

ETHICS, ACCOUNTABILITY AND TRANSPARENCY IN THE CONDUCT OF ELECTION IN NIGERIA

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Abstract

A Chieftain of the All Progressive Grand Alliance (APGA) in Anambra State, Chief Chuks Okeke, recently testified at the ongoing Presidential Election Petition Tribunal alleging that election in the South East region were rigged in favour of the ruling Peoples Democratic Party (PDP) and President Goodluck Jonathan. Chuks Okeke alleged that his party conspired with officials of the Independent National Electoral Commission (INEC) to perpetrate election rigging. He however admitted under cross-examination that his allegation in respect of other states in the South East was based on information received from other politicians. Transparency, accountability and ethical re-orientations in the business of election and electoral process are tantamount to institutionalizing due process mechanisms in electoral matters. Due process stripped off all its technicalities, bails down to meticulous and enthusiastic observance of the laid down rules and regulations for election business. The paper examines what constitutes ethics, accountability and transparency in the conduct of election. It also examines electoral process and actors in the electoral process and the general observation in Nigeria's electoral process. The paper goes on to identify the major problems and challenges associated with election in Nigeria and offers solutions to the problems identified.

Keywords: Transparency, Accountability, Ethics, Election, Electoral Process, Due Process and Re-Orientation

Introduction

The modern bureaucracy at all levels of government is powerful as bureaucrats interpret laws, make policy and enforce decisions and engage in a variety of other activities that have direct impact on the lives of citizens e.g elections. For this write up, the reader should here use Responsibility and Accountability interchangeably for purposes of clarity.

Accountability/ Responsibility and Ethics in politics and administration have been debated since political and administrative theory began. Attempting to define the terms as well as controlling behaviour to achieve the desired ends has been difficult in all democratic nations.

It is known that elected officials are held responsible through periodic elections; but bureaucrats who are not appointed, do not come under this control. Non-elected bureaucrats are not neutral executors of legislative policy and do in fact have enormous discretionary powers and responsibility in decision making which also creates opportunities for irresponsible action

(Richardson and Baldwin, 1976:310). People shy away from discussing Ethics /Accountability Responsibility and Transparency in the conduct of elections. The journey to conducting a credible election not only starts with Ethics and Accountability/Responsibility but ends with transparency in the electoral process.

Our purpose in this paper is to explore the meanings and dimensions of concepts of Ethics, Accountability/ Responsibility and Transparency in the conduct of Election and to evaluate the institutional arrangement for ensuring their application and highlight a number of factors that contribute to unethical and irresponsible conduct of affairs during elections.

Meaning of Accountability/ Responsibility and Ethics

“Responsibility” like the “ public interest” is a nebulous concept; it is a basic democratic ideal, bound up with the idea of one’s obligation to some external body or standard of behaviour (Presthus, 1975:410).

Responsibility is also commonly used to denote the obligation of an individual to behave according to certain ethical and technical norms. In public administration responsibility has often had a negative connotation due to two obstacles, the difficulty of defining responsibility and developing techniques for monitoring and insuring responsible performance.

According to Mosher (1968) cited in (Richardson and Baldwin, 1976) there are two types of responsibilities. He labels one objective responsibility and the other subjective or psychological responsibility.

Objective Responsibility

“Connotes the responsibility of a person or an organization to someone else, outside itself, for something or some kind of performance”. This meaning of responsibility is quite similar to accountability” and refers to the hierarchical or legal locus of responsibility (Presthus, 1975:41). In this sense one who accepts and executes directives from those in a position of legitimate authority is acting responsibly and a refusal to do so is irresponsible action, which exposes the individual to possible sanction (Richardson and Baldwin, 1976:310).

Subjective or Psychological Responsibility

“Its focus is not upon to whom and for what one is responsible (according to law and the organization chart) but to whom and for what one feels responsible and behaves responsibly”. This meaning is oriented toward loyalty and identification rather than accountability (Richardson and Baldwin, 1967:310).

If the two meanings of responsibility are accepted they may pull employees in two different directions. In the first, the employee looks upward and is accountable to the boss or to the policy-making groups. In the second, employees may be loyal to and identify with individuals and groups other than those in the hierarchy-outside pressure groups, professional groups of which they are a member and peer groups. As a result of these two tendencies, there is the very real possibility that an individual will be faced with and have to choose between conflicting interpretations of responsibility.

