

Election Rigging And The Problems Of Electoral Act In Nigeria

Ayo Awopeju

Department of Political Science, Joseph Ayo Babalola University, Ikeji-Arakeji, Osun State, Nigeria

Abstract

The paper grappled with the election rigging and the flaws inherent in Nigerian Electoral Act. Making use of secondary data as the methodology of this paper, the paper examined the history of the electoral process in Nigeria from the era of the First Republic to the 2007 Fourth Republic. It was observed that election rigging/corruption was not a new phenomenon in the Nigerian body politic. Apart from the 2003 presidential election, election rigging in Nigeria a recurring decimal and it was as old as the polity itself. The paper further examined the flaws in the 2006 Electoral Act. These gaps in the electoral act gave room for electoral fraud. It was concluded that the flaws of the electoral act should be amended to conduct credible elections in the 2011 polls. The paper strongly recommended that the political parties, Nigerian electorates should comply with this amended act so that the 2011 elections would be acknowledged far and near among the comity of nations in the globe.

Key Words: Rigging, Electoral Process, Electoral Act, Elections, Democracy, Republic

Introduction

The flaws of electoral act in most countries lead to election rigging, which constitutes a serious threat to democratic values in any liberal democracy. These flaws are inherent in most African States' Electoral Acts. The countries experiencing flaws of the Electoral Act are Kenya, Sierra-Leone, Nigeria, etc. These flaws affect Nigeria democracy. Nigeria's democracy is the most populous democracy in Africa with population of about 150 million. Nigeria is so giant that people say that as Nigeria goes, so goes Africa. Therefore, much is expected from Nigeria. What this means is that the way she conducts her elections serves as an example to other African democracies. Nigeria gained independence from the British imperialist in 1960; was born into democracy at independence. The roots of democracy were yet to sprout when the civilian rule collapsed owing to a lot of factors, chief among which is the flawed election.

There are various factors responsible for flawed election in Nigeria. Chief among the factors are incompetent of electoral commission which serves as an umpire in the electoral process, do-or-die syndrome of the political parties to capture political power by all means, widespread procedural irregularities, numerous incidence of violence, intimidation of the electorate, stuffing of the electoral box, poverty on the part of the electorate, etc. The outcomes of many elections have been so fiercely contested that the survival of the country and democracy has been jeopardized. This sad history of election fraud has serious implications for Nigeria's political future because the phenomenon rather than declining, keeps growing and becoming more sophisticated with every succeeding elections. The principal forms of election fraud or irregularities were perfected in the elections of 1964, 1965, 1979, 1983, 1999, 2003 and 2007. Elaigwu (2007: 9) also looks at the trends of electoral process since 1999 when he posited that:

The electoral process has been crises-ridden since 1999. It seems each successive election since then has been worse than earlier ones. The result is that governments emerge with a baggage of crises of legitimacy, which often complicates the dynamics of federalism. This was what happened after the 2003 and 2007 elections.

It is important to note at this juncture that democracy and elections are inextricably linked. The reason is that no election, no democracy because it is through elections that electorates exercise their popular sovereignty to give their consent to a particular political office holder to rule. Nigeria had problems associated with elections which made the Nigerian democracy a mirage among the comity of nations in the world. This, in fact, is the centre of the difficulties inherent in Nigeria's democratic experiment today. Nigerians have often made the point that the process by which political office holders attain political power should be transparent. When a politician earns an executive office through the back door, through rigging of elections and through the employment of violence, he negates democracy and creates avoidable cracks in the entity. The pertinent questions in this work are: Is election rigging a new phenomenon in the Nigerian body politic? What are the lapses in the 2006 Electoral Act in Nigeria and what are the strategies to be made to correct such abnormalities? These are the questions this study intends to provide answers for.

