

**POLITICAL SUCCESSION
IN NIGERIA**

Edited by
Otive Igbuzor

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**POLITICAL SUCCESSION
IN NIGERIA**

Otive Igbuzor, PhD

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Dedication

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This book is dedicated to the poor and
excluded in Nigeria who suffer from
problems associated with inappropriate
succession.

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Finally, I will like to appreciate the printers for their editorial advice and professionalism.

Otive Igbuzor, PhD
February, 2010

Preface

The challenge of succession is a universal one affecting all sectors of society: Private sector, religious sector, civil society sector and in the political society. A survey conducted by Newsweek in 2004 indicated that only 5 percent of family businesses survive until the third generation.¹ Many religious and civil society organizations have diminished or closed shop on the demise of their founders. Banks in Nigeria have no clear succession planning making the Central Bank of Nigeria to issue a new guideline stipulating that CEOs of banks will serve a maximum of ten years. Of all kinds of succession, political succession is probably the most important because it affects the stability, survival and development of nations.

Political succession has been defined as the transfer of political power from one person or group (e.g. political party, ethnic, religious, linguistic, sex), government or regime to the other.² Under normal circumstances, there are conditions and rules that guide political succession in every country. When the conditions are met and the rules are followed, it allows for change (in accordance with the aspirations of the people), political stability and legitimacy. Democratic organizations and institutions such as political parties, civil society, labour, the legislature and judiciary operate to ensure that the conditions and rules are followed to ensure smooth and seamless political succession. Unfortunately, the context in many countries especially in Africa characterized by colonial legacy, the character and nature of the postcolonial state and utilization of political power as a primitive means of accumulation of wealth makes political succession problematic. The result is gradual erosion of the constitutive and regulative rules, institutional processes and mechanism for political succession.³ The end result of all of this is political instability, illegitimate government and conflict.

This book is a collection of papers at a policy dialogue organized during the period of constitutional and succession crisis in Nigeria

occasioned by the absence of the President, Alhaji Umar Musa Yar' Adua who left the country for 65 (at the time of the dialogue) for medical treatment abroad without proper handover to the Vice President Dr. Goodluck Jonathan as provided for in the 1999 constitution of the Federal Republic of Nigeria. From constitutional point of view, there are three ways out of the logjam:

1. The President transmits a letter to the National Assembly for the Vice President to become Acting President pending his return in line with section 145 of the constitution.
2. The Executive Council of the Federation made up of the Ministers of the Government of the Federation pass a declaration that the President is incapable of discharging the functions of his office based on a medical panel set up in accordance with section 144 of the Constitution.
3. The President is removed from office based on section 143 of the constitution.

The democratic organizations and institutions have engaged the issue. The ruling Peoples' Democratic Party argued that the President can rule from anywhere. The opposition parties demanded that the Vice President should be made the acting president in line with section 145 or impeached in line with section 143 of the Nigerian 1999 constitution or declared incapable in accordance with section 144. Civil Society organizations under the platform of Save Nigeria group have organized rallies in Abuja and Lagos tagged "Enough is Enough" demanding immediate handover to the Vice President and elimination of the poverties of ideas; performance; resource (water, light, road); hope; honour; mind; regard; spirit; commerce and environment.

Several persons have gone to court and there have been at least two judgments, one affirming that the Vice President can perform the functions of the President in his absence and the other giving the Executive Council of the Federation fourteen days to determine whether the President is capable of performing the functions of his office. It was quite obvious that the easiest way out of the logjam would have been for the President to transmit a letter to the National Assembly in accordance with section 145 of the constitution. But it

was very clear that the President is either incapable or unwilling to transmit the letter. The critical questions considered at the policy dialogue were:

- ? What are the challenges of political succession in Nigeria?
- ? How is the struggle for power and access to resources affecting the present logjam?
- ? Why is the President incapable or unwilling to transfer power to the Vice President?
- ? How can the rule of law and functioning of democratic institutions help in smooth political succession?
- ? What is the place of women in the struggle for political succession in Nigeria?
- ? How can we organize to ensure smooth political succession in 2011 and beyond?
- ? How can we strategically address the issue of political succession in Nigeria?
- ? What is the way forward?

