

ELECTIONS AND DEMOCRATIC TRANSITION IN NIGERIA UNDER THE FOURTH REPUBLIC

J. SHOLA OMOTOLA*

ABSTRACT

This article analyses the impact of elections and particularly their administration on Nigeria's democratization process. It argues that elections under the Fourth Republic (1999–2007) were characterized by ineffective administration at all stages and levels (before, during and after), resulting in damagingly discredited outcomes. This was due in large part to the weak institutionalization of the primary agencies of electoral administration, particularly the Independent National Electoral Commission (INEC) and the political parties. INEC lacks both institutional and administrative autonomy, as manifested by its composition and funding by the presidency, as well as its gross lack of professionalism and security of tenure for its officials. Elections can only engender the consolidation of democracy in Nigeria if the electoral processes are reformed in ways that fundamentally address the autonomy and capability of INEC and related electoral agencies, particularly political parties, to discharge their responsibilities effectively. The recent trend towards challenging electoral fraud in the courts, however, does signal a strengthening of the rule of law and gives some reason for optimism.

AS NIGERIA CELEBRATES ITS FIFTIETH ANNIVERSARY, it is an apt time to consider its democratic development. From a minimalist perspective, elections are the first and most basic indicator of democracy. In Nigeria, however, elections have been one of the main problems of the democratization process. The country's struggles for sustainable democracy, good governance, and development have been so daunting that all previous attempts at democratic transition have been futile. The collapse of the First (1960–6) and Second (1979–83) republics, and the abortion of the Third Republic through the criminal annulment of the 12 June 1993 presidential

*J. Shola Omotola (sholaomotola@yahoo.com) is Lecturer in the Department of Political Science and Public Administration at Redeemer's University, Nigeria. I thank this journal's anonymous reviewers for their provocative and useful comments. I also thank Rita Abrahamsen for her ceaseless probing, which served to bring the article to its current state. I am, however, solely responsible for the views expressed.

election, are clear indicators of the failure of previous attempts at democratization. After prolonged military rule spanning close to two decades (1983–99), characterized by the wanton violation and repression of the political, economic, and social rights of the people, the re-democratization process begun in 1999 elicited renewed expectations for the consolidation of democracy in the country.¹

At the heart of these expectations lies the pertinent issue of elections. Elections are meaningfully democratic if they are free, fair, participatory, competitive, and legitimate. This is possible

when they are administered by a neutral authority; when the electoral administration is sufficiently competent and resourceful to take specific precautions against fraud; when the police, military and courts treat competing candidates and parties impartially; when contenders all have access to the public media; when electoral districts and rules do not grossly handicap the opposition; . . . when the secret of the ballot is protected; when virtually all adults can vote; when procedures for organizing and counting the votes are widely known; and when there are transparent and impartial procedures for resolving election complaints and disputes.²

This article examines the place of elections, particularly their administration, in the democratic transition process in Nigeria since 1999 in order to ascertain the extent to which elections have helped to strengthen or retard democratic consolidation. The article focuses primarily on electoral governance by the electoral management body (EMB), in this case the Independent National Electoral Commission (INEC), with partial reference to other core institutional actors in the democratization process. How these institutions are organized, managed, funded, and motivated is crucially important. Are they rooted in society, and are they independent, accountable, and democratic? What are their attitudes to democracy and the rule of law? The article engages these questions and argues that the democratic qualities of Nigerian elections under the Fourth Republic (1999–2007) have been shallow because of ineffective governance. This is a result of the weak institutionalization of core institutions in the governance of the electoral processes, particularly INEC and the political parties. Notable weaknesses include lack of independence and professionalism, political interference, undemocratic attitudes, and lack of respect for the rule of law. The form and character of the Nigerian state, giving rise especially to political instability and severe underdevelopment, are other sources of the deepening crisis of electoral governance in Nigeria. However, the recent trend towards challenging electoral fraud in the courts gives some hope that elections may still contribute towards the consolidation of Nigeria's democracy.

1. Eghosa E. Osaghae, 'Democratization in sub-Saharan Africa: faltering prospects, new hopes', *Journal of Contemporary African Studies* 17, 1 (1999), pp. 4–25.

2. Larry Diamond, *The Spirit of Democracy: The struggle to build free societies throughout the world* (Times Books, New York, NY, 2008), p. 25.

Elections in democratic theory

The comparative literature on democratization, particularly during Africa's 'third wave', emphasizes the significance of elections.³ Elections have been seen as central to competitive politics. Ideally, they guarantee political participation and competition, which in turn are pivotal to democratic transition and consolidation. Elections are also central to the institutionalization of orderly succession in a democratic setting, creating a legal-administrative framework for handling inter-elite rivalries. They also provide a modicum of popular backing for new rulers.⁴ Implicit in these assumptions is that elections are important for the institutionalization of popular participation, competition, and legitimacy, three core foundations of democracy.⁵ Michael Bratton observes that 'the consolidation of democracy involves the widespread acceptance of rules to guarantee political participation and political competition. Elections – which empower ordinary citizens to choose among contestants for top political offices – clearly promote rules.'⁶

It is, however, important to note that elections are not in themselves a guarantee for sustainable democratic transition and consolidation. Elections can also be used to disguise authoritarian rule, what Andreas Schedler called 'electoral authoritarianism'.⁷ Under such circumstances, elections are only held as a transitional ritual where the people have little or no choice, as has been the case in many African countries.⁸ This compromises the democratization process by preventing elections from playing their crucial role.⁹ It is, perhaps, with this in mind that Michael Bratton writes that while 'elections do not, in and of themselves, constitute a consolidated democracy', they 'remain fundamental, not only for installing democratic governments, but as a requisite for broader democratic

3. Staffan Lindberg, *Democracy and Elections in Africa* (Johns Hopkins University Press, Baltimore, OH, 2006); Staffan Lindberg (ed.), *Democratization by Elections: A new mode of transition?* (Johns Hopkins University Press, Baltimore, OH, 2009).

