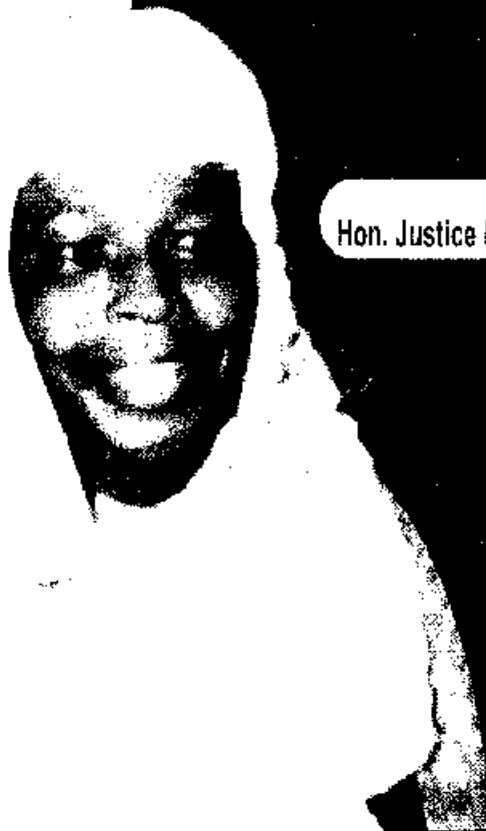




LEX VISION

Contemporary Issues in the Nigerian Legal Landscape.

A Compendium in Honour of
Prince Lateef Fagbemi, SAN



Foreword by:
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CHAPTER SIX

THE SEARCH FOR CREDIBLE ELECTIONS IN NIGERIA: ELECTORAL LAWS AND FUNCTIONAL EDUCATION

PROF. TAIWO OSIPITAN, SAN

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

I. ELECTION AND DEMOCRACY

The nine lettered word "Democracy", is associated with self-Government. It also symbolizes a Government of the people by the people and for the people. It is the Antithesis of Feudalism, Monarchy, Autocracy, Oligarchy, Aristocracy and Totalitarian Government. It is the symbol of civilization and modernization of Nations the World over.

Democracy connotes a state of affairs where all citizens have equal political rights: all persons are equal before the Law; prevalence of rule of law as opposed to rule of the thumb or rule of man. Democracy affords Citizens the opportunity of participating in decision-making in issues which affect them.

As a Constitutional Law concept, Democracy finds practical expression in adult universal suffrage. It ensures that adult Electors vote during Elections in order to choose those who would govern them. Democracy ensures unhindered rights of adult voters to elect their leaders. It further ensures that voting is devoid of financial or gender restrictions.²

Election is the spinal cord of Democracy. It gives practical expression to government by consent. It is the mechanism for making political choice periodically in a political system. There is an Election when the Electors vote for their representatives in Government at Local, State or Federal/Central levels of such Government. Election is consequently the legal avenue through which people vote out and replace a non-performing Government with a performing Government. Where out-voting a non performing Government is hindered because of rigging and manipulation of Election results, this is an invitation to civil disorder, disobedience and invariably military intervention.

Nwatu rightly observes: "Election and Political choice give meaning to the right to Government by consent, a requirement of legitimacy of Government or State in International Law."³

Nigeria and Nigerians have witnessed different Elections between 1964 and 2007. However, with the exception of the annulled 1993 Election, which has been adjudged as the freest and fairest Election in Nigeria, all Elections have been marred by malpractices, rigging and in some cases violence.

The word "credible" means that which "can be believed or trusted and accepted." The basic test of credible Election is whether the Contestants, the average Elector and Observers, perceive the Election as having been conducted freely and fairly, in a manner which ensures that the Candidate who emerges as the winner is the true choice of the Electors. Like justice, Election must not only have been freely and fairly conducted, it must be seen by impartial observers as freely and fairly conducted. Credible election, envisages an arrangement which ensures that candidates are free to contest election, voters are at liberty to choose candidates of their choice and election results are neither suppressed nor manipulated. Credible election rejects cheating, fraud, intimidation or fear in the Electoral Processes.

The point must be made, that credible Election is not necessarily a perfect/flawless Election. It is futile to aim at a perfect election, because perfection is the exclusive preserve of the Almighty God.

This explains why an imperfect Election, would still be upheld by the Supreme Court, Court of Appeal and Election Petition Tribunals as the case may be, where it is proved, to have been conducted in substantial compliance with the principles of Electoral Act.⁴ The expectation is not one of exact compliance with the Electoral Law, but of substantial compliance by the Electoral Management Body with the principles of Electoral Act.

Nigeria and Nigerians look forward another round of Elections to elective Offices at Federal and State levels in most States of the Federation and the Federal Capital Territory in 2011. It is timely, to reflect on past Elections in Nigeria and highlight some of the emerging challenges. It is hoped, that during 2011 Election, Electors would exercise their franchise, and vote either in favour of or against performing and non-performing Candidates/Governments respectively. As rightly contended "The next general election in 2011 will go a long way in deciding our country's future as a Nation and as an entity."⁵

The objective of this chapter is to reflect on various post-Independence Elections, Electoral Laws and judicial decisions. My intention is to identify lapses capable of affecting the credibility of future Elections in Nigeria. Against the backdrop of identified defects in our Electoral laws, processes and judicial decisions suggestions aimed at ensuring credible elections and Electoral processes are offered in this Chapter.

II A CONSPECTUS OF ELECTIONS AND ELECTORAL LAWS IN NIGERIA

There were demand for the introduction of Elective principle in Nigeria as far back as 1881.⁶ The demand also co-incided with the demand for separation of the Gold Coast from the Lagos colony. The agitation failed to yield immediate dividend because of resistance by the Colonial Administration. For example, Sir Clifford, who subsequently recommended the introduction of elective principle into Nigeria, had earlier condemned the demand for Elective principle as "loose and gaseous talk emanating from a group of self

appointed, self selected gentlemen who collectively styled themselves as the National Congress of British West Africa".⁷

Elective principle was first given practical expression in Nigeria under the 1922 Constitution. It was that Constitution, which increased the number of the Members of the Legislative Council to Forty-Six Members. Ten out of these Forty-Six were Africans. Out of the Ten Africans, Four were elected. The other Members were selected/nominated. Three out of Four, represented Lagos, while one elected represented Calabar. However the Legislative Council legislated only for the Colony of Lagos and Southern provinces. The Governor continued to legislate for the Northern Province.

