Ethical and Legal Issues in Reporting 2015 Nigeria’s General Elections

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ABSTRACT
News writing and reporting are fundamentals of mass communication. The media lay surveillance on the society to gather and report events with a view to informing the general public and direct them about the step to take in case of impending danger. This role of news reporting is, however, subject to legal and ethical limitations. Ethically, media professionals are expected to adhere to principles of accuracy, fairness and objectivity in news reporting. Legally, the media should adhere to laws of privacy, defamation against the individual citizens and avoid reports that could endanger the sovereignty of a country. Election reporting is no exception. The 2010 Electoral Act in addition to National Broadcasting Code, Advertising Practitioner’s Code and NTA Code, spelt out what and how to report the 2015 general elections. In spite of the laid down rules and regulations, the Nigerian media flouted both law and ethics guiding the election by taking side with certain political party, publishing and broadcasting unethical advertisements and flagrantly published news reports that threatened the existence of Nigeria. Resting on social responsibility and objective theories as its theoretical standpoint, the paper frowns at the performance of Nigerian media during the 2015 election as poor and least expected.

Keywords
Election Reporting, Ethics, Law, Accuracy, Fairness, Objectivity, Social Responsibility

1. INTRODUCTION
Over the years, the acceptable form of government in modern societies is democracy. It is a form of government that allows leaders to emerge based on the consent of the people. This consent is expressed through the ballot paper.

Election is an important component of democracy. In countries operating democracy elections constitute one of the most peaceful and recommended means of exchanging political power (Isola, 2010). By casting votes during election, individuals are chosen to administer the government of the state (Nnaadozie, 2007).

Usually, a democratic election would characteristically be competitive, periodic, inclusive and free and fair (Chukwu, 2007). Based on the competitive nature of election, politicians often use the mass media to appeal to the senses of the people in a bid to get the support of electorate at the polls. Thus, the media have become an integral part of political communication during election campaigns.

The mass media constitute the backbone of democracy. By virtue of their responsibilities in the society, mass media supply political information that voters need in making informed decisions at the polls, which among others, are servicing the political system with information and education. The most important democratic functions that we can expect the media to serve, according to Gurevitch and Blumler (1990), include surveillance of sociopolitical developments, identifying the most relevant issues, providing a platform for debate across a diverse range of views, holding officials to account for the way they exercise power, provide incentives for people to learn and become involved in the political process.

By virtue of the importance of mass media operations in the successful conduct of elections, politicians and their political parties have continuously relied on the media for image building. While noting what the media should do so as to ensure a successful election, Agba (2007) said that the attainment of democratic governance in a society is contingent on the psychological readiness and positive mental state of the citizens. By creating psychological readiness and positive mental state of the citizens, the media build, project and create positive image of political candidates in the court of public opinion. By doing this, members of the public will see the candidate as capable of holding their collective trust.

Election reporting like any other specialized reporting requires skill, knowledge to report electoral campaign and election so as to serve the public need to know and warn against violence. As a primary duty, the press is to provide information to arouse the consciousness of the electorate and to educate them about the candidate seeking vote. Through persistent information, the general public is able to take decision on which party and candidate to vote during election.

In addition to skill and understanding, the reporter should be conversant with the ethics of journalism and legal issues pertaining to election. The ethics of journalism addresses the issues of truthfulness, accuracy, fairness, objectivity, national interest, national unity and report that may touch on religion and violence. Added to the code of conduct guiding journalism practice, election reporting, as well as political advertising, is guided by specific laws. In the case of 2015 general elections in Nigeria, it was guided by the Electoral Act 2010. The task of this paper is to examine ethical and legal issues in the 2015 electoral reporting.

