

**A MEMORANDUM SUBMITTED TO THE
ELECTORAL REFORM COMMITTEE (ERC)
ABUJA**

By

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Preface

This is a Memorandum submitted by the Federation of Muslim Women's Association of Nigeria (FOMWAN) to the Electoral Reform Committee (ERC) inaugurated by President Umaru Musa Yar'Adua to fashion for Nigeria the best way possible to raise the quality of election administration to acceptable international standards.

The propositions made in this memorandum were a part of the outcomes of a two-day Multi-stakeholders' meeting organized by FOMWAN at her Abuja headquarters in July 2008. It is FOMWAN's hope that the recommendations proffered herein will be considered for adoption in the efforts to transform democracy and political governance for the benefit of all, including Muslim women, in Nigeria.

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**Democracy is about men and women of same
or diverse ethno-religious and socio-cultural
backgrounds working together.**

Introduction

One of the problems of post-colonial politics in Nigeria is how to deal with the challenges of electoral fraud and its resulting implication of bad governance. A review of the country's political experience reveals that multi-party democracy is as tortuous as the dictatorial military rule that had reigned for nearly three decades as the unfavoured mode of regime change.¹ This has posed serious leadership challenges for which all Nigerians, irrespective of ethnic and religious leanings have suffered.

Islam as a religion does not only see leadership as a trust, it also envisions that the process through which leaders are chosen enjoys the widest consultation, transparency and landmark acceptability, given the reality of the fact that the extent of responsiveness of custodians of power to the citizenry is dependent on the way and manner political power is acquired.² Regrettably, this has not been the case in Nigeria. While majority of the people have demonstrated a general commitment to freely exercise their voting rights in the most civic and responsible manner, the political class – a tiny minority – has consistently and systematically frustrated their efforts by truncating such exercises through massive electoral fraud. The result is that elections have become turning points in which outcomes have reflected subversion of the democratic process rather than its consolidation.³ The April 2007 general elections in Nigeria have proved the worst in the order of declining quality of elections in Nigeria since 1999.

It is against the backdrop of the foregoing that the Federation of Muslim Women's Association of Nigeria (FOMWAN) joined many meaningful Nigerians to applaud the decision by President Umaru Musa Yar'Adua (in spite of his being a beneficiary of the compromised election in April 2007) to institute the Electoral Reform Committee (ERC) to look into the possibility of reforming the country's electoral process with a view to raising its quality to acceptable international standards.

¹ Dauda S. Garuba, "Transition without Change: Elections and (In)stability in Nigeria", in Atahiru Jega & Okechukwu Ibeanu, *Elections and the Future of Democracy in Nigeria*, Nigeria Political Science Association (NPSA), Abuja, 2007, pp. 91 – 117.

² In other words, beneficiaries of fraudulent elections are not y any word of commitment compelled and oblige to accountability and transparent governance.

³ Jibrin Ibrahim & Dauda Garuba, *Modelling Success: Governance and Institution-Building in West Africa and the Nigerian Dilemma of Systemic and Institutional Constraints (A Study of the Independent National Electoral Commission – INEC)*, Report Submitted to the Consortium for Development Partnerships (CDP) being jointly coordinated by the Northwestern University, Evanston – USA and the Council for the Development of Social Science Research in Africa (CODESRIA), Dakar – Senegal, 2008.

Challenges for Reform

At the heart of the discourse of democracy and political governance in contemporary Nigeria is the critical question of how to re-establish the credibility of the electoral process. This is so because of the increasing reprehensive and ridiculous extent to which the worth of votes has been reduced in the country. While it can be argued that all modern democracies hold elections, it cannot be asserted in the same confidence that all elections are democratic. The story of elections in Nigeria, especially since 1999, agrees more with the latter statement. If this is anything to go by, given the power of elections as an essential barometer to measuring institutional performance and level of public trust and confidence in the political process, it can thus be argued that one cannot seek the elevation of the standards of Nigeria's elections without first identifying the challenges for reform.