4. Arnold Hughes, and Roy May, 'The politics of succession in black Africa', *Third World Quarterly* 10, 1 (1988), p. 20.

5. Staffan Lindberg, 'The democratic qualities of multiparty elections: participation, competition and legitimacy in Africa', *Commonwealth and Comparative Politics* 42, 1 (2004) pp. 61–105.

6. Michael Bratton, 'Second elections in Africa', *Journal of Democracy* 9, 3 (1998), p. 51.

7. Andreas Schedler (ed.), *Electoral Authoritarianism: The dynamics of unfree competition* (Lynne Rienner, Boulder, CO, 2006), pp. 1–26; Andreas Schedler, 'Elections without democracy: the menu of manipulation', *Journal of Democracy* 13, 2 (2002), p. 46.

8. Said Adejumobi, 'Elections in Africa: a fading shadow of democracy?', *International Political Science Review* 21, 1 (2000), pp. 59–73; Tukumbi Lumumba-Kasongo (ed.) *Liberal Democracy and its Critics in Africa: Political dysfunction and the struggle for social progress* (Codesria, Dakar, 2005).

9. Andreas Schedler, 'The nested game of democratization by elections', *International Political Science Review* 23, 1 (2002), pp. 103–22.

consolidation'.¹⁰ The relationship between elections and democratic transition, in other words, is not a given, but is contingent upon a number of forces, chief among which is the administration of the election. Thus:

The regularity, openness and acceptability of elections signal whether basic constitutional, behavioral, and attitudinal foundations are being laid for sustainable democratic rule . . . while you can have elections without democracy, you cannot have democracy without elections. If nothing else, the convening of scheduled multi-party elections serves the minimal function of marking democracy's survival.¹¹

Staffan Lindberg adds weight to this thinking, especially in the African context, when he speaks about the 'surprising significance' of African elections.¹² Lindberg observes that 'the positive effects of holding repetitive elections are perhaps not restricted to free and fair elections, at least not in the early stages of democratization'.¹³ He argues, for instance, that electoral problems such as 'inflated voters registries, political violence during the campaign and polling day, outright fraudulent voting and collation of votes, intimidation of voters and political opponents . . . may stimulate activism in society even more than free elections'.¹⁴

Lindberg's argument, however, underestimates the overall costs of poorly governed elections, including their impact on legitimacy. It is the contention of this article that the form and character of elections, either as a reinforcement of democratic consolidation or as regression, are largely contingent upon a series of factors. The most basic of these relates to the EMB and other institutional-political frameworks that surround it – including political parties, mass media, and the judiciary – the interaction among them, and their degree of institutionalization.¹⁵ These institutions are important for effective electoral administration because 'the indeterminacy of elections' – the possibility of elections leading to alternation of power – 'is to a large extent a function of an impartial administration of elections'.¹⁶

10. Bratton, 'Second elections', p. 52.

11. *Ibid.*

12. Staffan Lindberg, 'The surprising significance of African elections', *Journal of Democracy* 16, 1 (2006) pp. 139–51.

13. Staffan Lindberg, 'Introduction: Democratization by elections: a new mode of transition?', in Lindberg, *Democratization by Elections*, p. 6.

14. *Ibid.*, p. 6.

15. Robert A Pastor, 'The role of electoral administration in democratic transitions: implications for policy and research', *Democratization* 6, 4 (Winter 1999), pp. 1–27; Jorgen Elklit and Andrew Reynolds, 'The impact of election administration on the legitimacy of emerging democracies: a new comparative politics research agenda', *Commonwealth and Comparative Politics* 40, 2 (2002), pp. 81–118.

16. Adele L. Jinadu, 'Matters arising: African elections and the problem of electoral administration', *African Journal of Political Science* 2, 1 (1997), p. 1.

Election institutions and electoral processes

The importance of electoral governance, defined as ‘the wider set of activities that creates and maintains the broad institutional framework in which voting and electoral competition take place’,¹⁷ to democratic transition and consolidation cannot be overemphasized. Electoral governance is a comprehensive and multi-tasked activity, involving the three levels of rule making, rule application, and rule adjudication. Rule making involves designing the basic rules of the electoral game; rule application deals with implementing these rules to specifications to organize the electoral game; and rule adjudication entails resolving disputes arising from the game. On the whole, electoral governance involves ‘the interaction of constitutional, legal, and institutional rules and organizational practices that determine the basic rules for election procedures and electoral competition; organize campaigns, voter registration, and election day tallies; and resolve disputes and certify results’.¹⁸ In these processes, ‘the interplay of power structures and processes is central to electoral outcomes’.¹⁹ As such, EMBs are part of ‘a set of institutions and rules that together determine the probity of electoral processes, and in emerging democracies, where administrative processes are weak and distrust across political actors is high, their role at the center of electoral processes tends to be more visible’.²⁰ Thus whether electoral governance will contribute to democratic consolidation or regression will depend on the independence and professionalism of electoral institutions, particularly the EMB, because ‘institutional structures that promote a “level playing field” at each stage of the electoral process will enhance the extent to which voters perceive their elections to be fair’.²¹

In their comparative study of Latin America to test the significance of electoral governance in the consolidation of democracy, Hartlyn, McCoy, and Mustillo established ‘an important positive role for professional, independent electoral commissions on electoral outcomes’, showing that ‘formal-legal independence matters when the rules of the game are likely to be respected’. Moreover, ‘low-quality elections are found disproportionately where incumbents seek reelection and where victory margins are extremely wide rather than narrow’.²² This is not to say, however, that effective elec-

17. Shaheen Mozaffar and Andreas Schedler, ‘The comparative study of electoral governance – Introduction’, *International Political Science Review* 23, 1 (2002), p. 7.

18. Jonathan Hartlyn, Jennifer McCoy, and Thomas M. Mustillo, ‘Electoral governance matters: explaining the quality of elections in contemporary Latin America’, *Comparative Political Studies* 41, 1 (2008), p. 75.

19. Adigun Agbaje and Said Adejumobi, ‘Do votes count? The travail of electoral politics in Nigeria’, *Africa Development* 31, 3 (2006), pp. 25–44.

