



**MEMORANDUM TO THE INDEPENDENT NATIONAL ELECTORAL COMMISSION**

**TO: THE INDEPENDENT NATIONAL ELECTORAL COMMISSION**

**FROM: Youth Party**

**DATE: 29<sup>th</sup> June, 2019**

**Re: INVITATION TO THE POLITICAL PARTIES NATIONAL REVIEW MEETING ON THE CONDUCT OF THE 2019 GENERAL ELECTIONS: ISSUES, CHALLENGES & RECOMMENDATIONS**

Pursuant to the invitation of your esteemed Commission, via a letter dated 18<sup>th</sup> June, 2019 and referenced INEC/DEPM/CPP/123/IV/234, seeking memoranda from our Party for consideration as part of the reforms of the electoral process, we the members of the Youth Party, hereby seek the consideration of the proposals contained herein.

We have reviewed the Invitation for Memoranda and we recommend the following:

**1. Party Registration and Management of Political Parties**

We recognize that the current number of political parties in Nigeria, which stands at 91(Ninety-One) generated a lot of concern at the last election. However, we opined that enforcement of the conditions of registration and the law needs to be observed by your Commission.

It will suffice to state that Section 225A of the Constitution of the Federal Republic of Nigeria (Fourth Amendment), gives your Commission the powers to deregister a political party for-

- (a) Breach of any of the requirement for registration;
- (b) Failure to win at least twenty-five percent of votes cast in-
  - (i) One state of the Federation in a presidential election;
  - (ii) One local government of the state in a governorship election.



- (c) Failure to win at least-
- (i) One ward in the Chairmanship election;
  - (ii) One seat in the National or State House of Assembly election; or
  - (iii) One seat in the Councillorship election

Also, it is noteworthy that more advanced electoral systems have similar large numbers for instance South Africa has 93, Brazil 33, USA 32, Ghana 24 and even The UK has 18 political parties. This number of parties is not a problem but the lack of proper oversight over the parties. Furthermore, a prohibitive or restrictive registration or regulation of Party may lead to a restrictive democratic space and an agitation for independence candidacy, which may be more difficult and expensive to manage than the current situation.

### **Recommendations**

- i. We urge your esteemed Commission to diligently perform its oversight as enshrined in Section 225A of the 1999 Constitution (4<sup>th</sup> Amendment) and the Electoral Act 2010 on the issue of deregistration of and regulation of Parties.
- ii. We urge that your esteemed Commission ONLY apply the aforesaid constitutional provisions for deregistration to political parties that have had the opportunity to participate in all the elections within a 4 (four) year term. For example, it will be unfair for the aforesaid provisions of the Constitution to apply to political parties registered in 2018, who have not had the same opportunity as the other existing parties to grow. And, most importantly, have not had the opportunity to participate in all the recent elections save for the 2019 General Elections in order to meet the requirement for continued registration.
- iii. INEC must state the grounds for deregistration with sufficient clarity and precision. This power should also be subject to judicial review by the Court particularly the Federal High Court, and any appeal to the Court of Appeal, which shall be the final arbiter on the matter.
- iv. We advise that the Commission adopt a liberal but firm approach to the registration of Parties but should be strict on post registration compliance especially those stated



in the 1999 Constitution of the Federal Republic of Nigeria and the Electoral Act 2010 as amended.

## **2. Party Primaries and Nomination of Candidates**

- i. We observed that the conduct of open and transparent primaries is largely a rare occurrence. It is also a prevalent and recurring issue particularly with the big parties, who are known to perennially conduct opaque primaries.
- ii. We respectfully submit that party primaries should be conducted much earlier than the current schedules as this would give the Commission more time to supervise primaries and possible aggrieved parties more time to get remedy before the election. For example, in 2018, the Commission fixed 17th August to 24th August, 2018, for the conduct of party primaries including resolution of dispute arising from such primaries less than 6 months before the general elections. The timeframe is impracticably close to the election. It should be further noted that both the EU Election Observation Mission Nigeria Report on the 2019 Elections (EU Report) and the Joint Report by the National Democratic Institute (NDI) and International Republican Institute (IRI) on the Gubernatorial and State House of Assembly Elections (NDI/IRI Report) shared this opinion.
- iii. The Commission needs to enforce strictly its oversight function over the conduct of party primaries. For example, **Section 85 (1) of the Electoral Act 2010** (as amended) provides that:

