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TOPIC

***EXAMINE THE 2007 NIGERIAN
GENERAL ELECTION AND PETITIONS
TO ELECTORAL TRIBUNAL***

**A TERM PAPER
PREPARED IN PARTIAL FULFILMENT
OF THE REQUIREMENTS FOR THE
COURSE G.S 104 (SOCIAL SCIENCE)**

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DEDICATION

This term paper is dedicated to my parents.

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My greatest thanks goes to the administrators of University of Nigeria, Nsukka, for their role in suggesting a quality library for the school which is the life wire of an institution. This could also be the pride place of the school.

I also thank those persons whose unquantifiable support and contributions helped the production of this term paper. My parents, Dr and Mrs. Okeny. I thank them for their moral and financial support throughout the production of this term paper.

References have been made to existing texts like comprehensive Government by Anyaele, J.U, and equal justice by Festus Okoye and others. I want to express my indebtedness to all those people and others not mentioned.

Special thanks goes to the typist for bringing out a neat work.

PREFACE

The 2007 Nigerian general election and petitions to electoral tribunals is written to provide a clear understanding of the last election held on the 14th, 21st and 28th of April. This text covers the meaning, types and importance of an election.

This text is designed to ease the difficulty faced by students in answering questions on Nigerian general elections. Students are advised to consult this text for reference on electoral research. This book is divided into four chapters. Chapter one covers the meaning, types and importance of an election. Chapter two covers the establishment of election petition tribunal and the election disputes and resolutions. Chapter three covers owerri tribunal, Ebonyi tribunal. Chapter four treats on the summary of every thing.

This text is useful for people writing exams and book fro reference purposes.

Richard Okenyi

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CHAPTER ONE

ANALYSIS OF THE 2007 GENERAL ELECTION IN NIGERIA

1.1 Introduction

Election: According to Anyele,¹ "An election may be defined as an act of choosing or selecting candidates who will represent the people of a country in the parliament and in other positions in the government".⁴

²Election is the process of choosing the citizens of a country in government. Election is a vital aspect of modern repetitive government.³ Ezeani believes that election is a symbol of authority.

TRIBUNAL: Tribunals are bodies established by law to perform judicial or quasi judicial functions. Tribunals are peculiar features of military regimes although the constitution permits the establishment of tribunals. Election petition tribunals therefore means a tribunal established pursuant to the enabling electoral laws for the determination of any dispute arising out of the

election, thus it is a body established to determine whether or not a person has been validly elected, in compliance with the electoral law. In Nigeria, under the 2007 general election, the enabling law is called electoral act 2006.

1.2 Analysis of Findings of Observers in South-East

The South Eastern Zone includes the following state; Abia, Anambra, Ebonyi, Enugu and Imo. The Justice Development and Peace/Caritas groups in the 2007 state Assemblies and Gubernatorial Election as well as for the National Assembly and Presidential elections in Nigeria held on the 14th April 2007 respectively.

④ Generally, polls opened in this part of the country between the hours of 12 and 3.00pm. However, in some areas, pools did not open till 4.00pm in the evening. Elections did not take place in a remarkable number of polling stations in the entire zone.

Late arrival of election materials was reported from many places in the South East. Observers reported worst cases of non-delivery of election materials especially sensitive materials such as ballot papers and result sheets. Many polling booths did not have their names exhibited. Report on these areas also indicated that many people who had their voter's cards could not trace their names in the register.

The INEC ad-hoc staff was generally poorly trained. In many places INEC officials arrived late. In others they did not arrive at all. Some showed partisan or indifferent behaviour. Massive rigging was reported from all over the states in this zone.

Despite the terrifying violence reported, voters turned out impressively with the intention to vote and to protect their mandate in both elections. In most cases they were resilient. However in some places the electorate tried to protect their mandate violently.

Consequently, elections did not hold in many parts of all the five states observed. The situation was even worse during the presidential elections.

