

LEGISLATION AND THE ELECTORAL PROCESS

The Third-term Agenda and the Future of Nigerian Democracy

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ABSTRACT

Elections have meaning for most people in a democratic context only because they lead to the choice of decision-makers by the majority of citizens. Elections and democracy are therefore inextricably linked. Three major challenges face the future of both in Nigeria as it moves towards the 2007 elections. The first is the will and capacity of the National Assembly and the Independent National Electoral Commission to keep to a road map that will lead the country to free and fair elections in 2007. The second is the ambition of President Olusegun Obasanjo to change the Constitution and have a third term in office against the wishes of a majority of Nigerians. And the third is to ensure that the next elections are not as massively rigged as the previous ones were.

THE NATIONAL ASSEMBLY, THE INEC AND THE ROAD MAP TO THE 2007 ELECTIONS

Following extensive reviews of the 2003 elections and the stakeholder meetings organised by the Independent National Electoral Commission (the INEC) in December 2003 and February 2004 it was agreed that four critical issues on the road map to free and fair elections in 2007 needed to be resolved by 2005.

* This paper was presented at the Centre for Democracy and Development Nigeria Round Table in London on 21 April 2006.

The first was that the Constitution should be reviewed to provide real autonomy for the INEC, all of whose officers – chairman, national commissioners and resident state electoral officers – are appointed by the president. There was consensus that such powers should be removed from the hands of the president. In addition, it was agreed that the INEC should be financed directly from the consolidated revenue fund so that the executive cannot starve the commission of necessary funds.

Secondly, the revised Electoral Bill, which contains some improvements relative to the Electoral Act 2002, should be adopted by the National Assembly and signed into law in good time. The Bill also has some limitations that need to be addressed. For example, it contains provisions that recognise only paper ballots but it also accepts the introduction of new technology, in particular the voting machine. With the serious delay in the passage of the Bill, the introduction of the voting machine, whatever its merits, is no longer feasible and will have to be abandoned.

Thirdly, the registration of voters for the 2003 elections was carried out in an incomplete and inept manner so many citizens are not on the voters' roll. The INEC has refused to obey the provisions of the Electoral Act, which requires continuous registration of voters. It has also refused to update the roll by registering those who have come of age since 2003 or were missed out in the last registration. As has happened previously, the INEC seems to be waiting for time to run out so it can organise another hurried and botched voter registration process.

Fourthly, the INEC is yet to commence issuing new voter identity cards with embossed photographs and biometric features. Three years after the national identity card process was started most people have not yet received theirs. When will the INEC start the process? Is it waiting until it is too late?

Clearly all the essential problems on the road to free and fair elections in 2007 are not being addressed in a timely manner by the National Assembly and the INEC. It seems that there is an unfolding design to produce failed or no elections in 2007. Citizens and civil society activist must urgently address this strategy of programmed failure. There is ample evidence that the INEC's lackadaisical approach might not be unconnected with General Obasanjo's third-term agenda.

THE THIRD-TERM AGENDA AND THREATS TO DEMOCRACY

Nigerians know the signs of creeping dictatorship and they have seen them becoming clearer in the past two years. It is now obvious that President Obasanjo has embarked on a sinister agenda to change the Constitution to give him a third

term in office against the spirit and letter of our Grand Norm.¹ Since his second term he has boxed himself into believing that he is a saviour with permanent responsibility for ruling Nigeria. Some of us who have been in the forefront of the campaign for constitutional reform now find ourselves having to challenge the process because it has been reduced to an anti-democratic agenda for the country led by forces committed to returning Nigerian to authoritarianism and disregard for the rule of law.

During the period 1999 to 2005 I was convenor of the Citizens Forum for Constitutional Reform, a coalition of more than 150 civil society organisations working for the review of the 1999 Constitution. We have conducted extensive review and advocacy campaigns and our publications include the following:

- *Model Constitution of the Federal Republic of Nigeria.*
- *Constitutional Education Manual.*
- *Harmonised Model Constitution.*
- Igbuzor & Aturu (eds). *Contentious Issues in the Review of the 1999 Constitution.*
- Igbuzor & Ibrahim (eds). *A Citizen's Approach to Making a People's Constitution.*

Our position is as follows:

- The 1999 Constitution lacks legitimacy and must be extensively reviewed.
- The process of review must be citizen-led; be participatory, inclusive, transparent and legitimate; and must reflect the country's diversity.
- The current review process is manipulative, self-serving and directed at prolonging illegitimately the tenure of the president and some state governors.
- Critical issues that must be addressed on constitutional review include:
 - citizenship and residency rights;
 - promoting gender equality;
 - the establishment of genuinely independent commissions;
 - enhancing federalism;
 - promoting freedom of association and removing restrictions on the establishment of political parties;
 - entrenching the principle of resource control;
 - enhancing access to justice and the rule of law.

¹ On 16 and 17 May 2006 the Senate and House of Representatives voted out constitutional amendments that would benefit Obasanjo's third-term agenda. Despite this defeat it is clear that Obasanjo is seeking other means of prolonging his tenure, so the arguments contained in this section remain valid.

We have tried continuously over the last two years to work with the Joint Committee of the National Assembly to share our extensive work on the constitutional review issue but the committee has consistently rebuffed our efforts.