It is hoped that the papers compiled in this book will be useful to scholars, politicians and commentators.

Dr. Otiye Igbuzor

*Executive Director, Centre LSD
February, 2010*

ENDNOTES

¹LEAP Africa (2007), *Effective Leadership in Business: A Tool kit*.

²Jinadu, L. A. (2008), *Political Succession in Africa*. Annual Billy J. Dudley Memorial Lecture, 2006. The Nigerian Political Science Association.

³Ibid

About The Contributors

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Chapter One

STRATEGY AND POLITICAL SUCCESSION

Otive Igbuzor

INTRODUCTION

The issue of human resources and indeed leadership in the success or failure of organizations and nations cannot be overemphasized. Some scholars have pointed out that everything rises and falls on leadership.¹ Political leadership is crucial for the effective functioning and development of nations. The issue of political succession is therefore of strategic importance. Meanwhile, it is very clear that the challenge of succession is a universal one affecting all sectors of society: Private sector, religious sector, civil society sector and in the political society. A survey conducted by Newsweek in 2004 indicated that only 5 percent of family businesses survive until the third generation.² Many religious and civil society organizations have diminished or closed shop on the demise of their founders. Banks in Nigeria have no clear succession planning making the Central Bank of Nigeria to issue a new guideline stipulating that CEOs of banks will serve a maximum of ten years. Of all kinds of succession, political succession is probably the most important because it affects the stability, survival and development of nations.

In this chapter, we examine the issue of political succession and the need for a strategy for political succession. It is important to note that in every organization or nation, change is inevitable. There are a lot of things that can bring about change in political leadership including rules (term limits), ageing, sickness, death or changing preference by citizens.

POLITICAL SUCCESSION

Political succession has been defined as the transfer of political power from one person or group (e.g. political party, ethnic, religious, linguistic, sex), government or regime to the other.³ Scholars have pointed out that the orderly transfer of political power from one substantive ruler to another is generally regarded as a major test of the stability and legitimacy of a political system and its successful handling is viewed as evidence of maturity on the part of the political community.⁴

Under normal circumstances, there are conditions and rules that guide political succession in every country. When the conditions are met and the rules are followed, it allows for change (in accordance with the aspirations of the people), political stability and legitimacy. Even in the closed Saudi political system, political succession is guided by the 1992 Basic Law which stipulates that each king could name his heir apparent.⁵ Democratic organizations and institutions such as political parties, civil society, labour, the legislature and judiciary operate to ensure that the conditions and rules are followed to ensure smooth and seamless political succession. Unfortunately, the context in many countries especially in Africa characterised by colonial legacy, the character and nature of the postcolonial state and utilization of political power as a primitive means of accumulation of wealth makes political succession problematic. The result is gradual erosion of the constitutive and regulative rules, institutional processes and mechanism for political succession leading to political instability, illegitimate governments and conflict.⁶

STRATEGY

Strategy occupies a central position in the focus and proper functioning of any organization or nation. This is because it is a plan that integrates an organization's or nation's major goals, policies and action into a cohesive whole. A well formulated strategy should therefore help to marshal and allocate a nation's resources into a unique and viable posture based on its relative internal competencies and shortcomings, anticipated changes in the environment, and contingent moves by others. Strategies help to create a sense of politics, purpose and priorities. There is the need for a strategy to deal

with any issue of strategic importance in the sense that it has a lot of impact on other issues and development.

STRATEGY AND POLITICAL SUCCESSION

The issue of political succession is of strategic importance because it affects a lot of other processes. It has been pointed out that who succeeds to positions of ultimate authority (be it nation states, municipalities or large scale organizations) may affect three basic processes.⁷ First, it affects the allocation of organizational resources and rewards including the internal distribution of power. Secondly, it affects the definition of organizational goals and what will be given priority and finally, it affects the relationship between the organization and the environment. This underscores the need for a strategy which should look at how to manage the succession process in such a way that it will yield optimum outcome not only for the individuals, organizations and nations but also in such a way as to enhance political stability and legitimacy.⁸ This is particularly important as it has been shown that a change in leadership determines a predictable change in organizational performance.⁹