20. *Ibid.*, p. 76.

21. Sarah Birch, ‘Electoral institutions and popular confidence in electoral processes: a cross-national analysis’, *Electoral Studies* 27, 1 (2008), pp. 305–20.

22. Hartlyn *et al.*, ‘Electoral governance matters’, p. 73.

toral governance alone guarantees good elections: obviously a number of forces, including all the social, economic, and political variables, intervene to play prominent roles in influencing the process, integrity, and outcome of elections. Nevertheless, good elections are not possible without effective electoral governance.²³

It is perhaps for this reason that the new focus of research in electoral studies and democratization is gradually shifting towards electoral administration.²⁴ These studies demonstrate that EMBs, as the primary institutional mechanism, are vital to overall quality, defined as 'the extent to which political actors see the entire electoral process as legitimate and binding'.²⁵

Winners and losers can accept electoral processes and results as binding provided elections are effectively administered, but effective administration is only possible if the EMB has autonomy, measured basically in terms of its structure, composition, funding and capability.²⁶ This is why one of the hallmarks of a mature democracy is professional, independent, non-partisan election administration. However, other relevant institutions like political parties, mass media, the security agencies, and civil society groups (CSOs) are also required to play their own roles effectively, including the provision of logistical support, which is vital to the operation of the electoral body. The oversight functions of the legislature and judiciary are also crucial.

In Nigeria, the primary responsibility of electoral administration rests with an EMB that has undergone several changes in nomenclature under different regimes, but not as much change in its structure. To be sure, between 1959 and 1999 the EMB was renamed six times. Before the civil war it was the Electoral Commission of Nigeria (ECN, 1959–63); then the Federal Electoral Commission (FEC, 1963–6). In the latter part of the 1970s it was the Federal Electoral Commission (FEDECO, 1976–9). During the Babangida regime (1986–93), it was renamed the National Electoral Commission (NEC). General Sani Abacha (1993–8) replaced the NEC with the National Electoral Commission of Nigeria (NECON), while General Abdusallami Abukakar, Abacha's successor (1998–9), rechristened it the Independent National Electoral Commission (INEC).²⁷ It has also been reconstituted endlessly; in 1958, twice in 1963, 1964, 1977, 1981, 1987,

23. Mozaffar and Schedler, 'The comparative study of electoral governance', p. 6.

24. Mozaffar, 'Patterns of electoral governance'; Mozaffar and Schedler, 'The comparative study of electoral governance'; Jorgen Elklit and Palle Svensson. 'What makes elections free and fair?', *Journal of Democracy* 8, 3 (1997), pp. 34–45; Jorgen Elklit, 'Electoral institutional change and democratization: you can lead a horse to the water, but you cannot make it drink', *Democratization* 6, 4 (1999), pp. 28–51; Elklit and Reynolds, 'The impact of election administration'; Pastor, 'The role of electoral administration'.

25. Elklit and Reynolds, 'The impact of election administration', pp. 86–7.

26. International IDEA, *Electoral Management Design: The International IDEA Handbook* (International IDEA, Stockholm, 2006).

27. Agbaje and Adejumbi, 'Do votes count?', p. 31.

1989, 1993, 1994, 1998, 2000, and 2004.²⁸ Despite (or perhaps because of) these changes, the EMB has not been able to administer elections effectively, and its 'autonomy and capacity' over the years have been suspect.²⁹

Three major indicators of lack of autonomy are identifiable. The first is its composition, which is the prerogative of the President. Since 1999, INEC has been composed of a chairman, twelve national commissioners, and 37 resident electoral commissioners, one each for the 36 states of the federation and the Federal Capital Territory, all of whom are appointed by the federal government. This makes INEC easily susceptible to manipulation by the President and the federal authorities. The oversight role expected of the legislature in the screening of presidential nominees for INEC positions is rendered impotent by the fact that the President's party, the People's Democratic Party (PDP), has a legislative majority sufficient to secure its wishes in Parliament.

The second indicator relates to the insecure tenure of the INEC chairman and commissioners. Job security generally increases the stakes officials have in the electoral process: if they mess up the process, they may lose their positions. Unlike in Ghana, where the chair of the Electoral Commission and the two deputies have security of tenure (they enjoy the same terms and conditions of service as Justices of the Court of Appeal and cannot be removed arbitrarily until retirement at age 70),³⁰ Nigerian electoral officers statutorily occupy office for five years, renewable for another term. They can, however, be removed by the President on flimsy grounds. This was the fate of two successive electoral commission chairmen under Babangida, namely Professors Eme Awa and Humphrey Nwosu, who were removed from office in 1989 and 1993 respectively in questionable circumstances. The former was removed for his uncompromising stance in the management of the Electoral Commission, and the latter following the military government's decision to annul the 12 June 1993 presidential elections contrary to the position of the Commission.³¹

The third issue relates to the funding of the electoral body. Ordinarily, an independent EMB would require a consolidated account, where a specified proportion of federal revenue is allocated and under the direct control of INEC. In this way, the EMB can enjoy independent funding, thereby limiting the financial control the executive can exert. In Nigeria, however, this

28. See Browne Onuoha, 'The electoral machine: the bureaucracy and the electoral process in the making of Nigeria's Fourth Republic' in Lai Olurode and Remi Anifowose (eds.), *Issues in Nigeria's 1999 General Elections* (John West and Rebonik Publications, Lagos, 2004), p. 39.

29. Agbaje and Adejumbi, 'Do votes count?', p. 31.

30. B. Agyeman-Duah, 'Elections and electoral politics in Ghana's Fourth Republic', *Critical Perspectives* 18 (July 2005), p. 3; and J. Shola Omotola, 'Ghana defies the odds again: the 2008 elections and the consolidation of democracy', *Politeia* 29, 1 (2008), pp. 42–64.

