

Regulatory Environment and Media Coverage of Elections in

Nigeria: A Review

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Abstract

The legal environment under which an election takes place, no doubt, plays a crucial role in determining the extent to which the election would be adjudged free, fair and credible. The 2011 general elections in Nigeria were widely acclaimed to be free, fair and credible both locally and internationally. This work, therefore, set out to ascertain the veracity of this claim by examining the legal atmosphere under which the elections were conducted. The review showed that the legal environment was adequate enough to guarantee a free, fair and credible elections. However, it was discovered that most of these legal provisions were not complied with and the offenders were not brought to justice by the relevant bodies such as the National Broadcasting Commission (NBC) and Broadcasting Organisation of Nigeria (BON). With regards to the 'equal opportunity doctrine' as contained in the Electoral Act, the ruling party at various level of government, dominated the airwaves giving the opposition party very limited opportunity to be heard. It was also observed that the law on campaign funding was not observed. The ruling party spent far above the provisions permitted by law. Based on these findings, the researchers recommend that the regulatory environment in Nigeria should be strengthened by ensuring that the provisions of the Electoral Act and other election related laws are adhered to by all concerned and enforced by the relevant regulatory bodies.

Introduction

It is considered apposite to review the legal framework under which the 2011 election took place. This will help explain some of the acts and omissions of the actors in the election including journalists and media organizations. This review will no doubt shed further light on problem under study.

Regulatory measures are no doubt a sine qua non for any successful election without such measures actors in the political arena will be operating in a state of lawlessness with its attendant consequences.

Presently, there are three legal instruments that regulate media coverage of election in Nigeria namely: the Electoral Act, the Nigeria broadcasting code and the National Broadcasting Commission Act (NBC). It is important to note that these laws derive their validity from the constitution of the Federal Republic of Nigeria without which they will be declared null and void. In other words, the constitution also provided the basic legal framework for election coverage. Reference could also be made to the freedom of Information Act when necessary. The electoral Act is the primary legislation that governs media coverage of elections in Nigeria. The 2011 election was governed by the Electoral Act of 2010.

Some of the relevant section of the Act include the following;

Section 90: Limit to contribution to political parties.

Section 91: Limitations an election expenses.

Section 92: Submission of election expenses.



Section 93: Disclosure about contribution in cash and kind

Section 94: conduct at rallies and political processions.

Section 95: prohibition of intemperate language in campaign.

Section 96: prohibition of use of force or violence during political campaigns.

Section 99: commencement of campaign 90 days before election and stopping 24hours to polls.

Section 100: campaign in accordance with INEC rules.

Section 101: prohibition of campaign advertisement 24hours preceding polling day.

Section 102: prohibition of campaign based on religion, tribe etc.

The next question is: to what extent were there provisions obeyed? The extent to which these laws were complied with will no doubt impact on how the media coverage will be perceived by the electorate. During the 2007 general elections; CARITAS Nigeria (2007) observed that the regulations were largely not complied with and this was blamed on the inability of regulatory Agency to monitor and enforce sanction. They noted that the 24hours prohibition was interpreted to cover each election week. As a result, campaigns could continue after the elections until another 24hours to the other weeks elections. The European Union Election Observation Mission (EUEOM) observed that, NBC'S claim that it was undertaking extensive media monitoring was not publicized and no evidence was found that NBC acted on violations to the Nigeria broadcasting code as the media monitoring should have shown.

However, NBC was said to be active in enforcing sanctions for violations of the campaign silence period and it fined it 14 broadcasters for violations of the campaign moratorium prior to the 14 April 2007, election day. The data collected by EUEOM according to their report suggest that NBC failed to act according to its mandate and the provisions of the broadcasting code which were widely broken.

The National Broadcast code provide for the minimum standard for broadcasting in Nigeria. The code defines the role of the broadcasting media in Nigeria and the function of National Broadcasting Commission as the regulatory body of broadcasting in Nigeria.