Accountability/Responsibility

Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and their institutional stakeholders. Who is accountable to whom varies depending on whether decisions or actions taken are internal or external to an organizational or institution. In general an organization or an institution is accountable to those who will be affected by its decision or actions. Accountability cannot be enforced without transparency and the rule of law.

Ethics

Responsibility is also commonly used to denote the obligation of an individual to behave according to certain ethical and technical norms, while ethics or moral philosophy, is the study of human actions in respect of their being right or wrong. We distinguish between actions that are voluntary-those done intentionally between actions that are involuntary. Particular interest is paid

to the moral character of voluntary action to determine what makes them right or wrong and what gives them a moral quality (World Book, 1991:374).

Whereas executive, legislative and judicial control are in place to guide public officials, we are in truth forced to rely upon officials themselves for responsible public administration thorough certain personal, ethical and professional standards. Ethics otherwise called codes of conduct are usually a set of written rules that govern the conduct of elections including election managers.

Some electoral systems include codes of conduct to govern political parties candidates and lobbyists groups. Codes are designed to prevent unethical behaviour and, if legally binding can hold officials accountable for their individual actions. Codes of conduct or ethics can be a stand alone document or a part of larger piece of legislation. For example, the Ethics and Disclosure Act, Wyoming is part of a larger piece of legislation on public service and Wyoming electoral managers are bound by this code of ethics (<http://aceproject.org>). In South Africa the code for election managers is separate regulation that was designed specifically for elections.

Codes of conduct or ethics that are enacted in legislation or regulations are enforced and include sanctions and penalties for violations. Sanctions can be a fine, suspension from office or disqualification as a candidate. For example, violations of the Wyoming Ethics law are misdemeanours punishable upon conviction by a fine of not more than \$1,000.00. Violations of ethics laws are also usually sufficient cause to terminate a public employee's employment or to remove a public official from office. Violations of the code that involved criminal action are referred to the criminal justice system (The Electoral knowledge Network 1998-2010)

In India, political parties and contesting candidates are expected to abide by a model of conduct. The code was issued by Electoral Commission after the political parties reached consensus on its content. The model code lays down broad guidelines as to how the political parties and candidates should conduct themselves during the campaign (<http://aceproject.org/main> English 1998-2010).

Transparency

This requires that the process of rule making, rule execution and rule adjudication must be reasonably open. It also means that information is available and freely accessible to those whose lives are touched by such decisions and other enforcements. It also means that adequate information is provided in easily understandable and retrievable forms.

Ensuring Transparency and Accountability

1. Ensure that standards and procedures for issuing, processing, researching and counting provisional ballots are clear, transparent, public and uniform.
2. Record and publicize how many provisional ballots were issued, how many provisional ballots were counted and reasons for not counting. Jurisdictions are already mandated by Electoral Commission to inform individual victims whether the provisional ballots was counted .for example , the South Dakota Secretary of state posted on its website the number of provisional ballots per county that were issued in its June 2004 special elections. Nigeria can follow suite and post the number of provisional ballots per Local Government in the country.
3. Evaluate poll worker implementation: Develop a method for evaluating how well poll workers are following provisional voting procedures to determine if poll worker error contributed to any provisional ballot not being counted (<http://www.eac.gov/action/practices>).

Electoral Process in Democracy

An election is the process by which citizens select the thousands of men and women who they want to run their government at all levels.

In a democracy, government officials are chosen by the people and serve for a specific time called a term of office. Depending on state laws, an official may run for re-election once the term

is over. This type of democratic system is called representative democracy. Nigeria citizens, American citizens, British and Indian citizens among others do not directly make governmental decisions as they practice representative democracy (<http://www.uen.org/themepark>). They elect officials to govern for them. Elections are held at any time depending on government laws and time table with the INEC in Nigeria.