The task of this paper is to look at the election rigging and the flaws of the electoral act in the Nigerian body politic with particular reference to the flaws of the 2006 Electoral Act. The paper is structured into five parts. Part one examines the introduction. Part two grapples with the conceptual clarification of election(s), part three looks at the conceptual framework of the study, part four examines the flaws of Nigeria's Electoral Act while part six concludes and recommends for the study.

Conceptual Clarification

The concept of election is associated with so many meanings that it is hardly difficult to say its exact meaning. In the edition of the International Encyclopaedia of Social Science Vol. 5, Election is defined as one procedure and preferences of particular kind. The two features of this definition are procedure and preferences. By procedure, the concept is used to describe a special way of doing something. Preference connotes choice between alternatives. During elections the electorate is given the opportunity to choose between alternative programmes of contestants.

Election can, also, be described as a procedure that allows members of an organization or community to choose representatives who will hold positions of authority within it. The most important elections select the leaders of local, state and national government. Elections also promote public accountability. "The threat of

defeat at the polls exerts pressure on those in power to conduct themselves in a responsible manner and take account of popular interests and wishes when they make their decision.” (1993-1998 Microsoft Corporation)

In the words of Dowse and Hughes (1983: 322):

Election is a procedure recognized by the rule of an organization, be it a state, a club, a voluntary organization or whatever, where all, or some, of the members choose a smaller number of persons to hold an office, or offices, of authority within that organization.

According to Omonijo et al (2007), election is the act of choosing public officers to fill vacant posts by vote, it is an act of choosing those that govern a state; it may be conducted periodically. Elections are central institution of democratic representative governments. The reason is that, in democracy, the authority of the government derives solely from the consent of the governed. The principal mechanism for translating that consent into governmental authority is the holding of free and fair elections.

Conceptual Framework

The conceptual framework to guide this study is the systems theory. The systems approach was originally in the biological and engineering sciences before it was adapted to social sciences. The systems theory sees phenomena as components of an interrelated whole.

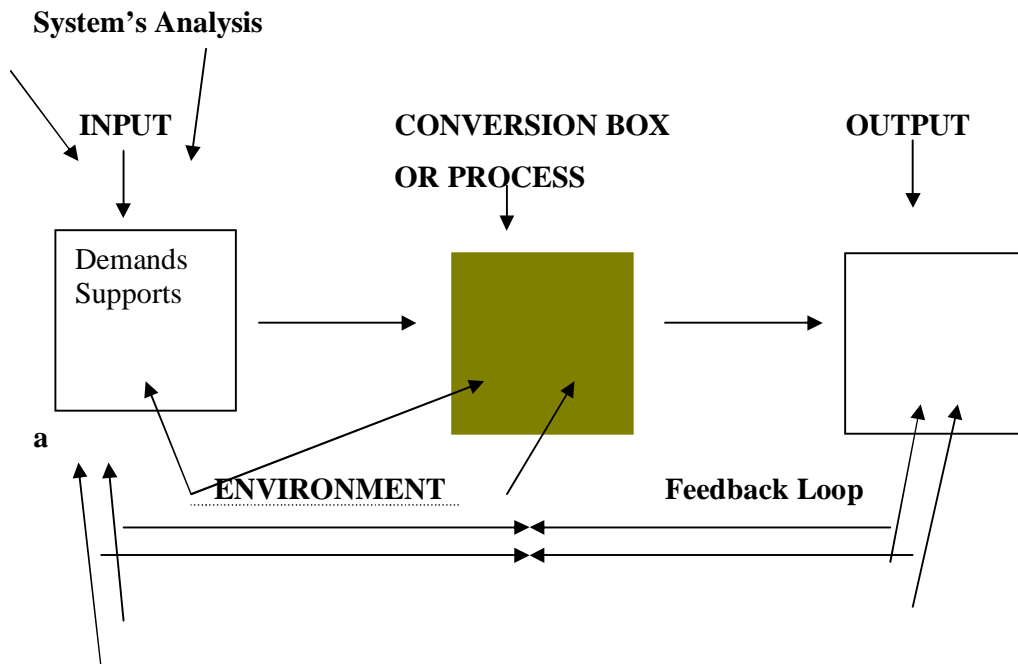
The systems approach is primarily concerned with the analysis of a system in its entirety. As system here implies that:

Something consisting of a set (finite or infinite) of entities among which a set of relation is specified, so that deductions are possible from relations to others or from the relations to others or from the relations among the entities to the behaviour or the history of the system (Talcott Parsons; 1968:453).

