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Report Paper



REVIVING NIGERIA'S ELECTORAL INTEGRITY: LESSONS FROM THE JUSTICE UWAIS ELECTORAL REFORM REPORT

Chibuike Mgbearuiké

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ABOUT THE AUTHOR

Chibuike Mgbeahuruike

Chibuike Mgbeahuruike studied Political science and education. Also obtained Political Science and International relations, from the University of Ibadan.

He has over 15 years track record in the NGO sub-sector. A former National Coordinator of the Transition Monitoring Group, TMG. He is currently a consultant with CDD on Democracy and Elections

He is a public commentator and an International Relations analyst.

A development practitioner and an awardee of the US International Visitors Leadership Program.



Introduction

Free and fair elections are the cornerstone of every democracy and the primary mechanism for exercising the principle of sovereignty of the people. Through such elections, citizens choose their leaders and participate in the governance of their country. By their choices, citizens confer legitimacy and authority on those who govern, making it easier for elected leaders to mobilize public support and cooperation for the implementation of development programmes. Free, fair, and credible elections are therefore a crucial prerequisite for good governance in any democracy.

Since 1999, elections in Nigeria have constantly been met with some criticism on the ground of the fairness and credibility. This came to a head in 2007 in an election that was widely met with criticism by citizens, observers and even foreign allies. In response to the questions around the legitimacy of the polls, Umaru Musa Yar'Adua, the declared winner of the presidential contest, set up a committee on Election Reform led by former Chief Justice Muhammadu Lawal Uwais. The committee had among members representing different key societal elements, such as Bishop Matthew Hassan Kukah (church), Olisa Agbakoba (law), Jibrin Ibrahim (civil society and academia) and John Odah (organised labour) among others. The report, named after its chair, has remained a watershed document in shaping and forming opinions on how elections in Nigeria can be, and should be, conducted.

Since then, there have been four elections conducted under subsequent acts and processes designed to address the gap. But, as the dust settles on the 2023 elections, it is worth reviewing the process and see if the Uwais report holds the answer to some of the lingering questions about Nigeria's electoral process.

Some fundamental recommendations of the Electoral Reform Committee (ERC)

The Uwais report contains critical and far-reaching recommendations which also serve as sustainable remedy against systemic and long-standing electoral challenges. Consequently, after all said and done, it remains imperative that these recommendations be implemented to give our electoral experience, and our hard-earned democracy a new lease of life.

The report offers strong recommendations to improve the electoral process and the electoral environment, such as in the area of appointments of electoral officials. The appointment principles and the ensuing allegiance dilemma were laid to rest by the ERC report. The ERC removed the president's ample prerogative of single-handedly appointing the Independent National Election Commission (INEC) Chairperson/deputy and the entire board composition at the expense of our elections. It recommended a South African model, in which appointment is channelled through the National Judicial Commission (NJC), but not until advertisement of vacancy positions has been placed and applicants shortlisted. It is expected that the 3 shortlisted applicants would be forwarded to the Council of State (not the president perse) for them to choose one and forward same to the Senate for confirmation.



Another worrisome appointment principle which the ERC tinkered with a little bit is the appointment of the Inspector General (IG) of Police. Before now, the President also had the prerogative to appoint whoever he so desires as the IG of police at his own whim and caprices. Now, the President would still be enjoying that privilege, but only after recommendation has been made by the Police Service Commission through the National Police Council and confirmed by the Senate.

Another critical recommendation by the ERC – perhaps, one that was generally applauded, is that no elected person should assume office until any pending case against him or her at the tribunal is disposed of. Doing otherwise, has been the reason Nigeria is where it is today as we speak. Consider a situation where a potentially elected president or governor is dragged to the electoral tribunal as a result of alleged electoral malfeasance, and at the same time occupying the office in question. The ERC believes that such a candidate will have no business being sworn in to govern while the case is being adjudicated. Allowing that to happen is considered an aberration which comes with a huge financial and manpower cost to the nation. The ERC in its wisdom, and from past experiences, believes that the nation’s polity and economy stand to benefit absolutely nothing, should a winner of an election be hurriedly sworn in without first determining the actual winner and the legitimacy of his emergence.