*“A registered political party shall give the Commission at least 21 days notice of any convention, congress, conference or meeting convened for the purpose of electing members of its executive committees, other governing bodies or nominating candidates for any of the elective offices specified under this Act.”*

This notice ought to state the time, venue, list of delegates, guidelines for the primaries, list of aspirants and the position they are vying for, name and designation of sub-committee members etc as stated in the INEC Guidelines for the Primaries.

We observe that this provision is not being enforced. For instance, during the last Delta State Gubernatorial Primaries, a notable candidate was unaware of the venue, neither



did he have access to the delegate list.<sup>1</sup> Similarly, the gubernatorial primaries of a major political party was not conducted by the appointed panel or with the list of eligible voters.<sup>2</sup> However, the publicized anomaly prevailed without INEC's intervention.

- iv. There is a prevalent practice prescribing exorbitant fees for nomination forms as a strategic way of excluding prospective candidates.
- v. There is the pervasive problem of opaque party membership registration and the sanctity of the register, particularly the effect on party primaries. It is the intendment of the Constitution for citizens of Nigeria to associate themselves with political parties that aligns with their ideology without unnecessary barriers. It is also the philosophy of INEC, based on our experience and interaction during our registration process, for all Nigerians regardless of gender, ethnic origin, religion and other identity factors to be allowed to join any Party. However, registration of members of some of the Parties are not open to the public. You cannot register online. You cannot register at the ward level unless the party leadership is comfortable with you personally. The party leadership changes the membership register at will. Consequently, you cannot contest or vote at a party primary election, if you are not a member or your name is deliberately omitted.

### **Recommendation**

- i. The Commission should void any primary election that is manifestly irregularly or illegally conducted regardless of lack of complaints by the candidates as most victims are under tremendous pressure not take up the issues in Court or with INEC.
- ii. The issue of the timetable for the conduct of party primaries should be revisited, primaries may be held within 9 (Nine) months and not less than 8 (Eight) months time frame prior to the general election as this will help address the current predominance of pre-election litigation.
- iii. Additionally, a time-bound period for commencement and disposal of pre-election matters within the 9 (Nine) month timeframe would certainly help in ensuring the decongestion of courts during the post-election period.
- iv. The Commission should ensure that internal dispute mechanisms are strengthened and transparent to act as a pre-action protocol.

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<sup>1</sup> Pat Utomi describes the Delta state APC primaries, available online at <https://www.youtube.com/watch?v=-ys7NC4Zpso>

<sup>2</sup> <https://www.thisdaylive.com/index.php/2018/10/02/lagos-apc-primary-voting-yet-to-commence-says-ebri-nwc-panel-chief/>



- v. It is advised that the composition of such panels be inclusive of a representative from the Commission only when it relates to matters arising from the conduct of primaries.
- vi. Parties should submit their party primaries guidelines within 12 months before their primary, this would enable INEC determine the type of primary they elect to use whether direct or indirect, the venue and other related matters.
- vii. INEC should also embrace the use of technology and should mandate parties to utilize audio-visual recording of their primaries
- viii. INEC should encourage political parties to adopt e-voting for their primaries for transparency, convenience, ease of monitoring by INEC, safety and reduction in the cost of electioneering for both the parties and INEC. This can include SMS voting for people without access to the internet. This can be done by way of a template e-voting guideline that meets the requirement of law and INEC's requirements that interested parties can adopt for their primary elections. We attached a copy of our Party's 2018 Primary Election E-Voting Guideline for reference.
- ix. We suggest that the cost of nomination forms should be reduced to reasonably affordable limits.
- x. INEC should mandate all the political parties to have a transparent process for registration of new members, including online membership.
- xi. INEC should mandate Parties to periodically display their party register to their members every year, at least.
- xii. INEC should mandate political parties to submit their membership register to INEC, every year, to prevent interested party members from being excluded from primaries either as a candidate or a voter.

