

NIGERIAN ELECTIONS SINCE 1999

What does Democracy Mean?

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ABSTRACT

The Nigerian elections of April 2007 were neither credible nor well managed. The prospects of 'free and fair' elections determining the leaders of Nigeria in the future are also poor. Nonetheless, elections are a secure and consequential feature of the country's governance structure. This article analyses the institutionalised aspects of Nigeria's government, economy and society which produced this result and considers the prospects for positive reform in the near future.

INTRODUCTION: NIGERIA AND THE FOURTH REPUBLIC ELECTIONS

The elections

In April 2007 Nigeria held its third successive election since returning to electoral democracy in May 1999 (the start of what is widely regarded as the Fourth Republic). These elections fell short of the standards for credible, free and fair elections contained in international conventions to which Nigeria is a signatory.¹ Many observers and commentators confirmed that the elections were 'marred by extra-ordinary displays of rigging and intimidation of voters in many areas throughout Nigeria' (Rawlence & Albin-Lackey 2007).

Elections lie at the heart of representative democracy and constitute a mirror of the people's understanding and appreciation of democratic norms. Not only is the democratic character of a regime measured by the extent to which those who govern are chosen by means of free and fair elections, both the quality of voting rights and the sanctity of votes are strong measures of democracy (Danjibo & Oladeji 2007; Ibeanu 2007).

¹ These include, for example, the African Charter on Democracy, Elections and Governance and the African Peer Review Mechanism of the New Partnership for Africa's Development.

While the centrality of elections to representative democracy is widely accepted, elections can also serve as a veneer cloaking an authoritarian regime. In this vein, elections can be held regularly yet not accord meaning to the popular sovereignty implied by the vote. This has been the case since 1999 in Nigeria, where elections seem, thus far, to have served mainly the interests of the power elite and have had little, if any, significant impact on deepening representative democracy, let alone in positively transforming people's socio-economic lives.

Although it has been argued that the series of transition elections that ushered in the civilian regime in 1999 were flawed and were not as good as those in 1992, they were tolerated because of the overriding desire to ease out the military (Danjibo & Oladeji 2007) and enjoyed some measure of the credibility associated with previous elections conducted under the supervision of departing colonial or military regimes (Kurfi 1983).

However, high levels of electoral malfeasance, well reported by domestic and international observers, characterised the 2003 elections that followed under the supervision of an incumbent civilian regime (Ibrahim 2007; Ibrahim & Egwu 2005). It was therefore appropriate that the election report of Nigeria's premier domestic observer group, the Transition Monitoring Group (TMG), was entitled 'Do the votes count?' The group concluded that though voters were eager to exercise their popular sovereignty and have their votes determine the winners of elections the political class had a different agenda, wanting to corrupt the process and rig its way into office (TMG 2003b).

The flaws associated with the 2003 elections reached unprecedented heights in the 2007 elections. Widespread malpractices characterised the voter registration process and voter registers were not displayed at the times prescribed by the law.

The involvement of the Independent National Electoral Commission (INEC) in determining the eligibility of candidates – after it had lost much valuable time to the political crisis created by the abortive attempts by former president Olusegun Obasanjo to manipulate the 1999 national Constitution to grant himself a third term in office – shook the confidence of the populace and opposition parties in its ability to provide a level playing field (Ibrahim & Egwu 2007).

The 2007 elections were characterised by many shortcomings and malpractices, notably poor logistics on INEC's part – inadequate delivery of voting materials, late opening of polls in most of the states, ballot-box stuffing, allocation of votes where voting did not take place, falsification of votes, deliberate denial to perceived strongholds of the opposition of adequate supplies of election materials, among others. INEC also failed to put in place the basic infrastructure necessary to support the efficient transmission and collation of results, for which large amounts of funds had been approved.

Armed gangs were employed to appropriate ballot papers, mark them, add the necessary thumbprint to the register, and stuff the voting boxes at polling booths. All stages of the elections (pre-voting, voting and post-voting) were marked by extraordinarily high levels of political violence – according to official sources 55 people across the country died on election day, 14 April (*Vanguard* 16 April 2007). In Oyo, Ondo, Enugu and core Delta states there were reports of intensifying political violence and in Lagos, Ekiti and Kano reports of high-visibility killings abounded.

The unofficial death toll was estimated by various observers to be as high as 200 (Zasha, Mustapha & Meyer 2007). In states such as Rivers, Ogun, Oyo and Ekiti the total number of votes recorded far exceeded the number of registered voters.

In a few areas genuine elections were held, their outcome perceived to reflect the wishes of the people. Among these areas, according to many of the stakeholders, were Lagos and Bauchi, but even in these states it is necessary to make a nuanced assessment and to avoid the pitfall of concluding that elections are credible merely because opposition candidates and parties win. Rigging on both sides of the political divide irretrievably tarnished the integrity of the elections.

This is not to say that the elections had no redeeming features. Most reviews mention that the media and civil society were effective and that election tribunals were set up to consider post-election disputes. But these are modest positives in a generally disappointing picture.

On the whole, the April 2007 general elections were regarded as the worst in Nigeria's post-independence electoral history. The reports of domestic and international observers confirm that all stages of the elections were fundamentally flawed. As many of them noted, Nigerian citizens showed a rare commitment to electoral democracy by lining up in the sun and rain to exercise their right to vote despite fears that their votes might not count.

Nonetheless, the elections marked a transition from the 'competitive rigging' that characterised the 2003 elections (Ibrahim & Egwu 2003; 2005) to a situation in which the authorities at a centre decided in advance what the final vote tallies would be and rigged the results to achieve that tally.

The Transition Monitoring Group (TMG 2007) judged the 2007 ballot to have been programmed from the start to fail because of the politically motivated activities of the Obasanjo regime in close collaboration with the politically partisan INEC. This conclusion is reinforced by the startlingly close (4 to 3) decision of the Nigerian Supreme Court to affirm the election of President Alhaji Umaru Yar'Adua. In their judgement, however, the seven justices united in criticising INEC and holding that the poll was marred by gross non-compliance with the electoral laws (*Vanguard* 13 December 2008). It is no wonder, therefore, that many

consider the 2007 general elections in Nigeria to have been ‘stolen’ (Rawlence & Albin-Lackey 2007).

A failure of governance

The quality of elections in Nigeria in the Fourth Republic, then, has not been good and does not seem to be improving. In fact, it has deteriorated since 1999 and the elections have failed to produce governments that have advanced the public good – the country is behind in its target for meeting the United Nations Millennium Development Goals, the economy is weak, corruption is a serious problem, government is generally ineffectual, standards of literacy are low for a country of such wealth, and the human and environmental devastation to which the oil industry contributes in the Niger Delta is stubbornly persistent.²

Not only is Nigeria not a very good democracy its general development record is poor, which, given the country’s wealth, suggests that there is a governance problem – and indeed Nigeria’s World Bank governance scores are among the lowest in the world.³ What is the nature of this underlying governance problem? How does it affect democracy in Nigeria? What are the prospects of its improvement?

THE POLITICAL ECONOMY

Party politics and elections in Nigeria date back to the early 1920s when, in response to the nascent nationalism after the First World War, the British colonial authorities initiated constitutional changes. Although limited, the opportunity for the election to the legislative council in Lagos and Calabar of Nigerians with a certain threshold of property helped spur the decolonisation movement, which eventually led to the granting of political independence on 1 October 1960. Since then the notion of elections as the legitimate basis for exercising power has been entrenched in the Nigerian political system to such an extent that even successive military dictatorships in the post-independence era have, sometimes at their own volition, initiated transition programmes, of which elections were a critical element.

Nonetheless, democratic institutions have remained fragile. In particular, overbearing executive power, wielded especially by the presidency, has tended to

2 In 2007/08 Nigeria was ranked 158th of 177 countries on the UN’s Human Development Index. <hdrstats.undp.org/indicators/16>

3 Its average governance score for 2005 was –0.97, against a world average of zero. The World Bank’s governance indicators can legitimately be criticised on conceptual grounds, but even when the more ideologically doubtful ones are pared away the picture does not look good. The country has a corruption score of –1.22 (Kaufmann, Kraay & Mastruzzi 2006).

weaken the legislative and judicial branches of government, while the country's political life continues to be characterised by the exclusion of ethnic minorities and other marginalised groups, including women, the youth, and disabled persons. For example, despite various efforts to engage the executive and political parties in making the political terrain friendlier to women the percentage of women officeholders at national, state, and local-government levels after the 2007 elections is a mere 6 per cent. It is therefore important to provide a brief account of the Nigerian political economy and the context of its electoral democracy in order to understand the dynamic interplay of social, economic and political forces that shape the nature and character of electoral democracy in the country.

