

# **Legislation and the Electoral Process: The Third Term Agenda and the Future of Nigerian Democracy**

Jibrin Ibrahim PhD  
Director  
Centre for Democracy and Development  
Abuja

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## **Introduction**

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

## **The National Assembly, INEC and the Road Map to the 2007 Elections**

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

The first was that the Constitution should be reviewed to provide real autonomy to INEC, all of whose officers – Chairman, National Commissioners and Resident State Electoral Officers are appointed by the President. There was a consensus that such powers should be removed from the hands of the President. In addition, it was agreed that INEC should be financed directly from the consolidated Revenue Fund so that the Executive cannot starve the Commission of necessary funds.

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

Thirdly, the process of the registration of voters for the 2003 elections was done in an incomplete and inept manner and so many citizens are not on the voter's roll. INEC has refused to obey the provisions of the Electoral Act, which requires continuous registration of

voters. It has also refused to update the roll by registering those who have come of age since 2003 or were missed out in the last registration. As happened previously, INEC seems to be waiting for time to run out as that it can organised another hurried and botched voter registration process.

Fourthly, INEC is yet to commence the issue of new voter identity card with embossed photographs and biometric features. Nobody understands the delay especially as we all know that three years after the national identity card process was started, most people have not yet been issued theirs. When will INEC start the process for the new ID card? Are they waiting until it's too late so that they can mess it up again?

Very clearly, all the essential signposts on the road map to free and fair elections in 2007 are not being addressed in a timely manner by the National Assembly and INEC. It seems that there is an unfolding design to produce failed or no elections in 2007. Citizens and civil society activist must urgently address this strategy of programmed failure for the 2007 elections. There is ample evidence that if INEC in particular is approaching its task in such a lackadaisical manner, the reasons might not be unconnected with General Obasanjo's Third Term Agenda.

### **The Third Term Agenda and Threats to Democracy**

Nigerians know the signs of creeping dictatorship and they have seen them becoming clearer over the past two years. It is now obvious that President Olusegun Obasanjo has embarked on a sinister agenda to change the Constitution so that he could have a Third Term in office against the spirit and letter of our Grand Norm. Since his second term, he has boxed himself into believing that he is a saviour with permanent responsibility for ruling Nigeria. Some of us who have been in the forefront of the campaign for constitutional reform now find ourselves in the dilemma of challenging the process, because it has been reduced into an anti-democratic agenda for the country led by forces committed to returning Nigerian to authoritarianism and disregard for the rule of law.

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

- i. Citizens Forum for Constitutional Reform, Model Constitution of the Federal Republic of Nigeria, Lagos, 2002.
- ii. Constitutional Education Manual, Citizens Forum for Constitutional Reform, Lagos, 2004.
- iii. Citizens Forum for Constitutional Reform, Harmonised Model Constitution, Lagos, 2004.
- iv. Igbuzor, O. and Aturu, B. (eds.) Contentious Issues in the Review of the 1999 Constitution, Citizens Forum for Constitutional Reform, Lagos, 2002.
- v. Igbuzor, O. and Ibrahim, J. (eds.) A Citizen's Approach to Making a People's Constitution, Citizens Forum for Constitutional Reform, Lagos, 2005.

Our positions are as follows:

- i. The 1999 Constitution lacks legitimacy and must be extensively reviewed.

- ii. The process of review must be citizen-led and be participatory, inclusive, transparent, legitimate and must reflect the country's diversity.
- iii. The current review process is manipulative, self-serving and directed at illegitimately prolonging the tenure of the President and some state governors.
- iv. Critical issues that need to be addressed on constitutional review include the following.
  - a) Citizenship and Residency Rights.
  - b) Promoting Gender Equality
  - c) Establishment of Genuinely Independent Commissions
  - d) Enhancing Federalism
  - e) Promoting Freedom of Association and Removing Restrictions on the Establishment of Political Parties
  - f) Entrenching the Principle of Resource Control
  - g) Enhancing Access to Justice and the Rule of Law

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

The National Assembly refused to take the issue of Constitutional Review seriously until recently when the agenda for the elongation of the tenure of President Olusegun Obasanjo emerged. The current review process lacks integrity and is part of the Third term Agenda. It has been on this basis that Nigerians all over the country have been opposed to it.

