

**BUILDING LEGITIMACY IN DEMOCRATIC PROCESS THROUGH  
ELECTORAL REFORMS: PROGNOSIS AND PROSPECTS:**

**BY**

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## **ABSTRACT**

President Muhammadu Buhari has promised to carry out more reforms in the electoral process. Having been at the receiving end of a flawed electoral system for 12 years, the President Buhari has always desired an electoral system free of fraud and manipulation. The sustained interest in the choice of electoral reform is better appreciated when juxtaposed with the fact that no election in Nigeria since 1959 has gone undisputed. Election management and election have historically and fundamentally derogated from critical defining characteristics and trajectories of democratic elections. The objective of this paper therefore is to draw attention to, and discuss the opportunities that exist in engaging in the proposed electoral reform, while showing the need to go beyond the reform of constitutional and legal framework of elections and design of electoral system that can handle the challenges of diversity and political representation in the country. The paper concludes by asserting that no amount of reform would be effective without positive human attitude towards compliance and obedience to the dictates of the law.

Keywords. Election and Electoral Process, Electoral Reform, Building Legitimacy, Prognosis and Prospects

(1) **INTRODUCTION**

The Nigerian electoral reform process is a response to documented reports by international and national observer groups of electoral malpractices during the 1999, 2003 and 2007 general elections. The reports demonstrated how the management of the electoral process and elections in the country, had contravened the country's electoral law and international conventions and standards on elections. Elections in democracies play the vital role of ensuring representation of popular will and, subsequently, help to secure the legitimacy of the political system. There is increasing global realization that credible elections constitute a major factor in democracy, democratization and good governance. The more transparent the democratic process especially in terms of free and fair elections the better the quality of legitimacy and respect for any political system in the comity of nations and vice versa,(Jinadu, 2011 Frazer, 2007 ).

Nigeria's history of flawed and manipulated elections, traversing the colonial and post-colonial periods, draws attention to a key element in the crisis of her electoral democracy. The democratic deficits represented by election reached an unprecedented level in the 2007 elections, described as the worst election in Nigeria's post colonial history. Domestic and international observers were fundamentally in agreement regarding the flawed nature of the elections, which they concluded fell below the international minimum standard for free and credible elections (Egwu, 2008).

After the widely rigged and disputed 2007 elections, late President Yar' Adua appointed a 22-member Electoral Reform Committee (ERC), headed by Hon. Justice Muhammadu Uwais (rtd) and mandated to examine the entire electoral process with a view to ensuring that the quality and standard of our general elections were raised, thereby deepen our democracy. The assignment given to ERC afforded Nigerians the opportunity to re-examine the entire electoral process which embraces a re-examination of all the institutional procedures, arrangements and actions involved in election.

An overwhelming desire for electoral reforms among Nigerians heralded the inauguration of a new Independent National Electoral Commission (INEC) in June 2010. The most significant change ahead of the general elections, however, came with President Jonathan's surprise appointment in June 2010 of Professor Attahiru Jega, a former member of the Uwais Committee, as INEC's chairman. His tenure as Vice-Chancellor at the Bayero University and active opposition to military rule as the president of the Academic Staff Union of Universities (ASUU) had earned him a deserved reputation for integrity. He assumed office with the trust and high expectations of civil society and opposition parties. This was in the wake of far-reaching recommendations made by the Uwais Committee on measures necessary to ensure the credibility of the electoral process in Nigeria. Against this background, INEC brought out several reforms and innovations to ensure the success of 2011 general elections.

Despite the success of 2011 general elections, some critical flaws still prevailed, a weak constitutional and legal framework; endemic procedural irregularities; logistical inefficiencies; intimidation, violence and other electoral frauds. The lack of independence for Electoral Management Bodies (EMBs) is more evident in the procedures for appointing members of bodies such as the Independent National Electoral Commission (INEC) and the State Independent Electoral Commissions (SIECs). Current laws provide for EMB members to be appointed by the President, a practice which is widely seen as repugnant to EMB independence and neutral.

Prior to 2015 elections, INEC carried out further reforms and introduced a new biometric register of voters, a Re-Modified Open Ballot System (REMOBS), improved security features on sensitive electoral materials, such as serial numbering, colour-coding of ballot papers and result sheets, security coding of ballot boxes, a more transparent framework for results collation and making returns, among others. INEC being armed with several technological innovations, conducted more credible general elections in 2015.

While the 2015 General Elections represent a great achievement, these elections also demonstrated that more institutional reforms and capacity building are required to make the electoral processes in Nigeria more credible, transparent and sustainable. It was against the background of reported cases of electoral malpractices in some States

of the Federation during the 2015 general elections among other reasons, that President Muhammadu Buhari promised to carry out more electoral reforms (Alechenu, 2015).

President Mohammadu Buhari who was at the receiving end of flawed electoral system for 12 years promised to carry out more reforms that will fundamentally change electoral governance in Nigeria. When historians and analysts begin to chronicles actors, villains and heroes that contributed in deepening and consolidating Nigeria's democracy through purposeful engagement, one individual that will feature prominently, is President Muhammadu Buhari. His participation and enrichment of the democratic system and the legal system is beyond quantifications. His doggedness, patience, perseverance, sacrifice and strict adherence to the rule of law in seeking electoral redress and justice from a flawed process without compromising his principle and integrity, distinguished him among others (Bukhari, 2015).

The objective of this paper therefore is to draw attention to, and discuss the opportunities that exist in engaging in the proposed electoral reform, while showing the need to go beyond the reform of constitutional and legal framework of elections and design of electoral system that can handle the challenges of diversity and political representation in the country. The paper is organized in eight sections. The thrust of this paper starts with introductory overview of the topic. It proceeds with theoretical and conceptual analysis, elections and electoral process, legitimacy in electoral system imperatives of the proposed electoral reforms, prognosis and prospects, and conclusion and recommendations .

## (2) **THEORETICAL AND CONCEPTUAL ANALYSIS**

Since the collapse of the Soviet Union in 1994 and the triumph of Western Liberal Democracy, a phenomenon that the Japanese-American historian, Francis Fukuyama described as “the end of history,” democracy is now seen as a universal norm to which most of the countries in the world must conform. There are of course exceptions to the rule. These exceptions however, do not invalidate the universal acceptance of democracy as the best form of government. Government of the people, by the people and for the people seems to be a reasonable proposition but the process of attaining this political utopia is sometimes fraught with difficulties. Indeed Charles Louis Marquis de Montesquieu (1689-1716) writing in the 18<sup>th</sup> century, had argued

that democracy is not suitable for the tropics where he felt dictatorship would be more appropriate and that only people in the temperate region of the world had the patience to operate a democratic system. This view nowadays is seen as racist and there is no evidence to suggest that the practice of democracy is limited by geography (Osuntokun, 2013).

However, Momoh (2010) argues that the definition of democracy as “Government of the people, by the people and for the people” is not tenable. This Lincolnian defining is a myth. It never existed anywhere from the Greek city state to the United States of America. In Greece, there was classification of people into citizens and slaves, city people and ruralites. Only Citizens had franchise and could vote. Slaves did not. The Greek city state created an Assembly with direct representation, due to the small population involved. That is no longer possible today. Aristotle noted that democracy is not the best form of government, but the best compromise and most acceptable form of government. There are more than 200 variants of democracies in the world today. Indeed, there are no two similar democracies in the world, whether they draw from the same philosophical template or not.

According to Lively (1975), Abraham Lincoln’s classical definition of democracy at his famous Gettysburg war memorial speech in which he conceptualized democracy as being simply “a government of the people, by the people, for the people” finds meaning only when people go to the polls at periodic intervals to pick who their leaders should be as transparently and credibly as possible.

In the recent past, global effort towards democracy promotion has substantially increased especially, following the demise of communism in Eastern Europe and the fall of Berlin wall in 1989. This development was influenced by several factors such as the emergent unipolar world, impact of globalisation, development challenges affecting developing countries as well as the blowing wind of democratization across the globe. The global spread of democratic government has created a tremendous sense of possibility in countries that were long dominated by autocrats and by closed, corrupt regimes (Huntington, 1991).

Democratic reforms have opened political space in which citizens can more easily speak their minds, express their concerns, organize for common interests, seek out information, join political associations and parties, and choose their leaders. The new freedoms and institutions that accompany democracy, provide important tools for

holding leaders to account and promoting the transparency of government. These encouraging changes have taken root in dozens of countries and regions with different historical legacies and cultures.

Joseph (1991) maintains that government in every democracy derives its powers from the people and that sacred nexus is made manifest in the electoral system. It is from this people-propelled transfer of power that democracy as a form of government evolved. At the substratum of the democratic process is the power of the people to choose their leaders. Stripped of all embellishments, the idea of democracy boils down to the ability of the people to freely determine who governs them and for how long as pre-determined by the rules that they have made themselves. It is the ability of the people to elect their government in free and fair electoral contest that has fundamentally elevated the democratic option to societal management over and above all other forms of government(Ake, 2001) .

