

“Free and fair elections are the keystone of any democracy. They are essential for the peaceful transfer of power.”¹

ELECTION MONITORING AND THE ROLE OF SECURITY OPERATIVES IN MIDWIFING
LASTING DEMOCRACY

PART I

INTRODUCTION

Elections are the soul of a democracy. Without elections, the entire democratic process may come to naught. In this regard, where elections are conducted in an atmosphere that does not ensure openness and fairness of the elections, and every vote does not count, the purpose is defeated. A free and fair election can hardly be achieved where the system is corrupt and persons involved in the electoral process have cast upon themselves the untoward task of reducing the election to a mere farcical process. It is not uncommon to see cases where elections have been resorted to for the sole purpose of seeking to legitimise an otherwise illegitimate process of filling political offices. In this regard, perpetrators bring innumerable vitiating elements into play to ensure that elections are elections only in name. It is on this account that Nigeria has a buoyant, but unenviable, history of failed elections. At the conduct of elections, the effectiveness of manipulative tendencies of politicians come to fore. In Africa, election related violence have spiraled into conflagrated cyclones that threatened to consume national security. A recent example is Kenya.²

¹ USA ELECTIONS in Brief (A publication of BUREAU OF INTERNATIONAL INFORMATION PROGRAMS U.S. Department of State) 1. <http://photos.state.gov/libraries/amgov/30145/publications-english/USA_Elections_InBrief.pdf> last visited November 11, 2013

² The post election violence in the wake of the 2007 presidential election took a violent turn that threatened the national security of the country when it assumed an ethnic tone. The Kalejin youths (supporters of Raila Odinga) turned against the Kikuyus who are of Kibaki's ethnic origin. For more information, see <<http://www.opendemocracy.net/opensecurity/valentina-ba%C3%BA/five-years-on-identity-and-kenyas-post-election-violence>> last visited November 14, 2013.

The failure of the electoral process is usually attributable to a lack of effective election monitoring mechanism. Absence of credible supervision provides the unwholesome platform for the manifestation of malpractices in an election. Outcomes of elections produced in this corrupt electoral context render the election a sham. Where the electoral process is a sham, the resulting democracy is a sham. The system of government practised in such society becomes anything but democracy. This is because basic democratic tenets have collapsed. As rightly noted by the eminent jurist, Lord Denning: “[y]ou cannot put something on nothing and expect it to stay there. It will collapse.”³

This discussion will commence with an attempt at clarifying important concepts inherent in the topic under consideration. It will also look at the legal framework for conduct of election in Nigeria. From this point, the discussion will dovetail into identification of security agencies involved in the conduct of elections and their roles in ensuring a free, fair and transparent electoral process. Here, factors militating against a free and fair electoral process will be considered with a view to presenting ways of combatting them. The discussion will conclude by recommending useful tools in ensuring a lasting genuine democracy in the society.

³ Lord Denning in *Macfoy v. United Africa Co. Ltd.* [1961] All E.R. Page 1169 at 1172, Para. 1.

PART II

CONCEPTUAL CLARIFICATION

As indicated earlier, this discussion is aimed at examining the role of security operatives in midwifing lasting democracy. It, therefore, becomes pertinent to have a good understanding of the applicable concepts.

DEMOCRACY

It may be argued that the word “democracy” is the simplest of political concepts to understand. A proponent of this argument will find solace in the simple but all encompassing definition of democracy proffered by Abraham Lincoln thus:

“Government of the people, by the people, for the people.”⁴

Etymologically, “democracy” has its root in two Greek words: ‘*demos*’ (people) and ‘*kratic*’ (to rule). This, ordinarily, means rule by the people.⁵

According to Frederic C. Schaffer,

“As ideal, democracy has something to do with the goal of people participating meaningfully in their own governance, a goal that seems to require, among other things, the lessening of inequalities that inhibit such participation.”⁶

⁴ President Abraham Lincoln, The Gettysburg Address, November 19, 1863 (quoted in The History Place: Great Speeches Collection <<http://www.historyplace.com/speeches/gettysburg.htm>> last visited on November 11, 2013)

⁵ In the foregoing context, democracy, as a political concept, is the direct opposite of ‘oligarchy’, that is, *rule by few*. The Black’s Law Dictionary defines ‘oligarchy’ as: “A **government in which a small group of persons exercise control...**” (Brian A. Garner (Editor-in-Chief), *Black’s Law Dictionary* (8th ed. Thomson 2004) 1120).

⁶ Frederic C. Schaffer, *Political Concepts and the Study of Democracy: The Case of Demokaraasi in Senegal* (Massachusetts Institute of Technology) <<http://www.cerium.ca/IMG/pdf/Schaffer.pdf>> last visited November 11, 2013.

Although by definition, democracy enables every member of the society to participate in the government, it may be impracticable to expect every member of the society to participate in the day-to-day governance. It may, therefore, become necessary for the people to freely choose certain persons to act as their representatives in government. Therefore, contemporary definition of 'democracy' accommodates direct participation as well as participation through elected representatives. An apt definition is:

“a form of government in which the supreme power is vested in the people collectively, and is administered by them or by officers appointed by them....”⁷

A democracy where the people administer the power directly is called 'direct democracy'. On the other hand, where the people administer the power through representatives chosen by them, this type of democratic setting is usually referred to as representative democracy.⁸

It is pertinent to state that whether in direct democracy or in representative democracy, the primary instrument of participation is through election: the people either vote to elect their representatives or vote to elect the policies of their choice. Voting permits everyone to have his say while the majority carries the day.

Election

⁷ The Chambers Dictionary (Chambers Harrap Publishers Ltd 1993, Edinburgh) 448

⁸ It has been argued by some writers that 'representative democracy' is, as a matter of fact, a variant of oligarchy because power still ends up in the hands of the few albeit chosen by many. See Takis Fotopoulos, *The Multidimensional Crisis and Inclusive Democracy*, (2005), Chapter 11: The meaning of democracy. <<http://www.inclusivedemocracy.org/journal/ss/ch11.htm>> last visited November 11, 2013.

As noted above, election is the primary instrument of exercising democracy.⁹ Usually, the word ‘election’ is defined in the context of voting to elect representatives for offices. In this regard, Black’s Law Dictionary defines ‘election’ thus:

“3. The process of selecting a person to occupy an office (usu. A public office), membership, award, or other title or status....”¹⁰

In the case of *Ojukwu v. Obasanjo, Edozie, JSC* defined ‘election’ thus:

“I am of the view of that the word ‘election’ in the context in which it is used in section 137(1)(b) of the Constitution means the process of choosing by popular votes a candidate for a political office in a democratic system of government.”¹¹ [Emphasis mine]

However, even in political context, the meaning of election may transcend the process of voting to choose the occupier of a political office. Here, election is defined to include voting in order to decide public issues or policy. An apposite example is found in section 156 of the Electoral Act, 2010 where ‘election’ is defined thus:

“‘Election’ means any election held under this Act and includes a referendum.”

