

WHEN PROCESS FAILS JUSTICE

**A REPORT ON THE 2004 LOCAL GOVERNMENT ELECTIONS
PETITIONS TRIBUNALS**

TRANSITION MONITORING GROUP

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ACKNOWLEDGMENT

Monitoring of the local government election petition tribunals is a pioneering effort the TMG has veered into. The imperative of monitoring the transparency of the election petition processes was one of the lessons learnt from the 2003 elections.

For the successful implementation of this effort several contributors collaborated to making our goal a reality. The German Embassy deserves our appreciation for having faith in TMG through the support which made possible the deployment of over one thousand observers during the local government elections, the training and deployment of election petition observers and publication of this report.

Festus Okoye and Bamidele Aturu also deserve thanks for the stimulating and enlightening presentations made at the two training workshops organized in Enugu and Abuja in May 2004.

The TMG member organizations who took time off their busy schedules to follow the proceedings at the various election petition tribunals also deserve our gratitude, without their reports this publication wouldn't have been possible.

The staff of the TMG secretariat also deserves gratitude for their dedication and team spirit.

Angela Odah
TMG Secretariat

CHAPTER 1

INTRODUCTION

The realization that the local government system in Nigeria is geared towards addressing the needs of Nigerians at the grassroots and that it is the government closest to the people, spurred the Transition Monitoring Group (a coalition of human rights and civil society organisations) to organize and observe the conduct of the 2004 local government elections in Nigeria.

This was against the backdrop of the events witnessed during the 2003 elections, when violence, politically motivated assassination, electoral fraud, administrative bottle necks, lack of transparency and fair play within and among political parties, monetization of the electoral process by political entrepreneurs and failure of the election petition tribunals to provide justice to aggrieved political contestants trampled on the rights of Nigerians to freely exercise their franchise of choosing their representatives and their votes determining the outcomes of the elections.

The lessons learnt after the 2003 election in the manner in which election petitions were handled by the various election petition tribunals strengthened the resolve of the TMG on the need to observe the conduct of the Local Government Election Petition Tribunals set up by the State Governments after the March 27th and April 24th (Yobe state) election Nigeria.

Additionally given that electoral contestants in Nigeria hardly concede defeat gracefully, because of alleged electoral frauds during elections and the cries of unfair trial by those whose electoral victories are reversed by election tribunals and the fact that far too many cases were thrown out based on technicalities during the 2003 election petition tribunal, TMG planned to monitor the election petition tribunals in the states local election petition tribunals were set up.

To familiarize TMG member organisations on the significance of election petition tribunals in the promotion of credible elections capacity building workshops were organized in Enugu on the 6th – 7th May, 2004 at Modotel Hotel, Enugu and Savannah Suite, Abuja on the 13th – 14th May, 2004. The Enugu workshop drew together 2 member organisations per state in the South-West, South-South and South-East zones. On the other hand, the

workshop held at Abuja, drew together 2 member organisations per state from the North-Central, North-West, and North-East zones. In all, 74 observers were trained at both workshops.

The workshop utilized paper presentations by Festus Okoye titled “The Role of Election Petition Tribunals in the promotion of free and fair election in Nigeria”, and another by Bamidele Aturu titled “Towards Evolving a strategy for monitoring election tribunals”. Group work sessions were also utilized during the workshop in which the participants developed indicators for monitoring process. The draft checklists developed at both workshops were harmonized by the TMG Secretariat and sent out to all observers.

Below is the checklist developed by the observers and used for the monitoring of the election petition processes:

TMG STANDARD CHECKLIST FOR OBSERVING LOCAL GOVERNMENT ELECTION PETITIONS TRIBUNAL

| | |
|------------------------------|-------------------------------------|
| MONITOR'S NAME..... | MONITOR' ORGANISATION..... |
| STATE..... | TRIBUNAL'S NUMBER..... |
| TRIBUNAL'S LOCATION..... | |

| |
|--|
| CONSTITUTIONALITY OF THE ENABLING LAWS AND THE RULES OF PROCEDURE |
|--|

| 1 | WAS THE JURISDICTION OF THE TRIBUNAL IN CONFORMITY TO THE ENABLING LAW? | YES | NO | - | IF NO WHY? |
|---|--|----------|------|-----------------|---|
| 2 | WAS THE COMPOSITION OF THE MEMBERSHIP OF THE TRIBUNAL IN CONFORMITY TO THE ENABLING LAW? | YES | NO | - | IF NO WHY? |
| 3 | WAS THE FILING FEES AFFORDABLE? | YES | NO | - | IF NO WHY AND STATE AMOUNT CHARGED. |
| 4 | DID THE ELECTORAL LAW PROVIDE FOR A RIGHT OF APPEAL? | YES | NO | - | - |
| 5 | WAS THE DURATION OF THE SITTING OF THE TRIBUNAL ADEQUATE ENOUGH TO DISPENSE JUSTICE? | YES | NO | - | IF NO WHY AND STATE THE TIME ALLOTTED FOR THE TRIBUNALS SITTING. |
| 6 | WAS THERE PROVISION FOR QUORUM BEFORE THE TRIBUNAL CAN SIT? | YES | NO | - | IF YES HOW MANY MEMBERS ARE REQUIRED TO FORM A QUORUM? |
| 7 | DID THE TRIBUNAL EVER SIT WITHOUT FORMING A QUORUM? | YES | NO | - | IF YES HOW MANY TIMES AND WAS ANY REASON GIVEN FOR IT? |
| 8 | HOW WAS THE TRIBUNALS RELIANCE ON LEGAL | TOO MUCH | FAIR | DID NOT RELY ON | - |

| | | | | |
|----------------|--|--|------|--|
| TECHNICALITIES | | | THEM | |
|----------------|--|--|------|--|

PUBLIC ACCESS TO THE PROCEEDINGS OF THE TRIBUNAL

| | | | | | | | | |
|----|---|-------------|------------|-----------|---|-----------|----------|--|
| 9 | WAS THE VENUE OF THE TRIBUNAL'S SITTING OPEN AND ACCESSIBLE TO MEMBERS OF THE PUBLIC? | YES | NO | - | IF NO STATE WHY. | | | |
| 10 | WAS SECURITY ARRANGEMENT ADEQUATE AT THE VENUE OF THE TRIBUNAL | YES | NO | - | - | | | |
| 11 | WAS ANY MEMBER OF THE PUBLIC DENIED ENTRY INTO THE VENU OF THE TRIBUNAL? | YES | NO | - | | | | |
| 12 | IF NO TO QUESTION 11 WHAT CATEGORY OF PERSONS WERE DENIED ENTRY INTO THE VENUE OF THE TRIBUNAL? | JOURNALISTS | OBSERVERS | LITIGANTS | OPPOSING PARTY SUPPORTERS | WITNESSES | COUNSELS | |
| 13 | WAS THERE ADEQUATE SECURITY ARRANGEMENT FOR MEMBERS OF THE TRIBUNAL? | YES | NO | - | - | | | |
| 14 | WERE OBSERVERS ALLOWED TO OBSERVE THE PROCEEDINGS ON THE TRIBUNAL | YES | NO | - | - | | | |
| 15 | WAS THE TRIBUNALS JUDGEMENT READ IN THE COURT ROOM BEFORE MEMBERS OF THE PUBLIC? | YES | NO | - | IF NO WAS ANY REASON GIVEN BY THE TRIBUNAL? | | | |
| 16 | HOW WAS THE CONDUCT OF MEMBERS OF THE PUBLIC AT THE VENUE OF THE TRIBUNAL'S SITTING? | ORDERLY | DISORDERLY | - | - | | | |

ATTITUDE OF MEMBERS OF THE TRIBUNAL TO LAWYERS, LITIGANTS AND WITNESSES

| | | | | | |
|----|---|------------------|--------------------|---|---|
| 17 | WAS THERE EVEN ALLOTMENT OF TIME TO LAWYERS FOR SUBMISSIONS? | YES | NO | - | - |
| 18 | WAS THE TRIBUNAL CONSISTENT IN THE APPLICATION OF RULES OF PROCEDURE TO BOTH THE PLAINTIF AND RESPONDENT? | YES | NO | - | - |
| 19 | WAS THERE ANY SHOW OF HOSTILITY BY MEMBERS OF THE TRIBUNAL DURING PROCEEDINGS? | YES | NO | - | IF NO, TO WHO AND HOW DID IT MANIFEST? |
| 20 | WAS THERE ANY SHOW OF UNDUE FAMILIARITY WITH LITIGANTS | YES | NO | - | |
| 21 | WAS THERE ANY SHOW OF UNDUE FAVOUR TO A PARTICULAR LAWYER? | YES | NO | - | - |
| 22 | IF YES TO QUESTION 21, STATE WHICH LAWYER. | PLAINTIFS LAWYER | RESPONDENTS LAWYER | - | - |
| 23 | WAS THERE ANY FORM OF HARASSMENT OR INTIMIDATION OF LITIGANTS WITHIN THE COURT PREMISES? | YES | NO | - | IF NO, BY WHO? |
| 24 | DID MEMBERS OF TRIBUNAL INTIMIDATE LITIGANTS AND WITNESSES BY SHOUTING THEM DOWN OR CONDEMNATION? | YES | NO | - | - |

ATTITUDE OF THE TRIBUNAL TO THE PROCEEDINGS

| | | | | | | |
|----|---|-------------|-------------|--------------|----------------|----------------|
| 25 | WHAT TIME DOES THE TRIBUNAL COMMENCE SITTING | 8.00AM - | 9.01AM - | 10.01AM - | AFTER 11.00 AM | |
| 26 | HOW MANY TIMES DOES THE TRIBUNAL SIT IN A WEEK? | ONCE | TWICE | THRICE | FOUR TIMES | FIVE TIMES |
| 27 | HOW MANY PEOPLE MAKE UP THE MEMBERSHIP OF THE TRIBUNAL? | 2 | 3 | 4 | 5 | MORE THAN FIVE |
| 28 | DOES THE TRIBUNAL DELAY IN GIVING ITS RULING ON WRITTEN OR ORAL APPLICATIONS? | YES | NO | - | - | |
| 29 | HOW OFTEN DOES THE | ALL THE | OFTEN | NOT | NEVER | |

The Transition Monitoring Group and Its Activities

The Transition Monitoring Group is a coalition of over 170 domestic human rights and civil society organisations in Nigeria. It was formed in 1998 in response to the Major-General Abdulsalami Abubakar organised transition to civil rule programme. The main objective of the coalition was to monitor the elections to ensure that the conditions existed for a free expression of will by the electorate, and hopefully see an end to years of military dictatorship and thereby usher in a civilian led regime. The TMG deployed 10,000 trained observers to monitor each strand of the 1998 and 1999 general elections. Upon the attainment of this objective with the swearing in of a democratically elected government on May 29, 1999, the TMG expanded its objectives to fostering civic education and promoting democratic norms. Its pioneering election monitoring efforts were sustained in 2003 with the deployment of 10,009 observers during the general elections.

