



## THE RULE OF LAW AND ELECTORAL PROCESS IN NIGERIA: A CRITICAL REFLECTION

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### Abstract

The rule of law and democracy has become the major features of any civilized society, without which such society is often seen as barbaric, uncivilized and uncultured. While the rule of law guarantees civil rights, human rights, separation of powers and an independent and effective judiciary, among others. Thus, it creates the basic conditions in which individuals can pursue their own personal development as they choose. Democracy, on the other hand, is the only legally recognized means of assuming governmental power. It is one of the major yardsticks for recognition of government, viz-a-viz recognition of state at the international plane. But the rule of law and democratic process in Nigeria is not without taxing consequences. Except an immediate overhaul of the structural, legal and other bureaucratic impediments is done, it may continue to be a tall dream.

**Keywords:** Rule of Law, Election, Process, Nigeria

### 1. Introduction

*“The things that will destroy us are politics without principles, pleasure without conscience: Wealth without work; Knowledge without character; Business without morality; Science without humanity and Worship without sacrifice.” - Mahatma Gandhi-* Since it is not possible for every citizen to be directly involved in governmental affairs of his/her country, at the same time; it then means that they should be able to air their views through delegated representatives. This is a necessary condition for obtaining the consent of the governed in any authority. Otherwise, some groups will be ignored and marginalised and this could be fertile ground for intra-state conflicts,<sup>1</sup> as we are witnessing lately. According to the Justice Uwais- led Electoral Reform Committee “free and fair elections are the corner stone of every democracy and the primary mechanism for exercising the principle of sovereignty of the people and are therefore a crucial requirement for good governance in any democracy.”<sup>2</sup> However, democracy requires the rule of law framework in order to govern the interaction and co-existence of all citizens. Thus, the international community in its Millennium Declaration undertakes to promote democracy worldwide.<sup>3</sup> What then is democracy without the rule of law? Briefly, the rule of law means the absolute supremacy or predominance of regular law as oppose to the influence of arbitrary powers; secondly, it means equality before the law, or the equal subjection of all classes to ordinary law of the land administered by the ordinary law courts.<sup>4</sup> There are elaborate provisions on citizenship, separation of powers and other conditions that guarantee the rule of law for the ultimate existence of good governance in Nigeria. Nigeria is also a signatory to various international Conventions, Charters and Treaties that promote and sustain the fundamental human rights and other elements of the rule of law. It is therefore, safe to infer that the rule of law is supreme in Nigeria, at least, in theory.<sup>5</sup> The 1999 Constitution clearly stated thus: “We, the people of the Federal Republic of Nigeria have firmly adopted this document for the purpose of promoting the good government and welfare of all persons in our country on the principles of freedom, equality and justice, and for the purpose of consolidating the unity of our people.”<sup>6</sup> It is not in doubt that the immediate post-colonial regime from (1960 to 1966) can be described as a period during which the rule of law generally thrived, but the seizure of power by the military bade goodbye to the rich values of elected government and due process of law that ushered in arbitrariness, executive recklessness and impunity.” The rule of law is expected to be the guiding principle of governance since it is the foundation of good governance. The experience in Nigeria is to the contrary as successive administrations often violated the concept with

<sup>1</sup> Ahmed, R., et al, “Democracy as a Global Determinant Factor to Legitimate Governance and Self-Determination”, Vol. 1, No. 1, *Benson Idahosa University Law Journal*, (2011). p. 76.

<sup>2</sup> Report of the Electoral Reform Committee, Vol. 1, Main Report, (December 2008), p. 1.

<sup>3</sup> Adejumo, A. A. “Democracy, Corruption and the Rule of Law”, <<http://www.nigeriansinamerica.com/democracy-corruption-and-the-rule-of-law-in-nigeria/>>.

<sup>4</sup> Akanbi, M. M., et al, “Rule of Law in Nigeria”, Vol. 3, *Journal of Law, Policy and Globalization*, (2012), P. 1.