### **3. Party Finances**

- i. We observe that the source of party funding in Nigeria is not transparent, however while we acknowledge the prevalence of money politics, we identify that the lack of strict enforcement of party finance provisions both in the 1999 Constitution of the Federal Republic of Nigeria and the Electoral Act 2010 is prevalent. For instance, Section 226 of the 1999 Constitution mandates the Commission to prepare and submit to the National Assembly a yearly report on the accounts and balance sheet of every political party.



- ii. Political parties are required to submit annual statements of asset and liabilities to the Commission pursuant to **Section 89(1) of the Electoral Act, 2010**, which provides that:

*“A political party shall submit to the Commission a detailed annual statement of assets and liabilities and analysis of its sources of funds and other assets, together with statement of its expenditure in such a form as the Commission may from time to time require. (2) The statement of assets and liabilities referred to in subsection (1) of this section shall be in respect of the period 1st January to 31st December in each year, and that in the year which this Act comes into operation, it shall be for the period beginning with the registration of such party and ending on the following 31st December”*

Also, after every election, the expenses of the party ought to be submitted within 6 months, pursuant to **Section 92 (3) of the Electoral Act, 2010**, which provides that:

*“Election expenses of a political party shall be submitted to the Commission in a separate audited return within 6 months after an election and such return shall be signed by the political party's auditors and counter-signed by the Chairman of the party and be supported by a sworn affidavit by the signatories as to the correctness of its contents”*

The penalty for non-compliance is stipulated in Section 92 (3) of the Electoral Act 2010, which reads:

A political party which contravenes subsection (3) of this section commits an offence and is liable on conviction to a maximum fine of N1,000,000 and in the case of failure to submit an accurate audited return within the stipulated period, the court may impose a maximum penalty of N200,000 per day on any party for the period after the return was due until it is submitted to the Commission.

Currently, the level of enforcement of the aforesaid laws by the Commission is doubtful.

### **Recommendation**

- i. INEC should ensure strict compliance with the provisions the 1999 Constitution and the Electoral Act in relation to party finances particularly with regards to the keeping and maintenance of party accounts and financial records under very transparent circumstances



- ii. Must engage experts and seasoned handlers to conduct forensic audit on the account of political parties
- iii. The commission should encourage parties to adopt a diversified funding mechanism that limits the reliance of personal donations and explores other sources of financing.

#### **4. Political Campaign**

We note the explosion and negative effects of fake news on elections and its capacity to undermine the electoral process and outcome, globally and in Nigeria. In the last election there were various forms of fake news spread on various media platforms with the social media being more noticeable, this tool was used to incite voters and reduce voter's trust in the electoral process.

Also, fake news and the media are often adopted to drive identity politics through hate speeches and incitement of ethnic groups against each other

#### **Recommendation**

- i. We urge the commission to publish election campaigning standards to all candidates, media house and on social media platforms 12 months before the election.
- ii. The Commission should utilize all media platforms and also use its account on various social media platforms to dispense fake news timeously.
- iii. The Commission should establish a fact check arm that have a primary duty to verify statements pertaining to the electoral process
- iv. The Commission should propose laws and sanctions against fake news and hate speeches by political candidates and parties

#### **5. Disruption of Election Day Process and Safety of Election Personnel**

The disruption of electoral day process and the safety of election personnel have been an issue that have been prevalent due to the failure to prosecute electoral offences successfully.

