by a departing political authority, which include those organized by the departing colonial authorities in 1959, and those organized by military regimes in 1979, 1993 (aborted) and 1999. Consolidation elections are those organized by a civilian regime and are intended to consolidate civil rule.

These include the 1964/65, 1983 and 2003 elections. While virtually all these elections have been contested, the elections of 1983 and 2003 stand out as the most corrupt and fraudulent. The shared characteristics of all elections in Nigeria, include massive electoral frauds, the conception and practice of politics as warfare, the lack of continuity in the political platforms used by members of the political class, high levels of opportunism and thus a low level of commitment to the different variants of right-wing political ideologies that characterize the political class, the objectification of politics, and the mobilization of ethnic identities as the basis for defining the legitimacy of claims to political power[2].

Elections in Nigeria have been fraught with violence, massive rigging, voters intimidation and fraud. There is also a deliberate attempt by the ruling party to contrive and monopolize the electoral space, engineer grand electoral

fraud, as well as hatch a deliberate plot to move the process towards a one party dominant democratic order in favour of the ruling party[3].

3. 2CHALLENGES AND OPPORTUNITIES FOR ELECTORAL REFORM

There is the urgent necessity for fundamental electoral reform so as to set a solid foundation for a stable democracy in Nigeria. The challenges and opportunities for electoral reform in Nigeria include:

- a) **POLITICAL VIOLENCE:** This has been aggravated by the unwillingness of politicians to play by the rules of the game. The rising spate of unemployment and the proliferation of small arms and light weapons have increased this phenomenon. More often than not, law enforcement agents who are ill-equipped and ill-trained to handle outbreak of political violence contribute to the problem.
- b) **COMPETITIVE RIGGING AND ELECTORAL PARTICIPATION:** Nigerians do not have a voice and choice in elections. The pervasive culture of impunity and executive lawlessness in governance has nourished and intensified this phenomenon of competitive rigging thereby affecting participation in elections. More so, the Independent National Electoral Commission (INEC) is only independent in name
- c) **POLITICAL PARTIES / PARTY SYSTEM:** Contemporary political parties do not seem to belong to the people, they lack ideology and respect for the party constitution, they also lack transparency and accountability in the management of ifunds, etc. Thus there is no internal democracy.

d) ELECTORAL ADMINISTRATION/ MONITORING: There are various flaws in the electoral laws, unwholesome delay in the determination of petitions at the Elections Tribunals, INEC has been inefficient in election administration; the late release of election monitoring guidelines by INEC, lack of funding and late preparations have hampered past monitoring exercises.

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

However despite some of the challenges highlighted above, Nigeria has grown stronger in the conduct of peaceful elections, as vital amendments have been made to the Constitution which incorporated aspects of the Report of the Electoral Reform Committee. Nigeria has also improved in the organization of elections, applying the appropriate technology - data capturing equipment, and adopting more efficient election administration procedures to enhance the credibility of the elections. Similarly, our jurisprudence continues to be enriched by the complex electoral cases that are being handled by our courts. The recent Supreme Court judgment of 27 January, 2012 that terminated the tenure of five Governors who had earlier won lower Courts judgments in relation to constitutional interpretations will continue to be of interest to political scientists, constitutional lawyers and scholars for a very long time[4].

Some of the issues precipitating electoral violence and other negative political behaviors could be poverty, ignorance, illiteracy, corruption and the inequities in the allocation of resources are some of the constant variables

influencing and perpetuating the dominance of certain regions over the others, leading to socio-economic dislocations and frustration by some people while others live in air of arrogance because of their economic advantages in the new order. The statistics of how federal resources are shared amongst the various regions of the country are revealing and insightful in this regard. Figures from the Federal Ministry of Finance (FMOF), Office of Accountant General of the Federation (OAGF) and National Population Commission (NPC) highlight the disproportionate allocation of the national revenues. There is thus the urgent necessity for fundamental electoral reform so as to set a solid foundation for a stable democracy in Nigeria.