As at today, elections are the only process through which all the promises of democracy can reach its destination and indeed fulfill its objectives, namely the return of sovereignty to the people and making governments to dutifully concern itself solely with the welfare of those that elected the people. Unfortunately, the electoral process has not been as effective as possible in the realization of this objective in practice (Ikhariale, 2007).

Elections, under the guise of legitimisation through voting, have in some cases paradoxically become an instrument used to capture power. In these cases elections make it possible for leaders, families or parties to stay in power. Democracy promotion and credible elections are often linked together such that it is difficult to separate the two ( Crouzel, 2014). Elections are primarily a contest among groups, mainly political parties. It is the existence of such groups, organized and operated along democratic traditions, that gives meaning to the electoral process as the cornerstone of democratic politics. Election management has become one of the most important prerequisites for successful democratization and for democratic consolidation. This is because an independent and impartial election management has been regarded as essential in the transition to and consolidation of representative democracy. Successful democratization is dependent upon the acceptability by the

political players or stakeholders of the electoral process and election outcome (Udeala., Macogonor, 2013 ).

Liberal democracy has become a daunting challenge in Nigeria. Rather than build democracy, the façade of multiparty system and pluralism have become the cover for unleashing despotism and authoritarian democracy in Nigeria. Elections are the weakest link to democracy in Nigeria, they are the key context used for displaying the inability of Nigerian political elite to show that they have internalised the values and nuances of liberal democracy. They hate competition, are insensitive to public opinion, they are not accountable; above all, they are self-seeking, greedy and corrupt (Momoh, 2010).

According to Jega (2005) , the aspirations of Nigerians for stable democracy have been constantly frustrated by, among other things, poor administration and the conduct of elections. It is widely recognized that elections are among the most important pillars of democracy, being the mechanisms for popularly choosing representatives of the people for the machinery of democratic governance, especially in the executive and legislative spheres. Yet election administration in most third world countries has been fraught with problems, which leave much to be desired and which contribute to pre- and post-election conflicts, often with violently contested results.

The history of electoral processes in Nigeria is akin to the history of Nigeria herself as a nation. Both are chequered. Nigeria as a country, a contraption of the British colonialists emerged from the diverse intrigues and manipulations by the different European colonial powers which were in search of territorial occupation. Elections were held and the outcome of most of them hotly contested. It is indeed on record that all major elections in Nigeria were litigated upon up to the highest court of the land – the 1979 Presidential Elections, the June 12 1993 Presidential Elections, the 1999, 2003, 2007 and the 2011 Presidential Elections and the consequent litigations are pointer in this regard (Muhammad, 2012).

One element that has dominated electoral politics in Nigeria in the post-independence period is trenchant disputation of official elections results. Indeed, as noted by the late President Yar'Adua during the inauguration of the Electoral Reform Committee in August 2007, since the 1959 elections, which were the last to be supervised by the



colonial authorities, all but one election has had its result contested. The only exception to this pattern was the June 12 1993 presidential election which was annulled by the Ibrahim Babangida military administration. The post-election crisis that followed the annulment of the election results was not a consequence of inter-party disputation of the upshot of the election. Rather it was orchestrated by a military regime that was evidently reluctant to pursue its demilitarization program to the end. General Babangida was later forced out of power in August 1993 after ruling the country for eight years as military president (Animashaun, 2010).

(3) **ELECTION AND ELECTORAL PROCESS**

Elections can be defined as a formal act of collective decision that occurs in a stream of connected antecedent and subsequent behaviour. It involves the participation of the people in the act of electing their leaders and their own participation in governance. Elections are not only about the Election Day activities although it forms an important component. It encompasses activities before, during and after election and includes among other things, the legal and constitutional framework of elections, the registration of political parties, party campaigns and financing, activities of the electoral agencies, media, security agencies, and the government in power, voters registration, independence of the adjudicating bodies(Iyayi,2004, Songi,2008).

Elections are part and parcel of the democratic process, and as the right to democratic governance has become established as a human right, so too has the right to regular, free and fair elections. Thus by resolution 45/50 of 1991, entitled "Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections" the U.N. General Assembly stressed the conviction of member states that: "periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed and that as a matter of practical experience, the right of everyone to take part in the government of his or her own country is a crucial factor in the effective enforcement by all in a wide range of other human rights and fundamental freedoms, embracing political, economic, social and cultural rights. (Sagay, 2008)

These principles were re-iterated by the Assembly at its 48th session (1993-4) during which it declared that "periodic and genuine elections" are "necessary and

indispensable elements and a crucial factor in the effective enforcement of a wide range of rights" Article 21 of the Universal Declaration of Human Rights, 1948, enshrines the right of everyone to "take part in the government of his country, directly or through freely chosen representatives" and the "right of equal access to public service in his country".

More specifically, Article 21(3) is to the effect that "the will of the people shall be the basis of the authority of government." The will of the people, the Article further provides, "shall be expressed in periodic and genuine elections...". Furthermore, Article 25 of the International Covenant on Civil and Political Rights, 1966, avails "every citizen" the "right and the opportunity" ,without distinction and without "unreasonable restrictions", to (a) take part in the conduct of public affairs, directly or through freely chosen representatives; (b) vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; and (c) have access, on general terms of equality, to public service in his/her country (Azinge, 2010).

Elections provide essential validation for democracy by increasing the confidence of individual citizens in their ability to meaningfully participate in public life. When people feel that their personal interest in politics, and their engagement in elections, makes a difference, they are much more likely to value the democratic system (Lewis, 2005, *Buhari, 2005*).

Elections in Nigeria have never gone without serious doubt over its credibility. Beginning from 1979 to 2015, elections have been conducted to some extent without recourse to democratic requirements. It is clear that elections in Nigeria share common features of fraud and irregularities masterminded by overzealous political charlatans and hatched by an unreliable electoral umpire. The history of election management bodies in Nigeria dates back to the colonial era, with the establishment of the then Electoral Commission of Nigeria (ECN) to the present Independent National Electoral Commission (INEC). There had been twelve (12) appointed Chairmen of Nigerian electoral management bodies from 1958-2010. Table 2 outlines the names of the various Federal Electoral Bodies, their chairmen and their chairmen's tenure since 1958.

Table 1: Names of Nigerian Electoral Management Bodies and their chairmen, 1958-2010.

<b>Name of electoral body</b>	<b>Chair</b>	<b>Chair's tenure</b>
Electoral Commission of Nigeria (ECN)	R. E. Wraith	1958-1959
Electoral Commission of the Federation	Eyo Esua	1964-1966
Federal Electoral Commission (FEDECO)	Chief Michael Ani	1976-1979
Federal Electoral Commission (FEDECO)	Hon. Justice V. Ovie-Whiskey	1980-1983
National Electoral Commission (NEC)	Prof. Eme Awa	1987-1989
National Electoral Commission (NEC)	Prof. Humprehy Nwosu	1989-1993
National Electoral Commission (NEC)	Prof. Okon Uya	1993-1994
National Electoral Commission of Nigeria (NECON)	Chief Sumner Dagogo-Jack	1994-1998
Independent National Electoral Commission of Nigeria (INEC)	Hon. Justice Ephraim Akpata	1998-2000
Independent National Electoral Commission of Nigeria (INEC)	Dr Abel Guobadia	2000-2005
Independent National Electoral Commission of Nigeria (INEC)	Prof. Maurice Iwu	2005-2010
Independent National Electoral Commission of Nigeria (INEC)	Prof. Attahiru Jega	2010-2015

Source: Report of Nigeria's Electoral Reform Committee, Abuja, Nigeria, 2008, Jinadu, (2011) p.98 with slight modification

The 2003 general elections effectively put the country on the map of countries that do not understand or respect democracy. The monumental and state sponsored structural rigging showed a country that has no regards for the people's votes. Given the massive irregularities that attended the 2003 elections and the consequent legitimacy crisis they engendered, the 2007 polls presented an opportunity for both the government and the election authorities to restore public confidence in the election process. This opportunity was, unfortunately, squandered by the Obasanjo Presidency and INEC (Animashaun, 2010).

