

Elections, Electoral Reforms and Abuse of the Electoral Act in Nigeria: An Analysis of the 2015 Electoral Process

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Abstract: *In every democratic state the world over election is regarded as the heart of liberal democracy. Elections are seen as the hallmark of democracy because it gives an avenue for peaceful change of government and legitimizes the new administration. For a government to be legitimate, the Electoral process must be in line with the dictates of the electoral laws as enshrined in the regulatory framework. The study laid emphasis on the electoral process with a view to examine the extent of adherence with the provisions of the 2010 Electoral Act as amended which was used for the conduct of the 2015 general elections in Nigeria. The study utilizes secondary source of data and content analysis as its methodology. The paper argues that there were gross violations of the 2010 Electoral Act by the ruling elite during the electioneering process which has negatively affected the electoral process in the conduct of the 2015 general elections. The study recommends that an Independent Commission be set up by the government in order to monitor and ensure that politicians adhere to the rules of the game as well as the setting up of an Electoral Offences Court in order to prosecute and punish offenders.*

Keywords: *Abuse, Democracy, Elections, Electoral Act, Electoral Process*

I. Introduction

The most widely praised as the best system of government in our contemporary world is democracy, which allows for high level of peoples participation in decision-making and policy formulation through representatives. A major determinant of democracy is the electoral process that provides the electorate the institutional framework for choosing representatives through a competitive free and fair election. Essentially, elections are the only acceptable institutionalized process enabling some or all of the recognized members of a democratic society to choose office holders (David, Manu and Musa, 2014:93). For elections to be credited as free, fair and credible, adherence to existing regulatory framework which is aimed at ensuring fairness, transparency and accountability in the electoral process as enshrined in the Electoral Act must be upheld by all stakeholders. However, there has been considerable debate as to whether the existing legal framework for the prosecution of electoral offenders as encapsulated in the Electoral Act 2010 (as amended) is appropriate and adequate for the arrest, investigation and prosecution of electoral offenders (Okoye, 2013:4), and also a concern on the capacity and willingness of the Independent National Electoral Commission to prosecute electoral offenders in a professional and ethical manner. In addition there are ongoing debates regarding the willingness of elements within the political parties to act within the compass of the Constitution of the Federal Republic of Nigeria, 1999 and the Electoral Act 2010 (as amended) for winning elections (Okoye, 2013:4). It is against this background that the study examines the electoral process, with a view to identifying the extent of adherence with the provision of the Electoral Act which was adopted for the conduct of the 2015 elections by the political class as well as the political parties. In this regard the study examined the extent to which the ruling class adhered to these reforms in the 2015 electoral process. Finally, the paper is structured into five sections as follows: Section one deals with the introduction. The second section is about the conceptual and analytical framework. Section three examines the history of election in Nigeria while section four deals with elections; electoral process and abuse of the Electoral Act in Nigeria. The conclusion and recommendation of the paper forms the final section that is section four of the work.

Conceptual and Analytical Framework

Election, electoral process, electoral reform and Electoral Act/law are some of the concepts that are related to this study. Focusing on the term election, and just like other social science concepts it has defied a universally acknowledged definition. As such election has several conceptual definitions. For example Usman (2014:109) defined election as the means of peaceful change of leadership in organized societies as it provides the best option for an orderly succession of leadership. While Dowes and Hughes (1983:322) say it is a procedure recognized by the rule of an organization, be it state, club, a voluntary organization or whatever,

where all, or some members choose a smaller number of persons to hold an office, or offices of authority within that organization. An essential fact is that, election is the formal procedure recognized by law as well as decision taken by the electorate to decide those who occupy public offices and also the policy direction of a polity (Inokoba and Kumokor, 2011). In this regard, election can be defined as the process or procedure in which the electorate choose their representatives through an open competitive, free and fair process for a specified period of time. For election to be successful it must undergo some processes, and is termed as electoral process.

Electoral process according to Hounke and Gueye (2010:89) refers to the necessary stages in the preparation and organization of an election. For elections and electoral process to be considered as fair it must have some basic structures, which include: statutory provisions establishing the electoral bodies, delineation of wards/constituencies, registration of political parties, registration of voters, recruitment and training of ad-hoc staff, procurement of electoral material, logistic, screening of candidates, provision of polling agents, monitoring of agents, accreditation of voters, actual voting, counting of votes and providing avenues for settlement of disputed results (Oddih, 2007:153). However, a disturbing phenomenon is the fact that the electoral processes in Nigeria's histories of election were devoid of transparency and fairness, which rendered the conduct of elections not to be free and fair. It is in regard to these challenges that reforms became imperative in order to correct these anomalies and improve transparency and efficiency through fairness, accountability and integrity in the system. An electoral reform according to IDEA (2012:1) is a broad term that covers, among other things, improving the responsiveness of electoral processes to public desires and expectations. From the view of Odion (2012) electoral reform describes the process of introducing fair electoral systems where they are not in place, or improving the fairness or effectiveness of existing system. Therefore, electoral reform can be seen as the process of bringing amendments to the electoral process in order to enhance fairness, accountability and integrity in the electoral system by strengthening the existing legal framework.