31. Humphrey Nwosu, *Laying the Foundation for Nigeria's Democracy: My account of June 12, 1993 presidential election and its annulment* (Macmillan, Lagos, 2008).

is not yet the case. Under the current regime, INEC does not have an independent budget or sources of funding, but instead depends almost entirely on the presidency. This significant financial control contributes to the inability of INEC to make adequate, timely planning and preparations for successful elections.

INEC's capability has been severely constrained in other ways. Two primary indicators are the appointment of people without sufficient professional and intellectual competence to lead the body. For instance, Professor Maurice Iwu, the recently removed national chairman, had no professional experience in electoral management and a health sciences background. The second is INEC's reliance on the use of *ad hoc* staff, who are usually hastily briefed for a day about their duties. After every flawed election, the tendency has been for INEC to lay the blame on the doorstep of its temporary staff, rather than accept responsibility at the leadership level.³²

Worse still, INEC reflects the centrist proclivities of the federal democracy. The most visible evidence of this over-centralization of power is that INEC has responsibility for the administration of all federal and state elections. As well as presidential and National Assembly contests, it supervises gubernatorial and House of Assembly elections across 36 states. The only responsibility assigned to the State Independent Electoral Commission (SIEC) is the administration of local government elections.

The electoral processes since 1999

The problems of democratic transition in Nigeria, as in several other African countries, are deep-rooted and well-known.³³ Elections represent a core component of these problems. Already in the colonial era, Nigeria proved unable to organize credible elections acceptable to all democratic players, particularly the opposition parties. But under the fledgling Fourth Republic, Nigeria has for the first time in its post-independence experience been able to hold three consecutive elections at regular intervals (1999, 2003, and 2007). This section analyses the administration of these elections, underscoring their effects on the democratization process.

32. Maurice Iwu, *The April 2007 Elections in Nigeria: What went right?* (Department of Political Science, University of Ibadan, 2008).

33. Samuel Decalo, 'The process, prospects and constraints of democratization in Africa', *African Affairs* 92, 362 (1992), pp. 7–35; Tunji Olagunju, Adele L. Jinadu, and Samuel Oyovbare, *Transition to Democracy in Nigeria, 1985–1993* (Safari and Spectrum Books, Ibadan, 1993); J. Shola Omotola, 'From importer to exporter: the changing role of Nigeria in promoting democratic values in Africa' in Joellen Pretorius (ed.), *African Politics: Beyond the third wave of democratisation* (Juta Academic Press, Cape Town, 2008), pp. 32–54.

The founding election of 1999: The first election under the current democratization process in Nigeria took place in 1999. Founding elections in Africa, usually the first in a democratic transition process, have been found to exhibit certain features that tend to inhibit the democratization process. These features include the landslide victory, rejection of results by losers, and poor administration of elections.³⁴ The 1999 Nigerian elections shared all these negative features.

Over the course of three months (December 1998–February 1999), Nigeria had four rounds of elections. These were the local government council elections of 5 December 1998, state House of Assembly and gubernatorial elections of 9 January 1999, National Assembly elections of 20 February 1999, and the presidential election of 27 February 1999. These elections were contested by the three registered political parties: the PDP; the All People's Party (APP) – later All Nigerian People's Party (ANPP); and the Alliance for Democracy (AD). Although these parties claimed to be national in outlook, each maintained dominance in specific geographical-ethnic domains. At the end of the presidential election, Chief Olusegun Obasanjo of the PDP was declared the winner and the duly elected President of Nigeria. He won with a total of 18,738,154 votes (62.78 percent) over Olu Falae, who ran for the APP/AD alliance, with 11,110,287 (37.22 percent).³⁵ The PDP extended its dominance to all other elections at the national, state, and local levels, and in executive and legislative elections.

The election results were challenged. There were pockets of protest regarding the credibility of the elections, the most notable being the litigation filed by the defeated candidate, who challenged the results of the election. The elections were not credible, as attested by reports of local and international observers including the Transition Monitoring Group (TMG), the Carter Center, National Democratic Institute (NDI), International Republican Institute (IRI), and the EU. All reported widespread irregularities, including a 'miraculous' 100 percent turnout of voters in Rivers State during the presidential election.³⁶ Yet, the attendant protests were moderate as major stakeholders in the elections – including political parties, candidates, and civil society – decided to sheath their swords, possibly appeased by the

34. Bratton, 'Second elections', p. 55.

35. Solomon O. Akinboye, 'Nigeria's 1999 multi-party elections: an overview of electoral conduct and results' in Olurode and Anifowose (eds.), *Issues in Nigeria's 1999 General Elections*, pp. 146–7.

36. The Carter Center, for example, reported widespread ballot box stuffing, inflated voter turnout, altered results, voter disenfranchisement, and inconsistent application of INEC's procedures across the country. See Carter Center, 'Postelection statement on Nigeria elections, March 1 1999'. The report was issued in response to the 27 February presidential election of 1999. See <<http://www.cartercenter.org/news/documents/doc891.html>>.

renewed promise of democracy.³⁷ Because the election was meant essentially to disengage the military from politics, not much attention was paid to its credibility.

Nevertheless, allegations of electoral corruption, with the active connivance of INEC and probably the transitional military regime, challenged the administration of the election and raise basic questions regarding INEC's independence, impartiality, and accountability. INEC allegedly rigged the 1999 elections in favour of Obasanjo in demonstration of military solidarity,³⁸ but, more importantly, the elections were rigged in order to avoid a coalition government and the pitfalls of the First Republic, when no party had enough seats to form the government. As a source puts it, 'the reason for the major rigging was to ensure that the party had an absolute majority in order to avoid the coalition and subsequent weak take-off of a new government, which was part of the crises of the transition governments of 1959 and 1979'.³⁹

The susceptibility of INEC to political manipulation was due to its lack of institutional and financial autonomy. All its principal officers, including its chairman, national electoral commissioners, and resident electoral commissioners, were, as constitutionally mandated, the political appointees of the President.⁴⁰ Consequently, INEC had to rely on the executive arm, particularly the presidency, for its actions and inactions. The loyalty and accountability of INEC, therefore, was first and foremost to the executive to whom it had to go cap in hand begging for audience and funding.