### **The Third Term Agenda**

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

In 1986, General Babangida initiated a major political reform agenda that raised high hopes for democratic development in the country. The Report of the Political Bureau and the constitutional drafting process that he initiated created a blue print for return to democratic rule. Rather than ride into historical glory by midwifing democratic transition, General Babangida got infected by the virus of autocracy and personal rule. He tried to manipulate the process to continuously prolong his rule. He was shoved aside.

Then Abacha came and promised to be different from Babangida. He committed himself to organising a quick transition to democratic rule and reneged. He also thought he could manipulate the process and use security agencies to intimidate his opponents into silence while prolonging his rule. His efforts were contested and his plans resisted by a wide spectrum of Nigerians including a certain General Olusegun Obasanjo who risked his life to confront the self-succession plans of General Abacha. Abacha died and Nigerian citizens as well as democratic forces the world over heaved a sigh of relief as General Abubakar became

our greatest democratic hero for ushering in the Fourth Republic in a non-manipulative transition process.

General Obasanjo came to power in 1999 in a ground swell of optimism that Nigerian leaders have learnt their lessons and would henceforth respect the desire of the Nigerian people for the respect of the rule of law, democracy and federalism. General Obasanjo had three important strengths in his curriculum vitae. His war record had demonstrated his nationalist credentials. Secondly, his hand over to the elected Shehu Shagari regime in 1979 portrayed his capacity to bow to democratic demands for a Second Republic. Finally, his engagement in civil society with the Africa Leadership Forum and Transparency International had shown a track record of democratic struggle and commitment to combat corruption that led Nigerians to believe that this President would not be like the other military leaders who tried to manipulate the country to perpetuate their self-rule and loot the treasury. Nigerians were wrong.

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

The present political situation in the country is very grave for the consolidation of democracy. There is widespread opposition to the Third Term agenda of the President. Except for the narrow circle that is directly benefiting from government patronage, virtually all the political class is opposed to the scheme. The mainstream political elite of all the zones in the country are also opposed to the plan. The international community has also joined the opposition.

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

The President's Third Term agenda is dangerous for Nigeria's political future because it can only succeed on the basis of massive increase in corruption, to bribe a majority of stakeholders and excessive use of security agencies to wipe out all opposition. This means President Obasanjo would have to out do Abacha on these two fronts. All competent political scientists would have told Obasanjo that it is impossible to out perform what a vision less dictator could not do under a military dictatorship under a civilian democracy, but it is clear that he is not ready to listen to any competent political scientist. Let us examine this argument briefly.

The corruption agenda would consist of massive bribing of national and state legislators to cajole them into voting a Third Term agenda against their conscience. The media and opinion leaders would also have to be settled as we say in Nigerian language. The question would be why a President that has announced his anti corruption commitments to the high heavens succumbs to accelerating corruption to prolong his rule. How can such a President guarantee that money can buy most Nigerians in a context in which he has lost virtually all his credibility precisely because of his self serving politics.

There is clear evidence that the President's plan is two-fold. Massive bribery of susceptible legislators to buy them into the agenda and/or using the security forces to intimidate and jail all those who cannot be bought. It was a strategy perfected by General Abacha who used the NDIC and security forces to jail and intimidate all his political opponents. It is already clear that the EFCC is currently being used for this purpose. It's a strategy that however cannot work because the opposition to the Third Term is too massive. There just isn't enough space in our prisons to keep all those who are ready to combat the Third Term.

One of the most threatening implications of the Third Term agenda for our democracy is the unfolding plans of destroying political parties so that the President's tenure can be extended without going through due process. Already, the President has personally taken control of the People's Democratic Party, formally the largest political party in Africa and turned it into a personal machine operated by his self appointed agents. The rich maze of networks and political groups that made the party vibrant and rooted in communities have been disbanded and the party is now a shadow of its former self. Plans have been unfolded to split opposition parties and create "Presidential factions" within them. These plans aim at destroying the possibilities of democratic politics to ensure that the Third Term can succeed without opposition. Opposition exists however within society and opposition will form new parties if the present parties are destroyed or taken over.