Despite the recognition of the importance of orderly transfer of power from one person to another, the reality in many countries is that many political successions do not follow the rules and procedures of succession leading to political instability and legitimacy issues. Meanwhile, it has been documented that for smooth and seamless political succession to take place requires adherence to rules and regulations.¹⁰ When these rules and regulations are followed over a long period of time, it becomes ingrained into the political culture of the organizations and nations. A good example is the succession process in rotary club where the successor is known over one year in advance. But an interplay of several factors including values, structure of politics, contradictions in the political system, power struggle, authoritarian political culture and weak institutions make smooth succession difficult. A review of the literature and some illustrative African case studies such as Benin Republic, Gabon, Malawi, Mozambique, Namibia, South Africa, Togo and Nigeria shows that there are challenges of lack of adherence to rules, inordinate ambition to cling to power for life, weak and compromised

opposition and weak and ineffective mass and democratic organizations and institutions.¹¹

The strategy of succession should therefore focus on the process i.e. how the critical decisions are made, who makes the decision, how information is gathered and how much time is spent making the decision. It is important to note that the nature of the process will affect morale and perceptions of the legitimacy of the emerging leaders.¹² Friedman argues that the succession process can be divided into four stages:¹³

- a. Establishing the need for a succession event
- b. Determining selection criteria
- c. Selecting candidates
- d. Choosing among the candidates.

In each of the stages, it is necessary to carry out analysis looking at who is involved; reasons for the decision; procedure for coming to decision; reasons for the decision; the time span over which it was made; the sources of information tapped and the amount of time, effort and energy expended in the decision process.

This policy dialogue is taking place in the context of constitutional and succession crisis in Nigeria occasioned by the absence of the President, Alhaji Umar Musa Yar' adua who left the country for 65 days at the time of the dialogue for medical treatment abroad without proper handover to the Vice President Dr. Goodluck Jonathan as provided for in the 1999 constitution of the Federal Republic of Nigeria. From constitutional point of view, there are three ways out of the logjam:

1. The President transmits a letter to the National Assembly for the Vice President to become Acting President pending his return in line with section 145 of the constitution.
2. The Executive Council of the Federation made up of the Ministers of the Government of the Federation pass a declaration that the President is incapable of discharging the functions of his office based on a medical panel set up in accordance with section 144 of the Constitution.

3. The President is removed from office based on section 143 of the constitution.

The democratic organizations and institutions have engaged the issue. The ruling Peoples' Democratic Party argues that the President can rule from anywhere. The opposition parties have demanded that the Vice President should be made the acting president in line with section 145 or impeached in line with section 143 of the Nigerian 1999 constitution or declared incapable in accordance with section 144. Civil Society organizations under the platform of Save Nigeria group have organized rallies in Abuja and Lagos tagged "Enough is Enough" demanding immediate handover to the Vice President and elimination of the poverties of ideas; performance; resource (water, light, road); hope; honour; mind; regard; spirit; commerce and environment.

Several persons have gone to court and there have been at least two judgments, one affirming that the Vice President can perform the functions of the President in his absence and the other giving the Executive Council of the Federation fourteen days to determine whether the President is capable of performing the functions of his office. It is quite obvious that the easiest way out of the logjam would have been for the President to transmit a letter to the National Assembly in accordance with section 145 of the constitution. But it is very clear that the President is either incapable or unwilling to transmit the letter.

From the above, it is clear to us that any strategy for political succession should be underpinned by three clear principles. The first is adherence to the rules and procedure of succession. Any change or manipulation of the rules and procedure of succession especially when the need for succession has been established is an invitation to chaos. For this to happen require the effective functioning of democratic organizations and institutions such as political parties, legislature, judiciary and civil society to ensure that there is orderly transfer of power from one person to another.

Secondly, there should be the conduct of credible, free and fair elections. The conduct of free and fair elections will make it possible for the rules of political succession to be followed. This will make citizens and those who loose elections to accept the outcome leading to political stability and legitimacy.

Thirdly, citizen participation in governance and development should be promoted. Citizen participation will help to check the inordinate ambition of politicians who will want to manipulate the rules to perpetuate themselves in power.