Elective Offices at National and State Levels in Nigeria

Nigerians elect on Federal level a Head of State (the President of Nigeria) and a legislature (The National Assembly). The President is elected by the people. The National Assembly has two chambers (The House of Representatives has three hundred and sixty (360) members while the senate has one hundred and nine (109) members, elected for a four year term). Each of the thirty six states are divided into three senatorial districts, each of which is represented by one senator. The Federal Capital Territory is represented by only one senator. On the other hand, election into the House of Representatives is based on a single seat constituency with population as major criterion for delimitation ([http://en.wikipedia.org/wiki/election in Nigeria](http://en.wikipedia.org/wiki/election_in_Nigeria) Dec. 22 2009)

Electoral Process in Nigeria

The election process relates to the entire electoral cycle ranging from the provision of voter education to the dissolution of the National Assembly. The different phases of the electoral process include the following: (INEC, 2006)

- (1) Delimitation of Electoral Boundaries
- (2) Registration of voters
- (3) Notice of Elections
- (4) Nomination of candidates
- (5) Election – campaigns
- (6) Elections, announcement of results and tribunal
- (7) Other organizations in the electoral process
- (8) Electoral conflict resulting from participation of other organizations, people, groups etc

(1) Delimitation of Electoral Boundaries

Section 71-74 of the Constitution deal with delimitation, size and periodic review of Senatorial Districts and Federal Constituencies. The provisions empower the Commission to divide the Federation into 109 Senatorial Districts (i.e. three Senatorial Districts for each state and one for the FCT) and 360 Federal Constituencies, for purposes of conducting elections into the National Assembly.

Sections 112 and 115 of the Constitution make similar provisions empowering INEC in respect of the division of every state in the Federation into such number of State Constituency as is equal to three or four times the number of Federal Constituency within the State. Also, the boundaries of each State Constituency shall be such that the number of inhabitants therein is as nearly equal to the population as is reasonably practicable.

The full implication of this exercise is to check gerrymandering i.e. to divide a territorial unit into election districts to give one political party an electoral majority in a large number of districts while concentrating the voting strength of the opposition in as few districts as possible or to give special advantages to one group.

(2) Registration of Voters

Voter's registration is a process through which those entitled and qualified to vote are identified and registered as voters. They are then issued with voters cards. It is important to register for the following reasons (INEC, 2006)

- (i) It establishes each prospective voter's identity and qualifications and entitles him/her to vote at an election.
- (ii) It involves the adding of new voters to the register, the transfer from one registration centre to another, deleting information of voters who are deceased or no longer meet the statutory requirement of a voter.
- (iii) Prevents voters from voting more than once at anyone election and thus ensures equality of votes.

Problems

1. Voter registration centres do not always serve as polling stations during elections
2. Transfer, replacement of lost or damaged cards and claims are not treated with dispatch.

(3) Notice of Elections

Election is a set of activities whereby members of a community choose their leaders. Four basic conditions are necessary to create an enabling environment for holding of free and fair elections. These according to NERDC (2005) are:-

1. An honest, competent and non-partisan body to administer the election (usually referred to as the electoral commission)
2. The knowledge and willingness of the political community to accept basic rules and regulations governing the contest for power
3. A developed system of political parties, traditions and teams of candidates presented to the electorate as alternative choices and
4. An independent judiciary to interpret electoral laws and settle election disputes.

The process of electing candidates to the National and State Assemblies and local government councils begins long before the actual elections. Prospective candidates from all interested political parties begin to campaign even before the election date has been fixed by INEC.

Every political party contesting any election is expected to submit a list of their nominated candidates and their details to INEC. Nominations and selections at political party level are commonly referred to as party primaries or primary elections.

Nomination of Candidates

A candidate is a person who has been nominated in accordance with his/her political party's rules to contest for a public office through an election. The election may be for President, Governor or to the National Assembly, House of Assembly or Local Government Council and Area Council in case of FCT Council Elections are conducted by State Independent Electoral Commission (SIEC).

Election Campaigns

A political campaign is an organized effort to influence the selection of public office holders or to influence the outcome of referendum or plebiscite (INEC, 2006). Campaigns or canvassing for votes for the purpose of an election is carried out by candidates, their political parties and supporters in accordance to the rules and regulations prescribed by INEC. Any conflict that arises during campaigns leads to electoral malpractices that create problems for the electoral body.

Such Problems include:-

- The use of hooligans or other persons to disrupt the campaigns
- Heavy presence of security personnel to intimidate people.
- Misuses of state resources
- Bribery of voters in cash or kind
- Use of derogative language against opponents
- Use of threats or force or violence to compel people to support or refrain from supporting a political party or candidate

- Campaigning or canvassing for voters based on religion, tribal or sectional bias for the purpose of promoting or opposing a particular political party or the election of a particular candidate

Elections and Announcement of Results

Voting takes place in designated venues identified by INEC. Voting at elections in Nigeria is by “open secret” ballot method. That is, the voter makes his or her mark in secret but casts his/her vote into the ballot box in the full glare of all present. Any person who is in possession of a voter’s card and his/her details appear in the register of voters at the centre he/she wishes to vote, and appears in person with his/her voter’s card at the polling station on where he/she registered as a voter is qualified to vote.