According to a report from the United States Centre for Strategic and International Studies, the dimensions of electoral malpractices and irregularities in Nigeria have widened, rather than reduced, as shown in Table 2

**Table 2: Nigerian Presidential Elections, 1999-2011**

Year	Result	Estimated election-related deaths
1999	Olusegun Obasanjo (PDP), 62:78 percent; Olu Falae (Alliance for Democracy/All People's Party), 37:22 percent	N/A
	<b>Observer Comment (Carter Center/National Democratic Institute):</b> "This transition from military to civilian rule was conducted generally without violence, and for that, Nigerians should be justifiably proud. However, the registration process and all four election rounds were marred, to varying degrees, by electoral irregularities, and sometimes, outright fraud."	
2003	Olusegun Obasanjo (PDP), 61:94 percent; Muhammadu Buhari (ANPP), 32:19 percent	105
	<b>Observer Comment (European Union):</b> "The electoral preparations by INEC, and in particular the registration of voters, started too ----- and led to recurrent delays during the whole electoral process... The elections in general were more peaceful than expected... The Presidential and Gubernatorial elections were marred by serious irregularities and frauds. In a number of States the minimum standards for democratic elections were not met."	
2007	Umaru Yar'Adua (PDP), 69:82 percent; Muhammadu Buhari (ANPP), 18:72 percent	300
	<b>Observer Comment (European Union):</b> "The 2007 State and Federal elections have fallen far short of international and regional standards for democratic elections... The elections were marred by poor organization, lack of essential transparency, widespread procedural irregularities, significant evidence of fraud, particularly during the result collation process, and lack of equal conditions for contestants. There were also numerous incidents of violence, although federal election day saw less violence than state election day."	
2011	Goodluck Jonathan (PDP) 58:89 percent; Muhammadu Buhari (CPC), 31:98 percent	800
	<b>Observer Comment (European Union):</b> "The 2011 General Elections marked an important step towards strengthening democratic elections in Nigeria, but challenges remain... The Presidential elections were conducted in a generally peaceful and orderly manner... INEC... managed to organize the 2011 elections guaranteeing overall effective exercise of voting rights to Nigerian citizens.... Regrettably, the Chairman's resolve to adhere to election regulations was not always supported by the performance of the remaining INEC structure... Violence which broke out in many parts of the country	

before and after elections caused loss of lives and properties, and several thousand internally displaced persons.”
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**Source:** Thurston (2015): Background to Nigeria’s 2015 Elections: A Report of the Centre for Strategic and International Studies, N W. Washington pg 10.

#### 4) **LEGITIMACY OF ELECTORAL PROCESS**

Legitimacy is the legal authority for power of rulers or political leaders. Legitimacy is a source of obligation to comply with the norms set by governments, and is thus an alternative to coercion as a basis of authority. The more transparent the democratic process especially in terms of free and fair elections the better the quality of legitimacy and respect for any political system in the comity of nations and vice versa. Although there are various forms of legitimacy, this paper focuses on democratic and electoral legitimacy (Mozaffar, 2002, Norris, 2014,). Democratic legitimacy refers to citizens’ commitment to the particular principles characteristic to democratic decision-making, and citizens’ perceptions on the extent to which decision-making actually follows these principles. Democratic legitimacy requires the approval of a system allowing popular influence and control over decision-making, especially the opportunity to change the government in elections. The concept of democratic legitimacy has similarities with Easton’s (1975) conception of diffuse support, which refers to support to the regime principles, rather than support to those in power (Norris, 2014, Bratton, Van de Walle, 1997).

Democratic legitimacy is, however, a many-sided quality. The sociologist Max Weber (1918) distinguished between substantive and procedural legitimacy: acts of government that are acceptable either for what they achieve (substantive) or for how they do it (procedural). Fritz Scharpf (1997) makes a similar point that legitimacy can be won or lost either on the input or on the output side of government: democratic selection of office holders, electoral approval of programmes, public consultation and so on are common ways of securing input legitimacy; meeting public needs and values, and ensuring that policy tracks public opinion, are sources of output legitimacy.

Another distinction is offered by the political theorist David Beetham (1991), who argues that there are three components to legitimacy in liberal democratic societies: the performance of institutions; their conformity to democratic values of consent,

representation and accountability; and political identity, without which citizens may question the right of a particular collectivity to make decisions on their behalf, however useful those policies, or impeccable the procedures by which they are made. The integrity of any election lies mostly in the processes and procedures that add up to the final results. These processes and procedures are at all times sacrosanct and should be well managed to ensure that elections are not questionable.

The Electoral process in Nigeria is a product of the Constitution of the Federal Republic of Nigeria 1999(as amended), the Electoral Act, 2010(as amended) as well as rules, regulations and guidelines made by the Independent National Electoral Commission pursuant to the powers conferred on it by the Constitution of the Federal Republic of Nigeria 1999. In addition, INEC can issue guidelines and procedures, including a Manual for Election Officials (2011). INEC and the Political Parties also developed a Code of Conduct for Political Parties (2011), under which the Inter Party Advisory Council (IPAC) was established.

Both the Constitution and the law envisage that elections in Nigeria must be credible and that legitimate votes must produce legitimate results. They presume that the processes and procedures through which various categories of office holders come to power are constitutional and in accordance with the rule of law and due process. It is therefore not permitted for the electoral management body, the government in power, political parties and their candidates to breach the provisions of the Constitution and the law in pre and post-election procedures and come to power through means and procedures not recognised by the Constitution and the law.

For elections to be credible and to be recognized as legitimate, the various stakeholders must play by the rules of the game and must have some level of fidelity to the law. In other words, the laws regulating the conduct of elections and the conduct of all the political actors must be clear and not subject to arbitrary ambiguity and self-contrived lacuna. The Electoral Commission and its officials must also have both financial and administrative independence to function effectively. The Constitution and the law therefore regulate electoral behaviour. There is therefore a rebuttable presumption that in the conduct of elections, the electoral management body, the candidates, political parties and all the major stakeholders complied with the law and the Constitution.

In the case of Nigeria, Section 1(2) of the 1999 Constitution of the Federal Republic of Nigeria makes it clear that the Federal Republic of Nigeria shall not be governed, nor shall any person or group of persons take control of the government of Nigeria or any part thereof, except in accordance with the provisions of the Constitution. The implication of these provisions is that persons and political parties can only come to power through adherence to the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and the Electoral Act, 2010 (as amended). The due observance and adherence to Constitutional and Electoral stipulations and timelines is fundamental to the credibility of elections. This is because, the processes and procedures enumerated in the Constitution and the Electoral Act, 2010 (as amended) are processes, steps and stages that must be complied with before the process of voting, collation and announcement of results will take place. If the Constitutional and Electoral Framework of an electoral process is faulty, skewed or manipulated, it may be difficult for such a process to produce results that would be acceptable to the Nigerian people (Okoye, 2013).

If elections are not fair and transparent, citizens lose personal confidence in their political influence. Citizens are unlikely to invest their hopes and aspirations in the political process if they believe that outcomes are pre-ordained, and their voice does not matter. When the public becomes disillusioned by a flawed electoral process, they are likely to withdraw into apathy or cynicism, sometimes becoming aggrieved and militant. These attitudes are unhealthy for the development of a democratic political culture, and can easily create opportunities for non-democratic elements to exercise influence. When elections are significantly flawed, however, most of these benefits turn into deficits, or even threats to the survival of democracy. When the public faces repeated episodes of election rigging, political violence, and disorderly administration, their fundamental trust in the institutions and processes of electoral rule may rapidly dissipate (Lewis, 2005, Farris, 2014, Omilusi, 2014)

The legitimacy of the electoral authority as manager of the electoral process is largely accepted by political parties and all candidates, as well as its fairness and the transparency of its activities. The registration, voting and results reporting process is fully credible, and legal action against violations as well as mechanism to challenge election results are considered to be largely effective. The results of elections, fully

endorsed by respected international monitoring groups and observers, now serve as evidence of popular sovereignty and have become the basis for international endorsement of the elected government. The invitation of international election monitors and observers therefore is no longer an act of courtesy, or a mere demonstration of the integrity of the electoral process, but an application for the recognition of the legitimacy of the government emerging from that process (Sagay, 2008) .

(5) **IMPERATIVES OF ELECTORAL REFORMS**

‘Electoral reform’ is a broad term that covers, among other things, improving the responsiveness of electoral processes to public desires and expectations. However, not all electoral change can be considered as electoral reform. Electoral change can only be referred to as reform if its primary goal is to improve electoral processes, for example, through fostering enhanced impartiality, inclusiveness, transparency, integrity or accuracy. Random and/or frequent electoral change, while it may be reformist, can also be confusing to voters, and thus defeat its purpose (Wall et al, 2012 ,Bolaji, 2015).

All over the world, governmental systems have been undergoing political transformation geared towards improving the effectiveness of the system. Reforming the political system suggests a systematic overhaul of the existing institution, political and polices and operating mechanism of government, that hitherto are antithetical to development. It includes evolving ways of making the political system work better, enhancing the relationship between the government, citizen and civil society, improving the electoral processes, restructuring the party system to enable maximum participation and healthy competition, reforming the political structure for healthy inter-governmental relations as well as enthroning a better system of government, all of which are geared towards better governance, political stability and development in general (Simbine, et al, 2008).