The inclusion of ‘referendum’¹² in the definition of election further buttresses the fact that elections are the lifeline of democracy.

⁹ Particularly, representative democracy.

¹⁰ *Supra* at 557.

¹¹ [2004] 12 NWLR (886) 169 at 227, para. F-G.

¹² Black’s Law Dictionary defines ‘Referendum’ as “[t]he process of referring a state legislative act, a state constitutional amendment, or an important public issue to the people for final approval by popular vote.” *Supra* at 1307.

An interesting definition of the word ‘election’ can be found in the court of Appeal decision in *Ogboru v. Uduaghan where Dongban-Mensem, JCA* said thus:

*“The law, as we understand it, is that the word ‘election’ is a generic term; a process which embraces the entire gamut of activities ranging from accreditation, voting, collation to recording on all relevant INEC Forms and declaration of results.... Voting is, thus, a species of the genus, which is election.... Casting of votes alone, therefore, does not constitute election.”*¹³

The interesting point worthy of note in the above definition is that it defines ‘election’ in the context of a process. This is more in tandem with the description of ‘electoral process’. Merely casting a vote comes to naught if the votes cast are not counted, collated and results declared.

A conceptual clarification of the word ‘election’ will be incomplete without paying a brief attention to types and forms of election. It is, equally, essential to attempt a clarification of the word ‘voting’.

TYPES OF ELECTION

Basically, there are 2 types of election, namely, primary election and general election. Primary elections are the means by which political parties seeking to nominate candidates for elections into political offices are elected through a voting process.¹⁴ In Nigeria, Section 87 of the Electoral Act, 2010 (as amended) recognises two forms of primary elections: (a) direct primaries; and (b) indirect primaries. A political party is free to choose any of the two forms

¹³ [2011] 2 NWLR (part 1232) 538 at 589-590, paras. F-A.

¹⁴ See section 87 of the Electoral Act, 2010.

of primary elections. In direct primaries, all members of the political party are entitled to vote for the aspirant of their choice. Here, section 87(3) of the Electoral Act, 2010 (as amended) stipulates that a political party that has adopted the direct primaries procedure must ensure that all aspirants are given equal opportunity of being voted for by the members of the party.

In the case of indirect primary elections, the candidate of the political party is chosen through votes cast by delegates as against voting by all the members of the political party. The aspirant with the highest number of votes is declared winner of the primaries and becomes the candidate of the political party at the general election.

General elections, on the other hand, are elections that are conducted to fill political offices. It involves voters and candidates in the applicable constituency. A voter does not need to be a member of a political party before he can vote at a general election. Usually, general elections are conducted on a nationwide scale among candidates of the various political parties.

It is also necessary to consider the various processes of conducting election. These processes of conducting are better referred to as 'electoral systems'.

THE ELECTORAL SYSTEMS

According the Voters Education Handbook, three types of electoral systems exist, namely, proportional representation, simple plurality and the electoral college.¹⁵

¹⁵ Voters Education Handbook (pdf.), Chapter 6, page 42-43
<https://www.google.com.ng/search?q=REPRESENTATIVE+DEMOCRACY+IN+NIGERIA&oq=REP>

Proportional Representation: in this electoral system, political parties gain seats in accordance with the number of votes cast for them. This ensures that rather than having a winner-takes-all situation where a political party gets nothing if it does not have the highest number of votes, the political party will still get some representation but only in a manner proportional to the number of votes cast for it. Proponents of this electoral system may argue that it eschews marginalisation and ensures that the state is not made to bear the yoke of dictatorship under the guise of democracy. Instead of having a political power concentrated in the hands of one political party, proportional representation gives room for compromises and negotiations among political parties. It creates a sense of participation in governance.

Simple Plurality System¹⁶: here, the candidate with the highest number of votes wins the political office at stake. Unlike proportional representation system, the simple plurality system produces one winner at the end of the election: the person who comes second or third gets nothing. It is a simple case of *simple majority carries the vote*. This model is widely used in many countries including Nigeria, United States, India, Canada and the United Kingdom.¹⁷ As rightly noted in the Voter Handbook, both proportional representation system and simple plurality system involve direct voting by voters for the candidates of their choice.¹⁸ There is no intermediary.

[RESENTATIVE+DEMOCRACY+IN+NIGERIA&aqs=chrome..69i57.1443j0j4&sourceid=chrome&espv=210&es_sm=91&ie=UTF-8](#)> downloaded November 12, 2013.

¹⁶ It is also referred to as: (a) first-past-the-post; (b) single winner voting; (c) single-member district plurality.

¹⁷ See Plurality Voting System at <http://www.princeton.edu/~achaney/tmve/wiki100k/docs/Plurality_voting_system.html> last visited November 12, 2013.

¹⁸ *Ibid.*

Electoral College: this electoral system is the least common of the three. Unlike the other two, voters do not vote directly for the candidates. On the contrary, the electorates¹⁹ elect certain persons into a college. It is the members of the college that will now vote for the candidates of their choice. Contemporarily, this indirect electoral system is in use in the United States of America for the election of the President and vice President. In the United States,

“Under the Electoral College system, Americans, technically, do not vote directly for the president and vice president. Instead, they vote within each state for a group of ‘electors’ who are pledged to one or another presidential candidate. The number of electors corresponds to the number in a state’s congressional delegation, i.e., the number of representatives and senators from that state. Election to the presidency requires an absolute majority of the 538 electoral votes. (That figure includes three electoral votes from the national capital city of Washington, the District of Columbia, which is not a state and which does not have voting representation in Congress.)

The absolute majority requirement makes it extremely difficult for a third-party candidate to win the presidency because the individual states’ electoral votes are allocated under a winner-take-all arrangement (with two exceptions). That is, whichever candidate receives a plurality of the popular vote in a state—even if it is just a narrow plurality—wins all of that state’s electoral votes.”²⁰

¹⁹ Person who are eligible to vote in an election. Usually, it is a synonym of the word ‘voters’.

²⁰ USA Election in Brief (supra) 21.

Security Operatives

In order to effectively explain 'security operatives', it is important to first understand the meaning of 'security' in the context of this discussion.

SECURITY: the word 'security' easily lends itself to misapprehension. This is because 'security' is homonymic. In the instant context, 'security' has been defined as:

"The act of keeping peace within the borders of a sovereign state or other self-governing territories. ...