The National Assembly refused to take the issue of constitutional review seriously until recently, when the agenda for the prolonging of the tenure of President Obasanjo emerged. The current review process lacks integrity and is part of the third-term agenda, which is why Nigerians all over the country have opposed it.

THE THIRD-TERM AGENDA

We believe that the Nigerian people have sufficient experience and will power to combat the misguided determination of leaders who have been enjoying power too excessively to accept that they must step aside as and when their term of office ends. In 1974 General Yakubu Gowon announced his intention to renege on his commitment to return the country to democratic rule in 1976. It was a misguided and unsustainable decision because, after the democratic erosion that accompanied the political crisis of the 1960s and the civil war, Nigerians were eager for democratic fresh air. Gowon thought that the country would collapse without his personal leadership. He was wrong and was shown the way out.

In 1986, General Ibrahim Babangida initiated a major political reform agenda that raised high hopes for democratic development in the country. The Report of the Political Bureau and the constitutional drafting process that he initiated created a blue print for a return to democratic rule. However, instead of riding into historical glory by acting as midwife to democratic transition, General Babangida was infected by the virus of autocracy and personal power and tried to manipulate the process to prolong his rule. He was shoved aside.

Sani Abacha promised to be different from Babangida, committing himself to organising a quick transition to democratic rule. He, too, reneged. He also thought he could manipulate the process and use security agencies to intimidate his opponents into silence while prolonging his rule. His efforts were contested and his plans resisted by a wide spectrum of Nigerians, including Obasanjo, who risked his life to confront Abacha's self-succession plans. When Abacha died Nigerian citizens as well as democratic forces the world over heaved a sigh of relief as General Atiku Abubakar became our greatest democratic hero for ushering in the Fourth Republic in a non-manipulative transition process.

General Obasanjo came to power in 1999 amid a ground swell of optimism that Nigerian leaders had learnt their lesson and would henceforth respect the desire of the Nigerian people for regard for the rule of law, democracy and federalism. General Obasanjo had three important strengths: his war record had

demonstrated his nationalist credentials; his handover to the elected Shehu Shagari regime in 1979 portrayed his capacity to bow to democratic demands for a Second Republic; and his engagement in civil society with the Africa Leadership Forum and Transparency International showed a track record of democratic struggle and commitment to combat corruption that led Nigerians to believe that this president would not be like the other military leaders who had tried to manipulate the country to perpetuate their self-rule and loot the treasury. Nigerians were wrong.

Obasanjo failed to resist the temptation of believing that because he enjoys ruling he is the only one who can rule. Nigerians face a wider struggle culture as the country's leaders are surrounded by sycophants who apparently have the excessively easy task of convincing them that their autocratic rule is indispensable to the survival and progress of the country. Sociologists have always known that human beings are susceptible to flattery. The country must develop strategies for shielding future leaders from the sweet tongues of sycophants and the human failing of believing they are indispensable. Meanwhile, we must ensure that this president goes as and when due, that is, in 2007.

The current political situation in the country poses a grave threat to the consolidation of democracy. There is widespread opposition to the president's third-term agenda. Except for the narrow circle that benefits directly from government patronage, virtually all political classes are opposed to the scheme. The mainstream political elite in all the zones in the country also opposes the plan and the international community has joined the opposition.

The president appears to believe that those who oppose him have no interest in the great reform programme in which he is engaged which will solve all the problems of the country in the next decade. He must fix the Nigerian people whether they like it or not. If the people are against his plan, God is for it. Throughout history one of the clearest signs that leaders have lost touch with reality and created a cocoon of self-delusion is when they start substituting God for their personal delusions of grandeur, self-worth and indispensability. At such moments the people have a historic duty to show the leader that the voice of the people is the voice of God. And that God is too glorious for his voice to be that of a mundane power-seeking president.

The president's third-term agenda is dangerous for Nigeria's political future because it can only succeed on the basis of a massive increase in corruption to bribe a majority of stakeholders, and excessive use of security agencies to wipe out all opposition. This means President Obasanjo would have to out do Abacha on these two fronts. All competent political scientists would tell Obasanjo that it is impossible in a civilian democracy to achieve what a visionless dictator could not do under military dictatorship, but it is clear that he is not ready to listen to any competent political scientist.

The corruption agenda would consist of bribing national and state legislators to cajole them into voting against their conscience for a third-term agenda. The media and opinion leaders would also have to be 'settled', as we say in Nigeria. The question would be why a president who has announced his anti-corruption commitments to the high heavens would succumb to accelerating corruption to prolong his rule.

How can such a president guarantee that money can buy most Nigerians in a context in which he has lost virtually all his credibility because of his self-serving politics?

There is clear evidence that the president's plan is two-fold: massive bribery of susceptible legislators and/or using the security forces to intimidate and jail all those who cannot be bought. It was a strategy perfected by General Abacha, who used the security forces to jail and intimidate all his political opponents. It is already clear that the Economic and Financial Crimes Commission (EFCC) is currently being used for this purpose. It's a strategy that cannot work because opposition to the third term is too massive. There isn't enough space in Nigeria's prisons to hold all those who are ready to combat the third term.

One of the most threatening implications of the third-term agenda for our democracy is the unfolding plans to destroy political parties so that the president's tenure can be extended without going through due process. Already the president has personally taken control of the People's Democratic Party, formally the largest political party in Africa, and turned it into a personal machine operated by agents he has appointed.