The most dangerous aspects about the Third Term agenda are the plans for elections. The implementation of the agenda would mean contesting in elections in which the people are totally against the self succession plans. The only way in which it can work is to massively rig the elections since the party has been emptied of the networks that can mobilise electoral support. It is troubling for example that INEC has so far refused to register voters and issue new voter cards as measures to create confidence in the elections. All efforts must be made to make INEC provide level playing grounds for the 2007 elections. Meanwhile, all hands must be on deck to secure a democratic future for NIGERIA by opposing the unfolding plans for a Third Term. The present process of constitutional review should stop and resume after a new democratically elected Parliament emerges following the 2007 elections. It is however critical to ensure that the 2007 elections hold and that they are free and fair.

### **Combating Competitive Rigging and Creating Political Choice**

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

The organisation of democratic elections presupposes the existence of a party system that is conducive to the promotion of democratic culture. Sections 221 and 222 of the 1999

Constitution specifically LIMIT the definition of a political party to an organisation recognised by the state to CANVASS for votes. The law forbids any organisation, not so recognised to canvass for votes. More importantly, both on the juridical and political levels, parties are no longer considered as popular organisations that aggregate and articulate interests and opinions but as corporate entities that are registered with the state. The foundational institution of democratic participation, the political party, is not conceived as an expression of the desire of citizens to engage the political process as they wish. Ordinary citizens with great ideas and conviction but without the huge financial resources necessary to establish the huge outlay necessary for the establishment of a national party are basically denied their freedom of association. Attempts by many well meaning and committed Nigerians to seek electoral platforms in existing parties have often been checkmated by party barons, especially in the period before the Supreme Court significantly liberalised the conditions for the registration of political parties.

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

The nature of politics and political parties in the country is such that many men and women of ability and character simply keep out of national politics. For the most part, political parties are dominated by men of influence who see funding of political parties as an investment that must yield rich dividends. (FRN, 1986:348)

In addition, the 1999 Constitutional provisions limited the rights of minorities who believe they had specific local problems, from forming parties to articulate these problems. The concerns that had led to the popularity of parties such as the Bornu Youth Movement, United Middle Belt Congress and the Niger Delta Congress in certain regions during the First Republic were thus disregarded. The big parties with powers of incumbency have become increasingly arrogant about the concerns of local minority groups with the belief that they would not be allowed to use their vote to upset incumbents in power.

Parties with non mainstream ideological positions are also easily excluded by administrative fiat. The democratic ideal that a small poor party representing popular interests could develop into a major party was thus excluded. The 1999 Constitutional provisions also created the basis for the elimination of internal party democracy. The fact that parties were parties because they were recognised by the state meant that party leaders were party leaders NOT because they were popular with their grassroots members, but BECAUSE they were so recognised by the state. During the Second Republic for example, politicians ceased trying to persuade their intra-party rivals that they deserved the political posts they occupy. They simply expel them for anti-party activities by using money, thugs and sometimes the police. The role of party officials became more important than that of party members because they decided on nominations for electoral posts. Factions developed in all the parties and the state then became the arbiter that decides on which party was the "genuine" one. The state however, the courts and FEDECO, were less than neutral in their decisions.

In the GNPP and PRP factional crisis during the Second Republic for example, the factions that represented the majority of party members and the elected legislators of the parties were declared illegal and the minority factions were recognised. The frustrated and alienated members were reduced to negotiating with other parties to work out deals for electoral purposes. So many popular politicians were denied the right to contest in elections. The logic of democratic politics is that parties try to get popular candidates to improve their electoral chances. The logic of Nigeria's party politics is that powerful and rich political entrepreneurs seek to exclude popular candidates from their parties so that they could get an undeserved nomination for an election that would be won on the basis of rigging.