The preface to the Code (2006) states that the code will assist broadcasters to make sound decision and build credibility in their vital role of providing the public with the power to make important decision thus saving society in an ethically responsible and constructive manner. Thus, if the code is strictly enforced, it will enhance the credibility of the media and their coverage of elections in Nigeria.

The Legislation on Equal opportunity:

The Electoral Act 2010 with 2011 amendment was clear on equal opportunity for all parties in use of the public media. Section 100 paragraph, 2, 3,4,5,6 of the electoral act are reproduced under as follows:

- 1 State apparatus including the media shall not be employed to the advantage or disadvantage of any political party or candidate at any election.
- 2 Media time shall be allocated equally among the political parties or candidates at similar hours of the day.
- 3 At any public electronic media, equal airtime shall be allotted to all political parties or candidates during prime times at similar hours each day, subject to the payment of appropriate fees.
- 4 At any public print media, equal coverage and conspicuity shall be allotted to all political parties.
- Any public media that contravenes subsection 3 and 4 of this section shall be guilty of offence and on conviction be liable to a maximum fine of N500,000 in the first instance and to a maximum fine of N1,000,000 for subsequent conviction. The following question beg for answers from the above provision.



Do the public media give equal coverage to all parties and candidates during election in Nigeria? Do incumbents pay the appropriate fees before using the public media? If not, it is an undue advantage against challengers. There seems to be a lacuna here with respect to private media. Are they free to use the air waves however they desire? The airwave belongs to all of us. What happen where the owner of a private broadcasting station is a contender in an election? He/she enjoys an obvious advantage. The law should regulate this too. So how do election coverage fare in view of this gap?

With regard to equality in the use of state owned broadcast media, the answer is amply on the negative. Udeajah (2004,p.225) observed that "throughout the thirty-six states of the federation, the story and situation were the same of the state owned television and radio outfit blacking out the activities of opposition parties, leaving the air waves for their Excellencies only". The views of Udeaja were reiterated by the final report of Transition Monitoring Group of 2003 elections. The group observed that president Obsanjo and the ruling Peoples Democratic Party dominated the air waves throughout the campaigns and electing periods. The report noted that:

There was huge imbalance between the coverage received by the PDP/President Obasanjo and other political parties and candidate both in terms of amount of the coverage and the quality of coverage with the result that the PDP/President Obasanjo and the ANPP/General Buhari appeared to have received more coverage than all the other parties and candidates put together.

The report further explained that "not all members of the ruling parties even had access to the publicly funded media as those in power virtually dictated who could be heard or seen in them" A case in point was Alhaji Abubakar Rimi, who contested the presidential ticket against president Obasanjo complained that NTA returned the required some of money he paid for political advertisement on the station.

In 2007, the European Union Election Observation Mission final report on that years election also observed similar situation with respect to fair access.

According to the report "News and Current affairs programmes of private and state broadcasting stations focused on a limited number of parties predominantly PDP, AC and ANPP". The report further noted that

State owned broadcasters in particular failed to comply with the requirements to provide balanced coverage. News and Current affairs programmes of NTA and FRCN demonstrated considerable bias in favour of the incumbent PDP that received a larger amount of airtime then all the other political parties combined on these channels.

The above report succinctly demonstrates the blatant infraction of the electoral laws by the public media and to some extent by some private media.

The Transition Monitoring Group report (TMG) (2003,p9) observed that "while lopsidedness in coverage apparent in the Federal Government owned media, there were also manifestations of the tendency in some of the private media organisations. This was supported by the European Union Election Observation Mission (EUEOM)'s final report on 2007 election. The report noted that 'the coverage of the election campaign of the nationwide private television channel AIT/TV and radio station Ray Power, both of which are owned by DAAR communication, also focused on the three political parties- PDP, AC, ANPP. The two stations according to the report allocated the largest amount of coverage to PDP but their overall distribution of airtime among the candidates and parties was found to be more equitable when compared to the state-owned media's coverage. It is interesting to observe from the report that private media is leading the way in observing election coverage laws. The report also shows that the AC presidential candidate in the election, Atiku Abubakar, received the largest share of airtime allocated to coverage of presidential candidates. This may be explained by the finance weight of the candidate having served as the vice president of the incumbent PDP presidential candidate, Olusegun Obasanjo. However, in terms of News coverage, Atiku's legal tussle was the focal point and not his campaign. Channels TV, a Lagos based private station was found to have provided the most balanced coverage of political parties, though it allocated the largest share of its news coverage to PDP (31 percent) and AC (24 percent). Freedom FM, a Kano based private station was reported to have afforded the largest share of its News coverage to ANPP (44 percent), PDP (30 percent) and AC (15 percent). The station was also found to have provided more critical coverage than other stations though its coverage also focused on the three main political parties that