The maze of networks and political groups that made the party vibrant and rooted in communities has been disbanded and the party is now a shadow of its former self. Plans are unfolding to split opposition parties and create 'presidential factions' within them.

These plans are aimed at destroying democratic politics to ensure that the third-term campaign succeeds without opposition. Opposition exists, however, within society, and new parties will be formed if the present ones are destroyed or taken over.

The most dangerous aspects of the third-term agenda are the plans for elections. The only way in which the agenda can succeed is if the elections are rigged. It is troubling, for example, that the INEC has thus far refused to register voters and issue new voter cards in an effort to create confidence in the 2007 elections. All efforts must be made to force the INEC to provide level playing fields.

The current process of constitutional review must stop and resume only after a new, democratically elected Parliament has emerged after the elections. It is critical that the 2007 elections be free and fair.

COMBATING ELECTION RIGGING AND CREATING POLITICAL CHOICE

Nigeria has a long history of electoral rigging that has frustrated the wish of the people to choose those who exercise political power. Because of this history, elections in the country have often been associated with political tension, violence and crises. The outcomes of many elections in Nigeria have been so contested that conditions for the survival of the democratic order have been compromised.

The organisation of democratic elections presupposes the existence of a party system that is conducive to the promotion of democratic culture. Sections 221 and 222 of the 1999 Constitution specifically limit the definition of a political party to an organisation recognised by the state to canvass for votes. The law forbids any organisation not so recognised to do so. More importantly, both on the juridical and political levels, parties are no longer considered to be popular organisations that aggregate and articulate interests and opinions but as corporate entities that are registered with the state.

The political party, the foundation institution of democratic participation, is not conceived as an expression of the desire of citizens to engage with the political process as they wish. Ordinary citizens with good ideas and convictions but without the huge financial resources necessary to establish a national party are basically denied freedom of association. Attempts by many well-meaning and committed Nigerians to seek electoral platforms in existing parties have often been checkmated by party barons, especially in the period before the Supreme Court significantly liberalised the conditions for the registration of political parties.

As many political parties, especially those of incumbents, rely on electoral fraud rather than popularity to stay in power the political significance of parties is no longer determined by popular support, as is the case in all democratic countries in the world, but by administrative fiat. That is why so many of Nigeria's political parties devote considerable resources and energy to suspending and expelling members for so-called anti-party activities. Party barons are mainly interested in controlling the party machine rather than making sure that they nominate the most popular candidates for competitive electoral posts. The Babalakin Commission of Inquiry into the 1983 elections correctly argued that:

The nature of politics and political parties in the country is such that many men and women of ability and character simply keep out of national politics. For the most part, political parties are dominated by men of influence who see funding of political parties as an investment that must yield rich dividends.

The 1999 constitutional provisions limited the rights of minorities who believe they have specific local problems to form parties. The concerns that led to the popularity of parties such as the Bornu Youth Movement, the United Middle Belt Congress and the Niger Delta Congress in certain regions during the First Republic were thus disregarded. The big parties have become increasingly arrogant about the concerns of local minority groups, believing that they will not be allowed to use their vote to upset the incumbents.

Parties which hold ideological positions that are not mainstream are also easily excluded by administrative fiat. The democratic ideal that a small poor party representing popular interests could develop into a major party is thus excluded. The provisions also created the basis for the elimination of internal party democracy. The fact that parties were parties because they were recognised by the state meant that party leaders were party leaders not because they were popular with their grassroots members but because they were so recognised.

During the Second Republic, for example, politicians stopped trying to persuade their intra-party rivals that they deserved the political posts they occupied, they simply expelled them, using money, thugs, and sometimes the police. The role of party officials became more important than that of party members because they decided on nominations for electoral posts. Factions developed and the state became the arbiter that decided which party was the 'genuine' one.

In the Greater Nigerian People's Party (GNPP) and People's Redemption Party (PRP) factional crisis during the Second Republic, for example, the factions that represented the majority of party members and the elected legislators of the parties were declared illegal and minority factions were recognised. The frustrated and alienated members were reduced to negotiating with other parties to work out deals for electoral purposes so many popular politicians were denied the right to contest elections. The logic of democratic politics is that parties try to get popular candidates to improve their electoral chances. The logic of Nigeria's party politics is that powerful and rich political entrepreneurs seek to exclude popular candidates from their parties so they can win an undeserved nomination for an election that will be won because it is rigged.

It is in this context that electoral politics in Nigeria are often redefined as the most effective organisation of electoral fraud and competitive rigging between parties, barons and godfathers with no history of commitment to democracy or the practice of internal party democracy.

ELECTORAL FRAUD AND RIGGING IN NIGERIA

The report prepared by the National Institute for Policy and Strategic Studies just before the 1983 elections correctly predicted that the elections could not be

conducted without massive electoral fraud because the parties in power were not ready to allow others to come to power (NIPSS 1983, p 3). The report also showed that only the 1959 and 1979 elections were held without systematic rigging and that both of them had one point in common: they were held in the presence of strong arbiters – the colonial state and the military – who were not themselves participants and who desired free and fair elections. Indeed, it has been observed that rigging is almost synonymous with Nigerian elections, just as advance fee fraud or 419 crimes are synonymous with Nigerians the world over (Kurfi 2005, p 101). Are elections doomed to be subject to the machinations of fraudsters who frustrate the democratic aspirations of the Nigerian people?