The sociological foundations

Nigeria has an estimated population of 140 million, and a federal democracy with constituent units comprising 36 states, a Federal Capital Territory, and a further subdivision into 774 local governments. The population comprises more than 375 ethnic groups (Otite 1990), almost equally split between Muslims and Christians, and the literacy rate is less than 60 per cent.

Although not constitutionally acknowledged, the six geopolitical zones are well recognised as the basis of power-sharing and promoting equity among the component parts of the federation.⁴ Nigeria's plural and diverse ethnic, regional and religious character is a key defining element of its electoral democracy. The potency of these three factors is increased by their tendency to interact with one another, so that ethnic groups (with a few exceptions, such as the Yoruba) usually have a common religious heritage and predominate in distinct states (save where they have migrated to major urban areas such as Lagos and Kano).

The more than 375 ethnic groups in Nigeria vary in size, history and influence, and the tendency of the political elite to politicise and exploit these identities has led not merely to ethnic plurality but to a state of unequal ethnic relations characterised by intense competition for state power and publicly controlled resources.

The politicisation of ethnic and sectional identity has changed along with the changing character of federal politics and the shifting context of the struggle for power and resources. From the late colonial period to the end of the First Republic the 'politics of difference' was framed on the basis of the tripod of the existing three regions – East, North and West, each region representing the interests of one of the three major ethnic groups. However, the feeling of ethnic minorities within

⁴ These geopolitical zones are: North-East, North-West, North-Central, South-East, South-South, and South-West.

the regions that they were oppressed generated considerable tension towards the end of colonial rule and survived into the post-independence era in the form of agitation for the creation of new states and local governments. The establishment of new administrative units in a move to abolish ethnic and regional consciousness as the basis of political mobilisation (for instance the adoption of the existing six geopolitical zones for the purposes of power-sharing and allocation of public resources and opportunities) has not diminished these sentiments.

Closely related is the expression of identity politics by ethno-regional political organisations and groupings. These provided the platform for the political organisations that fought for the country's independence, reflecting largely the ethnic-cum-regional orientation of the emergent elites.

There has been a resurgence of ethno-regional political organisations since the democratisation process began. The best-known examples today include the Arewa Consultative Forum (representing the core North, simplistically identified as Hausa-Fulani), the Afenifere (identified as the platform of the Yoruba-speaking population of the South-West) and the Ohaneze N'digbo (which advances the interest of the Ibo speaking population in the South-East). Similar ethno-regional organisations represent the various ethnic minorities.

One consequence of ethnic and cultural mobilisation is the tendency to exclude groups as the context of the struggle for power and resources changes. This is especially the case with regard to the notion of 'indigeneity' introduced into the 1979 Constitution in the context of applying the 'federal character' principle, which has divided people on the basis of an 'indigene/settler' dichotomy.⁵ Thus, despite the fact that the main thrust in the constant adjustment of the country's federal system since the end of the civil war has been the preservation of unity and management of the conflict spiral generated by competing ethnicities, measures introduced to manage diversity have produced the opposite effect, fomenting ethnic and communal divisions.

Despite Nigeria's march towards modernity and democracy the institution of traditional rulers has remained relevant to questions of power and elections,

5 The 1979 Constitution was the first to introduce the notion of indigeneity and it has been retained in subsequent constitutions. It was introduced in the context of implementing the 'federal character' principle in Nigeria, which, itself, was intended to prevent domination by one ethnic group or region of public positions, including Cabinet positions and positions on the boards of state-owned parastatals. According to the Constitution only an indigene of a state can be nominated for a position in that state. The interpretation section of the Constitution goes on to classify an indigene as one whose grandparents belong to an ethnic community indigenous to that state. This makes ethnicity the basis for indigene status and therefore the basis for access to local citizenship rights and it can also be used to exclude people from participating in elections, a system of ethnic citizenship that has divided people into indigenes and settlers. The political conflicts in several parts of the country, especially in the North Central areas around Plateau and Kaduna, are fuelled by it. Where the indigene/settler dichotomy falls along religious lines, as it does in Jos, it leads to an all-out religious battle, setting Muslims against Christians.

creating varying degrees of harmony and tension. Traditional rulers stand at the apex of a large number of the country's culturally diverse communities. Since they claim to espouse the collective communal identities and values of the various groups they symbolically reinforce ethnic and communal political identity, with direct or indirect implications for shaping power and authority. The colonial state cultivated the traditional institutions through the 'indirect rule' system. Where centralised traditional authorities did not exist, they were 'invented'.

In the post-independence period traditional institutions have proved to have such remarkable adaptive qualities that the simple dichotomy between 'modern' and 'traditional' as analytical tools may not be useful in understanding their role within the public space (Whitaker 1969). Thus, despite the fact that traditional rulers have continued to derive their legitimacy and relevance from representing the ethos and norms of the past, they are firmly located within the modern state system. Powerful local traditional rulers such as the Sultan of Sokoto, the Emir of Kano, the Oba of Benin, or the Ooni of Ife, whether from ethnic majorities or minorities, are widely regarded as 'power brokers' and interact dynamically with elected public officials at all levels of governance, despite constitutional attempts to remove them from the arena of electoral politics.

Foundations of the political economy

Nigeria's political economy is underpinned by the central role played by the state in the organisation of social, economic and political life, for which reason enormous interests have grown up around it. The emergence of oil-based accumulation has strengthened the role of the state as the dispenser of patronage. In the context of electoral democracy the state is perceived as the 'coveted' prize to be won by the group or coalition of elites that bind together in political parties.

The post-colonial Nigerian state has its origins in colonial rule, its path to development essentially defined by: a state-led approach to capitalist modernisation; a dependent strategy which emphasised a significant role for foreign capital (even at the height of oil boom); a heavily import-dependent industrialisation strategy; and a philosophy of development which excluded the people from meaningful participation in the development process.

The economic crisis of the early 1980s, which weakened the legitimacy of state institutions, was founded on this model of post-colonial development. The series of market-based adjustment policies beginning with the Structural Adjustment Programme (SAP) and the current National Economic Empowerment and Development Strategy (NEEDS) have aimed at broad economic as well as politico-administrative reform.

However, it was the emergence of the petroleum economy in the 1970s that made the most significant impact on the Nigerian political economy. By the end of the 1980s, oil revenue accounted for more than 80 per cent of the country's external earnings, displacing agriculture, whose contribution to the GDP between 1960 and 1964 stood at an average of 79 per cent. This encouraged the emergence of a 'rentier' state and eroded the basis of the 'social contract', as rent extracted by the state replaced tax as the basis of public expenditure (Guyer 1994).

Today oil and gas account for about 70 per cent of government revenues. More importantly, oil income intensified rent-seeking capitalism, which puts wealth at the disposal of a few and is characterised by prebendal arrangements and the establishment of patron-client networks, which are sometimes ethnic-based (Egwu 1998; Joseph 1987). This model of politics, and the elite bargain associated with it, tends not only to benefit the few, but dismantles the state by enthroning informal channels of influence, transforming it into personal fiefdoms and subverting the rule of law.

Prolonged military rule, accounting for 30 of the 47 years of post-independence life, has had considerable effects on party democracy and elections in Nigeria, eroding constitutional federalism through centralisation of power and resources, violating the rights of citizens, eroding the rule of law and enthroning a culture of arbitrariness and impunity, resulting in high levels of corruption.

Successive transitions to civilian rule initiated by the military have tended to undermine the very basis of democratic politics as political parties were decreed into existence, conditions for forming political parties made stringent, certain categories of politicians excluded, powers of the judiciary limited by 'ouster clauses' in decrees, and deliberate efforts made to expunge ideology from party organisations and manifestos.

Decades of military rule transformed what was essentially a loose federal arrangement in the First Republic, in which economic and political powers were highly decentralised, accounting for a combination of healthy and acrimonious rivalries between the different regions. Partly reflecting the new spirit of nationalism of the post-civil war era and partly reflecting the centralising logic of military rule, the central government reduced most of the constituent units to mere political and fiscal appendages.⁶ This was achieved by creating new states, taking over sources of revenue hitherto enjoyed by the regions and abolishing derivation as the basis of revenue-sharing among the constituent states.