3. 3RECOMMENDATIONS OF THE ELECTORAL REFORM COMMITTEE (ERC) - THE JUSTICE UWAIS PANEL

The task of the 22-member Electoral Committee was to “ examine the entire electoral process with a view to ensuring that we raise the quality and standard of our general elections and thereby deepen our democracy”. The report of the ERC acknowledged inter alia that the lack of independence of the electoral commissions at the National and State levels as a key deficiency of the electoral process and therefore made appropriate recommendations to address the focal issues of the composition, administrative autonomy and funding of the electoral commissions. Similarly, the Electoral Reform Committee Report made several important recommendations majority of which were rejected by the Federal Executive Council. The Committee had in its recommendations suggested amendments of some provisions of the Constitution and the Electoral Act, 2006

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However, the initial hopes raised both by the inauguration of the committee as well as its far reaching recommendations were dashed by the contents of the Government White Paper on the Uwais report which was released in March, 2009. The Government rejected most of the recommendation of the panel. In what many see as an assault on the Federal framework of the Nigerian state, the Government White Paper also contained a recommendation that seeks to abrogate the State Independent Electoral Commissions (SIECs) thereby making INEC the only electoral agency in the Federation. The Government White Paper on the Uwais panel report called into question the commitment of the Yar'adua administration to reform Nigeria election process. Indeed, one can safely argue that the Yar'adua presidency merely settled for electoral reform as an instrument of regime survival in the face of the legitimacy crisis that plagued the new administration at its inauguration. This tragic turn of events lends credence to the position held by some observers who had argued that having bountifully reaped from the massively flawed 2007 polls, the late President Yar'adua could not be genuinely interested in reforming Nigeria's electoral system. Some of the notable recommendations of the Justice Uwais led committee to impact on the quality and credibility of election in Nigeria are:

a) Provision with respect to the independence of INEC: The report recommended that Section 153 of the Constitution should be amended to remove INEC from the list of the Federal Executive Bodies and that the appointment procedure for the Chairman, deputy chairman and members should be by advertisement by the National Judicial Commission (NJC) spelling out the requisite qualifications. The Chairman and members of the

board may only be removed by the Senate on the recommendation of the National Judicial Commission by two-thirds majority of the senate.

The committee also recommended that Section 84 of the 1999 Constitution be amended by adding subsection (8) to read as follows: “ the election expenditure and the recurrent expenditure of the Independent Electoral Commissioners offices (in addition to the salaries and allowances of the chairman and members mentioned in subsection 4 of this section) shall be first charge on the consolidated revenue of the Federation”.

b) Provision with respect to qualification for elections: The committee recommended that Section 65 (2) (b) and 106 of the Constitution should be amended to make provision for an individual to run as an independent candidate.

c) Provisions with respect to dates of presidential and gubernatorial elections: The committee in its report recommended that Sections 132 (2) and 178 (2) of the Constitution should be amended to appoint a single date for Presidential and Gubernatorial elections which should be held at least six months before the expiration of the term of the current holders of the offices. It also recommended that the Constitution should also be amended to appoint a single date for National and State Assembly elections which should hold two years after the Presidential and Gubernatorial election.

d) Provision with respect to election tribunals: It was recommended that the number of tribunals should be increased by reducing the number of judges that sit on a tribunal from five to three, so that more tribunals can be established per state. Also in order to minimize the filing of frivolous

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petitions, the Electoral Act should be amended to provide that if a Petitioner loses a case, he should be ordered by the court or tribunal to bear the full expenses of the Respondent. Furthermore, that the period for determination of election petitions should be specified as follows: the determination of cases by the tribunal should be four months and appeals should take a further two months, a total of six months. In realization of the need to produce rules and procedures that enhance speedy disposal of election disputes, the commission recommended that the law should shift the burden of proof from the Petitioners to INEC to show that the disputed elections were indeed free and fair and complied with the provisions of the electoral act. INEC should also have no right of appeal.

The adjudication of presidential and gubernatorial election disputes should also be concluded expeditiously, before swearing-in of the winners of the elections.

e) Provisions with respect to prosecution of electoral offences: It was recommended that the constitutional power of *nolle prosequi* vested in the Attorney General of the Federation or State does not apply to electoral offences. Also that the Electoral Act be amended to establish an Electoral Offences Commission to perform the following functions, viz; enforcement and administration of the provisions of the Electoral Act, investigation of all electoral frauds and related offences, coordination, enforcement and prosecution of all electoral offences etc.

f) Provisions for enhancing internal democracy in the Political Parties: It is recommended that there should be reform of political parties with more

insistence on intra-party democracy. Party conventions, congresses and meetings should be held regularly at all levels and should be free from undue interference. Such party conventions should adhere to the scope of their power and authority as entrenched in the party constitution. There should be no cross-carpeting under any circumstance.