enjoyed about 90 percent of the total News coverage of political parties in the station. It is important to note that the ANPP presidential candidate is from Kano state.

The above report clearly shows that the three major political parties enjoyed more coverage than the other parties put together. The ruling party was offered the largest coverage by both the private and public stations. A number of reasons have been adduced for this development. One of which is the large number of registered political parties. This made it difficult for the media to adhere to the equal coverage requirement. The 2007 EUEOM report noted that,

Total of 50 registered parties varying levels of campaign intensity by the individual parties and lack of capacity to sufficiently cover their campaigns seriously challenged the ability of the media to provide equal coverage of the contesting parties campaigns.

The TMG also made similar observation in their report on 2003 elections as follows:

Owing to the large number of political parties and candidates in the various elections, there was legitimate logistics challenge to the media of how to fairly allocate time "equally among the political parties at similar hours of the lay" for each of them to explain their programmes and policies to the electorate.

The question now is, should the media's lopsided coverage be excused on the basis of the above fact? It is difficult to excuse the media because in some instances the others parties and their candidates, neither receive media attention nor mention. The TMG report noted that there was relatively little or no media focus on the other parties and their campaign. Where some of them had media mention it was sometimes too negative or intended to ridicule them. This, the report observed created an impression that they were not serious candidates or parties. This is considered unhealthy for the growth of democracy and the media in Nigeria.

It is clear from the foregoing exposition that equal airtime doctrine is grossly disregarded by state owned media and some private stations. Both the EU Report and TMG reports agree that legal impediments are responsible for the above situation.

The report noted that, the ability of state owned broadcasts NTA and FRCN to report freely is marred by the fact their Director General and Boards are appointed by the president of the republic. The same situation applies in the states. The report buttressed the above point with an incident in Zamfara state where one day before election, Pride Fm was shut down, and after the gubernatorial elections the incumbent Governor's security officer detained the editor-in-chief of the Zamfara state-owned station, in order to announce election results that were not in line with INEC result. The EUEOM confirmed through the broadcaster's staff members that the closure was provoked by the editor's decision to invite an opposition opinion leader, the former governor Ahmed Sani Yerima to the political talk/ voter mobilization programme.

The Transaction Monitoring Group (TMG) of 2003 elections reported that 'many of the provision in the laws establish both the NTA and the FRCN (NTA Act No24 of 1977 and to Federal Radio Corporation Nigeria Act No8 of 1979) ensured their susceptibility to political control and influence and were exploited by government and officials to maintain control over them. The provision include section 9 (a) NTA Act which state as follows;

Without prejudice to the generality of section 6 of this Act , the Authority shall provide facilities as may appear to the authority to be desirable in the public interest for the broadcasting of

(a) ministerial speeches, that vary speeches of the members of the National Assemble, council of state the president, vice president and ministers of the Government of the federation or members of the House of Assembly, the Governor and Deputy Governor and Commissioners of a state which consist wholly of statements of fact or which explain the policy and actions of the Government concerned, and.



Section 5(2) states that the Director-General of the authority shall be appointed by the Minister with the prior approval of the president.

Section 10(2) Duty to broadcast Government announcements

- (1) the authority shall, whenever so requested by an authorized public officer, said in a Government programmes at the Authority's own expense, any announcement which such officer may request the authority to broadcast and shall also, whenever so requested by any such officer in whose opinion an emergency has arisen or continues, at the like expense, send as afore said any other matter which the officer may request the Authority to broadcast, and the authority may in its discretion announce or refrain from announcing that such a notice has been given or has been varied or revoked.
- (2) Sub-section 2 of this section describes an "authorized public officers as any officer in any of the public services in the federation declared to be such by the president or as the case may require, the Governor of a state.