*Security has to do with self-preservation and it implies a stable relatively predictable environment in which an individual or group may pursue its ends or objectives without disruption, harm, danger and without fear or disturbance or injury."*²¹

The Webster Dictionary defines 'security' for our purpose to be:

*"freedom from danger or anxiety... protective measure against espionage"*²²

From the foregoing definition, it becomes clear that for the purpose of this discussion, 'security' means freedom from danger, harm, disturbance or injury.

A further explanation of security in the context under consideration is as provided for in the Kampala Document.²³ Here,

²¹ Solomon E. Arase, National Security: Intelligence and Community Partnership Approach (Lawlords Publications, Abuja, 2013) page 49.

²² The New Webster's dictionary of the English Language, International Edition, (Lexicon Publications, USA, 2004) 903.

²³ African Leadership Forum jointly with the Secretariat of Organisation of African Unity and United Nations Economic Commission For Africa: THE KAMPALA DOCUMENT: Towards a Conference on Security, Stability, Development and Cooperation in Africa (Kampala, 19 - 22 May 1991). Available at <http://www.africaleadership.org/rc/the%20kampala%20document.pdf> last visited November 12, 2013.

security is described by making the security of the individual citizen the bedrock of national security. According to the document,

“...it embraces all aspects of the society including economic, political, and social dimensions of individual, family, community, local and national life. The security of a nation must be constructed in terms of the security of the individual citizen to live in peace with access to basic necessities of life while fully participating in the affairs of his/her society in freedom and enjoying all fundamental human rights.”

The right to vote is a right of all eligible citizens. This right serves no purpose where lack of security makes it unrealisable. It is on this basis that the description of ‘security’ in the Kampala document is apposite.

In this wise, it is in order to give meaning to the word ‘security’ that the State employs persons whose primary purpose is to ensure the safety of lives and property as well as secure the territorial area of the entity.

SECURITY OPERATIVE

For the purpose of this paper, this constitutes state agents employed to ensure security of the nation and maintain order and are referred to as ‘security operatives’. Therefore, a security operative is a person who is employed to protect property, assets, or people from danger, harm, disturbance or injury whilst simultaneously protecting the territory in which they are contained.

In Nigeria, the major security operatives who monitor the elections to ensure that they are conducted in a peaceful, fair and transparent manner are:

- a) The Nigeria Police;
- b) The Nigerian Security and Civil Defence Corps;
- c) Armed Forces i.e. Army, Navy and Airforce; and
- d) State Security Service.

ELECTION MONITORING

Election monitoring is usually discussed in the perspective of independent persons or organisation who have come to observe the election with a view to assessing the conduct of the election and determining whether it meets set standards. In this wise, state agents do not participate in the monitoring. Here, election monitoring is used interchangeably with election observation. However, they are different. In the paper: “***Principles for Election Management, Monitoring, and Observation in the SADC Region***”, the two were distinguished thus:

“Although the terms ‘monitoring’ and ‘observation’ are often used interchangeably it is worth noting that the two processes are, in fact, fairly distinct, albeit intertwined. Observation refers to information gathering or on-site fact-finding and making an informed judgement about the credibility, legitimacy and transparency of the electoral process. It is often carried out by external agencies who cannot intervene in any material way in the voting and counting operations. Monitoring refers to information gathering and examination and evaluation of the electoral process. It is often carried out by domestic agencies who are able to draw the attention of the presiding officers to

observed deficiencies in the voting and counting operations.”²⁴

Whereas the Nigerian electoral regime also distinguishes between election monitoring and election observation, election monitoring carries a deeper meaning. According to INEC Guidelines for Election Observation:

“Election observation is the process whereby elections in a particular country or locality are observed against set standards by an independent and impartial body of Observers with the aim of identifying whether the elections conform to accepted guarantees of democratic participation, identifying flaws and challenges, and also making recommendations on how the process can be improved in the future. ...

In simplified terms election observation includes four main activities, namely to:

- 1. Observe processes and activities organised during elections*
- 2. Collate facts and observations;*
- 3. Interpret the facts gathered against the laws governing elections as well as basic democratic standards, in order to see whether or not the elections meet the threshold of credibility as defined by law and accepted by the international community; and*
- 4. Outline the findings so collated and the interpretation based on them in a document or report.*

An election monitor is an integral part of the election management structure and has a role in the

²⁴ *Principles for Election Management, Monitoring, and Observation in the SADC Region* A Paper adopted by Electoral Institute Of Southern Africa and Electoral Commission Forum on November 6, 2003. <<http://www.eisa.org.za/PDF/pemmo.pdf>> last visited on November 12, 2013.

administration of the election. In Nigeria, only the Independent National Election Commission (INEC) and its duly authorised personnel are empowered to monitor elections. An Observer on the other hand does not have any role in the administration of the election nor any control or oversight functions. To further simplify these points:

- An election monitor exercises some level of lawful authority over the conduct of elections as well as over officials involved; an Observer has no such powers.*
- In Nigeria, a monitor must be a duly authorised personnel of the INEC; an Observer is independent and reports only to his or her organisation*
- A monitor can issue instructions and take decisions on behalf of INEC and to that extent would ordinarily possess a greater technical knowledge of the election process than an Observer.*
- To enable them fulfil their functions effectively, INEC is responsible for training election monitors on election administration. The training of election Observers is the responsibility of the organisations that deploy them.*
- The roles, powers and functions of monitors are created and regulated and the authority so exercised is clearly spelt out by law.*

It is important to clarify these differentiations. Attempts by Observers to overreach the ambit of their brief have in most cases resulted into misunderstanding and confusion. It is important to emphasise once again that under Nigerian law, it is only the INEC that has authority to monitor elections.”²⁵

²⁵ INEC Guidelines for Election Observation

Election monitor under consideration in this discussion is of the same nature with election monitoring under the Nigerian electoral regime. Here, security operatives who are monitoring the election can take steps during the conduct of an election to ensure it complies with applicable rules.

It is based on the foregoing that the pertinence of examining the legal framework guiding the conduct of elections in Nigeria come to fore.

PART III

CONSTITUTIONAL & LEGAL FRAMEWORK

CONSTITUTIONAL FRAMEWORK

Constitutional provisions are pivotal to the practice of democracy. In a country with a written constitution, the first step to determining the system of government the country practises is by looking at the provisions of its constitution. If it has the essentials of a democracy, it may be reasonable to say that the country runs a democracy. However, implementation is another issue entirely.

In this regard, the constitution has been described thus:

“A Constitution is the organic law of a country and it prescribes rights, powers, duties and responsibilities. It indeed, is the fons et origo from which all other laws derive their validity, that is, in an ideal constitutional democracy.”²⁶

From the above description of the constitution, it becomes patent that all valid exercise of power within a polity derives its legitimacy from the constitution. Therefore, it is the constitution that provides the primary enabling legal structure for the electoral process in a country.