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

### **Electoral Fraud and Competitive Rigging in Nigeria**

The very serious report of experts prepared by the National Institute of Policy and Strategic Studies just before the 1983 elections, correctly predicted that the elections could not be conducted without massive electoral fraud because the parties in power were not ready to allow others to come to power (NIPSS, 1983:3). The report also showed that only the 1959 and 1979 elections were held without systematic rigging and that those two elections had one point in common: they were held in the presence of strong arbiters, the colonial State and the military, who were not themselves participants in the elections and who desired free and fair elections at those instances. Indeed, it has been observed that rigging is almost synonymous with Nigerian elections, just as advance fee fraud or 419 crimes are synonymous with Nigerians the world over (Kurfi, 2005:101). Are elections doomed to the machinations of fraudsters who frustrate the democratic aspirations of the Nigerian people?

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

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

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

Electoral fraud has become one of the salient features of Nigerian elections. In the passage below, we quote extensively from Bayo Adeganye's review of some of the highpoints of electoral fraud in Nigeria:

- (i) There was the Northern Regional Election of May 1961 which gave the then Northern People's Congress (NPC) a sweeping victory of 94% of seats in the regional assembly, while eliminating the Northern Elements Progressive Union (NEPU) as an opposition. The regional ruling party had achieved that sweeping electoral victory, using in part all forms of electoral chicanery, political

intimidation, and even coercion, including arrest and imprisonment of opposition leaders.

- (ii) Similar methods had been employed in the Eastern Regional Elections, also held in 1961, by the then ruling party of the Eastern Region, the National Council of Nigerian Citizens (NCNC) turning the East into a uni-party dominant region. The elections were also marked by persecution of all dissident minority opposition parties operating along the periphery.
- (iii) The mid-Western Regional Elections of October, 1963 and January 1964 turned the then newly created region into what one writer at the time called the “cockpit of Nigeria.” There took place in the region a fierce struggle for supremacy among the three majority parties: NPC, NCNC, and the by now politically emasculated Action Group (AG), all of them deploying every man, money and material considered necessary for capturing that region of the federation.
- (iv) The first post-independence Federal General Elections took place in late December 1964 through early January 1965. They were fought between two large political coalitions, i.e. the Nigerian National Alliance (NNA) and the United Progressive Grand Alliance (UPGA). The Nigerian National Alliance (NNA) comprised the NPC and the newly contrived Nigeria National Democratic Party (NNDP) while UPGA was made up of the NCNC and AG. (NNDP) was a break-away party from the former AG that the NPC had helped to keep in power in the old West and apparently against popular wishes). Marked by countrywide electoral malpractices, political intimidation, and violence, the December 1964 elections were climaxed by last-minute boycott by one of the coalitions of parties. This resulted in a serious constitutional crisis, as Nigeria was for three days characteristically governed without a government, during which loose talk about Eastern Regional plan to secede or about an impending army – organized putsch filled the political air.
- (v) Dust from the latter had scarcely settled when Nigeria found herself preparing for yet another election i.e. the Western Regional Elections which did actually take place in October 1965. They proved to be one of the most farcical elections to be conducted in post-independence Nigeria, as the results were heavily rigged against the dominant AG interests and in favour of the break-away NNDP minority party in power in the region since 1962. The Western elections were immediately followed by a mass revolt of the region’s inhabitants against NNDP’s usurpation. Nor could the latter regime be saved by subsequent counter-measures by its supporters in the NPC-dominated Federal government such as “flooding the West with troops.” The bloody violence from the last event, resulting de facto in the break-down of law and order, was threatening to engulf the whole federation when the army majors of January 15, 1966 struck. And, most recently. (Adekanye, 1990:2)

This sad history of electoral fraud or rigging has serious implications for our democratic future because the phenomenon is growing rather than declining. As the elections go by, the principal forms of rigging and fraud are increasing and are being perfected in successive elections since 1964, 1965, 1979, 1983, 1999 and 2003. The result is that elections have become turning points in which the outcome has been the subversion of the democratic process rather than its consolidation. Not surprisingly, major political conflicts have emerged around rigged elections.