Section 12 power of the minister to give directions to the Authority.

The minister may give the authority directions of a general character or relating generally to particular matters with regard to the exercise by the Authority of its function under this Act, and it shall be the duty of the authority to comply with such directions.

Similar provision are found in FRCN Act as follows: section 2,8,9,,13,16.

Section 2(1) (a) membership of the corporation and tenure of office.

The corporation shall consist of a chairman and the following other members to be appointed by the minister with the prior approval of the president, that is

(a) the director general of the corporation section 16 deals with the appoint of managing Directors.

Section 16(2)

The managing director shall (a) subject to any direction given to him by the director General, be responsible for the extension of the policy of the corporation and the administration of day to day business and (b) be the chief Executive of the SRM in matters within the competence of the managing director and responsible for giving effect to the decision of the corporation.

Section 8 in similar to section 9(a) of NTA Act section 9 share the same features with section 10 (1) of NTA Act while section 13 is similar to section 12 of NTA Act.

The above provision show that the stations are subject to governments control in terms of key appointment and programmes. Undoubtedly, some critical issues influenced the above discoveries. Some of these issues are considered hereunder.

Power of Incumbency

This has been seen as a major factor in fledgling democracies like Nigeria where the ruling party gives the opposition little or no opportunity of establishing their presence in the political atmosphere. The ruling party no doubt enjoys a number of advantages over and above the opposition parties. Equal opportunities of access to the media hardly exist between the ruling party and the opposition parties.

For instance, Nwafor, Okoro and Aligwe (2013p2) noted that "the incumbents make the laws that govern the establishment and ownership of such media; they control large state funds and can afford to establish gigantic



ultra-modern media outfits and acquire huge volume of airtime and print space for their frivolous political jamborees".

The report of the European Union Election observation Mission (2011:33) lends credence to some of the above facts as follows:

The state-owned NTA lacked balance towards the candidates and their parties, since only 21 out of 63 parties contesting on the elections were mentioned during to NTA prime time. 80 percent of the coverage allocated to political actors was devoted to PDP (*PDP is the ruling party*) emphasis mine, five to ACN and CPC each. Twelve out of the 20 presidential aspirants were referred to during NTA prime time. Jonathan (*the incumbent president*) emphasis mine, gained 81 percent of the total coverage devoted to the presidential aspirants. 75 percent of the direct speech in the NTA's news was dedicated to the president Jonathan; Buhari gained eight, Ribadu and Shekarau three percent each".

It is also pertinent to note that even the private stations were reported to have favoured the ruling party PDP. Ray Power and Aso FM radio were reported to have favoured PDP. According to the report, "on Aso FM, Jonathan's share of direct speech during the news was the largest among privately owned media outlets monitored by the EUEOM:91 percent".

A similar situation of lopsidedness against the opposition with regards to access to the media was reported by the Human Rights Watch. The report noted "Outright denial of opposition parties access to government media and that of their allies, resources and facilities such as campaign grounds, government stadia and other public squares".

This unequal playing ground of the parties is no doubt undemocratic and does not augur well for a fledgling democracy like Nigeria where the media have a lot of problems to tackle in the nations politics such as political apathy and citizen education. According to Wahba (2011) cited in Nwafor, Okoro and Aligwe, a playing field is uneven where: (1) "State institutions were widely abused for partisan ends; (2) The incumbent group or party is systematically favoured at the expense of the opposition; and (3) The opposition's ability to organise and compete in elections is seriously handicapped'. This uneven playing ground is further deepened by some of the laws of the land establishing the media organisation such as FRCN Act and NTA Act which will be reviewed under the regulatory background of the 2011 elections coverage.