In March 2004, under the project “Monitoring the Nigerian Local Government Elections,” TMG members across the country once again united to monitor the conduct of the local government elections in a bid to put an end to undemocratic leadership at the grassroots, which is closest to the people. The objective of the project was to encourage transparency and respect for the rule of law in the conduct of the elections by the various stakeholders and to encourage active participation of the electorate in the process. The TMG’s pre-election activities included periodic press briefings on conduct of pre-election processes and airing of radio jingles for 10 days in six regional radio stations aimed at encouraging the participation of the electorate and the need for peace during and after the elections. A total 4,804 observers were recruited for deployment in all the 34 states and Abuja where elections were to hold. For the post-election phase, the TMG trained 74 election petition monitors to observe the conduct of the election petition tribunals and assess how free and fair their processes and judgments were to all litigants.

The principles guiding the work of the TMG are two fold; firstly, from its inception it has had a policy of ceding out the implementation of pre-election activities to its member organisations while concentrating on implementing general election day programmes. This is based on our belief that the coalition would not grow if its member organisations are not encouraged to grow in their areas of specialization and that the capacity and

expertise of the TMG reside in its member organisations. Consequently, the pool of observers deployed during past elections and the local government elections in particular, were nominated by each TMG member organization in each state.

Secondly and, perhaps, more importantly, the work of the TMG as a domestic monitoring group is not limited to carrying out voter education and election observation activities, but also extends to periodic critical and reflective commentaries through letters, press conferences and other media on the activities of major stakeholders and institutions in the electoral process. The objective is to provide early warning signals on conducts and practices which are capable of truncating the process and getting the affected stakeholders to correct such acts before they adversely affect the outcome of the elections. This, perhaps, is the fundamental difference between domestic monitors and international observers. Whereas the latter is content with observing elections and reporting on such as credible or flawed, the former as citizens of Nigeria have very high stakes in ensuring that the process succeeds and would therefore go the extra mile to ensure that the elections and the processes leading to them are manifestly free and fair.

The Transition Monitoring Group and its Terms of Reference

In preparing for its work, the TMG undertook four affirmative steps in order to maintain its credibility. These were:

a. Maintaining Independence from Partisan Associations and Promoting an Image of Impartiality

The TMG collaborated with other institutions before and during the course of the elections when it formed a coalition or coordinated its operations with others; received funding, material assistance or guidance from particular sources; or in some environments, engaged in frequent communication with government officials or party leaders. Developing and maintaining relationships with other organisations and institutions is inherent in monitoring and does not *ipso facto* damage an organisation's credibility. However, the TMG was careful to avoid excessive reliance on any single person or group, particularly those with partisan interests.

The TMG promoted an image of impartiality, which may also be described as being neutral, non-partisan, independent or objective. The TMG understood that its credibility would also be affected by the actions and reputations of its members, officers and officials. In the same way that it approached the issue of funding or receiving contributions, the TMG avoided forming any committee that might appear, from the antecedents of its individual members, to favour any one political interest.

Similarly, staff and volunteers in the TMG had to pledge to refrain from working for, or exhibiting any public preference for the advancement or defeat of a particular political party or candidate. The primary concern of the TMG as a non-partisan group was to improve and strengthen the integrity of the electoral process, regardless of who might win or lose. However, this directive did not preclude observers from expressing their personal political choice in the privacy of the voting booth.

b. Communicating Clearly and Regularly

Many monitoring groups have been hesitant to publicise their activities, particularly in environments characterised by serious repression or polarisation. Nonetheless, the TMG considered that its credibility would be enhanced by pursuing a policy of communicating openly with the political parties, the government and its relevant agencies and the media. It presented its objectives, goals, methodology and proposed activities clearly and openly in order to answer questions and clarify any misunderstandings that might arise about the nature of its efforts. These communications took the form of press conferences, press releases, advertisements, letters, telephone calls, or personal interviews. The TMG sought to convey any relevant information before conducting its activities. It was felt that such advance notice would generally help to deter fraud or intimidation and would also facilitate the execution of its activities.

c. Ensuring the Integrity of the TMG's Plan and Methodology

The specific approach the TMG employed to execute its activities; plan and methodology could have become a liability if it had been perceived to be unsound, unreasonable or unlikely to be achieved.

This meant that the TMG had to design plans, which were logistically and financially feasible and assuming that they were properly executed, were capable of accomplishing the set goals. The underlying assumptions of the approach had to be sensible and valid if they were to maintain their integrity.

d. Executing Plans

The TMG recognised that the best plans and methodologies would be irrelevant if they could not be properly executed, in which case the operation would lose credibility. It was understood that good execution required the suitable and qualified personnel, adequate resources and, above all, good training. Because it is common for critics to accuse monitoring organisations of bias or incompetence, particularly when the organisations are new, it was seen as essential that members of the TMG should perform impartially, objectively and professionally.

The Structure of the TMG

The structure of the TMG consists of three main organs: the Plenary, Coordinating Committee and the Secretariat. The Plenary is a meeting of representatives of all the member organizations of the TMG. It elects the Coordinating Committee and can give directives to or review any decision of the Committee. The Coordinating Committee takes most of the important policy decisions of the Coalition and meets more frequently than the Plenary. The Committee is made up of nominees of 18 member organizations. The following are current members of the committee:

1. Mr. Festus Okoye - Human Rights Monitor [Chair]
2. Mr. Mashood Erubami - Centre for Human Rights Research and Dev. [Vice Chair]
3. Mr. Edetaen Ojo - Media Rights Agenda [Treasurer].
4. Ms Miriam Menkiti - Women Information Network [Publicity Secretary]
5. Mr. Innocent Chukwuma - Centre for Law Enforcement Education
6. Mr. Mohammed Wuyo - Borno Coalition for Democracy and Progress
7. Mr. Rommy Mom – Lawyers Alert
8. Mr. Christian Nwadigo – People’s Rights Organization
9. Mr. Anyakwee Nsirimovu - Institute of Human Rights and Humanitarian Law
10. Ms. Ngukwase Surma – Women in Nigeria, Kaduna Chapter
11. Mr. Nimi Walson-Jack - Centre for Responsive Politics

12. Mr. Titus Mann - Civil Liberties Organization
13. Ms Priscilla Achakpa - Women's Environmental Programme
14. Mr. Ray Onyegu - Socio-Economic Rights Initiative
15. Ms Felicia Arikpo - Nigerian Organisation for Solidarity and Development
16. Mr. Clement Wasah - Community Action for Popular Participation
17. Ms Oby Nwankwo – Civil Resource Development and Documentation Centre
18. Ms Yemi Olukoya - CEREHAD

The Secretariat consists of eight full time staff headed by a coordinator. It implements the decisions of the Plenary and the Coordinating Committee and sees to the day-to-day running of the coalition. The staff are:

1. Angela Odah (Coordinator)
2. Machill Maxwell (Senior Programme Officer)
3. Qudus Adekogbe (Accountant)
4. Imoh Orok (Secretary)
5. Ogechi Obialo (Administrative Assistant)
6. Innocent Onaji (Driver)
7. Jubril Abdullahi (Security Officer)
8. Maryam Nweke (Office Assistant)

STRATEGY

The objective of the TMG local government election petition observation was to assess the petition process and determine if all the parties were given fair hearing. The issues our monitors looked out for include (but are not restricted to) the time given to the parties to present their cases, the impartiality of the tribunals and other ingredients of free and fair trial.

Legal practitioners and lay monitors were deployed to observe the tribunal processes. At least 2 monitors were deployed in each state and Abuja. A total of 74 observers were deployed.

The choice of using non lawyers was informed by the fact that the elections petition tribunals are a fundamental process in the determination of the people's will and resolution of disputes after the conduct of an election, thus its activities are naturally issues of public interest. Thus the two trainings workshops in Enugu and Abuja were organized to strengthen the capacity of TMG member organizations to engage every stage of the electoral process from a level of knowledge and skills.

It is our hope that this report would build the awareness and understanding of Non Governmental Organizations (NGOs) in Nigeria and Nigerians in general of the local election petition tribunals and how they were set up, their terms of reference and indicators to look out for in assessing their conduct. Additionally, we hope that the recommendations made herein based on our findings at the local government election petition tribunals would be taken on board in their quest to reform of the petitions process to achieve free and fair elections in Nigeria where justice is given to aggrieved contestants.

