

## Preamble

This policy brief is a synthesis of findings and citizens perceptions and expectations of Nigeria's democratic experiment and the conflict situation which is so inextricably woven into the practice of democracy in Nigeria. The brief is a product of a five year research into 'Deepening Democracy in Nigeria' and 'Violence, Participation and Citizenship' conducted by the Theatre for Development Centre based in the Ahmadu Bello University Zaria, Nigeria in collaboration with the Development Resource Centre on Citizenship, Participation and Accountability, Institute of Development Studies (IDS), University of Sussex, UK. The research has been funded by the Department for International Development (DFID) of the British Government. The Nigerian team members in this research over these past five years have been Professor Ogo Steve Abah, Professor Jenkeri Zakari Okwori, Dr. Jibrin Ibrahim, Professor Ogha Alubo and Professor Sam Egwu.

In articulating this brief, extensive use is made of the 'Summary of Civil Society Charter on Electoral Reforms' formulated in Abuja, September 23-24, 2008 by the Civil Society Coordinating Committee on Electoral Reform (CSCC). The Charter interestingly converges with the findings of our research in the DRC.

## Key Issues and Questions from our Research

There is poor understanding of the principles of good governance which may ensure that citizenship makes meaning for every household in Nigeria.

Nigeria is truly a melting pot of ethnicities. It is correspondingly a country that is characterized by a diversity of cultures and religions in which the binding factor in all of these diversities is the nation. But the imagination of Nigeria by the many different peoples that form the country has hardly crystallized beyond geography.

The non-justiciability of social and economic rights has left the poor the ability to demand accountability from their leaders. Indeed, it further relegates them as they are alienated and distanced from government.

Why the crystallization of the nation does not take place through recognition of rights of residency rather than indigeneity? The many ethnic conflicts in Kaduna, Kano and Plateau have been around indigene-settlers issues.

In our drama titled 'Scenarios of Citizenship', we make these viewpoints:

The godfathers are not just the people determining elections now. Those who discredited our constitution, those who insisted that it is illegitimate to replace. Those who see that socio-economic rights are not justiciable... these are the real godfathers.

When your opinions are not respected because you are a woman, when the girl of marriage is violence and slavery, when your words are established by where you are from and not what you are, when tradition, culture and society marginalize you and when the constitution offers you no real protection, are you still a citizen?



## Introduction

The country known today as Nigeria is a result of the amalgamation of the territories held by British Colonial Administration in 1914. Once created, Nigeria remained a British colonial possession until it gained political independence in 1960. Since 1960, the country has witnessed, till date, only three civilian regimes ruling for a total of 18 years. The remaining 31 years were under military rule. The latest attempt at democratic rule began in 1999. General Olusegun Obasanjo who took over from the military in 1999 was a former military ruler himself, now termed 'democrat'. After his first tenure of four years, he gained another tenure in a far from transparent and fair election. Constitutionally, this second term should have been terminal but he attempted instead to elongate his tenure, a play which was generally read as an attempt to rule for ever. Nigerians, under various groupings and alliances, resisted Obasanjo's attempt at tenure elongation. Whereas the play was defeated, it left many Nigerians brutalized, physically, mentally and psychologically. It was a clear indication that in Nigeria the nature of political practice and the expectations from democracy has often been interwoven with conflict. Conflict seems to be an integral part of the democracy and citizenship struggles; and when religion and ethnicity become platforms to realize citizenship, conflict becomes an inevitability in the process.

Since the return to civil rule in 1999, a disturbing phenomenon has been the spate of violent conflicts in many parts of Northern Nigeria. Most worrying is the recurring nature of these

malpractice is placed on an aggrieved candidate rather than the electoral body that conducted the elections and have custody of all the evidence. Moreover, election petitions sometimes take up to two years or more before they are concluded as has been happening since the 2007 elections. Having held office for two years illegally, when the elections are eventually voided, the office holders use their power of incumbency derived from their illegitimate occupation of their offices to nibble their opponents in the re-run elections.