From the above, a system can be seen as a set of independent parts or components of a given entity. As a process, it involves relating with one another in an interdependent manner. It also entails interaction with the environment. As G.O Nwankwo states:

The systems approach to the study of organizations focuses on the system as a whole, the environment of the system, and the tendency of the system strive for survival by negotiating with the environment (G.O. Nwankwo, 1988:27).

Any system is viewed as a set of interactions involving three phases, viz the input, conversion and output. As a framework for political analysis, the systems theory is rooted in the work of David Easton. In his exposition of the systems theory, Easton represents the input-output exchange of system and its environment diagrammatically as shown in fig. 1



Source: Easton, 1957:384

For Easton, politics has to do with 'understanding how authoritative decisions are made and executed for a society (Easton, 1957:383). Political life is viewed as a system of interrelated activities and they all influence the way authoritative decisions are made and implemented for the society. None can be fully understood, therefore, without reference to the way the whole operates (Easton, 1957: 383-384).

As figure 1 depicts, the political system is powered by different kinds of inputs, which are then processed by the system's mechanisms and converted to outputs. And as Easton himself puts it, "these [Output] in turn, have consequences both for the system and the environment in which the system exists" (Easton, 1957: 384). The system is also influenced by the specific setting or environment in which it is immersed (Easton, 385).

An approach is relevant to this study and understanding of election rigging and the problems of electoral laws in Nigerian politics. The environment constitutes the Nigerian state. And further the nature of these consequences conversely, we will be able to understand how events in the environment affect and, even, condition the determination of the problems of the electoral act in Nigeria.

From the above, the inputs are made of the demands and supports. The demands are the votes of the electorates. The electorates vote into the political system in form of electoral system; while the electoral commission- the Independent National Electoral Commission (INEC) performs the conversion function by converting the votes. The votes then come out as outputs which are the results of the elections.

The feedback loop which can be the government agency or the press feeds the public/people on the outcome of the elections to the people (electorate). If the electorate accepts the results, the outcome, then come in form of the support into the political system. If the results are not accepted by the electorate due to election rigging, then it becomes legitimacy problem and the support for the political system will decline. Also, if there are irregularities during the elections, the implication is that the demands are not filled by the INEC or governmental agency. The output will go back into the political system as unfilled demands. The conversion box, (political system) now process it again and it will come out as the electoral act which is the output of the political system. The feedback loop will inform the electorate of the electoral problem and the need for amendment of the electoral acts.

History Of Electoral Rigging In Nigeria

Election rigging is not new in Nigerian politics. It has been present in Nigeria before political independence. Starting from the 1959 elections to those elections after political independence in 1960, the level of election rigging has increased overtime. As Edoh (2003: 70) as observed:

Even, under the supervisory eyes of the British, during the 1959

elections, incidents of violence, stuffing of ballot boxes as well as obstructions and intimidations of opponents were reported here and there.

He went further to opine that “rigging became properly integrated into Nigeria’s political and electoral lives during the regional elections of 1961” (Edoh, 2003:71) and since then has become a permanent feature of elections in Nigeria.

In the 1964 general elections in Nigeria, four major political parties- the Northern Peoples Congress, (NPC), the Nigerian National Democratic Party (NNDP), the Action Group (AG), the National Council of Nigerian Citizens (NCNC) formed political alliance in order to perpetrate their strategies of election rigging. Thus, the Action Group (AG), the National Council of Nigerian Citizens (NCNC) and the Northern Peoples Forum (NPF) formed the United Progressive Grand Alliance (UPGA) on June 3, 1964 while the Northern Peoples’ Congress (NPC), the National Democratic Congress (NDC) and the Movement for Democratic Front (MDF) formed the Nigerian National Alliance (NNA) on August 20, 1964 (International-IDEA, 2000: 337).