CHAPTER 2

THE ROLE OF ELECTION PETITIONS TRIBUNALS IN THE PROMOTION OF FREE AND FAIR ELECTIONS IN NIGERIA

Democracy and Democratic Practices

Democracy and democratic practices have inbuilt mechanisms of self-control and renewal. These mechanisms envisage a process of change given certain situations and circumstances. Being an adjunct of the rule of law and due process, they envisage that political power and change may occur in a democratic polity founded on a written or unwritten constitution. This change and renewal may take the form of election or selection so long as the processes are clearly set out, understood and followed by the political actors.

Democracy also envisages that problems may occur and mistakes may be made and constitutional, penal and electoral laws may be breached in the operations of the constitution and the processes leading to change. Mechanisms for redress are therefore provided to make sure that mistakes and miscalculations are corrected and that those that attempt to breach or manipulate the electoral process other than as provided in the relevant laws are not allowed to assume power and if they have assumed power that they are removed accordingly. This is in accordance with the 1999 Constitution that locates the locus of power in the people when it declared unequivocally in section 14(2)(a) that sovereignty belongs to the people of Nigeria from whom government through the Constitution derives its power and authority. Part of this sovereignty demands the participation of the people in their government and this is exercised through periodic elections to the exclusion of any other form of governmental change or control. This is why the 1999 Constitution of the Federal Republic of Nigeria specifically provides that the Federal Republic of Nigeria shall not be governed, nor shall any person or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of the Constitution.¹

However, the same Constitution recognizes the imperatives of disputes arising from contestations and disputations and devised special mechanisms for dealing with the peculiar problems of elections and electoral disputes. The mechanisms and mechanics of resolving these disputes are provided in the Constitution and Electoral Law at the Federal and State level. Due to

¹ Section 1(2) of the 1999 Constitution of the Federal Republic of Nigeria

their peculiar nature and flavor Election petitions are by their very nature peculiar from other proceedings and are very important from the point of view of public policy.²

Election Petitions Tribunals serve as a place of refuge and succor for aggrieved individuals who ordinarily would have taken the laws into their own hands. It is therefore of utmost importance that the litigants must have confidence in the tribunals and that the tribunals be free from any form of manipulation. To achieve this, it is imperative to examine the role of Election Petitions Tribunals in the context of serving as a mechanism for the peaceful resolution of electoral disputes. It is also important to measure their performance in the context of enhancement of democratic values and peaceful resolution of disputes. Suggestions will be proffered on how to make Election Petitions Tribunals more independent, transparent and accountable.

Free and Fair Elections

The provision for and the setting up of Election Petitions Tribunals is an acknowledgement that all elections might not be free and fair. It is also an admission that the whole concept of characterizing election as free and fair may not after all be an exact and unbiased parameter of measuring the democratic will of the people. This is because if we survey the elements of free and fair elections, the absence of one element vitiates the use of the concept even if all other elements are in place.

The concept of free and fair elections envisages that all stakeholders in the democratic process share a basic commitment to some democratic values and ethos that emphasizes a commitment to certain basic rules and norms. These norms and rules are sometimes set out in some basic documents and the electoral regulating authoritative is given the responsibility of enforcement. At other times the responsibility for observing the agreed norms rests with the political parties themselves. It is therefore a violation of agreed principles for any of the parties to want to shortchange the process through a crude manipulation or corruption of the basic institutions and processes that guarantees free and fair elections.

Free and fair elections have other components. It encompasses pre- election activities, Election Day activities and issues that arise after the elections. In

² Owuru vs. INEC (1999) 10 NWLR Part 622, 201 at 213

other words, for an election to be declared as having been free and fair, all the three components must be in place. Prior to the elections, the laws, rules and regulations guiding the elections must be certain and not skewed to favor a particular political party or interest. The security services, the media and the election regulating authorities must show a commitment to fairness through the provision of equal coverage and protection to all the political parties and associations interested in contesting for political power. The register of voters must also be transparent and acceptable and all those that are eligible to vote have their names on the voters register.

On Election Day, all the parties must also play by the rules. No political party is permitted to corrupt electoral officials, snatch ballot boxes, stuff pre-thumped ballot papers in the ballot boxes, use under age and ghost voters to inflate votes or engage in activities incompatible with the overall goal of conducting free and fair elections. Avenues for seeking redress after the elections must all be clearly stated. The appointing authority must be independent and autonomous of the government in power and those appointed to head the institutions must be those imbued with integrality and who are ready to carry out their work with fear of favor.

The idea of setting up election petitions tribunals and in other cases allowing the courts to determine the validity and or constitutionality of a particular election is an admission that elections conducted by human beings are prone to error and mechanisms are put in place to redress anomalies and issues that emerge after the elections.

In other words, the Constitution and Electoral Law anticipates that some elements might attempt to corrupt the system and that the electoral regulating authorities might make mistakes during the elections. This realization has led international and domestic election observers to move away from the concept of free and fair elections. They realize that it might be difficult to assess whether an election meets three basic requirements. Rather than ask the question whether a particular election has been free and fair, the question is posed whether given the political and social and economic development of a particular country, the elections can be said to aggregate the genuine wishes and desires of the people. This is because there never has been and never will be a perfect election where there are no flaws in any component of the process. It follows that there has never been nor will there ever be flawless Free and Fair Elections.

Election Petitions Tribunals

Section 285 of the 1999 Constitution provides for the setting up of Election Tribunals. It provides that there shall be established for the federation one or more election tribunals to be known as the National Assembly Election Tribunals which shall, to the exclusion of any court or tribunal, have original jurisdiction to hear and determine petitions as to whether:

1. Any person has been validly elected as a member of the National Assembly;
2. The term of office of any person under the constitution has ceased.
3. The seat of a member of the Senate or a member of the House of Representatives has become vacant; and
4. A question or petition brought before the election tribunal has been properly or improperly brought

The section also makes provision for the establishment in each State of the Federation of one or more election tribunals to be known as Governorship and Legislative House Election Tribunals which shall, to the exclusion of any court or tribunal, have ordinal jurisdiction to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Governor or as a member of any legislative House.

Section 139 to the First Schedule to the Electoral Act 2002 prescribes procedures for Election Petitions. The Local Government Council Election Laws of the various States are an adaptation of section 285 of the 1999 Constitution and section 139 of the Electoral Act 2002. Most of them contain similar stipulation for the setting up and presentation of election petitions. The Local Government Councils Electoral Law No. 4 of 2002 of Katsina State provides for the establishment of one or more tribunals in the State to be known as Local Government Elections Tribunal to hear and determine petitions arising from local government elections. It provides that the tribunal shall, to the exclusion of any other court or tribunal have original jurisdiction to hear and determine any question as to whether:

1. Any person(s) has been validly elected as a Chairman or Councilor of a Local Government Council.

2. The term of office of a person elected under this law has ceased;
3. The seat of a Chairman or a Councilor has become vacant;
4. A question or petition brought before the election tribunal has been properly or improperly brought.

The Law makes the Chief Judge of the State the appointing authority and further states *that an election petition shall be presented within ten clear days from the date of the declaration of the election result*. It is not in all situations that an election result can be questioned. Petitions presented by an aggrieved individual must fall within the ambit and parameter of one of the grounds on which an election can be presented. Any petition that is presented outside those grounds will not be valid and properly before the tribunal and will accordingly be struck out. Section 83 of the Local Government Councils Elections, Law 2002 of Katsina State states that an election shall be questioned on any of the following grounds:

1. That the election was void by corrupt practices or offences of non-compliance with the provisions of this law.
2. That the person whose election is questioned was at the time of the election not qualified or was disqualified from being elected;
3. That the respondent was not duly elected by majority of lawful votes cast at the election; or
4. That the petitioner was validly nominated but was unlawfully excluded from the election.

However, it is not in all instances that an election can be set aside or vitiated on these four grounds. *The Law further states that an election shall not be invalidated by reason of non-compliance with the provisions of the law if it appears to the tribunal that the election was conducted substantially in accordance with the provisions of the law and non-compliance did not affect substantially the election*. An election shall also not be invalidated on grounds of an act or omission, which may be contrary to an instruction or direction of the Commission or its representative but not contrary to the provisions of the law.

The Law gives the Tribunal clear direction on what to do in respect of various aspects of petitions presented to it. If the tribunal determines that a candidate who was returned as elected was not *validly elected* on any ground under the provisions of the Local Government Councils Election, Law 2002 or any other relevant provisions thereof, the tribunal shall nullify the elections. On the other hand if the tribunal determines that a candidate who was returned as elected was not validly elected on the *ground that he did not score the majority of valid votes cast at the election*, the tribunal *shall declare as elected the next candidate who scored the majority of lawful votes cast* at the election. The law also gives the tribunal the discretion to strike out a petition on the motion of the respondent on grounds that the petition is not in accordance with the provisions of the law.

Section 88 of the Law establishes Local Government Elections Appeals Tribunals to hear and determine appeals arising from the judgments, orders or directions of the tribunal. The Tribunal shall consist of a Chairman who shall be a judge of a High Court and two members comprising of a legal practitioner of not less than fifteen years at the bar; and a person of reputable integrity. The Chief Judge of the State shall appoint the Chairman and members. The notice of appeal against the decision of a tribunal shall be given within seven days from the date of the decision appealed against.

There are minor variations in the various Local Government Council Election Laws of the various States. For instance, Section 2 of the Independent Electoral Commission Law, 2001 of Bauchi State makes it mandatory for election petitions to be disposed off within 60 days of the filing of the petition while appeals arising from the petitions must be heard and disposed off within 30 days of the date of filing.

The States also have various and varied provisions on who can present an election petition. Section 72 of the Benue State Local Government Electoral Law, 2002 states that a candidate at the election or a political party, or a person claiming to have had a right to contest or be returned at the election can present a petition. The Imo State Electoral Law 2001 on the other hand states that a person claiming to have had a right to contest or be returned at an election; or a candidate at an election may present an election petition.