3. 4BASIC FEATURES OF THE SECOND ALTERATION (AMENDMENT) OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC

The amended clauses of the constitution are mainly political. They deal with the election timetable, age limits for elective offices and direct funding of the Independent National Electoral Commission (INEC) from the first line charge. A clause also stipulates that the period already spent in office will count as part of the tenure of a president or governor who wins a re-run election. These can only have salutary effects on our democratic process. Direct funding of INEC from the first line charge will ensure greater independence for the electoral agency.

The Constitutional Amendment process carried out in July 2010, amended Sections 76, 116, 132 and 178 of the 1999 Constitution with respect to the date of the Elections. Sections 76, 116, 132 and 178 of the 1999 Constitution provides that elections to the offices of the President, Vice President, Governor, Deputy Governor, National and State Houses of Assembly shall be held on dates to be appointed by INEC. The amendments to the above sections inserted clauses which say that the dates to be fixed by INEC shall be “ in accordance with the Electoral Act”.

3. 5SALIENT FEATURES/REVIEW OF THE ELECTORAL ACT, 2010 (AS AMENDED)

The constitution of the Federal Republic of Nigeria is the supreme document which most times serves as the basic source of other laws. Where any other law is inconsistent with the provisions of the constitution, the constitution shall prevail and that other law shall to the extent of its inconsistency be void. Thus, the constitution empowers the National Assembly to make law governing the affairs of the state. In line with this provision, the legislature (both National and State House of Assembly) deemed it fit to amend the 1999 Constitution and the Electoral Act 2006. Thus, the current review had amended some provisions relating to election process in Nigeria. The current electoral law is that of Electoral Act 2010 (as amended) as at December 29th 2010. Similarly, the 1999 Constitution of Federal Republic of Nigeria (as amended) as at 10th January 2011 has the extant provisions on electoral institutions and procedure for petition in Nigeria.

3. 5. 1 Establishment of the Independent National Electoral Commission

The Independent National Electoral Commission is an establishment of the 1999 Constitution. At the same time, section 1 of the Electoral Act 2010 (as amended) provides that the Commission shall be a body corporate with perpetual succession and may sue and be sued in its corporate name.

Contrary to this provision, the commission is only seen to being sued rather than sue especially where there is report of electoral malpractices and fraud.

But with the new electoral law, the INEC now has power to prosecute anyone accused of electoral offences. To shy away from this duty might not augur

well for Nigerian democracy because it could encourage other people to believe that the law is there in theory and has no enforcement mechanism.

The Act further provides for the establishment of INEC Fund[5]. There shall be paid into the fund established in pursuance to subsection (1) of this section such sums and payments, aids and grants available to the Commission for carrying out its functions and purposes under the Constitution and the Electoral Act and all other assets from time to time accruing. This provision seems to be enough to ensure the independence of the commission in terms of finance. However, a lot still depend on the Executive approval of fund made available to the commission under Section 3(2) a of the Act. The office of INEC is also established in each state of the Federation and Federal Capital Territory[6]. The functions of these state offices are those that may be assigned to it from time to time by the commission. It is usual to find the Resident Electoral Commissioner being appointed by INEC to oversee the function of the body in each state of the Federation.

3. 5. 2 Establishment of Election Petition Panels and Tribunals

Election tribunals are judicial bodies set up to adjudicate disputes arising from the conduct of the elections. The Electoral Act 2010 (as amended) provides that:

“ No election and return at an election under this Act shall be questioned in any manner other than by a petition complaining of an undue election or undue return (in this Act referred to as an “ Election Petition”) presented to the competent tribunal or court in accordance with the provision of the <https://assignbuster.com/imperatives-for-electoral-reform-in-nigeria-essay-sample/>

constitution or of this Act, and in which the persons elected or returned is joined as a party.” [7]

The peculiarity of election tribunals also attracts the special provision in the 1999 Constitution. The Constitution expressly provides that the chairman and other members shall be appointed by the president of court of appeal pursuant to paragraph 2(2) of the 6th Schedule to the 1999 Constitution (as amended). The appointed members are posted to jurisdictions which differ from their state of origin. This will surely ensure fairness and emotional detachment from the issues involved in the election. It is significant to note that the Act provides for various levels of tribunals or court vested with jurisdiction to hear and determine election petitions. Accordingly, Section 133(1) of the Electoral Act 2010 provides that “ tribunal or court” means- in the case of presidential election, the court of appeal; and in the case of any other elections under this Act, the Election Tribunal established by the Constitution or by this Act. Thus, a broad understanding of this provision coupled with the provision of the constitution vest the following courts with the jurisdiction to determine election petitions. The election tribunal shall be constituted not later than 14 days before the election and when constituted, open their registries for business 7 days before the election.