The resolution of the present political and constitutional crisis requires short term, medium term and long term strategies. In the short term, all democratic organizations and institutions must ensure adherence to the rules of succession with the Vice President taking over the office of the president. As we have argued elsewhere, the medium term strategies should include voter education, protection of mandate, electoral reform, constitutional reform, constitutional reform and reform of election management.¹⁴ Finally, there is the need for a long term strategy of changing the nature and character of the state and the conduct of politics, political party organizing and eventual capture of power by democratic, radical and progressive forces in Nigeria.

CONCLUSION

Political leadership is very important for the effective functioning of any nation. Smooth and seamless political succession is crucial; for the political stability, legitimacy and development of nations. Every effort must therefore be made for a robust strategy to address the challenges of political succession in Nigeria. The strategy must deal with the challenges of adherence to the rules and regulations of succession; the conduct of credible, free and fair election and citizen participation in governance. However, in order to resolve the present logjam of the absence of the president for over sixty days, there is the need for all democratic organizations and institutions to insist and push for adherence to the rules of succession. In the medium term running to the election in 2011, there is the need to embark in

vigorous reform in the electoral and political system but ultimately, addressing the challenge of political succession in Nigeria requires the long term strategy of changing the nature of the state and character of politics.

ENDNOTES

¹ Maxwell, J. C. (1999), *The 21 Indispensable Qualities of a Leader*. Nashville, Tennessee, Thomas Nelson Inc.

² LEAP Africa (2007), *Effective Leadership in Business: A Tool kit*.

³ Jinadu, L. A. (2008), *Political Succession in Africa*. Annual Billy J. Dudley Memorial Lecture, 2006. The Nigerian Political Science Association.

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⁵ Ahrari, M. E. (1999), *Political Succession in Saudi Arabia: Systemic Stability and Security Implications in Comparative Strategy Vol 18, Issue 1, Jan 1999*. pages 13-29.

⁶ Jinadu, L. A. Op cit

⁷ Zald, M. N. (1965), *Who Shall Rule? A Political Analysis of Succession in a Large Welfare Organisation in Pacific Sociological Review*. P. 52.

⁸ Friedman, S.D. (Ed)(1986), *Leadership Succession*. New Jersey, John Wiley & Sons Inc.

⁹ Ibid

¹⁰ Jinadu Op cit

¹¹ Ibid

¹² Friedman Op cit

¹³ Ibid

¹⁴ Igbuzor, O (2009), *Strategies for Restoring the Franchise in Nigeria in Ibrahim, J. and Ibeanu, O (Eds), The 2007 Nigerian Elections and Subversion of Popular Sovereignty*. Centre for Democracy and Development.

Chapter Two

LEGAL ISSUES IN SUCCESSION TO PRESIDENTIAL OFFICE

Bamidele Aturu Esq

Introduction

Succession is defined here to refer to the periodic or circumstantial replacement of officials of the state through elections or through constitutional means. The crisis generated by the fact that the President of Nigeria travelled out of the country for medical treatment without transmitting a declaration to the President of the Senate and the Speaker of the House of Representatives as required by section 145 of the Constitution of the Federal Republic of Nigeria, 1999 compels an examination of constitutional procedure for succeeding to the elective offices of President and Vice President in Nigeria. In this chapter, as should be obvious, we shall be dealing with succession to the two Presidential offices in circumstances arising after election through constitutional means.

Circumstances leading to Succession

Generally, the President and Vice President of Nigeria hold their offices for a period of four years¹ subject to re-election for another term. However, before the expiration of the term of office situations or circumstances may arise that may necessitate another person succeeding to either of the two offices. We intend here to cursorily examine and discuss such situations and circumstances.

Death

By virtue of section 135(1)(b) of the Constitution, a President shall cease to hold office if he or she dies during the term. When this happens the Vice President shall automatically become the President.² It follows that the office of the Vice President then becomes vacant. The latter office is filled by the new President who

was the Vice President nominating another person as Vice President designate. The person nominated becomes the Vice President only with the approval of each House of the National Assembly, i.e., the Senate and the House of Representatives.³

Resignation

Holders of the offices of President and vice President can resign from office in accordance with section 306 of the Constitution. For the resignation of the President to be valid the holder must tender it to the President of the Senate while that of the Vice President must be submitted to the President. Once the resignation notice is received by the appropriate authority the Vice President becomes the President by virtue of section 146 and the same procedure discussed under the segment on death is used to fill the vacant office of the Vice President

*Impeachment*⁴

The President and the Vice President may be removed from office by the National Assembly through an impeachment proceeding under section 143. Once the procedure stipulated in the Constitution is complied with, the two offices are filled as discussed in the earlier segments of this paper.