The different states laws prescribe the periods for the presentation and conclusion of the various election petitions as adumbrated hereunder.

| State | Presentation | Conclusion |
|-------------------|---------------------|-------------------|
| Benue state | 14 days | ? |
| Katsina state | 10 days | Silent |
| Delta state | One month | ? |
| Imo state | 30 days | Within 60 days |
| Ebonyi state | 30 days | Within 60 days |
| Kebbi state | 30 days | Within 60 days |
| Cross River state | 14 days | Within 45 days |
| Adamawa state | 14 days | Within 60 days |
| Osun state | 30 days | Silent |
| Ondo state | 14 days | Silent |
| Abia state | 30 days | 60 days |
| Enugu state | 30 days | Silent |
| | | |

The Performance Index

The Nigerian people do not have absolute faith and confidence in the ability of election petitions tribunals to resolve electoral disputes in the polity. A number of factors account for this. The first is that quite a substantial number of those that appear before the tribunals have difficulty appreciating the modus operandi of the tribunals and their guiding principles. For instance, in the resolution of electoral disputes there is a rebuttable presumption that the result of any election declared by the electoral body is correct and authentic. The onus therefore is on the person who denies the correctness and authority to rebut the presumptions. Where such denial is based on an allegation of crime, the rebuttal must be proved beyond reasonable doubt. But where such denial is based on a mere complaint that the petitioner scored a majority of lawful votes the rebuttal needs only be based on the balance of probability.³ Furthermore, where a petitioner alleges the commission of a crime in an election petition, such a petitioner must prove such an allegation beyond reasonable doubt as required by section 138 (1) of the Evidence Act. In other words, a clear and unequivocal proof is required before a petitioner can establish a case of inflation of votes.⁴

³ Adun v. Osunde (2003) 16 NWLR, Part 847 at 643, pp664

⁴ Adun v. Osunde, Supra at page 672-673

Sometimes, the legal practitioners representing the petitioners do not avail them of these facts to enable them appreciate the workings of the courts.

Secondly, the collation of evidence and materials in preparation for the filing of a petition can be an arduous task. Sometimes before petitioners can collect and collate their materials, the time for the filing of petitions are over and such petitioners go home angry at a legal system that limited their rights to justice. Coterminous to this is the fact that some of the Chief Judges of the various states wait till the conclusion of elections before setting up the election petition tribunals. This tardiness eats into the time allowed petitioners to present their petitions. A close and clear reading of the law however seems to envisage a standing electoral tribunal that will deal comprehensively with all aspects of elections. An ad hoc electoral tribunal that has a sixty-day span to conclude its proceedings is not in a position to determine whether the term of office of an elected Chairman has ceased or whether the seat of any Chairman or Councilor has become vacant. It also appears to me that the sixty-day limit for the determination of electoral disputes is unconstitutional, as the lawmakers cannot prescribe a time limit within which the adjudicating body must perform its duties. The implication is that any electoral dispute that is not concluded within two weeks lapses by effluxion of time.

Another contentious aspect of the law is the proper parameter and ambit of the term “substantial compliance with the law” In other words, when can a tribunal declare that, although certain aspects of the law have been breached, overall, the elections conformed substantially to the provisions of the law?

Conclusion

There is no doubt that the fair and comprehensive resolution of electoral disputes is as the other processes leading up to the elections. People that present themselves for elections will be happy and willing to present their petitions to the tribunals if they are sure that they will get justice in the tribunals. If they are not sure about the independence, impartiality and transparency of electoral authorities and mechanisms, they may be forced to use extra judicial means to seek redress for perceived wrongs in the electoral process. However, if they are convinced that there is a fair change that they can get justice at the end of the day they may give the process a fair chance of succeeding knowing that whatever mistakes are made can be redressed through the mechanism of the tribunals.

Disputes and their resolution are part of the democratic process and a comprehensive resolution of electoral disputes strengthens the democratic process. If parties to an election go home at the end of an election and no single election petition is filed, it presupposes a number of possibilities. The first is that elections did not take place and the parties may not have anything to challenge. The second is that elections did take place and the aggrieved parties are not confident of getting justice done at the election tribunal due to lack of independence of the commission, skewed electoral laws or fear of manipulation of the process or that the people just do not have confidence that justice will be done or that people accept the verdict of the elections.

To therefore make the assertion that an election has been free and fair or that such an election truly reflects the will of the people, demands a comprehensive and fair dispute resolution mechanism at all stages of the electoral process. It is in the interest of democratic growth to resolve these disputes as the failure to resolve election controversies peacefully and effectively in a timely manner can lead to heightened conflict, which could ultimately result in the failure of democracy itself.

CHAPTER 3

TOWARDS EVOLVING A STRATEGY FOR MONITORING ELECTION TRIBUNALS

Introduction

What is an election tribunal?

Election tribunals are judicial bodies set up by law to adjudicate over disputes arising from elections. As judicial entities they are under the constitutional and common law duty to act fairly and observe the rule of natural justice¹. Their jurisdictions and powers are also delineated by the enabling laws. Although in this presentation we are concerned with the tribunals dealing with disputes emanating from election into the various local government councils, it is instructive to do a brief examination of legal framework of election tribunals in Nigeria.

Legal framework of election tribunals

The Constitution of the Federal Republic of Nigeria, 1999, the supreme law of the country, only makes provision for the establishment of election tribunals in respect of elections into offices created by the constitution.² The offices are those of the President and Vice-President of the Federation, Governors and Deputy-Governors of the States, members of the National Assembly and States Houses of Assembly. The tribunals are in three categories. First is the Court of Appeal which acts as the tribunal to hear petitions arising from presidential elections in its original jurisdiction. We shall subsequently refer to the Court in its original jurisdiction as the 'Presidential Election Tribunal'. There is also the National Assembly Election Tribunals. As the name suggests they hear and determine petitions concerning National Assembly Elections. The third category is the Governorship and Legislative Houses Election Tribunals established in each state of the Federation.

Jurisdiction of the tribunals

The Presidential Election Tribunal and the National Assembly Election Tribunals have similar jurisdiction. They have exclusive original jurisdiction to determine whether:

- any person has been validly elected into the office;
- the term of office of such person has ceased; and
- the office or seat as the case may be has become vacant.

The National Assembly Election Tribunal also has jurisdiction to determine whether a question or petition has been properly brought before it or not. This is a curious provision in that in determining an election petition the tribunals have an inherent jurisdiction to deal with the question whether or not the petition has been properly brought. It is at best a superfluous phrase that adds nothing concrete to the law.

The sole jurisdiction of the Governorship and Legislative Houses Election Tribunals is to determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Governor or as a member of any legislative house.

Composition

Presidential Election Tribunal

Members are justices of the Court of Appeal who are appointed by the President on the recommendation of the National Judicial Council. In the case of the President of the court the Senate must confirm the appointment³. There is usually no problem regarding the membership of the tribunal as the serving justices of the Court of Appeal are the members.

The other tribunals are made up of a chairperson and four other members who are judicial officers not below the rank of a chief magistrate⁴.

Quorum

In all the tribunals mentioned above the quorum is three⁵. But in the case of the National Assembly Election Tribunal and the Governorship and Legislative Election Tribunal the chairperson must sit throughout the proceedings.

Rules of Procedure

The rules of procedure governing the hearing of election petition before the Presidential Election Tribunal is the Court of Appeal Rules, 2002, while for the National Assembly Election Tribunal and Governorship and Legislative Election Tribunal the rules are contained in the first Schedule to the Electoral Act, 2002.

Local Government Election Tribunals

The constitution guarantees the system of local government by democratically elected local government councils⁶. It also empowers the government of every state to make law to ensure their existence. Most of the states have seized the opportunity to pass Local Government Laws or Electoral Laws⁷. These laws make provisions on election into local government councils and election tribunals to hear and determine petitions arising from the elections⁸. The electoral provisions are valid to the extent only that they deal with electoral matters not bordering on registration of voters and the procedure for conduction elections at the Local Government Councils.

This is the inescapable position that one arrives at by reading together the provisions of items 22 of Part 1 and item 11 Part II of the Second Schedule to the Constitution. Item 22 specifically excludes ‘election to a local government council or any office in such council’ from electoral matters that the National Assembly can legislate on to the exclusion of other legislative authorities⁹. Item 11 of part II empowers the National Assembly to make laws for the Federation with respect to the registration of voters and the procedure regulating elections to a local government council.

It follows by virtue of the doctrine of ‘covering the field’ in constitutional law that where the National Assembly has passed a law that covers the field on procedure regulating elections to a local Government Council, as has been done by the Electoral Act, 2002¹⁰ any provision of a laws made by a state House of Assembly on the same subject that is inconsistent with that of the National Assembly will be void to the extent of the inconsistency¹¹.

Designing a Strategy for Monitoring the Tribunals

Strategy has been defined as the process of planning something or carrying out a plan in a skilful way¹². The other key word in our heading for this segment, ‘monitor’, means to check something over a period of time¹³. Thus we are here concerned with discussing a practicable and efficient plan to enable us check or scrutinize the activities and impact of the election tribunals at the Local Government levels. As our definition of ‘monitor’ demonstrates the plan must over a reasonable period of time to imbue the monitoring process with credibility. If this paper can stimulate a discussion in which a checklist required for monitoring the tribunals is generated it would have achieved its objective. An efficient plan ought to have the following components:

Preparatory Research

The aim of preparatory research is for the monitor to equip himself or herself with basic pre-trial information that would be relevant to trial and post-trial evaluation.

