

Law and Electoral Politics in Nigeria: Analysis of the congruence

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Abstract

The sustenance of any electoral system depends largely on the existence of rules and regulations. Every process requires some modicum of defined behaviour and actions that must be in consonance with the objectives and goals to be achieved. Electoral politics in Nigeria, particularly in recent times has always been ridiculed. This is not unconnected with the inability of the politicians and electoral officers to play the game according to the rule. The paper examined the nexus between law and electoral politics, making use of content analysis approach as source of information. The paper concluded that every political game in Nigeria must be played according to the rules.

Keywords: Law, Electoral Politics Nigeria, Election, Electoral Law

1. Introduction

It is the nature of man to live in communities. He lives in this fashion in every part of the world today, and the evidence of history and pre-history shows how long he has been doing so. But then it must be noted that where people live together conflict is bound to arise due to various conflicting interest among the people. Also bearing in mind that everybody tries to work hard, obtain basic needs and all other things which help to make life happy and comfortable which are incidentally in short supply, since the supply is always in short proportion to the demand, competition for them set in. It is a race in which we all engage and in every race or game there must be rules and regulations. Else, we are moving towards the state of nature as enunciated by Hobbes. Therefore the existence of rules and regulation (law) becomes a sine qua non to the peaceful co-existence of people.

The electoral politics is a race or game of competition that involves people of different beliefs, character, thinking and ideology, its operation and practice must therefore be guided by law.

This paper therefore attempts a critical examination of law and electoral politics in Nigeria. The paper is divided into five parts. Part one, which is the introduction, provides theoretical background for the work. In it, analyses of some concepts that are crucial to the study are done. Part two looks at the origin and nature of Nigerian law, part three discusses electoral politics in Nigeria. Part five concludes the study.

2. Conceptual Analysis

Below are some important concepts that are germane to the understanding of this study. These concepts are classified to enhance scientific and logical methodologies of this study.

2.1 The Concept of Law

Law has been defined by various scholars and intellectual giants within and outside the academic communities. Some of these definitions are explored. William (1977) viewed law as rule, specifying what was right and what was wrong. Davidson (1998:3) defined law as a body or rule that establish a certain level of social conduct, or duties that members of the society honour.

Law is an arrangement that coordinates and confines people's behaviours to conform to an agreed general ways of human conduct in a given society, with a threat of sanctions against defiant behaviours (Lawal, 2010). It is logically inferred from the foregoing that there is need to obey the law based on the fact that disobedience may attract sanctions that may eventually result in imprisonment, fine or death depending on the nature of offence. Law may also be perceived as a body of rules or regulations governing the conduct of human beings in their social regulation.

2.2 Concept of Electoral Law

Electoral laws are rules and regulations that guide the conduct of an election. This electoral law is usually (in Nigeria) made by a body (INEC) Independent National Electoral Commission) charged with the responsibility of painstakingly undertaking the preparation and conduct of an election.

2.3 Concept of Election

Election is defined as a device for filling an office or post through choices made by a designated body of people called the electorate (Heywood, 1997;211). Election confers legitimacy on leaders, it makes the leaders acceptable to the people.

2.4 The Concept of Politics

Politics can be defined in various ways but for the purpose of this study, politics is viewed as the struggle to obtain, maintain and retain power. This struggle is further regulated by law, so as to avoid and or reduced conflict and violence which is bound to be generated by this struggle.

2.5 The Concept of Election Tribunal

Election Tribunal is the body usually established by the Federal Government to hear and determine petitions as to whether any person has been validity elected to the office of president, governor, or as are member of National Assembly and State Legislative House (FGN, 1999).

3. The Origin, Nature, Characteristics and Purposes of Nigerian Law

The Nigerian legal system is based on English Common Law modified by Nigerian rulings, the constitution and legislative enactment (Okeke, 1986). The inherent nature of human beings is their unpredictability in terms of behavioural conduct, individuals who constitute membership of society suffer from this innate problem. Therefore, for law to really serve its purposes, it must possess the following characteristics. One, competent and constituted body that has recognized authority must make such law. Two, it must also be ultimately enforceable; any law that cannot be enforced is no law. Three, it must also be dynamic because society in which it operates is dynamic. It should also be consensual. Laws are laws when one consents to it. It might be out fear of reprisal or coercion.

Law generally serves the following purposes in any society. Law regulates conduct, maintain peace and provides protection and means of achieving justice.

Specially, law serves as a tool of order; as a tool of order, it promotes order within the national and international society. There is no denying the fact that a comprehensive set of rules, regulations, obligations, rights, legal doctrines and decisions of national and international tribunals on legal matters does help to promote order. Law regulates the behaviour of the citizenry. Without law, society would have been disorganized and become ungovernable (Kolawole 1997).