While NNA returned most of its candidates unopposed in places where it was popular, UPGA forcefully prevented NNA from making nominations to vie for positions in its domains (Mackintosh, 1966). Also, elections into the Western House of Assembly on October 11, 1965 ended in disorder violence and arson of the “Operation Wetie” fame as a result of widespread rigging (Olaoye, cited by Omotoso, 2007: 158). Due to the widespread of election rigging and violence, the first military coup took place in Nigeria in January 15, 1966 and this brought to an end the Nigerian First Republic.

During the Second Republic, the election rigging was even worse than the abrupt first republic. There was rigging of unimaginable proportions during actual voting, vote-counting and declaration of results (Olaoye, 2007). In 1983 general elections, the Federal Electoral Commission (FEDECO) which was to serve as an umpire in the electoral process connived with the ruling party National Party of Nigeria (NPN) to perpetrate election rigging techniques. In the words of Onafagoro (1981) and Kurfi (1983: 222-223), “The FEDECO staff were variously accused of aiding and abetting the perpetration of electoral fraud”. Five political parties contested the 1979 presidential elections; these parties were National Party of Nigeria (NPN), United Party

of Nigeria (UPN), Nigerian Peoples Party (NPP), Peoples' Redemption Party, (PRP) and Great Nigeria People's Party, (GNPP). Of the five political parties that contested the August 11, 1979 presidential elections, three rejected the results on the ground that it was full of flaws. Chief Obafemi Awolowo of the UPN challenged the verdict of the FEDECO through the electoral tribunal up to the Supreme Court when the case was finally rested in favour of Alhaji Shagari's NPN on September 26, 1979 (International-IDEA, 2000: 343). The legitimacy vacuum that was created by that action eventually created problems for the Shagari administration.

The NPN led government wanted to hold on to the government despite the legitimacy crisis experienced by Shagari administration by perpetrating its electoral fraud in 1983 general elections. Elections were massively rigged in some states such as Oyo, Ondo, Anambra, Cross-River, Imo state etc. Cases of violence were reported despite the caution sounded by the transiting military regime. Toyin Abe (2008:170) vividly captured the violence in the federal elections of 1983 when he poignantly asserted that:

During the federal elections of 1983, violence was promoted to an unimaginable level where states sponsored thugs, arsonists and assassins unrestrainedly unleashed terror and fear on both opponents and voters alike

Between 1985 and 1993, the Third Republic witnessed series of political contraptions under the regimes of Generals Ibrahim Babangida and Abacha. There were many elections with cases of election rigging took place under the Babangida regime, following the annulment of the results of the June 12, 1993 presidential election. Olaoye captured the 1993 elections vividly when he posited that "That election was believed and adjudged by the 3000 accredited local and international observers to be fairest and the best in Nigeria's political history."

On June 14, 1993, the election results were announced in many states. The results showed that Social Democratic Party (SDP) under the flag bearer of Chief M. K. O. Abiola had won 14 states out of the states released by the National Electoral Commission (NEC) headed by Prof. Humphrey Nwosu. Report, according to Oshun (1999), from the thirty (30) states had already indicated victory for the SDP. Despite the fairest nature of the 1993 election in the Nigerian body politic, the presidential election

was annulled on June 23, 1993 by the Federal Military Government headed by General Ibrahim Badamosi Babangida.

Babangida not only annulled the results of the 1993 presidential election but also imprisoned the winning candidate Moshood Abiola, who ultimately died behind bars. Nigeria did not return to elected civilian rule until after General Abacha died in office in 1998. By then the excesses of the Abacha and Babangida years had thoroughly discredited the military's claim on power and led to popular and international pressure for a return to civilian rule that had become impossible to resist. Abacha successor, General Abdulsalam Abubakar, soon organized elections that ushered the military out of power and installed retired General Olusegun Obasanjo as the first president of Nigeria's Fourth Republic in May 1999 (Aluko, 2009:7).