Constitutionality of the Enabling Laws and the Rules of Procedure

At this stage the monitor should examine the enabling laws and the rules of procedure of the tribunal to see if they comply with the provisions of the Constitution and where necessary the Electoral Act, 2002. He or she should note every inconsistency with the Constitution as this may have grave implications on the final outcome of the proceedings before the tribunal. It goes without saying that a monitor should familiarize himself or herself with case law on election petitions. Specifically, the monitor should note the following

- duration of trial and appeal
- cost of filing processes
- whether or not there is right of appeal. Does the right of appeal include interlocutory appeals
- background check on those appointed as members of the tribunal to ascertain their real independence. The monitor may discover that some members belong to political parties or are otherwise partisan
- jurisdiction of the tribunal
- composition and qualification for membership of the tribunal

- mode of appointing members of the tribunal. Every feature that compromises the independence of the appointed members should be noted
- quorum of the tribunal
- whether or not the rules of court are unduly technical. The technical rules must be specified.

Evaluation of Trial

Public Access to the Proceedings

It is a fundamental requirement of the Constitution that the proceedings of a court or of any tribunal shall be held in public¹⁴. Access to the proceedings, it is submitted, should not be illusory but real. To ensure this, the monitor must watch out for the following:

- adequacy of security arrangement for the litigants, witnesses and members of the tribunal
- unreasonable and unfair exclusion of any person, particularly members of the press and accredited monitors from the proceedings
- admission of persons conducting themselves in an unruly or disorderly fashion or bearing dangerous or offensive weapons to the venue. Here the monitor must make his or her note concrete and specific.
- Whether any aspect of the proceedings including the delivery of judgment is done in camera.

Attitude of Members to Lawyers, Litigants and Witnesses

An experienced or trained monitor should be able to notice and note the following:

- undue hostility or favour shown by all or any of the members to litigants or witnesses
- whether or not the tribunal is even-handed in extending courtesy or issuing rebuke to counsel, witnesses and the litigants
- allotment of time for legal submission. The monitor should note any lopsidedness in this regard
- fair or unfair application of the rules of procedure.

Attitude of the Tribunal to the Proceedings

The following questions are pertinent:

- does the tribunal sit punctually?
- Does it delay in giving its ruling on written or oral applications?
- Does it form quorum regularly?

Logistics

Delays in proceedings are often caused by inadequate facilities or non-existence of certain vital facilities. The report of the monitor should therefore contain a comment on the adequacy or otherwise of basic facilities.

These are some of the facilities that the monitor should watch out for:

- stand-by generator
- fans and air-conditioners
- separate offices for members where they are more than one
- spacious conference room for the members
- spacious, well-ventilated and furnished court rooms
- stationeries
- recording equipment.

Role of Lawyers

Lawyers play a central role in the administration of justice system. They are officers of court and learned ladies and gentlemen who help the tribunals to arrive at just decisions in individual cases. The monitor must realize, however, that in representing their clients counsel more often than not resort to strict legalism and undue technicality. They also therefore need to be watched closely to determine whether or not they are true to the best tradition of the noble profession. The following questions will help the monitor;

- do counsel attend tribunal promptly?
- How frequently do they seek adjournments and how cogent are the reasons?
- What nature of interlocutory applications do they file before the tribunal?
- How frequently do they file interlocutory appeals?
- Do they show courtesy to members of tribunal and witnesses or intimidate them?
- Is there any evidence of undue closeness between counsel and members of the tribunal suggesting improper motives? How cogent are these, if any?

Role of Mass Media and the Monitors

The media play undeniably a significant role in any democracy. The power of the press can only be ignored at one's peril. Whatever transpired in the tribunal can only get to members of the public through the press. It is therefore of fundamental importance that the press itself be watched to prevent prejudices from being packaged as sacred facts. In the same vein an unchecked monitor may become partisan or erroneously begin to see himself or herself as an electoral supervisor. In other words, the monitor must be monitored. It is useful to work out a code of practice for the monitors, while the monitors must familiarize themselves with the code formulated for journalists in order to determine when they are going beyond their limits.

Post-Trial Evaluation

Interviews and questionnaires are some of the most suitable methods for carrying out post-trial evaluation. It is scientific. The data gathered can be easily analyzed using statistical tools. The monitor can through these methods deal with such issues as:

- acceptance or legitimacy of the process and verdict of the tribunal
- fairness of the rules of procedure
- whether or not the process has been tainted with corruption

Since the respondents do not need to indicate their names, a monitor adept in the use of the methods can gather important information and thus reach sound scientific conclusion that can hardly be challenged. This will make it difficult for political parties or other interest groups to sustain an accusation of bias against the monitor.

Miscellaneous

Law Reports

Non-Governmental Organisations that have chosen for themselves the mandate of monitoring elections or the electoral process should consider seriously the putting together of law reports that focus exclusively on election petitions. They are in a better position to report cases that come before the tribunals but do not get to the Court of Appeal. The regular reports at the moment concern themselves with cases that are taken on appeal. The law reports compiled by monitors on the field are likely to have a better grasp of the facts and enhance future monitoring. This recommendation should be seriously considered.

Networking

Election tribunal monitors are not omnipresent and so should make use of other information from other organisations and credible sources. The monitors must always be honest to indicate in their reports when they are relying on such other sources as a matter of intellectual honesty and also to maintain the integrity of their reports and organisation.

Publications and Campaigns

The organisation ought to publish in a reader friendly manner the outcome of the monitoring. The report must be précised and concise. It should be written in non-partisan language that avoids as much as possible pejorative terms. Nevertheless, it must not shrink from the conclusions that naturally follow the findings. The report must be widely disseminated using all possible media. Unless the monitored is aware of the monitoring, infraction of the rules is not really discouraged.

REFERENCES

1. See s.36 of the Constitution of the Federal Republic of Nigeria, 1999
2. See Ss.239 & 285,ibid.
3. See 238, ibid.
4. Para. 1 (2) of the sixth Schedule, ibid.
5. Sections 239(2) & 285(4) ibid
6. S.7.ibid
7. See for example the Electoral Law of Ogun State, 2001
8. Ss. 84-150.ibid
9. S.4(3) of the Constitution, op.cit.
- 10.Ss.111-113 of the Act
- 11.S.4(5) of the Constitution, op.cit.
- 12.Oxford Advanced Learner's Dictionary, 1998, p 1179.
- 13.Ibid.p.752
- 14.S.36 of the Constitution, op.cit.

CHAPTER 4

THE CONDUCT OF THE LOCAL GOVERNMENT ELECTION PETITION TRIBUNALS

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

APPENDIX

REPORT OF THE TRANSITION MONITORING GROUP WORKSHOPS TO DESIGN CHECKLIST FOR MONITORING OF LOCAL GOVERNMENT ELECTIONS PETITIONS TRIBUNAL WHICH HELD IN ENUGU ON THE 7TH OF MAY 2004 AND ABUJA ON THE 14TH MAY 2004

INTRODUCTION:

This report is a documentation of the proceedings of two, one-day workshops, which held in Enugu and Kano for TMG member organizations to design the checklist for monitoring of the local government elections petition tribunals in Nigeria with funding support from the German Embassy.

The workshop, which was part of a series of processes for monitoring the local government elections petitions tribunal, drew participants from all over the federation. Two persons drawn from TMG member organizations represented each state of the federation.

The workshop was aimed at designing a checklist that would be used by observers to monitor the proceedings of the local government elections petition tribunals in all the states of the federation. Participants were also to be trained on what to observe when monitoring the tribunals.

WORKSHOPS:

ENUGU WORKSHOP:

The first of the two workshops to train observers of the local government elections petitions tribunals and design a checklist for observing the proceedings and conduct of the tribunals was held in Enugu on the 7th of May 2004.

The workshop commenced at 9.30am with the national coordinator of the Transition Monitoring Group Angela Odah, giving the opening remark. She stated that the workshop and the idea of monitoring the local government elections petitions tribunals constituted part of the strategies of the Transition Monitoring Group to ensure that democracy is consolidated in

Nigeria. She added that the vitality of any democratic process is not only in how well elections were conducted but also how well petitions are handled to give justice to whom it is due. She further stated that the workshop was convened to harness ideas and harmonize them for the design of checklist for monitoring the local government election tribunal.

In his own remark, the chair of the Transition Monitoring Group, Mr Festus Okoye stated that for a nation to prosper and achieve sustainable growth, the democratic process has to be strengthened in order to build confidence in the minds of the citizens. He commended state coordinators for showing a great sense of commitment during the monitoring of the local government elections. He further stated that the need to monitor the local government elections tribunal is under scored by the fact that the judiciary has an indispensable link with the growth and survival of democracy in Nigeria therefore it needs to be encouraged to be courageous and impartial in the adjudication of petitions because it is the platform on which disputes that affect the electoral process can be redressed so that there will be compliance with due process.

He enjoined participants to see the workshop as a veritable tool for equipping them for the task of nurturing the Nigerian democratic process. He also said that with such trainings, TMG may in the very near future not require expertise from outside to train its members but can draw from its pool of trained members to offer training services in various aspects of election monitoring, civic and voter education.

PAPER PRESENTATIONS:

PAPER 1: THE ROLE OF ELECTION PETITIONS TRIBUNAL IN THE PROMOTION OF FREE AND FAIR ELECTIONS IN NIGERIA

The first paper was presented by the chair of the Transition Monitoring Group, Mr. Festus Okoye with the title: The Role Of Election Petitions Tribunal In The Promotion Of Free And Fair Elections In Nigeria. He started by asserting that democracy and democratic practices have inbuilt mechanisms for self-control and renewal. He further argued that in a democratic environment it is envisaged that problems, disputes and mistakes may occur from time to time, therefore processes and mechanisms to remedy some of the envisaged anomalies are usually provided.