3. 5. 3PARTIES ENTITLED TO PRESENT ELECTION PETITION

The electoral regime expressly provides for who can sue and be sued in election petition. Accordingly, an election petition may be presented by three persons. These persons include; a candidate in an election, a political party which participated in the election, and the person whose election is

complained of which is referred to as the respondent. The law further provides for other named officials of the electoral commission as respondent where the petitioner complains of the conduct of such persons in their official capacity. They are therefore categorized as necessary parties provided that where such officer or person is shown to have acted as an agent of the commission, his non-joinder will not on its own operate to void the petition if the Commission is made a party. This means that where the Commission, which employs the official(s) and on whose behalf the agent acts, is properly joined, it will not be compulsory to join the official. This provision is impari material with the law of agency[8].

3. 5. 4CONTENT OF ELECTION PETITION

The content of election petition is a mandatory provision by the Electoral Act 2010 which requires strict compliance. Rule 4 of Rules of Procedure for Election Petition (Schedule to the Electoral Act) provides for what should be contained in an election petition thus:

An election petition under this Act shall: (a)specify the parties interested in the election;(b)specify the right of the petitioner to present the election petition;(c)state the holding of the election, the score of the candidates and the person returned as the winner of the election; and (d)state clearly the facts of the election petition and the ground or grounds on which the petition is based, the relief sought by the petitioner;(2) The election petition shall be divided into paragraph each which shall be confined to a distinct issue or major facts of the election petition, and every paragraph shall be numbered consecutively.(3)

The election petition shall further: a) conclude with a prayer or prayers, as for instance, that the petitioner or one of the petitioners be declared validly elected, or returned, having polled the highest number of lawful votes cast at the election or that the election may be declared nullified, as the case may be; and b) Be signed by the petitioner or all petitioners or by the Solicitor, if any named at the foot of the election petition. 4) At the foot of the election petition there shall also be stated an address in which the documents intended for the petitioner may be left and its occupier. 5) If an address for service is not stated as specified in subparagraph (4) of this paragraph not have been filed, unless the tribunal or court otherwise orders. 6) An election petition, which does not conform with, subparagraph (1) of this paragraph is defective and may be struck out by the tribunal or court.”

In *Haruna v. Magaji*, the court held that a petition that fails to contain the requirement provided under paragraph 5(4) of the schedule 6 to Decree No. 3 of 1999 is incompetent and liable to be struck out by virtue of paragraph 5(5) to the schedule 6 to the said Decree.

3. 5. 5FILING OF PETITION WITHIN TIME

It is pertinent here to emphasis that the statutory provision for the filing of petitions is a point of law and bothers on jurisdiction which the Court ought to take note of. Where this ground is not raised by Counsel, the Court can raise the issue of jurisdiction suo motu. The Supreme Court has held that there is a duty and power of the Court to raise the issue of jurisdiction suo motu. The new amendment to the Constitution, Section 285(5) 1999 Constitution (as amended) provides that an election petition shall be filed

within twenty one (21) days after the date of declaration of the result of the election. The rule as to computation of time is that when time is to run from a particular date, it starts to run immediately from the very date it is so prescribed to run irrespective of the time of the said date[9].

3. 5. 6 DETERMINATION OF ELECTION PETITION

Part VIII running through Section 133 to 155 of Electoral At 2010 (as amended) provides for the determination of election petitions arising from elections. The complain against the conduct of election petition can only made before court or tribunal with competent jurisdiction. Section 138 provides generally for grounds of petition of an election thus:

“ Any election may be questioned on any of following grounds, that is to say:

(a) that a person whose election is questioned was, at the time of the election not qualified to contest the election;(b) that the election was invalid by reason of corrupt practices or non-compliance with the provisions of this Act;(c) that the respondent was not duly elected by majority of lawful votes cast at the election; or (d) that the petitioner or its candidate was validly nominated but was unlawfully excluded from the election.