Temporary Incapacity

Temporary incapacity can be defined as a situation in which a person for a short period of time lacks the ability to discharge the functions of his or her office. Section 145 of the Constitution envisages this type of incapacity when it provides:

Whenever the President transmits to the President of the Senate and the Speaker of the House of Representatives a written declaration that he is proceeding on vacation or that he is otherwise unable to discharge the functions of his office, until he transmits to them a written declaration to the contrary such functions shall be discharged by the Vice-President as Acting President

We have argued repeatedly that the fact that the section makes provision for the President transmitting a contrary declaration puts it beyond doubt that it deals with temporary as opposed to permanent incapacity. Thus it is our submission that a President who is temporarily incapacitated and would be 'unable to discharge the functions of his office' ought to make the necessary declaration to the prescribed officers of the National Assembly. In other words, our contention is that the section is obligatory and not directory as Honourable Justice Abutu held in the **Onwuekwe, Aliyu and NBA cases**.⁵ The section might have been inelegantly worded, but since the law is to be interpreted as not to create a vacuum in governance the only logical inference to be drawn from a provision that deals with inability to discharge presidential functions must be that it is obligatory for the President to write the prescribed declaration. Anything short of that is tantamount to a breach of his oath of office contained in the Seventh Schedule not to allow his personal interest influence official conduct or decisions and to defend the Constitution and to act in the interest of the well being and prosperity of Nigeria. Certainly throwing Nigeria into Constitutional uncertainty and creating unnecessary vacuum by denying the Vice President the opportunity to become the Acting President by the neglect, failure or refusal to write the declaration under section 145 cannot be in the interest of the well being and prosperity of Nigeria. It is surprising and a matter for much regret that the learned Chief Judge could not see this point.

Permanent Incapacity

In the **Aliyu's case**, the learned trial Chief Judge disagreed with our contention that there are two types of permanent incapacity under the Constitution, namely medically investigated permanent incapacity under section 144 of the Constitution and circumstantial permanent incapacity under section 146 of the Constitution—we shall return to this point later. He then proceeded on the authority of the Supreme Court decision in **Abubakar v AGF** to hold that he could not declare the office of the President vacant under section 146 of the Constitution. He was not persuaded by our efforts at distinguishing the **Abubakar's case** which as a matter of fact is a warrant for the proposition that there is only but a single presidency in

Nigeria and that the Vice President cannot exercise presidential functions in the absence of express delegation contrary to what the learned judge held in the Onwuekwe and NBA cases.

It is incontestable that the President travelled out of the country since 23rd day of November 2009 for medical treatment and has not as at 27th January, 2010. There is also no dispute as to the fact that he is not on vacation and that he is not merely temporarily unable to discharge the functions of his office. This conclusion is inescapable from a proper consideration of the provision of section 145 of the Constitution of the Federal Republic of Nigeria.

For the avoidance of any doubt whatsoever that section provides thus:

'whenever the President transmits to the President of the Senate and the Speaker of the House of Representatives a written declaration that he is proceeding on **vacation** or that he is **otherwise unable to discharge the functions of his office**, until he transmits to them a written declaration to the contrary such functions shall be discharged by the Vice-President as Acting President' (emphasis added)

It is our submission that unless the President transmits the declaration required by section 145 of the Constitution and in the prescribed manner, he cannot claim to be on vacation. In the same vein without the declaration being transmitted he cannot claim to be temporarily incapable of discharging the functions of his office. This last point is borne out by the fact that the same section envisages a situation in which he can transmit a contrary declaration. The inference from this it is submitted is that this section deals with temporary and not permanent incapacity.