The number of elected representatives was pegged to Four between 1923 and 1950. The 1951 Constitution established a Central Legislative Council (House of Representatives). The House consisted of 148 members. 136 out of the 148 members were to be elected Nigerians. The 1954 Constitution embraced a unicameral Legislature consisting of 184 elected Members. Under the Independence and Republican Constitutions and other subsequent Constitutions, Elective principle was preserved. All elective posts consequently were filled through Elections. Those who desired to occupy elective posts in Nigeria were elected by the Electors. Elective principle has been retained under the 1999 Constitution of the Federal Republic of Nigeria and the Electoral Act of 2006. Today, any person who aspires to an elective position in Nigeria must face Election. Even if his Candidature is unopposed, elective principle must still be complied with, in filling such elective position.

SUFFRAGE

Under 1922 Constitution partial Suffrage was given to electorates to elect representatives of Lagos and Calabar. There were restrictions on who could vote. First, only natives of the Protectorate could vote. Even at that, only Adult Male Citizens were entitled to vote. Such Voters must have been resident for at least 12 months before the Election and must have annual income of at least £100. Convicts sentenced to death, hard labour or to more than 1 year imprisonment were denied voting rights. Similarly, persons with deficient health

were disqualified from voting.

An undischarged Bankrupt could not be voted for. Persons who had received Charitable relief from any Public source within 5 years prior to the Election and persons who were paid Salaries out of Public Revenue were disqualified from contesting Elections. The above partial suffrage was evidently unsatisfactory. There was consequently clamour for Universal Adult Suffrage in Nigeria. It is gratifying, that by the 1959 Election, Universal Adult Suffrage was achieved throughout the Country with the exception of the Northern Region where Women were excluded from voting and being voted for. The Northern Region retained Male Adult Suffrage and this was the position until 1979 when Universal adult suffrage was embraced throughout the Federation.

A unique feature of the pre-independence era (1946-1951) was the use of Electoral College System for the Election of Members of some Regional Houses of Assembly. Under the indirect Electoral College System Adult, Male in each Village chose a Representative for the District level who in turn chose a Provincial Representative. It was the provincial college which elected by Secret Ballot the Representative of the Regional Assembly. "One major drawback of the Electoral College" observed Chief Afe Babalola SAN "was that it was open to corruption and abuse. In the West and Eastern parts of Nigeria, the Electoral Colleges being a small group could easily be bribed to influence the voting pattern. In the Northern Region, every Native Authority which in most cases, was an Emir was given the power to appoint ten percent of the membership of the Electoral College. This tilted chances of success in Elections in favour of traditional and conservative Elements favoured by the Traditional Rulers".* Direct Elections subsequently replaced indirect collegiate Systems of Elections as the means of electing the 184 Members of the House of Representatives under the 1954 Constitution.

During the 1964 Election a Two-Party structure was embraced as opposed to the Multi-Party structure which existed during the 1959 Election. The 1964 Election was characterized by boycotts, violence and manipulations/falsification of Election Results. The oppression

and brutalization of Political Opponents, loss of lives and properties, the suppression of Minority Rights and general insecurity across the Nation after the 1964 Elections were some of the factors responsible for the first Military intervention in Nigeria. The Military retained power until 1979 when power was handed over to a Civilian Government.

After 1979, Elections were held in 1983, 1993, 2003 and 2007 Elections. The 1993 Election which was annulled by the Government of General Ibrahim Babangida is reputed as the most credible of the post independence elections held in Nigeria. In 2011, another election will be held in most of the States and the Federal Capital Territory to fill the various vacant elective positions.

It suffices at this stage, to acknowledge, that Nigeria has at different times embraced show of hands, whispering, secret ballot, open ballot and open secret ballot systems as the mode of voting.

LEGAL AND INSTITUTIONAL FRAMEWORK: ELECTION MANAGEMENT BODIES

Election Management bodies are primarily responsible for registration of voters and the conduct of Elections in most Nations.

Nigeria first embraced elective principle in 1922 when Four Members of the Legislative Council were elected. In spite of the introduction of Elective Principle, there was no elective management body to Register Candidates and Voters, and to conduct Elections until 1958. Between 1922 and 1958, the Governor appointed registering Officers in each Municipal area of Lagos and Calabar. These Officers were responsible for Registration of Voters in their respective areas. Voters Registers were also reviewed annually by a revising Barrister who was appointed by the Governor and who acted in accordance with Guidelines. Elections were supervised by a Returning Officer appointed by the Governor who also fixed the dates of the Elections.

There were various amendments to the Legal and Institutional Framework for the conduct of Elections between 1922 and 1958.

However, the Governor exercised tremendous power with respect to the appointment of Electoral Officers. He also exercised powers of making Electoral regulations through Proclamations, for the Election of Members of the Legislative Councils.

The 1958 Nigerian (Electoral Provisions) Order-in-Council which was the first Legislation establishing an Election Management body for the whole Federation was passed. The law created an Electoral Commission. It also divided the Country into Constituencies and vested the Electoral Commission with the duty of preparing Register of Voters and conducting Elections. Voters Cards were also to be issued to eligible Electors. The Electoral Commission was headed by the Chairman who was the Chief Electoral Officer. He was supported by three other Members who were appointed.

On the attainment of Independence, the Nigeria Electoral (Transitional Provision) Act 1961 was enacted. The Act validated the Elections (House of Representatives) Regulations of 1958 and the Federal Legislative Act (Dispute Seats) Regulations of 1958. The new Federal Parliament enacted the Electoral Act in 1962. Although the Act can be described as the first autonomous Electoral Law in the country, in substance, it was a re-enactment of the 1958 Electoral Regulations with amendments.

Next was the 1964, Electoral (Amendment) Act. The Act preserved most of the provisions of the 1962 Act and effected minor amendments. In order to prepare the Nation for Civil Rule, the then Federal Military Government promulgated the 1977 Electoral Decree. The Decree provided for a Presidential System of Government and statutorily recognized Political Parties in Nigerian politics by stipulating that only Political Parties can canvass for Votes on behalf any Candidate seeking Election to Offices created under the Decree. The Decree reduced voting age from 21 to 18 years and disqualified Electoral Officers from Voting in any Election.

In 1982, the National Assembly of the Second Republic enacted a new Electoral Act which repealed the 1977 Electoral Decree Act. Unlike what obtained under the 1977 Electoral Decree, where

jurisdiction to hear and determine Election Petitions were conferred on Tribunals established for that purpose, the 1982 Act vested the jurisdiction in Election Petitions arising from the conduct of the Presidential Election on the Federal High Court and the High Court of the Federal Capital Territory. The State High Court was vested with the jurisdiction to hear and determine Election Petitions arising from the conduct of Elections into other Offices. In 1985, the National Electoral Commission Decree entrusted the National Electoral Commission established thereunder with the responsibility of organizing and conducting various elections under the Transition Programme.