The 1983 elections occupy a special place in the history of electoral fraud in Nigeria. Competitive rigging reached its apogee:

All sorts of strategies and stratagems including manipulation of the ballot or “rigging” were employed in order to win elections. Each of the opposition parties used its local power of incumbency to retain power and/or to improve its position vis-à-vis other contenders. However, federal might was used to dislodge state governors in Anambra, Oyo, Kaduna, Gongola and Borno states, thus raising NPN’s tally of governorships from seven to twelve states, reversing the power structure existing before the election when opposition parties had twelve against NPN’s seven governors. (Kurfi, 2005:97)

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

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

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

- 1) Compilation of fictitious names on voters registers.
- 2) Illegal compilation of separate voters list.
- 3) Abuse of the voter registration revision exercise.
- 4) Illegal printing of voters cards.
- 5) Illegal possession of ballot boxes.
- 6) Stuffing of ballot boxes with ballot papers.
- 7) Falsification of election results.
- 8) Illegal thumb-printing of ballot papers.
- 9) Voting by under-age children.

- 10) Printing of Form EC 8 and EC 8A used for collation and declaration of election results.
- 11) Deliberate refusal to supply election materials to certain areas.
- 12) Announcing results in places where no elections were held.
- 13) Unauthorised announcement of election results.
- 14) Harassment of candidates, agents and voters.
- 15) Change of list of electoral officials.
- 16) Box-switching and inflation of figures.

In 2003, Nigeria conducted the second general election since her return to civil politics in May 1999. The 2003 elections were almost as contentious as the 1983 elections. The report from Nigerian observers affirmed numerous reported cases of alleged fraud in many states across the country (Transition Monitoring Group, 2003:120). The European Union observer report also reported widespread election-related malpractices in a number of states in the Middle Belt, the South-East and the South-South (European Commission, 2003:42). The plethora of electoral malpractices such as ballot box stuffing, snatching of electoral materials and smashing of ballot boxes, inflation of votes and other dimensions of electoral fraud and the high incidences of electoral violence once more rekindled the old fears that the basic institutional weaknesses associated with her electoral system could bring the democratic experiment to grief. There are three phases in election rigging: pre-election, election-day and post election rigging. We shall briefly outline some of the forms.

### **Pre-Election Rigging: Rigging as System Manipulation**

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

### **Party Registration**

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

- i. Strong individual candidates that could have got into power as independent candidates through the respect they evoke in their communities.
- ii. Ideologically committed people such as socialists who did not have the financial resources and networks to establish mega parties but who have a long-term transformative vision. In Europe for example, the Green Parties started as small groups of ideologically committed people without resources or support. They have since developed into a major political force in that region of the world.
- iii. Minority groups who do not have the numbers and networks of majority groups to impose their registration on the state. While parties were being registered for the Fourth Republic for example, the A.D. did not meet the stated criteria but had to be registered because of fears of exclusion of the Yoruba from the political

process. Apparently, the minority groups don't matter so no concerns are expressed in registering their own parties.

### **Manipulation of Voters Register**

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

### **Appointment of Corrupt Electoral Officers**

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

### **Nomination during Party Primaries**

Many candidates are denied the right of contesting elections because they are prevented from contesting for their party's nomination or else replaced after they have won the nomination (Ibrahim and Salihu, 2004).

### **Gerrymandering**

This involves manipulation while drawing the boundaries of electoral districts to favour some political parties and candidates while scheming out others.

### **Examples of Polling-Day Rigging**

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

### **Post Election Rigging**

- 1) Refusal to count ballots from opposition strongholds.
- 2) Changing the results between voting centres and collation centres.
- 3) Declaration of false results.
- 4) Annulment of elections in situations where incumbents believe the results, the people's choice, are unacceptable to them.
- 5) Long delays or manipulation of election tribunals to protect stolen verdicts.

## **Combating Electoral Fraud**

Nigerians have devoted considerable energy in improving our electoral laws and institutional framework for elections with the aim of improving the conduct of elections in the country. As we moved from the Federal Electoral Commission (FEDECO), to the National Electoral Commission (NEC) and now the Independent National Electoral Commission (INEC), we have gone through considerable changes in electoral laws and political party regimes. The reality of our elections notwithstanding has remained that of the development of what the late Bola Ige described as "free style rigging that made the occurrences of the Second Republic appear sluggish and amateurish" (Guardian, 12/10/1992).