According to Ben Nwabueze (2005, p 1), election rigging refers to:

Electoral malpractices which are palpable illegalities committed with a corrupt, fraudulent or sinister intention to influence an election in favour of a candidate(s) by means such as illegal voting, bribery, and undue influence, intimidation and other acts of coercion exerted on voters, falsification of results, fraudulent announcement of a losing candidate as winner (without altering the recorded results).

The objective of electoral rigging or fraud is to frustrate the democratic aspirations of citizens who have voted, or would have voted, into office someone other than the fraudulently elected individual.

Electoral fraud has become one of the salient features of Nigerian elections. The passage below contains extensive quotes from Bayo Adekanye's review (1990, p 2) of some of the instances of electoral fraud in Nigeria:

- The Northern regional election of May 1961 which gave the then Northern People's Congress (NPC) a sweeping victory of 94 per cent of seats in the regional assembly, while eliminating the Northern Elements Progressive Union (NEPU) as an opposition. The regional ruling party had achieved this sweeping electoral victory, using in part all forms of electoral chicanery, political intimidation, and even coercion, including the arrest and imprisonment of opposition leaders.
- Similar methods were employed in the Eastern regional elections, also held in 1961, by the then ruling party of the Eastern region, the National Council of Nigerian Citizens (NCNC), turning the East into a one-party dominant region. The elections were also marked by persecution of all dissident minority opposition parties operating on the periphery.

- The mid-Western regional elections of October 1963 and January 1964 turned the then newly created region into what one writer at the time called the 'cockpit of Nigeria'. There was a fierce struggle for supremacy among the three majority parties: the NPC, the NCNC, and the by now politically emasculated Action Group (AG), all of them deploying every resource considered necessary to capture the region.
- The first post-independence federal general elections took place in late December 1964 through early January 1965. They were fought between two large political coalitions, the Nigerian National Alliance (NNA) and the United Progressive Grand Alliance (UPGA). The NNA comprised the NPC and the newly created Nigeria National Democratic Party (NNDP), while the UPGA was made up of the NCNC and the AG. (The NNDP was a break-away party from the former AG, which the NPC had helped to keep in power in the old West and apparently against popular wishes.) Marked by countrywide electoral malpractices, political intimidation, and violence, the December 1964 elections climaxed with a last-minute boycott by one of the coalitions of parties. This resulted in a serious constitutional crisis as Nigeria was without a government for three days, during which loose talk about an Eastern regional plan to secede or about an impending army-organised putsch filled the political air.
- The dust had scarcely settled when Nigeria found herself preparing for yet another election, the Western regional elections, which took place in October 1965. They proved to be one of the most farcical elections to be conducted in post-independence Nigeria, as the results were heavily rigged against the dominant AG interests and in favour of the breakaway NNDP minority party, which had been in power in the region since 1962. The Western elections were immediately followed by a mass revolt of the region's inhabitants against the NNDP's usurpation. Nor could the latter regime be saved by subsequent counter-measures by its supporters in the NPC-dominated federal government, such as 'flooding the West with troops'. The bloody violence from the last event, resulting de facto in the breakdown of law and order, was threatening to engulf the whole federation when the army majors struck on 15 January 1966.

This sad history of electoral fraud or rigging has serious implications for Nigeria's democratic future because the phenomenon is growing rather than declining. With each election the principal forms of rigging and fraud are increasing and

being perfected. The result is that elections have become turning points in which the outcome has been the subversion of the democratic process rather than its consolidation. Not surprisingly, major political conflicts have emerged over rigged elections.

The 1983 elections occupy a special place in the history of electoral fraud in Nigeria – it was during these elections that rigging reached its apogee:

All sorts of strategies and stratagems including manipulation of the ballot or ‘rigging’ were employed in order to win elections. Each of the opposition parties used its local power of incumbency to retain power and/or to improve its position vis-à-vis other contenders. However, federal might was used to dislodge state governors in Anambra, Oyo, Kaduna, Gongola and Borno states, thus raising NPN’s tally of governorships from seven to twelve states, reversing the power structure existing before the election when opposition parties had twelve against NPN’s seven governors.

Kurfi 2005, p 97

An interesting case was that of the Ondo State gubernatorial election in 1983 in which the National Party of Nigeria (NPN) candidate, Chief Akin Omoboriowo, was declared elected by the Electoral Commission with 1 228 891 votes as against 1 015 385 for the Unity Party of Nigeria (UPN) candidate, Chief Michael Ajasin, whereas the true tally, as found by the election count, the Federal Court of Appeal and the Supreme Court from the certificates of results signed by the assistant returning officers and by the party agents as well as the oral testimony of those assistant returning officers and party agents, was 1 563 327 votes for Chief Ajasin and 703 592 for Chief Omoboriowo – Omoboriowo’s tally was thus inflated by 523 389, while that of Ajasin was under recorded by 547 942 votes. The evidence showed that the falsification was done at the level of the deputy returning officer. Ajasin was accordingly declared by the court to have been duly elected (Ben Nwabueze 2005, p 1).