For the first time in the history of the country, the government, through a Decree created Political Parties namely, the National Republic Convention and the Social Democratic Party. Other Political Associations were banned by the Decree.

The last stage of the elaborate transition time-table set by Babangida's Regime was the Presidential Election. To facilitate the Election, the Government promulgated the Presidential Election (Basic Constitutional Transitional) Decree No. 13 of 1993. The Decree established the Office of the President and Vice-President of the Federation. It also set out the qualification for election into the Office of the President and Election Procedure. The Presidential Election which was conducted on 12th June, 1993 was unceremoniously annulled by the Babangida government before the announcement of the final results. This election is reputed as being the freest and fairest conducted in Nigeria post independence.

General Abacha introduced a Transition Programme which commenced with a Constitutional Conference. The programme established the National Electoral Commission of Nigeria which was entrusted with the responsibility of conducting various elections. General Abdusalami who emerged as the Head of State after the death of General Abacha immediately undertook to continue with the Transitional Programme to Civil Rule. He introduced with an amended time-table. Democratically elected Governments were put in place at Federal and State levels on May 29, 1999. The National

Assembly subsequently passed into Law the Electoral Act, 2001 to guide the conduct of future elections. It is noteworthy, that except for the provisions on Local Governments in the Federal Capital Territory, the provisions in the Act dealing with the tenure of offices and conduct of Local Government elections was declared unconstitutional and therefore null and void by the Supreme Court. The Court held that the National Assembly lacked the legislative competence to make laws for the Local Governments and that the power to legislate for Local Governments is clearly vested in the States House of Assembly.

The Electoral Act 2001 was subsequently repealed by Electoral Act, 2002. Those provisions, which were declared unconstitutional by the Supreme Court in the **A.G. ABIA STATE & 35 OTHERS V. A. G. FEDERATION**⁹ and have been deleted. The Electoral Act 2002 was also repealed by the Electoral Act 2006. Presently the Electoral Act 2006, 1999 Constitution and Practice Directions on election Petitions and Election Petition appeals are the main sources of Law on Elections and Election Petitions in Nigeria. They are also the cornerstone of the report of Hon. Justice Uwais Electoral Committee.

Some of the provisions of the Electoral Act and the 1999 Constitution are examined below.

III ELECTORAL OFFENCES: NON PROSECUTION OF OFFENDERS

Sections 124-139¹⁰ criminalise certain acts and omissions as Electoral Offences. They include Offences dealing with Registration, impersonation and voting when a person is not qualified to vote. Dereliction of duty, disorderly behaviour at Political Meetings, improper use of voters card, bribery and corruption, wrongful voting, voting by unregistered persons, disorderly conduct on Election day are also some of the electoral offences under the Electoral Act.

Section 135 of the Electoral Act specifically provides for Offences committed on Election day. They include canvassing for Votes, soliciting for the vote of any Voter, persuading any Voter not to vote

for a particular Candidate, shouting of slogans concerning Election, possession of offensive weapons or wearing any dress or having any facial or other decoration which in any event is calculated to intimidate voters, the use of any vehicle bearing the colour or symbol, photograph of any political party, and loitering without lawful excuse after voting. Under Section 136(2) of the Electoral Act

"No person shall in the vicinity of a polling unit, or collation centre on the day on which an Election is held.

- (a) Convene, hold or attend any public meeting during hours of poll as may be prescribed by the Commission.
- (b) Unless appointed under this Act to make official announcements, operate any megaphone, amplifier or public address apparatus; or
- (c) Wear or carry any badge, poster, banner flag or symbol relating to a political party or to the Election."

A violation of any of the provisions of Section 136 renders the violator liable to imprisonment for 6 months or fine of N50,000.00. Under Section 134(4) of the Electoral Act "Any person who snatches or destroys any Election materials is liable to imprisonment on conviction for 24 months." The range of imprisonment for Offences under the Act, is between 6 Months and Five years. Fines range between N50,000.00 and N5,000,000.00.

Similar provisions on Electoral Offences existed under previous Electoral Laws. Notwithstanding these Electoral Offences and the Penalties, the commission of offences have enjoyed steady growth with each Election witnessing improvement in the part violatoion of our Electoral Laws. The penal provisions in various Electoral Laws are consequently more honoured in breach than observance.

These Electoral Offences have evidently not deterred Electoral Offenders. It suffices to acknowledge, that Election Petition Tribunals are empowered to nullify Election on ground malpractices

and violence, if it is proved that those responsible for the malpractices and Election Offences committed the offences with the knowledge and approval of the Candidate. Elections, have on account of malpractices, either been totally or partially cancelled in some States and new Elections ordered, by Election Tribunals and appellate Courts. The new elections have been conducted with serious financial implications to the Election Management Bodies. Electors and other innocent candidates. Those whose conduct resulted in cancellation of the election readily escape prosecution and punishment because Election Petitions Tribunals lack the Jurisdiction to try Election Offences and Offenders. Uwais, CJN (as he then was) rightly held in the Case of **BUHARI V. OBASANJO** "Now it is clear to me that Section 129 of the Electoral Act creates a criminal offence ... I do not see how such an offence can be subject of Election petition or civil proceedings. If the Petitioners mean to prosecute 1st and 2nd Respondents/Cross Appellants of the offence under Section 129, then there must be a charge which they must plead to in a normal criminal proceeding."¹²

It is noteworthy, that inspite of glaring violation of the provisions on Electoral Offences contained in our past and current Electoral Laws, there is no reported Case of prosecution of Electoral Offenders in Nigeria. Apathy, lack of education on the existence of these Offences and outright refusal by Law Enforcement Agencies to prosecute loyalists of the ruling political Parties in various States, are responsible for non-prosecution of Electoral Offenders. The non-prosecution of Electoral Offenders, definitely aided the rapid growth of political thugs, as a class to be reckoned with, before, during and after Elections!