<sup>5</sup> Ibid, p. 58.

<sup>6</sup> See the Preamble

carelessness and recklessness.<sup>7</sup> 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 rules.<sup>8</sup> This paper is about the rule of law and electoral process in Nigeria. The purpose of this paper is to examine the extent at which the fundamental principles of the rule of law have been applied in relation to electoral process in Nigeria.

## 2. Understanding the Concept of Rule of Law and its Basic Principles

It is not in doubt that today's society, no matter how crude or primitive, is faced with the problems of the rule of law, democracy and good governance. This is because the rule of law provides the general framework for good governance and good governance, in turn is the destination of both democracy and the rule of law.<sup>9</sup> Rule of law refers to an end state in which all individuals and institutions, public and private, and the state itself are held accountable to the law, which is supreme. This end state requires equal enforcement and equality before the law, independent adjudication of the law, fairness in the application of the law, and avoidance of arbitrariness. Access to justice, the ability of people to seek and obtain a remedy through informal or formal institutions of justice is a mutually reinforcing component of rule of law. The rule of law requires the separation of powers and participation in decision-making. Rule of law is the ideal that states strive for.<sup>10</sup> Rule of law rests on some interconnected and mutually reinforcing principles, which relates to supremacy of the law. Nobody is above the law no matter how highly placed or low. It therefore means that the law is a no respecter of persons. Anyone who contravenes or goes against the law is subject to the law. The supremacy of the law ensures that arbitrary rule is curbed. The courts and the constitution exercise restraint on the power of sovereign authorities to prevent arbitrary rule. This principle allows for the guarantee and safeguard of fundamental freedoms and liberties of the people. It means that no one can be unjustly arrested and detained without first granting him/her fair hearing.<sup>11</sup> Rule of law is further encapsulated under the idea of constitutionalism which refers to the restraint of governmental powers. If the powers of the government are not checked, it will promote excessiveness and arbitrary use of power leading to dictatorship. The essence of constitutionalism is to ensure that those in authority are not corrupted by power. There is therefore a system of checks and balances that prevents any organ of government from becoming dominant and powerful. Finally, rule of law recognizes fundamental freedoms and liberties of individuals. In fact, the constitution (which is an embodiment of all the fixed rules) is expected to guarantee and safeguard these freedoms and liberties.<sup>12</sup> The concept of the Rule of Law has in recent times engaged the attention of world bodies. The International Covenants on Civil and Political Rights 1966<sup>13</sup> provides: Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions; a. To take part in the conduct of public affairs, directly or through freely chosen representatives; b. To vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; c. To have access, on general terms of equality, to public service in his country.

The summary of the above provision is the participation of citizens in the affairs of governance of their countries either directly or by representation. Representation involves electing the representatives in free and fair elections. The participation in the way they are governed is what democracy or election process is all about.<sup>14</sup> At the regional levels, unrelenting efforts are geared in pursuit of democracy and democratic governance among member states. The African Union (AU) recently adopted the African Charter on Democracy, Election and Governance.<sup>15</sup> The Charter provides that: "State parties agree that the use of, inter alia, the following illegal means of assessing or maintaining power constitute an unconstitutional change of government and shall draw appropriate sanctions by the Union. i. any putsch or coup d'état against a democratically elected government; ii. any intervention by mercenaries to replace a democratically elected government; iii. any replacement of a democratically elected government by armed dissidents or rebels; iv. any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections, or v. any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of

<sup>7</sup> Akanbi, M. M. et al, (2012), op cit, P. 2.

<sup>8</sup> Lawal, T, et al, "Law and Electoral Politics in Nigeria: Analysis of the Congruence", Vol. 6, *Journal of Law Policy and Globalisation*, (2012), p. 14.

<sup>9</sup> Nwekeaku, C. "The Rule of Law, Democracy and Good Governance in Nigeria", Vol.2, No. 1, *Global Journal of Political Science and Administration*, (2014), p. 34.