FOMWAN's experience with election observation in Nigeria since 1999 speaks to the following challenges for reform:

Electoral Laws and Regulations

The constitution of the Federal Republic of Nigeria defines the parameters and principles for evolving one united political country from a huge population of citizens with diverse ethnic, religious and socio-cultural backgrounds, irrespective of sex. Also, other statutory instruments regulating the affairs of the country are derived from the provisions in this ground norm. But as lofty as some of the laws that regulate elections are, they are still largely devoid of provisions capable of mitigating the kind of obstructions posed to their implementation. Where good provisions exist they are observed more in breach than in compliance; thus raising a challenge as to how to get the rules and regulations of elections effectively implemented without fair or favour, or breached altogether by those regarded as untouchables in our society.

Marginalization of Women (Especially Muslim Women)

Women all over the world constitute a marginalized social category, and yet any meaningful socio-economic and political development must recognize the importance of women. In Nigeria, the increasing recognition of the role of women in national development has given birth to a series of women projects aimed at mainstreaming women in public policy and promoting and protecting their rights. A cursory review of Nigeria's implementation of the international treaties⁴ directed at uplifting the plights of women reveals that as lofty as the instruments are, the process for their implementation are often bastardized to the disadvantage of the very women that they are initiated to advance their course. This causes disparities that pose constraints to balance national development in many spheres of life,

⁴ These include: the Convention for the Elimination Against Women (CEDAW), the African Charter on Human and People's Rights, the Partnership for Africa's Development (NEPAD) process, and the Millennium Development Goal (MDGs). At the national level, Nigeria has attempted to demonstrate a commitment to their implementation via: the establishment of the Beijing Platform of Action, the entrenchment of non-discrimination provisions in the 1999 Constitution, the National Policy on Women and National Economic Empowerment and Development (NEEDS).

particularly in the areas of decision-making and political participation where women (particularly those of Islamic faith) are largely marginalised. What is thus reinforced is how to bridge the gap in men and women participation in politics that is badly tilted against women in general, and Muslim women in particular. Whereas principles of consultation in the Shariah permeates all segments of Muslim Society for private, family and community matters, as it calls for the “**conduct their affairs by mutual consultation**” (Quran 42:38), it is nevertheless surprising that Islam has been misinterpreted as abhorring women participation in politics. Even the very few Muslim women who have shown courage to participate are continually discredited and blackmailed as being of low Islamic moral virtues, are accused of compromising their reputations and lending to the filths that have come to be associated with Nigerian politics.

Added to this challenge for women are problems arising from outright financial constraints, violence and thuggery, late night meetings, electoral fraud and manipulations which have become the features of every day life in Nigerian politics. This has further heightened the percentage of women that are grossly under represented in governance and electoral process in Nigeria. In view of this, **the challenge thus lies in how to redress the imbalance manifested by this disempowered social category in the efforts to reform election administration such that would enable them play freely and participate actively on the same scale as their male counterparts in Nigerian politics.**

Electoral Process

Every election system is a process which, from design to implementation, involves pre-, election-day and post-election activities. These activities include: party registration/recognition, voter registration, candidates’ selection, electioneering campaigns, voting process, declaration of results and litigation process. Under normal circumstances, all these processes are expected to be guided and regulated by a properly enacted Electoral Law that is consistent with the Constitution of the land.

Every activity in any of the three phases of the electoral process is as important as the other. Indeed, the extent to which the three phases of an electoral process is free is the premised on the extent to which they are free from inhibitions and contradictions. However, because majority of the citizens the world over tend to care only for election-day activities, they hardly realized where and when things go wrong; except to point fingers at irregularities that happen in a few hours before the final results of elections are released. This has been the bane of Nigeria’s elections, especially since 1999. The result of this has been the growing lack of trust and confidence in the electoral system and its administrators in Nigeria. The April 2007 general elections in Nigeria have proved to be the worst in the history of Nigeria in terms of the recorded irregularities at pre- and election-day activities. These include: abuse of registration process, late commencement of arrival of election materials, illegal hijacking of voting materials, stuffing of ballot boxes with ballot papers, falsification of elections figures, multiple voting and thumb-printing, under-age voting, non-supply or inadequate supply of election materials to opposition strongholds, harassment of citizens, inflation of figures, etc. While these vices are perpetrated by the political class in connivance with officials of the electoral