However, an act or omission which may be contrary to an instruction or directive of the commission or of an officer appointed for the purpose of the election but which is not contrary to the provisions of this Act shall not of itself be a ground for questioning the election. As to whether this provision would be enough to invalidate an election where proved, Sec. 146 (1)

answers in the negative. It provides that an election shall not be liable to be

invalidated by reason of non-compliance with the provisions of this Act if it
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appears to the Election Tribunal or court that the election was conducted substantially in accordance with the principles of this Act and that the non-compliance did not affect substantially the result of the election[10].

3. 5. 7JUDGMENT

The judgment of the tribunals is expected to be delivered in writing not later than the days stipulated for it by the constitution[11] in the case of election petition after the conclusion of evidence and final addresses and furnish all parties to the cause or matter determined with duly authenticated copies of the decision within seven days of the delivery thereof. Unlike the general provision of the constitution regarding the time limit within which the judgment of a court is to be delivered, the amended constitution provide a special limitation of time within which election petition is to be delivered. Section 285(6) of Constitution (as amended) provides that an Election Tribunal shall deliver its judgment in writing within 180 days from the date of the filing of the petition. In the same manner, an appeal from a decision of election tribunal or court of appeal in an election matter shall be heard and disposed of within 60 days from the date of the delivery of the judgment of the tribunal or Court of Appeal.

Certain principles could be resolved from the provisions above. The number of days is inclusive of weekends and public holidays. Again, 180 days in the case of trial tribunal and 60 days on appeal is different from 3 months and 2 months respectively and the days begins to count from the date the petition is filed or when the appeal is lodged. The judgment of the tribunal or appeal court should comply with the characteristic feature of a valid judgment.

Beside being in writing, it should contain decisions of the court on different issues raised. The judgment must also analyze evidence adduced by both parties. The reason for the decision must also be made out by the court. However, section 285(8) of the 1999 Constitution (as amended) gives an exception to Court of Appeal (in case of appeal from Tribunals) and the Supreme Court, when appeal is brought on Presidential Election Petition, to deliver its decision and reserve its reason to a later date.

3. 5. 8APPEALS

The right of appeal from decisions of electoral tribunal is statutory. Section 246 (1) (b) of the 1999 constitution provides that “ an appeal to the Court of Appeal shall lie as of right from decisions of the National Assembly Election Tribunals and Governorship and Legislative Houses Election Tribunal on any question as to whether-i. any person has been validly elected as a member of the National Assembly or a House of Assembly of a state under this constitution ii. any person has been validly elected to the office of Governor or Deputy Governor iii. the term of office of any person has ceased or the seat of any such person has become vacant.

3. 6RECOMMENDATIONS FOR ELECTORAL REFORM: CHARTING A NEW COURSE

Nigeria no doubt faces enormous challenges in Constitutional and Electoral reforms but these challenges are by no means insurmountable. As we have seen the trouble with Nigeria is not necessarily the absence of laws/rules but the absence of the necessary political will to enforce the extant laws. If we do not imbibe the necessary culture to make our country work, then <https://assignbuster.com/imperatives-for-electoral-reform-in-nigeria-essay-sample/>

whatever reforms we must expect they are such as is self-executory, will not necessarily move our country beyond where we already are.

It does appear now that Constitutional Reforms must precede Electoral Reforms judging from the seven bills on Electoral Reforms sent to the National Assembly by the President out of which three of them have been passed into Law. The bills are, a Bill for an Act to Amend the Independent National Electoral Commission (INEC) Act, Cap 15, LFN 2004 and other Matters Connected Thereto; a Bill for an Act to Establish the Electoral Offences Commission and for Matters Connected Thereto; a Bill for an Act to Alter Provisions of the Constitution of the Federal Republic of Nigeria, 1999 and for other Matters Connected Thereto (Second Amendment); a Bill for an Act to Establish the Centre for Democratic Studies and other Related Matters; a Bill for an Act to Further Amend the Police Act, 1967, Cap P19 LFN, 2004 and for other Matters Connected Therewith; a Bill for an Act to Establish the Political Parties Registration and Regulatory Commission and for other Matters Connected Thereto; and finally a Bill for an Act to Alter Provisions of the Constitution of the Federal Republic of Nigeria 1999 and for other Matters Connected Thereto (Third Amendment).

From all indications, a wholesale amendment of the Constitution will not be undertaken soon enough to enable electoral reforms before the 2015 polls which will really be a testy time for our fragile democracy but our country can learn from the examples from abroad. The United States, Germany France and even South Africa have adopted a piecemeal approach to constitutional amendments in their various countries and their countries have not ceased to work.