<sup>10</sup> "United States Institute of Peace, "Rule of Law," <<http://www.usip.org/guiding-principles-stabilization-and-reconstruction-the-web-version/7-rule-law>>.

<sup>11</sup> Ubangari, A. Y., "The Rule of Law and its Implication on Nigerian Democracy", Vol. 2, *Nasarawa State University Law Journal*, (2009). p. 13.

<sup>12</sup> Kwaghga, B. "Rule of Law in Nigeria and Challenges of Good Governance", Vol. 3, *Journal of Management and Corporate Governance*, (2011), p. 2.

<sup>13</sup> Article 25

<sup>14</sup> Ahmad, R., (2011), et al, op cit, p. 60.

<sup>15</sup> African Charter on Democracy, Elections and Governance, January 31, 2007.

government". The above issues are currently bedeviling the African political landscape. For instance, the refusal to relinquish power to the winner of free and fair elections was responsible for the violence that was witnessed in Côte d'Ivoire. The country was plunged into turmoil following incumbent President *Laurent Gbagbo's* refusal to concede defeat in the 28 November 2010 second round of elections to his opponent, former Prime Minister *Alassane Ouattara*.<sup>16</sup>

### 3. The Rule of Law in Nigeria

When the British Government formally granted political independence to Nigeria on October 1, 1960, the politicians, who took over the reins of Government, were very patriotic. The Rule of Law, as a basic and dynamic legal concept, which formed the kernel of British democracy, was adopted in Nigeria. However, in 1966, the rule of law was forcibly replaced by the rule of force when the army councils who were totally unprepared for governance took over the mantle of leadership through coup d'état. Through hurriedly enacted military decrees, the rule of law became encumbered and each time subsequent governments took over, the rulers merely paid lip-service to the rule of law.<sup>17</sup> Basically, the military is characterized with suspension of certain provisions of the constitution, abuses of human rights, dismissal of democratic institutions (executive and legislature) though leaving the judiciary that cannot just be washed away under any disguise, but not without some bruises; restriction of jurisdiction of the courts by decrees. There was a running battle between the courts and the military, with the courts jealously guarding their jurisdiction on the one hand, and its actions go unchallenged on the other hand. Where the courts, eventually have the judgment, there was no enforcement machinery. The military government, then, stamped its superiority by enacting the Federal Military Government (Supremacy and Enforcement of Power).<sup>18</sup> The Decree took the wind from the sail of the Supreme Court making the apex court reluctant in examining ouster clauses. In *Nwosu v Imo State Environmental Sanitation Authority and Ors*,<sup>19</sup> the Court stated that "...military regimes, decrees of the Federal Military Government clearly ousts court's jurisdiction, there is no dancing around the issue to find jurisdiction that has been taken away..." Interestingly, in *Governor of Lagos State v. Ojukwu*,<sup>20</sup> the Court conceptualized the rule of law in the following words: "The rule of law presupposes that the state is subject to the law, that the judiciary is a necessary agency of the rule of law, that the Government should respect the right of individual citizens under the rule of law and that to the judiciary, is assigned both by the rule of law and by our constitution the determination of all actions and proceedings relating to matters in disputes between persons, Governments or authority." Emphasizing the centrality of the concept of the rule of law to constitutional democracy and good governance, the Supreme Court of Nigeria in *Miscellaneous Offences Tribunal v. Okorator*<sup>21</sup> stated as follows: "Nigeria's constitution is founded on the rule of law, the primary meaning of which is that everything must be done according to law. It means also that government should be conducted within the framework of recognized rules and principles which restrict discretionary powers." The Constitution<sup>22</sup> forbids any persons or group of persons to take control of the government of Nigeria or any part thereof, except in accordance with the provisions of this constitution, which include representative government based on elective principles. There are elections for the three levels of government in Nigeria today. The judiciary, through the various courts and tribunals, has tried to uphold the fundamental human rights.<sup>23</sup> Both the 1979 and the 1999 Constitutions<sup>24</sup> provides that the "Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria". The Constitution<sup>25</sup> also makes elaborate provisions for the promotion and protection of the fundamental human rights. In addition, the Constitution,<sup>26</sup> under its fundamental objectives and directive principles, makes elaborate provisions on government obligations to the people. Expectations were that the rule of law would naturally thrive better in a democracy than in erstwhile military regimes. These hopes were certainly dashed as there has been brazen travesty of the rule of law by the successive civilian administrations from (1979-1983) and (2009 to 2015).<sup>27</sup> Often times, public servants in Nigeria, especially chief executives, behave and carry themselves about as if they are above the laws or are not subject to any authority. These happened more often in Nigeria during the military regimes and unfortunately even still persist during civilian regimes. Military regime in itself is naturally an aberration of the rule of law, because of its outright rejection of the rule of law. Civilian regimes in Nigeria have not fared better, either with respect to the rule of law. In fact, civilian administrators seem to surpass the military in their open disrespect to the rule of law. Obasanjo's administration of