The final resolutions of electoral reforms become binding laws or act. An electoral law is a constituted rule and regulations set to guide the process and conduct of elections. It is in respect of this that Lawal and Olukayode (2012: 14) sees electoral Act/laws as the rules and regulations that guide the conduct of an election. While Hounke and Gueye (2010:88) argued that electoral law is one of several laws governing all aspects of the electoral process. In other words, Electoral Act/law can be seen as an embodiment of rules and regulations formulated to guide the conduct of the electoral process so as to ensure a level playing ground for all stakeholders in the electoral system.

In Nigeria since the inception of election in the 1950's to date, election and electoral processes are short of transparency, accountability and fairness. Even with the existence of the electoral act/laws in place governing the conduct of elections, which give the electorate the avenue to participate in selecting new leaders or retain old ones. The analytical framework adopted is within the context of 2010 Electoral Act as amended. This is because it is the current electoral law that guides the conduct of 2015 electoral process which the central theme of the paper. Among others emphasis are laid more on the following sections: Section 91(2) of the Electoral Act deals with the issue of political party financing and placed on a ceiling of the maximum campaign expenditure to be incurred by political parties in an election cycle; Section 95 (2) of the electoral act deals with prohibition of certain conduct during political campaigns. It states that "a political campaign or slogan shall not be tainted with abusive language directly or indirectly like to injure religious, ethnic, tribal or sectional feelings". Furthermore, Section 99 (1) stipulates that for the purpose of "this Act, the period for campaigning in public by every political party shall commence 90 days before polling day and end 24 hours prior to that day". Section 94 (1) states that "for the purpose of peaceful conduct of political rallies and processions, the Commissioner of Police in each state of the Federation and the Federal Capital Territory (Abuja) shall provide adequate security for processions at political rallies in the States and the Federal Capital Territory Abuja". These and many more are guidelines that are encapsulated in the Electoral Act in order to ensure sanity in the electoral process and it is in light of this that the paper examines how the ruling class adhered to these principles.

Generally, no government can be considered as legitimate if the electoral process is not free, fair, transparent and peaceful. For it to be legitimate it has to be devoid of manipulative tendencies and transparent to all the stakeholders, which the 2010 Electoral Act as amended stand to safeguard. Nigeria's history of elections indicates that the electoral process had been marred by irregularities such as ballot snatching, stuffing of ballot boxes, electoral violence, and falsification of election results, political corruption, connivance between politicians and electoral bodies to favor a candidate or a political party and so on (David, Manu and Musa, 2014:98). These irregularities in the electoral process and the desire to improve on the conduct led to the numerous reforms aimed at changing the electoral process in line with global best practices. The 2010 Electoral Act/law (as amended) represents such electoral reform.

History of Election in Nigeria: An Overview

Nigeria's history of election has been marred by gross violation of the electoral process which has had negative impact on the democratization process which in turn necessitates the need to reform the electoral

process in line with global best practices. For instance, during the 1951 elections the NCNC in the East and NEPU, a radical political party from the North formed an alliance. The colonial administration in alliance with the indigenous elites tried to frustrate NCNC/NEPU alliance by favoring the candidate of the elites (Hassan and Musa, 2014:334). Nnoli (1980:122) cited in Hassan and Musa (2014: 334-335) stated that “in spite of these harassment (from the colonial authorities with their indigenous allies), the NCNC-NEPU alliance swept the pools in the primaries in Kano metropolitan area. That no single candidate for Emirs (who have the support of the colonial Government) was successful, this shocked the colonial authorities not only in Kano, but also at the regional capital, Kaduna”. As a result of this, “the office of the Chief Commissioner in Kaduna instructed his Residents to aid the efforts of the Native Administration in the remaining rounds of elections”. The election was conducted in various stages and in different parts of the country. These scholars further emphasized that since this development in the 1951 election experience, official election irregularities and malpractice became part of Nigerian politics. It can be argued that Nigeria’s abuse of electoral process began right from the 1951 and then 1959 election, which was the first general election that ushered in an independent state. These elections were conducted under the supervision of the British. The elections were marred by instances of electoral violence, stuffing of ballots boxes as well as obstruction and intimidation of opponents were reported in different parts of the country (Edo, 2003:70 cited in Awopeju, 2011:6-7). But did the situation changed after formal political independence in Nigeria? A focus on the 1964 general election, the first after the departure of Nigeria’s erstwhile colonial master indicate that it was marred by electoral malpractices, accompanied by violence. According to Aderigbe (2006) cited in Odion (2012) the 1964 election was marred by irregular method of nominating candidates, reports of connivance between electoral officers and candidates to manipulate the electoral process. There were also cases of reported kidnappings in the northern and western regions so that UPGA candidates will not be able to file in their nomination papers. In addition, Ikelegbe (1995:202) observed that the 1964 elections and campaigns were characterized by intolerance, hostility, ethnic conflicts, thuggery, irregularities, fraud, violence and boycotts. However, the 1965 Western regional elections were more fatal to democracy. The elections was crucial because of the 1962-63 crises in the region, the imposition of the Akintola premiership and the fact that it represented the first opportunity for electing the government since 1959. This also recorded unprecedented scale of irregularities, intimidation, thuggery, fraud, violence and the flagrant use of state power (Ikelegbe, 1995:202).