In Nigeria, a look at the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (hereinafter referred to as the 1999 Constitution) confirms this position. Several provisions of the 1999 Constitution have laid out the framework for filling certain political offices. An example in this regard is contained in

²⁶ C. A. Obiozor: *The Constitutional Vesting Of Judicial Powers In The Judicature In Nigeria - The Problem With Section 6(6)(D) Of The Constitution Of 1999* (NIALS Law and Development Journal 2010) page 218 <<http://www.nials-nigeria.org/journals/C.%20A.%20Obiozor.pdf>> last visited on November 13, 2013.

Sections 65, and 71 to 79 of the 1999 Constitution that deal with elections to the National Assembly.²⁷ In addition to these provisions, section 153 of the Constitution established the Independent National Electoral Commission (INEC) while paragraph 15 of the Third Schedule to the 1999 Constitution confers the following powers on INEC:

- “(a) organise, undertake and supervise all elections to the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation;***
- (b) register political parties in accordance with the provisions of this Constitution and an Act of the National Assembly;***
- (c) monitor the organisation and operation of the political parties, including their finances, conventions, congress and party primaries;***
- (d) arrange for the annual examination and auditing of the funds and accounts of political parties, and publish a report on such examination anti audit for public information;***
- (e) arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under this Constitution,***
- (f) monitor political campaigns and provide rules and regulations which shall govern the political parties;***

²⁷ For elections to State Houses of Assembly, the applicable provisions are Sections 106, 107 and 112 to 119; for election to the offices of the President, the applicable provisions are 131, 132, 133, 134 and 137; and for governorship election, the applicable provisions are 177, 178, 179 and 181 of the 1999 Constitution.

(g) ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe the oath of office prescribed by law;
(h) delegate any of its powers to any Resident Electoral Commissioner; and
(i) carry out such other functions as may be conferred upon it by an Act of the National Assembly.”

As shown above, paragraph 15(i) of Part I of the Third Schedule to the 1999 Constitution empowers INEC to carry out other functions as may be conferred on it by an Act of the National Assembly.

A notable point drawn from paragraph 15(a) of Part I of the Third Schedule to the Constitution is the fact that INEC is empowered to organise, undertake and supervise presidential election, gubernatorial elections, National Assembly elections and State Houses of Assembly elections. Its power in this respect does not cover local government elections in a State of the Federation.

Section 7 of the 1999 Constitution guarantees the system of local government by democratically elected local government through elected leaders. In furtherance thereof, State governments are empowered to ensure the existence of a law that provides for the establishment, structure, composition, finance and functions of such councils. Further to this, section 197 of the Constitution establishes the State Independent Electoral Commission while paragraph 4 of Part II of the Third Schedule to the Constitution empowers it to:

“(a) to organise, undertake and supervise all elections to local government councils within the State;

(b) to render such advice as it may consider necessary to the Independent National Electoral Commission on the compilation of and the register of voters in so far as that register is applicable to local government elections in the State.”

Please note that the 1999 Constitution has made political parties integral to the electoral process in Nigeria. Sections 221 to 229 of the 1999 Constitution provide the primary regulations of political parties in Nigeria. Sections 221 of the 1999 Constitution provides that:

“No association, other than a political party, shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to, the election expenses of any candidate at an election.”

In effect, a person seeking to contest in an election within Nigeria needs the platform of a political party to achieve that aim. For an association to function as a political party, it has to, among others, register the names and addresses of its national officers with INEC.²⁸ Furthermore, as will be discussed anon, the National Assembly also has certain constitutional powers to, by an Act, regulate the affairs of political parties.

LEGAL FRAMEWORK

As pointed out in the description of the constitution earlier given, the constitution is the source of all exercise of power by the government. It is in this regard that the 1999 Constitution has, by several provisions, enable the legislative bodies in the Nigeria (the National Assembly and the State Houses of Assembly) to, in

²⁸ See section 222 of the 1999 Constitution. See also paragraph 15(b) of Part I of the Third Schedule to the Constitution which empowers INEC to register political parties in accordance with the provisions of the Constitution and Acts of the National Assembly.

addition to the framework contained in the Constitution, make laws for the regulation of the electoral process.

Item 22 of Part I of the Second Schedule to the 1999 Constitution confers on the National Assembly the exclusive legislative power to make laws regulating:

“Election to the offices of President and Vice-President or Governor and Deputy Governor and any other office to which a person may be elected under this Constitution, excluding election to a local government council or any office in such council.”

Furthermore, *Item 56 of Part I of the Second Schedule to the 1999 Constitution* confers on the National Assembly the exclusive legislative power to make laws for the regulation of political parties. *Item 11 of Part II of the Second Schedule to the 1999 Constitution* give the National Assembly the power to make laws for the Federation with respect to the registration of voters and the procedure regulating elections to a local government council. ***It is pursuant to this that the National Assembly enacted the Electoral Act, 2010 (as amended).***

With regard to the State laws, despite the provisions of *Item 11 of Part II of the Second Schedule to the 1999 Constitution* on the power of the National Assembly to make laws for the procedure regulating local government council elections, *Item 12 of Part II of the Second Schedule to the 1999 Constitution* enables the House of Assembly of a State to also make laws with respect to local government council election, albeit not inconsistent with the one made by the National Assembly. It provides thus:

“Nothing in paragraph 11 hereof shall preclude a House of Assembly from making laws with respect to election to a local government council in

addition to but not inconsistent with any law made by the National Assembly.”

In practice, the various States of the Federation have enacted laws with respect to local government council elections in the states.

Electoral Act, 2010 (as amended) enacted pursuant to the provisions of the Constitution is the primary legislation regulating the conduct of elections in Nigeria (hereinafter referred to as “the Act”).²⁹ As noted above, it is an enactment of the National Assembly made pursuant to the provisions of the 1999 Constitution. The Act regulates procedure at election,³⁰ political parties³¹ among others. It also provides for electoral offences,³² determination of disputes arising from elections³³ and miscellaneous matters.³⁴ The Act has three schedules. The First Schedule is on the Rules of Procedure for Election Petitions, the Second contains the Oath/Affirmation of Neutrality for INEC staff partaking in the conduct of the elections.

It is pertinent to note that section 153 of the Act provides that:

“The Commission may, subject to the provisions of this Act, issue regulations, guidelines or manuals for the purpose of giving effect to the provisions of this Act and for its administration thereof”

Pursuant to this provision, INEC has issued manuals and guidelines to guide the conduct of elections.

²⁹ The Act has been amended twice through (i) Electoral Act (amendment) Act, 2010; and (ii) Electoral Act (amendment) Act, 2011.

³⁰ Part IV of the Electoral Act, 2010 (as amended).

³¹ Part V of the Electoral Act, 2010 (as amended).