6 There are a few exceptions. President Obasanjo essentially cut off all federal funding to opposition-controlled Lagos State. Yet at the end of his term Lagos was still powerful and running a (self-funded) budget surplus. Lagos is the commercial capital of Nigeria, however. Very few, if any, other states could be so independent.

It is important to acknowledge that although oil royalties have led to a concentration of government revenues in the centre the existence of strong formulas for their distribution among the states does limit a president's freedom of choice. But the remaining areas of discretion are sufficient for the presidency to be the dominant actor.

The adoption of a federalist ideology towards the end of colonial rule, a consequence of the convergence between the ethnic and class interests of the founding fathers, has, to a significant extent, provided the basis of elite compromise and bargains characteristic of the plural nature of Nigerian society. The creation of new states and local governments has been used to contain elite demands cloaked in ethnic and other primordial gowns, and to address the grievances of ethnic minorities. However, over-centralisation of power and resources has stifled the quest of some groups for national self-determination and undermined local autonomy.

In the oil-bearing communities of the Niger Delta a feeling of neglect occasioned by the removal of the derivation principle⁷ of revenue sharing and the grim realities of poverty and environmental degradation as a result of the activities of oil companies have combined to fuel political agitation and sometimes sheer criminality.

There is enough discretion over revenue and personnel at the centre for the presidency to dispense patronage across the country, hijack the ruling party, subordinate the legislature and stifle the judiciary. In the absence from the Constitution of provision for entrenched independent commissions and a politically effective civil society, executive funding of other branches of government can be used to erode the necessary checks and balances. Funding control of 'executive' bodies such as the election management bodies, security agencies and anti-corruption bodies has been used to undermine the credibility of the electoral process. At state level governors, as 'party leaders', dispense patronage and control power that also can be used to subvert the electoral process. All this came into play in the countdown to, and the actual conduct of the 2007 elections

Elections are central to the elite bargain

Elections in Nigeria are not genuine

Elections in Nigeria since the return to civil politics in 1999 have manifested serious deficits, provoking the realisation that votes do not count and resulting

⁷ The principle by which the state in which revenue is generated (generally by natural-resource extraction) should be entitled to a substantial, fixed proportion of it.

in a widespread lack of confidence in the electoral system, increasing cynicism among the electorate, and the general perception that leaders thrown up by the flawed electoral process lack legitimacy. The consequence is that Nigerian voters are mere voters and do not, in the literal sense, constitute an electorate – there is little or no contact between the people who cast their votes and the officials who do not owe their election to what was on the ballot of the voters (Ibrahim & Egwu 2003; 2005).

Certainly in Nigeria elections are not free and fair. There was even a notable instance in which (accurate) election results were leaked to a newspaper a few days *before* the election took place. As part of an intra-elite deal the current ruling party, the People's Democratic Party (PDP), fixes the results in advance – even for local government elections – in all but a handful of states where the dominance of the opposition is so great that civil disorder would be provoked if PDP candidates were imposed. The election is just a means of putting the deal into practice. However, once power has shifted after the election the deal can be renegotiated.

In the opposition states elections may sometimes be more genuine – but there remains the possibility that they are simply being fixed by a different elite group. That seems to have been the case in the 2007 elections in Kano (although not for those in 2003).

The real power at election time, at least at the federal level, lies with the PDP, which effectively controls INEC. Ensuring genuinely independent election commissioners is a major challenge.

Oil money is the real driver behind the politics of elections and the reason there is so little accountability of the elite to the general populace. Political party financing – real financing, not state funding – enables the manipulation of the elections and the transfer of power. The benefits of office are seen as too significant to be left to popular choice.⁸

Elections nonetheless are an important part of the system

Their deficits notwithstanding, elections have continued to play an important role in Nigeria's political life, and could contribute to democratic consolidation. The current system does provide stability. The country is held together by the elite deals and there is at least the appearance of meeting the constitutional requirement that the president win a quarter of the votes in two-thirds of the states. The integrity of the country does not seem at serious risk, having been tested by civil war. Nonetheless, there is a danger that unconstrained democracy

⁸ The electoral process itself also is a money-making business – the trading of allegiances, networking, etc.

– if it permitted unrestrained ethnic competition and threatened the underlying elite deal – could stimulate ethnic violence. Even in their nominal sense elections matter and will continue to be important in the Nigerian political system. To begin with, despite widespread lack of confidence in the electoral process Nigerians have demonstrated support for the idea of elections, not only as the more viable alternative to the military in the selection and recruitment of the political leadership but also in the symbolic sense that elections are a necessary part of civilian life. Military rule has always been seen in Nigeria as transitory and an aberration before a return to civilian and democratic rule.

An election provides the marker for the authority that is being granted to an office holder by a party and those controlling it. It is not easy (although it is possible) to remove someone from office during his or her ‘elected’ term. The ‘election’ process also defines the length of a term and the Constitution defines how many terms are allowed. Arguably the defeat of Obasanjo’s concerted attempt to win a third term was a victory for these democratic principles.

Do elections provide legitimacy?

In much, perhaps most, of the country the general populace does not consider that elections are legitimate. This is certainly true of the former Eastern Region (where secession was attempted and then defeated in the civil war). Here the people feel disenfranchised, marginalised and under occupation. The feeling of alienation and neglect in Enugu makes more sense in the context of national politics. And it certainly is part of the anthropology of anger in the South-East. But in terms of elections at state and local-government levels the governing coalition largely involves different factions of the Igbo elite (albeit in alliance with national political figures) such that it cannot simply be interpreted as an imposition by other sections of the country.

In Kano, where the opposition government enjoyed wide local support in 2003 but probably stole the 2007 elections, some people feel the elections were largely legitimate. But others (especially those who are well informed) are deeply cynical about the elections and see any outcome as dictated by the elite.

Nonetheless the elections do seem to be important to and bestow legitimacy among the elite itself – as an outward sign of a naked political process that is going on behind it. It also appears that elections are an attempt by elites to gain legitimacy outside the country, for they seem upset that international election observers condemn their blatant rigging.

The rules of the election game

Despite the use of naked power and blatant vote rigging there are important rules of the game. The first is term limits. Despite their flawed nature elections

continue to be a marker of authority that is being granted to an office holder by a party and those controlling it, in addition to defining the length of a term. The imperative of respect for term limits was invoked by the coalition of groups and individuals that successfully blocked Obasanjo's 'third term' ambitions.

Another important rule is 'zoning'. At every level of the political system the elite allocates offices according to geographical (and hence ethnic) zones. The 'rule' is that pinnacle positions must rotate between the zones for that level so it is clear when it is the 'turn' of a region/zone to hold a position. Another, related, rule is that positions that are roughly equal must be distributed between the relevant zones for that level. There are zones within the federal system, within the states, within districts, and even within villages. These principles are now quite locked into the Nigeria elite bargain and define the ways in which the benefits of oil revenues and public office will be shared and rotated, thereby preserving the unity of the country.

The formalisation of the concept of zoning and of the 'federal character' principle (in the composition of the armed forces, higher education, and so on) seems to derive from the fear of secession induced in the elite by the Biafran civil war, although the idea of 'ethnic balance' in government and of a region's 'turn' has always had support.

An emergent rule appears to be that the incumbent president plays a key role in brokering a deal relating to succession. There may also be an implicit, informal rule that those who leave office peacefully will not be prosecuted for their misdeeds while in power. The latter is partly a function of the fact that former office bearers will have played a key role in choosing their successors and is also partly a result of fears that the investigation of one person's misdeeds might well reveal those of another person who it is desirable to protect.

Strong presidency, weak Parliament

Executive power at the national level in Nigeria is marked by a strong presidency with an imperial character. This is a consequence of several factors. These include decades of military dictatorship that eroded constitutional federalism by centralising power and resources at the federal centre, the politics of patronage and corruption fuelled by oil wealth, the erosion of the rule of law, and the acceptance of a culture of arbitrariness and impunity.

President Olusegun Obasanjo's eight-year rule saw the emergence of an imperial' or 'monarchical' presidency, which became the most important source of power and authority. The manipulation of election management bodies and the distortion of the electoral process were made possible by the overbearing powers of the presidency, which allowed the president, who is widely recognised as the

'party leader', to hijack the ruling party and to determine which candidates were selected for election.⁹

In designing the 1979 Constitution Nigeria made a conscious choice to adopt a presidential system of government to replace the parliamentary system in place during the First Republic. The decision was driven by two factors: the desire to promote national unity through a president elected directly by the nation and the wish to have that president bound by clear lines of executive authority.