Ahmadu Kurfi (2005, p 97) recounts that he was in a security meeting with the Secretary of the Government, Shehu Musa; the Inspector General of Police, Sunday Adewusi; and other security chiefs when the news came through that ‘we have delivered Ondo’. Although Ondo state was successfully ‘delivered’ to the NPN in 1983, the ‘elected’ governor, Omoboriowo, had to go into hiding to protect himself from an irate electorate that would not accept the result. Police stations and houses of prominent NPN supporters were burnt and many people killed. The judicial decision that ceded Ondo state back to the UPN came in the context of a massive level of popular mobilisation of citizens determined to protect their votes.

The most significant issue in the 1983 elections was that the emphasis shifted from traditional forms of electoral fraud based on manipulation of the ballot to total disregard of the figures collated on the basis of ballots and completed forms. Figures totally unrelated to any results – genuine or forged – are simply announced and illegally protected with state power. The emergence of electoral victory by false declaration did not mean that other forms of rigging disappeared. Indeed, the Babalakin Commission of Inquiry (FRN 1986, pp 289-290) has carefully enumerated the diversity of the forms of rigging employed during the 1983 elections as follows:

- Compilation of fictitious names on voters registers.
- Illegal compilation of separate voters' list.
- Abuse of the voter registration revision exercise.
- Illegal printing of voters' cards.
- Illegal possession of ballot boxes.
- Stuffing of ballot boxes.
- Falsification of election results.
- Illegal thumb-printing of ballot papers.
- Voting by under-age children.
- Printing of forms EC 8 and EC 8A, used for the collation and declaration of election results.
- Deliberate refusal to supply election materials to certain areas.
- Announcing results in places where no elections were held.
- Unauthorised announcement of election results.
- Harassment of candidates, agents and voters.
- Change of lists of electoral officials.
- Box switching and inflation of figures.

In 2003 Nigeria conducted the second general election since its return to civil politics in May 1999. The 2003 elections were almost as contentious as the 1983 elections had been. The report from Nigerian observers affirmed numerous reported cases of alleged fraud in many states across the country (Transition Monitoring Group 2003, p 120). The European Union observer report also reported widespread election-related malpractices in a number of states in the Middle Belt, the South East and the South South (European Commission 2003, p 42).

The plethora of electoral malpractices such as ballot box stuffing, snatching of electoral materials and smashing of ballot boxes, inflation of votes and other dimensions of electoral fraud and the high incidence of electoral violence rekindled the old fears that the basic institutional weaknesses associated with the country's electoral system could bring the democratic experiment to grief.

There are three phases in election rigging: pre-election, election day and post election. Below is a brief outline of some of the forms.

Pre-election rigging: rigging as system manipulation

Most election rigging occurs before the election and involves elaborate forms of system manipulation.

Party registration

Many political forces in Nigeria do not get a chance to participate in elections because the conditions for party registration are such that groups may be denied the right to establish the party they desire. Thus, in the run up to the Second Republic, for example, 150 parties were established in the first instance. The stiff conditions for registration were such that most of them were forced to merge and, in the end, only 18 parties were able to meet the requirements and submit their application forms; of these the state only recognised five. The Constitution also banned independent candidates from contesting elections. The system created conditions for excluding:

- strong individual candidates who might have got into power as independents because of the respect they evoked in their communities;
- ideologically committed people such as socialists who do not have the financial resources and networks to establish mega parties but who have a long-term transformative vision. In Europe, for example, the Green Parties started as small groups of ideologically committed people without resources or support but have since developed into a major political force;
- minority groups who do not have the numbers and networks to impose their registration on the state. While parties were being registered for the Fourth Republic, for example, the Alliance for Democracy (AD) did not meet the stated criteria but had to be registered because of fears of exclusion of the Yoruba from the political process. Apparently minority groups do not matter, so no concerns are expressed about registering their parties.

Manipulation of the voters' register

Nigeria has a history of the illegal acquisition by some parties of voters' cards. The purpose is to create conditions for the over-registration of certain persons and groups and simultaneous under-registration of other persons and groups. Favoured groups have their votes multiplied while others are basically disenfranchised.

Appointment of corrupt electoral officers

This involves buying over electoral officials and/or getting party supporters appointed as electoral officers so that they can tamper with the electoral process to produce a desired outcome.

Nomination during party primaries

Many candidates are denied the right to contest elections because they are prevented from standing for their party's nomination or are replaced after winning the nomination (Ibrahim and Salihu 2004).

Gerrymandering

This involves manipulating the boundaries of electoral districts to favour some political parties and candidates while diminishing the chances of others.

Examples of polling-day rigging

- Collaboration between polling officials and agents to subvert the electoral rules
- Late or non-supply of election materials to opposition strongholds
- Delay in opening polling centres located in opposition strongholds
- Stuffing of ballot boxes
- Under-age voting
- Multiple voting
- Inducement of voters with food and money
- Threatening voters with the use of force

Post-election rigging

- Refusal to count ballots from opposition strongholds
- Changing the results between voting centres and collation centres
- Declaration of false results
- Annulment of elections in situations where the results are unacceptable to incumbents
- Long delays or manipulation of election tribunals to protect stolen results

Combating electoral fraud

Nigerians have devoted considerable energy to revising the electoral laws and the institutional framework for elections with the aim of improving the conduct

of elections in the country. As Nigeria has moved from the Federal Electoral Commission (FEDECO) to the National Electoral Commission (NEC) and now the Independent National Electoral Commission it has gone through considerable changes in electoral laws and political party regimes. However, the reality of elections has remained that of the development of what the late Bola Ige described as 'free style rigging that made the occurrences of the Second Republic appear sluggish and amateurish' (*Guardian* 12 October 1992).