A major practice of the electoral system in Nigeria which has bred conflicts and disaffection is the practice of the First-Past-the-Post or winner-takes-all American Presidential system. The practice makes a person who scores the highest number of votes in an election to be the winner. While this may have an advantage in that it is simple to operate and elected representatives have clearly defined constituencies to which they are supposed to be directly responsible, the disadvantages are many. The system tends to generate tension and political violence as losers are excluded from the sharing of power and positions. This makes politicians and contestants to win at all costs. During the 2007 elections, the then President, Chief Olusegun Obasanjo declared that the elections were a "do or die" matter! In addition, the process may raise the question of legitimacy where the contest is keen. For example, in an election involving three parties, if the outcome of votes is 38%, 36% and 28%, the candidate with 38% is declared winner which evidently shows that such a candidate does not enjoy the support of most of the electorate.

## Policy Options

### Constitutional Review

Given the inadequacies of the 1999 Constitution to deliver democracy dividends, a review of the Constitution is necessary to provide a solid structural and institutional basis for a more democratic and people-oriented constitution. Such reviews should be, but not exclusive to the following areas:

- Residency rights and obligations as opposed to indigeneity should be clearly entrenched in the constitution to enable citizens including married women who have been resident in particular state or local government for an extended period of time to have rights and privileges in those states such as contesting for political offices.
- A mandatory minimum benchmark for affirmative action for women and people living with disabilities to have effective representation at leadership levels in the executive, legislature and party, including the youth.
- Social provisioning should be made justiciable since that is the business of government in the first place. This is in order that citizens can hold governments accountable and to make them work for the people.

### Electoral Act

Without a properly formulated electoral act, elections will continue to be manipulated in favour of the government in power or godfathers. For elections to be the expression of the mandate of the people, certain critical changes have to happen to the 2006 Electoral Act.

- Different interest groups including the parties, labour, civil society, women, youth, professional associations, media, faith based organisations and the organized private

conflicts especially among various groups and communities that have lived together in relative peace for decades and centuries.

In Kaduna the conflict began with the attempts to introduce Shari'a (Islamic legal system) to the state. In the ensuing violence, thousands were killed and property worth billions of naira destroyed. Kaduna has been living in fragile peace since then.

In Jos Plateau state, the violence which began as a protest against religious infringement soon took on an ethnic coloration where the issue of identity and indigeneity became the platforms on which the wars were prosecuted.

In Kano the Christian population is smaller than the Muslims but the issue here is more economic than political. Whereas the Christians (read Igbo) in Kano do not contest the political space, they control a huge percentage of the commercial economy of Kano. This does not sit well with the Hausa-Fulani indigenes who consider the Christians as a non-indigenous ethnic group of settlers who are doing the bidings of the West and who are in their state to take bread away from the mouths of the indigenes.

The extent of distrust and polarization between groups and individuals in Nigeria which has led to the spate of violent conflicts has exacerbated the security situation and the growth of private and parallel security outfits and militias, or what may be termed parallel communities. These groups are busy piling up arms in preparation for future conflicts. The acquisition of arms and the growth of these groups have been attributed to the feeling that the state has failed to provide a sense of security. As such citizens now take their security into their own hands.

The idea of democracy also includes the notion of citizenship and the civic virtues of political participation and inclusion. The right to participate in the governance of one's country or community is a foremost political right and the basis for measuring the quality of citizenship. It is at the heart, not just of the liberal democratic project, but the very notion of statehood and its membership. For this reason, democracy and democratization provide useful arena for understanding the manifold contradictions that are embedded in the idea and practice of citizenship.

Among other factors, the durability of democratic regimes is determined by the cultivation of certain attitudes and values that are supportive of democracy among the leaders and the followership. Democracy, we are often reminded, requires a commitment by leaders and citizens to institutionalize its principles. The cultivation and internalization of these attitudes determine the extent to which the regulative and constitutive rules of political competition are observed, the tolerance for political opposition and political dissent, and the use of negotiation, dialogue and consensus building as means of handling political conflicts. In our context marked by decades of authoritarian rule, marked by flagrant violation of rights and the entrenchment of the culture of arbitrariness and violence as means of resolving differences, these attitudes and principles are very important.

sector should make up the composition of INEC at the Federal level and of SEC at the state level.

ii. The most fundamental reformation of elections in Nigeria will be the shifting of the authority to approve the appointment of INEC commissioners from the President and Governors to the National Assembly or the State Houses of Assembly as the case may be. They should have the power to ratify nominations by interest groups in accordance with the Constitution and exercise powers to remove. Once composed, the commissioners should elect their chairperson.

iii. INEC and SEC should have executive secretaries responsible for policy implementation and such executives should be appointed by the Commission. They will replace the current Resident Electoral Commissioners and the Commission should have the power to discipline and dismiss.

iv. INEC should be funded directly from the Consolidated Federal Fund as first line charges.

v. In the conduct of elections the modified Open/Secret ballot (alias Option A4) which is simple and transparent should constitute the voting system since it has worked before and has an inherent capacity for eliminating cheating.