Voting Procedure

- Voter arrives at the polling station where he or she registered as a voter with his/her voters’ card.
- Voter’s details are verified with register of voters
- Voter’s finger is marked with indelible ink and he/she is issued with ballot paper.
- Voter casts his/her vote in secret and places his/her marked ballot paper into the ballot box and leaves the polling station.

Counting Procedure

- The Presiding Officer separates the ballots according to votes cast for each political party and the rejected votes
- The Presiding Officer counts the number of each valid vote cast for each of the political parties; announces the results at the polling station and transmits results to collation centre.

Collation and Announcement of Results

Results from the various polling stations are sent to the collation centre where the Collation/Returning Officer tallies the results from each station and declares the results as follow: Results for Presidential Election are declared by the Chief Electoral Officer who is the INEC Chairman. Results for Governorship elections are declared by State Returning Officers. National and State Assemblies results are declared by the Constituency Returning Officer.

Declaration of Winners of Elections

- Presidential winner has the highest number of votes and should have at least $\frac{1}{4}$ of the votes in at least $\frac{2}{3}$ of the states
- Governorship winner has the highest number of votes and should have at least $\frac{1}{4}$ of the votes in at least $\frac{2}{3}$ of the local government areas of the state
- Membership to the National and State Assemblies is by simple majority
- Winners are issued with certificate of return

Election Petitions

The process of election does not end after winners are declared. It continues with the determination of whatever complaints may have arisen during or after elections. These complaints range from bribery, electoral malpractices, rigging of elections, intimidation of voters etc. Such complaints when presented to the tribunal court formally are known as election petitions.

- The National Assembly Tribunal has jurisdiction to determine an election petition with regard to membership to the National Assembly
- The Governorship/Legislative Houses Election Tribunal has jurisdiction to determine an election petition with regard to membership to the House of Assembly or office of Governor.
- The Court of Appeal (Presidential Elections Tribunal) has jurisdiction to determine an election petition with regard to the office of the President or Vice President.

Other Organizations in the Electoral Process

Many agencies, organizations and groups of different types are involved in the electoral process. Agencies such as the National Organization Agency (NOA) and the Security Services are involved as part of their functions. The registered political parties are necessarily involved because their major function is centred on the electoral process. Other groups may also choose to involve themselves for different reasons.

A good example is the European Union (EU) which could send an observer to monitor elections. Organizations like the media, interest and pressure groups, the National Assembly Legislative Committees, the judiciary and certain NGOs (Non-Governmental Organizations) play very important roles in the electoral process. In fact elections involve far more agencies and organizations than most people realize.

The involvement of the various agencies, organizations and groups is an essential component of the electoral process, as they form part of the overall democratic and electoral system in Nigeria. Such involvement commences with the electoral legislation and then extends through all aspects of the electoral process.

General Observations and Recommendations

Electoral conflicts according to NERDC (2005) are rooted in the limited existence in the society of the under listed points and recommendations:

- Peace education in formal and informal settings
- Promotion of voter education in schools and other institutions
- Control of greed, bribery, corruption and other vices
- Cultivation of positive values that promote harmonious social existence

It is believed that with peace education, our value system as it relates to honesty, punctuality, orderliness, mutual respect for one another, integrity, transparency, patriotism and tolerance for one another in our diversity will improve.

More specifically, the causes of electoral conflicts include:

- **Greed:** This is the lustful acquisition of things to the detriment of other people. Greed is associated with many social vices that have hindered true democratic practices in the country.
- **Inordinate Ambition to Win Power:** Some aspirants regard election into public offices as a 'do or die' matter.
- **Ignorance/Illiteracy on the Part of Voters:** People are easily influenced by the politicians and their supporters
- **Dishonesty/Manipulation of Electoral System:** Dishonest practices during elections such as the provision and use of fake ballot boxes and papers, as well as hijacking of materials to unauthorized places with the connivance of a few electoral officers and security agents have been common.

In some instances, genuine ballot boxes have been snatched and taken to hideouts where they were stuffed with ballot papers illegally acquired. In other instances, there have been cases of manipulation of election figures and also results returned from voting centres where polling did not take place. All these dishonest practices no doubt give rise to protests and litigations by aggrieved individuals and parties (NERDC, 2005).