While the 1999 Constitution, like that of 1979, invested the president with wide powers, it also placed limits on the president by giving the National Assembly powers over appropriation and oversight. However, because of its own institutional weaknesses the legislature is not in a position to impose the necessary checks and balances. A sufficient minority of MPs *did* refuse to assent to President Obasanjo's campaign to change the Constitution to give himself a third term – a highly significant event in Nigeria's parliamentary history, particularly given the amount of money that changed hands. But executive dominance is the more general pattern.

The strengthening of the executive branch is reinforced by the dominance of the public bureaucracy in the policy-making arena. The consequence is that the president is in a position to construct vast networks of patron-client relationships, including control of the party hierarchy, even though a political godfather or a coalition of elites may have selected him for the office. With such vast power and influence the president can also become the key determinant in the selection of candidates for governorship elections in ways that challenge the idea of federalism.

Political parties and partisanship

There are five major political parties in Nigeria today: the ruling People's Democratic Party (PDP), the All Nigeria People's Party (ANPP), the Action Congress (AC), the People's Progressive Alliance (PPA), and the All Progressives Grand Alliance (APGA). The PDP holds the presidency, accounts for more than 80 per cent of the membership of the National Assembly, and controls 27 of the 36 states in the country.

It is believed that the PDP party machine, in connivance with INEC and the presidency, was responsible for the blatant rigging of the 2007 general elections. The ANPP is the second largest, controlling four states – Bauchi, Borno, Kano and Yobe. Its presidential candidate in the 2007 elections, retired General

⁹ Obasanjo's statement that the 2007 elections would be 'a do-or-die' affair is widely cited as a major explanation for the high level of malpractice.

Muhammed Buhari, won the second-highest number of votes. The AC, the third-largest party, formed by the former vice-president, Alhaji Atiku Abubakar, controls the states of Lagos and now Edo (in the South-South geo-political zone, following the Appeal Court judgement that overturned the April 21 election for governor in which the PDP candidate was declared the winner). The PPA controls Imo and Abia, two Ibo-speaking states in the South-East, while the APGA holds the governorship of Anambra.

While the number of political parties increased from three to 50 in 2003 only those cited above appear to be viable, with the PDP alone dominant at the national level and in two-thirds of the states. This has given rise to the perception that Nigeria is faced with the threat of one-party dictatorship and a possible relapse into a civilian form of authoritarian rule.

The 1999 Constitution contains elaborate provisions for the registration and functioning of political parties. Among these are those that seek to 'engineer' political parties with a national support base. This military legacy of 'political engineering' dates back to the 1979 Constitution, which stipulates that for political associations to qualify to be registered as political parties they must demonstrate a presence in three-quarters of the states in the country, while their officers (chair, vice-chair, treasurer, and so on) must reflect Nigeria's 'federal character'. The shortcoming is that this stricture focuses on territorial diversity at the expense of class, gender or other policy-relevant issues. The institutional weakness of political parties is accounted for by a number of factors, including the predominance in the ranks of the political class of those raised under successive military regimes, the absence of internal democracy, and the decline of ideology and issues-based politics in party organisations and campaigns. The additional problem of the limited capacity of political parties and the lack of strategic direction is reinforced by a lack of respect for democratic values and the rules of political competition.

Despite the fact that they are publicly funded political parties are not accountable either to citizens or to their members, a problem linked to the role of party godfathers and oligarchies. Party godfathers may be financiers or intermediaries who use their vast social and economic connections to determine, with little reference to a party's constitution, how the party is run and election candidates selected. Not only do they undermine the formal channels of political parties they seek to control those they sponsor for 'elected' positions by choosing for themselves juicy Cabinet positions and awarding themselves lucrative contracts. Although there are several examples of tension and conflict between godfathers and their beneficiaries the phenomenon of 'godfatherism' severely undermines the viability of the existing party system.

Thus the issue that most concerns the public is the parties' lack of internal democracy. The dominant trend is that although parties hold internal primary

contests they disregard the results in selecting their nominees. The pronouncement by the ruling PDP in the countdown to the 2007 elections to the effect that winning primaries does not guarantee the party's nomination is instructive. In states such as Taraba, Niger, Rivers, Imo, Adamawa, Kebbi and Sokoto, for example, those who eventually contested the 2007 gubernatorial elections on the PDP ticket did not feature in the primaries.

The culture of the elite selection of candidates is so strong that there has been little effort to hide it – and indeed those with power in the various parties *prefer* nominees to be beholden to them and not to have an independent base among party members. The blatantly undemocratic character of these processes has provoked widespread public criticism and appears to be a matter of embarrassment to many of the parties' leaders. The result is that although it is possible to reform selection procedures it is probably unrealistic to think that the *appearance* of internal party democracy would be any more genuinely democratic than the general elections themselves. The expectation of elites that it will be they who determine the selection of public office-holders is so strong that it is unlikely to be seriously threatened until significant social forces have an interest in doing so.

There is much debate among donors and political reformers about the need to create political parties that are based on public policy issues and not patronage but experience suggests that this objective is probably unrealistic at present in Nigeria, partly because of the structure of political power but also because citizens need the state to address more pressing matters.

That politics in Nigeria is structured around clientelism is obvious – office holders use the state to generate income for themselves and their close associates (both sponsors and clients) and then use the accumulated wealth to purchase the election results they desire.

Nicholas van de Walle (2007, pp 50-67) argues that there are three forms of clientelism: tribute (traditional gift exchange), patronage (the use of state resources to provide jobs and services) and prebendalism (the distribution of public positions to elites in order for them to gain wealth from the operation of the office). The term prebendalism was devised by Richard Joseph (1987) specifically to describe Nigerian politics under the Second Republic and it remains a dominant practice in the country. In Van de Walle's view only tribute and patronage are truly distributive, reaching ordinary voters; prebendalism is an elite bargain in which the benefits are narrowly distributed.

Patronage appointments may reduce the effectiveness and efficiency of the state, but they are not necessarily illegal. Prebendalism, on the other hand, dismantles the state, transforming it into personal fiefdoms, and subverts the rule of law. Van de Walle believes that patronage was active for only a brief period at

the time of independence in most African states and has now been replaced by prebendalism. Patronage was necessary to mobilise voters and secure their loyalty and therefore became unnecessary once competitive elections ceased (although it remained active in those states which had competitive primaries in one-party systems) while prebendalism is sufficient in the no-party systems, as the only serious threat is secession, which requires the co-operation of the elite.

Even a Nigeria under multiparty democracy fits Van de Walle's model. Nigeria's political entrepreneurs deliver votes, but without necessarily recruiting and mobilising voters. While in African states with genuine multiparty democracy parties are the vehicles of visible leaders and try to distribute real benefits to their constituents, in Nigeria much of the power is behind the scenes, with the visible leaders simply assuring continuing prebendal access to state resources for the invisible wealthy men who purchase thugs to carry out the work of delivering the elections (sometimes by *preventing* people from voting and stuffing ballot boxes on their behalf). Thus these parties are driven by the prebends of office – the need of elites for continued access to them and the finance from them to purchase the election.

There is vigorous competition in Nigeria, but the outcome is determined by puppet masters. The competition is exclusively between elites and is determined by bargaining among them, with the politicians who stand for office themselves not necessarily the most important actors and the people counting for little. Since the real competition is about office, not policy, the elites often appear interchangeable.

There is a socio-economic logic to parties based on clientelism and not policy, which goes beyond the foregoing political logic, however. The services Nigerians need from their state are readily distributed as patronage goods – schools, health services, roads, and jobs. Since there are not yet enough of these services to meet demands the issue for Nigerians is less the *quality* of these services *in general* than what is available *to a particular constituency*. This form of demand is therefore perfectly tailored to patronage politics (or, as more positively described, constituency service).

If these services were universally accessible the policies that would enhance their quality across the country (or state) could become a political issue, but this point has not yet been reached. In oil-rich Nigeria universal access to services of a reasonable quality *could* already exist if the state operated efficiently and was not subject to such rampant predation. But this is not the way the absence of services is perceived at constituency level, where the demand is simply that the necessary resources to supply them be moved to some users at the expense of others. Similarly, it is probably true that a different macroeconomic regime would make imported consumer goods for the elite more expensive and locally-

produced goods more competitive (both domestically and internationally), thereby providing more jobs for the Nigerian poor. But it is even harder for the average voter to see this policy issue than to see the quality one behind service provision.