2. THEORETICAL STANDPOINT
This paper rests on social responsibility theory. Social responsibility theory was a reaction to the irresponsible acts committed by journalists under the libertarian theory. Proponents of social responsibility theory were of the opinion that any freedom without limit will lead to abuse. Hence, the Hutchins commission of 1948 which recommended social responsibility theory (McBride et al, 1980). This theory acknowledges the role of the press in disseminating
information to the public without fear or favour in a free atmosphere. It, however, believes that while the press is entitled to liberty to publish or broadcast without let or hindrance, it should perform this duty with sense of responsibility (Siebert et al, 1956).

The press, according to this theory, should respect individual’s privacy and integrity, institution of the court and, national interest (i.e. national welfare, national image, sovereignty of state and national security). In other words, of the theory believes that all actions must be carried out with regard to another man’s right on the one hand, and the interest of the state on the other hand. In reporting to avert conflict, the media should adhere to the social responsibility theory. This places the interest of the society first. It also gives direction to the public on how to handle the issues of election and thus avert or help in managing electoral conflict (Egbala cited in Maduekwe, 2015).

As a volatile issue in Nigeria and elsewhere, any journalists reporting election should have these ethics at the back of his palm. Such journalist should avoid sycophancy reporting which is a type of reporting that praise sings a politician or wealthy individual or party in anticipation of gratification or position (Okunna, 2003). The journalist should also avoid news reports that may lead to conflicts and violence in the course of election; and eventually, unrest in the country. It is the duty of the press to tone down apprehension but build confidence in the system so as to water down the feeling that the election may not be free, fair, credible and peaceful. This could be achieved through editorials, framing of headlines, articles and so on.

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3. CONCEPTUAL REVIEW

Studies have proved that media exposure shaped electoral campaign (Wicker et al., 1966). News reporting must, according to the universal code of conduct of the profession be presented accurately, fairly and objectively (Hough, 1988). This, in effect means that a news presentation must be based on fact, fairness to all parties and without colouration or bias. Accurate, balance and objective reporting have attracted the interest of many scholars over the years. Citing the ASNE code of journalism Hough (1988 p. 452) says the code “describes truth and accuracy as a cornerstone of journalistic behaviour, it urges that news and opinion be kept strictly separate in news reporting; it urged fairness and decency in dealing with news sources and the public”. In the same vein Hough (ibid) also cited APME code which says “the newspaper should guard against inaccuracies, carelessness, bias or distortion through either emphasis or omission”.

The SPI, SDX code, according to the scholar, calls truth “our ultimate goal and fairness a balancing act” (p. 453). Journalists must do their work in such a way that people – the public, newspaper readers, individuals who become part of news story – are treated fairly, decently and with compassion (p. 454). The Missouri group led by Brooks (2005) explains the issue of fairness by saying that “fairness requires that you as a reporter try to find every viewpoint in a story… fairness requires that you allow ample opportunity for response to any one who is being attacked or whose integrity is being questioned in a story. Fairness requires, above all, that the writer makes effort to avoid following his own bias in reporting” (p.13).

One important rule of arriving at truth is objectivity. All over the world, objectivity has been and still accepted as a working credo by most journalists. Little wonder that Gaye Tuchman (cited in Brooks), calls it a “strategic ritual” that conceals superficial and often misleading coverage (Brooks et al, 2005, p. 14). Tuchman may not be right anyway but objectivity refers to detachment of oneself from the event being reported and this must be adhered to by reporters.

Whatever the case, news reporting must necessarily pass the test of fairness, accuracy and objectivity for it not to run foul of ethics and law. Much as it is the primary responsibility of the media to report news by serving the public’s need to know, both journalism ethics and law stipulate limits to these rights. The 2015 general elections in Nigeria, for instance, stipulated rights and limits of candidates and each political party during election under the 2010 Electoral Act. The Act contains the do’s and don’ts of electoral campaign, conduct of election, marketing and advertising by candidates as well as political parties.