³² Part VII of the Electoral Act, 2010 (as amended).

³³ Part VIII of the Electoral Act, 2010 (as amended).

³⁴ Part IX of the Electoral Act, 2010 (as amended).

PART IV
ELECTION MONITORING BY SECURITY OPERATIVES: POLICING THE CONDUCT OF
ELECTIONS

In Part II, we attempted to clarify the concept of election monitoring, particularly, within the context of the Nigerian electoral process. We also noted that the nature of election monitoring that is the focus of this discussion is election monitoring by security operatives.

We have also identified the security operatives who participate in the conduct of election in Nigeria. It is noteworthy the Electoral Act, 2010 does not have a clearly defined role for security operatives participating in the conduct of elections. Therefore, before we proceed to their roles in election monitoring, it is necessary to identify the functions assigned to them by the statutes regulating them.

APPLICABLE SECURITY AGENCIES AND THEIR STATUTORY FUNCTIONS

The security agencies under consideration are the Nigeria Police, the Nigerian Security and Civil Defence Corps, Armed Forces and State Security Service.

NIGERIA POLICE FORCE

Section 214(1) of the 1999 Constitution established the Nigeria Police Force. The Police Act³⁵ was enacted pursuant to *Item 45 of Part I of the Second Schedule to the 1999 Constitution*. Section 4 of the Police Act provides for the general duties of the police thus:

“The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation

³⁵ Cap P19, Laws of the Federation of Nigeria, 2004.

of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act.”

For the sake of clarity, when broken down, the general duties of the police are:

- a) the prevention and detection of crime;
- b) the apprehension of offenders;
- c) the preservation of law and order;
- d) the protection of life and property;
- e) the due enforcement of all laws and regulations with which they are directly charged; and
- f) the performance of such military duties within or outside Nigeria as may be required of them by, or under the authority of the Police Act or any other Act.

From the foregoing, it is beyond cavil that, by their general duties, the presence of members of the Nigeria Police Force is integral to the conduct of elections in a volatile environment like Nigeria.

NIGERIA SECURITY AND CIVIL DEFENCE CORPS (NSCDC)

NSCDC is a para-military agency of the Nigerian Government set up to provide measures against any form of attack or disaster on Nigeria and its citizenry. It was statutorily empowered by the Nigeria Security and Civil Defence Corps Act, 2003 and amended by Nigeria Security and Civil Defence Corps Act No. 6 of 2007.³⁶

³⁶ See History of Nigeria Security and Civil Defence Corps at <http://www.nscdc.gov.ng/index.php/about-nscdc/history-of-nscdc> last visited on November 13, 2013.

By section 3(1) of the Nigeria Security and Civil Defence Corps Act, 2003 (as amended by Section 1 of Act No. 6, 2007), the functions of the Corps which are essential to our discussion are:

- a. assist in the maintenance of peace and order and in the protection and rescuing of the Civil population during the period of emergency;
- b. maintain twenty-four hour surveillance over infrastructures, sites and projects for the Federal, State and Local Government-
 - (i) enter and search any premises and seize any material suspected to have been used in vandalization or suspected proceed of vandalization;
 - (ii) enter and search premises of any suspected illegal dealer in petroleum products or material used by Power Holding Company of Nigeria, Postal Services, Nigeria Telecommunication or for any other public utility or infrastructure;
- c. have power to arrest with or without a warrant, detain, investigate and institute legal proceedings by or in the name of the Attorney-General of the Federation in accordance with the provisions of the constitution of the Federal Republic of Nigeria against any person who is reasonably suspected to have committed an offence under this Act or is involved in any-
 - (i) criminal activity;
 - (ii) industry espionage or fraud;
 - (iii) activity aimed at frustrating any government program or policy;
 - (iv) riot, civil disorder, revolt, strike, or religious unrest; or
 - (v) power transmission lines, oil pipelines, NIPOST cables, equipment, water board pipes or equipment vandalisation

- d. monitor the activities of religious bodies and trade associations;
- e. monitor, investigate, and take every necessary step to forestall any planned act of terrorism particularly-
 - (i) cult and Ethnic militia activities;
 - (ii) criminal activities aimed at depriving citizens of their properties or lives; or
 - (iii) syndicate activity aimed at defrauding the Federal, State or Local Government;
- f. monitor, investigate, and take every necessary step to forestall any act of terrorism and report same to appropriate Federal Security Agency;
- g. provide necessary warning for the civilian population in times of danger;
- h. evacuate the civilian population from danger areas;
- i. carry out rescue operations and control volatile situations;
- j. assist in the provision of emergency medical services, including first aid, during any period of emergency;
- k. detect and demarcate any danger area;
- l. assist the Federal and State Fire Service in Fire-fighting operation;
- m. provide intelligence information to the Ministry on any matter relating to-
 - (i) crime control generally;
 - (ii) riot, disorder, revolt, strike or religious unrest;
 - (iii) subversive activity by members of the public aimed at frustrating any government programme or policy;
 - (iv) industrial action and strike aimed at paralyzing Government activities; a
 - (v) any other matter as may be directed by the Minister; and

- (vi) have power to arrange and mediate in the settlement of disputes among willing members of the public.³⁷

From the foregoing extensive functions of the NSCDC, one cannot wonder why it plays a role in the conduct of elections in Nigeria.

ARMED FORCES

Section 217(1) of the 1999 Constitution established the Armed Forces comprising of an Army, a Navy an Air Force and such other branches of the armed forces of the Federation as may be established by an Act of the National Assembly. Section 217(2) provides that:

“The Federation shall, subject to an Act of the National Assembly made in that behalf, equip and maintain the armed forces as may be considered adequate and effective for the purpose of-

- a) defending Nigeria from external aggression;
- b) maintaining its territorial integrity and securing its borders from violation on land, sea or air;
- c) suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President, but subject to such conditions as may be prescribed by an Act of the National Assembly; and
- d) performing such other functions as may be prescribed by an Act of the National Assembly.”

Armed Forces Act³⁸ was enacted pursuant to *Item 38 of Part I of the Second Schedule to the 1999 Constitution*. Section 1(3) and (4) of the Armed Forces Act provide that:

³⁷ See section 1 of the Nigeria Security and Civil Defence Corps Act No. 6 of 2007 for a more comprehensive list of the functions of the Corps.

³⁸ Cap A20, Laws of the Federation of Nigeria, 1990

“(3) The Armed Forces shall be charged with the defence of the Federal Republic of Nigeria by land, sea and air and with such other duties as the National Assembly may, from time to time, prescribe or direct by an Act.