Party politics and godfathers

Although it may be argued that the phenomenon of 'political godfatherism' (kingmaking) is not new in Nigerian politics it seems, in the current political dispensation, to have assumed a new form. Political godfathers determine which candidate is selected for election purposes either through the formal channels of decision-making in the political parties or through informal networks of social ties and obligations that ultimately influence party decisions. Godfathers are also linked to the 'primitive accumulation' of votes, in which their influence and networks are used to rig elections or write election results in favour of anointed candidates. However, the ultimate aim of a political godfather is to take over the machinery of government by determining who gets the juicy Cabinet positions, having successfully installed a beneficiary as a president, governor or local-government chairman.

In Nigeria's First and Second republics it was rare to find the kind of political godfathers who debase electoral politics and contests today. In those days charismatic party leaders such as Nnamdi Azikiwe of the National Council of Nigeria and the Cameroons (NCNC) and Chief Obafemi Awolowo of the Action Group (his party in the First Republic) and the Unity Party of Nigeria (his party in the Second Republic) rewarded known party faithful and ideologues with executive and legislative positions. There were exceptions, however, in local politics, where 'powerful' individuals sometimes determined which candidates were selected for election. The late Busari Adedokun (in the First Republic) and Adedokun Adedokun (Second Republic) were widely regarded as 'kingmakers' in Ibadan politics. In the Second Republic Olusola Saraki was known as the 'godfather' of Ilorin and Kwara state politics.

Political godfathers, usually wealthy individuals who spent their fortunes on the poor, had a strong hold on voters, exercising control through their acts of generosity, which were converted into political capital during elections.

There has been a proliferation of 'godfathers' in the Fourth Republic, many of whom are individuals who made their money through their close association with military or ex-military leaders who have become excessively wealthy and are using their wealth to determine the outcome of political contests. At the local level most successful politicians have visible benefactors and once such candidates are in office they do the bidding of their godfathers.

Between 1999 and 2003 politics in Anambra State in the South-East was controlled by Chief Emeka Offor, who single-handedly sponsored the election of Chief Mbadinuju of the PDP to become governor. Chief Offor's stupendous wealth came from contracts in the days of General Sani Abacha's dictatorship. For him, politics was an investment and he needed to make a 'profit' from it. He forced the governor to swear to pledge a certain amount from the monthly federal allocation to the state to be paid to him directly. The commitment of the governor to his godfather crippled the finances of the state to such an extent that for more than a year salaries of public servants, including teachers, could not be paid. He became so unpopular that even the PDP denied him the ticket to run for a second term in 2003 and he was forced to contest the seat for a different party and lost. His successor was Chris Ngige, who was brought to power by another godfather, Chief Chris Uba and was also forced to agree to pay a substantial part of the state revenue allocation to his godfather.

Perhaps the best-known godfather in Nigerian politics, until he died in 2008, was Chief Lamidi Adedibu, popularly known as the strong man of Ibadan politics. He provided '*amala*', a local staple, to hundreds of poor Ibadan residents on a daily basis. He was courted by President Obasanjo and was feared by police and security forces.

The courts

Courts are vital to a democracy. Without them there is little check on the executive and the legislature has no way of enforcing the laws it has passed. Although there is some evidence of a re-emerging independence and professionalism in the courts, at least at the level of the appellate bodies – the Court of Appeal and the Supreme Court – which have handed down some notably independent judgements since the return to civilian rule, there is no doubt that the judges who sat in election tribunals have often been instruments of the election-fixing machinery of the PDP.

For the most part, the higher judiciary was sidelined during the periods of military rule, for the governments in that period attached 'ouster clauses' to any legislation they enacted that might be controversial. Such clauses placed the laws outside the authority of the judiciary so the higher courts were generally excluded from considering cases in which the executive had a strong interest (although they showed their independence in a few cases, when given the chance).

The body of the law, therefore, is less compromised at that level and judges in the higher courts often are well networked internationally and sensitive to the nature of their reputations. A more cynical opinion is that the recent judicial independence is more apparent than real – that it is exercised only when it is in the interests of some powerful member of the elite, usually the president. Those

who share that opinion (among them some experienced attorneys) see the judicial system as impossibly compromised and unlikely to change until the rest of the system does. Two conflicting pieces of evidence are worth mentioning here. The judicial decision to include Atiku as a presidential candidate in the 2007 election was seen as a step forward for judicial independence. On the other hand, both the Appeal Court and the Supreme Court are reported to have been compromised in their deliberations on the presidential election petition. According to newspaper reports both courts received vast sums of money to rule in favour of the PDP.

The media

The media play a critical role in a democracy, having a particularly synergistic relationship with the legislative and electoral processes. Without the media information about government malfeasance and incompetence would not be widely known, so neither citizens nor legislators would be aware of the shortcomings of elected officials and thus be able to hold them to account. In addition, voters buy newspapers and magazines, legislators frequently leak stories to journalists, and public scandals both sell papers and help to build citizen demand for legislative action.

Nigeria's media have a reputation for both independence and irresponsibility. Since many media outlets, especially the broadcast ones, are owned by the government this reputation for independence is somewhat exaggerated. Furthermore, as the recent temporary detention of news blogger Jonathan Elendu demonstrates, the government is cracking down on journalists it deems to be overly critical/revelatory of the current administration. Nonetheless, in comparison to those in most African states the Nigerian media are vibrant and free and the emergence of community FM radio is greatly expanding the domain of independent information providers.

Nigeria has a large number of newspapers offering a variety of points of view. The big four – *This Day*, *Punch*, *the Daily Trust*, and *Vanguard* – have daily print runs of 30 000 to 40 000 (with much larger readerships). But these numbers are a far cry from the 300 000 a day the *Daily Times* printed 30 years ago. Broadcast media are far more important today and the ability of community FM stations to work in a multiplicity of vernaculars adds a new dimension.

On the negative side, Nigerian journalists are not very professional. Some are not even paid salaries by their employers and journalists are known to accept money for the placement of stories. Stories are published without proper fact checking – sometimes deliberately, as a way of getting around the Official Secrets Act and forcing government to bring a matter into the open (as the country has no freedom of information Act – something journalists would greatly welcome).

Civil society

Nigeria has an active and diverse civil society, with a number of impressive organisations dedicated to improving the country's democracy. Sadly, many of these civil society organisations (CSOs) are largely dependent on external donors for financial support and their operations are disrupted when donors focus their funding exclusively on elections rather than on the full electoral cycle.

This narrow focus leads to dramatic increases and decreases in organisational activities and to periods of instability when organisations are uncertain whether in fact they will receive support at any particular time. The many faith-based CSOs have a more stable financial base and make an important contribution.

Democratisation CSOs in Nigeria also suffer from the fact that, in fact, elections in the country are generally *not* 'free and fair' and their members sometimes literally risk their lives to combat electoral abuses. These organisations feel betrayed when the international community, which has funded their work and whom they see as an ally in the quest for higher standards, congratulates leaders who have been 'elected' by processes the country's own observers have criticised. Diplomats have developed their own subtle language of criticism – one the Nigerian government understands and is stung by. Diplomatic ways of communicating with those in the front line of democratisation remain to be found.

The management of the electoral process

The management of an election is a critical element in its credibility, integrity and the legitimacy of its outcome. In Nigeria the transitional election of 1999 was managed by a military leader (Abdulsalami Abubakar) following the death of the former head of state, Gen Sani Abacha. This was a case of the military presiding over its own exit from power and ushering in the new era of multiparty politics (as happened in 1979). Although serving military officers have withdrawn from electoral politics some retired generals continue to have an undue influence, primarily as 'big men' or 'godfathers' of political parties who use their wealth to influence electoral outcomes (an example is former president Gen Rtd Babangida).

How does the electoral system work?

Nigeria's electoral system is defined by the country's Constitution of 1999 and by its electoral laws, particularly the Electoral Act of 2006. The first-past-the-post (FPTP) system, which is also widely referred to as the winner-takes-all system (and loser-loses-all), is used for legislative and local elections. By this method the

country is divided into electoral zones and political parties contest through their designated candidates while independent candidates are barred from standing. Only one winner emerges on the basis of a simple plurality (not an absolute majority) of votes.