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Despite the identified challenges facing Nigeria's electoral system, it must be acknowledged that there are still opportunities available to Nigeria for a viable and efficient electoral system. Therefore, in charting a new course for electoral reform in Nigeria, the following are recommendations for reform:

(a) Composition of Election Oversight Body

One of the foremost issues for reform in Nigeria's electoral system is the composition of the election oversight body. At the heart of this debate is the indisputable fact that the extant process of appointing members of the electoral body both at the federal and state levels does not confer the requisite institutional autonomy on the electoral body. Section 154(1) of the 1999 Constitution vests the powers to appoint the chairman and other members of the Independent National Electoral Commission in the President subject to confirmation of the Senate. At the state level, governors are constitutionally empowered to appoint members of State Independent Electoral Commission subject to confirmation by Houses of Assembly (see Section 198 of 1999 Constitution). Given the underdeveloped nature of political culture in Nigeria, this process cannot guarantee the impartiality of the electoral body as members of the electoral body tend to see themselves more as appointees of the President/Governor and, ipso facto, must endeavor to deliver victory to the party of the president/governor.

The experience in Nigeria since the 2003 elections shows that sitting presidents and governors have manipulated electoral management bodies to boost the electoral fortunes of their parties. Another salient reform issue on the election management bodies is their funding. Presently, the financing of electoral bodies is under the control of the executive. This creates structural

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dependence of electoral agencies on the president and governors as heads of the executive. Apart from creating structural dependence, this process also does not guarantee operational efficiency for the election bodies.

Reform proposals on the composition of electoral bodies should target these two crucial areas.

(b) Penalty for Electoral Violence

Violence has remained an enduring character of electoral politics in Nigeria.

The tendency to rely on violence as a weapon of electoral competition is aggravated, among others, by two factors. First is the perception of state power by the governing elite as an end in itself rather than a means to an end. The second is the immensity and ubiquity of state power and its exclusive control of the forces of coercion. These two factors have combined to make state power rabidly attractive and thus political contest is reduced to warfare. Electoral violence in Nigeria has two major dimensions: violence against political actors (politicians and voters) and violence against election-related institutions (election management bodies and security agencies).

These two dimensions manifested before, during and after the 2007 elections in pre-election assassinations, intimidation of political opponents and voters, hijack of election materials as well as organized attack on security personnel and on officials of election management body. Violence has persisted in electoral contest in the country. One reason for this is the lenient penalty (if any) for perpetrators of electoral violence.

Another is the non enforcement of the provisions of the Electoral Act on prohibition of the use of violence. All these have promoted a culture of

impunity among the perpetrators. Section 98(2) of the 2006 Electoral Act
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stipulates a maximum penalty fee of N50, 000. 00 or imprisonment for a term of six months for an individual who contravenes its provisions on political violence. In the case of a political party, such party is liable, on conviction, to a fine of N250, 000. 00 for the first offence and N500, 000. 00 for any subsequent violation. Given the enormity of the damage that violence can unleash on the electoral process, this penalty is too mild and should not be expected to serve as a serious deterrent to anyone. There is therefore the need to prescribe more stringent sanctions for electoral violence to sanitize electoral politics in Nigeria.

(c) Establishment of Electoral Offences Tribunal

The Electoral Act, 2010 (as amended)[12] created several electoral offences and punishments and also provided in Section 149 of the Act that “ the Commission shall consider any recommendation made to it by a tribunal with respect to the prosecution by it of any person for an offence disclosed in any election petition. It is recommended that an Electoral Offences Tribunal be established to deal specially with electoral offences committed or disclosed in any election petition.

The lacuna in the Electoral Laws have created a situation where duly elected candidates are denied their mandates while candidates that did not win elections who would later be found to have fraudulently stolen the election are allowed to illegally occupy elective offices. This ugly scenario occurred in Anambra State between 2003 and 2006 when Dr. Chris Ngige ruled the state for three years as governor before he was removed by the Appeal Court.

Also, Professor Osarhimien Osunbor was on November 11 2008 removed as

governor of Edo State by the Appeal Court after ruling the state for nineteen months.