It is suggested that Election Management body (INEC) should embark on aggressive Campaign aimed at educating the general Public on the existence of various Electoral Offences in order to enable them demand for the prosecution of such Offenders. INEC and Law Enforcement agents must be prepared to enforce the penal provisions of the Electoral Act no matter who the perpetrators of the crimes are. Where the Attorney-General of the Federation or of a

State is either unwilling or neglects to prosecute an offender, the Election Management body has the locus standi to prosecute such Offenders. Political Parties and Candidates, (subject to the Attorney-General's fiat) also have the locus standi to prosecute Electoral Offenders.¹³ Prosecution of Offenders is not and should not be the sole responsibility of the Police or the Office of the Attorney-General. It is a collective responsibility of all candidates and those who are involved in the conduct of Elections. The constitutional powers of the Attorney-General of the Federation and of the State to enter Nolle Prosequere and discontinue Criminal actions instituted against Electoral Offenders should be jettisoned. This would prevent the abuse of prosecutorial powers for the benefit of Political Party Thugs and Party Officials who commit Electoral Offences.

If prosecution of Electoral Offences is cumbersome to the Electoral Management Body, it would be necessary to unbundle INEC. A separate independent and autonomous Electoral Offences Enforcement Commission which would be responsible for investigation and prosecution of Electoral Offences and Offenders should be established. Such a body must possess the power and autonomy to investigate and prosecute crimes similar to that vested in the Economic and Financial Crimes Commission and Independent Corrupt Practices Commission.

IV ELECTION MANAGEMENT BODIES: STRUCTURE AND INDEPENDENCE

The 1999 Constitution establishes different Federal and State Bodies and vests them with specific powers. One of the Federal Executive Bodies established under Section 153 of the Constitution, is the Independent National Electoral Commission (INEC). The Commission comprises of a Chairman, who shall be the Chief Electoral Commissioner and Twelve other Members made up of two from each Geo-Political zone to be known as National Electoral Commissioners. The Commission is empowered to organize, undertake and supervise Elections to the Offices of the President and Vice-President, Governor and Deputy Governor of a State, and to the Membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation. The Commission

is also responsible for:

- Registration of political parties and monitoring of their organization, operation and finance;
- Organizing and conducting Elections into the office of chairmen and vice-chairmen of local government councils and area councils;
- Arranging for the annual examination and auditing of Funds and accounts of the political parties and publishing a report on such examination and audit for public information;
- Monitoring political campaigns and providing rules and regulation to govern political parties;
- Ensuring that all Electoral Commissioners, Electoral and Returning officers take and subscribe to the oaths of office prescribed by law.

At the State level, Section 197 of the 1999 Constitution establishes State Independent Electoral Commission. The Commission is primarily responsible for organizing, undertaking and the supervision of Election into elective posts at the Local Government Council level. The Chairmen, Members and Members of a State Electoral Commission are appointed by the State Governor subject to confirmation by resolution of the State House of Assembly. The Commission has a Chairman and Members who are not less than Five and not more than Seven.

Despite the appearance of the word "Independence" in the names of the Electoral Management Bodies, these Bodies have limited independence. They are independent, only to the extent of not being subjected to "the direction and control of any other authority or person." Electoral Management Bodies are listed as Federal and State executive Bodies in Sections 153 and 197 of the 1999 Constitution respectively. Their description as Federal and State Executive Bodies evidently sends a wrong signal that these Bodies

are appendages of the Executive and invariably of the Ruling Political Parties at Federal and State levels. The need to remove these Bodies from the list of Federal and State executive Bodies is self-evident.

Chairmen and Members of Federal and State Electoral Management Bodies are appointed by the President and Governors respectively subject to the approval of the Senate and Houses of Assembly respectively.

Electoral Management Bodies lack financial autonomies. They do not exercise control over Funds appropriated to them. At the Federal level, monies are allocated to INEC directly by the Federal Government. A State Electoral Commission also relies mainly on direct statutory allocation from the State Government. The arrangement does not ensure that these bodies do not go cap in hand begging the Executive to release of their budgetary allocations. Incidentally, the President and Governors would either subsequently contest or sponsor candidates in Elections conducted by these Electoral Bodies.

The need to amend the Constitution is self-evident. The amendment must in theory and practice ensure the independence of the Electoral Management Bodies from the Executive and Political Parties. The Financial independence of INEC would be guaranteed if its budgetary allocation is charged to Consolidated Revenue Fund. In effect, its approved budget should not be altered to its detriment by the Executive. INEC and States Electoral Bodies should collect and control the funds allocated to them.

It is also necessary to amend the Constitution and insulate the Executive from the processes which result in the appointments of the Chairmen and Members of Electoral Management Bodies. The process which lead to the nomination appointment of Chairmen and members of Election Management Bodies must be open and transparent. It is not out of place to interview persons nominated for appointment as Chairmen and Members of Electoral Management Bodies. Such interview will ensure that the best materials are appointed, and further ensure the exclusive of incompetent, corrupt,

weak and timid persons from being appointed as members of these Electoral Management Bodies.

We consequently endorse the recommendation of the Hon Justice Uwais Committee on the Electoral reform, that the National Judicial Council should be responsible for screening and recommending persons for appointment of Chairmen and Members of the Federal and State Electoral Bodies.

Ensuring impartiality on the part of employees and Ad hoc staff of INEC is a must. Resident Electoral Commissioners, Returning officers and some Electoral officers have in some cases been known as card carrying members of contesting political parties. How will such Electoral Officers sustain impartiality in the conduct of the Election? Even if partiality of such Electoral Officers are disclosed, this will not automatically void the election result. Hear the testimony of Uwais, CJN (as he then was) in **BULARI V. OBASANJO**.¹⁴

"It is true that evidence was adduced that show that some Resident Commissioners were members of the PDP. This is sufficient to prove non-compliance with Section 17 (2) and 19 of the Electoral Act but it is not sufficient to come to the conclusion that they are biased. The Party that asserts that they were biased will have to go further by adducing evidence to show the manner in which they were biased against the Petitioner or in favour of the Respondents to the petition to enable the Tribunal or Court to come to that conclusion."

With the greatest respect to His Lordship, Election Management Bodies perform quasi-judicial functions in the sense of being entrusted with the duty to determine winners and losers of Election. Consequently, INEC and her Officers must, like Ceaser's Wife, be above Board. Like Judges, INEC and her Officials must not only do justice but must be seen to be doing Justice. Electoral Bodies must consist of Men and Women of proven integrity who respect the sanctity of the People's Will. They must not be men and women who can sell their soul to desperate politicians and Electoral Fraudsters. The exclusion of card carrying members and sympathizers of

political parties from the list of staff of Electoral Bodies is therefore desirable.

