



**ROUNDTABLE ON 2011 ELECTION: IMPERATIVES AND
CHALLENGES FOR CREDIBLE ELECTIONS**

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COMMUNIQUE

INTRODUCTION

Credible elections are unarguably one of the indices of good governance and strong democratic systems. "Free and fair elections", in the words of the Justice Uwais-led Electoral Reform Committee, "are the cornerstone of every democracy and the primary mechanism for exercising the principle of sovereignty of the people" and are "therefore a crucial requirement for good governance in any democracy". Article 21 of the Universal Declaration of Human Rights, 1948, enshrines the right of everyone to "take part in the government of his country, directly or through freely chosen representatives" and the "right of equal access to public service in his country". More specifically, Article 21(3) is to the effect that "[t]he will of the people shall be the basis of the authority of government." The will of the people, the Article further provides, "shall be expressed in periodic and genuine elections...".

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

The Uwais report notes that the failure to conduct credible and acceptable elections in a polity often generates outcomes that stunt the growth of democracy, on the one hand, and the development of the nation, on the other hand. Regrettably, "[t]he aspirations of Nigerians for a stable democracy have been constantly frustrated by, among other things, poor administration and the conduct of elections," having regard to the fact that "election administration has been profoundly inefficient, characterized by muddled processes, and lacking in the desirable attributes of 'free and fair' elections, a situation which often induces acrimony and even violence."

In recognition of this fact and in fulfilment of its mandate and the desire to ensure credible elections in 2011, the Nigerian Institute of Advanced Legal Studies through its Emmanuel Ukala Centre for Democracy and Electoral Process and in conjunction with the National Human Rights Commission and the Federal Ministry of Justice convened a one day Roundtable on **2011 Election: Imperatives And Challenges For Credible Elections**. Perspectives at the Roundtable included:

- ? Building Public Confidence in the Electoral Process
- ? Towards Achieving Credible Voters Registration
- ? Constitutionalism and Electoral Process
- ? Media Participation in 2011 Elections
- ? 2011 Elections: Role of Political Parties
- ? Information Technology and the Electoral Process
- ? Campaign Financing Regulation: Problems and Prospects
- ? Electoral Offences: Challenges for Prosecutors
- ? Digital Forensic Advocacy and Election Petition
- ? Election Petition Process in Nigeria

Participants were drawn from all sectors of the economy. Discussions were in-depth, frank and robust.

OBSERVATIONS

The Roundtable Made the Following Observations:

1. That elections are fundamental to a constitutional democracy and the conduct of election is crucial to the health of a democracy.
2. That each vote must count and winners must be put in a position to deliver on their campaign promises.
3. That no election can be said to be credible, free and fair where a large percentage of the electorate is disenfranchised.
4. That a free and fair electoral process must exhibit four main indices namely: independence and impartiality, efficiency and professionalism, transparency and impartial and speedy adjudication of disputes.
5. Independence and impartiality requires an electoral umpire that is not subject to the direction of any other person, authority or political party.
6. Efficiency is an integral component of the credibility of the electoral process. However, in Nigeria it is difficult to talk of electoral credibility in the face of repeated allegations of incompetence and general inability to organise elections.
7. The electoral process is a long chain that is complete only after conclusion of the election petitions. To ensure credibility in the process, there must be public confidence in the tribunals / courts that give finality to the process.
8. That our electoral processes are characterised by fraud and rigging which has made the populace sceptical and lose faith in the system.
9. That the political parties are weak, lack competent and accountable leadership and depend on government patronage especially financial subventions for survival.
10. That "god fatherism" has a stranglehold over the electoral process and makes demand on elected leaders that hinder their ability to respond to the wishes of the people.
11. That though the elections are competitive, the campaigns are very expensive, this limits the range of choice.
12. That a lot of challenges to the holding of credible elections in 2011 have been thrown up by the amendment of the Electoral Act in sections 17(2), 18(2), 178(2) which requires that election must take place between 120 days to the end of the current tenure. Following these requirement, the 2011 elections must take place between 8th and 18th Jan 2011. In same vein an amendment of section 31(1) of the Electoral Act provides that notice of election must be given 120 days before the election by this requirement notice must be given by 11th August 2010 and registration of voters must end by 9th of September 2010.
13. That the commission must act in accordance with the law and be steadfast in upholding the Constitution.
14. The commission requires the National Assembly to effect the following changes in the Electoral act:
 - (i) Amend section 10(5) of the Electoral Act by reducing the time to 60 days
 - (ii) Reduce the time for compiling Electoral register from 60 days to 30 days.
 - (iii) Amend section 11 of the Electoral Act because of its ambiguity as it suggests that once notice is given registration of voters should terminate.
15. That the maximum ceiling for expenses for Presidential aspirant is 500 million naira.
16. That this provision is thwarted by "smart" politicians who incur election expenses before elections truly commence.
17. That the ceiling on donations is to candidates and not to political parties.
18. The law forbids the use of offshore funds for party activities, but this is always thwarted. This is however an aspect that needs to be given attention to.
19. Forensic science is the application of science to the resolution of legal disputes. Science is valuable in this context because it has the potential to provide reliable, pertinent and definitive information about a given case.