There are other revolutionary recommendations that makes the ERC report stand out as a major partway to good governance and democratic legitimacy in Nigeria. The recommendation on the unbundling of INEC for instance requires that a Political Party Registration and Regulatory Commission be established, to among other functions, register and regulate the activities of political parties. It also sought the establishment of the Electoral Offences Commission to also adjudicate on election-related matters. These are some of the demanding functions that the electoral commission may not in all honesty be able to deal with alongside the major responsibility of organizing elections.

The Electoral Reform Committee made a recommendation for the amendment of the 1999 Constitution to allow for Independent Candidature under some listed operational conditions. This reform suggest that the democratic space should be expanded to accommodate and encourage competitiveness. As we speak, Nigeria’s democracy is intensely challenged by weak parties and undemocratic candidate selection processes. Most political parties still grapple with lack of internal democracy. This is evidenced in the way candidate selection processes are managed in political parties. Party primaries are replete with irregularities, controversies, and violence flowing largely from the imposition of candidates by moneybags and godfathers, or non-compliance with laid down rules for the conduct of party primaries. It is important to note that the quality of the candidate selection process determines the quality of political leadership as we have witnessed in Nigeria since 1999. This no doubt has direct implications for governance and citizens’ participation. Ordinarily, political parties shouldn’t be the sole platform for actualizing political ambition in a democracy. With the growing cost of politics, candidates’ imposition, monetization, cost of party nomination forms, etc, introduction of independent candidacy is timely. At least, candidates will focus on mobilizing voters rather than buying expensive nomination forms and procuring party delegates.



Additionally, the ERC put forth a recommendation suggesting that the Chairman and members of INEC should serve a 5-year term, which can only be extended once. Their removal from office could only occur through a Senate decision based on the National Judicial Commission's (NJC) recommendation.

Furthermore, the ERC also proposed a modification to the 1999 Constitution regarding INEC's funding. This proposal entails designating the election and recurrent expenditures of INEC, including the salaries and allowances of the chairman and board members, as a primary allocation from the consolidated revenue fund of the federation. These suggestions not only pertain to ensuring financial autonomy and independence for the electoral commission but are aimed at safeguarding it from undue executive influence and interference.

These recommendations underscore the pivotal role of the electoral commission and the sensitive nature of its constitutional responsibilities. They stress that the country should avoid subjecting it to executive recklessness, which further highlights the importance of securing the commission's independence.

Between ERC non-implementation and failed elections of the past

It is as gravely unacceptable as it is eternally regrettable that since the Uwais ERC report was first presented for public consumption, none of the elections that followed, has benefitted sufficiently from the promises of that reform. On the contrary, every single election that has been conducted thereafter, every four years since 2007 has continued to diminish in standard and integrity; it has actually been going from bad to worse – thereby reducing Nigeria's hard-earned (electoral) democracy to a mere hollow ritual. Consider a situation where these elections are neither insulated from widespread breaches, (as was usually the case before the reform efforts), nor could they withstand the slightest integrity test – reform efforts then become an exercise in futility. That may well be the case with the conduct and outcome of the 2011, 2015 and 2019 elections.

One possible argument about these elections, including the 2023 elections is the fact that they were all subjected to the electoral cycle which encapsulates every detail of activities that ought to be done and by whom. To a large extent, those with the responsibility to carry out those activities do them with levity almost always, but the question remains, for whom and in whose interest do they do what they do?

Simply put, our past elections fell short globally and lacked integrity not because necessary actions weren't taken, but because those responsible either neglected their duties or carried them out without a sense of patriotism. They knew they wouldn't be held accountable or face consequences.