(4) Notwithstanding the generality of the provisions of subsection (3) of this section-

(a) the Navy shall, in particular, be further charged with-

(i) enforcing and assisting in co-ordinating the enforcement of all customs, laws, including anti-bunkering, fishery and immigration laws of Nigeria at sea;

(ii) enforcing and assisting in co-ordinating the enforcement of national and international maritime laws ascribed or acceded to by Nigeria;

(iii) making of charts and co-ordinating of all national hydrographic surveys; and

(iv) promoting, co-ordinating and enforcing safety regulations in the territorial waters and the Exclusive Economic Zone of Nigeria;

(b) the Air Force shall, in particular, be further charged with-

(i) enforcing and assisting in co-ordinating the enforcement of international law, conventions, practices and customs ascribed or acceded to by Nigeria relating to aerial or space activities in the Nigerian air space;

(ii) co-ordinating and enforcing of national and international air laws acceded or ascribed to by Nigeria; and

(iii) delineating, demarcating and co-ordinating of all aerial surveys and security zones of the Nigerian air space.

From the provisions of section 217(2)(b) and (c) of the 1999 Constitution, it is quite crystal clear that the functions of the armed forces transcend defending Nigeria against external aggression, but extends to suppressing insurrection and acting in aid of civil authorities when called upon to do so by the president. As rightly noted by Brigadier-General Patrick Ogah:

“The military which is a critical element of national defence alongside other security agencies would have to ensure that the territorial integrity of the nation and indeed, internal security of the nation is assured.”³⁹

STATE SECURITY SERVICE

For the purpose of effective conduct of national security, the National Security Agencies Act ⁴⁰ was enacted. The National Security Agencies Act (NSA Act) disbanded the Nigerian Security Organisation and created three security agencies in its place. Section 1 of the NSA Act established these three agencies namely:

- a) the Defence Intelligence Agency;
- b) the National Intelligence Agency; and
- c) the State Security Service.

The NSA Act also charged each of these three agencies with the conduct of the relevant aspect of the national security. By section 2(3) of the NSA Act, the State Security Service is charged with the responsibility for:

- a. the prevention and detection within Nigeria of any crime against *the internal security of Nigeria*;

³⁹ Brigadier-General Patrick Ogah, *Law and Security In Nigeria: The Role of The Military* (Nigerian Institute of Advance Legal Studies) <<http://nials-nigeria.org/pub/LBrigadierGeneralOgah.pdf>> last visited on November 13, 2013.

⁴⁰ Cap N74 Laws of the Federation of Nigeria, 2004

- b. the protection and preservation of all non-military classified matters concerning the internal security of Nigeria; and
- c. such other responsibilities affecting internal security within Nigeria as the National Assembly or the President, as the case may be, may deem necessary.

From the foregoing, internal security of Nigeria runs through the functions/duties of these security agencies. They have the duty to prevent and detect crimes as well as suppressing insurrection within the nation. It is beyond doubt that these security agencies have a pivotal role to play in the entrenchment of lasting democracy in Nigeria. Giving the volatility of our nation and the innumerable flashpoints growing in Nigeria, the conduct of elections cannot take place without these security agencies playing a role.

Nigeria has a history of violence in the conduct of elections. This unenviable history is anything but recent. It is a general belief that the closest Nigeria ever had to a free and fair election was the annulled June 12, 1993 election.

Having laid out the statutorily conferred functions and duties of the applicable security agencies, the next point of order is to examine their role in monitoring elections in Nigeria. However, before the security agencies can effectively monitor elections, their officers and agents must have a good understanding of the electoral process.

UNDERSTANDING THE ELECTORAL PROCESS

It is in this regard that the all-encompassing definition of election given by *Dongban-Mensem, JCA in Ogboru v. Uduaghan* becomes

apt.⁴¹ Here, election was described in generic form embracing accreditation, voting, collation to recording on all relevant INEC Forms and declaration of results. Security operatives assigned to monitor elections must adequately understand the entire electoral process in order to prevent, detect and avert irregularities in elections. They must understand the purpose of necessary electoral documents. Be able to identify sensitive materials as well as knowing what will constitute an electoral offence under the law. Without these, security operatives may become a waste of space and manpower in the electoral process.

The following are some of the essentials security operatives must understand in an election:

PRE-ELECTION PHASE: the first overt act through which the electoral process is initiated is the registration of voters. As noted earlier, only persons who are entitled to vote have a right to vote in Nigeria. It is for this reason that section 9(1) of the Electoral Act, 2010 confers on INEC the duty to compile, maintain and update a National Register of Voters which is to include the names of all persons entitled to vote in any Federal, State or Local Government or Area Council elections. In order to be entitled to register as a voter, one must have qualified to register as a voter. Section 12 of the Act states who is qualified to register as a voter thus:

***“(1) A person shall be qualified to be registered as a voter if such a person:
(a) is a citizen of Nigeria;
(b) has attained the age of eighteen years;***

⁴¹ Ogboru v. Uduaghan (supra)

- (c) is ordinarily resident, works in, originates from the Local Government/Area Council or Ward covered by the registration centre;*
- (d) presents himself to the registration officers of the Commission for registration as a voter; and*
- (e) is not subject to any legal incapacity to vote under any law, rule or regulations in force in Nigeria.*
- (2) No person shall register in more than one registration centre or register more than once in the same registration centre.*
- (3) Any person who contravenes the provisions of subsection (2) of this section commits an offence and is liable on conviction to a fine not exceeding N100,000 or imprisonment for a term not exceeding one year or both.”*

It is at this point that the role of security operatives commences. The Nigerian experience has shown that manipulation of elections starts at the point of registration of voters. Despite the clear provisions of the section 12 of the Act stating who qualifies to register as a voter and forbidding multiple registrations, Nigerians appear to have perfected the act of underage voters registration and multiple registrations. Politicians divert the registration materials to a place of choice where the perceived supporters of their adversaries will be denied the opportunity to register.⁴² Furthermore, with the collusion of INEC agents, these irregularities have a smooth path. Stories of manipulations of voters' registration abound, particularly, with regard to the use of the data capturing machines. Apart from actual monitoring of the registration process for the sake of transparency, intelligence

⁴² The story of late Adedibu and six

gathering is quite essential. Here, the role of security operatives (especially SSS) come to fore. Several Nigerian newspapers reported stories of recovery of diverted voters' registration material and apprehension of the perpetrators. Vanguard newspaper of January 26, 2011, contains the following report under the caption: *SSS recovers 3 diverted DDC machines in Bayelsa*

“Security operatives in Bayelsa State, Wednesday, swooped on two illegal voters register at private apartments in Yenagoa, the state capital and recovered three diverted Direct Data Capturing machines.

Six suspects among them a serving councilor in Southern Ijaw Local Government Area, two corps members and a chief were apprehended.