To buttress this he referred to the Nigerian constitution of 1999, section 14(2)(a) which provides that sovereignty belongs to the people of Nigeria from whom government through the constitution derives its powers and authority. He further stated that part of the manifestation of sovereignty of the people is through their periodic participation in elections to freely select their leaders. It is for that reason that it is provided in the constitution that no person or group of persons shall have the right to take control of the government of Nigeria unless it is in accordance with the constitution of Nigeria.

Although the constitution provides the framework for the process of constituting and operating a democratic government it also envisaged that there could be disputes arising from breaches, or non-compliance with the tenet of the constitution.

Thus disputes arising from elections are very often treated specially because of their peculiarity. Election Petitions Tribunals serve, as a place of refuge and succor for aggrieved individuals who could ordinarily employ other unconstitutional means to seek redress. He was quick to argue however that beyond just meeting the constitutional requirements of having an election petitions tribunal, the tribunal must be constituted and operated in such a way that would create confidence in the minds of the complainants and respondents alike. The tribunal's ability to create confidence in the minds of the complainant and the respondent and the general public is what gives the tribunal the capacity to enhance the value of dispute resolution and democratic values.

In rationalizing the concept of free and fair elections, Mr. Okoye stated that while it is generally hoped that elections should be free and fair, there is an underlying agreement that every stakeholder may not on the whole share such perception. To that extent it is also envisaged that disputes would arise giving the impression from the stand point of the complainant that certain things which were not in agreement with the concept of free and fair elections did happen which in effect jeopardized his or her aspiration in the electoral process.

In realization of the fact that disputes could arise in the electoral process it was provided in the constitution in Section 285, that there shall be established for the federation one or more election tribunals to be known as

the National Assembly Election Tribunals, which shall have jurisdiction to hear and determine petitions as to whether;

- Any person has been validly elected as a member of the National Assembly
- The term of office of any person under the constitution has ceased.
- The seat of a member of the Senate or a member of the House of Representatives has become vacant; and
- A question or petition brought before the election tribunal has been properly or improperly brought.

The same constitution makes provision for the establishment in each state one or more election tribunals to be known as Governorship and Legislative House Election Tribunals, to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Governor or as a member of any legislative House.

States are also required to establish Election Petition Tribunals to hear and determine petitions as to whether any person has been validly elected to the office of Chairman of a Local Government Council or Councilor. He reiterated that although most of the states adapted the provisions of the constitution on the establishment of Election Petition Tribunal the provisions varied from state to state. He sighted the example of Katsina State where the Local Government Councils Election Law, makes the Chief Judge of the state the appointing authority and further provides that an election petition must be filed within ten days from the date of the declaration of election results. Thus any petition brought before the tribunal any day after the tenth day shall not be valid before the tribunal and shall to that extent be struck out. He also stated beyond the Local Government Councils Election, Law it is required that a Local Government Election Appeals Tribunal is established to hear and determine appeals arising from judgments of the tribunal.

He rounded up his presentation by asserting the although adjudicating election petitions is a cardinal part of the democratic process, not many Nigerians have faith in the process operated in Nigeria. This is as a result of complexities of the petitions process as well as the process of administration of justice. He sighted an example that the presumption in the election petitions process is that the result of any election declared by the electoral body is correct and authentic. It therefore rests with a petitioner to prove his

case against such presumption. If the complaint is one that boarders on criminal acts, the complainant would be required to prove his case beyond reasonable doubt, but if the complaint is simply on the grounds that the petitioner scored a majority votes than the declared winner, the judgment shall be on the based on the balance of probability. There is also the problem of the collation of evidence and materials necessary for prosecution of the petition, which is time consuming given that most of the tribunals have a given time frame within which to dispense petitions.

He concluded by saying that an assertion that an election has been free and fair demands a comprehensive and fair dispute resolution mechanism.

QUESTIONS/ COMMENTS:

After the presentation by Mr Festus Okoye, the floor was opened for participants to discuss the paper and ask questions were necessary. The first comment came from Mr. Okoi Ofem a participant from Cross River state. He said the assertion that the elections petition tribunals can promote free and fair elections in Nigeria might not suffice for now because of a lot of pit falls associated with the way the tribunals are constituted and administered. This he said has created serious doubts in the minds of people such that the do not have confidence in the tribunals. He sighted the example of Cross River state where the election petitions tribunals have been constituted but nobody was eager to file any petition because they did not believe there was an election in the state in the first place. Therefore, for the same authority that manipulated the electoral process to be vested with the responsibility of constituting the tribunal that would adjudicate electoral disputes was an infraction on the principle of fairness and equity.

Mr. Innih Archibong from Akwa Ibom state opined that it is necessary to begin to challenge the issue of results being declared in places where elections did not hold at all. He said this is necessary because part of the problem people have with the election petition tribunals is the fact that once results are presented by the electoral body it is assumed that elections took place where the result came from and to that extent represents the true result of the election unless proven otherwise by the petitioner.

In his contribution, Mr. Mashood Erubami, counseled that given the doubts and seeming contempt with which the tribunals are held it is necessary to

have an institution that would play an oversight function over the tribunals to ensure that justice is given to whom it is due.

Ms. Rita Chinelo in her remark opined that the assertion that election petition tribunals do not play a role in making elections free and fair is not correct because the tribunals are part of the process that ensure that the will of the people is central in the electoral process. It provides the platform for correcting the wrongs associated with the conduct of elections and other associated problems, which are inimical to the conduct of free and fair elections. She said the overall benefit is the beyond restoring justice to whom it is due, the tribunals would have not only set a precedent but would have left a message in the minds of perpetrators of electoral fraud that what ever they do, it can be quashed at the end of the day by an election petition tribunal.

In her contribution Ms. Bisi Olagbegi Olateru stated that the place of election petitions tribunal is indispensable in any democratic environment, because according to her the paper had already made it clear that it is globally recognized that under any democratic setting, dispute within the process are envisaged, therefore the only way to resolve such disputes would be through an institution which can give justice fairly, which she believes the tribunals represent. She was quick to caution the people should not misrepresent the problems associated with the process of constitution of the tribunals and the way they operate in Nigeria as the benchmark all over the world. She said although the Nigerian situation can be faulted in so many ways, but the idea of election dispute resolution through a judicial process was a necessary ingredient for nurturing democracy in any society. She also posited that it was necessary for the tribunals to have a time limit within which election petitions can be heard and dispensed.

Having listened to the participants, the paper presenter, Mr. Festus Okoye expressed his delight over the contributions made by the participants, which he said were truly a sign of the concerns they had about the Nigerian democratic process and the zeal to make it better. He however reminded participants that on the issue of time limit for election tribunals, the Supreme Court of Nigeria had ruled in a judgment it gave, that no court should fix a time limit on electoral matters. He said election petitions would normally take a long process but it has to be treated expeditiously.

PAPER 2: TOWARDS EVOLVING A STRATEGY FOR MONITORING ELECTION TRIBUNALS

The second paper of the day was by Mr. Bamidele Aturu, with the title; Towards Evolving A Strategy For Monitoring Election Tribunals. He started his presentation with a definition of election tribunals, which he said are judicial bodies set up by law to adjudicate over disputes arising from elections. The tribunals are required to act fairly and within the ambit of natural justice in the adjudication of election disputes. The tribunals' sphere of jurisdiction is also determined by enabling laws of Nigeria.

It is provided in the Nigerian Constitution that there shall be a local government system operated by democratically elected officials. The constitution also empowers states to make laws on elections into local government councils and tribunals to adjudicate over disputes arising from local government elections.

According to Mr Aturu, based on the doctrine of "covering the field" in constitutional law, any law made by the states in respect of the procedure regulating local government election that is inconsistent with that of the National Assembly, the laws of the state shall be void to the extent of the inconsistency with that of the National Assembly.

In discussing the process of designing a strategy for monitoring the tribunals, he defined strategy as the process of planning something or carrying out a plan in a skillful way. The desire therefore to design a strategy for monitoring Local government election petition tribunal is a practicable and efficient plan to check or scrutinize the activities and impact of the election tribunals. However, for a plan to be efficient it should have the following components:

- Preparatory research: This is aimed at equipping the monitor with basic pre-trial information that would be relevant to trial and post-trial evaluation. This shall entail an examination of the following:
 1. Constitutionality of the enabling laws and the rules of procedure
 2. Public access to the proceedings
 3. Attitude of Members of the tribunal to Lawyers, Litigants and Witnesses
 4. Attitude of the Tribunal to the proceedings

5. Logistical arrangement
6. Role of Lawyers
7. Role of the Mass Media and the Monitors

At the post trail stage Mr. Aturu suggested that interviews and questionnaires are the most suitable tools for carrying out post trail evaluation. This can enable the monitor determine the level of acceptance or legitimacy of the process and verdict of the tribunal, fairness of the rules of procedure and whether or not the process has been tainted with corruption.

He concluded his presentation with a challenge to NGOs involved in the monitoring of elections to consider the idea of putting together Law reports the dwell on election petitions.

QUESTIONS/ COMMENTS:

During the question and answer session, the first question came from Mr Gabriel Adi, a participant from Kwara state. He asked why alternative dispute resolution mechanisms are not used in settling election disputes other than through litigation. Mr. Mashood Erubami, a participant from Oyo state who felt that resolving election disputes through the tribunal system should not be the only mechanism for election dispute resolution rather other methods that would reduce if not remove the reliance on legal technicalities are introduced, corroborated this position.

Ms Olateru Olagbegi reiterated her earlier call for the tribunals to be given a time limit within which to conclude cases. Mr Ohabunwa a participant from Edo state supported this. He stated that if a time frame is not fixed for hearing of petitions, it could lead to delay and that can make the petitioners and the electorates loose confidence in the dispute resolution process.