As a matter of fact, what stakeholders do or fail to do will always make or mar the election. Thus, one cross-cutting index to measure credible election is one in which rules are scrupulously laid down and followed, and the outcome is not influenced by illegal actions. Ordinarily, it behoves on all key stakeholders in the electoral cycle as indicated in the in figures 1 and 2 below, to carry out their roles and whatever that is expected of them and to



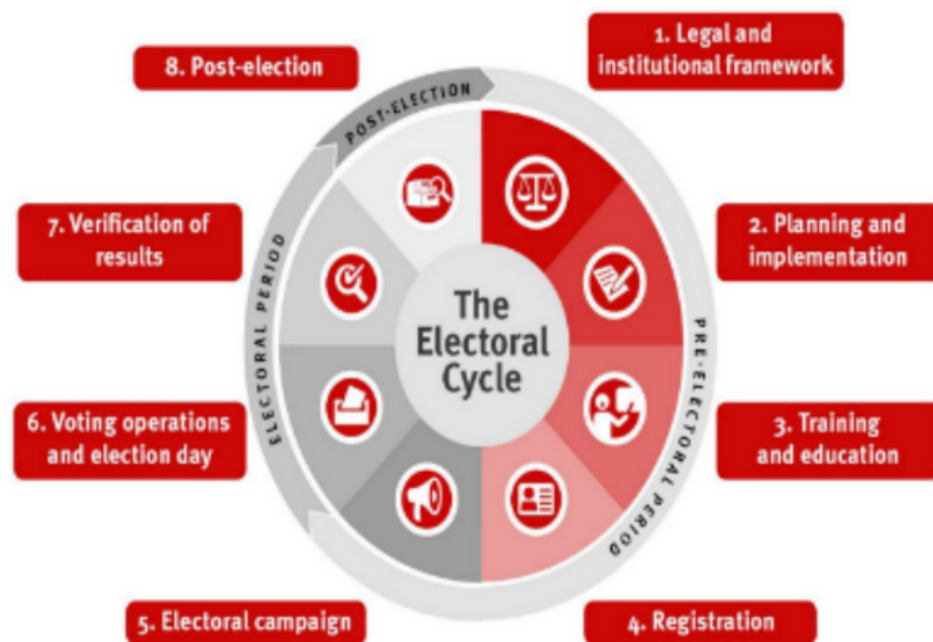
insist that others do the same to promote the credibility and integrity of our elections. removal from office could only occur through a Senate decision based on the National Judicial Commission's (NJC) recommendation.

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INEC, being the primary stakeholder and the election management body (EMBs) with legal obligation, and heavily funded with tax-payers money, ranks higher in the election accountability hierarchy. The Police, the Judiciary, Political parties, and candidates as well as Civil society, international election observer missions (EOMs) from multilateral and regional organizations, governments, international non-governmental organizations and national, non-partisan, civil society organizations are expected to conduct themselves and conform to the rules of engagement.

Figure 1: The electoral cycle



Source: International IDEA



Election technical assistance providers not only assess the area in which they are working but may also evaluate other areas that intersect with their work, as well as the credibility of the overall electoral process. Technical assistance usually assesses the impact of the assistance to determine what has worked, what may be improved in the future and how processes have changed over time.

Domestic and international Media combine reports gathered from a wide range of sources to cover elections and often commission public opinion polls. The media is mostly driven by reporting on real-time and immediate political and electoral events judged to be most pertinent, but they may also provide important voter information. Academics and scholars provide political analysis of many aspects of elections and democracy, through a range of methodologies, including election results analysis, public opinion surveys and focus groups. Intergovernmental organizations, governments, and donor agencies participate in election assessment in many ways, ranging from meeting membership obligations to supporting foreign policy to providing funding and other services to the conduct of elections. They may also participate directly in election observation.