STAGGERED ELECTION

The recent Election in Anambra State, which most of the Candidates agreed was free and fair, evidently supports the staggering of Elections in the whole Federation. During the Election, INEC Officials and Law Enforcement Agents were adequately deployed to the State. Election Malpractices and violence were reduced because no other Election was held simultaneously in any other state of the Federation. The recent Anambra State Election contrasts sharply with the 2007 general Elections where there were allegations of widespread late or outright non-arrival of Election materials on account of shortage of manpower and other logistics. There were also glaring under-policing of polling booths which resulted in reported widespread ballot box snatching and stuffing of ballot boxes with pre thumb-printed ballot papers. It is submitted, that if Elections to various elective posts are staggered either on State by State or geopolitical zone by geopolitical zone basis, INEC and Law enforcement Agents would likely conduct credible Elections. The Electoral body would be in better position to deploy adequate manpower to various States where Elections are being held as opposed to simultaneous deployment of Officers to all States and Federal Capital Territory.

Protagonists of Federalism, would support the holding of uniform Election dates throughout the Federation. They are bound to contend that the above proposal on staggered Election negates Federal principles. Our humble response, to such contention, is that the aim of Federalism the attainment of unity in diversity. Uniformity where we can and diversity, when we should. There can be no uniformity at all costs, especially where more credible election results will likely emerge from the proposed staggered Elections. Federalism recognizes diversity and enables each State to move at its own pace. The need to ensure credible Election through staggered Election should override the present arrangement of simultaneous Elections throughout the States of the Federation and the Federal Capital Territory.

V ADJUDICATION OF ELECTION DISPUTES BY COURTS AND TRIBUNALS

The available machinery for the settlement of Election disputes and the Laws applied by the Courts contribute to credible Elections. Our past and current Electoral Laws recognize Election Petition Tribunals, the Court of Appeal and Supreme Court as the machineries for settlement of Election disputes. Hon. Justice Kayode Eso and Chief Afe Babalola SAN recently suggested the use of Arbitration mechanism to settle electoral disputes.

Election Petition Tribunals which consists of five serving Judges of High Courts presently try all Election Petitions in the States and Federal Capital Territory. The Court of Appeal consisting of five serving Justices is the trial Court for the presidential Election Petitions. The Supreme Court is the apex Court for Presidential Election, while the Court of Appeal serves as the apex Court for Governorship and Legislative Houses Election Petitions. The Election of a Candidate can be challenged on any of the following four grounds.

- That the person whose Election is questioned was not qualified to contest at the time of the Election;
- That the Election was not valid by reason of corrupt practices or non-compliance with the provisions of the Electoral Act;
- That the respondent was not duly elected by majority of lawful votes cast at the Election; or
- That the Petitioner was validly nominated but was unlawfully excluded from the Election.

The Electoral Act of 2006, the Schedule to the Act, Practice Directions on Election Petitions and Election Appeals are the principal sources of Law. They contain innovative provisions aimed at speedy and fair determination of Election Petitions.

TIME LIMIT FOR HEARING ELECTION PETITIONS AND APPEALS

In spite of the additional measures introduced to fast-track hearing of Election Petitions, Election Petitions are unduly delayed and prolonged. With less than ten Months to the end of the tenure of various Administrations in most States of the Federation, Election Petitions are still on-going in some State Election Petition Tribunals. There are also some pending Election Petition Appeals in the Court of Appeal. There is the possibility that some of these Cases may not be finally determined before the 2011 Elections. This is perturbing. The on-going trials and appeals are not unconnected with the "do or die" posture of Political Office aspirants who are mostly bad losers. Even where it is obvious, that the election was won by their opponents, they find it difficult to concede defeat. They give false hope to their supporters for as long as three years, in order to remain relevant during the period between the last Election and the next primaries of their political parties. We must however acknowledge that there are some Petitioners, who have genuine causes of action against Elections results declared by Electoral Bodies. Such Petitioners must be encouraged to fully pursue their Petitions to the highest level.

However, if Candidates who genuinely lose Elections are honest and courageous enough to acknowledge the successes of their opponents by accepting defeat, as it is the practice in the matured Democracies, there would be a reduction in the motley of Petitions filed in various Election Petition Tribunals and the Court of Appeal. Such reduction in number of Election Petitions has the added advantage of ensuring timely determination of election petitions.

It is also suggested, that the number of Judges trying an Election Petition should be reduced from five to three, in order to encourage the setting up of more than one Election Petition Tribunal in a State, where it is desirable to do so.

The recommendation of the Uwais Committee, that a time limit of six months, should be prescribed for the hearing and determination of Election Petitions and Appeals, is evidently motivated by the need to reduce the time for the hearing of Election Petitions and Election Petition Appeals. It is however doubtful, if the recommendation can

stand the test of Constitutional validity. A similar provision in a previous Electoral Law was held by the Supreme Court, as unconstitutional in the case of **PAUL UNONGO V. APERAKU**.¹⁵ The Court held that Section 129 of the Electoral Act 1982, which prescribed 30 days, as time frame within which Gubernatorial Election Petition must be determined by the Tribunal was unconstitutional and void. According to Bello, JSC (as then was).

The old adage that delay of justice is denial of justice has the same force as the maxim that hasty or hurried justice is also a denial of justice. On this account, any statute which prescribes time limit within which a trial Court must try and determine Cases or within which an Appeal Court must hear and determine appeals is inconsistent with the provisions of Section 4 (8) and 6 (6) (b) of the Constitution and is therefore void by virtue of Section 1 (3) of the Constitution.

Obascki, J.S.C. (as the then was) lent his weight to the above position thus:

"These provisions also constitute interference in the judicial functions of the Federal Court of Appeal and the Supreme Court and seriously breached the doctrine of separation of powers."

The need to ensure speedy determination of Election Petitions and Election Appeals is self evident. The need to jealously guard judicial powers of the Court is also appreciated. A way out, is for the provision of the Constitution to be amended such that the time-limit for determining Petitions and Appeals are would be prescribed in the Constitution. Such an arrangement would save the committee's proposal prescribing time-limit for the determination of Election Petitions and Appeals.

VI PRACTICE, PROCEDURE AND EVIDENTIARY RULES

In order to ensure speedy and fair determination of Election Petitions, the Electoral Act, the Schedule to the Act as well as the Practice Direction issued by the President of the Court of Appeal contain innovative Provisions. Highlights of these Provisions include the Provision on frontloading of Witnesses, their Statements and

documents to be tendered. Alternatively, when documents are not frontloaded they must be listed in the list of document. Consequently a Witness when called, testifies by adopting his/her Witness Statement on Oath as his/her evidence. He also formally tenders documents which have not been agreed upon. Agreed documents and Certified Copies of public documents can be tendered from the BAR. The time which would have been spent in leading a witness in evidence in-chief is thus saved. The procedure also reduces objections on admissibility of documents.