The arrest of the suspects and recovery of the three DDC machines by men of the State Security Services, SSS, is coming on the heels of the alarm raised Tuesday, by the campaign organisation of Timi Alaibe, the Labour Party governorship candidate in the state over an alleged plot by certain persons to skew the on-going voters registration exercise in the state.

The recovery of the machines in two separate operations by men of the SSS and Independent National Electoral Commission, INEC, followed a tip off from members of the public.

The machines, which were reportedly recovered at the compound of one Chief Jobs at Kpansia and residence of Brigidi on Baybridge Road, Kpansia were meant for communities in Southern Ijaw council.

The state Resident Electoral Commissioner, Engr. Edwin Nwatalari, who confirmed the smashing of the

syndicate to newsmen in Yenagoa, said the suspects who were nabbed in two separate operations by security operatives are presently cooling their heels in SSS custody.

He described the diversion of INEC DDC machines to unauthorised locations for use as effort in futility, saying information feed into its illegally diverted machines cannot be transferred to INEC database.”⁴³

History has further shown that the voters’ registration process is not immune from the violence that characterises elections in Nigeria. Armed hoodlums attack registration centres, attack persons at the registration centres and cart away the registration materials.⁴⁴

Therefore, to effectively monitor the voters’ registration process, the security operatives involved must be able to identify all essential voters’ registration materials. Furthermore, these security operatives must be fully attached to the registration materials from storage, distribution and eventual use. It is quite necessary for the security operatives to mingle during this process to detect persons engaging in multiple registration, underage registration, stacking of registration cards, and printing of fake documents.

ELECTION PHASE:

⁴³ Culled from <<http://www.vanguardngr.com/2011/01/sss-recovers-3-diverted-ddc-machines-in-bayelsa/>> last visited on November 14, 2013. See also Vanguard of December 13, 2011 with the caption: *SSS arrests 6 over theft of DDC machines* <<http://www.vanguardngr.com/2011/12/sss-arrests-6-over-theft-of-ddc-machines/>> last visited on November 14, 2013

⁴⁴ See Vanguard Newspaper of January 19, 2011 with the caption: *4 shot over DDC machines in Ebonyi*” <<http://www.vanguardngr.com/2011/01/4-shot-over-ddc-machines-in-ebonyi/>> last visited on November 14, 2013

As severally noted above, persons monitoring elections must understand procedure at election. They must understand that elections to fill political offices in Nigeria are the following:

- ❖ presidential election;
- ❖ gubernatorial elections;
- ❖ National Assembly elections (Senate and house of representatives);
- ❖ House of Assembly elections; and
- ❖ Council elections.⁴⁵

These security operatives must also understand the timetable for the conduct of each election as well as know the *dramatis personae* in every election. They must be able to identify the forms used in each election and be familiar with the purpose of each form. In addition to being familiar with the applicable provisions of the Act, the best way to get the necessary education with regard to procedure at election is by studying manuals and guidelines issued by INEC. The under-listed are some of the essentials the security operatives should familiarise themselves with.

- I. Election Personnel: for a free and fair election to occur, election officials have to be transparent, impartial, dedicated, credible and courageous, and they respect the applicable rules. In addition to the persons employed full time, INEC engages ad-hoc staff in the conduct of elections. The essential election personnel are:
 - a. Polling Unit Staff: Presiding Officer, poll clerk and poll assistant.
 - b. Supervisory Presiding Officer: supervises the conduct of election in a cluster of polling units, and acts as

⁴⁵ All but Council elections are conducted by INEC albeit the same voters' registers are used for all the elections.

the bridge between the polling unit staff and the Electoral Officers. He distributes election materials to the polling unit staff.

- c. Collation officers: depending on the type of election, there may be individual collation officers at the ward, local government, state and federal level. They collate results coming from each polling unit at the different levels till they arrive at the final result.
- d. Returning Officer: he is charged with the election in each constituency. He collates and declares the result for the election.
- e. Electoral Officer: he is in charge of the conduct and supervision of election in a local government.
- f. Resident Electoral Commissioner: he is the head of the conduct and supervision of election in a State. He may also be the returning officer in governorship election.⁴⁶

- II. Election Materials: election materials are of two types: sensitive and non-sensitive material. Non-sensitive materials are usually given to the presiding officers a night before the election while the sensitive materials are distributed on the morning of the election. Upon receiving the non-sensitive materials, the presiding officer verifies and records the items received on Form EC.25 and signs it as a receipt. Non-sensitive materials include voters' register, Forms EC25 (Electoral Material Receipt); EC40C (ballot paper account and verification statement - for recording serial numbers of ballot papers); EC40D (statement of spoiled ballot papers and rejected ballots); EC40E (tendered ballot statement); EC1A (tendered votes

⁴⁶ Read the INEC Manual for Election Officials Nigeria 2011 for a more comprehensive understanding.

list); as well as posters, relevant envelopes, indelible ink, INEC stamp, ballot box, cello tape, bag, hole punch, stamp pad e.t.c.

Sensitive materials include Form EC8A (statement of result of poll), ballot papers and tendered ballot papers.

In a gubernatorial election, Form EC8A is used to record result at the polling unit; EC8B is used to record collated result at the ward collation level, EC8C is used to record results at the local government collation level; EC8D is used to record results collated at the State level; while EC8E is the declaration of results.

- III. Essentials of conduct of voting: this will including knowing when the poll is scheduled to open and when it is scheduled to close; accreditation of voters upon presentation of voter's card; monitoring authenticity of voter's cards presented; use of indelible ink; ticking of voters' register for accreditation and for voting; marking of voter's card (punching if laminated) etc.

- IV. Collation: the Security Operatives must know the collation process. This is because manipulation of elections does not only occur at polling units, but figures are doctored at the collation level. It is, thus, necessary for the security operatives to know the steps involved in the collation of results. At the ward level, collation involves bringing together poll results from individual polling units for the purpose of adding them up. This, thereby, constitutes the result of the election at the ward level. The same procedure is applicable at the local government level where the results from the different wards are brought together to determine the result at the local government level. This position is applied at the State level where the results collated at each

local government are brought together to determine the result at the State level. As pointed out earlier, since ballot papers are not counted at the ward, local government or state collation level, figures are usually doctored at these stages. It is therefore pertinent for security operatives to closely monitor the collation process.

If the security operatives have a good knowledge of the above and apply this knowledge to monitoring the conduct of election, they will be better equipped to detect potential irregularities.

KNOWING ELECTION RELATED OFFENCES

Another essential point which security operatives should have a general knowledge of is the constituents of electoral offences. Without a working knowledge of what constitutes electoral offences, security operatives may be helpless in preventing them. Election officials are not trained to deal with crimes. Therefore, the involvement of security operatives becomes pivotal.