Related to the above is the issue of finance, the ruling party has more funds than the opposition party. Oso in Mboho and Batta (2012,p.284) collaborated this fact as follows "the poor and other less endowed groups lack the resources and competence to engage in the intensive competition for media attention and space" He further noted that "the conveyed messages and imageries are not only partial but also structured by the ethnic and regional divisions and the in egalitarian economic system in the country".

Commercialization is another factor that can enhance our understanding of media coverage of elections. Hargue, and Harrop (2007,p.124) observe that "commercialization shrinks the public space in which political issues are discussed. Channels in search of profit will devote little time to serious politics. Certainly, profit seeking media have no incentive to supply public goods such as an informed citizenry and a high electoral turn out, traditional concerns of public media".

Media commercialization is thus seen as a challenge to democracy since the authors explain that "commerce broadcasters prefer to reach a mass audience with limited but stimulating political coverage than it is to offer extensive but dull political programming which in reality, only ever reached a minority with a pre-existing interest in public affairs".

Oso in Mboho and Batta (2012,p.283) observed that "commercialization of the media has eroded both the adherence to professional ethnics of political journalism and the ethos of public service in media operations generally" he noted that "the elevation of advertising as the main source of revenue for media organizations has greatly reduced the space for political journalism". This is no doubt a result of heavy reliance on advertising as major source of income by these media organizations. (Baker 1994) noted that the "media will therefore seek to optimally satisfy the interests of their advertisers, which are not necessarily coincident with the interests of the readers, listeners and viewers" similarly, Utomi in Uka (1999,p.529) noted this "the poor financial condition of



the media houses have made them desperate for advertising revenue and thus susceptible to manipulation by advertisers'. The media is very likely to do the biddings of political advertisers. No wonder, Jamieson in Pavlik and Mcintosh (2011,p.470) reported that many of the political advertising contain falsehood or lead the audience to make false inferences"

Pavlika and Mcintosh noted that the rise of political advertising has also led news media to increasingly focus their coverage of the candidate in the candidates' advertising".

Broadcasting organization in Nigeria according to Nwosu in Uka (1999, p. 507).

Have expanded the advertising domain of their corporate existence by engaging in what is known in Nigeria as the news commercialization syndrome in which most news which used to be seen as free publicity is now paid for. This is in addition to having most of their programmes sponsored for profit and economic survival.

Commercialization according to Oso in Mboho and Batta (2012,p.285) "has led to a situation where the public sphere has become more an arena for advertising than a setting for rational critical debate". Omenugha and Oji (2001) write that "How Nigerian media and journalist are to be judged depends on how much they are seen as credible before the eyes of the public. They observed that news commercialization leads to loss of credibility. They explained that many enlightened Nigerians drift away from the local television news station as they seek other credible sources for news. They maintained that "no matter the constraints within which the journalism profession is practiced societies should have the right to reserve spaces free of commercialization, where citizens can congregate or exchange ideas on equal footing, and where those with money do not necessarily speak with the loudest voice".

Commercialization of news has been found to be a threat to democracy. This according to Agusiobo cited in Okunna (2001p79) raises the following questions:

Wherein lies objectivity, especially in news, that the patriarchs of our profession had advocated?..... if news is paid for, where is public service role of the media? Where is the timeless principle of audi alteram partem-hear the other side, that cardinal principle of natural justice which balances all news? If the practice goes unabated, the journalist or the reporter would soon be a mere parrot or messenger boy for individuals or organizations with the necessary financial muscle to pay for news (emphasis added).

Journalists will thus become an easy tool in the hands of well to do politicians especially the incumbents who may want to retain power at all cost. This will naturally lead us to the issue of unprofessional conduct among journalists while reporting elections. it is based on what journalists gather that the media reports.

Journalists have been variously accused of various forms of unprofessional conduct in election coverage. According to Pate (2003,p.133) the commonest forms of unethical abuse in the broadcast media are manifested in unbalanced and unfair reporting of political issues. Fairness and balance according to Pavlik and Macintosh (2011,p.292) do not imply that all participants in an issue get equal space for their views but however that journalists should endeavour to present all sides of a topic equally and in a way that does not favour one side. This being the case, it could be safely stated that the views express by Pate above is correct going by the report of the European Union Election Observation Mission (EUEOM) which observed that the incumbent president Goodluck Johnathan was favoured against other candidates such as General Muhammed Buhari of the CPC in 2011 election coverage.