In a democratic society, everybody is subject to the law and nobody is above the law, the law serves as instrument of control and stability, it defines pattern of behaviour of both the government and governed. When everybody obeys the law, peace and justice is ensured and assured in such setting. But unfortunately in Nigeria, the reverse is the case. Nigerian law is oppressive in nature. It oppresses the poor and the downtrodden. This is because the laws are made by those citizens who already belong to the rich class, these categories of people are called the movers and shakers of Nigeria. The same set of people also monopolizes and dominates politics space with their influence. They manipulate election result to their favour without recourse to electoral act. The law is permanently a manipulable tool in their hand. They are also insulated from the harsh effects of these laws. Nigeria law is weak and soft unlike English law where it emanated.

4. Electoral Politics in Nigeria

The inability of Nigerian law (Electoral law or Act) to regulate electoral behaviour and punish violators of such law has caused more harm than good politically, socially and economically. It is evident today that Nigerian politics is characterized by all sorts of undemocratic tenets such as thuggery, violence, Godfatherism etc. In fact, contemporary events across the country have clearly demonstrated that Nigerian politics has been hijacked by political thugs.

Consequently, electoral politics becomes a sole possession of the rich people who have no respect for the law of the country and can affordable pay for the services of thugs. The implication of this is that, free and fair election becomes a mirage. The nature of electoral politics in Nigeria has made people to perceive politics as dirty game with no rules and regulations. Independent National Electoral Commission (INEC) established to make and enforce electoral law suddenly become an instrument and wheel chair to politicians. It assists in rigging of election, declaration of fake election results as witnessed in Ekiti State and others. This dastardly act is not peculiar to INEC alone, it also cut across the security agencies, the judicial arm of government (custodian of law). These are largely due to lack of respect for rules and regulations guiding electoral politics.

5. Law and Electoral Politics: Analyzing the Congruence

Historically, elections into any office(s) are governed by rules and regulations made before the elections are accepted by all interested parties or the majority of same, especially, the contestants. Aside from bringing such elections in conformity with the requirements of the law, rules and regulations when not skewed in favour of particular interest or party confer credibility and a genuineness on the outcome of an election, and by extension, ensures acceptance (LEMT, 2003).

Politics is often murky; the rules are sometimes unclear, and the winners are often surprising, law should not be; the

rules should be explicit, and these rules should (in theory anyway) allow us to easily predict the winners.

Regional jurisprudence and recent United Nations General Assembly resolutions recognize that there is no single political system or electoral method that is equally suited to all nations and their people and that the efforts of the international community to enhance effectiveness of the principle of periodic and genuine effectiveness of the principle of periodic and genuine elections should not call into question each state's sovereign right, in accordance with the will of its people, freely to choose and develop its political, social economic and cultural systems, whether or not they conform to the preferences of other states.

Moreover, political system and electoral processes are subject to historical, political, cultural and regional factors (Guy, 2006). Whether a state adopts a majoritarian voting system or one or other system of proportional representation is thus a classic issue falling within the reserved domain of domestic jurisdiction. State practice confirms the variety of available choices, and no system can be considered, from an international law perspective, to be considered, from an international law perspective, to be more valid than any other, provided it bears a reasonable relationship, in law and in practice. The forgoing stresses the importance of law to electoral system, even at the international level.

Conventionally, rule and regulations (law) must not only reflect national standards and aspirations but also the wishes of the people. However, in the context of a globalized world complete with charters, protocols, universal declaration, human rights and other initiatives to which Nigeria is a signatory, elections must of necessity meet the objective scrutiny of the International Community (Guy, 2006).

Essentially, law and electoral politics are inseparable for elections to achieve its purpose, it must be guided by law. Court's role is critical to election outcome. Federal courts have always played a pivotal part in interpreting the laws governing election (Streb, 2005). For decades the court have played a major role in deciphering such contentious issues as campaign finance, voting rights, redistricting, party primaries and campaign advertising. The importance of the rules of the game and the court's interpretations of those rules was indeed demonstrated recently, declaration of Adams Oshiomole as Governor of Edo State in 2008, Olusegun Mimiko as Governor of Ondo State in 2009, Dr. Fayemi as Governor of Ekiti in 2010, Rauf Aregbesola as Governor of Osun State in 2010. these cases clearly illustrate the important role that court and electoral law in general play in elections. Electoral activities from registration of parties to announcement of election result, are imbued with rules and regulations (law) and in case there is breach in any of these rules, the matter is referred to court for hearing and appropriate decisions, whatever the pronouncement of the court of law on such matter becomes binding on the parties no matter the status or the caliber of the personality involved. Noticeably, in Nigeria today, the crops of leaders that assumed power via rule of law tend to perform more than those that assumed power via illegal procedures and decision.

6. Conclusion

This paper, law and electoral politics in Nigeria analyzed the content and context of the operational framework of electoral law, that is how the law and judicial interpretation of the law shape politics. It also discussed how law and electoral politics interact and intertwined. The study exposed the significance of law to electoral politics and essence of law to humanity. It is therefore suggested that for every political game in Nigeria, the law must take its place. Every person found contravening the electoral law must not go unpunished. Individuals and politicians must be made to face the consequences of breaching any part of electoral rules and regulations as this will serve as deterrence to others and ensure credible elections.

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