Mr Festus Okoye drew the attention of participants to the fact some cases may be struck out on frivolous technicalities. He therefore enjoined observers to look out for such cases. He also highlighted that the law as presently constituted does not recognize unopposed candidates in Local government election. Where only one candidate is presented for an election, the election still has to go on. However, the balloting shall be for a “Yes” or

“ No” vote to determine whether the lone candidate is acceptable to the electorates.

On a final note the presenter Mr Aturu thanked participants for their contributions and enjoined TMG to always propose areas of reforms in the electoral process and not dwell too much on pointing out the problems bedeviling the electoral process. He said with the expertise TMG has garnered over the years it should use the results of its observations to push for reforms that would make the electoral process better and enduring.

GROUP SESSION:

After the paper presentations groups were formed to review the papers presented and design indicators under specific headings for monitoring the local government election tribunals. The groups were formed on the basis of the indicators proposed by Mr Aturu in his paper which were as follows:

- Constitutionality of the enabling laws and the rules of procedure
- Public access to the proceedings of the tribunal
- Attitude of the tribunal to lawyers, litigants and witnesses
- Attitude of the tribunal to the proceedings
- Role of lawyers

After forty-five minutes of deliberation, the groups came up with a checklist of observers are to look out for when monitoring the proceedings of the tribunals.

Group 1, developed a checklist on constitutionality of the enabling laws and the rules of procedure as follows:

- Was the duration of trial in conformity with the constitution?
- Was the filing fee affordable?
- Is there a right of appeal provided in the electoral law?

- Are the members of the tribunal independent and non-partisan?
- Does the jurisdiction of the tribunal conform to the enabling law?
- Does the composition and qualification of members of the tribunal conform to the electoral law?
- Did you verify whether the members of the tribunal were duly appointed?
- Was there provision for quorum?

Group 2, developed a checklist on Public access to the proceedings of the tribunal as follows:

- *Were members of the public prevented by security officers from access to the venue?*
- *Is the venue open and accessible to members of the public?*
- *Were there adequate security arrangements within and around the venue of the tribunal?*
- *Does the presence of the security constitute intimidation?*
- *Were there adequate security arrangements for tribunal members?*
- *Were there allegations of threats to litigants or witnesses?*
- *Were monitors allowed to monitor the entire proceedings?*
- *Were journalists allowed to monitor the entire proceedings?*
- *Were monitors allowed to monitor the entire proceedings?*

- *Were the proceedings conducted in public?*
- *Was the judgment read in public?*

Group 3, developed a checklist on Attitude of the tribunal to lawyers, litigants and witnesses as follows:

- *Was there any show of undue familiarity?*
- *Was there any undue show of hostility?*
- Was there any undue favour shown to a particular lawyer?
- *Was there even allotment of time to lawyers for submission?*
- *Was the tribunal fair in the application of the rules of procedure?*
- Was there any show of familiarity with litigants?
- Was there any show of hostility towards the litigant?
- *Was there any favour shown to a particular litigant?*

- Was there security in the court and its surroundings?
- Was there any form of intimidation of litigants in the court or its surroundings?
- Was there any show of familiarity with witnesses?
- Was there any show of hostility towards witnesses?
- *Was there any favour shown to a particular witnesses or witnesses?*

- Was there security in the court and its surroundings?
- Was there any form of intimidation of witnesses in the court or its surroundings?

Group 4, developed a checklist on Attitude of the tribunal to the proceedings as follows:

- *At what time does the tribunal sit?*
- At what time does the tribunal rise?
- *How often does the tribunal sit within a week?*
- Does the tribunal delay in giving its ruling on written or oral applications?
- *Does the tribunal form quorum?*
- Are there separate offices for members?
- *Are there spacious conference rooms for the members?*
- Are the courtrooms spacious, well ventilated and furnished?
- Is there recording equipment

Group 5, developed a checklist on Role of lawyers as follows:

- What was the nature of sitting of the tribunal?
- Were monitors allowed in?
- *How many monitors were allowed in?*
- *What time did the tribunal commence?*
- *What time did the lawyers assume?*
- *What time did the parties arrive?*
- Where litigants defended by their lawyers?

- *Did lawyers follow procedures?*
- What was the attitude of lawyers to members of the tribunal?
- What was the attitude of lawyers to the witnesses?
- How frequently do lawyers seek for adjournment per sitting?
- What reasons were most frequently proffered for the adjournment sought?
- What was the nature of interlocutory applications?
- Were journalists permitted to cover proceedings?
- How many journalists covered the tribunal?
- Did you notice any harassment or intimidation of pressmen / monitors?
- How would you assess the conduct of the journalist in the tribunal?

At the end of the group presentations, the national coordinator reminded participants that the secretariat would collate what has been developed at the Enugu workshop along with the one to be developed at the Abuja workshop and then a standard checklist to be used all over the federation would be developed for observing the proceedings of the tribunals. She concluded with a vote of thanks and declared the workshop closed.

ABUJA WORKSHOP:

The Abuja workshop was the second workshop slated to develop the best strategies for monitoring the Local Government Election Petitions Tribunals. The workshop, which was for participants from the northern states of Nigeria, had initially been slated to hold in Kano. This had to be cancelled at

the last minute owing to the outbreak of riot in Kano two days to the date fixed for the workshop. Following this development, the secretariat had to make frantic efforts to find a new venue for the workshop. After a series of contacts, Abuja was eventually selected as the new venue for the workshop. Having chosen a new venue the secretariat had to contact all the invitees to request them to come over to Abuja for the workshop. This paid off because every invitee turned up at the end of the day for the workshop.

At the commencement of the workshop, the national coordinator welcomed participants and apologized to them for the last minute change of venue and thanked them for their attendance. This she said was a sign of their commitment towards the success of the monitoring exercise. After her opening remark, the chair of the Transition Monitoring Group, Mr Festus Okoye also made a remark in which he welcomed participants and thanked them for their commitment towards the survival of democracy in Nigeria. He challenged them to spread the word on the need to pursue the path of peace and dialogue in our quest for national unity to avoid the kind of problem that emanated in Kano, Plateau State and other parts of the country. He also enjoined them to see the monitoring of the election petitions tribunals as another bold step towards strengthening our democratic machinery so that they can all function well and desirably.

PAPER PRESENTATIONS:

PAPER 1: THE ROLE OF ELECTION PETITIONS TRIBUNAL IN THE PROMOTION OF FREE AND FAIR ELECTIONS IN NIGERIA

Just like the Enugu workshop, the first paper was presented by the chair of the Transition Monitoring Group, Mr. Festus Okoye with the title: The Role Of Election Petitions Tribunal In The Promotion Of Free And Fair Elections In Nigeria. Recalling his presentation at Enugu he started by intimating participants with the fact that democracy and democratic practices have inbuilt mechanisms for self-control and renewal. He also stated that in a democratic environment it is envisaged that problems, disputes and mistakes may arise from time to time, as such, processes and mechanisms to remedy some of the anomalies are instituted.

Referring to the 1999 Constitution he said sovereignty lies with the people. To buttress this point, he sighted Section 14(2)(a) of the 1999 Constitution which provides that sovereignty belongs to the people of Nigeria from whom government through the constitution derives its powers and authority. He further stated that part of the manifestation of sovereignty of the people is through their periodic participation in elections to freely select their leaders. It is for that reason that it is provided in the constitution that no person or group of persons shall have the right to take control of the government of Nigeria unless it is in accordance with the constitution of Nigeria.

Although the constitution provides the framework for the process of constituting and operating a democratic government it also envisaged that there could be disputes arising from breaches, or non-compliance with the tenet of the constitution.

Thus disputes arising from elections are very often treated specially because of their peculiarity. Election Petitions Tribunals serve, as a place of refuge and succor for aggrieved individuals who could ordinarily employ other unconstitutional means to seek redress. He was quick to argue however that beyond just meeting the constitutional requirements of having an election petitions tribunal, the tribunal must be constituted and operated in such a way that would create confidence in the minds of the complainants and respondents alike. The tribunal's ability to create confidence in the minds of the complainant and the respondent and the general public is what gives the tribunal the capacity to enhance the value of dispute resolution and democratic values.

Mr. Okoye also stated that even though the general expectation is that elections should be free and fair, there is an underlying agreement that every stakeholder may not on the whole share such perception. To that extent it is also envisaged that disputes may arise giving the impression from the stand point of the complainant that certain things which were not in agreement with the concept of free and fair elections did happen which in effect jeopardized his or her aspiration in the electoral process.

In realization of the fact that disputes could arise in the electoral process it was provided in the constitution in Section 285, that there shall be established for the federation one or more election tribunals to be known as the National Assembly Election Tribunals, which shall have jurisdiction to hear and determine petitions as to whether;

- Any person has been validly elected as a member of the National Assembly
- The term of office of any person under the constitution has ceased.
- The seat of a member of the Senate or a member of the House of Representatives has become vacant; and
- A question or petition brought before the election tribunal has been properly or improperly brought.

The same constitution makes provision for the establishment in each state one or more election tribunals to be known as Governorship and Legislative House Election Tribunals, to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Governor or as a member of any legislative House.

States are also required to establish Election Petition Tribunals to hear and determine petitions as to whether any person has been validly elected to the office of Chairman of a Local Government Council or Councilor. He reiterated that although most of the states adapted the provisions of the constitution on the establishment of Election Petition Tribunal the provisions varied from state to state. He sighted the example of Katsina State where the Local Government Councils Election Law, makes the Chief Judge of the state the appointing authority and further provides that an election petition must be filed within ten days from the date of the declaration of election results. Thus any petition brought before the tribunal any day after the tenth day shall not be valid before the tribunal and shall to that extent be struck out. He also stated beyond the Local Government Councils Election, Law it is required that a Local Government Election Appeals Tribunal is established to hear and determine appeals arising from judgments of the tribunal.