management body (INEC) and a bunch of beclouded and disempowered hoodlums and thugs for a pot of porridge, their devastating effects have proved too severe for the country to bear. This, if anything, confirms Quran's warning that we "should be conscious of a disaster which, when it comes, will not consume only its perpetrators" but all other persons around. The challenge for reform here is how to get citizens (especially INEC, the parties, security agencies, judiciary, civil society etc) to accept that they are stakeholders at every stage of the electoral process, and then sign on to the minimum standards of conduct during elections.

Composition and Institutional Autonomy of the Electoral Bodies

The success of any electoral process is party hinged on the technical capacity and neutrality of the electoral management body which, in the case of Nigeria, is INEC at Federal level SIEC at the level of the state. The need for female membership of such composition has also been relegated over the years. There has been a wide range of issues that have been raised in the debate about the performance index of INEC/SIEC. The most intriguing of the challenges are issues pertaining to the composition and structure of INEC/SIEC and the degree of institutional autonomy it enjoys. For instance, the constitutional provisions of the powers of the President to appoint INEC Chairman, Commissioners and Secretary are critiqued in view of the possibility of these appointees having to dance to the music of their appointer (i.e. the President). The same argument has been made against SIEC. There had also been instances where the Executive arm of government has unduly used its powers to arm-twist INEC/SIEC through inadequate and/or delay in the release of funds to election bodies. What is to be done to unburden the people whose destiny is potentially discounted in the given situation is a key challenge to which any meaningful reform must be directed.

Money policy

The character of politics and political governance in Nigeria is such that the state is not detached from the political class. Indeed, reality life in Nigeria is that there is a direct link between political power and wealth. Thus, the wealthiest people in the country are those who most probably acquire their wealth through their physical presence in government or through direct link with those in government. This has not only increased the struggle for political power to a point of do-or-die, but it has also elevated the fierce level of such contestations to the absolute disregard for rules and referees of the game, especially as the economic opportunities and possible roles of the Nigerian state expand. It is in this context that money has taken the stage of Nigerian politics. Rather than have a genuine say through political participation, the political rights of the masses have been sacrificed by money-bag politicians who fund parties and campaign finances to the exclusion of party members, including would-be aspirants to political offices. This has destroyed internal democracy in virtually all the big parties, as well as corrodes the political system.

In the given circumstance, the challenge in any electoral reform efforts is how to redress the problem of money-bag politics to the extent that would return the parties

to the people and thereby reduce the violence that is often associated with fragrant disregard for internal democracy.

Power of Incumbency

The experience with elections in Nigeria reveals that contestations for power has been lost and won on the strength of incumbency factor. The dominant approach has be the deployment of government machinery by sitting government officials seeking re-elections to impose themselves on the people, thereby making it impossible for the people who have been so misgoverned to effect regime change through the power of the ballot. The vicissitude of the practice is such that while the incumbent deploys all government machinery to return him or her to power, s/he forecloses opposition access to such supposed commonwealth, including security agencies and state media which are paramount in this regard. The challenge for reform therefore lies in how to ensure that those in power appreciate the collective ownership of government facilities as a commonwealth that should be used for the benefit of all, instead of a select few in power.

Ethical Values and Electoral Violence

It is not strange that many political office seekers have thrown away ethical and religious virtues for the sake of power and the booties associated with it to the detriment of the society and its citizens. As a result, the country has witnessed disturbing spate of assassinations and attempted killings. This mad-quest for power for selfish interest and not for the sake of service to the people, in whose name power is supposed to be sought and used, is also a challenge that any meaningful electoral reform should target.