The need for electoral reforms has been a recurring staple or element of the Nigeria’s democratic process. The importance of an efficient electoral system cannot be overemphasized in any democratic political system. A good electoral system delicately balances the politics of participation with the politics of representation and ultimately contributes to the building of a viable and sustainable political culture. The



act of participation in the electoral process in a country not only vests legitimacy on the decision makers, it also makes the voters conscious that they are active and effective participants, though in an indirect sense, in the decision making process of their country. In a country where a good electoral system is in place, voting becomes much more than a ritual or a mechanical function but an important instrument of citizen-participation in the selection of their leaders (Udeala, Macogonor, 2013 ).

One of the closely monitored promises of late President Umaru Musa Yar-Adua in his seven point agenda is electoral reform. Having admitted that the process by which he emerged as president in April 2007 election was flawed, set a 22-man panel headed by former Chief Justice Mohammed Lawal Uwais to make proposal for electoral reform. The sustained interest in the choice of electoral reform is better appreciated when juxtaposed with the fact that no election in Nigeria since 1959 has gone undisputed. An overwhelming desire for electoral reforms among Nigerians heralded the inauguration in office of a new electoral Commission under Professor Jega in June 2010.

The Uwais, Committee made far-reaching recommendations on measures necessary to ensure the credibility of the electoral process in Nigeria. Government adopted some of those recommendations, although a few were not. These recommendations assisted INEC to carry out electoral reforms for 2011 general elections adjudged locally and internationally as credible and far better than 2007 general elections (Egwu, 2008).

In its final report of December 2008, the Election Reform Committee (ERC) commented on several shortcomings impacting on the quality and credibility of elections, such as, the weaknesses of the constitutional and legal framework, the lack of financial autonomy and administrative independence of the Electoral Management Bodies, the need for revising the provision for independent candidature and establishing intra-party democracy, and the necessity to address the prevailing atmosphere of impunity with regard to electoral offences. The ERC also made additional proposals to improve the performance of the government (Babatunde, 2009).

The Uwais report notes that the failure to conduct credible and acceptable elections in a polity, often generates outcomes that stunt the growth of democracy, on the one

hand, and the development of the nation, on the other hand. Regrettably, “the aspirations of Nigerians for a stable democracy have been constantly frustrated by, among other things, poor administration and the conduct of elections,” having regard to the fact that “election administration has been profoundly inefficient, characterized by muddled processes, and lacking in the desirable attributes of free and fair elections, a situation which often induces acrimony and even violence.” (Uwais Report, 2008).

A closer look at the Uwais Committee’s Report will reveal that it is a summary of the major problems confronting electoral administration in Nigeria which, include lack of capacity and shoddy preparation by the electoral commission, inadequate logistics and irregular electoral outcomes that have severally been confirmed by the courts. While most of the election results have been upheld on grounds of substantial compliance, this has not removed the odious stigma or lack of credibility or legitimacy on the beneficiaries of such controversial judicial decisions.

INEC’s involvement in legal and electoral reform processes has been structured across the electoral cycle. In the immediate post-election phase, the Commission undertakes post-election review consultations and it commissions independent post-election audits through which it draws lessons for reforms. It also draws lessons from the different complaints and appeals brought by stakeholders in the electoral process over the years. Complaints and appeals have informed some proposals for reform. For instance, the appeal brought by unregistered political parties in relation to the passing of the 2002 Act necessitated a revision of the relevant provisions in the Act.

In the later post-election phase leading up to the pre-election phase for the next general elections, the Commission was involved in drafting bills and proposals for reform for the attention of the National Assembly. This was the case in 2005, 2010 and 2012 when the Commission made submissions to the National Assembly after national and zonal consultations with stakeholders. The Commission is also central to the implementation of reform measures. This entails the development of guidelines and procedures taking into account the legal reforms in the lead up to the next elections. (For instance, after its consultation with stakeholders in 2010, the Commission adapted a modified voting system for the 2011 general elections.) It also undertakes outreach activities to raise public awareness on reforms (*Akinduro, 2012*).

### **Reforms Prior to 2011 Elections**

An overwhelming desire for electoral reforms among Nigerians heralded the inauguration of a new electoral Commission in June 2010. This was in the wake of far-reaching recommendations made by the Uwais Committee on measures necessary to ensure the credibility of the electoral process in Nigeria. Against this background, the following reforms were made by INEC prior to 2011 elections

- (a) A new biometric Register of Voters.
- (b) A Re-Modified Open Ballot System (REMOBS).
- (c) Improved security features on sensitive electoral materials, such as serial numbering and colour-coding of ballot papers and results sheets, as well as security coding of ballot boxes.
- (d) A more transparent framework for results collation and making returns.
- (e) Revised framework for engagement of Ad-hoc staff.
- (f) More transparent procedures on Election Day, including pasting of results at polling units and collation centres.
- (g) Closer collaboration and partnerships with a range of critical stakeholders such as political parties, security agencies, civil society organizations, media professionals, etc.
- (h) Enhanced voter education and citizens engagement.
- (i) Intensified training and retraining of INEC staff.
- (j) Creation of Inter-Agency Committee on Election Security (ICCES) ensure coordinated engagements of all the security agencies during election period (Jega, 2013).

Since the end of the 2011 elections, the Commission spent much time reflecting on the conduct and outcome of those elections. Many reviews were conducted involving INEC staff, security agencies, political parties, development partners and the media. Also, an independent committee of experts was appointed to review the 2011 voter registration and the General Election. The objective was to critically evaluate both processes, and learn necessary lessons to guide the Commission on how future elections could be improved upon beyond the modest achievements of 2011.

### **Further reforms before the 2015 General Elections**

To ensure success of the 2015 general elections, INEC carried out the following policy options.

- 1) Formulated a Strategic Plan (2012 – 2016), a detailed Strategic Programme of Action.
- 2) Completed a detailed Election Project Plan, the implementation of which led into the 2015 elections.
- 3) Conducted reorganization and restructuring of the Commission, drawing from the recommendations of a highly rated management consultancy firm. This restructuring, in summary, was designed to achieve the following: (a) define an optimal structure; (b) eliminate duplications and overlaps in roles; (c) streamline branches of the Commission namely Departments, Units, Desks, etc., and clarify manning levels; (d) clarify job descriptions; (e) identify skills and competencies required to man the branches of the Commission; (f) augment skills through continued training, where necessary; and (g) enhance the conditions of service of staff.
- 4) Finalized the de-duplication of the biometric Register of Voters.
- 5) Completed a Communication Policy / Strategy, designed to improve both internal and external communication by the Commission.
- 6) Drafted a Gender Policy intended to make the Commission's work more gender sensitive, in line with global best practice.
- 7) Recommended improvements to the legal framework based on experiences from the 2011 elections. These recommendations on changes to the Constitution and Electoral Act were submitted to the National Assembly for further action.
- 8) Established and received the report of a Committee that reviewed the role of the Commission in election-related litigations (COREC), with far reaching recommendations on improvements towards 2015.
- 9) Concluded the process of mapping and re-engineering the Commission's Business Process and Election Management System (EMS). The idea is to fully map, and then reengineer how the Commission does its work, including the production of operational manuals and workflow diagrams.
- 10) Reorganized the Electoral Institute, with the appointment of a new Director-General and reconstitution of the Board.

- 11) Established a Graphic Design Centre with support from IFES, which for the first time gives the Commission the capacity to produce several election materials internally.
- 12) Embarked on a programme to review electoral constituencies and remap/ reorganize polling units.
- 13) Undertaking the training and retraining of staff on an ongoing basis, especially through several BRIDGE training workshops.
- 14) Revised all Guidelines and Regulations on the electoral process and started a discussion with legal experts across the country on how to enact and gazette them (Jega, 2013).

Regardless of these laudable initiatives, Professor Jega faced several controversies since 2011 which reflected Nigeria's sectional divisions. Equally damaging could be the ethnic and regional campaigns that attended to INEC's proposal to create additional 30,000 polling units to the existing 120,000 polling units, apparently aimed at solving problems of congestions of polling units experienced since the 2011 elections while at the same time responding to significant populations shifts and demographic changes in many parts of the country (Egwu, 2015, Thurston, 2015).

### **PVC and Card Readers Technology**

For the first time in Nigeria's electoral history, Permanent Voter Cards (PVCs) and electronic voter authentication system (Smart Card Readers) were deployed for the 2015 general elections. The PVC replaced the Temporary Voter Card (TVC) issued on the heels of registration of voters since 2011. Quality, security, durability and cost effectiveness are underlying factors in the production of the Permanent Voter Cards by INEC. The card reader uses a highly secure and cryptographic technology that is used commonly in devices that need to perform secure transactions, such as paying terminals. It has ultra-low power consumption, with a single core frequency of 1.2GHz and an Android 4.2.2 operating system (Farris, 2014).