On the whole, the 1999 general elections reflected some conventional wisdom about Nigerian elections. One was the influence of forces of identity, particularly ethnicity and religion, though the emergence of the two presidential candidates from the same geographical axis – the south-west – moderated their impact. Yet, the parties were each dominant along ethno-regional and religious divides. There was also the gender dimension: women were extremely marginalized, accounting for less than 3 percent of elective offices at all levels, meaning that they have 'yet to "penetrate" the

37. Darren Kew, "'Democracy, dem go craze, o": monitoring the 1999 Nigerian elections', *Issue: A Journal of Opinion* 27, 1 (1999), pp. 29–33.

38. Kew aptly demonstrated the various forms of rigging perpetuated by INEC staff during the 1999 elections. He noted that, in one instance, 'the presiding officer and the two party agents – one from the APP – were busy thumb-printing as many PDP votes as they could stuff into the ballot box...' *Ibid.*, p. 31.

39. Browne Onuoha, 'A comparative analysis of general elections in Nigeria' in Remi Anifowose and Tunde Babawale (eds.), *2003 Elections and Democratic Consolidation in Nigeria* (Friedrich Ebert Stiftung, Lagos, 2003), p. 54.

40. Section 154 of the 1999 constitution of Nigeria provides for the composition of federal agencies, including INEC, and vests the power of appointment in the President.

core circle of politics, where the “real” things happen’.⁴¹ Moreover, there was an unprecedented monetization of politics as “moneybags” hijacked the electoral process and engaged seriously in vote buying.⁴² The situation was allowed to deteriorate to this degree because of INEC’s inability to enforce political finance regulations. Nevertheless, the military eventually handed over power to President Obasanjo on 29 May 1999, marking Nigeria’s return to civil rule.

The 2003 second election: Second elections have been regarded as a crucial step towards democratic consolidation. The democratization process is seen to be on course, especially when elections come at regular intervals. Consequently, more attention is usually paid to the preparation, conduct, and credibility of a second election, at all levels. The road to the 2003 elections was full of potholes, which ‘were either left unfilled or filled haphazardly before the elections were held’.⁴³ The registration of more political parties (increased from three to thirty) and a review of the voters’ register were alarm signals amid palpable fears and tension across the country – everyone knew that the stakes were higher than in 1999. A lot of manipulation and manoeuvring went into the build-up, and the hand of the state (in other words, the presidency) was clear. Most notably, President Obasanjo changed the order of the elections through the 2001 Electoral Bill. Whereas in 1999 elections proceeded from the lower to the higher levels – local, state, national assembly and presidential – the 2001 Bill specified that the presidential election would come first. This was interpreted by the opposition as a calculated step by the PDP to facilitate a bandwagon effect in subsequent elections should Obasanjo’s PDP win the first elections. The governors in particular saw the reordering as an attempt to storm their state-based strongholds. The crisis generated considerable controversy, even among people in the highest echelons of power. Then President Obasanjo, Senate President Pius Anyim, and Speaker Ghali Umar Na’Abba all traded accusations and counter-accusations over the distortions. The ensuing struggle over the legal framework of the election thus gave the impression that the playing field might not be level. In sum: ‘The politics behind this was that both the President and the National Assembly wanted to secure their re-election before the turn of the governors; because the state governors

41. J. Shola Omotola, ‘What is this gender talk all about after all? Gender power and politics in contemporary Nigeria’, *African Study Monographs* 28, 1 (April 2007), p. 42.

42. Emmanuel O. Ojo, ‘Vote buying in Nigeria’ in Victor A. O. Adetula (ed.), *Money, Politics and Corruption in Nigeria* (International Foundation for Electoral Systems (IFES), Abuja, 2006), pp. 105–23; Alade W. Fawole, ‘Voting without choosing: interrogating the crisis of electoral democracy in Nigeria’ in Lumumba-Kasongo (ed.), *Liberal Democracy and its Critics in Africa*, p. 160.

43. J. Shola Omotola, ‘The 2003 Nigerian second elections: some comments’, *Political Science Review* 3, 1 and 2 (2004), p. 130.

have become very powerful and if elected first might use their local political machines to thwart the political ambitions of the National Assembly members and the President for re-election.⁴⁴

It was therefore not surprising that the 2003 elections generated massive interest domestically and internationally. Despite some protests about INEC's level of preparation, all the thirty political parties participated at one level of the elections or the other. A number of domestic and international observers also participated. The administration of the elections was generally poor. INEC's organizational weakness and lack of autonomy from political forces all hampered its effectiveness. For instance, the review of voters exercise it conducted was fraught with irregularities, particularly non-registration of eligible voters and withholding and sale of voters' cards.⁴⁵

The actual conduct of the elections left more to be desired. Some of the basic problems included the unnecessary militarization of the elections through the massive deployment of security forces. Admittedly, as mentioned above, there was tension across the country prior to the elections – particularly in states such as Kwara, Anambra, and Borno, where the battle lines had been drawn between acclaimed godfathers and their estranged sons (incumbent governors). That was not enough to justify the militarization of voting, which not only undermined voter turnout but also provided cover for the INEC to rig the elections in favour of the ruling party.⁴⁶

The electoral results show that the PDP emerged as the winner at all levels with very wide margins. For example, this time President Obasanjo won the presidency with a total of 24,109,157 (61.80 percent) of total votes cast, while General Mohammed Buhari, the ANPP candidate, emerged runner-up with 12,495,326 (32.3 percent). This shows the firm grip of the retired military officers on Nigerian politics. The PDP also had a landslide victory in the National Assembly elections, winning 75 of the 109 senatorial seats, leaving the ANPP and AD with 28 and 6 seats respectively. The PDP's massive victory was due largely to the power of incumbency, which enabled it to have substantial and unhindered access to state machineries, including the treasury, mass media, INEC, and the security forces. As the party in power, it also enjoyed good patronage from wealthy individuals and corporate bodies in terms of financial donations in exchange for the protection of their business interests.