4. EMPIRICAL REVIEW

A democratic society relies upon voter decisions to elect representatives and upon a mass communication network to inform the electorate (Kraus and Davis, 1980). Both government and mass media are democratic institutions necessary for the growth of democracy. Beyond Klapper’s pessimism that “what role mass communication may play in determining voter’s decisions before a critical election is not known” (Klapper, 1960, p. 225), the media role is known today because of the huge population of people, industrial society, availability and access to various kinds of media, and inability of people even neighbours to relate interpersonally. Quite a number of people now rely on mass media for information on politics including the rural man who goes about with his transistor radio.

As far back as 1973, Prisuta has found correlation between the use of newspapers as a source of political information and voters’ turnout. Though his research did not reveal the same result with television and radio, but found that television is the most important medium. Today, television role in voter’s decision is not debatable as what was obtained in 1948, when television newscasting began. In his reaction to the long term changes being created by the mass media Berelson wrote, “the media could have pervasive, subtle and durable effects on the political attitudes of the public” (Berelson, 1948, p. 182). The influence, as noted by Kraus and Davis, (1980), become greater thereafter till date. Key was not particularly keen about mass media role in voter’s decision making, rather he pointed out that voters are swayed by own policy views and by their evaluations of performance in government (Key, 1966). This assertion may not be far from truth given the outcome of the 2015 presidential election in Nigeria where the
political advertising could be included amongst others, the Columbia magazine, radio and/or television station to provide freedom to own any medium of information, ideas and opinions. Subsection (2) of this clause also permits the freedom to own any medium of information without interference. Section 95 (Electoral Act, 2010), prohibited the use of abusive language during campaign or election. Subsection 1 of the clause states: “No political campaign or slogan shall be tainted with abusive language directly or indirectly likely to injure religious, ethnic, tribal or sectional feelings”. Subsection 2 goes further to state that abusive, intemperate, slanderous or base language or insinuations or innuendoes designed or likely to provoke violent reaction or emotions shall not be employed or used in political campaigns. One of the two major political parties (PDP) was fond of abusive language during the electoral campaign.

A critical look at the Electoral Act shows that it was silent on negative advertising during the campaign. Political advertising and public relations are an amalgam of electoral campaign. Persuasive advertisement begging for votes appeared in several advertising media such as poster, billboard, radio, television, newspaper, magazine, etc. during the electoral campaign. Political advertising could be positive or negative. During the 2015 electoral campaign, a lot of advertisements placed in newspaper, magazine, radio and television by Peoples Democratic Party (PDP) against its main challenger, All Progressives Congress in the presidential election were negative. They were filled with aspersions and hate messages on the person of the APC presidential candidate, General Muhammadu Buhari.

Documentary advertisements that contained hate messages were broadcast on the Nigeria Television Authority (NTA) and African Independent Television (AIT). This hate message was so rampant that it attracted some senior citizens including Chief Tom Adaba, former Director-General, National Broadcasting Commission. But the press could not refuse to take such advertisements because of immoral gains derived from the advertisements.

Such immoral advertisement /commercials appeared in the front pages of The Punch and Sun newspapers on Monday, January 19, 2015 during the campaign for 2015 general elections. A death-wish advertisement which was sponsored by the governor of Ekiti State, Mr. Ayodele Fayose against the presidential candidate of All Progressives Congress (APC), Major General Muhammadu Buhari as an unfit candidate because of his age which was put at 72 years appeared in the newspapers. The advertisement compared him with all the past military head of states and one president, all from the North West of Nigeria who died in office (Generals Murtala Muhammad and Sani Abacha and President Umar Yar’Adua). The advertisements therefore warned all Nigerians not to vote General Buhari who, it described as a living dead. The text of the advertisement read: “Nigerians be incumbent was not re elected for the second term because of the electorate’s perceived low performance of the government in all sectors of the economy.
warned. NIGERIA… “I have set before thee LIFE and DEATH. Therefore, choose LIFE that both thee and they may LIVE.” The advertisement asked, “will you allow history to repeat itself? Enough of state burials”. It therefore urged Nigerians to vote “wisely for Goodluck Jonathan” that Northern presidency should wait till 2019. (The Punch, January 19, 2015). In African culture it is evil to wish a fellowman death even if the person is sick not to talk of electoral contest.