- **Attractiveness of Political Offices:** Government is seen as a big business and politicians see participation in government as an investment
- **Administrative Problems:-**
 - a. **Inadequate Logistic Support:** Inadequate logistic support can be the most critical inadequacy in the conduct of any election. INEC should think serious beyond moving electoral materials to the State headquarters only. When materials are not properly distributed to the local governments, very many things go wrong.

b. Training and Recruitment of Ad-hoc Staff: Some ad-hoc staffs are not properly trained and their lack of experience can mar an otherwise good election. Let me point out here that this critical resource first and foremost is not responsible to INEC and have their clientele groups out there for who they are responsible to. To a large extent they do not care about what happens to INEC and I suggest that INEC introduces measures to motivate and improve their performance.

c. Consequences of Electoral Conflicts

- Electoral conflicts can prevent free campaigns and elections
- Political instability and loss of lives. In the past, this led to military take over
- Scarcity of voters
- General insecurity where hoodlums take over and there is serious crisis
- Undermining legitimacy: the legitimacy of any government whose elections was characterized by violence is in general doubt. Consequently, government will find it difficult to enjoy popular support and recognition both within and outside the country.

Prevention of Conflicts

- i. Rules of the Game:** Electoral Conflicts can be avoided or prevented if political parties, INEC and other organizations involved in the election process play the game according to the rules and regulations set out by INEC and the Constitution to guide the conduct of elections.
- ii. Law Enforcement Agents:** Law enforcement agents are deployed to centres of electoral activities to maintain law and order. If the police and other security agencies discharge their duties faithfully, conflicts during election will be prevented or reduced.
- iii. Transparency and Fairness of Electoral Officials:** Electoral Officers should be impartial in the performance of their duties to reduce electoral violence. Other electoral personnel who are usually ad-hoc staff should be trained properly by INEC to enable them live up to their responsibilities. They collect and issue out ballot papers and control the operations of the polling stations. Transparency in this role will reduce or eliminate electoral conflict
- iv. Use of Community/Religious Leaders:** Community and religious leaders wield a lot of influence in the society and can be reached to talk to candidates and their agents to maintain law and order during campaigns and actual elections.
- v. Legitimate Ways of Seeking Redress:** Conflict emanating from electoral activities can be prevented or minimized if the electorate and candidates follow legitimate ways of seeking redress.
- vi. Cultivating Spirit of Sportsmanship:** The defeated candidates and their supporters are encouraged to accept defeat to minimize electoral violence
- vii. Strong Judiciary:** If the judiciary is strong, with no influence from the executive, it can enforce the electoral laws to minimize conflict
- viii.** Nigeria requires codes of conduct or ethics that are enacted in legislation or regulations that are enforced and include sanctions and penalties for violations.
- ix. Ensuring Transparency and Accountability**
 - 1 Ensure that standards and procedures for issuing, processing, researching and counting provisional ballots are clear, transparent, public and uniform.
 - 2 Record and publicize how many provisional ballots were issued, how many provisional ballots were counted and reasons for not counting. Jurisdictions are already mandated by Electoral Commission to inform individual victims whether the provisional ballots was counted .for example , the South Dakota Secretary of state posted on its website the number of provisional ballots per county that were issued in its June 2004 special elections. Nigeria can follow suite and post the number of provisional ballots per Local Government in the country.

- 3 Evaluate poll worker implementation: Develop a method for evaluating how well poll workers are following provisional voting procedures to determine if poll worker error contributed to any provisional ballot not being counted (<http://www.eac.gov/action/practices>).

X Administrative Support:

- a. Adequate logistic support by INEC to Electoral Officers in the field should be enhanced
- b. Adequate screening and training of recruited ad-hoc staff for election should be encouraged.

Conclusion

Transparency, public accountability and ethical reorientations in the business of election are pre-conditions to institutionalizing due process mechanisms. Due process, stripped off all its technicalities, boils down to meticulous and enthusiastic observance of the laid down rules and legislations for election business. If electoral umpires, politicians and electors follow electoral procedures in the conduct of election, and become alive to their responsibilities, there will be no room for electoral fraud corruption and voter apathy. With this, the stage is set for meaningful political development and effective and efficient election at the various levels of governance.

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