The most troubling dimension of the electoral trend, however, was the almost total eclipse of the AD in its traditional stronghold, the south-west. Historically, this region has been renowned for its oppositional politics.

44. Agbaje and Adejumbi, 'Do votes count?', p. 33.

45. Omotola, 'The 2003 Nigerian second election', p. 131.

46. Kunle Ajayi, 'The security forces, electoral conducts and the 2003 general elections', *Journal of Social Sciences* 13, 1 (2006), pp. 57–66.

But in 2003 it was caught napping, as the PDP won the gubernatorial seats in five of the six states, as well as majorities in the state Houses of Assembly and National Assembly elections in the zone. Again this was due to the PDP's power of incumbency, but also to the attempt by the House of Representatives to impeach Obasanjo in August 2002, shortly before the elections. This attempt was interpreted by the south-west as a northern ethnic agenda to recapture power at all costs. Moreover, Obasanjo had accorded the south-west some reasonably high levels of patronage between 1999 and 2003. This was despite his rejection at the poll by the region in the 1999 presidential election. The belated electoral alliance between the PDP and AD – where the latter fielded no presidential candidate of its own, but directed its supporters to vote for Obasanjo – also contributed to the problem.⁴⁷ It was a practical demonstration of the south-western agenda to frustrate the perceived northern anti-Obasanjo agenda. No doubt all these factors contributed – but, more importantly, INEC as an agent of the presidency continued its tradition of manipulating and rigging the elections in favour of the ruling party.

The result was the sharp decline and decay of opposition politics, not only in the south-west, but across the country. The defeat of the AD in the south-west almost entirely denied the party its base, turning it into a weakling in terms of providing a credible oppositional platform to the PDP. Thus the PDP became 'the only party in town', making and unmaking public policies solely at its own discretion. This dominance was so emphatic that the PDP started behaving like a mini-army under a garrison commander, driving the country towards a one-party state.⁴⁸ The high-handedness of the PDP was partly a reflection of its dictatorial leadership and centrist organizational structure, where dissenting voices are seldom allowed a hearing.

The problem may not really be PDP's landslide *per se*, as much as the way it acquired it. If the PDP had attained such a pedigree by open, transparent and credible means, concern about the outcome would probably have been less acute. But that was not the case. The 2003 elections, according to reports of local and international observers, were fraught with contradictions, including vote buying, ballot stuffing, rigging, and violence.⁴⁹ These shortcomings

47. Omotola, 'The 2003 Nigerian second election', pp. 132–3; David O. Alabi, '2003 elections and the South West' in Hassan A. Saliu (ed.) *Nigeria under Democratic Rule, 1999–2003*, Vol. 1 (University Press Plc., Ibadan, 2004), pp. 111–35.

48. Fatai A. Aremu and J. Shola Omotola, 'Violence as threats to democracy in Nigeria under the Fourth Republic, 1999–2005', *African and Asian Studies* 6, 1–2 (2007), pp. 53–78; Epele Alafuro, 'The 2003 elections and the rise of the one party state in Nigeria' in Godwin Onu and Abubakar Momoh (eds.), *Elections and Democratic Consolidation in Nigeria* (NPSA, Lagos, 2005), pp. 121–40.

49. J. Shola Omotola, 'The limits of election monitoring: Nigeria's 2003 general election', *Representation* 42, 2 (2006), pp. 157–67; Transition Monitoring Group, *Do the Votes Count? Final Report of the 2003 General Elections by the Transition Monitoring Group* (TMG, Lagos, 2003).

were largely a result of inadequate preparation by INEC, resulting in logistical problems and inefficient officials. Pre-election activities, such as voters' registration and education, were rushed through. In particular, the display of the voters' register for verification was not carried out effectively, as a result of which voters' registration exercises created room for electoral fraud.

This situation could not have been avoided, since INEC was neither legal nor practically insulated from politics. The 2002 Electoral Law that governed the elections stipulates that those to be appointed as electoral commissioners must be qualified to be members of the House of Representatives. This can be interpreted to mean 'that those appointed as members of the electoral commission should be party members, as membership is a major criterion to be elected into the House of Representatives. Nigeria does not allow independent candidacy in elections.'⁵⁰ This, in itself, engenders declining public confidence in INEC and partly explains why the election results were vigorously contested to the extent that the coalition of opposition parties unanimously announced their rejection of the results. Again, this raises the question of the independence and impartiality of INEC, and of its ability to create a level playing field for all electoral players.

The 2007 general elections: The 2007 general elections were the third in the series that maps Nigeria's democratization since 1999. It was another opportunity for change and power turnover in the country, given the seeming popular disenchantment with the ruling PDP.⁵¹ These expectations, judging by the overall quality and outcomes of the elections, were effectively squandered.

Prior to the elections, the political atmosphere was again very tense. Among other mind-boggling incidents, President Olusegun Obasanjo condescendingly declared that, for him and the PDP, the 2007 election was 'a do or die affair'.⁵² INEC too, rather than focusing on adequate preparations for the elections, was widely engaged in unnecessary distractions, most notably litigation against opposition candidates in its attempts to screen and disqualify candidates. Its insistence on preventing Alhaji Atiku Abubakar – then Vice-President and presidential candidate of a leading opposition party, the Action Congress (AC) – from contesting, although the electoral law made it clear that INEC does not have such powers, snowballed the tension. Despite INEC's jaunty expressions about its state of preparedness and ability to conduct free, fair, and credible elections, events before and during the elections proved otherwise. The political atmosphere was permeated with jaundiced views of INEC's capability, independence and impartiality.

50. Said Adejomobi, 'When votes do not count: the 2007 general elections in Nigeria', *News from Nordic African Institute*, 2, (May 2007), pp. 14–5.

51. Mike Unger, 'Panel analyses upcoming Nigerian elections', *American Weekly: American University's News Paper*, 13 February 2007, p. 1.