The question is what devices can be used to turn the tide. During the Babangida transition era, there was emphasis on reforming the party system and creating new breed politicians that were untainted. A two party system was devised but the first set of leading presidential candidates for the two parties were disqualified by NEC for using money and rigging the primaries – a political crime that was considered a return to the old ways. An allegedly improved nomination system for political parties known as Option A4 was adopted. It was a method that was said to have been designed to resolve the problem of undue influence from moneybags in party nomination processes. The idea was to organise primaries through a series of elections from the ward level, through the local governments and states to the national level. However, by multiplying the number of times and places of the nomination process, the costs of transport, feeding etc, skyrocketed thus making the nomination process open to the highest bidder. Not surprisingly, the 1992 presidential primaries were characterised by massive rigging and falsification of figures. Fears arose that the Babangida regime would use the excuse of persistence of malpractices to justify their continued stay in power.

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

One of the anti-rigging devices developed during the Babangida transition was the open ballot system. In the open ballot or queuing system, the secret ballot was disallowed and voters queued up in public behind the party symbol of their "choice". The political parties and elections would henceforth operate on the principles of the military garrison parade. The open ballot debate was initiated by Ahmadu Kurfi who proposed queuing as an antidote to rigging, fondly calling it the Fatima Principle. Kurfi argued that a close examination of the history of electoral fraud in the country reveals that they were all linked to the manipulation of the ballot and that by eliminating the ballot and making people queue up in public, the instrument for cheating is eliminated.

While it was indeed true that ballots have been used extensively in electoral fraud in Nigeria, Kurfi at that time underestimated the escalation of electoral fraud that was to emerge. Over and above the technical details of "secret ballot rigging" the most serious problem with the open ballot system was its fundamentally anti-free choice, and thus anti-democratic character. When it was proposed, the then Sultan of Sokoto, Ibrahim Dasuki had complained about its anti-democratic character, citing possible problems such as that of virtually denying wives and peasants the possibility of benefiting from the secret ballot to vote against the candidates of their more powerful husbands and patrons respectively – (Citizen, 15/10/1990). He was later proved right. Most informed opinions in Nigeria were against the open ballot but the Government went ahead to implement it in 1990 and the transition intellectuals went out of their way to defend it.

The direct effect of the system was that candidates paid people to vote for them and party aides could directly observe and ensure that people who have been "bought" joined the queue of the aspirant who has paid for their vote. Much has been written in the press of the naira notes sandwiched in bread slices given to voters already in queues to make them shift to the rival queue. The NEC Chair, Humphery Nwosu, had once complained that Nigerian voters were corrupt because they would take money from one candidate and vote for another. What a tragedy that Nigerian citizens were denied that democratic right to frustrate their wealthy enemies. Not surprisingly, the State Governors that were elected in 1991 were considered some of the most corrupt and notorious elements in the nouveaux riches. The open ballot had been described by Nwosu as Nigeria's unique form of democracy - its own innovation just like the Americans, British and Japanese have theirs. After the first 1992 presidential primaries however, he complained that the system was "riddled with wealth, falsification of figures, threats and favouritism" (Newswatch, 23/11/93). It was a pity that it took this professor described by the Nigerian press as a crack political scientist so long, to discover something so obvious.

### **Electoral Geography and Advocacy against Rigging**

It is widely recognized that there are a number of structural, institutional and psycho-cultural factors that need to be addressed for the consolidation of democracy in Nigeria to be successful. These factors which have combined to make open, competitive and meaningful electoral politics elusive include the dependent and underdeveloped nature of the Nigerian economy, the limited autonomy of various electoral bodies and their weak human resource base and psycho-cultural factors, especially the usurpation of power by authoritarian military regimes for a very long time. Indeed, as is well documented, other factors often cited as undermining competitive electoral politics in Nigeria include: lack of discipline in the form, spirit and implementation of the electoral process; excessive monetization of politics in general; a "winners take all" philosophy embedded in the "first past the post" system operative in Nigeria; the general level of poverty and illiteracy; the absence of clear ideological underpinnings of political parties; and religious bigotry and to some extent, ethnic chauvinism.