The system has contributed in no small measure to accentuating electoral conflict and political violence in Nigeria over the years. The winner-takes-all system combined with lack of intra-party democracy has generated election-related political violence, itself a manifestation of the intense battle for state power and oil resources.

For the presidential and governorship elections the FPTP system is modified slightly into a potentially 'three-round contest' – if, for example, in the first ballot the leading candidate in the presidential election does not secure at least a quarter of the votes cast in each of at least two-thirds of the states and in the Federal Capital Territory (FCT); or, in the case of the governorship election, a quarter of the votes in each of at least two-thirds of local government areas in the state.

In the second round (first run-off) the contest is reserved for [the] leading candidate in the first ballot and the one among the other candidates who wins the majority of votes cast in the highest number of states (presidential) or in the highest number of local government areas (governorship). If neither of the two candidates obtains the necessary spread in the second round (second run-off), a third round is held for the two candidates for a decision by simple majority (Guobadia 2005).

Many political stakeholders have proposed that the presidential Electoral Reform Committee (ERC) review the electoral system with the aim of introducing more proportionality in an attempt to institutionalise an inclusive and broadly representative government. This could be achieved in two ways, either by exchanging the current FPTP system for the party-list proportional representation (PR) system or by modifying the FPTP system to include elements of PR. The latter option seems more popular among the advocates of electoral reform in Nigeria.

In their submission to the ERC the Nigerian Bar Association, the Nigeria Labour Congress, the Trade Union Congress and the Transition Monitoring Group proposed that 30 per cent of all legislative seats be filled by PR and the remaining 70 per cent by FPTP.

The Independent National Electoral Commission

INEC, which managed the 2003 and 2007 polls, has not earned the public's trust. For this reason, and because of the overwhelming political influence upon it of government at both federal and state levels, the credibility and integrity of elections have been considerably undermined and the legitimacy of their outcomes severely compromised. Various observer mission reports on the 2003 and 2007

elections attest to this stark reality. The December 2008 verdict of the Nigerian Supreme Court on the presidential election was that the country's electoral laws had not been complied with (*Vanguard* 13 December 2008).

INEC (2007) has tried to deflect public criticism by shifting the blame to political parties – acknowledging that the 2007 election was fraught with myriad irregularities and fraud but blaming the parties for all the electoral malpractices and malfeasance. In truth, INEC was a compliant tool of the PDP, with which it shares the blame for the flawed process.

INEC was also affected by the power struggles within the ruling party and its battles with opposition parties during the election. For instance, both INEC and the Economic and Financial Crimes Commission (EFCC) were abused by the then president, Olusegun Obasanjo, in order to incriminate and elbow out the then-vice-president, Atiku Abubakar. The popular perception in Nigeria is that elections are a ceremonial ritual for the circulation of elites in state power, with INEC playing a facilitative role heavily influenced by the ruling PDP.

If the management of elections in Nigeria is to enjoy public trust INEC must be transformed to ensure its independence and impartiality. This transformation should ensure that the appointment of the commissioners is transparent and their tenure of office is not based on partisan alliances or patronage politics. The transformed INEC should also be financed directly from the consolidated fund and answerable to the National Assembly and not to a particular ministry. Such a proposal is now before the country.

State independent electoral commissions

While INEC is responsible for the management of general elections at both federal and state levels state independent electoral commissions (SIECs) run local government elections in all 36 states. SIECs, established by the 1999 Constitution, 'organize, undertake and supervise all elections to local government councils of the state'. The institutional synergy and connections between INEC and the SIECs is problematic. For instance, INEC is represented in each state by resident electoral commissioners (RECs) who are appointed by the president and report directly to him and not to the INEC chair. The RECs are not subject to any discipline by INEC. This disjuncture between INEC and its related structures at state level also applies to the SIECs. The chairs of the SIECs are appointed by the state governors and report to the governor and not the INEC chair or to the RECs. The SIECs, like INEC, are neither independent nor impartial, they are influenced by the party that is in power in each state.

Given that the PDP controls a majority of the states it has influence over a larger number of SIECs and is therefore able to sway elections in its favour. Worse still, the chairs and members of the SIECs are often political activists whose party

affiliations are well known. It is no wonder, therefore, that SIECs are politically partisan. It is also no surprise that the 2004 local government elections were marred by a plethora of complaints of irregularities and fraud.

Given their partisan nature SIECs are not capable of conducting credible, free and fair local government elections (TMG 2004). The overall transformation of INEC should include restructuring the SIECs to ensure that they are independent and impartial, enjoy public trust and are insulated from undue political influence by powerful political actors at both federal and state levels. Indeed, the Election Reform Commission concluded in December 2008 that INEC should be completely restructured and the SIECs incorporated into the new body (Nigeria, Government of 2008, p 25 ff, p 154).

Other participants

The army

The Nigerian armed forces have long played a prominent and dominant role in Nigerian politics. However, in 1998, after the extremely oppressive rule of Gen Sani Abacha, senior officers in the military apparently concluded that the politicisation of the armed services was destroying their professionalism – a fairly common occurrence when the military is involved in politics for a long time and promotions are determined by considerations of political loyalty rather than professional competence. The senior officers, therefore, decided it was time for the armed services to withdraw from politics and began the movement toward civilian rule. Long periods of military government had destroyed public support for military rule – every coup had been met with public jubilation until Abacha's. And international pressure for democratisation was mounting as well. Of course, the transition was led by retired senior officers (including some former military presidents) who are still extremely prominent in Nigerian politics.

During his presidency Obasanjo removed from active duty the more politicised officers and it is believed that the younger officers who remain in command are less politicised and more committed to civilian rule. It does not seem likely that active officers will initiate interference in politics, but, should the civilian regime be perceived as having failed, it would be unwise to rule out this possibility entirely. It is also important to understand that the army is deployed on election duty and is perceived as the instrument of the presidency in those duties.

The police

The police play a key role in Nigeria's elections – guarding election materials, patrolling polling stations and preventing election-related violence. They are thinly

spread on election day, however, and targeted concentrations of 'area boys' (thugs) can easily overwhelm them. In many places the police do not seem motivated to try to maintain the integrity of the elections. A number of election observers have told of being warned by police not to risk their lives and of receiving no real protection.

Nigeria's police force is a national one and therefore responds to direction from the presidency. But governors are also officially the 'chief of security' in their states and, in practice, state police commissioners are often responsible to them when the president and the governor are members of the same party. On the other hand, there are instances in which governors are 'helpless' to control and use the police to their advantage, despite being the chief security officers of their states, and the presidency, instead, has the influence.

Local and international observers

Local and international observers have witnessed electoral proceedings in Nigeria since the transitional elections of 1999. Election observation serves primarily to ensure the transparency, credibility, and integrity of elections and, in the process, to reduce political tension and violent conflict. There is no doubt that without local and international observation the 2007 poll in Nigeria might have triggered even more violence than it did.

Many international observers witnessed the 2007 contest and almost all of them adjudged the process to be fundamentally flawed.¹⁰ About 50 000 local observers under the umbrella of the transition monitoring group (TMG) also observed the elections throughout the country. Election observation needs to start during the pre-election period so that critical aspects such as voter registration, demarcation of constituencies, party registration, nomination of candidates, and political campaigns are covered adequately.

Networked donors?

Donors have played an important role in the democratisation process in Nigeria, particularly in helping civil society and community-based organisations to know their rights. But the degree of their leverage is hugely constrained by the level of Nigeria's dependence on external funding. Donors' contributions of aid to Nigeria constitute about 1 per cent of GDP, so their leverage is quite modest. (Nigeria's concern about its international reputation gives them a little more leverage, although that, too, is modest.)

¹⁰ Among these observers were the Commonwealth Secretariat, the European Union, the International Republican Institute, the National Democratic Institute, Human Rights Watch and the Economic Community of West African States.

Nonetheless, donors have a role to play in the process of electoral reform and deepening democracy in Nigeria and have made various efforts in this regard since the transitional elections of 1999. Donor engagement was minimal during the 1999 elections but was systematically scaled up during the elections of 2003 and 2007.

The coordination of this donor support was undertaken by the Joint Donor Basket Fund (JDBF). Among those who contributed to the JDBF in support of the 2007 elections were the United Kingdom, the European Union (EU), the Canadian International Development Agency (CIDA) and the United Nations Development Programme (UNDP). The JDBF had a total budget of about US\$30,3m and was managed and coordinated by the UNDP through its Project Management Unit (PMU). Other donors, such as the United States, gave support independently of the JDBF.