Agba (undated:25) further reported that, during the 1983 general election in Nigeria, it was common practice among mass media organisations to distort news and feed their audience with biased information. It is therefore worrisome that two decades later Nigeria media is still guilty of unfair and unbalance political reporting. Agba further noted that "any imbalance in reporting of issues is bound to attract accusation of favouritism from the opposition". These no doubt will affect the voters' perception of the media coverage of the election. He went further to list the various manifestation of imbalance reporting in hidden bias as follows:

1. Bias in the source of news



- 2. Bias through selection of news
- 3. Bias through omission of news
- 4. Bias through placement of news
- 5. Bias in the headlines
- 6. Bias in the use of words
- 7. Bias in news images
- 8. Bias in the selection of photographs
- 9. Bias in captions
- 10. Bias in use of editorials to distort facts; and
- 11. The hidden editorial

A cursory look at the above manifestation of hidden bias in political reporting no doubt compels one to believe that political reporters can hardly escape the accusation of bias and unfair election news coverage.

Related to the above unethical conduct is excessive materialism among some media managers and their subordinates (Pate, 2003,p.131). He explained that many media managers who should be the custodians of the professional code of ethics compromise their roles and sometimes hide under the banner of commercialization to extort money from some politicians for programmes and news coverage that should ordinarily be free of charge. Pate also observed that journalists have been severally accused of soliciting and accepting bribes from politicians in performing their wormed duties under various nick names. This he noted tempts many journalists to slant, skew, distort or colour news, or in some cases tell outright lies. He further averred that these and other unethical conducts will no doubt erode the respect, confidence and trust of the people in the media. Dunu (2003,p.162) concurred with the above observation where she noted that "it is undebatable that the Nigeria media is fast losing its credibility with the masses... The polity has started to regard media coverage and reportage of the electoral process and allied political activities with jaundice eye". This Agba (2002,p.319) partly attributed to the external influences of media owners and the government. He further noted that many Nigerians attach little importance to media reports because they believe they are partisan. The issue of bias among media professionals seems to be an intractable problem as suggested by Heywood (2007,p.237) as follows:

Far from providing citizens with a wide and balanced range of political views, the content of the mass media is tainted by clear political bias whether political bias stem from the opinions and values of editors, journalists and broadcasters, or from a more general alignment between the interest of the mass media and those of economic and social elites, it is difficult to see how the mass media's duty to provide objective information and remain faithful to public service principles can be discharged reliably and consistently in practice.

Heywood argues further that "there are reasons for doubting the independence of the media from government ... all too often a symbiotic relationship develops between media professionals and political elite which constraints both the mass media's political views and its capacity to act as an effective 'watchdog'. He listed five filters through which news and political coverage are distorted by the structure of the media itself as follows:

- The business interest of owner companies
- A sensitivity to the views and concerns of advertisers and sponsors
- The sourcing of news and information from agents of power such as governments and business backed think tanks.



- 'flak' or pressure applied to journalists including threat of legal action.
- An unquestioning belief in the benefits of market competition and consumer capitalism".

Conclusion

Election related laws were found to be fairly adequate for effective media coverage of the elections. However, due to the inability of the relevant regulatory bodies to enforce these laws, the opposition parties were placed at a disadvantage. This obviously denied some of the electorates access to relevant information for effective decision making during the elections.

Recommendations

It is recommended that the electoral laws should be adhered to by all the parties involved in elections with regards to media coverage. The regulatory bodies should be strengthened and equipped to enforce electoral laws on media coverage.

It is further recommended that some provisions of NTA and FRCN Acts which give the ruling parties an added advantage over the opposition should be reviewed to offer all the parties a level playing ground with regards to media coverage of elections. Again, other scholars should investigate how the regulatory environment fared during the 2015 general elections.

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