The card reader units were broadly subjected to Quality Assurance, Integrity and Functionality testing and found reliable in ease of use, battery life and speed of processing. For instance, it takes an average of 10 seconds to authenticate a voter. The card readers were subjected to Stress testing in the states and FCT ahead of the March 28 and April 11, 2015 elections. INEC made a card reader available at every voting

point in the 36 states and Federal Capital Territory (FCT) during the 2015 elections, with a substantial number of spare parts available to address contingencies (Jega, 2014).

## **SUGGESTED AREAS FOR MORE ELECTORAL REFORMS**

### **(1) Reform of INEC:**

In general INEC should be reformed to reflect the following:

- (a) The constitution of the members of INEC should be amended to comprise of all stakeholders; political parties, trade unions and the civil society. The appointing process should be designed to ensure independence.

Qualification for appointment should be reviewed to avoid a situation where only partisan individuals can be appointed into the commission. The Resident Electoral commissioners should be members of INEC to enable the Commission to have control over them.

- (b) All funds accruable to INEC should be charged to the consolidated account of the Federation without the interference of the Federal Government.
- (c) There should be adequate and continuous training of INEC staff. The ad hoc staff of the commission should be non-partisan.
- (d) Adequate and timely preparation must be made with respect to election materials and the conduct of election. The fire brigade approach adopted by INEC in the last dispensation is condemned and it is submitted that preparation for next election should start in time.
- (e) INEC should be equipped to have more supervisory control over political parties especially in the area of party finances. There should be in place a machinery to enable INEC monitor party nomination, campaign and intraparty activities.

### **(2) A Review of Electoral Act 2010 as Amended.**

The Electoral Act is the working document which provides the legal framework for the electoral system and in particular the conduct of elections. It is important piece of legislation which the election is predicated. Whilst not being the only relevant law in the system, it determines to a large extent the colouration of the electoral process. As such it must be adequate in scope and in material particulars. The Electoral Act in

Nigeria has gone through series of amendments. The 2015 General Elections were conducted using the 2010 Electoral Act. In spite of the obvious effort made in improving on previous electoral laws, there were lapses in the law that impacted negatively on the process:

There are actually only four outstanding areas of suggested reform of the electoral process, which will require constitutional amendment. These are:

- (i) Mode of Appointment of Chairman and Members of the Commission as well as the Resident Electoral Commissioners;
- (ii) Funding of the Commission through the first charge on the Consolidated Revenue Fund;
- (iii) Adjudication of post-election disputes before the swearing-in of the declared winners; and
- (iv) Introduction of a system of proportional representation.

The following are recommended for a review

(a) **Prosecution of Election Offenders**

Section 158 vests the commission with the power to prosecute offences. In spite of the glaring number of election malpractices, nobody has been prosecuted. This suggests incapacity of the Commission to undertake this job. This provision also suggests exclusivity of the power conferred on INEC. This would also mean that other agencies like EFCC, Nigerian Police and other related agencies cannot prosecute electoral offences. In effect the sanctions for electoral offences which ordinarily should be a deterrent are rarely enforced. What is clear from the last elections is that individuals do not have any fear of the law as regards electoral malpractices (Udo Ogbonna, 2007).

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. There has also been considerable debate as to the capacity and willingness of the Independent National Electoral Commission to prosecute electoral offenders in a professional and ethical manner. Debates are also ongoing as to the willingness of some elements within the political parties to act within the compass of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the

Electoral Act, 2010(as amended) for winning elections and abandon fraudulent means and ways of doing the same.

These debates are hinged on the fact that the refusal, inability or incapacity of the Independent National Electoral Commission to prosecute electoral offenders encourages electoral impunity, voter apathy and the gradual disengagement of the Nigerian people from the electoral process as some of them believe that electoral fraud and malpractices renders their votes meaningless and even if they vote, their votes may not count. The debates are also hinged on the fact that if nobody is prosecuted successfully, It may then be more profitable to engage in electoral fraud and malpractices (Okoye, 2013)

(b) **Re- examination of police powers during general elections**

The power to prosecute and bring offenders to justice is a necessary adjunct to police powers. Indeed, stakeholders maintain the unassailable position that power to prevent, and apprehend criminals, without a corresponding power to prosecute is an exercise in futility. Consequently when the Electoral Act 2010 provides in section 150 (2) of the Electoral Act that ‘Any prosecution under this Act shall be undertaken by legal officers of the Commission or any legal practitioner appointed by it.’ It has expressly and openly emasculated the Police in its task of securing electoral peace and harmony. This section has far-reaching implications; firstly, it removes prosecutions of electoral Offences from the Police and the Federal and States Ministries of Justice and restricts this important exercise to legal officers of INEC or legal practitioners appointed by the commission.

The implications is that INEC does not have the manpower to prosecute even 10% of electoral offences. By divesting the police of powers to prosecute such summary offences, who will investigate the offences, because, the fall-out of this prosecutorial ban is that the police will lose an interest in investigations. At any rate, it is settled law that the Federal Attorney-General can take over or discontinue any criminal proceedings in the Federation or State. So what is the functionality of this provision?

It seems clear that the provision which seeks to preserve the independence and integrity of elections under the Act by limiting participation in prosecution to INEC staff or lawyers briefed by her, loses sight of clear constitutional provisions which fetter its power to do so. For instance section 214 of the 1999 Constitution which



prescribe that there shall be only one police force in Nigeria and the provision of section 174 and 211 which vest powers to prosecute criminal offences on the Attorney-General of States and the Federation. Secondly, the Commission does not have the manpower to prosecute all offences charged to court in the Federation. Prosecution is expensive and rigorous business, and it is also a specialized art. Till date, INEC Legal Department is not equipped to prosecute any offender under the Act as the necessary facilities are not in place (Daudu, 2015).

(c) **Political Finance:**

Political finance regulation is very important in any electoral system. Such provisions must be one that is able to strike a balance between financial needs of political parties and financial abuse. It must make it possible for parties to access funds, whilst also making it difficult for such parties to engage in financial improprieties. An effort was made to reform the political finance regime in the Electoral Act but it is still inadequate. The Act places a limitation on the amount of money candidates can spend in election without a limit on what political parties can spend. In Nigeria, the campaign funds of political parties and candidates, are hardly distinguishable. As such, candidates can through their parties spend as much money as they want without falling foul of the Act. The last election aptly exemplifies this. Infringement of campaign finance regulation is not factored in the consideration of substantial compliance and neither does it serve as a ground to disqualify a candidate or a political party from contesting elections (Udo, Ogbonna, 2007).

(d) **Election Petition Process**

The election petition process is designed to afford candidates and political parties the opportunity to subject the outcome of elections to the judicial oversight. It is given that no electoral system is flawless. As such the court provides a forum whereby results of elections are queried to give vent to the voice of the people as expressed via the ballot. Election petition process in Nigeria has not been able to provide optimum result in terms of satisfactory conflict resolution.

Section 144 of the Act restricts this capacity to only political parties and candidates who participated in the election. Other relevant stakeholders like electors, trade unions and civil society organisations are excluded in questioning the outcome of elections.

(e) **Resolution of election matters before swearing in ceremony**

Another important area where reform is required is limiting the time for election petitions in a fair and predictable manner. There must be constitutionally entrenched provision to hold Nigeria elections at a time certain and put all attendant disputes/petitions on a fast track towards prompt resolution. Specifically, all petitions must be concluded before the swearing-in ceremony is performed and oath of office taken. There is need to in such a manner as to hold elections 4 - 6 months before elections to enable the Tribunals dispense with most election petition cases before elections.

(f) **Repeal Section 52(2) of the Electoral Act 2010 (As Amended) on electronic voting**

There is the need to repeal Section 52(2) of the Electoral Act 2010 (as Amended) which prohibits the use of electronic voting machine for the time being. This is to allow the Commission to use its discretion to apply electronic voting at any time it deems it appropriate. Information, Communication Technology (ICT) has highly and positively impacted all areas of the electoral process, such as voter registration, voter education, electioneering campaign, data acquisition, integrity, and transmission, actual voting, vote counting, election monitoring and election security the world over. Nigeria cannot be an exception. The role of ICT in elections should be to provide more universal and equal suffrage, to ensure the secrecy of votes, and to accurately and credibly determine the will of the people. The infusion of ICT into any sensitive aspect of our election management system in particular must be very strategic, tested gradually, and go with adequate mobilization, education, and consensus building.