As useful as these factors are in coming to terms with the problem of the electoral system in Nigeria, there is need to bring into play the question of electoral geography of the country in the overall attempt to understand and capture the different ramifications and dynamic of the deep crisis underlying the electoral system and how to bring about a reform process. It is for this reason that Nigeria's electoral geography project was conceived was conceived by Global Rights, the non-governmental organisation I work for. The purpose of the project is to initiate

reflections on how citizens in various parts of the country can develop sufficient civic responsibility to start working towards protecting their electoral mandate.

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

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

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

Despite the existence of ethnic, religious, cultural and other expressions of diversity that provide the basis for varying degrees of tension and conflicts within the six geo-political zones of the country, the zonal arrangement has come to be accepted as given and does provide an acceptable basis for the purpose of sharing power and resources among the competing power elites in the country. It is therefore justified to use the six zones of the country for this project, namely the – North East, North-West, North Central, South East, South West and the South-South zones.

The notion of electoral geography attempts to capture the peculiarities of the various geo-political zones in the country, for the purpose of not only making intelligible the unique problems raised by the conduct and management of elections, but also in anticipating constitutional, administrative and other practical measures for mitigating the impact of these problems on the sanctity of the electoral process.

Although it is correct to assume that a number of problems associated with the Nigerian electoral system are general in nature, a closer examination of the details of problems associated with the 1999 and 2003 elections show that some geo-political zones experienced peculiar electoral problems. For example, the Niger Delta area which falls within the South South zone experienced the highest level of electoral violence in the period leading up to, and during the elections. Electoral malpractices such as ballot stuffing, snatching of ballot boxes and the use of violence were perpetrated at the highest level. In most cases, the spectre of violence discouraged voter turn out, yet election results were declared. Here, it may be important to bear in mind the prevailing culture of violence and militarism resulting from the

militancy of ethnic organizations, youth violence and high level of access to arms as a result of battle over resource control. The riverine nature of the zone also created obstacles to movement of electoral officers and prevented easy access by election monitors and observers. It could be assumed that given this state of affairs, conducting a civil activity like elections without addressing the deep-seated conflicts in the zone may prove a difficult enterprise.

Similarly in the South East zone, the level of electoral malpractices and incidences of violence were equally high leading to a situation in which electoral outcomes did not come close to reflecting the yearnings and aspirations of the people. As it was widely reported, although actual voting did not take place in many areas, results were announced. And as demonstrated over the past few years in Anambra state where a supposedly elected governor was abducted from office on the claim that he resigned his position. State institutions were also razed to the ground by political thugs in the same state while the police were quiet spectators. Clearly, the issue of “political godfathers” has emerged as a key issue in the zone. Another example that could be raised is in the North West zone where, the 2003 elections showed a tendency towards a strong opposition that led to the defeat of the incumbent governor in Kano State. While features of electoral malpractices identified above prevailed, the existence of a strong opposition mitigated the level of electoral malpractices.

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

### **Lessons from the South West**

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

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

The high level of civic consciousness in this zone translates into a community capacity to define the correct political line and to impose sanctions for political misbehaviour. The zone is noted for imposing sanctions on politicians adjudged to have broken rank with tradition or to have acted in a politically embarrassing manner in relation to what is perceived as the collective interest of the Yoruba. There are several examples. Following excessive rigging of

the December 1964 elections in the Western Region, communities organised violent resistance to the theft of their mandate following the split between the Action Group and the Nigeria National Democratic Party. In the 1983 general elections, Akin Omoboriowo, who was purportedly declared winner as the governor of Ondo State, having defected from the UPN to the NPN, became a victim of violent attacks and was prevented from stealing the electoral mandate the state had given to Governor Ajasin.