(d) Party System

Political parties occupy a central role in the electoral system. They serve as vehicles for political recruitment and interest articulation. They also represent a purveyor through which preferences of the voters find expression in governance particularly in an electoral system like Nigeria where only political parties are licensed by law to canvass for votes in electoral market. Political parties set out with two goals: survival and success[13]. For them, survival implies political parties garnering minimum votes during elections to ensure their presence on the electoral field; while success entails dominating elective public office. Many of the political parties under the current democratic dispensation in Nigeria have only limited possibilities of survival not to talk of electoral success. As evident in the 2011 general elections, out of the 50 recognized parties in the country, only 8 made electoral impact in the elections.

There has been a raging debate on the type of party system that is most suitable for Nigeria. While there is consensus that a one-party system is not ideal for Nigeria, the controversy has centered on the number of parties to be allowed to compete for election. The attack on the current multi-party regime by Sam Egite Oyoivbare, Professor of Political Science and former Minister of Information, re-opened the debate on the party system of Nigeria's Fourth Republic. At a seminar organized by INEC, Oyoivbare argued that multi-party system may not be a good choice for a multicultural formation like Nigeria. This contrasts sharply with the view of Alex Gboyega, <https://assignbuster.com/imperatives-for-electoral-reform-in-nigeria-essay-sample/>

also a Professor of Political Science, who recently advocated a further deregulation of political parties in a manner that facilitates the emergence of local and ethnic parties. Yet, at the public hearing of the Electoral Reform Committee in Lagos, Ahmed Bola Tinubu, former governor of Lagos State, had called for Nigeria's return to a two-party system like that practiced during the Third Republic.

Two crucial issues must, however, be taken into consideration before any decision on the preferred party system. These are the pluralist character of the Nigerian society and the professed ideology commitment of its political associations. The political parties in the Fourth Republic are quite deficient in their ideological commitment compared to their forebears in the First and Second Republics. Second, these parties are neither deeply rooted in the culture nor effectively connected to the people they purport to represent. The ideological vacuity of Fourth Republic parties is evident in their palpable intellectual poverty when confronted with serious national challenges. Additionally, few of these parties can boast of impressive numbers of genuine members who are psychologically and materially committed to the parties. The real members of these parties number no more than the few who formed and now fund them for the expected rewards.

(e) Media Access

Access to the media is a crucial asset in electoral competition as it affords parties and candidates the opportunity to sell themselves to the electorate. During election periods, state funded media in all democracies have a public service obligation to inform the voting public about election-related issues such as the competing political parties, their candidates, programs of the <https://assignbuster.com/imperatives-for-electoral-reform-in-nigeria-essay-sample/>

parties, salient campaign issues and other related matters. The Electoral Act requires public media to grant “ equal access” to all political parties and candidates. But the reality in Nigeria is that publicly-funded media have grossly failed to give balanced or equitable coverage to parties and candidates.

Access to state media whether at the state or federal level has always weighed heavily in favor of the ruling party/government and its candidates. State media in Nigeria such as the Nigerian Television Authority and the Federal Radio Corporation of Nigeria are under the direct control and supervision of the Minister of Information, a political appointee of the President. The National Broadcasting Commission, the regulatory body charged with the task of monitoring the electronic media to ensure balanced access, is itself not an autonomous institution as it operates like a department in the Federal Ministry of Information[14]. The reform efforts on media access should therefore focus on how to ensure operational and / institutional autonomy for public media as well as the oversight of state media by civil society.

(f) Campaign Finance

Given the plutocratic realities of liberal democratic system, it is a well acknowledged fact that money is crucial to politics. At the same time, unregulated use of money portends dangers to electoral politics. Money becomes a threat to politics when it is used arbitrarily to corrupt electoral process. This prompts democracies across the world, including Nigeria, - to design regulations to combat the danger of unregulated political funds.

Campaign finance regulations were breached with impunity during the 2003
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and 2007 elections in Nigeria. In the 2003 polls for instance, the self-styled organization named “ Corporate Nigeria” mobilized millions of Naira to aid the campaign of the presidential candidate of the ruling party in breach of the Companies and Allied Matters Act[15]. Many state governors, including those of Lagos and Delta, also benefited from such illegal sources of funding[16]. Also, the ruling Peoples Democratic Party spent a whopping N809, 530, 762 to prosecute Yar’adua’s presidential ambition. This figure is far above the N500million mark stipulated by Section 93(2) of the Electoral Act, 2006[17]. For any effort to reform political financing to be meaningful, it must meet the three necessary conditions[18] : full disclosure of finance sources, independent enforcement and /oversight institutions, and reasonable state funding.