The 1999 elections were only different from the ones Nigerian had in the past. The elections were the continuation of electoral fraud and rigging in Nigerian politics. Manual for Election Observers (1999) posited that "elections were monitored by 15,283 observers." The observers discovered that elections were marred by such widespread fraud that observers from the US-based Carter Center concluded that "it is not possible for us to make an accurate judgement about the outcome of the presidential election" (NDI, 1999: 12).

The 2003 elections bear the same resemblance with the previous elections. It had been tagged by the HRW (2004) as an "abject failure." The elections were more pervasively and openly than the flawed 1999 elections. Elections for Nigeria's 774 local government councils were held in 2004 and followed much the same pattern of violence, intimidation and fraud that characterized the 2003 general elections. Nigeria's Transition Monitoring Group (TMG) observed those polls and concluded that "It is doubtful whether [...the] elections can only be considered to be reflective of the will of the people" (quoted in HWR, 2004: 11, n.16). In the history of the Nigerian electoral process, April 2007 elections were the worst elections Nigeria had had. Elected officials, alongside with the very government agencies charged with ensuring the credibility of polls, reduced the elections to a violent and fraud-riddled farce. Despite the strategies designed to ensure credible polls, by consensus of all the monitors, on general elections both local and international, those elections fell, in the words of the European Union monitors 'far short of basic regulation and international standards for democratic elections' (The Guardian, April 30, 2007).

From the historical experience, it can be deduced that the electoral system in Nigeria has problems. Electoral fraud is not new in Nigeria. Nigerian electoral system is characterized with rigging, arson, irregularities, intimidation, sponsored thugs, assassination, etc, which make it possible for political leaders to rig elections. What are the reasons responsible for these characteristics? Or what are the factors responsible for these incessant electoral frauds? This study will at this stage examine the flaws of the Nigerian Act.

Flaws Of The 2006 Electoral Act In The Conduct Of The Electoral Process In Nigeria

The Nigerian Electoral Acts is the product of the legislature. They are made under the authority of the constitution. As Ujo (2004:21) as observed that “they are made to fully elaborate the Electoral Constitutional Provisions of a country, as a consequence of a change in the political regime.” The flaws inherent in Nigerian Electoral Act are as follows:

First, the unilateral disqualification of candidates was against the 2006 Electoral Code in Nigeria. Many candidates and their political parties experienced the injustice and the absurd situation created by the provision of subsection (1) of section 144. Candidates were disqualified by their parties. The electoral act provides that a person duly nominated on the INEC list could only be removed by court of law acting on objections to the candidate’s sworn affidavit. Parties rejected this rule. INEC itself ignored the rules and disqualified candidates without obtaining a court mandate to do so. For example, INEC disqualified Alhaji Atiku Abubakar, the former Vice President to contest April 2007 presidential election. Atiku’s disqualified by INEC as a presidential candidate for the Action Congress (AC) was later rendered null and void by the Supreme Court decision barely a week to the presidential poll (Awopeju, 2009). Also, Ibrahim Bapetal, a governorship candidate of the AC was wrongfully disqualified by the consequently excluded from participating in the April 2007 election. The implication of this is that the disqualification by the INEC will affect the candidates’ electoral process in terms of electioneering campaign, and psychologically the candidate will be defeated since he is not sure of running for the post.