The danger of disclosing the identities and addresses of witnesses in advance in a politically charged Post-Election environment, has now been appreciated. The provision on frontloading the identities of witnesses has consequently been amended. It is now possible to use symbol to describe a witness. This new arrangement protects the identities of the witnesses and removes the danger of harassing or dissuading witnesses from testifying before the Tribunal.

It is noteworthy that some of the Rules and principles applied by the Tribunal and Appellate Courts do not ensure the credibility of Election Results. It has been judicially held in a plethora of Cases that Election Petitions are in a distinct class. They are neither Civil nor Criminal proceedings. They are *sui generis*.¹⁶ However, despite the special status of Election Petitions, some principles of law applicable in Civil and Criminal Cases have been applied by the Tribunals and the Courts in Election Petitions and Appeals. For example, the presumption of regularity applicable to Official Acts of Government Institutions and Government Officials also apply to Election results. Consequently, where it is acknowledged, that an Election result has been collated and produced by Electoral Management body, there is a presumption that the Election was properly held and the result as declared by the Electoral Body is correct.¹⁷

The Court held in **Ezeazodosiako V. Okeke**"

"In the first place, the Law presumes that an Election result declared by INEC Officials is correct and genuine until otherwise disproved. The Law still declares that he who

assets must prove."

*Also in Nwobodo v. Onoh*¹⁹

"I think, at this state I may say that I accept the submission of Chief Williams that there is in law a rebuttable presumption that the result of any Election declared by FEDECO is correct and authentic and the onus is on the person who denies its correctness and authenticity to rebut the presumption"

The effect of the presumption of regularity, is the imposition of the burden/duty of proving that Elections which resulted in the production of the result was either not held at all or where held, the result is not a reflection of the election, on the Petitioner. Similarly, where there are allegations that an Election was not conducted in substantial compliance with the provisions of the Electoral Law, the Petitioner has the burden of pleading and also proving particulars of non-compliance and thereafter, proving how the non-compliance substantially affected his/her Election Result. In other words, the Petitioner must prove that but for the non-compliance, he/she would have won the Election.²⁰

In *Buhari v. Obasanjo*,²¹ the Supreme Court Per Belgore JSC (as he then was) held thus:

"It is manifest that an Election by virtue of Section 135(1) of the Act shall not be invalidated by mere reason that it was not conducted substantially in accordance with the provisions of the Act, it must be shown clearly by evidence that the non-substantiality has affected the result of the Election. Election and its victory, is like soccer and goals scored. The Petitioner must not only show substantial non-compliance but also the figures i.e. votes, that the compliance attracted or omitted. The elementary evidential burden of the person asserting must prove, has not been derogated from by S. 135(1). The Petitioners must not only assert but must satisfy the Court that the non-compliance has affected the Election result to justify nullification".

..... The onus has not by any means shifted from the time honoured law on evidence that the person who asserted a situation must prove. The burden on Petitioners to prove that non-compliance has not only taken place but has also substantially affected the result must be fulfilled. There must be clear evidence of non-compliance, then that non-compliance has substantially affected the Election"

Where the Petitioner relies wholly and exclusively on allegation of Crime as the foundation of his/her Case, he must prove the allegation beyond reasonable doubt in accordance with Section 138(1) of the Evidence Act. And where the allegation is that of Forgery or Falsification of Election Results by Officials of the Election Management Body, the Petitioner must join each Official of the Election Management body involved in the Forgery as a Party to the Petition. He must also tender two sets of Results.²² The Petitioner must tender his own authentic Result and the fake Result to enable the trial Tribunal/Court to determine the allegation of forgery. The underlisted Court pronouncements confirm the above principle of Law.

(1) **IHUTE VS. INEC**²³

"It is well settled law that in an Election Petition, when a Petitioner makes an allegation of non-compliance with the Electoral Law as the basis or foundation of his case, he has a very heavy burden to show the tribunal by cogent and compelling evidence that non-compliance is of such a nature as to effect the result of the Election."

(2) **ONYE VS. KENNA**²⁴

"Further, the Petitioner can only succeed in proving a falsification of a document by producing a genuine document which will show that the document that is alleged to be a falsification of the result is so. In short there must be two results one which can be termed genuine and the other false."

The above principles hindered and would continue to hinder

Petitioners who challenge the results of Election declared by Electoral Management Bodies. It is odd to impose the burden of proving non-compliance and substantial effect of non-compliance with the principles of the Electoral Act on the Petitioner. In view of the fact that all the Election materials are usually in the custody of the Election management Body, it is proper to impose the burden of proving the holding of Election in accordance with the provisions of the Electoral Law on the Party responsible for the conduct of the Election. The Law, which imposes the burden of proof of allegation of non-compliance on the Petitioner evidently, makes it easier, for a Camel to pass through the eye of a needle, than for the Petitioner to prove his allegation of non-compliance. We must shift the burden of proof to the Electoral body if the Petitioner is to have a meaningful day at the Election Petition Tribunal.

We therefore whole heartedly endorse the views expressed by Hon. Justice Oguntade in his dissenting Judgment in the Case of **OJUKWU V. YAR'ADUA**.²⁵

"It is saddening in the extreme that Section 146 (1) above, a provision which was designed to ensure that minor infractions of Electoral Act which could not in any event be expected to have to effect on the Result of an Election has been elevated by our courts into a ground for an accommodation of most glaring failure to comply with the provisions of the Electoral Act. A close reading of S.146 (1) easily shows that the non-compliance with the Act which can be overlooked or forgiven is one which arises notwithstanding that the Election was conducted substantially in accordance with the principles of the Electoral Act. Where a Petitioner's complaint is founded on non-compliance with an essential condition precedent to the conduct of the Election, this cannot and ought not to be seen as a non-compliance which did not substantially affect the result of the Election. The argument that if all incidents of non-compliance are penalized by annulling the Election, no Election would survive a scrutinization is a weak excuse for the unwillingness to observe the provisions of the law. This is because there is in-built in S.146 (1) a provision to excuse

or forgive a non-compliance which does not substantially affect the Result of the Election. The preponderant majority of Election Petitions in Nigeria would (not) fail in our Courts even in the face of clear evidence of serious malpractices unless a proper and correct interpretation is given to S.146"

Finally, where there are allegations of violence or malpractices such as Ballot Box stuffing, Ballot Box snatching, treating and bribery which are perpetrated by other persons other than the Candidate, the Candidate will only be adversely affected by these acts where the Petitioner is able to prove that these acts were perpetrated with the knowledge and consent of the Candidate on whose behalf these acts were perpetrated.

