

ELECTIONS AND LEGITIMACY OF GOVERNMENTS

By Itse Sagay

Elections are part and parcel of the democratic process, and as the right to democratic governance has become established as a human right, so too has the right to regular, free and fair elections. Thus by resolution 45/50 of 1991, entitled "Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections" the U.N. General Assembly stressed the conviction of members states that:

"periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed and that as a matter of practical experience, the right of everyone to take part in the government of his or her own country is a crucial factor in the effective enforcement by all in a wide range of other human rights and fundamental freedoms, embracing political, economic, social and cultural rights."

These principles were re-iterated by the Assembly at its 48th session (1993-4) during which it declared that "periodic and genuine elections" are "necessary and indispensable elements and a crucial factor in the effective enforcement of a wide range of rights". The resolution established a procedure for authorizing the monitoring of national elections in states all over the world and endorsed, the Secretary-General's' decision to create an office for the purpose of monitoring elections in member states.

The system of election monitoring and observation by independent and indeed outside based organizations and persons has become so wide spread, that virtually all developing states conducting elections now invite such bodies to monitor their elections, with the clear implication that only an election endorsed by such internationally respected observers, can grant validity to the election and by clear inference confer legitimacy on the government emerging from that election process. The results of elections, fully endorsed by respected international monitoring groups and observers, now serve as evidence of popular sovereignty and have become the basis for international endorsement of the elected government. The invitation of international election monitors and observers therefore is no longer an act of courtesy, or a mere demonstration of the integrity of the electoral process, but an application for the recognition of the legitimacy of the government emerging from that process.

In inviting international observers and monitors to the recent elections, Nigeria was observing a mandatory requirement for the conferment of validity to its transition to civil rule programme. In the world of the nineties, human rights, self-determination of peoples and the rights to democracy, are no longer matters essentially within the domestic jurisdiction of states, but matters of legal interest and rights of the international community.

This is why the reports of the various international observers and monitoring groups, including that of the locally established, Transition Monitoring Group, have a fundamental impact on the validity of the just concluded election.

In their Report, the International Observers stated inter-alia as follows:

"There was a wide disparity between the number of voters observed at the polling station and the final results that have been reported from several states. Regrettably, therefore it is not possible for us to make any accurate judgment about the outcome) of the Presidential election".

In their own Report, the Transition Monitoring Group made up of over 63 Human rights and Organizations in Nigeria, which had deployed 10,7000 observers throughout the country, stated thus:

"TMG observed that the trend of awarding high votes, or voters in excess of the number of accredited voters, which had been observed during the National Assembly elections assumed much greater proportions during the Presidential elections. This trend was observed across the country, although there were areas where the incidence of electoral fraud was great enough to completely distort the election result. Most disturbing was the extent to which electoral officers colluded across the country in the falsification of results. Reports submitted by TMG's monitors make it clear that both parties were heavily involved in electoral malpractices, although it is difficult to say the extent to which the efforts of the two-parties cancelled each other out."

In the light of these disturbing report of the monumental frauds and excessive and extensive rigging characterising the presidential elections, it is shocking and indeed revealing of the character of the Nigerian elite, that many of them were appealing to Chief Falae to forget the fraud on the electorate and give 'peace' a chance. Others have even called him a 'bad loser' and 'spoil sport' for contesting the validity of the results of such a shamelessly rigged election. Those who support Falae's resort to the lawfully constituted medium for ventilating his justified grievances have also been called names, including "extra-terrestrial beings", who no longer live on this planet. For they have abandoned reality.

In the first place, the law governing the presidential elections, i.e., Presidential Elections (Basic Constitutional and Transitional Provisions) Decree, 1999, expressly provides for resort to a tribunal by a party which contests the validity of the officially announced results. Are these people saying that that provision of the Decree was merely put there for comestic reasons? Since when did it become an offence for a law-abiding citizen to resort to the courts to settle a dispute? Should Falae have taken to the streets in protest? The Election Tribunal is built into the transition process for the very purpose for which Chief Falae has now invoked its jurisdiction. One very sad and disturbing characteristic of these well to do Nigerians, who unfortunately belong to the class that has wrecked this poor country, is that they always enjoin the victims of fraud, crime and injustice 'to give

peace, but never JUSTICE, chance. Peace without justice is like the whited sepulchre of biblical times, shinning outside, but rotten corrupted and stinking inside. Nigeria is a ruins today because of the constant clamour of this class for peace without justice.

The structure of project Nigeria will continue to crumble, and will eventually collapse - completely, if we continue to build it on a foundation of fraud, lies and injustice. Apart from the 1993 Presidential elections, we have not had fair elections in this country since independence. We are yet to learn our lessons from our past errors that landed us on the terrible laps of monsters like Babangida and Abacha. The NPN clincked glasses and toasted with champagne over their 'land slide' and 'moonslide' election 'victories' in 1983. See where it landed us. Now we are being pestered by 'peace makers' to bury another monumental fraud, and gross injustice. Are we to build our fourth republic on such criminal foundations, so that Nigeria can continue to wobble and fumble? Unfortunately many "successful" Nigerians thrive in conditions of chaos and confusion.

Let Falae take his case to the Tribunal lawfully established for the peaceful resolution of electoral disputes. As Professor Nwabueze has declared, Falae owes a duty to this country to do so. Let all the fraud and abuses that have devastated these elections, and are threatening to denude them of validity, be brought out into the public domain. Let us know how the sovereignty of the Nigerian electorate was subverted by political gangsters and the extent of rot that has overwhelmed us. Let us know precisely how they manipulated and beat the system put in place, to enable us plug the loopholes in future exercises. Let the identities of the gangsters and master riggers be revealed, to enable the raped and vandalised society impose a punishment that fits the crime on them. Let us ensure that a sufficient deterrent is now put in place so that we can say "never again" to such inhuman, degrading and humiliating treatment from political gangsters. We must recover our sovereignty from these people, through a thorough process of production of evidence, and facts, and exposure of all the sordid happenings. This is the chance that the Presidential Election Tribunal offers, and only through this process can we commence a genuine civilian democratic dispensation, with peace, JUSTICE, Legitimacy and success.