CHAPTER TWO

ELECTION PETITION TRIBUNAL

2.1 Establishment of Election Petition tribunal

In the electoral Act, 2006 one can easily see how the election petition Tribunal is easily being established.

- (1) There shall be established for the federal capital tribunals which shall, to the exclusion of any other court or tribunal, have original jurisdiction to hear and determine any question as to whether.
 - (a) Any per has been validly elected to the office of chairman, vice chairman or councilor,
 - (b) The terms of office of any person elected to the office of chairman, vice-chairman or councilor has ceased;
 - (c) The seat of a member of an Area council has become vacant; and

- (d) A question or petition brought before the Area Council Election Tribunal has been properly or improperly brought.
- (2) An Area Council Election Tribunal shall consist of a chairman and four other members.
- (3) The chairman shall be a chief magistrate and four other members shall be appointed from among magistrates of the judiciary of the federal capital territory, Abuja and legal parashioners of at least 10 years post call experience, non legal practitioners of unquestionable integrity or other members of the judiciary of the federal capital territory not below the rank of a magistrate.

2.2 Powers of the Election Petition Tribunal

The president of the court of Appeal, Hon Justice Umaru Abdulahi has constituted and sworn in members of the National Assembly Election Tribunals and the Governorship and Legislative Houses Election tribunal.

This is exercise of the powers conferred on him by section 285 of the constitution of the federal republic of Nigeria.

6 Members of the Election Tribunals will deed and interpret the provision of the constitution and the Electoral Act, 2006 as it relates to electoral dispute solution. That will be their primary responsibility but they will be asked to perform other functions outside their constitutional and legal forth. They will be asked to answer academic question that have nothing to do with whether nay person has been validly elected as a member of the National and state Assembly as Governor. The Nigerian people expected much from the members of election tribunals. They expect them to right wrongs and not allow usurpers to steal votes and assume control of the reigns of power other than as provided in the constitution.

The 1999 constitution is the ground norm of the Federal republic of Nigeria while the Electoral Act, 2006 provides clear rules and regulations fro the resolution of electoral disputes. There is an underlying assumption that elections conducted under the constitution and the electoral act may be tainted with fraud and irregularities. It is also based on the assumption that a candidate at an election may triumph at the election through means not in conformity with the constitution and the Electoral Act, 2006. Election Tribunal and the Court of Appeal in the case of Presidential Elections have been provided to reserve such disputes. If candidates, political parties and the Nigeria people lose confidence in Election Tribunals as a mechanics for the resolution of electoral disputes, they may make certain parts of the country or the whole country ungovernable and self help will be order of the day.

2.3 The Judiciary (Election Petition Tribunal)

The president of the court of Appeal has constituted the various tribunals to adjudicate on the election petitions. He also issued practice guidelines that would ensure speedy adjudication of the trials. Presently, the only institution that can be relied upon by Nigeria is the judiciary especially at eh appreciate court level. Already many aggrieved registries of these courts and the cases are already going on.

Recently, the court of Appeal sitting as the court of first instance ordered INEC to make available all the materials requested by the AC and ANPP candidates to enable them proved their cases. The court further directed them to put in writing documents which in their opinion they would not be.

CHPATERTHREE

AN OVERVIEW OF JUDICIAL PRONOUNCEMENT ON 2007 ELECTIONS

3.1 Ebonyi Tribunal

⑦ The All Nigerian People's Party (ANPP) candidate, Dr Ogonnaya Onu has filed an appeal against the judgment of the Ebonyi state election petition tribunal on the ground that the ruling announced to a travesty of justice. He stated that the position of the Tribunal was contrary to the principles of the electoral Act 2006 He therefore urged the court of Appeal to set aside the judgment of the Tribunal and declare him the rightful winner of the governorship election in Ebonyi state. He said "In both the notice and grounds of appeal as well as the brief of argument, attention ahs been drawn to the Tribunal's error of wrongly formulation issues for determination in its judgment which did not arise from either the grounds of my original petition or even from the relief's which is south as petition on the matter"

He reasoned that the Tribunal had erroneously held that the central issue for determination in the matter was whether there was governorship election in Ebonyi state regretting that it held that there was really election in the state. By proceeding to formulate or invent a false issue for determination of the matter right at the very beginning of its judgment, the Tribunal had prejudged and disabled itself from rendering a decision demanded by justice in the entire matter. He said it was a miscarriage of justice for the tribunal has ignored the testimonies of sworn witnesses of the Peoples Democratic Party (PDP). According to him, "the question that arises which unfortunately the Tribunal did not address is whether the result of a valid election could be doted April 14, 2007 when at April 15, 2007, results of the said election were still being collated".