The electoral crises due to flagrant abuse of the electoral process led to the collapse of the first republic with the military snatching power away from the civilian administration through a coup on January 15, 1966. This signaled the end of the first republic. Election fraud was one of the reasons why President Shagari’s Government was toppled in 1983 by Major-General Muhammadu Buhari (Hassan and Musa, 2014:337). Literature has it that, three political parties out of the five that contested the August 11, 1979 presidential elections rejected the results out rightly on the grounds that it was characterized by fraud and manipulations to favor one political party. This has been the norms in all other elections that came before and after the 1983 elections, with an exception to the June 12, 1993 presidential election which was rated as free and fair but was annulled by the government for selfish reasons. It could then be stressed that the general conduct of election in Nigeria and as noted by Hassan and Musa (2014:336) have been characterized by irregularities as manifested in 1951, 1954, 1959, 1964, 1965, 1979, 1983, 1999, 2003, 2007 and 2011 elections.

It is important to note that over the years efforts were made to address the situation through Electoral Reforms by various governments. For instance notable effort under the Fourth Republic to ensure sanity in the electoral process in Nigeria was initiated after the 2007 election by late President Umaru Musa Yar’Adua who set up an Electoral Reform Panel, headed by the former Chief Justice of the Federation Mohammed Uwais. The panel later reviewed the country’s electoral machinery and recommended ways through which electoral irregularities could be rectified in Nigeria. The final report was received by the government, even though some parts of the report were not implemented by the government (Hassan and Musa, 2014:339). The 2011 elections which gave rise to the post-election violence that resulted to loss of lives and property, was said to be systematically rigged as acknowledged by the Action Congress of Nigeria (ACN), one of the parties that contested the election observed that “the 2011 presidential election was the most systematically rigged in Nigeria’s history” (*Daily Trust*, Friday, April 22, 2011:4).

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It is imperative to note that despite the electoral reforms, the electoral process toward the countdown to the 2015 elections, were characterized by cases of violations of the Electoral Act. Such cases include the flagrant violations of the campaign spending limit as enshrined in the Electoral Act. One of such abuse is the billions of naira donated by 21 Governors of the People’s Democratic Party (PDP) on December 21, 2014 (during the Saturday night fund raising event). The 21 Governors donated N1.05 Billion to their party ahead of the 2015 elections. The governor’s donation were part of the N21.2 billion raised by the party at the fund raising dinner held at the Presidential Villa, Abuja (*Premium Times*, 21 December, 2014). The generation of the N21.2

billion exceeds the N1 billion ceiling as enshrined in the electoral. Even though there were individual donors as well as other organizations who made substantial donations these donors were undisclosed. This contravenes the stipulations of the 2010 Electoral Act which states that all sources of campaign finance must be disclosed. In addition, the two main political parties violated the Electoral Act by spending above limits, as the following sections stipulated in Electoral Act 2010 (as amended): Section 91(2) of the Act reads, “an individual or other entity shall not donate more than N1 Million to any candidate”. Sub-section 10 of the same section adds that a presidential candidate “who knowingly acts in contravention of this section commits an offence and on conviction is liable to a maximum fine of N1 Million or imprisonment for a term of 12 months or both” (Electoral Act, 2010:). Most of the donations were from PDP governors, some government agencies and parastatals. Ironically, some of the governors have civil servants whose monthly salaries were not paid while they teamed up to donate billions of naira for political campaign and election expenses. The above donations and spending also contravenes Section 221 of the 1999 constitution which prohibits a state government from contributing to election expenses of any candidate or aspirant. In addition, both the PDP and the APC has flawed the guiding laws. For instance, between December 2014 and February 2015, the PDP spent N3.55bn on publicity alone while the APC spent N1.42bn (Onuba, 2015). This does not include their spending after the postponement of the election date from February 28, 2015 to March 28, 2015. In essence this conduct by the political parties and the various donations made contravene the N1 million ceiling placed on individual donations to campaign finance.