In **ANAZODO VS. AUDU**²⁶ the Court held as follows;

*"It has to be shown earlier that the candidate who is alleged to have bribed the voters or his acknowledge agent or he authorized subsequently ratified it. A Candidate cannot be held responsible for what other people did in form of unsolicited aid which he or his acknowledged agents were"*²⁷

It is suggested that, where it is proved by that a Candidate is a beneficiary of malpractices, perpetrated by his Agent or Political Party Agent it should be presumed that such Agent acted at the material time as the Candidate's Agent. The Candidate should accordingly be affected by the conduct of the Agent. It is out of place to insist on proof of knowledge/consent of a Candidate of the conduct of the Agent before the Candidate be adversely affected by such conduct. The Candidate who is the beneficiary of Election violence and malpractices must be prepared to take the corresponding burden of such violence and malpractices. Alternatively, such candidate should shoulder the burden of proving that in perpetrating electoral malpractices, the agent did not act as his agent.

EDUCATION AND CREDIBLE ELECTIONS

Like Democracy, education is also multifaceted.²⁸ It is consequently

an elusive and confusing concept. Education can be defined as the training of the mind and the abilities of a group of individuals or a Society. It is the process of instructing and training through which people especially young ones learn how to use their mental, moral and physical powers. Education has also been defined by Wikipedia (the on-line encyclopedia) as "... any act or experience that has a formative effect on the mind, character or physical ability of individual and in its technical sense education is the process by which society deliberately transmits its accumulated knowledge, values and skills from one generation to another through Institutions."

Education is not however exclusive preserve of Children and Students. We all need education because knowledge is power, and power can only be acquired through Education. The educated, need further education, in order to remain educated. Moral, religious, continuing Education through of Seminars, Conferences and top-up courses for those who are already educated are examples of various Classes of Education. Education is therefore a continuous process from the day a person is able receive information until such a time he is unable to receive further instructions. Education is evidently vital to the development of the mind and the Society, the way food and shelter are important to a persons health. Education is therefore a MUST because it is the bedrock of National development and the most important catalyst for Rapid Socio, Economic Development and Political transformation. Education aims at producing morally sound and creative individuals who are imbued with a sense of patriotism and a common sense of Nationhood." Education is an article of faith. Little wonder, that Section 18 of the 1999 Constitution provides:

- "18 (1) Government shall direct its Policy towards ensuring that there are equal and adequate educational opportunities at all levels.
- (2) Government shall promote science and technology
- (3) Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide:

- (a) free, compulsory and universal primary education;
- (b) free secondary education;
- (c) free University education; and
- (d) free adult literacy programme.

Admittedly, the above provision is not justiciable. An aggrieved litigant is expressly prevented by Section 6 of the 1999 Constitution from enforcing the provision in a Court of Law against a State or Federal Government. However, the provision and indeed the whole of Chapter 2 of the Constitution set goals and targets for governments within the Federation, the way employers measure the efficiency of their employees through set targets.

It must be acknowledged, that neither the acquisition of basic Education by a person nor the availability of Mass Education, in a society, is a valid Insurance Policy against non-involvement of a person and citizens in Electoral violence and malpractices before, during and after elections. We may very well find that the Architects of election malpractices and violence, are graduates of Secondary Schools and Universities, who though well lettered are not functionally Educated.

Functional education is synonymous with knowledge which is concrete and usable. It is neither abstract nor theoretical. It is the deployment of abilities and skills of people in a practical way in order to meet the prevailing Economic, Social and Political needs of an individual and of the society. It ensures the production of persons with value for hard work, self actualization, self esteem and self reliance.

Functional Education as advocated by National policy on Education implies not just the production of school or University graduates who are up as Job seekers. It is also not about the production of Secondary School and University graduates who though untrained as Bankers and employed by Banks and Financial Institutions as Marketers and Relationship Officers and who are however hurriedly dumped by their Employers on account of their inabilities to meet unrealistic

deposit targets set for them by their Employers. Functional Education seeks to put in place School and University graduates who are able to function and are equipped with the right Values, Attitudes and Skills which are necessary for their survival and the progress of the Nation. Such functionally educated School and University Graduates are Politically informed and are likely to tower above the temptation to selling their votes or participation in violence and malpractices during election.

The absence of a National Policy designed to ensure functional education, primarily accounts for the decay in our education sector, where education, is now seen as an end and not as a means to an end.

EDUCATION OF VOTERS, CANDIDATES AND OFFICIALS OF ELECTION MANAGEMENT BODIES

Knowledge is power and Education enhances knowledge. Voters and Candidates must be educated in order to know their rights and corresponding obligations under the electoral process. The knowledge required of Voters for example, include, the purpose of Election, where and when to register and to vote and an appreciation of the integrity of Election Processes.

NDI defines Voter Education as, "the process by which citizens are educated on how to register and vote, develop a sense of civic duty to participate in the electoral process and learn to respect the outcome of legitimate elections"

Voter Education must provide information on how to take part in the election process, inform citizens about registration, balloting, counting procedure, collation of election results, the role and responsibilities of elected Officials and how to analyze information in order to make informed choice. Voter Education aims at making Voters appreciate the facts that they are the ultimate authorities in a Democracy and as such, it is their responsibility to participate in the Election process. Every vote must therefore count. It trains them to accept defeat at the polls when they are defeated and teaches us that election is not a do or die affair.

The greatest challenge of Voter Education is how to gradually build and sustain public confidence in the electoral process. A rightly contended by **Keith Jennings**³⁰ - "It is not enough for Voters to learn where, when and how to vote. Voters must be convinced that voting will make a difference and voters must have confidence in the integrity of the Electoral Process. Building public confidence in the Electoral process requires that Voters hear the voices they trust and respect from civil society ... i.e. from respected civil and religious institutions, community leaders".

Many Voters in Nigeria find the electoral processes strange. They lack education on the processes. There are some Voters who are enthusiastic about the processes, but not sufficiently literate to understand the process. They are unable to read and appreciate guidelines for registration of Voters and other election processes. This has contributed in low level voters participation during elections.

Curiously, despite low level of voters participation during elections, ballot papers were still not enough in some polling stations. There were reported cases of massive rigging and election malpractices. Ballot papers were pre thumb printed and stuffed into ballot boxes by hired party agents/law enforcement agents and in some cases by Ad-hoc Officials of Electoral Management Bodies.