He rounded up his presentation by asserting the although adjudicating election petitions is a cardinal part of the democratic process, not many Nigerians have faith in the process operated in Nigeria. This is as a result of complexities of the petitions process as well as the process of administration of justice. He sighted an example that the presumption in the election petitions process is that the result of any election declared by the electoral body is correct and authentic. It therefore rests with a petitioner to prove his case against such presumption. If the complaint is one that borders on criminal acts, the complainant would be required to prove his case beyond

reasonable doubt, but if the complaint is simply on the grounds that the petitioner scored a majority votes than the declared winner, the judgment shall be on the based on the balance of probability. There is also the problem of the collation of evidence and materials necessary for prosecution of the petition, which is time consuming given that most of the tribunals have a given time frame within which to dispense petitions.

He concluded by saying that an assertion that an election has been free and fair demands a comprehensive and fair dispute resolution mechanism.

QUESTIONS/ COMMENTS:

After the presentation by Mr Festus Okoye, the floor was opened for participants to discuss the paper and ask questions were necessary. The first comment came from Professor Yaqub a participant from Kano State. He sought to know whether given the Nigerian situation and the requirements for prosecuting the petitions at the tribunals, petitioners could truly get justice.

Mr. Ishaya Ladawus from Adamawa State opined that given the influence of the incumbent governors there is a palpable fear that the tribunal process may be skewed to favour them. He therefore urged participants to be weary of the antics of politicians who may want to exert undue influence on the tribunal.

Mr Hussaini Abdu from Kaduna State also questioned the rational for allowing people whose positions were in contest to be sworn in before the petition against them is dispensed off. He was also weary of the issue of time limit stating that in as much as it is necessary to ensure that justice is done in good time it is also necessary for the process to be thorough and fair.

On a final note, Mr. Festus Okoye expressed his delight over the contributions made by the participants, which he said were truly a sign of the concerns they had about the Nigerian democratic process and the zeal to make it better. He however reminded participants that on the issue of time limit for election tribunals, the Supreme Court of Nigeria had ruled in a judgment it gave, that no court should fix a time limit on electoral matters. He said election petitions would normally take a long process but it has to be treated expeditiously.

He also stated that as vanguards for the survival of democracy in Nigeria every one must raise up and be vigilant in checking what goes on in the process of adjudicating petitions so that no one is given or shown undue favour at the expense of the other.

PAPER 2: TOWARDS EVOLVING A STRATEGY FOR MONITORING ELECTION TRIBUNALS

The second paper of the day was by Mr. Bamidele Aturu, with the title; Towards Evolving A Strategy For Monitoring Election Tribunals. Although he could not be present at the workshop he sent a representative who did the presentation on his behalf.

Also dwelling on his Enugu presentation, his paper started with a definition of election tribunals. He said the tribunals are required to act fairly and within the ambit of natural justice in the adjudication of election disputes. He said that the tribunals' sphere of jurisdiction is also determined by enabling laws of Nigeria.

It is provided in the Nigerian Constitution that there shall be a local government system operated by democratically elected officials. The constitution also empowers states to make laws on elections into local government councils and tribunals to adjudicate over disputes arising from local government elections.

According to Mr Aturu, based on the doctrine of "covering the field" in constitutional law, any law made by the states in respect of the procedure regulating local government election that is inconsistent with that of the National Assembly, the laws of the state shall be void to the extent of the inconsistency with that of the National Assembly.

He said for one to commence the process of designing a strategy for any process in life he or she has to be well aware of what strategy actually means. To provide participants a clearer understanding of the concept of strategizing, he defined strategy as the process of planning something or carrying out a plan in a skillful way. The desire therefore to design a strategy for monitoring Local government election petition tribunal is a practicable and efficient plan to check or scrutinize the activities and impact of the

election tribunals. However, for a plan to be efficient it should have the following components:

- Preparatory research: This is aimed at equipping the monitor with basic pre-trial information that would be relevant to trial and post-trial evaluation. This shall entail an examination of the following:
 1. Constitutionality of the enabling laws and the rules of procedure
 2. Public access to the proceedings
 3. Attitude of Members of the tribunal to Lawyers, Litigants and Witnesses
 4. Attitude of the Tribunal to the proceedings
 5. Logistical arrangement
 6. Role of Lawyers
 7. Role of the Mass Media and the Monitors

At the post trial stage Mr. Aturu suggested that interviews and questionnaires are the most suitable tools for carrying out post trial evaluation. This can enable the monitor determine the level of acceptance or legitimacy of the process and verdict of the tribunal, fairness of the rules of procedure and whether or not the process has been tainted with corruption.

He concluded his presentation with a challenge to NGOs involved in the monitoring of elections to consider the idea of putting together Law reports the dwell on election petitions.

QUESTIONS/ COMMENTS:

After the presentation of Mr Aturu's paper by his representative participants were called upon to make their contributions.

Mr Ishaya Ladawus from Adamawa State stated that he was highly enriched by the paper on the grounds that it has established for him the areas to focus his attention when monitoring the conduct of the election petition tribunals.

GROUP SESSION:

After the paper presentations groups were formed to review the papers presented and design indicators under specific headings for monitoring the

local government election tribunals. The groups were formed on the basis of the indicators proposed by Mr Aturu in his paper which were as follows:

- Constitutionality of the enabling laws and the rules of procedure
- Public access to the proceedings of the tribunal
- Attitude of the tribunal to lawyers, litigants and witnesses
- Attitude of the tribunal to the proceedings
- Role of lawyers

After forty-five minutes of deliberation, the groups came up with a checklist of observers are to look out for when monitoring the proceedings of the tribunals.

Group 1, developed a checklist on constitutionality of the enabling laws and the rules of procedure as follows:

- Duration of trial and appeal is it adequate?
- How costly is the filing processes of the tribunal
- Is there right of appeal?
- How long does it take to make an appeal after ruling?
- Are those appointed members of the tribunal partisan?
- *Are petitions made within the jurisdiction of the tribunal set-up?*
- Did appointment of tribunal members follow due process?
- What is the composition of the quorum?
- Are the rules of the tribunal unduly technical?

Group 2, developed a checklist on Public access to the proceedings of the tribunal as follows:

- *Is the proceeding of the tribunal held in public?*
- Is there unhindered access to litigants, their counsel and witness?
- *Is there unhindered access to members of the public?*
- *Is there unhindered access to observers?*
- *Is there unhindered access to members of the media?*
- Are there adequate security/ law enforcement agents?
- *Is there any form of check to ensure that the venue is secured?*
- *Was any person caught with dangerous weapon(s) at the tribunal?*
- *Is the conduct of the members of the public orderly?*
- *Was it necessary at any stage of the proceedings for the tribunal to exclude the public or any part of it?*

Group 3, developed a checklist on Attitude of the tribunal to lawyers, litigants and witnesses as follows:

- *What is the attitude of members of the tribunal to very experienced lawyers?*
- What is the attitude of members to inexperienced lawyers?
- *Was member's attitude unduly favourable to lawyers?*
- Did some lawyers receive undue advantage in terms of courtesy from members of tribunal?

- *What was the attitude of members of the tribunal to lawyer's appearing for the party in power in the state?*
- What was the attitude of members of the tribunal to lawyers appearing for the party not in power in the state?
- *Was the attitude of lawyers responsible for the favour or rebuke?*
- What was the duration of the counsel's submission?
- Was time allotted to counsel to make submission?
- Were undue technicalities used to strike out litigant's cases?
- Were litigants made to feel at ease by members of the tribunal?
- Were witnesses made to feel at ease?
- Were witnesses intimidated by shouting them down by members of the tribunal?
- Generally in your opinion did the attitude of members of the tribunal give the impression that they were partial?

Group 4, developed a checklist on Attitude of the tribunal to the proceedings as follows:

- *What time does the tribunal start sitting?*
- What is the exact number of members of the tribunal?
- *Does it delay in giving it's ruling on written or oral application?*
- How often does the tribunal meet?
- *Does the tribunal form quorum regularly?*

- Does the tribunal comply with section 139 of the first schedule of the electoral act 2002 procedures for election petitions?
- *Where does the tribunal sit?*
- Is the location convenient and independent?
- Does the venue have the following facilities?
- Did you observe police presence during the tribunals sitting?
- What time does the tribunal stop sitting?
- Does the tribunal go on recess?

Group 5, developed a checklist on Role of lawyers as follows:

- *Do counsel attend tribunal promptly?*
- *Do proceedings start promptly?*
- How frequently do they seek adjournments and how cogent are the reasons?
- How many of such adjournments are caused by lawyers?
- *How do cases proceed?*
- *What are the reasons for such adjournments?*
- Are interlocutory adjournments filed?
- How long are the interlocutory applications determined?
- How often are interlocutory decisions appealed?
- Are proceedings suspended pending the determination of interlocutory appeals?

- Do they show courtesy to members of the tribunal and witnesses or intimidate them?
- Is the age of the counsel at the bar more than the age of the members of the tribunal at the bar?
- Is the language of the lawyers to the members of the tribunal courteous?
- Do lawyers shout at witnesses?
- Are lawyers courteous to their opposing colleagues?
- Is there any evidence of undue closeness between counsel and members of the tribunal suggesting improper motives?

At the end of the group presentations, the national coordinator reminded participants that the secretariat would collate what has been developed at the Abuja workshop along with the one to be developed at the Enugu workshop and then a standard checklist to be used all over the federation would be developed for observing the proceedings of the tribunals. She concluded with a vote of thanks and declared the workshop closed.