<sup>16</sup> "United Nations Operations in Cote d'Ivoire" <<http://www.un.org/en/peacekeeping/missions/unoci/elections.shtml>>

<sup>17</sup> Esiemokhai, E. O. "The Rule of Law in Nigeria", <<http://www.gamji.com/article8000/NEWS8046.htm>>

<sup>18</sup> Decree No.28 of 1970

<sup>19</sup> (2 NWLR) 1990 pt 688 (Per Belgore JSC).

<sup>20</sup> (1986) 1 NWLR (pt 18), 621 at 647 (per Oputa JSC).

<sup>21</sup> (2001) 18 NWLR (pt 745) 310 at 327.

<sup>22</sup> Section 2

<sup>23</sup> Nwekeaku, C., op cit, p. 31.

<sup>24</sup> Section 1

<sup>25</sup> Sections 33 to 45

<sup>26</sup> Sections 13 to 21

<sup>27</sup> Akanbi, M. M. et al, (2012), op cit

199 to 2007 was the worst when it comes to compliance with the rule of law. It was also an embodiment of executive lawlessness in Nigeria.<sup>28</sup>

#### 4. Democracy and Electoral Process in Nigeria

Democracy is regarded as the basis of a stable and peaceful inter-relationship among civilized nation-states. It is also the most popular means of exercising the right of internal self-determination.<sup>29</sup> Nigeria is now enjoying the longest period of civilian rule since independence in 1960. But, the dearth of best practice of democratic experience has created enormous challenges to institutionalizing democracy in Nigeria.<sup>30</sup> The Constitution<sup>31</sup> made provision for Fundamental Objectives and Directive Principles of State Policy, which provides a guide to any government in power for making policies and contains the essential needs of the people on political, economic, social, educational, foreign policy, environmental, cultural, media, national ethics matters and duties of citizens. What we are witnessing today is an aberration of democratic values as entrenched in the Constitution. Although the Constitution<sup>32</sup> imposes a duty and responsibility on all organs of government, and all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of Chapter II, the same constitution,<sup>33</sup> makes a caricature of this obligation, as it provides that judicial powers “shall not extend to any issue or question as to whether any act or omission by any authority or person is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II.” Thus, one of the recurrent themes in political and legal discourse in Nigeria is the propriety of the non-justiciability of economic, political, social and cultural rights (otherwise known as “second generation rights” in the trilogy of the generational construct of human rights) under the Nigerian Constitution.<sup>34</sup> Over the years, Nigeria has grappled with the challenges of conducting free and fair elections and concomitantly raising the bar of its engagement with the democratic process. In spite of the acclaimed success recorded in the April 2011 elections, there is widespread perception that politicians rarely win elections in Nigeria. Instead, it is generally believed that the electoral body, the Independent National Electoral Commission (INEC) or the State Independent Electoral Commission (SIEC), declares a winner whose dubious electoral victory, is in turn, often validated by the tribunals/courts.