The question is what devices can be used to turn the tide. During the Babangida transition era there was an emphasis on reforming the party system and creating a new breed of politicians who were untainted. A two-party system was devised, but the first leading presidential candidates for the two parties were disqualified by the NEC for using money and rigging the primaries – a political crime that was considered a return to the old ways.

An allegedly improved nomination system for political parties, known as Option A4, was adopted. It was a method said to have been designed to resolve the problem of undue influence on the party nomination processes from people with money. The idea was to organise primaries through a series of elections from the ward level through the local governments and states to the national level. However, by multiplying the number of times and places of the nomination process the costs of transport, food and so on, skyrocketed, thus opening the nomination process to the highest bidder. Not surprisingly, the 1992 presidential primaries were characterised by massive rigging and falsification of figures. There were fears that the Babangida regime would use the excuse of the persistence of malpractice to justify its continued stay in power.

In a last ditch attempt to get the general to hand over power the two parties nominated candidates assumed to be acceptable to President Babangida – M K O Abiola for the Social Democratic Party (SDP) and Bashir Tofa for the National Republican Convention (NRC). After much procrastination by government and determined protest by the people against another postponement, presidential elections were finally held on 12 June 1993. The SDP candidate appeared to have won in an election in which the level of fraud was minimal. The election was, above all, a referendum, in which Nigerians voted Babangida out, but he would not take No for an answer. He cancelled the election and tried to initiate yet another round of 'political crafting' but there was so much mass protest against the cancellation that he was forced to hand over power to an incompetent and powerless civilian without any mandate, creating the basis for yet another coup d'état, in November 1993, by his former second in command, General Abacha.

One of the anti-rigging devices developed during the Babangida transition was the open ballot system in which the secret ballot was disallowed and voters queued up in public behind the party symbol of their 'choice'. Political parties

and elections would henceforth operate on the principles of the military garrison parade. The open ballot debate was initiated by Ahmadu Kurfi, who proposed queuing as an antidote to rigging, calling it the Fatima Principle. Kurfi argued that a close examination of the history of electoral fraud in the country revealed that all fraud was linked to the manipulation of the ballot and that by eliminating the ballot and making people queue up in public the instrument for cheating would be eliminated.

While it was indeed true that ballots have been used extensively in electoral fraud in Nigeria Kurfi underestimated the way electoral fraud would escalate. Over and above the technical details of 'secret ballot rigging' the most serious problem with the open ballot system was that it was fundamentally anti-free-choice and thus anti-democratic. When it was proposed the then Sultan of Sokoto, Ibrahim Dasuki, had complained about its anti-democratic character, citing possible problems such as that of virtually denying wives and peasants the possibility of benefiting from the secret ballot to vote against the candidates of choice of their more powerful husbands and patrons (*Citizen* 15 October 1990). He was later proved right. Most informed opinion in Nigeria opposed the open ballot but the government went ahead with implementing it in 1990 and intellectuals went out of their way to defend it.

The direct effect of the system was that candidates paid people to vote for them and party aides could observe and ensure that people who had been 'bought' joined the queue of the aspirant who had paid for their vote. Much has been written about the naira notes sandwiched between slices of bread and given to voters already in queues to make them shift to a rival queue. The NEC Chair, Humphery Nwosu, once complained that Nigerian voters were corrupt because they would take money from one candidate and vote for another. What a tragedy that Nigerian citizens were denied that democratic right to frustrate their wealthy enemies. Not surprisingly, the state governors elected in 1991 were considered some of the most corrupt and notorious elements among the nouveaux riches. The open ballot has been described by Nwosu as Nigeria's unique form of democracy – its own innovation, just as the Americans, British and Japanese have theirs. After the first 1992 presidential primaries, however, he complained that the system was 'riddled with wealth, falsification of figures, threats and favouritism' (*Newswatch* 23 November 1993). It was a pity that it took this professor, described by the Nigerian press as a 'crack' political scientist, so long to discover something so obvious.

ELECTORAL GEOGRAPHY AND OPPOSITION TO RIGGING

It is widely recognised that a number of structural, institutional and psycho-cultural factors need to be addressed if the consolidation of democracy in Nigeria is to be

successful. These factors, which have combined to make open, competitive and meaningful electoral politics elusive, include the dependent and underdeveloped nature of the Nigerian economy, the limited autonomy of various electoral bodies and their weak human resource base, and psycho-cultural factors, especially the usurpation of power by authoritarian military regimes for a very long time.

In addition, as is well documented, other factors often cited as undermining competitive electoral politics in Nigeria include: lack of discipline in the form, spirit and implementation of the electoral process; excessive monetisation of politics in general; a 'winner-take-all' philosophy embedded in the 'first-past-the-post' system operative in Nigeria; the general level of poverty and illiteracy; the absence of clear ideological underpinnings of political parties; and religious bigotry and, to some extent, ethnic chauvinism.

As useful as these factors are in helping to come to terms with the problem of the electoral system in Nigeria there is a need to bring into play the question of the electoral geography of the country in an overall attempt to understand and capture the ramifications and dynamics of the deep crisis underlying the electoral system and how to bring about a reform process.

For this reason Nigeria's electoral geography project was conceived by Global Rights, the non-governmental organisation I work for. The purpose of the project is to initiate reflections on how citizens in various parts of the country can develop sufficient civic responsibility to start working towards protecting their electoral mandate.