Many countries around the world are adopting voting technologies, especially the Direct Recording Electronic System, Electronic Ballot Printers, Optical Mark Recognition and Internet Voting System. It goes further than the game-changing PVC and card reader, involving button or touch screen machines, to voting via telephones or personal computers. E-voting is already in use in Brazil, the United States, Belgium, Estonia, Philippines, India and Namibia. Estonia allows citizens to cast their votes from any computer anywhere in the world, using a national identity card although two-thirds of its voters still choose to cast votes in polling stations. We are convinced that electronic-voting is the way to go. INEC should fully explore the benefits of these technologies before the next round of elections.

**(g) Incorporation of Alternative Dispute Resolution into the Electoral Process**

Alternative Dispute Resolution (ADR) may be defined as a range of procedures or processes that serve as alternatives to litigation through the courts for the resolution of disputes, generally involving the intercession and assistance of a neutral and impartial third party. An ADR contract is a clause in an agreement by which the contracting parties agree to attempt to resolve any disputes between them by the use of one or more ADR processes.

The fields to which ADR principles can be applied are never closed. Thus the categories can be enlarged. Thus for pre-election disputes whether inter- or intra-party, adopt ADR and not litigation. To achieve this, the parties need to amend their Constitutions to accommodate ADR processes. Political parties need to re-orientate their members to imbibe ADR processes. It is recommended that the Electoral Commission should establish a framework for settling inter-party pre-election disputes. Until these recommendations are incorporated into the reform of the electoral process, it is recommended that the provisions in the Constitution and the Electoral Act be used to make rules, regulations, guidelines and manuals for political parties. Such instruments should provide for ADR processes, as appropriate.

Discourage litigation in pre-election disputes; compromise and make concessions in the national interest and consider the opportunity and transaction costs of litigation. Obviously, the major challenges against using ADRs for political disputes are the absence of a legal framework for their use, difficulties with the enforceability of the outcomes/decisions of most of them, and the possible absence of requisite co-operation on the part of some disputants. Those problems can be easily dealt with by an Act of the National Assembly and Laws of the State legislatures.

**(h) Inclusion of Diaspora voting rights in the Electoral Act**

It is ineluctably true that Section 77, Subsection (2) of the 1999 Constitution states, “Every citizen of Nigeria, who has attained the age of eighteen years residing in Nigeria at the time of the registration of voters for purposes of the election to a legislative house, shall be entitled to be registered as a voter for that election.” This suggests that this part of the constitution has to be amended first to allow voter registration in the Nigerian embassies, consulates or missions around the world. Amending this section of the constitution would hasten the Diaspora voting.

The Diaspora Voting Rights are rights long past due on the minds of most Nigerians living overseas. Nigerians in the Diaspora would want to be allowed to register and vote in elections in Nigeria, especially in the gubernatorial and presidential elections. It is estimated that about 116 countries have a system that allows their emigrants to fully participate in their electoral process through external voting. According to globalirish.ie, in a “2006 study of countries that allow their emigrants to vote included: 21 African nations, 13 North and South American countries, 15 Asian countries, 6 Pacific countries, and 36 European countries.”

Interestingly, many countries, including Switzerland, Ghana, Dominican Republic, Philippines, Columbia, Mexico, United States, Great Britain, and others, have voting right laws that allow their citizens living abroad to register and vote in their native countries’ elections regardless of their countries of abode. For the most part, these countries allow their citizens to cast their votes in their respective embassies and consulates. In some cases, some of these countries are utilizing e-voting and internet voting to facilitate the participation of their citizens in their national elections.

Leading democracies around the world allow their citizens living abroad to participate in the elections of the home countries. These countries have been doing so and have made provisions for its citizens residing at different points in the world participate in their elections and we believe that Nigeria should join in the league of countries that give every of their citizens the opportunity and right to speak with his/her vote. The proposed electoral reforms by the Buhari Administration should incorporate Diaspora voting.

**(i) Mainstreaming of domestic and international election Observers/Monitors into the planning and conduct of the elections.**

Section 144 of the Electoral Act 2010 as Amended restricts election petition process only to political parties and candidates who participated in the election. Other relevant stakeholders like electors, trade unions and civil society organisations are excluded in questioning the outcome of elections. There is the need to ensure that domestic and international election observers/monitors are mainstreamed into the planning and conduct of the elections. The results of elections, endorsed by respected international monitoring groups and observers, now serve as evidence of popular sovereignty and

have become the basis for international endorsement of the elected government. The invitation of international election monitors and observers therefore is no longer an act of courtesy, or a mere demonstration of the integrity of the electoral process, but an application for the recognition of the legitimacy of the government emerging from that process.

**(6) PROGNOSIS AND PROSPECTS:**

After over five decades of political independence, and the fifth attempt at democratic governance, Nigeria cannot be described, yet as a stable political system. No country, including the advanced democracies have yet devised a perfect process of electoral administration. The difference between those countries and most developing states, including Nigeria is that they have subjected their electoral procedure to an uninterrupted practice, and over the years their electoral systems have not only matured but have also endured. It is for this reason that an electoral reform becomes the most significant step towards realizing the goal of free and fair elections and sustainable democracy in the country.

The 2015 general elections despite some identified flaws have laid the foundation for strengthened electoral procedures. The credibility of the 2015 general elections has had a positive effect on democratic consolidation in Nigeria. While the country continues to face significant governance challenges, especially in the areas of transparency and accountability, many political actors are demonstrating greater democratic tendencies. There is no doubt that the prospects of having remarkably much better elections in 2019 and beyond are very bright. It is not possible to predict all the challenges that could face the management of an election, what needs to be done by Election Management Bodies is to learn from past challenges and introduce measures to prevent reoccurrence, as well as anticipate new ones and how to contain them.

There is the urgent necessity for fundamental electoral reform so as to set a solid foundation for a stable democracy in Nigeria. The challenges and opportunities for electoral reform are so numerous. A good electoral system delicately balances the politics of participation with the politics of representation and ultimately contributes to the building of a viable and sustainable political culture. The act of participation in the electoral process in a country not only vests legitimacy on the decision makers, it

also makes the voters conscious that they are active and effective participants, though in an indirect sense, in the decision making process of their country.

For elections to be credible and to be recognized as legitimate, the various stakeholders must play by the rules of the game and must have some level of fidelity to the law. In other words, the laws regulating the conduct of elections and the conduct of all the political actors must be clear and not subject to arbitrary ambiguity and self-contrived lacuna. The Electoral Commission and its officials must also have both financial and administrative independence to function effectively.

Electoral legitimacy cannot be taken for granted any more if we are to build a stable democracy. Mechanisms for promoting and maintaining electoral legitimacy in every aspect of the electoral process are often established within the official bodies that administer or support the administration of elections. These mechanisms make it possible to monitor actions of the electoral administration; ensure oversight of the electoral process by other government sectors or agencies, civil society, and the media, and provide for enforcement of electoral rules and regulations through administrative or legal means. Both the Constitution and the law envisage that elections in Nigeria must be credible and that legitimate votes must produce legitimate results. They presume that the processes and procedures, through which various categories of office holders come to power, are constitutional and in accordance with the rule of law and due process.

Closely related to electoral legitimacy is electoral integrity which is also key to a credible electoral process. Electoral integrity is more than the mere absence of political manipulation and fraud. However, it includes commitment to design and align the electoral legal framework, rules and practices with international human rights and electoral commitments. It also includes a full commitment to transparency, inclusivity, professionalism, honesty and a full and genuine engagement with key electoral stakeholders – electoral contestants, the legislature, voters, the media, civil society, the security sector, etc. – in order to arrive at an electoral outcome acceptable to at least the majority of the people. Consistent, legitimate electoral standards and practices help detect, deter and prevent electoral improprieties and illegalities, and help ensure integrity. Legal framework generally establishes protection mechanisms and determines the institutional structure to support electoral integrity.

The main challenge experienced by INEC in its engagement in reform processes in the past has been the lack of political will by the political class (including members of the National Assembly) to see proposed reforms through and sometimes the lack of political will crosses over into the realm of political interference. A case in point is the proposal made by INEC to restrict political office holders from voting as delegates in party conventions. This proposal was made by the Commission to improve the fairness of the electoral process, improve internal party democracy and limit the influence of incumbents in internal party processes. This proposal was dropped by the parliamentary committees as it was deemed not to favour the political class.

The prospects of democratic consolidation in Nigeria is very high. President Buhari who was at the receiving end of flawed electoral system for 12 years should consolidate on the progress made so far by INEC during the 2015 elections and commence reforms that will fundamentally change electoral governance in Nigeria. Indeed, the President had to taste the bitter poisons of betrayals, conspiracy, blackmails and propaganda within his party and loyalists on one hand and the ruling party on the other hand. Unperturbed, the man continue to move from one electoral defeat to another, but, interestingly, he neither compromised his integrity, principles and moral standards, nor dent his record with corrupt tendencies. For a man who contested elections three times and lost and still maintained his integrity, principles and morality in a geographical entity called Nigeria, indeed deserves commendations and iconic projections (Bukhari, 2015) .