<sup>35</sup> However, free and fair election would mean nothing if aggrieved candidates in an election cannot vent their grievances in a proper legal forum. Access to such legal forum would also not mean much if such forum is only an extension of the executive arm of government. For instance, the then ruling People’s Democratic Party (PDP) government was accused of interfering with the judiciary and ensuring that judgment in election matters are delivered in its favour. In addition, the slow pace of the judicial process in Nigeria renders the desire for justice by aggrieved electoral candidates meaningless as some election cases would still be pending in court by the time the next elections were due. The candidate, who may have been wrongfully returned, would then have enjoyed a full tenure and the issue in court becomes staled, leaving the aggrieved candidate who approaches the court for justice, frustrated.<sup>36</sup> For typical Nigerian politician, the golden rule of politics is victory at all costs and by all means possible. The process, therefore desecrated with impunity. The end justifies the means. Thus, politics is a dirty game.<sup>37</sup> INEC occupies an important position in the Nigerian electoral process. The Constitution has assigned three roles to INEC, to wit: control and monitor political parties; to propel political parties in the direction of national unity; and thirdly, to ensure the conduct of democratic elections.<sup>38</sup> The power INEC is to be clearly discerned from provision of section 40 of the Constitution which guaranteed the right to free assembly and association or to form or to belong to any political party provided that the provision of this shall not derogate from the power conferred by this constitution on INEC with respect to political parties to which that commission does not accord recognition. This section of the Constitution confers and confirms the crucial role of INEC as the organ that can register a political party. While INEC is established by section 153 (f) of the Constitution, its composition, powers and functions are provided under Part 1 of third schedule of the Constitution. The Constitution<sup>39</sup> provides “no person shall be qualified for appointment as a member of INEC if he is not qualified or he is disqualified for election as a member of the House of Representatives. To be qualified for the House of Representatives, one must be a citizen, belong to a political party and sponsored by the party.” In addition to such other powers as may be conferred by an Act of National Assembly, INEC under Part 1 (f) of third

<sup>28</sup> Elijah, O. J. “The Rule of Law in Nigeria: Myth or Reality”, *Journal of Politics and Law*, Vol. 4, No. 1, March 2011, p. 212.

<sup>29</sup> Ahmed, R., et al, op cit, p. 58.

<sup>30</sup> Shitta, A. L. Democracy in Nigeria, available at <<http://www.scribd.com/doc/96129044/Democracy-in-Nigeria>>.

<sup>31</sup> Chapter II.

<sup>32</sup> Section 13, *ibid*.

<sup>33</sup> Section 6 (6) (c), *ibid*.

<sup>34</sup> Dakas, C. J. Dakas, “Judicial Reform of the Legal Framework for Human Rights Litigation in Nigeria: Novelties and Perplexities”, being text delivered at the training organized by the National Secretariat of the Nigerian Bar Association (NBA), at Oshogbo, Osun State, on February 21, 2012.

<sup>35</sup> Dakas, C. J. Dakas, et al, “The Right of Franchise and the Imperative of a Credible Electoral System in Nigeria”, Vol. 1, No. 1, *Benson Idahosa University Law Journal*, (2011), p. 339.

<sup>36</sup> Ahmad, R., et al, (2011), op cit, p. 81.

<sup>37</sup> Dakas, C. J. Dakas et al, op cit, p. 340.

<sup>38</sup> Agude, O. “Understanding the Nigerian Constitution of 1999”, Lagos, M. J. Professional Publishers Limited, (2000), p. 113.