Another violation of the Electoral Act 2010 as amended is the use of vulgar, propaganda and deceit against a candidate by other or a political party through publication, audio, audio-visual means, as well as unequal coverage of campaign activities for all the political parties and candidates by public media houses. Section 95(2) of the Electoral Act, also reads, “Abusive, intemperate, slanderous or base language or insinuations or innuendoes designed or likely to provoke violent reaction or emotions shall not be employed or used in political campaigns.”

More cases of violations of the electoral act include the non-adherence to campaign time-span rules. Campaign rules were violated by both the ruling People’s Democratic Party (PDP) and the main opposition All Progressive Change (APC). They engaged in political campaigns prior to the time of campaign by political parties as stipulated in the Electoral Act. One of such campaigns is the activities of the Transformation Ambassadors of Nigeria (TAN) whose primary objective is to canvass support for President Goodluck Jonathan and Namadi Sambo for their re-election bid in 2015. TAN organized several campaigns under the guise of ‘Unity Rallies’ in all the six geo-political zones of the country. This form of violation also applies to General Muhammadu Buhari (rtd), the presidential candidate of the APC for 2015 presidential election. Similarly even the gubernatorial, senatorial, members of both the federal and states house of assemblies candidates were not left out in this case of violations. The actions of these aspirants are a flagrant violation of the provision of the 2010 Electoral Act (as amended). Section 99(1-3) of the act stipulates that, “the period of campaigning in public by every political party shall commence 90 days before polling day and end 24 hours prior to that day. The activities of TAN also breach Section 221 of the Constitution of the Federal Republic of Nigeria 1999. The constitution clearly states that “No association, other than a political party, shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at an election. Furthermore, most serving governors and presidential candidates in Nigeria use state resources in the conduct of political campaigns despite prohibition. Section 100 (2) of the Electoral Act has banned the use of state apparatus including the media to the advantage or disadvantage of any political party or candidate at any election. As part of the violation and breach of this section Falana (2015) observed:

Some state governments have declared public holidays and force civil servants to attend rallies. Schools have been closed down for the compulsory attendance of teachers at political rallies. Many highly placed public officers have been using state owned television and radio channels to promote certain political parties and candidates while depriving members of the opposition parties airtime to reach the electorate. Official vehicles are used to ferry politicians and supporters to rallies. Such abuse of power was taken to a ridiculous extent in Ekiti State when all civil servants were recently compelled to either attend a political rally of the ruling party or forfeit their salaries. A permanent secretary who demurred and refused to attend the rally on solid legal ground has been compulsorily retired.

Falana (2015) further observed that, a number of the advertisements published by some political parties and politicians are reckless and inciting while others are scandalous. Other cases of abuse of the Electoral Act is the inability of the police to provide adequate security during political rallies by the two dominant political parties (PDP/APC) during electioneering campaigns in some states of the federation. The Presidential candidate of the PDP, President Jonathan convoy was stoned by irate youths during rallies and processions in Katsina, Adamawa, Taraba, Kaduna and Bauchi states. In Rivers state there were cases of disruption of campaign by armed thugs. For instance, the APC campaign in Okrika could not hold due to attacks which led to the death of a police Corporal Ifeanyi Okorie during the rally (Akasike, 2015).

The inability of the police to safeguard the electioneering campaigns in these states is a clear case of violation of Section 94 (1) of the Electoral Act which states that “for the purpose of peaceful conduct of political rallies and processions, the Commissioner of Police in each state of the Federation and the Federal Capital Territory (Abuja) shall provide adequate security for processions at political rallies in the States and the Federal Capital Territory Abuja”.

II. Conclusion

Elections are seen as the hallmark of democracy because it provides the legal framework through which the change in political office holders and legitimate government is established. For any government to be legitimate, the Electoral process must be in line with the dictates of the electoral laws as enshrined in the regulatory framework. The paper examined elections, electoral reforms and abuse of the Electoral Act in Nigeria. From the various scholarly literature and arguments the paper concludes that there were gross violations of the 2010 Electoral Act by the ruling elite which has adversely affected the electoral process and democratic consolidation in Nigeria’s Fourth Republic. Several section of the Electoral Act 2010 (as amended) Section 91(2); 95(2); 99(1-3) and so on were violated and also Section 221 and others of the 1999 Constitution of the Federal Republic of Nigeria (as amended). The paper recommends that: the Justice Uwais commissions report should be wholly implemented by the government; the setting up of an Electoral Offences Court in order to punish offenders; and for INEC to be strengthened and given the autonomy in order to enforce the laws as enshrined in the Act.

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