Second, national register of voters constitutes another problem of the 2006 electoral act. The 2007 elections became problem at the very start of INEC’s

preparation of the register of voters. The Commission had originally planned to capture eligible voters on to the electoral roll by a computerized system called Direct Data Capture (DDC). The system was apparently preferred to the 2003 system of Optical Mark Recognition (OMR) system because it was expected to pick voter's biodata, picture, thumbprint and issues the voter ID right on the spot. The problem started when the INEC discovered that only a few people were getting registered because the DDC equipment was not supplied in adequate quantity and few that were deployed frequently broke down without hope of repair. As a result of the mishaps INEC registered only 40 million out of the estimated 60 million voters (Awopeju, 2009, Owete, 2007). There was urgent need to change strategy in the circumstances. INEC abandoned the DDC system for a more pragmatic manual registration. A rush ensued to complete registration of over 50 more million voters in record time in order to beat the statutory deadline of 120 days before election. In the end, INEC announced that it had captured 65 million eligible voters on to voters roll (John Larvie, 2007)

Apart from political apathy displayed by the Nigerians, many eligible voters could not registered because centres kept changing from place to place in the same polling units allegedly for reasons other than a genuine desire to register voters. Many voters who had registration were issued only a registration slip in place of the voter ID. Another outcome of this precipitated registration is related to under-aged and non-qualified registration. And because time was running out for a final register of voters to be done quickly enough to aid the nomination of candidates process INEC conveniently overlooked the other statutory procedures such revision and exhibition of the provisional list. Though publicity was carried in the media for the exhibition only a handful of cities witnessed this exercise (Larvie, 2007).

Three, another flaw of the 2006 Electoral Act is the nomination of candidates. This is grossly abused procedures of all electoral processes by the parties by standards. Some parties organized party primaries while some did not in identifying candidates for nomination. Even most of these primaries were sham because candidates who won the primaries were not always the candidates who got the nod from the party chieftain to feature on the INEC list. This flaw comes in because the 2006 Electoral Act allows parties to change their nominated candidates not later than 60 days to election (Electoral Act 2006, section 34 {1}). The political parties went ahead and withdrew candidates who won the primaries and replaced with the others. The implication of this flaw is that it

may lead to legitimacy problem since party chieftains imposed candidates on the parties, also making the candidates running for the post unpopular. Therefore, the only available choice by the imposed candidates is to embark on the electoral fraud or do-or-die affairs through the use of violence, thuggery, stuffing of election boxes, etc to win the elections.

Four, parties paid lipservice to the prospect of women candidates is a flaw of the 2006 Electoral Act. In the Nigerian political culture women participation in politics is still regarded as alien, imposed only by outside forces inducing the international development partners. During the primaries a particular political party distributed application forms free of charge to women and made it known to the public. This strategy is meant to empower women in order to reduce gender inequality in politics. This strategy was later turned out as a mere gesture to please the development partners because the party went behind the scene to screen out all the women who had applied on the grounds that women are not capable.

Five, another absurd omission in the Act is that it does not give room for complaint who received a majority of the lawful votes cast at an election but was not declared a winner. This is because, as provided in section 145, the Act poignantly asserted that:

the grounds upon which an election may be questioned do not include one that the petitioners, having received a majority of the lawful votes cast at the election, should be returned as been duly elected (2006 Electoral Act).

The implication of this is that one cannot challenge the outcome of the result of the election. This gives room for ambiguous and incomprehensible provision of the electoral act. This clause of the electoral act must be amended. What constitutes the 'majority' must be well stated in the electoral act for better understanding of the candidates' vying for various seats in the Nigerian elections.

Six, what constitutes the real intention of the Act is not clearly stated. This is shown in Section (2) of the section 54 of the Act. This subsection deals with over-voting both at individual polling stations and in a constituency as a whole. This subsection is, however, couched in such a manner that the following provision emerges from it with respect to over-voting in a constituency as a whole, the clause poignantly states that:

Where the votes cast at an election in any constituency... exceeds the number of registered voters in that constituency...the election for that constituency...shall be declared null and void by the commission.

(Electoral Act, 2006)

It should be noted that in 2006 Nigeria's elections, many elections in constituencies where results were not more than the number of votes cast were nullified. The question at this juncture is that why then should the votes cast at those non-offending polling stations be declared null and void? Indeed it would appear that this is not the intention of the Act at all, but is only a result poor drafting, since there is, in the same subsection, provision for declaring void casts at individual polling stations where the votes exceed the number of registered voters.