The need for a better understanding of Nigeria's electoral geography flows from the analysis of the last elections. Significantly different electoral problems manifested themselves in different zones of the country. While there were fairly orderly and well conducted elections in some zones, in others no elections at all took place. There were significantly varied manifestations of electoral problems in different zones and states of the country. These factors made it difficult to give a global judgment on whether the elections could be considered free and fair. It was difficult to determine whether the credibility of the electoral process had been so undermined that the results were unacceptable.

The electoral law and the Constitution must be revised to address the numerous problems manifested during the elections. It is, however, difficult to synthesise corrective measures because of the wide variety of problems. Seeking to understand the country's electoral geography is therefore a necessary prerequisite for providing the basis for reform. It is also a point of entry for introducing reflections on the existing electoral system and the possibility of developing one that is more democratic and effective. Indeed, reflections on the possibility of developing such an alternative electoral system have become a major concern of civil society (Ibrahim 2003a).

The notion of electoral geography draws attention to historical, geographical (for example, obstacles to the effective conduct of elections constituted by physical terrain), political and cultural factors that give each geopolitical zone in the country peculiar attributes and characteristics in relation to the issues and problems of elections and the election system.

Despite the ethnic, religious, cultural and other diversity that constitute the basis of varying degrees of tension and conflict within the six geopolitical zones of the country, the zonal arrangement has come to be accepted as a given and constitutes an acceptable basis for sharing power and resources among the competing power elites. It is therefore justified to use the six zones – the North East, North West, North Central, South East, South West and South South for this project.

The notion of electoral geography attempts to capture the peculiarities of the various geopolitical zones not only to make intelligible the unique problems raised by the conduct and management of elections but also to anticipate constitutional, administrative and other practical measures for mitigating the impact of these problems on the sanctity of the electoral process.

Although it is correct to assume that a number of problems associated with the Nigerian electoral system are general, a closer examination of the details of complications associated with the 1999 and 2003 elections show that some geopolitical zones experience problems peculiar to themselves. For example, the Niger Delta, which falls within the South South zone, experienced the highest level of electoral violence in the period leading up to, and during, the elections. Electoral malpractices such as ballot box stuffing, snatching of ballot boxes and the use of violence were perpetrated at the highest level. In most cases the spectre of violence discouraged voter turnout, yet results were declared. Here it may be important to bear in mind the prevailing culture of violence and militarism resulting from the militancy of ethnic organisations, youth violence, and the high level of access to arms as a result of battles over resource control. The riverine nature of the zone also created obstacles to the movement of electoral officers and prevented easy access by election monitors and observers. It could be assumed that, given this state of affairs, conducting a civil activity like an election without addressing the deep-seated conflicts in the zone may prove difficult.

Similarly, in the South East zone the level of electoral malpractice and incidents of violence were equally high, leading to a situation in which electoral outcomes did not come close to reflecting the yearnings and aspirations of the people. As was widely reported, although voting did not take place at all in many zones results were announced. State institutions were razed to the ground by political thugs while the police were quiet spectators. Clearly, the issue of 'political godfathers' has emerged as a key one in the zone. Another example that could be

raised is in the North West where, in 2003, a strong opposition led to the defeat of the incumbent governor in Kano state. While features of electoral malpractices prevailed, the existence of a strong opposition mitigated their level.

There are several common questions to be addressed in the context of electoral geography. Why has a credible electoral system continued to elude Nigeria despite the existence of a fairly well crafted electoral law? Why do different parts of the country exhibit different problems of electoral behaviour and the conduct of elections? Why are some zones more capable than others of protecting their vote? In responding to these questions, significant lessons can be learned from the South West.

Lessons from the South West

The Yoruba have set very high standards of civic culture and a determination to protect their vote that is worthy of emulation. Their commitment to the development of education from the 1950s to date is an important factor in that political culture. The Yoruba-speaking zone of the South West is the most urbanised of all the zones in the country and has a strong tradition of civil society and civil engagement, pre-dating the independence period. Incidents such as the Agbekoya movements and the resistance to electoral malpractice in the first and second republics as well as the resistance to the annulment of the 12 June presidential election are examples. The South West has a fairly developed infrastructure, an important factor in the successful conduct of free and fair elections. It also has the most developed mass media in the country.

All these elements translate into a greater political awareness. There is also the complex interaction between ethnicity, religion and politics dictated by the two-faith structure of the region. Interestingly, the existence of this faith structure is founded on a deep culture of religious tolerance, which makes it almost impossible to manipulate religion. Consequently, religion is not a key issue in the politics of this geopolitical zone.

The high level of civic consciousness in the zone translates into a community capacity to define the correct political line and to impose sanctions for political misbehaviour. The zone is noted for imposing sanctions on politicians adjudged to have broken ranks with tradition or to have acted in a politically embarrassing manner in relation to what is perceived as the collective interest of the Yoruba. There are several examples. Following excessive rigging of the December 1964 elections in the Western Region communities organised violent resistance to the theft of their mandate following the split between the Action Group and the Nigeria National Democratic Party. In the 1983 general elections Akin Omoboriowo, who was declared governor of Ondo State, having defected from

the UPN to the NPN, became a victim of violent attacks and was prevented from stealing the electoral mandate the state had given to Governor Ajasin.