So many types of this advertisement messages appeared in other newspapers and broadcast media particularly AIT and Nigeria Television Authority, Radio Nigeria, a federal government-owned radio station and many state broadcast media administered by PDP governors during the campaign. The commercials (advertisements) and sometimes news stories depicted General Muhammadu Buhari as an evil and a dictator who should be avoided like a bed bug. There were also newspaper articles and paid advertorials against Buhari in newspapers. Some of these include a letter-to-the editor written by Banji Kuroloja, a former editor of Nigerian Tribune which castigated General Muhammadu Buhari as a presidential candidate not to be trusted. The advertisement was entitled, “Do you know General Muhammadu Buhari? The author concluded that it is amazing that Buhari could be persuading the off-springs and followers of the Second Republic politicians to vote for him given his attitude to the people while in power as military head of state. (Nigerian Tribune, January 13, 2015, p. 18). In a similar vein, Ebenezer Babatope, publicity secretary of the defunct Unity Party of Nigeria (UPN) and a stalwart of the Peoples Democratic Party (PDP) wrote a serialized article entitled, The December 31, 1983 coup: The horror chamber (1 – 3); which appeared in the Nigerian Tribune. The articles cast aspersion on the personality of Buhari and persuaded Nigerians not to vote for him (Nigerian Tribune, January 23, 2015 p. 17 and January 9, 2015 p. 17).

The use of Radio Nigeria and NTA to broadcast ‘hate message’ against General Muhammadu Buhari was a clear violation of section 100 of the 2010 Electoral Act. Section 100 subsection (2) addresses such issue when it stipulates “state apparatus including the media should not be employed to the advantage or disadvantage of any political party or candidate at any election”. Similarly, the use of state vehicles and fund to prosecute campaigns was a violation of the Electoral Act 2010.

These kind of advertisements is to say the least immoral and run foul of social responsibility rule of journalism profession. But because of money accruing to the purse of the newspapers, radio and TV they accepted to publish or air the advertisements.

7. FUNDING OF ELECTION

Section 90 of Electoral Act 2010 empowers the Independent Electoral Commission to monitor and place limitation on the amount of money or other assets, which an individual or group of persons could contribute to a political party. Section 91 subsection (2-7) of the Act stipulates the maximum certain category of candidates could spend on campaign. Section 91(10) of the Electoral Act states, “A candidate who knowingly acts in contravention of this section commits an offence and on conviction is liable to a maximum fine of N10 million or imprisonment for a term of 12 months or both.” The law says a presidential candidate cannot spend more than N1 billion, N200 million naira for governorship candidate, N40 million for senatorial candidate, N20 million by a candidate seeking election into House of Representatives, N10 million by the State House of Assembly and Council Chairmanship respectively and a maximum of N1 million for councillorship position.

The fund raising of N21.27 billion by the presidential candidate of Peoples Democratic Party, Dr. Goodluck Jonathan on December 20, 2014 contravened the Electoral Act. It is not clear if the commission has ever exercised this power or actually tried to determine expenses made by parties and individuals during election. Following criticisms that trailed the donation the party found justification for the contentious huge amount, by providing afterthought explanations that the money is not for Jonathan alone, but also for other elections and projects of the party (The Guardian, January 6, 2015). N54 million was realized by APC candidate, General Muhammadu Buhari. This low amount was also criticised by opposition party, PDP. As a matter of fact, the Centre for Social Justice, a civil society group] accused the PDP and APC of alleged abuse of the Electoral Act 2010 and demanded that the donations should be forfeited to the electoral management body, INEC. (The Guardian, January 9, 2005, p. 4).