The effectiveness of donor support for democratisation in Nigeria remains a challenge. First, the fact that the JDBF concept has not addressed adequately the problem of harmonising donor procedures, policies and approaches to the support of elections and democracy has led to delays in the disbursement of funds.

Second, donor interventions have tended to come rather late, thereby reducing their impact on the democratic process. For instance, donors only established the support mechanisms for the 2007 elections in 2006, despite the fact that the need for them had emerged from the experiences of the 2003 general elections.

Third, the coordination and synergy between and among the civil society partners supported through the JDBF has been problematic as most partners have operated competitively rather than cooperatively. For instance, support was channelled to CSOs through international non-governmental organisations (NGOs), including the International Republican Institute, International Foundation for Electoral Systems, National Democratic Institute and the Institute for Democracy in South Africa, an approach that created disenchantment among local CSOs, which perceived the NGOs as competitors.

Fourth, the JDBF's support for INEC was ill conceived and delivered few positive results.¹¹ Crucially, the politicisation of INEC was overlooked.

Finally, support narrowly focused on elections tended to concentrate on voting and observation, thereby reducing democracy to electioneering.

11 Some elements of the JDBF project – logistical and technical support – might have shown positive results, but INEC refused to have donors provide any support that could be construed as 'reforms'. Donor support from outside the JDBF, eg, from DFID and the United States Agency for International Development (USAID), did achieve some positive results, but these were insignificant.

CASE STUDIES OF THE 2007 ELECTIONS

In the introduction we gave a broad description of national elections under the Fourth Republic. Here we provide two case studies of the process at state level.

Enugu State – ‘The election that was never held’

Enugu, in the south-east of Nigeria, has a population of about 4 million. It is predominantly Igbo and Christian, and its politics has been dominated by the People’s Democratic Party since 1999.

In that time elections in the state appear to have had little to do with recognising the will of the people or with holding government to account. They are, however, hugely important because they are the means by which the settlement between elites is negotiated. However, these settlements are negotiated in advance of the election and the event itself is, at best, a validation of decisions already taken. At worst, it is the imposition of the settlement on the population, regardless of their views. Elections do little to further democracy.

Chimaroke Nnamani, a member of a powerful Igbo family, returned from the United States to enter Nigerian politics. With the financial and political backing of a local powerbroker he won the 1999 governorship election for the PDP. Once elected Nnamani began a process of centralising power, and the control of state resources, within his office.

As leader of the Enugu State PDP¹² Nnamani was able to ensure that the State House of Assembly, dominated by the PDP, did little to challenge his actions.

The amassing of power and money, coupled with a rumoured willingness to use violence, enabled Nnamani to break away from his backers and, by the 2003 elections, he was in complete control of the PDP and the machinery of government at both state and local levels. Despite having made powerful enemies and created popular dissatisfaction Nnamani and the PDP won the elections, which, election observation reports reflect, were characterised by violence, intimidation and rigging.

By 2007 Nnamani had served the maximum two terms. His chosen successor was Sullivan Chime, a loyal member of his administration who, Nnamani believed, he would be able to control after the election.

As in 2003 a combination of popular dissatisfaction with the state government and an aggrieved elite deprived of federal resources suggested to many that, if the poll was fair, the opposition and its candidate, Ugo Agballah of the Accord

12 Although the chairman of the PDP is supposed to lead the party at state level, in practice he falls under the control of the governor.

Party, should win. In the event, it is alleged that almost every conceivable form of election malpractice took place in Enugu State in 2007. All sides acknowledge that the voting materials did not leave the central bank until after 12 noon on the day of the election, meaning there was no way they could reach many rural polling stations before the polls closed. We also heard allegations of widespread violence and intimidation, and of the security forces being paid to act as agents of the ruling party. Despite broad awareness of the fact that the poll was deeply flawed INEC declared Chime the winner and he was sworn in as governor.

Ugo Agballah went to the Election Tribunal, claiming he had won a majority of the lawful votes. Other candidates also filed petitions. Agballah claimed to have provided evidence that result sheets had been tampered with, saying result sheets seen by his party observers had reflected that Accord had won 224 000 votes to the PDP's 80 000, while the official result gave the PDP 811 798 and placed Accord in fourth place, with 15 287.

Instead of declaring Accord the winner the tribunal nullified the election, basing its ruling on the petition of another opposition candidate, who alleged that an election 'did not take place in the state'.

This ruling made it easy for the decision to be overturned in the Appeal Court, since it was based on 'common knowledge' rather than on a precise technical definition of what constituted a 'non-election'. Agballah claims Nnamani influenced the outcome, and that if he had pledged allegiance to Nnamani the result would have gone the other way. Even the counsel for the PDP in the Appeal Court claimed the result was 'more a technical issue than factual'.

Having lost his immunity from prosecution once he was no longer governor Nnamani was detained by the EFCC but has since been released on bail and was voted in as a senator in the same elections. During Nnamani's detention Chime set about freeing himself from his influence, efforts that appear to have been successful, although Nnamani remains politically powerful.

Concerned that the election was not legitimate Chime is making visible efforts to improve state infrastructure, trying to secure legitimacy through the performance of his government.

Kano

The state of Kano has had an opposition governor since 2003. Does this mean that the state is more democratic than the others? Yes, in 2003 and no, in 2007. The state is dominated by the city of Kano, which, in turn, dominates economic production and trade in the north of the country.

Politics in the state is distinctive, reflecting the interests of businessmen, government employees, religious leaders, Western-educated youth and, to some

extent, traditional rulers, although none is represented by its own political party (Muazzam 2008). The formation of the PDP in 1998 was largely the work of political elites, including those in Kano, but the PDP did not have ideological content and, in Kano, brought together parties with contradictory political leanings, which led to factions breaking away after the party (in the person of Rabi'u Musa Kwankwaso) won the state governorship in 1999.

By 2003 there was deep dissatisfaction with the PDP, which, since it was led by someone from the west, was seen to be insufficiently responsive to northern interests. The All Nigeria People's Party (ANPP) became the beneficiary of the movement against the PDP. Ibrahim Amin used his own money to win the ANPP governorship primary but the party's leaders, believing him to be too independent, substituted Ibrahim Shekarau, a political unknown with a humble teacher's background and no material means, as the ANPP's candidate.

The ANPP's presidential candidate was former general and president Buhari, who is widely admired in Kano, and, with him at the head of the ticket and urging a straight party vote, Shekarau won a majority of the votes. Buhari was seen as the symbol of opposition to the Obasanjo presidency in the North-West geopolitical zone (in which the ANPP had done very well in the 2003 elections) as the regime was considered to have undermined the interest of the core North and also to be corrupt. Results from polling stations were quickly communicated to ANPP supporters, who staged a vigil at INEC's Kano offices to ensure that the 'right' results were announced, as they were. The intra-party processes in Kano for 2003 were not democratic, but the results of the election were.

Superficially, the 2007 elections in Kano were a repeat of those in 2003 – Shekarau again won against the PDP and again there was a vigil at the INEC offices. In fact, though, the election probably represented a return to the more typical Nigerian election pattern. By 2007 Shekarau had been able to use his incumbency in the governorship to provide himself with substantial funds and a significant electoral machine which gave him the means of rigging the election despite the fact that he had broken with Buhari's campaign organisation, thus weakening his popular position.

On the other side, the PDP in Kano was divided and the national party did not feel strongly committed to the candidate the state branch had selected. (Once again, the candidate put forward was not one of those who had contested the primary.) The PDP signalled that it would be willing to accept a loss in Kano as long as the party's presidential candidate, Alhaji Umaru Yar'Adua, won 25 per cent of the vote, helping him meet the constitutional requirement for this level of support in two-thirds of the states.

Well-informed observers whom we consulted in Kano believe that it is probable that the PDP's gubernatorial candidate defeated Shekarau but that the

latter had the rigging machinery and election-night crowd necessary to assure that these 'results' were not challenged at INEC. So an opposition win does not necessarily mean that an election was more 'free and fair',¹³ particularly when the victor is an incumbent.

The case is still before the courts.

The PDP *did* succeed in capturing a number of local governments in Kano, despite the fact that international observation at this second stage of the 2007 election was sparse. As in most of the country most local observers and voters had had a positive experience in the elections, for the fraud and violence that occurred were geographically concentrated.