Unfortunately, a large number of those that engage in electoral disruption and even harm electoral personnel get away with it. The Commission needs to come to terms with the fact that it does not have the have the time, the expertise, the resources and the capacity to fully prosecute electoral offences as the business of conducting election and managing post electoral challenges is already too burdensome. INEC appears to be



seriously overburdened with conducting elections, registering political parties and monitoring their activities and their finances, as well as carrying out other activities incidental to the conduct of elections.

We urge the Commission to employ and integrate new technologies to monitor the electoral process particularly the use of video monitoring drones which can fly for several hours at high altitudes to broadly survey a given geographical area; and report in real-time incidents in various polling units and simultaneously uploading visual content. It should be noted that this is not entirely new.

In the 2016 Edo State gubernatorial election, drones were deployed by the Nigeria Army in collaboration with the Nigeria Police, Department of State Security, and the Nigerian Security and Civil Defence Corps across the state. The drones provided aerial surveillance in 18 local government areas with the aim of documenting incidents of violence, this gave the electorate confidence in exercising their franchise.

### **Recommendation**

- i. The National Assembly should pass an autonomous Electoral Offences Commission Act that will empower the Commission with the capacity to investigate and coordinate enforcement and prosecution of all electoral offences.
- ii. Ensure the independence of the proposed electoral Offences Commission be secured by giving them financial autonomy and removing them from the operational control of the Executive and the Attorney General of the Federation and of the States.
- iii. The National Assembly to create specialised electoral offences court with divisions in various states across the federation and are guided by special rules and guidelines that regulate the conduct and timeline of trials
- iv. Employments of new technologies particularly the use of surveillance drones to monitor elections in various polling centres to facilitate real time incident reporting
- v. Organize periodic specialized training for security forces to combat electoral violence and clearly delineate their roles during election.

## **6. E-Voting**



We concede that the Country may not be ready for electronic voting due to the low internet penetration in various parts of the Country. However, e-voting system can be progressively adopted. The first step towards realizing universal e-voting is through the introduction of e-voting in party primaries. It should be noted that e-voting was employed by the Youth Party in its last primaries.<sup>3</sup>

Similarly, the Nigeria Bar Association (NBA) have shown that e-voting is possible and is more efficacious as the election of its national representatives was conducted by electronic voting nationwide in 2018. Though, that election was fraught with allegations of rigging, it still by and large better than physical voting and turn out is usually above average <sup>4</sup>. However, the recently conducted NBA Lagos Branch election was seamlessly conducted via e-voting without any controversy.<sup>5</sup> The voters turnout was about 83%. This employment of this method would heavily reduce the cost and less human resources would be needed during primaries.

### **Recommendation**

- i. The Commission can encourage e-voting in party primaries by providing guidelines for e-voting
- ii. The Commission should engage in capacity development of its staffs on e-voting
- iii. The Commission can study the local challenges and attitudes to e-voting by monitoring the process and outcome of elections conducted via the process in Nigeria by professional bodies

### **7. Collation of Election Result**

There is no gainsaying about weakness of current election collation system, which involves manual transmission of results sheets up to the point of final collation in the course of which malpractices are mostly perpetrated. Observers have noted that most election malpractices occurs at this point, this was further highlighted by the EU Report and out of its 30 recommendations for reform, its prioritizes the need for INEC to strengthen its procedures for the collation and transmission of results “to improve integrity and confidence in electoral outcomes and show graphical presentation of status of results collated per given time.”

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<sup>3</sup> The Youth Party Guideline for electronic voting is attached to this memo.

<sup>4</sup> <https://www.vanguardngr.com/2018/08/nba-elections-controversy-calls-for-cancellation-trial-exercise/>

<sup>5</sup> <http://citylawyermag.com/2019/06/28/encomiums-as-yemi-akangbe-emerges-nba-lagos-chair/>



### **Recommendation**

- i. The commission should adopt e-collation method to securely transmit results from all polling units to central database such that only viewing access is allowed at the wards and local government levels – which ultimately eliminates manual collation processes.”
- ii. In sum the following procedure should be adopted for e-collation system:
  - a. Results from polling units should be entered into the e-collation application on the smart card reader;
  - b. Results should be transmitted to a central server;
  - c. Results should be auto-collated and can be viewed at the RAs (wards) and ECA8s can be scanned at that level; and
  - d. Result audit and confirmation takes place at collation centres at LGAs, state and national level.