The recent efforts of some Petitioners to utilize the services of finger-print experts to nullify elections on ground of multiple thumb-printing of ballot papers, are likely to be frustrated, because of lack of voter education, on how a Voter should thumb print on ballot papers, in order to capture all the features of the Voter's finger.

Hear the testimony of Ndarabasi Ekong a forensic expert on the need for Voter Education in order to detect multiple thumb printing of ballot papers during elections.

"About 95 per cent of the prints are either smudged or faint. INEC should train the electorate on proper thumb printing so that ballot papers can be forensically analyzed and compared with others.

Your need to clean the finger before applying the ink. Then you thumb print at 45 degree. That way you are likely to get a clear impression If you don't have enough ridge points, you cannot compare a finger print with another. For you to say you have multiple voting, you must be able to compare clear print on a ballot paper with another on another ballot paper and come to a just conclusion³¹

Apart from Voters Education, aspirants to political and elective Offices must be educated. They must possess basic, functional and qualitative education in order to gain respect of the electorate and to efficiently discharge the functions of their various offices.

The quality of candidates in elections definitely impact on the credibility of elections. If persons with questionable character and unacceptable educational qualifications contest elections and emerge as winners, queries are bound to be raised on the credibility of the elections.

Presently the minimum qualification prescribed by the constitution for aspirants to elective offices is school certificate. The definition of School Certificate in Section 318 of the 1999 Constitution enables persons with Primary School Leaving Certificate to contest and where possible win elections.

In section 318 of the 1999 Constitution, School Certificate or its equivalent is defined as

- (a) A Secondary School Certificate or its equivalent, Grade II Teachers Certificate, the city and Guilds Certificate; or
- (b) Education up to Secondary School Certificate level; or
- (c) Primary Six School Leaving Certificate or its equivalent and -
 - (i) service in the public or private sector in the Federation in any capacity acceptable to the Independent National Commission for a minimum of ten years, and
 - (ii) attendance at courses and training in such institutions as may be acceptable to the Independent National Electoral Commission for periods totalling up to a

- minimum of one year, and
- (iii) the ability to read, write, understand and communicate in the English Language to the satisfaction of the Independent National Electoral Commission; and
- (d) any other qualification acceptable by the Independent National Electoral Commission.

By virtue of the above provision, it is possible, for a candidate with Primary School Leaving Certificate to emerge as a State Governor or a legislator, provided such aspirant, has in addition to such Certificate attended course and training in Educational Institution acceptable to INEC for a total period of at least one year.

The above arrangement which enables persons with Educational qualifications which are as low as Primary School Leaving Certificate to contest elections and possibly emerge as winners of Elections is unacceptable in a Nation blessed with qualitatively and blessed functionally Educated persons. The Constitution should be amended in order to give Secondary School Certificate or its equivalent its natural meaning. The requirement of Education up to Secondary School Level is insufficient. There must be evidence that an aspirant sat and passed his final examination at the Secondary School Level. If we may ask, what is the purpose of attending Secondary School without evidence of passing the final Examination? Not only must the Candidate pass through Secondary School, he or she must also allow the Secondary School to pass through him or her by passing the Secondary School Leaving Examination.

The provision of Section 318 of the 1999 Constitution which also vests INEC with the power to accept any other educational qualification it considers appropriate, is also satisfactory. The possibility of INEC accepting a Certificate of attendance issued questionable private Conferences workshops and seminars cannot be ruled out. This provision should therefore be jettisoned. English Languages is the Official language in legislative houses and Federal/State Executive bodies. Those who aspire to be members of

these bodies must demonstrate proficiency in English Language. An aspirant who is neither a University nor Polytechnic graduate, must possess a minimum of credit grade in English Language in School certificate Examination or its equivalent. INEC is not an examination body. The provisions which enables a holder of Primary School Leaving Certificate who shows ability "to read, write and understand English Language to the satisfaction of the independent Electoral Commission" is therefore unsatisfactory and should therefore be deleted.

Finally, we require educated Staff of INEC, in order to be able to educate Voters and Candidates on their basic rights and corresponding obligations. Consequently, the Educational qualifications of INEC Staff especially the Ad hoc Staff must be investigated. Where they are found wanting or questionable, necessary steps should be taken, to ensure that only those who are educationally qualified are engaged as Officials of INEC. It is not out of place to suggest that INEC should rely more on members of National Youth Service Corps to serve as Ad Hoc Staff.

CONCLUSION:

Periodic credible Elections involving Educated Electors, candidates and Officials of Electoral bodies are basic to every constitutional Democracy. Credible Elections ensure that the true representatives of the people are elected to preside over the affairs of the Nation for a specific period.

In its almost 50 years of Independence, (except for the annulled 1993 Election which is the reputed as the freest and fairest post Independence Election) Nigeria and Nigerians have not experienced credible Election.

Non-prosecution of Electoral Offenders, lack of basic and Functional Education on the part of Voters, some political office aspirants and officials of Election Management bodies, lack of Independence of Electoral Management bodies, vis-à-vis their finances, as well as the method of appointment and removal of Chairmen and members of Electoral bodies are some of the identified factors which hinder against credible Elections in Nigeria.

The areas of defects in our Electoral Laws which should attract

legislative review have been highlighted above. They include burden of proof, presumption of regularity, delay in the determination of Election Petitions/Election related appeals, as well as lack of voter Education on pre election processes and thumb printing of Ballot papers.

Free, fair and credible Elections raise issue which are beyond the frontiers of law. They raise Social, Political and Economic and Educational issues. We cannot therefore rely wholly and exclusively on our Electoral Laws, Rules and Regulations, in our search for credible Elections in Nigeria. We must reform all Sectors especially the Education Sector.

The reform must enthrone qualitative and functional Education. Where Voters Political Office aspirants and Officials of Election Management Bodies are functionally educated, there is the assurance that they would be less dependent on Government patronage.

Functional Education ensures that Voters are Educated on their Political rights and corresponding obligations. It further ensures that voters are sufficiently skilled and are not dependent on Government patronage in order to survive. A functionally educated voter, who is self-employed, is removed from temptation Zone of selling or compromising his political rights. He knows how to defend his votes. To him every vote must count.

A Functionally educated aspirant to a political office, is unlikely to view Election as "a do or die" affair. There is the assurance, that if the Election is lost he or she would fall back on Functional Education/self-employment for survival.

Finally, Officials of Electoral management bodies who are Functionally Educated are confident that in the event of being victimized on account of their refusal to be involved in election malpractices, they can always rely on their Functional Education for survival. Education of Candidates, agents, electoral officers and voters is therefore a MUST in our search for credible Elections in Nigeria

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