<sup>39</sup> Section 152 (2)

schedule to the Constitution, INEC is empowered to: a. Organize, undertake and supervise all elections to the offices of the President, Vice-President, the Governor and Deputy Governor, and the membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation. b. Monitor the organization and operation of the political parties including their finances. c. Arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under this Constitution. d. Monitor political campaigns and provide rules and regulations which shall govern the political parties. It is clear from the above that, to kick start the proper democratic and or electoral process, INEC is the only institution recognized by the Constitution to register political parties through which citizens can exercise their constitutionally guaranteed rights to freedom of association, assembly, right to vote and be voted including their right to participate in the countries' political process. On their part, political parties are governed by sections 221 – 229 of the Constitution, which made it mandatory on all political parties to reflect federal character,<sup>40</sup> to be democratic, to be non-violent and to pursue their aims and objectives in conformity with the provisions of fundamental objectives and directive principles of state policy under chapter II. These provisions of the constitution on political parties clearly show the Constitution's aim of strengthening the cohesion of the Federation. They also show that citizens must be placed at equal footing as to the right to vote and be voted, freedom of speech, association, political rights, economic rights, etc and no combination of citizen however powerful they are or disrespectful they are of any person(s) can take away such person(s) rights. In essence, democracy is not to be construed from the facial view of the institutions that symbolizes it, but the process or procedure that brought about those institutions must have been very democratic. There should be no tyranny of the majority in any guise.<sup>41</sup> Both the Constitution and the Electoral Act<sup>42</sup> made provisions for participation of individuals in the electoral process of the nation. Such provisions clearly identified the qualifications necessary for the different elective offices in the country. The requirements are in relation to the offices of the President and State Governors and the membership of all legislative houses in the federation. For instance, election into the offices of President, Vice-President, Governor and Deputy Governor are governed by sections 131, 142, 177, and 187 of the Constitution respectively. Sections 142 and 187 provides that a candidate for the office of the President or a State Governor must name an "associate" who shall be subjected to the same qualifications as those required of the candidate himself. That is to say the associate (Vice President or Deputy Governor) must satisfy requirements as those of the President or the Governor. For a person to qualify for election to the office of President or State Governor, he must be a citizen of Nigeria by birth, who has attained the age of forty years (thirty five years in case of a Governor) and who has been educated to at least School Certificate level or its equivalent and must be a member of political party and must have been nominated by that political party.<sup>43</sup> The Electoral Act governs the nomination of candidate by political parties.<sup>44</sup> To qualify for election to the Senate, a candidate must be at least thirty five years while that of House of Representatives or the State House of Assembly has to be thirty years.<sup>45</sup> In each case he has to be a citizen of Nigeria,<sup>46</sup> not necessarily by birth that has been educated to at least School Certificate level or its equivalent and is a member of a political party and is sponsored by that party.<sup>47</sup> Section 87 of the Electoral Act governs nomination of members of the Senate and houses of Representative and State Assembly. It should be noted that the Constitution and the Electoral Act each made provision for the procedure to follow for electing the President and Sate Governor. Generally, the provisions in relation to the election of the President are the same as those for electing a State Governor. The words "The President", "the whole Federation", and "states" have to be replaced with "the State Governor", "the whole State" and "Local Government Areas" respectively. The power to fix date for the election to all offices has been conferred exclusively on the INEC by the Constitution<sup>48</sup> and the Electoral Act.<sup>49</sup> The date to conduct election must not be earlier than sixty days and not later than thirty days before the expiration of the term of office of the last holder of that office.<sup>50</sup> For a person to be duly elected as President, he must secure a majority "Yes" votes over "No" votes and must secure not less than one-quarter of the votes cast at the election in at least two-thirds of all the States in the Federation and the Federal Capital Territory, Abuja or in the case of a Governor a majority of the "Yes" votes cast over "No" votes cast plus at least one quarter of the votes cast at the elections in at least two-thirds of all the Local Government areas of the State. The case of *Chief Obafemi Awolowo v. Alhaji Shehu Shagari & 2 Ors*<sup>51</sup> followed directly in the wake of Nigeria's first presidential elections, held on 11 August 1979.

<sup>40</sup> The federal character principle, which has been enshrined in Nigeria's Constitution since 1979, seeks to ensure that appointments to public service institutions fairly reflect the linguistic, ethnic, religious, and geographic diversity of the country.