## Political Parties

i. Political parties should be allowed as long as they are able to survive electoral competition. Parties should be allowed to be locally based so the stipulation that all must be national parties should be removed as long as such local parties comply with section 224 of the Constitution.

ii. The power to register political parties should be devolved from INEC and vested in a Political Parties Registration Commission which should have the mandate to mediate inter and intra party disputes, monitor and train political parties on party organising and internal party democracy.

iii. As noted by the former Vice-President, Atiku Abubakar during the field research, the greatest challenge to democracy in Nigeria is the absence of internal democracy within the parties. So, the Electoral Act must set clear benchmarks for internal democracy in the political parties. The role of godfathers must give way to membership participation through the comprehensive development of procedures and processes that will make it difficult for an individual or people of influence to control or

There are significant threats to Nigeria's democracy and the chances that it would be consolidated. The threats come largely from within the political class. The threats are made real because of the weak and fragile political institutions such as the legislature, political parties, the judiciary and the election management bodies. The weaknesses of these institutions are further reinforced by the culture of illiteracy and lack of adequate civic and political education. Anti-democratic forces within society tend to cash in on these weaknesses to subvert the democratic will of the people. However, what these threats suggest is that having in place civilian governments that swear to uphold the constitution is not enough to guarantee the survival of democracy. It alone to consolidate it. If tenure elongation, for example, was achieved as designed by President Olusegun Obasanjo, the immediate casualty would have been the general election scheduled to hold in April 2007. This would as well have meant a loss of opportunity which the election affords in the process of deepening democracy in Nigeria.



The tenure elongation debate dramatizes the on-going struggles within the society between vested interests and forces that seek to undermine democracy on the one hand, and institutions, groups and individuals that seek to safeguard and deepen democracy on the other. But even more fundamentally, the debate and the defeat of the constitutional amendment proposals through which tenure elongation was designed to be achieved draw attention to the role and importance of citizen action in the project of deepening democracy. Such roles have continued to be played in combating other devices meant to achieve tenure elongation in the aftermath of the defeat of the Constitution Amendment Bill.

There are clear lessons to learn from the struggles occasioned by the tenure elongation plot which can provide the basis for deepening the struggle for democracy. These lessons include the importance of forging alliances between pro-democracy elements among the political class, parliament and the civil society in demanding the minimum conditions for the flowering of the rule of law and constitutionalism. It also includes building a critical mass of Nigerians to support democratic processes and values by stressing the organic connection between democracy, development and welfare.

Over the five years, the research identified a series of problems with the democratic practice in Nigeria which has been seen largely as not delivering 'democracy dividend' but which by its nature of practice has instead bred more conflict. These are problems include, but not limited to the following:

manipulate the parties.

iv. There needs to be put in place an effective mechanism for checking political campaign funding and expenses and punishment for breach.

## Security Agencies

i. The role and management of the security forces during elections needs to be clearly defined. The line of authority and obeying of orders should be clearly defined by the Electoral Act so that it is outside the purview of the politically appointed security chiefs.

## The Electoral Justice System

i. An independent and constitutionally factored Electoral Crimes Commission should be set up to handle complaints, investigate them and prosecute offenders.

ii. Election petitions and cases should be concluded before winners are sworn in so the timing of elections should be worked out to accommodate this process.

iii. The burden of proof in election disputes should be shifted from the aggrieved candidate to INEC who conducted the elections and have all the materials, results and election documents in its custody.

## The Electoral System

i. The current electoral system of the First-Past-the-Post (FPTP) or winner takes all should be replaced by a modified Proportional Representation system (PR). PR system encourages power sharing between parties since it will be difficult for one party to secure absolute majority. Apart from increasing the quality of debates in the House it has the advantage of being inclusive. The modified PR system for Nigeria should be based on a threshold of 3% of all votes cast to be entitled to participation, and representation should be based on party list. With effective internal democracy, the party list will throw up credible candidates and the burden of election will be shifted to the parties instead of individuals which makes representatives accountable to the party and the people rather than to godfathers.

The research findings which lead us to making all of these suggestions indicate that the two goals of true democracy and peace are achievable in Nigeria.

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