COULD THE SITUATION BE IMPROVED?

The fact that most election contests were rigged was no longer a surprise by 2007. Some minor satisfaction can be drawn from the fact that international and local election observation seems generally to have resulted in concentrating the irregularities at a minority of polling stations and the tallying centres, so that an independent poll reported that most citizens had had a positive experience of voting (Zasha, Mustapha & Meyer 2007).

Of course that citizen satisfaction represents a 'false consciousness' of what was going on behind the scenes. Those who were trained in what to look for found plenty to criticise. The EU observers witnessed widespread rigging and only half-hearted attempts to cover it up and reports in the press and from the people we interviewed indicated great dissatisfaction among politically involved independents.

In our analysis rigged elections are fundamental to the elite political deal that returned Nigeria to civilian rule in 1999 and is believed by that elite to be essential to its own economic and political interests as well as to the unity of the Nigerian nation. The elite could almost certainly achieve its basic objectives with less rigging, and certainly by being less blatant – it does not need to win as many contests as it does at present; its dominance doesn't have to be so extreme and the rigging could be more subtle; all of which would enhance the legitimacy of the political system and move it in a more democratic direction. Until oil money begins to run out, however, it will continue to be the elites who compete and bargain over who will 'win' elections.

In addition, the leverage of international actors in Nigeria is quite limited. The country is not aid dependent in any way – the government can afford to do

13 The international election report from Kano suggests the Shekarau (ANPP) victory was, in fact, valid; we note only that this view is questioned by some seasoned political observers in the state. *The Economist* (28 April 2007) shares the less optimistic view.

most of what it wants to do and donor funds represent a very small proportion of total government expenditure. Leverage is further weakened by the fact that many of the donor governments are consumers of Nigerian oil. The combination of strong elite commitment to the basic flaws in Nigerian 'democracy' and low international leverage means that it is quite unrealistic to expect fundamental changes in the way elections are determined – again, until oil revenues are drastically reduced.

The fact that the international community cannot expect to achieve big changes in Nigerian 'democracy' does not mean that there is nothing it can do. The government of Nigeria and the country's elites are stung by international observers' negative evaluations of the elections and by the (often subtle) diplomatic slights that the sponsoring governments deliver as a consequence. Other non-aid tools include denying visas, trials of corrupt Nigerians abroad, revising educational links, tightening up on financial transactions, and so on. This suggests that marginal improvement *is* possible. But high hopes are unrealistic.

REFORM?

The electoral irregularities and malpractices of the 2007 elections were so profound and widespread that they created a severe legitimacy crisis and even the PDP presidential candidate, Yar'Adua, who INEC declared to be the winner, conceded that they were flawed. Yar'Adua argued that '[t]he April elections were so heavily marred by vote rigging that the European Union observers said they fell far below basic international standards and were not credible' (*Nigerian Tribune* 29 August 2007). In order to address this problem the Yar'Adua administration established the 22-person Electoral Reform Committee (ERC), whose primary task was to chart a new electoral path for Nigeria through appropriate electoral reforms. The Federal Government then issued a White Paper on the ERC report, which was submitted to the Council of State. The main aspects of the recommendations from the ERC report that have been endorsed are:

- the unbundling of INEC and the establishment of the PPRRC;
- diversity of representation on INEC;
- an open secret balloting system;
- guaranteed public funding for political parties that win 5% of seats in Parliament;
- the establishment of an electoral offences commission and a ten-year ban on electoral offenders;
- display of the voters' register prior to elections to ensure claims and objections.

On the other hand, key recommendations rejected by government include:

- divesting the presidency of the power to appoint the chairman and members of INEC; implying that the status quo, where the president nominates and the National Assembly approves, is retained;
- the proposal that the National Judicial Council (NJC) appoints the officers of INEC and the new bodies that have accompanied the unbundling of INEC;
- that hearings of election petitions be finalised before the winner is sworn in;
- the abolition of the state independent electoral commissions (SIECs).

Some of the rejected recommendations are at the heart of the reforms desired by Nigerians, civil society groups and opposition parties organised under the umbrella of the Conference of Nigerian Political Parties, which have expressed strong disapproval of these rejections.

Although President Yar'Adua has submitted seven separate bills to the National Assembly in line with aspects of the ERC recommendations endorsed by the government, the unresolved disagreement between the two chambers of the National Assembly over their collaboration through the Joint Committee on Constitutional Review (JRRC) gives the impression that the process may be unduly slowed down.

Will any of this happen?

In our judgement some procedural reforms are likely to be made to the election processes as the 2007 elections caused embarrassment both domestically and internationally and Yar'Adua does not seem to be opposed to all the changes.

However, we believe it would be naïve to expect significant changes in the way in which Nigerian democracy functions. The social structures underlying its current mode of operation are too deeply rooted and are likely to find ways around any reforms that challenge their fundamentals.

CONCLUSION

Despite the deficits that have characterised the country's post-transition elections, especially those in 2007, there are strong reasons to continue to invest in Nigerian democracy. Among them are the general acceptance by the country's political elite and the populace that elections and the ballot are the most desir-

able basis for exercising power and authority, for defining the legitimacy of government, and for resolving contentious and recurring political conflicts among the country's plural and diverse communities.

Although all donor and independent observer reports agree that currently Nigerian elections are not 'free and fair' and have little prospect of being so in the foreseeable future, even in their nominal sense elections matter and will continue to be important to the country's political system.

Despite a widespread lack of confidence in the electoral process Nigerians have demonstrated support for the idea of elections, not only as the more viable alternative to the military in the selection and recruitment of the political leadership, but also in the symbolic sense that they are a necessary part of civilian life, providing the seal of approval for the authority that is being granted to an office holder by a party and those controlling it. Furthermore, despite the use of naked power and blatant vote-rigging, the current electoral game has some important rules, among them term limits and 'zoning', both of which provide for a distribution of governmental spoils.

The Electoral Reform Commission and constitutional review processes offer important opportunities for changes that will improve the system; changes that should not be neglected. But they are not likely to change the fundamentals of Nigerian politics.

Well-informed participants believe the system will change significantly only if the elite (who currently benefit from 'prebendal' rents from the oil-rich state) want significant change and this seems to be unlikely as long as oil revenues continue to flow.

The ability of outsiders to leverage positive change in Nigeria's electoral behaviour is insignificant. Nigeria is not donor dependent and has a strong sense of its own sovereignty. On the other hand, its quest for regional stature opens it to diplomatic pressure to meet criteria such as African Union governance standards.

The most that can be hoped for is that the current president does not have the same interest in imposing his will as did his predecessor and may allow more openness within the existing boundaries of the electoral system. This could create an opportunity to institutionalise an independent role for bodies such as the Supreme Court and to create a genuinely independent electoral management body.

Criticism of the way in which parties select their nominees – holding primaries and then ignoring the results – is so deep and widespread that there is a possibility that change in this area will be mandated. If so, support for intra-party democracy and the institutionalisation of parties as key agents of democratisation would be useful. On the other hand, these processes are obviously central to the

way in which elite office holders are selected and the chances that they will be made fully transparent are only slightly better than the chances of 'free and fair elections'. That slightly better chance comes from the fact that the elite themselves seem to be unhappy with the unpredictability of the current process, a discomfort reflected in the ERC report.

Another positive element is the independence and professionalism of the courts – at least at the highest level. Although there is no doubt that election tribunals consisting of judges have frequently proved to be instruments of the election-fixing machinery of the PDP, the Supreme Court and, to a lesser extent, the courts of appeal, have handed down some notably independent judgements since the return to civilian rule (and especially since it became clear that Obasanjo would not continue as president).

For the most part, the higher judiciary was sidelined during the periods of military rule, for the governments during those periods attached 'ouster clauses' to any legislation they enacted that might prove controversial. Such clauses placed the legislation outside the authority of the judiciary, thus sparing the higher courts the pressure to hand down rulings convenient to the government of the day. The body of the law, therefore, is less compromised and the judges in the higher courts are often well networked internationally and sensitive to the nature of their reputations outside the country.

Despite the deficits that have characterised the country's post-transition elections, especially those of 2007, there are strong reasons to continue to invest in Nigerian democracy. These reasons derive from the general acceptance by the Nigerian political elite and the populace that elections and the ballot constitute the preferable basis for exercising power and authority, for defining the legitimacy of government, and for resolving contentious and recurring political conflicts among Nigeria's plural and diverse communities.

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