8. ENFORCEMENT OF ELECTORAL RULES BY ELECTORAL MANAGEMENT BODY

In all the cases mentioned above the powerlessness of Electoral Management body, Independent National Electoral Commission (INEC) with regard to enforcement of electoral procedures is evident. The rules on campaigning have severally been flouted by virtually all the political parties; with the electoral management body INEC habitually responding by issuing warnings that are largely ignored. Such disobedience is hardly followed with sanctions because it is almost impossible to point to any political party that adhered to the campaign time frame. The electoral management body, INEC admitted this drawback when it said; "The rules on electoral campaigns are there; all parties are flouting those rules, without exception. All parties across the divide are flouting those rules. Why they are flouting the rules is that there are gaps in the law.”

Indeed, the electoral law is fraught with gaps that tend to make INEC not more than toothless bulldog in many electoral matters. The Electoral Act states in section 100 (1), "a candidate and his party shall campaign for the elections in accordance with such rules and regulations as may be determined by the commission.” But the law remains largely silent on the powers of INEC to sanction politicians and political parties that contravene the rules.

INEC, too, said it cannot prosecute any party or individual for campaign funding violations until it is presented with concrete evidence after investigation by the security agencies - an indication that no one may ever be prosecuted and indeed none was prosecuted for exceeding the stipulated amount for campaign.

Section 87(9) of the old Electoral Act, 2010 had provided, “Where a political party fails to comply with the provisions of this Act in the conduct of its primaries, its candidate for election shall not be included in the election for the particular position in issue.” This provision had given the commission
power to enforce deadlines and really monitor the process for the emergence of candidates. However, section 87(9) was expunged in the amended Act and replaced with section 31(1), which, effectively, stripped INEC of any powers in the disqualification of candidates for election. Section 31(1) of the Electoral Act, 2010 (as amended) provides that political parties should submit the list of their candidates to the commission not later than 60 days to the date of the election. But the section goes further to say, “provided that the commission shall not reject or disqualify candidates for any reason whatsoever.”

This unrestricted allowance granted the political parties has been the source of endless litigations. The current status of the country’s electoral laws appears to leave too many things to the discretion of the courts. The commission or parties is left with the option of presenting perceived violations of the electoral law before tribunals or regular courts that, in most cases, are not committed to any time frame.

Consciously or unconsciously, INEC has been reduced to a toothless bulldog with ability only to bark, but never to bite. This certainly does not argue well for democracy.

Besides, Section 221 of 1999 Nigerian Constitution as amended stipulates that “No association, other than a political party, shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at an election”:

(1) Every political party shall, at such times and in such manner as the independent National Electoral Commission and publish a statement of its assets and liabilities.

(2) Every political party shall submit to the Independent National Electoral Commission a detailed annual statement and analysis of its sources of funds and other assets together with a similar statement of its expenditure in such form as the Commission may require.

(3) No political party shall (a) hold or possess any funds or other assets outside Nigeria; or (b) be entitled to retain any funds or assets remitted or sent to it from outside Nigeria. (4) Any funds or other assets remitted or sent to a political party from outside Nigeria shall be paid over or transferred to the Commission within twenty one days of its receipt with such information as the Commission may require. (5) The Commission shall have power to give directions to political parties regarding the books or records of financial transactions which they shall keep and, to examine all such books and records. (6) The powers conferred on the Commission under subsection (4) of this section may be exercised by it through any member of its staff or any person who is an auditor by profession, and who is not a member of a political party.” But the Electoral Act 2010, as amended, specifies in Section 91 (2) that “the maximum election expenses to be incurred by a candidate at a presidential election shall be N1 billion.

Oodu Peoples Congress, a non-political organization was seen on several occasions in Lagos to campaign for PDP presidential candidate, Dr. Goodluck Jonathan. The organization (OPC) went round with transit advertisements in favour of PDP presidential candidate. This action contravenes section 221(1999) constitution and a flagrant abuse of 2010 Electoral Act conclusion.

9. REFERENCES