Onu urged the people of Ebonyi state not to despair but to remain calm, patient and determined in the fight for justice.

3.2 Owerri Tribunal

The election petition tribunal setting in Owerri, yesterday 7th March upheld the election of Governor Ikedi Ohakim, throwing out the petitions filed by senator Ifeanyi Ararume and chief Uche Onyeagocha of the Peoples Democratic party (PDP) and Action Congress (AC) respectively.

Ararume had gone to the tribunal claiming that the election of Governor Ohakim was not in compliance of 2006 electoral Acts and that the governor was not elected on valid votes cast during April 28, 2007 re-scheduled Governorship election in the state. The PDP candidate, therefore, urged the tribunal to declare him winner, claiming to have scored the majority of votes cast in 18 out of the 27 local government areas in the

state. But the tribunal headed by Justice Ibrahim Mairija dismissed his application, saying that the election was conducted in compliance with the 2006 Electoral Act.

The tribunal also observed that the local government areas claimed by the PDP candidate, the Governor Ohakim polled 348, 218 votes. The tribunal said that the petitioner, his petition and hang of the witnesses he called up contradicted themselves, pointing out a particular instance where one witness wrote both his own statement and that of another witness.

Onyeagocha had complained that his party's logo was not on the ballot box, among others, but he tribunal held that he had no proof of this submission.

3.3 Abia Election

9 Ever since the Abia state election petition tribunal delivered its judgment and gave victory to the

governorship candidate of the peoples democratic party (PDP), chief onyema Ugochukwu, on technical grounds, much have happened. While the Abia PDP is celebrating, lawyers have been examining the issues raised in the judgment.

To clarify some issue razed by the tribunal and other allegations by the Abia PDP, the Abia state commissioner for information, Elder Ralph Egbu, spoke in Logos. He spoke on the Okija shrine controversy, alleged non-resignation by Governor Akomas, the video tape presented at tribunal and other issues that one germane to the Abia governorship election.

It is for the people and the court of Appeal to say whether the verdict is fair or not. And if you take a census of what the people say, you will discover that the judgment is being taken with a pinch of salt. Renounced lawyers have felted the judgment. We hope that the court of Appeal, which has shown maturity in

its judgment, would do justice to our appeal. Justice demands that the man who won an election should rule.

3.4 Kogi Tribunal

¹⁰Kogi state Election petition tribunal Sitting in Lokoja nullified election speaker of Kokgi state House of Assembly, Hnourable Clarence Obafemi of the Peoples Democratic Party (PDP), on grounds of irregularities and violence that characterized the election and ordered for the conduct of a fresh election. Action Congress (AC) candidate, Hon. Ayo Ben Abereoran, had petitioned the Tribunal Seeking for nullification.

CHAPTER FOUR

CONCLUSION/RECOMMENDATION

4.1 Summary

We have come to the end of this topic and one is expected to be enlightened on the 2007 Nigerian general election and petitions to electoral tribunal.

Those who are appointed as members of election tribunals should be people of integrity and impeccable character. The election petition tribunal should ensure speedy dispensation of justice and disposition of those cases before them. They should in appropriate cases de-emphasize legal technicality and use substantial justice. Indolent, corrupt and political judges not be appointed as members of election petition tribunal.

NOTES

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¹⁰ Ayodele, Wole "Tribunal Nullifies Kogi Speaker's Election" This day, September 19th 2007.p.8

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