Recommendations

Against the backdrop of its past experience in election observation and total commitment to a genuine desire to reform the electoral process in Nigeria, FOMWAN makes the following recommendations:

1. *Review of the 1999 Constitution to Reflect Changes in Appointment and Composition of Electoral Commissions*

The composition of the electoral commission i.e. (INEC & SIEC) must be extricated from the requirements seeking equivalent of being a member of a political party. This is necessary to safeguard biases, corruption and loss of confidence in whoever occupies a seat in the INEC/SIEC. Also, the membership of the electoral commission should include strategic constituencies such as the Nigerian Bar Association, the Nigerian Labour Congress and the Nigeria Inter-Religious Council. Women representation should be given credence in this regard.

2. *Redress of Peculiar Problems of Women (Especially those of Islamic Faith)*

The Electoral Act should be amended to provide for 50% of women representation for contestable seats. Such efforts should also redress the peculiar problems of Muslim women who are wrongly held down by unfair cultural and unfounded religious practices. There is the need to open fresh perspectives on women participation in politics and recognition in the integral relationship between their difficulties, misconceptions, and marginalization at local and national political life. Political parties and the electoral commission should accord women respect, dignity, equality and empowerment in their programmes and agendas. Such redress should also target the mind-boggling issues of late night meetings and creation of separate queues for women during voter registrations and voting exercises.

3. *Funding of Electoral Commissions*

FOMWAN believes that the funding of INEC and SIEC directly from the first charge of the federation and state government accounts, respectively, is (in addition to the recommendation made on appointment and composition of electoral commissions) central to the realization of autonomy of electoral commissions in Nigeria. It is therefore recommends it.

4. *Punishment of Electoral Offenders*

There is the impression that Nigeria has suffered much from election rigging and violence for too long. This is associated with the fact that the system has handled such offenses with kid gloves. Section 98 of the 2006 Electoral Act which stipulates the punishment for offences listed on Section 97 of the same Act is too lenient on offenders, and thus needs to be amended to reflect a weightier punishment. It is a high time that election offenders are made to face the consequences of their offences in the most deterrent way. By this, FOMWAN recommends that all cases of election rigging be investigated and perpetrators prosecuted. Where political office holders are involved and found guilty, they should be disqualified from the race, while also made to serve a jail term (without an option of fine) along side other non-office seekers (including INEC and SIEC officials) who are equally guilty of election rigging offences. The immunity clause under the constitution should be removed to give effect to this recommendation, where a serving executive is involved.

5. *Electronic Voting*

FOMWAN supports the adoption of electronic voting, provided Nigeria is ready to go about it in a well prepared and organized manner. It thus recommends that the system be taken through a test-run during bye elections and that the national Identity Card could serve as a check on multiple and underage voting. To make any credible impact in the 2011 general elections, the best time to start work is now.

6. *Consultation & Participatory Planning with Stakeholders*

FOMWAN recommends that the electoral reform should make it mandatory for all stakeholders on election matters, including civil society and religious organizations, to be regularly consulted by INEC and SIEC in the preparation for election administration. Such consultations should be opened to the public and the general media.

7. Litigation

As a way of dealing with the problems associated with delays in pre-election and post-election trials, FOMWAN recommends a fast-tracked system that will ensure that all pre-election cases are settled before election-day and that all post-election trials are concluded prior to swearing-in of declared candidates-election.

8. Civic Education

The electoral reform should provide for more civil society and religious organisations' involvement with elections matters, particularly as it relates to voter education and campaign against violence. This will go a long way to reducing the burden problem of INEC.

9. Religious Education

Electoral reform should make provision for religious leaders to educate the electorate and political office seekers on the need to shun 'dirty' politics and imbibe the required etiquettes of fair play. In particular, Muslim women bodies such as FOMWAN are well positioned to assist in mobilizing for women participation in politics and election observation missions.

10. Freedom of Information

The reality of contemporary times (as defined in the discourse of *globalization*) is that information is power. The electoral reform will benefit more a genuine attempt at passing the Freedom of Information Bill and getting it signed into an Act of the Federal Republic of Nigeria. Beyond the fears often expressed about its passage, the FOI Bill, when passed into an Act, will bring more confidence to the system.