20. The role of a forensic scientist is to provide the justice system with impartial; scientifically rigorous information. Such information can be crucial in establishing whether a crime has been committed or not.
21. Forensic science has helped in the development of the law in several jurisdictions where it has been fully accepted and practiced.
22. Through forensic science it can be shown that thumb prints are not those of humans but mark impressions from some other means.
23. Forensic science can also show the authenticity of other evidence.
24. Each sphere of forensic science would have a linkage to election petition advocacy, no matter how tenuous the link may be.
25. That election petitions proceedings are neither civil nor criminal proceedings per se. They are a special type of proceedings in their own right and therefore said to be sui generis ie in a class of their own.
26. Rights and remedies available in an election petition are not ordinarily common law rights but are conferred by statutes and the totality of the proceedings is regulated by special rules and procedures.
27. Thus the general principles of law developed in civil and criminal proceedings do not apply in cases of election petition.
28. The jurisdiction of the tribunal which hears such petition is of special nature and a slight default in compliance with a procedural step could result in fatal consequences for the petitioner.

RECOMMENDATIONS

At the end of the Roundtable, the following recommendations were made:

1. Political parties should have clear and relatively distinct ideals and aspirations and should be able to recruit candidates committed to these ideals. At the moment parties hardly have any distinct ideals.
2. Political parties should focus on the following: Strong leadership, competence and accountability. To ensure the emergence of credible leaders who owe allegiance to the people, political parties must democratise the process of choosing their candidates.
3. The following three principal restrictions should be imposed on political parties: Expenditure limitation, contribution limitation and limitation on expenditure from personal funds.
4. Political control without diminishing their essential powers especially financial control
5. Democracy must strive in trustful environment, Voters register must be reviewed because the current one is characterised by a lot of irregularities multiple registration by one person, blank registration
6. To have free and fair elections, we must ensure that all the logistical requirements of INEC are provided to avoid embarrassing situations of inadequate ballot papers/ election materials, non serialization of ballot papers, incomplete voters register polling booths etc.
7. The integrity of electoral materials, such as ballot papers and ballot boxes, must not be compromised.
8. The polling day activities, including the casting of votes, the collation of votes, the announcement of results, etc, must be transparent and free of manipulation, intimidation, violence, corruption and other electoral offences.
9. All valid votes must count and all ballots must be accounted for in a transparent manner.
10. Domestic and international election observers/monitors must be mainstreamed into the planning and conduct of the elections.
11. To have credible elections we must have an Electoral Offences Commission
12. Electoral offenders must be promptly and vigorously prosecuted and punished, in order to serve as deterrence to others.
13. The electoral laws must be consistent with the imperative of broadening the democratic space
14. The courts and tribunals must be fair, impartial and incorruptible in their adjudication of electoral matters.
15. Building public confidence in the electoral system requires coordinated and sustained civic education, public enlightenment and conscientization, grassroots mobilization and engagement.
16. A virile and enlightened civil society, particularly one bolstered by a vibrant, objective and responsible press, is critical to the entronement of electoral reform and good governance. Without an enlightened and vigilant citizenry, it is very easy for the elite, as well as ethnic and religious bigots to manipulate, *inter alia*, religion and ethnicity, transform them into Weapons of Mass Destruction (WMD) and imperil the Nigerian Project.
17. The best way to deal with electoral offences is the adoption of the Justice Uwais Electoral Reform Committee recommendation which is to establish an Electoral Offences Tribunal.
18. INEC, Security Agencies and Ministry of Justice should work together to ensure that campaign financing laws are respected.
19. Political Parties must rise and engage in political education and organize counter intelligence to unravel corruption in the system
20. INEC should publish Political Party Accounts in three National dailies as required by law.
21. A review of the Evidence Act should be carried out to reflect strides and developments in the area of forensic advocacy.
22. Law enforcement agents should be trained in the area of forensic science as this would improve their skills to handle, gather and protect evidence found in a crime scene.
23. Legal practitioners should endeavor to understand the fundamentals and practice of forensic advocacy within the parameters of the Electoral Act.
24. The current electoral reforms should include a review of the Electoral Act to streamline and reduce the difficulties involved in the admissibility of forensic reports in election petition proceedings.
25. The Electoral Act should make provisions compelling INEC to release certified copies of all election results including Form EC8A to all candidates at the election within 7 days from the date of the declaration of the result with a proviso that any result not so released cannot be used for the purpose of sustaining an election result declared by INEC.
26. Judges should be proactive in their judgments to allow admissibility of forensic evidence pending when the Evidence Act would be fully amended.
27. There should be an academic forum of political scientist and constitutional lawyers amongst others to interact with INEC on a regular basis
28. Stakeholders should hold Public fora and events regularly to canvass and discuss national issues.

Signed:
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Director General,