<sup>41</sup> Ubangari A. Y., (2009), op cit, p. 3.

<sup>42</sup> 2010, Vol. 97, No. 64

<sup>43</sup> Sections 131 and 177 of the Constitution.

<sup>44</sup> Section 87

<sup>45</sup> Sections 65, 66, 106 and 107.

<sup>46</sup> Section 65 and 106.

<sup>47</sup> Sections 132 and 178.

<sup>48</sup> Section 25

<sup>49</sup> Sections 132 and 178 of the Constitution and Section 25 of the Electoral Act.

<sup>50</sup> Sections 133 and 179 of the Constitution and Section 25 of the Electoral Act.

<sup>51</sup> 1979) All NLR 120 at 140-141

The dispute centered on the interpretation of section S. 34A(i) (c) (ii) of the Electoral Decree of 1977 as amended by the Electoral (Amendment) Decree of 1978. This section provides that: 'A candidate for an election to the Office of President shall be deemed to have been duly elected to such office where - he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the States in the Federation'. More than 60 years of independence, Nigeria's democracy is still largely nascent and imperfect. It is slowly, albeit painfully, creeping towards what a modern democratic society should be. There will be teething problems and they are in abundance.<sup>52</sup> However, the inability of the Nigerian Electoral Act to regulate electoral behaviour and punish violators of such law has caused more harm than good. Nigerian politics is characterized by all sorts of undemocratic tenets such as thuggery, violence, Godfatherism etc. 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 affordably pay for the services of thugs. INEC, established to make and enforce electoral law suddenly becomes an instrument and wheel chair to politicians. It assists in rigging of election, declaration of fake election results as witnessed in some States. 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.<sup>53</sup> In *Amechi v. INEC*,<sup>54</sup> the Court quoted D, Workin,<sup>55</sup> thus "true democracy is not just statistical democracy in which anything, a majority or plurality wants is legitimate for that reason, but communal democracy in which majority decision is legitimate only when it is a majority decision within a community of equals..." The 2015 elections saw a youth population that has become more politically involved in the democratic process. More than ever before, young people participated in the build-up to the elections by attending rallies and engaging in debates. The major parties also focused on mobilizing the youth population for campaign and the voting process. The involvement of young people is not surprising because they constitute about 70 per cent of the population. The impact of young people in 2015 was mostly felt on social media platforms. It appears they realised that it is only by participating in the electoral process that they can effect a change in the society. The 2015 elections have indeed changed the perception of Nigerians about politics.<sup>56</sup> However, despite the success recorded by INEC at the 2015 general elections, the commission has said that Nigeria is yet to accustom itself to a good democratisation process.<sup>57</sup> 5.

## 5. Conclusion

In this paper, judicial x-ray of constitutional provisions on rule of law and political process in Nigeria has been carried out. It appears that from independence till date, the basic principles of rule of law have been compromised. The basic and scope of rule of law and political process has also been highlighted. It has been shown that governmental activities were carried out in flagrant disobedience to the rule of law with impunity. Free and fair election in Nigeria is very crucial for the sustainability of democracy. A fair and successful election in one of the most populous nation in the world would be a shining example to other Nations and a compromised one would be more damaging to the reputation of a country already tarnished by violence and corruption. It is submitted that unless democratic values are upheld and government officials are held accountable, democratic process in Nigeria would be a tall dream. In this respect, there is the need to re-appraise the non-justifiability of chapter 2 of the 1999 Constitution, as this would go a long way in checkmating the excesses of government officials. Government should as a matter of course, abide by democratic process and uphold the rule of law.

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<sup>52</sup> Ubangari, A. Y., (2009), op cit, p. 3.

<sup>53</sup> Lawal, T., op cit, p.15.

<sup>54</sup> 33 part 1 NSCQ, LR pg 457 – 458 (Per Musdapher JSC).

<sup>55</sup> Workin, R. D. "Bill of Rights for Britain", 1990, pp.33 – 36.

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