### **8. Election Personnel**

We observed many reported cases of election personnel (ad hoc polling staff, election supervisors, and collation and returning officers of the commission) being compromised by politicians and political parties. Not a few of them are active members of the 2(two) major parties (APC and PDP).

Also, there seems to be lack of basic knowledge on the roles of these election personnel, this was identified in both the EU Report and the NDI/IRI Report. We advise that the Commission provide an open, rigorous and streamlined recruitment process for election personnel's.

### **Recommendation**

- i. The Commission should make the recruitment process more open and transparent with the requirements for all election personnel published.
- ii. Election personnel should be required to undergo a rigorous screening process that would require a compulsory integrity test
- iii. The Election personnel must compulsory disclose political affiliations in a sworn affidavit
- iv. More training on their roles should be given with extended practical training on the use of smart card readers, closing and counting procedures and the use of information technology.



- v. The Commission should issue a handbook on policies that clearly outline the roles and duties and responsibilities of all election personnel's, we urge the Commission to draw inspiration from the UK Electoral Commission Hand book for Polling Station Staff.<sup>6</sup>

### **9. Electoral Act Amendment Bill 2016**

We largely applaud the provisions of the amendment bill of the Electoral Act 2016, perhaps if the bill was passed the conduct of the 2019 election would have been better. Whilst, we accept most of its provisions particularly, the provisions on the adoption of electronic voter register,<sup>7</sup> electronic voting,<sup>8</sup> electronic transmission of results,<sup>9</sup> electronic storage of election result<sup>10</sup> etc. However, we strongly urge that some of the provisions of the current electoral act be revised and be reflected in the proposed amended particularly as relates to party finances and campaign spending as the current provision of the law amplifies the prevalence of money politics and there is no current amendment on the status quo. Also, the prohibition of hate speech and the spread of fake news should be incorporated into the bill.

Surprisingly, there was no provisions for gender inclusion, especially the inclusion of women in the electoral process both at party level and in vying for public office.

### **Recommendation**

- i. The Commission should call for a review of the bill to include a reduction on the Campaign spending limits of political parties particularly Section 91(1) of the Electoral Act, 2010.
- ii. Establish more legal limits and liabilities for campaign donations and expenditures of political parties, and introduce a legal obligation for individual candidates to report on contributions and spending.
- iii. Encourage impromptu audit and inspection of political parties books of accounts
- iv. Vest the commission with the power to outsource forensic auditing functions to professional bodies.

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<sup>6</sup> Handbook for polling station staff available online at [https://www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0006/141936/Polling-station-handbook-LGEW.pdf](https://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/141936/Polling-station-handbook-LGEW.pdf)

<sup>7</sup> Section 9 of the Electoral Act (Amendment) Bill, 2016.

<sup>8</sup> Section 52(2) Electoral Act (Amendment) Bill, 2016.

<sup>9</sup> Section 63 Electoral Act (Amendment) Bill, 2016.

<sup>10</sup> Section 65 of Electoral Act (Amendment) Bill, 2016.



- v. Place civil liability on individuals, associations, political parties or media houses which spread fake news, divisive rhetoric's and hate speeches.
- vi. Mandate political parties to alter their constitution to include provisions on gender inclusion and women participation.