A critical issue in elections in this geo-political zone is the role of collective memory, especially the role of Chief Obafemi Awolowo. Two issues are immediately important here. In one respect, having adopted Awolowo as a symbol in their election campaigns and political mobilization, AD governors in the 2003 wrongly saw themselves as untouchable and natural leaders of the zone. They forgot that their people would evaluate them on the basis of Awolowo's performance standards rather than their choice and support by Afenifere. Having performed very poorly by the standards of the zone, most incumbents in the zone were punished by their people who voted them out. The fact that there were no massive protests about rigging in the zone, although some rigging did occur, meant that the level of rigging did not significantly change the mandate given by the people. It was in this context that the PDP took over the Awolowo mantle in the zone. They can keep it only for as long as they are seen to serve the interest of their people.

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

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

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

The development of a strong civic culture imbued with the determination to protect the electoral mandate of the people is a strong deterrent to the rising culture of competitive rigging we have reviewed in this paper. When people know that excessive rigging would be combated, they tend to be more careful in the level of recklessness they exercise. Protecting the vote is also a solid point of entry in compelling governments to provide the dividends of democracy.

## The Way Forward

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

1. The determination of President Olusegun Obasanjo to prolong his term beyond the two terms stipulated by the Constitution must be actively combated by civil society and indeed all Nigerians. It has the potential to derail the democratic process because it betrays political trust and requires extensive manipulation. In a sense, the most important and most urgent political task today is derailing the third term agenda.
2. Civic education should be accorded a high priority between now and the 2007 elections. The argument that has been made is that the real challenge in producing free and fair elections in 2007 is about what happens before that date. The task of enlightening the citizenry on their rights and duties, and how to defend the sanctity of their votes is crucial. In the 2003 elections, civic groups who carried out civic education did so too close to the elections. The full benefits of the civic education could not be realized. Considering the fact that politicians use religion and ethnicity as tools of political manipulation, the content of civic education should take into consideration how to provide effective responses to such manipulative tendencies. Similarly people should be educated on how to demand accountability from their leaders through Town Hall meetings as well as effective use of recall provisions in the constitution.
3. The need to encourage the culture of opposition politics is of crucial importance to the future of Nigerian democracy. It is widely known that Nigerian politicians always prefer to be on the winning side and would therefore prefer to strike deals with the winning party. It is a defeatist attitude. It would serve the cause of democracy better if opposition parties remain steadfast, build strength and capacity around their programmes and manifestoes and provide the electorates with credible alternatives in future elections. It is worthy of note that in states like Kano, Kogi and Borno where incumbents were defeated in the 2003 election, it was the vigilance of the opposition that made such possible.
4. The mass media also needs to play a more significant role in promoting and strengthening the credibility of the electoral system. Three main points are important in this regard. First, the need to encourage proliferation of privately controlled media as opposed to those controlled by the governments. Privately-owned media houses are more likely to give better coverage to opposition political parties. Second, Nigeria needs to explore the possibility of community radios which are far less expensive to establish. The present legal regime in the country is not favourable to community radios and an enabling environment needs to be created. Third, we have not made adequate use of the information super highway offered by the internet and electronic e-mail as a means of reaching out and putting information in the public domain concerning elections. The possibilities of using the internet for national and international advocacy in securing free and fair elections should be developed.
5. There is a need to deal with the mindset of people which explains lack of tolerance for the opposition and the absence of democratic temperament in our politicians. This is possible through massive civic education.
6. Government at all levels should deal with issues of mass poverty and unemployment. As long as people remain poor and lack access to basic means of livelihood, they will remain susceptible to all kinds of manipulations, including being used to foment

violence during elections. In other words, increase in political awareness without addressing the problem of poverty will not change the situation.

7. Peoples' Forum should be established to promote the culture citizens bringing their representatives to town hall meetings to engage in face-to-face interaction and demand accountability. There is need to build linkages, alliances and coordination among groups such as churches, market women, Okada operators and the media to checkmate the excesses of those in power.
8. Ethnic and community associations should become more active in identifying credible individuals who should be persuaded to enter the arena of electoral contests. Communities should start developing the culture of sponsoring the elections of such candidates so that the field of electoral contest is not dominated by the rich and powerful. People who have interest in politics should be encouraged.

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