In addition to the criminalisation of certain conducts under the various penal laws of the States, the Electoral Act, 2010 (as amended) contains certain election related crimes as well as their punishments. An example is section 12(2) & (3) of the Act which makes multiple registration an offence and specifies the punishment for it. As noted earlier, the whole of Part VII of the Act (sections 117 to 132) deals with electoral offences. All these offences are meant to deter crimes and ensure a hitch free electoral process.

STRATEGIC AND OPERATIVE DELIVERY OF SECURITY IN ELECTION

SECURITY OPERATIVES AT POLLING UNITS: apart from the SSS operatives, the applicable security agencies wear uniforms. Furthermore, the security operatives bear arms. Usually, police officers are common sights at the polling units. It has been said, however, that the presence of armed security operatives around polling station may intimidate and instill fear in voters.⁴⁷ In the Nigerian context, policemen are familiar environmental faces; NSCDC officials are equally familiar to the people; and SSS operatives wear plain clothes. The effect of this is that the presence of a policeman, an NSCDC operative and an SSS operative at the polling unit may not draw undue attention. It is only the presence of members of the armed forces that will draw attention and may strike fear into the electorates. As we have noted severally, their involvement transcends presence at the polling unit.

It is in this regard and for the maintenance of public order that the approach recommended by *Aning and Lartey* becomes relevant.⁴⁸ According to them, the strategic and operational roles played by security operatives can be divided into five namely:

- i. constituency and media mapping;
- ii. public order regulation;
- iii. protection of key public installations;
- iv. securing of conflict zones; and
- v. public education.

⁴⁷ *Principles for Election Management, Monitoring, and Observation in the SADC Region (supra)* at p. 20

⁴⁸ Kwesi Aning and Ernest Ansah Lartey, *The Role of the Security Sector in Ghana's Democracy: A Case Study of the December 2012 Elections* <[HTTP://FORUMS.SSRC.ORG/KUJENGA-AMANI/2013/07/11/THE-ROLE-OF-THE-SECURITY-SECTOR-IN-GHANAS-DEMOCRACY-A-CASE-STUDY-OF-THE-DECEMBER-2012-ELECTIONS/](http://forums.ssrg.org/kujenga-amani/2013/07/11/the-role-of-the-security-sector-in-ghanas-democracy-a-case-study-of-the-december-2012-elections/)>

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These tools can be deployed at the three phases i.e. pre-election, election and post election phases.

CONSTITUENCY AND MEDIA MAPPING: the exercise will be carried out by the security agencies with the aim of communities that are susceptible to violence. Here, the security agencies involved have to harmonise their efforts to avoid working at cross-purpose. If anything is true about violence in Nigeria, it is the fact the presence of police alone may be ineffective, it is in that regard that a coordinated approach by armed forces, police and intelligence becomes essential. Intelligence gathered by the security operatives (particularly SSS) will be shared to determine to map out conflict prone areas. In mapping out these areas, attention will also be paid to conflicts and violence unrelated to election. Previous disputes between two communities can be the needed trigger for violence during election. Furthermore, it may be in the best interest of public order to regulate media activities during this period. The applicable security operatives should advise media outfits against news report that may incite violence or public disorder during that period. Particular attention should be paid to media outfits with a high propensity for inflammatory news reports. This should be done in a manner that will not result in rights violation.

PUBLIC ORDER REGULATION: here, the applicable security forces have to ensure that all election related activities are done in an orderly manner. In particular, activities of political parties need to be regulated in a fair and impartial manner. Political campaigns are hotbeds for violence in Nigeria. Innumerable lives have been lost at political campaigns through fresh and reprisal attacks. Although section 94 of the Electoral Act, 2010 (as amended) provides for the provision of security for

processions at political rallies, the police alone cannot maintain public order in this regard. Even with the involvement of all the armed forces and intelligence at these political parties activities, violence still erupts. It is, therefore, necessary to pay special attention to public order regulation in this period. Intelligence officers may be attached to each political party for the purpose of intelligence gathering. Furthermore, certain political figures may be accorded special protection during this period.

PROTECTION OF KEY PUBLIC INSTALLATIONS: during election periods, key installations are prone to vandalism. Apart from being susceptible to attack during clashes, some of them are specifically targeted for strategically calculated political purposes. The armed forces may come handy in this respect. In riverine areas and offshore settlements, the role of the Navy in ensuring security cannot be over-emphasised. The police may not have the wherewithal to adequately protect installations located in these environments. Furthermore, locations where election materials are kept require special protection. A jointly coordinated security effort by the security agencies under consideration is necessary in this regard. Members of the armed forces may have to accompany the movement of election materials to territories. Intelligence gathering is also pivotal to the provision of security for key installations. This may nip potential attacks in the bud.

Securing of Conflict Zones: as noted under constituency and media mapping, areas prone to violence have to be identified for special attention. Upon identification, special arrangement must be made to secure these conflict zones. These conflicts may be as a result of communal clashes. Efforts should be made to ensure that these conflicts are not reignited during the

period of election. Here, it may be necessary to involve key figures that have persuasive influence on members of the communities.

Public Education: with proper education, election irregularities and violence may be reduced to the barest minimum. The security forces and INEC have to work with the media in ensuring the public is adequately informed on the need for a free and fair conduct of election. They may have to hold village square and town hall meetings, do electronic (radio and television) activities, hold press conferences to educate the people on how they should conduct themselves in the three phases of election. Here, the members of the public should be adequately informed of election related offences and the punishment they attract. The aim is to discourage the people from committing these offences. As a deterrent strategy, persons found to have committed these offences should be prosecuted, and if found guilty, punished accordingly. No amount of public education will amount to over-flogging the issue.

PART V

CONCLUSION

If we agree that democracy is the government of the people by the people and for the people, we are saying that democracy is a system of government where the choice of the people prevails always no matter the circumstance. The people manifest their choice through elections. If the people realize that they have made a choice which turns out not to be in their best interest, they can change that choice by electing another

choice. Therefore, as we have shown earlier, election is the lynchpin of democracy.

In this regard, validly held regular elections are the best way to enthrone lasting democracy in any society. A claim to a free and fair electoral process remains a mirage where elections are held under insecure circumstances. Therefore, it is with the provision of adequate security that elections can hold in a transparent manner where the results will be a true reflection of the vote cast by the people. The fundamental role of security operatives in midwifing lasting democracy cannot be overstressed.

As part of the conclusion, it must be said that this can only be achieved where the security operatives involved are professionals who are willing to discharge their duties without minding whose ox is gored. One of the banes of Nigeria's democracy is the complicity on the part of security agencies. Rather than being evenhanded in the discharge of their duties, some security operatives have turned themselves into mercenaries who are available for hire by the highest bidder. A reorientation is of utmost importance in the aspect.