## **10. Electoral System**

We concur with the recommendation of the Uwais's Committee on the adoption of Mixed Proportional Representation electoral system. However, we do not agree with the creation of additional seats in the legislative houses as recommended by the Uwais' Committee due to its cost implications. The budget of the National Assembly for 2016 is N115 Billion (See the Nation, February 03, 2016 available at <http://thenationonlineng.net/saraki-well-give-breakdown-of-national-assemblys-n115b-budget/> ). The creation of additional seats will increase the cost that Nigerians are already complaining of. There is need to cut down the cost of governance. Creation of additional seats in the legislature to enable the operation of Proportional Representation is therefore not viable.

### **Recommendations**

- a. proportional representation be adopted for legislative elections, but the current number of seats in the various houses should be maintained.
- b. the constituencies should be redrawn and enlarged so that 2/3<sup>rd</sup> (two-third) of the current number of seats for each state in the National Assembly for instance, will be spread across the whole State and be filled by plurality voting.
- c. the remaining 1/3<sup>rd</sup> (one-third) of the seats for each State will then be filled using proportional representation.

## **11. Transition between the outgoing and incoming administration**

Currently, there is no legislation governing transition from one administration to another in Nigeria. The effect is that the outgoing administration has no legal obligation to assist the incoming administration to achieve a smooth handover of power. The incoming administration is left to engage in trial and error in the first few months of the administration without any guidance except where there is a good rapport with the outgoing administration. For instance, after the last



2015 presidential election, the then President-elect and his party, the All Progressive Congress complained of lack of cooperation from the outgoing administration in the transition process. (See the Nation of May 21, 2015 available at <http://thenationonline.net/the-strains-of-transition/>)

Again, there is no law providing for the time frame within which incoming administrations must form their cabinet in time to ensure immediate continuity and efficiency in governance. For instance, since taking oath of office in November, 2014, for his second term, the Osun State Governor has not formed his cabinet. Similarly, it took President Buhari some months after election to form his cabinet. It is tantamount to running the government as a sole administrator which is not what the Constitution envisaged under Section 147 and 192. This approach does not engender good governance. It is important for government decisions to emanate from robust debate by cabinet members amongst other benefits of constituting a cabinet.

In the United States of America, from where we copied our democracy, the transition process commences the day after election in November prior to the swearing in on January 20, of the following year as contained in the Twentieth Amendment to the American Constitution. The Presidential Transition in America is governed by the Presidential Transition Act of 1963, which was amended by the Presidential Transitions Effectiveness Act of 1998, and the Presidential Transition Act of 2000. The Act mandates the office of the Administrator of General Services to provide facilities, funding of about \$5,000,000 (**Five Million Dollars**), access to government facilities, support for a President elect's transition team, and to provide training and orientation of new government personnel to ensure an orderly transition.

Consequently, it necessary for Nigeria to have a law governing transition. The law should make it mandatory for the outgoing administration to aid the incoming administration in the transition process by allowing them access to all government facilities and information that would ensure a smooth transition. The law should also make it mandatory for the Governor-elect or President-elect to appoint members of his cabinet before he is sworn in so that the government can take off immediately. This is to prevent the situation where the incoming Governor or President constitutes himself into a sole administrator for months like President Buhari did or even for years as is the case in Osun State now.



The Presidential Candidates must also constitute Presidential Transition Councils by June of an election year to facilitate a swift handover of power after the election in November to whomever finally emerges as the winner of the election.

The key point is that there are in-built mechanisms to ensure that the President-elect in the United States of America does not assume office without adequate knowledge and appreciation of what the office entails.

We therefore recommend that a law should be passed to:

- a. institutionalize transition to the incoming government;
- b. create support system for the incoming government; and
- c. appointment of cabinet before inauguration.

## **12. State Independent Electoral Commission (SIECs)**

The Uwais' Committee recommended that this should be restructured and made part of INEC with directors appointed to man them. We disagree with this position. The reasons are obvious. Nigeria practices federalism and abolishing State Independent Electoral Commissions disrupts the very foundation of federalism and devolution of powers among the federating unit.

We recommend that the SIECs should be retained. The screening of applicants and recommendation of three candidates to the Governor should be done by the State Judicial Service Commission (SJSC) and the Governor will recommend one out of the three to the House of Assembly for confirmation.