By carrying out more electoral reforms, President Buhari will be fulfilling his promise to ensure that all those who commit electoral crimes are swiftly brought to justice. As long as electoral criminals go unpunished, they will continue to ride roughshod over the electorate with impunity. No country has ever moved forward with its people heavily divided along tribal or religious lines. Hence the urgent need for a vibrant civic education devoid of partisan politics, taking center stage and working hard to favourably engender people's interest and support in the policies and visions of government. For example, the president has identified insecurity, unemployment and corruption as his major priority areas. Evidently, the resolution of these will enhance Nigeria's material development; but to succeed, it needs a complementary in-built human-factor mechanism aimed both at orienting public attitude towards the

understanding, accepting and owning of that reform, and conforming to the cultural environment of Nigeria within which the reform is applied.

(7) **CONCLUSION**

The 2015 General Elections in Nigeria marked a significant improvement in the credibility and transparency of the electoral process, reversing the downward trend in the conduct of polls since the transition to civilian rule in 1999. What the Buhari Administration should do as matter of urgency is to fulfill its promise of instituting deep and elaborate reforms that will lead to the restoration of the integrity of the electoral system in this country and ensure that future elections meet minimum acceptable international standards. For example, more independence for the electoral agency will make it more impartial in mediating between competing political claims; its better funding will lead to improvements in logistics and the handling of the elections.

Without doubt, President Muhammadu Buhari has raised high hopes in Nigerians and on Nigeria. Given that Buhari had for 12 years and four consecutive times been trying to be president, these hopes are indeed justified; for no one would take such a plunge if he did not have something concrete to offer his country. The hopes were further reinforced by Buhari's personae and his unalloyed commitment towards building a nation of our dream. But against these hopes is the reality of considerable challenges on the ground facing the new administration.

Clearly, President Buhari's integrity and character, if applied in his leadership style, can induce in Nigerians the appropriate qualitative change in the re-organization of their productive forces for economic self-reliance and veritable political renaissance . His government can create the opportunity for Nigerians to think anew, to decide how best to reform electoral system and to engineer social changes that would lead to a truly democratic and free society for a better and greater tomorrow.

At a time when the change mantra is fast overwhelming the entire country, it is time we began to see our democracy as one that can stand the test of time. Change means overhauling everything that is bad in this country. Change means complete departure from what used to be before, to a new serious and committed process. Change means, change in looting of the treasury, change in orientations and attitude of government officials and masses too; change to people-oriented programmes and policies; change



to accountability, transparency, rule of law, probity, selflessness, freedom, openness and participation in governance and decision making process etc. Change is all embracing concept that needs seriousness, sincerity and political will of those in leadership position and support, encouragement and commitment of the masses. It takes two to tango, change should be a reciprocal gesture between the leadership and followers.

Change also involves reforming the mindset of Nigerians which goes beyond civic education. With a population of about 70 percent Nigerians living below poverty line, it will be a tough call to separate our political culture from the large influence of unemployment, poverty and hunger. Proper economic framework must be put in place to save Nigerians from selling their conscience for a loaf of bread. A hungry man cannot have a changed mindset if his hunger is not taken care of. Our point here is that a new political culture and the proposed electoral reforms by the Buhari Administration can only be achieved when the state hold answers to the needs of the people. No amount of electoral reform would be effective without positive human attitude towards compliance and obedience to the dictates of the law.

Towards this goal of election reform, active citizenry is important for democratic consolidation. An active citizenry is crucial to the sustenance and deepening of any country's democratic experience. The active participation of citizens not only ensures sustained engagement and participation in the political and electoral processes, it could also discourage impunity in political culture. Election Management Bodies need an active citizenry to complement their efforts at ensuring that elections are free, fair and credible. Our experience in Nigeria is that the citizenry has been largely apathetic towards the political process due to widespread poverty, low literacy level and distrust of government. Without an active citizenry, efforts to deepen the credibility of elections would have limited impact. Building public confidence in the electoral system requires coordinated and sustained civic education, public enlightenment and conscientization, grassroots mobilization and engagement.

No country has ever moved forward with its people heavily divided along tribal or religious lines. Despite the fact that we have not been able to properly come to terms with our differences for the common good of the country over a long period of time, it is hoped that the success of 2015 elections will open our eyes to the reality of

greatness in diversity. It is only when we see the virtues in this dream rather than the vices that we can move towards greatness as a nation.

There is no doubt that because of Professor Jega's indelible footprints in INEC, his successor has tremendous challenges ahead, which requires seriousness, commitment, sacrifice, selflessness, and political will. Whoever succeeds Professor Jega as INEC chairman must not only consolidate on already entrenched electoral reforms but also must carry out more reforms in line with policy thrust of the President on electoral democracy. Nigeria is not in short supply of strategies or mechanisms for managing its pluralism and electoral crises. The challenge has been that of effectively implementing these mechanisms, either by way of enforcing relevant constitutional provisions or by implementing recommendations made in respect of political and electoral crises that had occurred in the past.

(8) **Recommendations**

The following recommendations are necessary as for building legitimacy in our electoral governance.

(a) The Federal Government needs to return to the drawing board and fully implement the Uwais Report on Electoral Reforms which provides for an Electoral Offences Commission and a Tribunal to be its adjudicative arm. This step is imperative for the maintenance of law and order during elections and beyond. The Uwais Committee's Report is no doubt a summary of the major problems confronting electoral administration in Nigeria which, include lack of capacity and shoddy preparation by the electoral commission, inadequate logistics and irregular electoral outcomes that have severally been confirmed by the courts. While most of the election results have been upheld on ground of substantial compliance, this has not removed the odious stigma or lack of credibility or legitimacy on the beneficiaries of such controversial judicial decisions.

(b) Given the emerging consensus that INEC is not truly independent, it is imperative that measures to secure its autonomy be put in place. In particular, the present procedure for the appointment of the Chairman and Commissioners of INEC should be changed. Also, funding of INEC should be taken away from the control and overbearing influence of the executive branch of government; INEC's budget should

be directly submitted to and approved by the National Assembly, and its funds drawn directly from the Consolidated Revenue Fund.

- (c) The National Assembly should initiate a review of the Electoral Act 2010 to provide for the conclusion of all election-related litigation before any victor takes public office. Our untidy arrangements have allowed some to enjoy stolen mandates as governors and legislators for as long as three years before the rightful winners are recognised by the courts, while some enjoy the full four-year term. There are various flaws in the electoral laws; unwholesome delay in the determination of petitions at the Elections Tribunals, INEC has been inefficient in election administration, lack of funding and late preparations have hampered past monitoring exercises.
- (d) To have credible elections, we must have an Electoral Offences Commission. Electoral offenders must be promptly and vigorously prosecuted and punished, in order to serve as deterrence to others. The best way to deal with electoral offences is the adoption of the Justice Uwais Electoral Reform Committee recommendation which is to establish an Electoral Offences Tribunal. The electoral laws must be consistent with the imperative of broadening the democratic space. The courts and tribunals must be fair, impartial and incorruptible in their adjudication of electoral matters. Both the leaders and the led must appreciate the role of the Court in general and the Supreme Court in particular in the development of the democratic values and practices. It is if and only when this is done and we all learn to accord respect to the orders of court that we will join the rest of the democratic comity of nations as having arrived.

## REFERENCES

- Ake, C. (2001), *Democracy and Development in Africa*, Spectrum Books, Ibadan,
- Akinduro, O (2012) *Nigeria: The Role of EMB in Electoral Reform. Legal Framework ACE Newsletter 3<sup>RD</sup> Edition*
- Alechenu, J (2015) “Buhari Pledges Electoral Reforms, Good Governance”: Punch Newspaper, May 7, 2015
- Animashaun, K (2010) Regime Character, Electoral Crisis And Prospects Of Electoral Reform In Nigeria. *Journal of Nigeria Studies vol1 no 1 Fall pg 1-33*
- Azinge, E. (2010): Imperatives And Challenges For Credible Elections. Roundtable on 2011 Election. Nigerian Institute Of Advanced Legal Studies Lagos, Nigeria held 27<sup>TH</sup> July, 2010
- Babatunde, O. (2009) *Democratic Studies.: Electoral Reforms in Nigeria*. Lagos, NOUN Publication
- Beetham, D. (1991) *The Legitimation of Power* (Basingstoke: Macmillan)
- Bolaji, k (2015) Toward Institutionalizing Credible Elections in Nigeria: A Review of Reform Measures by the Independent National Electoral Commission. Extracted from *Improving Electoral Practices: Case Studies and Practical Approaches*. International IDEA, Stockholm, Sweden
- Bratton, M., & Van de Walle, N. (1997). *Democratic experiments in Africa*. Cambridge university press
- Buhari, M (2005) “Challenges Facing Democracy In Nigeria. Delivered At The International Conference On Sustainable Democracy In Nigeria: Challenges And Prospects” organised by the Foundation For Good Governance And Development In Nigeria held At Imperial College, London, South Kessington Campus On Saturday 25th, June 2005
- Bukhari M. B. J(2015) Buhari: Sacrifice, Patience, Change, and Peoples’ Expectations (I) [www.academia.edu](http://www.academia.edu) retrieved June 30, 2015
- Crouzel, I (2014) “Elections and the Risk of Instability in Africa: Supporting Legitimate Electoral Processes”. Occasional Paper 196, *South African Institute of International Affairs* pg 1-20
- Dahl, R. A. (1975). *Polyarchy: Participation And Opposition*. New Haven, Conn., Yale University Press.