Individual voters (the electorate) form their own impression of electoral quality, particularly from the point of view of whether or not their preferred candidate or party has emerged victorious at the polls. They rely on a range of sources in addition to personal experience, drawing on talk with neighbours, what they learn from the media, political parties, EMB, government and others. Collectively they form the “public” which is often invoked by others who assess elections and with whom they may or may not have consulted in systematic ways.

Overall, these last general elections in February and March of 2023, were in all intents and purposes, a broken record by every index it is measured, and especially the ones enumerated above. Regardless of the cost-intensive profile of the 2023 general election, the very high expectations placed on the electoral commission, and the commission’s lack of preparedness to manage that expectation, the entire exercise then turned out as a sham – constituting a moral burden on the commission’s leadership.

It is such a painful irony that one of Nigeria’s most invested and widely participated reform effort since 1999 could, as we speak, still be gathering dust on the shelves of those with constitutional responsibility to implement it. Meanwhile, the just concluded 2023 elections which held a lot of promises and were actually subjected to all methodical preconditions against which electoral quality could be measured still left so much to be desired – this was regardless of the guarantees of such metrics for credible elections as the legal framework, the electoral system and boundary delimitation, election management, media, parties, candidates and Campaigns, political finance, voter education, voter registration, voting procedures, vote counting and aggregation of results, electoral dispute resolution, etc.

Conclusion

The 2023 elections have once again brought to the fore the imperative of not just revisiting or relying on the 2007 ERC report, but to fully implement its key recommendations as a remedy against the onslaught of electoral corruption and malfeasance.



The report has comprehensively recommended all that are required for the sanitization of the Nigerian electoral landscape. No matter how we wish to pretend about that report, the excesses and inadequacies of the just concluded elections (not really concluded, as the post-election adjudication is part and parcel of the electoral process), continue to stare us on the face. Perhaps, it is a constant reminder that all is not well with Nigerian elections. Therefore, the earlier we clean up the ERC report and begin to implement some of its key recommendations, the better for all of us. Doing so will not only restore confidence in the electoral process but will do a lot more instilling of discipline and patriotism to the election managers, administrators, and actors alike.

All said and done, stakeholders are deeply disappointed when they remember the amount of time, energy and resources invested in the reform exercise. It is disheartening to say the least that after accompanying the ERC members to all the nukes and crannies of this great and diverse country consulting, engaging and facilitating memorandum presentations, it ended up on the shelves. It is against the background of this general discontent that stakeholders have continued to decry the level of impunity, killings and maiming witnessed during each of these elections. In fact, the show of political desperation to win election at all costs, which largely characterized the 2023 general elections cannot be overemphasized.

Should the current administration have any semblance of interest to sanitizing the electoral process and restoring the dignity of the nation's electoral democracy, it should simply come down from its Olympian heights; disregard the narratives of shady dealings with the electoral commission, and focus on the salient recommendations that matters most in the ERC report. Should they decide to subscribe to this, it then behoves on the administration to re-visit and embrace the recommendations by the Uwais led Committee. At this point, President Bola Tinubu can actually reinvent the Musa Yar'Adua commitment to revitalizing the electoral process by approaching the National Assembly to re-consider the report of the committee in full and as a matter of morality and urgency inject the revolutionary provisions of the report to the Electoral Act amendment that beckons ahead more than ever before.

2027 election beckons!

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Please direct inquiries to:
Centre for Democracy and Development (CDD-West Africa)
Research Department
16, A7 Street Mount Pleasant Estate (CITEC)
Federal Capital Territory (F.C.T) Abuja
research@cddwestafrica.org
cddabv@cddwestafrica.org
CDDwestafrica.org

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CDD



16 A7 Street, CITEC Mount Pleasant Estate, Jabi Airport Road,
Mbora District, Abuja, FCT



cddwestafrica.org



research@cddwestafrica.org



[@cddwestafrica](https://twitter.com/cddwestafrica)