However, in order to ensure checks in the process, the composition of the State Judicial Service Commission must be changed. Currently, it is constituted by the following under the Part II of the third Schedule to the Constitution:

- a. the Chief Judge of the State;
- b. the Attorney General of the State;
- c. the Grand Kadi of the Sharia Court of Appeal of the State if any;
- d. the President of the Customary Court of Appeal of the State if any;
- e. two members who are legal practitioners, and who have been qualified to practice as legal practitioners in Nigeria for not less than ten years; and
- f. two other persons, not being legal practitioners, who in the opinion of the Governor are of unquestionable integrity.



The SJSCs as presently constituted are made of mostly appointees of the Governor. The Attorney General of the State is an appointee of the Governor, the Governor also appoints two persons who are not legal practitioners. Thus, if the SJSC is to be involved in the appointment of members of the SIEC, then its composition must be reshaped. This is because the SJSC as presently constituted, may give the Governors a room to influence the process of selection of the Commissioners of the State Independent Electoral Commission.

**Recommendations:**

- a. the Constitution should be amended to provide that the two legal practitioners shall be appointed by the President of the Nigerian Bar Association while the Governors should still be left to appoint the two non-legal practitioners.
- b. none of the appointees should be card carrying members of any political party in the 3 (**three**) years preceding their appointment.

**13. Disqualifications of Persons of facing Criminal Charges from Contesting Election:**

Political offices are public trusts and persons elected into these offices become public trustees. It is trite that a trustee must be a person of character and integrity to be able to manage whatever the settlor is trusting on to him for the benefit of the beneficiaries. It is therefore our believe that for the advancement of common good and to ensure that only persons of integrity and unquestionable character are elected into public offices, there is need to amend the Constitution to disqualify persons who have pending criminal cases against them from vying for public offices.

There are many arguments against this, but the dangers of allowing such persons to run for office are considerable. For instance, a person under trial for murder of 10 (ten) Nigerians may contest and win election even from the prison as we have witnessed in this country. Upon being elected, he becomes immune from criminal trials by virtue of section 308 of the 1999 Constitution as amended. He is also almost sure of serving a second term. Thus, for eight years, he will not return to the courts to face trial. In addition, a governor is in charge of the Ministry of Justice, which is the prosecutorial authority. The Ministry of Justice



through the Director of Public Prosecution is expected to prosecute him or her (the governor or president) after his or her tenure of office. The danger of tampering with evidence and witnesses is real than imagined.

For instance, he is the person that appoints and removes at his own wish the Attorney General that is supposed to prosecute him. The person upon election takes charge of the Police and other Prosecutorial agencies and appoints their heads. For instance, a person who is under trial for corruption becomes directly in charge of the Economic and Financial Crimes Commission, if he is elected President. Furthermore, all the witnesses especially those that are civil servants also comes under his power to hire and fire. With all these considerations, it is apparent that such a person may utilize state powers to frustrate his trial. This is not healthy as it results in persons who are not trust worthy occupying positions of public trust.

Many may argue that this proposal will constitute a violation of the right to fair hearing and innocence until proven guilty, but the greater and common good of all Nigerians demands that such a persons should not be allowed to vie for public office until they are cleared. The right of such candidates begins and ends where the right of Nigerians to good governance starts.

### **Recommendations**

- a. Section 66, 107, 131 and 177 of the Constitution should be amended to allow INEC to disqualify any candidate who has any pending criminal charge to answer from contesting in any election until he is cleared of all charges.
- b. The office of the Attorney General should be separated from that of the Minister of Justice so that the President and Governors will not employ this provision to shut out their political opponents by filing trumped up charges against them through the Attorney General so as to disqualify the person.

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**Mr. Suleiman Usman Yusuf**

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**Mr. Mujaheed Salisu Ahmad**



Acting National Chair

National Secretary