52. See Adejomobi, 'When votes do not count', pp. 14–5.

Despite these reservations, Nigerians enthusiastically went to the polls for the gubernatorial and state Houses of Assembly elections on 14 April, and the presidential and National Assembly elections on 21 April. In the results of the elections, INEC awarded the PDP an unimaginable landslide victory at all levels – unimaginable because the last eight years of PDP leadership had not improved the living conditions of average Nigerians in any fundamental sense. Unemployment, inflation, poverty, insecurity, and violence were on the rise. The much-orchestrated reform agenda was predicated on neo-liberal ideologies of the free market, where the rich profit at the expense of the poor.⁵³ Under such circumstances, a massive victory for the ruling party is likely to be questioned.

The manner by which the PDP garnered the votes was puzzling. Across the country, there was unprecedented rigging, ballot stuffing, falsification of results, intimidation of voters, and direct assault on the people. In some extreme instances, voting did not take place.⁵⁴ This was most prominent in the south-east, south-south and south-western geo-political zones of the country, where opposition parties were believed to be most formidable. In Enugu State, for example, Ken Nnamani, then Senate president, like many others, could not vote in the presidential election because voting materials were not made available. There were instances where INEC decided to disqualify candidates on the eve of the elections, contrary to court orders. This was the case with opposition gubernatorial candidates in Kogi, Adamawa and Anambra states, where opposition candidates (ANPP and AC) were excluded. Substitutions of candidates who won party primaries was another major issue in the 2007 election, the most celebrated case involving the gubernatorial candidate in Rivers State. Indeed, local and international observers were unanimous in their outright condemnation of the elections.⁵⁵

That massive irregularities marred the elections is supported by some verifiable indices. First, the results of the elections were bitterly disputed and protested in an unprecedented manner, though largely non-violently. From the conduct of the elections alone, 1,250 election petitions arose. The presidential election had eight, the gubernatorial 105, the Senate 150, the House of Representatives 331, and the state Houses of Assembly 656.⁵⁶ With a few exceptions, especially the gubernatorial elections in Osun

53. See Daniel Omoweh and Dirk van den Boom, *Blocked Democracy in Africa: Experiment with democratization in Nigeria, 1999–2003* (Konrad Adenauer Foundation, Abuja, 2005), pp. 41–59.

54. For a comprehensive review of the reports of local and international observers, see Paul F. Adebayo and Shola J. Omotola, 'Public perception of the 2007 Nigeria's general elections', *Journal of African Elections* 6, 2 (2007), pp. 201–16.

55. *Ibid.*

56. E. Remi Aiyede, 'Electoral laws and the 2007 elections in Nigeria', *Journal of African Elections* 6, 2 (2007), p. 50.

and Ekiti states, most of these cases have been decided in the final appellate court. For example, the two leading opposition candidates in the presidential election pursued their cases to the Supreme Court, where the case was decided in favour of President Yar'Adua of the PDP. However, results were annulled in several states and at different levels, including the gubernatorial elections in Kogi, Edo, Kebbi, Sokoto, Adamawa, Ekiti and Ondo states. In most of these cases, a re-run was mandated, which the PDP won. In Ondo and Edo states, however, declaratory judgments were given, leading to the restoration of the electoral victory of the Labour Party and AC in the respective states. The substituted candidate in Rivers State was also reinstated by the Supreme Court.⁵⁷

The 1,250 election tribunal and court cases recorded are just the tip of the iceberg. This is so when elections are considered to be a combination of pre-election, election and post-election events. In an astonishing revelation, *The Herald*, a national daily, reveals that the 2007 elections recorded an alarming 6,180 cases throughout the electoral process.⁵⁸ This may be correct given the high level of political gangsterism and the political culture of impunity that characterized the political scene. The most relevant example relates to the manipulation of party primaries to pave the way for anointed candidates of the godfathers, especially within the ruling PDP.⁵⁹ Where this failed, the party hierarchy, at the instance of the presidency, resorted to elimination by substituting the names of the preferred candidates for those who actually won the primaries. A typical case was in Imo State, where Senator Ifeanyi Ararume won the primaries but another candidate's name was put on the ballot nonetheless. Ararume challenged this and won in the Supreme Court, but the victory proved costly: the PDP in the state decided to expel him for anti-party activity, for it is an abomination to challenge an internal PDP decision in court. Whatever happens must be treated as a 'family affair'. The PDP also decided not to field a candidate for the governorship election in the state, and since the electoral laws do not recognize independent candidacy, Ararume was tactically pushed out of the race.⁶⁰

Be that as it may, the resort to the courts to seek electoral justice signals the gradual acceptance of the rule of law as the most viable option for those seeking redress. Gradually, Nigerians are beginning to regain their confidence in the judiciary. This is partly a result of certain landmark judgements delivered

57. J. Shola Omotola, '“Garrison” democracy in Nigeria: the 2007 general elections and the prospects of democratic consolidation', *Commonwealth and Comparative Politics* 47, 2 (2009), pp. 195–221.

58. See Kayode Lawal, '2007 elections: courts receive 6,180 cases', *The Herald* (Ilorin, 12 May 2008), pp. 1 and 23.

59. J. Shola Omotola, 'Godfathers and the 2007 Nigeria's general elections', *Journal of African Elections* 6, 2 (2007), pp. 147–8.

60. *Ibid.*

by the judiciary in recent times, especially as the race to the 2007 elections intensified. One notable example was the Supreme Court judgements that stopped INEC from disqualifying Atiku barely a few days before the election. These are signs of political institutionalization, where political actors exploit legal avenues, as opposed to unconventional channels, to seek redress. If sustained, it is a sign of democratic deepening. That is not to say that all protests about the elections were peaceful. In some south-western states, particularly Osun, Oyo, Ekiti and Ondo, there were violent protests against the massive rigging and overturning of the people's will. Killing, arson, looting, and other forms of violence were pervasive in these states, leading to deplorable security situations. These shortcomings cast ominous shadows on the elections and the prospects of democratic consolidation.