- Daudu, J,B ( 2015) 2015 General Elections And Survival Of Democracy In Nigeria on June 04, 2015://www.vanguardngr.com/2015/06/2015-general-elections-and-survival-of-democracy-in-nigeria. retrieved 23, May 2015
- Egwu, S (2015) Nigeria's 2015 Election: General Outlook And Challenges *westafricainsight.org/.../Nigerias%202015%20Elec..Retrieved 28, 2015.*
- Egwu, S. (2008) “Electoral Reform and Democratic Consolidation in Nigeria” in Akande, S.O, and Simbine,A.T (Eds) *Electoral Reform in Nigeria: Proceeding of a National Workshop*, Ibadan. NISER Publication
- Farris, F (2014) Improving Transparency And Openness In Nigerian Elections Through The Collaborative Use Of Technology. Progress Report. Prepared for the Canadian High Commission in Nigeria Federal Republic of Nigeria 1999.
- The Constitution of the Federal Republic of Nigeria. Lagos: Federal Government Printer.
- Frazer, J.E (2007) Nigeria at a Crossroads: Elections, Legitimacy and a Way Forward. Assistant Secretary for African Affairs. Testimony Before the House Foreign Affairs Subcommittee on Africa And Global Health Washington, DC June 7, 2007
- Huntington, S. P. (1991). *The Third Wave: Democratization in the Late 20th Century*. Norman: University of Oklahoma Press.
- INEC and FES (2011) Voter Apathy and the 2011 Elections in Nigeria: A Research Report Commissioned by the Independent National Electoral Commission (INEC) and the Friedrich-Ebert-Stiftung (FES) Abuja, Nigeria
- INEC (Independent National Electoral Commission (2005). Reports of 2011 General Elections Handbooks: Abuja, INEC.
- Jega, A (2014) Challenges Of Fraud-Free Election Under A Democratic Dispensation. A presentation at a Public Lecture / Book Launch by the Mustapha Akanbi Foundation (MAF) in Ilorin, Kwara State, on the 12th March,
- Jega, A (2013) “Electoral Reforms in Nigeria: Prospects and Challenges” a lecture at the 7th International Electoral Affairs Symposium, in Kuala Lumpur, Malaysia
- Jega, A.M. (2005) Electoral Reform: Building Confidence for our future. An Overview. Being a report a conference with the theme NIGERIA. Electoral Reform: Building Confidence for the Future held on March 17-19, 2005 in Abuja
- Jinadu, A. (2011) Election Management Bodies in West Africa. A comparative study of the contribution of electoral commissions to the strengthening of democracy; Johannesburg, Open Society Initiative for Southern Africa (OSISA)
- Jinadu, L.A (2008) Problem of Electoral Reform in Nigeria In Akande,S. O, and Simbine, A. T. (Eds) *Electoral Reform in Nigeria: Proceeding of a National Workshop*. Ibadan. NISER Publication

- Jinadu .A. (1997), “Matters Arising: African Election and the Problem of Electoral Administration,” *African Journal Of Political Science*, vol. no.4 pg 1-11
- Joseph, R and Gillies, A. (2010) “Nigeria’s Season of Uncertainty”. *Current History*” May 2010 pg 1-7
- Joseph R. A (1991). *Democracy and Prebendal Politics in Nigeria: The Rise and Fall of the Second Republic*. Ibadan: Spectrum Books.
- Ikhariale, M. (2007) “Electoral Reform: The Core of the Yar’Adua New Deal”. *Sunday Independence* August 26, 2007 pg b10
- Iyayi, F. (2004) “The Conduct of Elections and Electoral Practices in Nigeria” , being a paper delivered at the NBA Conference in Abuja on 24th August, 2004.
- Iyayi, F. (2005) “Elections And Electoral Practices In Nigeria: Dynamics And Implications”. *The Constitution*, Vol. 5, No. .2, pg 1-32
- Lewis, P. M. (2005) “Troubled Election Outcomes As A Threat To Democracy”: A Global Perspective. Being a Paper Presented During Conference With The Theme *NIGERIA. Electoral Reform: Building Confidence For The Future* Held On March 17-19, 2005 At The Yar’Adua Centre, Abuja
- Lively J (1975). *Democracy*. Britain: Western Printing Services Ltd.
- Momoh, A (2010) “Democracy And Elections: Myths, Illusions And Realities” being 3rd Annual Law and Social Development Lecture delivered at Airport Hotel Ikeja, October 25, 2010
- Mozaffar, S. (2002) ‘Patterns of Electoral Governance in Africa’s Emerging Democracies’, *International Political Science Review*, 23/1 ,pp. 29–46
- Muhammad, I. T. (2012) “Judicialism And Electoral Processes In Nigeria What The Supreme Court Did; What The Supreme Court May Do”. Being the text of a paper presented at the 2012 Felix Okoye Memorial Lecture held at the Nigerian Institute of Advanced Legal Studies, Lagos, on 18th September, 2012.
- National Democratic Institute (2012) *Final Report on the 2011 Nigerian General Elections*. Washington, DC:
- Norris, P (2014) *Why Mass Perceptions Of Electoral Integrity Matter For Legitimacy*. New York: Cambridge
- Songi, O. (2008) “Electoral Reform In Nigeria: Prospects An Challenges”. Being An Essay Submitted to the National Orientation Agency.
- Okoye, F (2013) “Prosecution of Electoral Offenders in Nigeria. Challenges and Possibilities. Friedrich-Ebert-Stiftung Discussion Paper No.5 Sept 2013
- Omilusi, M. O. (2014) The Electoral Process And Crisis Of Legitimacy In Nigeria. *The International Journal Of Humanities & Social Studies* Vol 2 Issue 11 pg 51-71

- Osuntokun, A. (2013) "Electoral Democracy And Political Realignment in Nigeria" Being A Convocation Lecture Delivered At Caleb University Mota, Lagos State On 9<sup>th</sup> March, 2013.
- Report of Justice Mohammed Uwais Electoral Reform Committee (2008). Lagos: Federal Government Printer.
- Sagay, I. (2008) Elections And Legitimacy Of Governments. A Lecture Delivered At the launching ceremony of the Osun Defender On 26th February, in Lagos
- Schedler, A. (1998). "What is Democratic Consolidation"? *Journal of Democracy*, 9 (2), pg 91-107
- Scharpf, F. (1997) 'Economic Integration, Democracy and the Welfare State', *European Public Policy*, 4 (1) pg 18-36.
- Schumpeter JS (1954). *Capitalism, Socialism and Democracy*. London: Allen and Unwin.
- Simbine, A.T, Benjamin, N, Danjibo, Oladeji, Tijani, H.O. (2008) "Electoral Reform, the Wayforward". In Akande, S.O, and Simbine, A. T. (Eds) *Electoral Reform in Nigeria: Proceeding of a National Workshop*. Ibadan. NISER Publication
- Thurston, A (2015) Background to Nigeria's 2015 Elections. A Report of the Center for Strategic and International Studies (CSIS) Africa Program. NW Washington,
- Udeala, S. O., Macogonor, C.U. (2013) "Political Parties and Political Process in a Democracy" in Hillary Ekamam (ed) *Political Process and Contemporary Political Analysis –Selected themes and Concepts: Owerri*. Great stars Publishers
- Udo , J, Ogonna, H (2007) "Reform of Nigerian Electoral System. A Paper Prepared for the Nigerian Bar Association. *Oroerams (Q)nieerianbar.ore or info(ii)"hasoidel.ore*
- United Nations Universal Declaration of Human Rights (1948)
- United Nations International Covenant on Civil and Political Rights (1966)
- Wall, A, Ellis, Ayoub. A, Dundas, C. W. Rukambe, J. Staino, A. (2006) *Electoral Management Design: The International IDEA Handbook*. Bulls Graphics AB, Stockholm.