A critical issue in elections in this zone is the role of collective memory, especially about the role of Chief Obafemi Awolowo. Two issues are immediately important here. In one respect, having adopted Awolowo as a symbol in their election campaigns and political mobilisation AD governors wrongly saw themselves as untouchable and natural leaders of the zone. Having performed very poorly by the standards of the zone, most incumbents were punished by being voted out. The fact that there were no massive protests about rigging in the zone, although some rigging did occur, meant that the level of rigging did not significantly change the mandate given by the people. It was in this context that the PDP took over the Awolowo mantle in the zone. They will retain it only for as long as they are seen to serve the interests of their people.

The lesson that it is possible for communities to define, articulate and protect their political interests, including their electoral mandate, is an extremely important one for the rest of the country. The South East, for example, seems to be characterised by pervasive monetisation of politics – it appears that people care more about money than about the integrity of their votes. This is clearly a cultural problem which can be explained in terms of the collapse of the values of the Igbo people following the profound disorientation visited on them by the civil war experience. Whereas the Igbo historically valued hard work and integrity and promoted education, as exemplified by the life experiences of people like the late Dr Nnamdi Azikiwe, the late Mbonu Ojike, and the late Akanu Ibiam, the situation has radically changed.

The relative neglect and marginalisation of the Igbo in what appears to be punishment for daring to secede left the people to take charge of their own destiny. Indeed, there is a strong feeling among the Igbo that they were treated like a conquered people after the civil war. In response, a mad race for wealth and all kinds of opportunism, including resorting to criminal activities to make money, became the order of the day. What has been seen as the decline in male education in the core eastern states can partly be explained in terms of this development?

The consequence is the emergence of an incoherent and opportunistic leadership with no commitment to the aspirations of the people in the zone. The core of this leadership is apparently drawn from the criminal and semi-criminal underworld and the wide crop of distinguished Igbos found in the professions, international organisations, and the educational sector appear to have no voice or influence in their society.

The development of a strong civic culture imbued with the determination to protect the electoral mandate of the people is a strong deterrent to the rising culture of competitive rigging reviewed in this paper. When people know that

rigging will be combated, they tend to be more careful. Protecting the vote is also a solid point of entry in compelling governments to provide the dividends of democracy.

THE WAY FORWARD

As we move towards the 2007 elections Nigerians should look to the future, bearing in mind a number of important issues that need to be addressed:

- The determination of President Olusegun Obasanjo to prolong his term beyond the two terms stipulated by the Constitution must be actively combated by civil society, and, indeed, by all Nigerians. It has the potential to derail the democratic process because it betrays political trust and requires extensive manipulation. In a sense, the most important and urgent political task today is derailing the third-term agenda.
- Civic education should be accorded a high priority between now and the elections. The real challenge in producing free and fair elections in 2007 is about what happens before that date. The task of enlightening the citizenry about their rights and duties and how to defend the sanctity of their votes is crucial. In the 2003 elections groups that carried out civic education did so too close to the elections for the full benefits to be realised. Since politicians use religion and ethnicity as tools of political manipulation civil education should take into account ways of providing effective responses to such manipulative tendencies. Similarly, people should be educated in ways to demand accountability from their leaders through Town Hall meetings as well as effective use of the recall provisions in the Constitution.
- The need to encourage the culture of opposition politics is crucial to the future of Nigerian democracy. It is widely known that Nigerian politicians always want to be on the winning side and therefore prefer to strike deals with the winning party. It is a defeatist attitude. It would serve the cause of democracy better if opposition parties were to remain steadfast, build strength and capacity around their programmes and manifestoes and provide the electorate with credible options in future elections. It is notable that in states like Kano, Kogi and Borno, where incumbents were defeated in the 2003 elections, it was the vigilance of the opposition that made the defeat possible.

- The mass media must play a more significant role in promoting and strengthening the credibility of the electoral system. Three main points are important in this regard. First, the need to encourage the proliferation of privately-controlled media as opposed to those controlled by the government. Privately-owned media houses are more likely to give better coverage to opposition political parties. Second, Nigeria needs to explore the possibility of community radio stations, which are far less expensive to establish. The present regime does not favour community radio and an enabling environment needs to be created. Third, adequate use has not been made of the information super highway as a means of reaching out to the public and putting information concerning elections in the public domain. The use of the Internet for national and international advocacy in securing free and fair elections should be developed.
- There is a need to deal with the mindset that leads to a lack of tolerance for the opposition and the absence of democratic temperament in our politicians. This is possible through massive civic education.
- Government at all levels should deal with issues of mass poverty and unemployment. As long as people remain poor and lack access to the basic means of livelihood they will remain susceptible to all kinds of manipulation, including being used to foment violence during elections. In other words, increasing political awareness without addressing the problem of poverty will not change the situation.
- Peoples' Fora should be established to promote the culture of citizens bringing their representatives to public meetings to engage in face-to-face interaction and demand accountability. There is a need to build links, alliances, and coordination among groups such as churches, market women, Okada operators, and the media, to checkmate the excesses of those in power.
- Ethnic and community associations should become more active in identifying credible individuals and persuading them to enter the arena of electoral contests. Communities should start developing the culture of sponsoring the campaigns of such candidates so that the field of electoral contest is not dominated by the rich and powerful. People who have an interest in politics should be encouraged.

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