Concluding Remarks

This study examines the flaws in the electoral act of Nigeria. These flaws enable politicians to introduce irregularities into the electoral game. As Kurfi (2005:101) rightly observed, 'rigging is almost synonymous with Nigerian elections.' The objective of electoral fraud is to frustrate the democratic aspirations of citizens who have voted or would have voted into offices someone other than the purported victor. The study showed that the flaws in the Nigerian act constitute post election tension and if these problematic clauses are not amended, the electoral process in Nigeria will be mirage.

Despite these flaws inherent in Nigerian electoral code, it is important to note that there are opportunities to institutionalize a viable and efficient electoral act. The Federal Government of Nigeria should amend the controversial clauses in the Nigerian Electoral Act. These problematic clauses led Nigerians home and abroad to call for electoral reforms. By electoral reform projects seek to change the way that public desires are reflected in elections. They include measures to reform parties, redefine citizens eligibility to vote, alter electoral constituencies and their borders, design new ballots, counting procedures or equipment, tighten scruiteering (by parties or other observers), ensure safety of citizens voting, limit the influence of bribes and coercion, and often to alter the rules by which the legislature and executive organize themselves given the ballots, e.g. runoff voting, referendum, etc. Right from first republic to the third republic, it can be adduced that military regime it the outcome of the all electoral

rigging and violence. Therefore, if electoral reform is not implemented by the Nigeria government, the military might find an excuse of intruding into the Nigeria's political space.

In addition, electoral litigation and adjudication must be taken care of. According to the Chairman of the Review Committee and Deputy Senate President, Ike Ekweremadu, he posited that "protracted electoral cases in our courts/election tribunals which extend deep into the term of office of elected officers, is a serious embarrassment to our electoral process." (Ojeifo, 2010). Also, Awopeju (2009) is of the opinion that the 2006 post-elections activities were so bad to the extent that activities were characterized by contending results of the elections at the Election Tribunals in all the 36 states of the federation, including the Federal Capital Territory (FCT), Abuja. Most of the cases brought to the Tribunal are yet to be determined. There should be a time available to the political parties and the aggrieved contestants to challenge the winner of an election before the handing over date. This will reduce incessant conduct of elections in various states of the federation.

Also, it is important to note that amending the 2006 Electoral Act is one thing; adherence to the laws is another thing. National Publicity Secretary of the newly formed Action Congress of Nigeria (ACN), Alhaji Lai Mohammed, stressed that:

Nation's need was actually the political will to deal with electoral offenders in the interest of all and sundry. We have heard that in the past. But will political will to persecute them be there? It is one thing to make laws; it is another thing to ensure compliance (Nigerian Compass, Thursday, September, 2, 2010).

Based on the above assertion, the Federal Government of Nigeria has signed the amended Act of the 2006 passed by the National Assembly into law. In other words, there is 2010 Electoral Act in Nigeria. Political parties must strictly observe the implementation of the 2010 Electoral Act in Nigeria. The Nigerian political parties and the other democratic forces need to organize and educate themselves on the adherence of the amended electoral act. In particular, political leaders from all political parties should affirm their commitment to basic principles for free, fair and credible election in 2011. Contestants and major participants in elections must be made to abide by common codes of conduct.

The Government should expand campaigns to educate all citizens on the newly electoral act. The campaign must get to the grassroots so that the local people that are far from federal government get aware. In order for this education to proceed effectively and with minimal confusion, the government and INEC must finalize voting procedures as soon as possible. Also government should intensify campaigns on electoral frauds and violence, expand public awareness of the impact of violence, and increase education on alternatives to violence, at the grassroots level. It is when these are put in place and each participant or contestant agrees with the rules of the game that will strengthen democracy and electoral process; and the image of Nigeria's democracy will be acknowledge far and near in the international system.

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