Nevertheless, the 2007 elections are reputable for at least four important reasons. First, that the election took place at the expected interval is reassuring. It was the first time in the history of the country that a democratically elected civilian government completed two terms of eight years, conducted elections, and successfully handed over to another elected government. As remarkable as this seems, it should not be interpreted to mean that any sort of elections would do in the third election test – indeed the declining quality of Nigerian elections is increasingly being considered as a source of democratic deconsolidation.⁶¹ Second, the resort to the courts to seek electoral justice is a clear deviation from the use of self-help strategies to settle electoral scores in the past. This shows that the political class is gaining increasing confidence in the judiciary as an important democratic institution. Third, the new government's publicly avowed commitment to the rule of law, keeping faith in the courts, and executing all courts, judgements on the elections, even when against the PDP, point toward the gradual emergence of democratic political culture. This was unthinkable under ex-President Obasanjo, who unilaterally selected which courts, decision to execute. Finally, the maladministration of the election has intensified civil activism for electoral reform and pressured the government to grant some limited concessions, including the ongoing electoral reform process. These developments are important for building a democratic political culture rooted in the rule of law. Though these gains do not constitute consolidated democracy, they may help reclaim public confidence in the democratization process.

Conclusion: elections and the prospects of democratic consolidation

The foregoing analysis suggests that the prospect of consolidating democracy in Nigeria through elections remains a tall order, though not impossible to

61. See IFES, *A Nigerian Perspective on the 2007 Presidential and Parliamentary Elections Results from Pre- and post-Election Surveys* (International Foundation for Electoral Systems, Abuja, 2007).

deliver. Consolidating democracy through elections depends largely on the institutional foundations of the electoral processes, particularly the EMB – in this case, the INEC. A professional, capable, and independent INEC, free from partisan influence and government control, would provide better prospects of effective electoral administration. Only such an electoral body could conduct credible elections, whose outcomes will be acceptable to the majority of people, including opposition parties. From the preceding analysis, it is clear that this is not yet the case in Nigeria. In its present form and character, INEC enjoys limited legitimacy and respect among Nigerians.

There are many reasons for this. Not only is INEC grossly deficient in autonomy and professionalism, but it is also inefficient. The presidency wields overbearing influence on INEC, making it impossible for it to exercise independence and provide a level playing field to all political actors. More importantly, INEC is saddled with the task of governing the entire electoral cycle – pre-election, election, and post-election at federal and state levels. These tasks are obviously ‘beyond the scope of a single body. The logistics of conducting countrywide elections mean that INEC is overwhelmed during voting and counting.’⁶² The electoral laws, which can be manipulated to secure the services of politicians within the electoral body, is another dimension of the problem. Thus, INEC has been hamstrung in the effective governance of elections.

The high level of instability in the country since independence in 1960 has also contributed to the weak institutionalization of INEC. Due to frequent change of governments, it has been subjected to repeated renaming and restructuring.⁶³ The main considerations in these exercises have been political, rather than relating to the search for institutional autonomy and administrative efficiency.⁶⁴ The high level of instability has not allowed for the evolution and development of electoral governance culture, routinized in design and implementation. Instability has also had an impact on the cultivation of democratic political culture and citizenship, which is today responsible for the predominance of politicians who are not democrats in the true sense of the term. The dearth of democrats has also contributed to the suffocation and shrinking of the political space in which democratic institutions can operate, including INEC and political parties.

There is an urgent need to make adequate efforts to reform electoral institutions. INEC represents the most important of all the institutional foundations of elections in Nigeria. It ought to be independent, impartial, and courageous in discharging its responsibilities. The starting point would be to detach it completely from the presidency and make it an entirely au-

62. Aiyede, ‘Electoral laws’ p. 53.

63. Onuoha, ‘The electoral machine’, p. 39.

64. Agbaje and Adejumbi, ‘Do votes count?’, p. 30.

tonomous body. The appointment of its political head and commissioners should be insulated from politics, while its funding should be charged to the consolidated account. Like any other federal parastatal, INEC should receive its statutory allocation in the annual budget, thus reducing its financial dependence on the presidency. Yet, for institutional reform to work well, it must be pursued along with attitudinal and behavioural reform. From historical insight, the institutional foundations of elections in Nigeria fail not because they are inherently corruptible or incapable of doing the right thing, but because main political actors design them to fail so that they can advance their self-interests. What is therefore important is a continuous process of social mobilization and political re-engineering that emphasizes value reorientation at all levels. While the political class should be the major targets, the campaign should be comprehensive and holistic, leaving out no one, at all levels of socio-political organization. In this Herculean task, the civil society and mass media are crucial. Their roles should be popular sensitization, education, conscientization, and mobilization against the anti-democratic dispositions of some political actors at all levels.

Despite all the daunting difficulties, there are reasons for optimism. Civil society organizations, pro-democracy forces and opposition parties are fighting relentlessly for a comprehensive reform of the electoral process. The Electoral Reform Network (ERN) and the Centre for Democracy and Development are leading examples; both submitted memoranda to the Uwais Electoral Reform Committee and are still following up this initiative in the National Assembly. The recent rise of the Save Nigeria Group (SNG) – a coalition of several civil society organizations, along with pro-democracy and human rights activists, to champion the cause of sustainable electoral reform and good governance – has added weight to the pressure for reform. The reforms being championed are targeted mainly at securing the institutional autonomy, administrative efficiency, and professionalism of INEC. Recent changes in the leadership of INEC, including the removal of the controversial and discredited Maurice Iwu and his replacement with Professor Attahiru Jega – a leading political scientist who is also a labour and democracy activist – are some of the gains of the ongoing reform process. Moreover, the judiciary is becoming increasingly courageous and assertive in the delivery of electoral justice. These advances, in addition to international support such as election monitoring, are essential for the institutionalization of effective electoral administration for democratic consolidation. The emerging scenarios suggest that, despite its troubled electoral history, Nigeria's fiftieth independence anniversary offers hope of an alternative future built on institutional engineering and reinforced by behavioural and attitudinal change. It is perhaps not a mere coincidence that Nigeria's first democratic decade coincides with this anniversary. It may be an indicator of better things to come.