(g) Independent Candidacy

Section 221 of the 1999 constitution recognizes only political parties as associations that can field candidates for elections in Nigeria. In other words, independent candidates are not allowed to contest elections under the current dispensation in Nigeria. However, lack of internal democracy within Nigerian political parties has prompted many stakeholders in the Nigerian democratic project to advocate for the inclusion of independent candidacy in Nigerian electoral regulations. This advocacy becomes imperative given the undemocratic manner in which candidates were imposed by powerful forces within these political parties to contest the 2007 elections and also the 2011 elections. As shown by many recent cases in which the courts overthrew many of these party impositions, the ruling PDP was the worst culprit in this respect. The introduction of independent candidates will go a long way to

sanitize the nomination process. It will also permit individuals with a modicum of political integrity, but who are not affiliated to or choose not to affiliate with any of the existing or recognized parties, to contest elections.

(h) Electoral Regime

The current model of parliamentary representation in Nigeria is the First-Past-the-Post (FPTP) system in which the candidate with the simple plurality of the total votes emerges as the representative in a single-member constituency even if he does not command half of the total votes. This has been the only electoral system in the electoral history of Nigeria and has considerably strained inter-group relations in the country. It is against this background that stakeholders have been canvassing for the introduction of proportional representation (PR) model. Proportional representation is an electoral system, which allocates parliamentary seats to parties according to their share of the national votes. Apart from being more inclusive than the FPTP system, it ensures representation for the minorities whose votes carry no electoral weight under the majoritarian principle of the FPTP regime. There is a direct relationship between votes and parliamentary seats under the proportional representation system which allows for a minimal number of wasted votes.

(i) Technology-based Election

The need to discard paper-based election should also be on the reform agenda. In this age of advanced communication technology, human elements in election management should be reduced to a barest minimum. Nigeria's experience with paper-based balloting has produced challenges to election such as the snatching of ballot boxes and alteration of election

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results. Technology-based election most especially the use of Electronic Voting Machines will go a long way to arrest some of these electoral crimes. Technology-based elections are not, however, without their own challenges. Among these are the high costs of procuring the needed technology as well as the limitations imposed by the high level of illiteracy, grueling poverty and low ICT prevalence among the general populace.

(j) Franchise for Nigerians in Diaspora

Another issue worthy of being on the reform agenda is that of enfranchising Nigerians resident outside the country. Nigerian nationals abroad have never been accommodated in the transition process particularly as voters. Section 77(2) of the 1999 constitution allows only eligible voters resident in Nigeria to be registered as voters. This has denied Nigerian citizens in the Diaspora the opportunity to participate in leadership recruitment in their country.

However, with the verdict of an Abuja High Court delivered on January 27 2009 in a suit filed by some Nigerians resident abroad including Prof. Bolaji Aluko, Hon Akeem Bello and Mr. Uzoma Onyemachi, Nigerians based abroad may soon begin to exercise their voting rights in their countries of residence.

According to the presiding Judge, Justice Adamu Bello, since Nigerian nationals abroad have convinced the court that they are entitled to vote and be voted for, it becomes the responsibility of INEC to put in place relevant machinery to assist the plaintiffs to vote from abroad. The reform proposal for the extension of franchise to Nigerian citizens in the Diaspora draws strength from similar practice in advanced democracies around the world. For instance, since the 1985 amendment of the Federal Electoral Law in

Germany, German nationals resident abroad now have the right to participate in elections[19].

The attention given to the issues outlined above which cut across the spheres of the Constitution and Electoral Act as well as pro-active mechanisms put in place to address them will impact the quality and credibility of electoral politics in Nigeria. There are however other issues which may be outside the scope of the constitution and the electoral laws. One of these is the re-orientation of the personnel of the security services on their election duties. State security agencies are tasked with the responsibility of preventing and controlling electoral violence and thereby contributing to democratic consolidation[20]. The sad reality in Nigeria is that the ruling fraction of the governing elite use the security sector to perpetrate electoral violence and to intimidate the opposition. This arbitrary use of the security services was witnessed in many states of the federation during the 2007 elections. Men of the security agencies who were deployed on election duty connived with the politicians particularly those of the ruling party to undermine the integrity of the ballot. This they did through the intimidation of opposition parties" supporters and through the abetting of or turning blind eyes to such electoral crimes as snatching and stuffing of ballot boxes.