What, then, is the implication of the President not transmitting the prescribed declaration in section 145 of the Constitution? He could be presumed to have abdicated the office, to suffer from permanent incapacity or just negligent. However given what is known by the public and his avowed respect for the rule of law, we may assume that the President did not abdicate and that it was not just a case of

negligence as he was flown abroad for medical treatment. The reasonable inference, it is submitted, is that the President who has made the upholding of the rule of law his cardinal objective was so ill at the time of his evacuation that he could not transmit the necessary declaration.

Furthermore the facts that he has been away for over two months now at the time of writing this and that no one even among the members of the Executive Council of the Federation has seen or spoken with the President supports or justifies the inference that his illness or infirmity is such that borders on permanent incapacity.

Although there is no precedent for this sort of case in Nigerian jurisprudence, our courts ought to be able to determine what length of absence would justify the conclusion that a President who is evacuated on medical grounds out of the country suffers permanent as opposed to temporary incapacity. Certainly, a period of over two months, without being on vacation and without any contact with the Vice President and other members of the Executive Council of the Federation constitutes permanent incapacity. This conclusion is supported by section 148(2) of the Constitution which provides that 'The President shall hold **regular** meetings with the Vice President and all the Ministers of the Government of the Federation...'

The word 'regular' has been defined to mean according to the Oxford Advanced Learners' Dictionary something 'done or happening often; frequent' (see page 983 of the Low Priced Edition). It is submitted that given the practice of the Government where meetings of the Executive Council of the Federation are held weekly, the absence of the President since the last four weeks as at the time of filing this address ought to be held to warrant an inference of permanent incapacity.

Now it is important to make the point that the constitution provides for two types of permanent incapacity. The first type is contained in section 144 of the Constitution. That may be referred to as Medically Investigated Permanent Incapacity. This is activated by two-thirds majority of all the members of the Executive Council of the

Federation. Upon a resolution by them that the President is incapable of discharging the functions of his office, a Medical Panel appointed by the Senate President would be constituted to determine if the president is permanently incapable. Their decision is final.

There is another type of permanent capacity contained in section 146 of the Constitution. That may be called Circumstantial Permanent Incapacity. It seems that the drafters of the Constitution realizing that the members of the Executive Council of the Federation are appointees of the President who may for political and patronage reasons not want to take the drastic even if patriotic decision to pass the resolution referred to in section 144, provides for a situation in which it should be possible in clear cases to declare that the President suffers from permanent incapacity.

Section 146 of the Constitution states unambiguously:

'The Vice President shall hold the office of President if the office of President becomes vacant by reason of death or resignation, impeachment, **permanent incapacity or the removal of the President from office for any other reason in accordance with section 143 or 144 of the Constitution**' (emphasis supplied)

It is contended that the permanent incapacity mentioned in section 146 is different from the permanent incapacity referred to in section 144. If that had not been the case the drafters of the Constitution would not have used the phrase '**or** removal of the President from office for any **other reason** in accordance with section 143 or 144 of the Constitution'. The word 'other' has been judicially defined as additional in the case of **Onwudiwe v F.R.N.**(2006) 10 NWLR (Pt. 988) at 382 at 485. Similarly the phrase, or other court of equivalent jurisdiction, used after listing Area Court and Customary court was construed in the context of section 41 of the Land Use Act to import court other than the two mentioned courts. In other words, the phrase was construed to confer jurisdiction on an additional court. It is our argument that the phrase 'or the removal of the President from office for any other reason in accordance with section 143 or 144 of the

Constitution' connotes that permanent incapacity in section 144 is different from the permanent incapacity in section 146 of the Constitution.

The refusal or neglect of the President to transmit the necessary declaration under section 145 of the Constitution is a breach of his oath of office under the Seventh Schedule to the Constitution.

Thus, where for example the President fails as in the instant case to make the necessary transmission of the declaration referred to in section 145 of the Constitution, and it is indubitable that he is in a hospital and has been there for weeks or months on end, a court of law would be justified to hold that he is permanently incapacitated with the meaning and intendment of section 146 of the Constitution.

The Supreme Court case of **AGF v Abubakar** (2007) 10 NWLR (Pt. 1041)1 containing an obiter that courts cannot declare the office of Vice President vacant under section 146 of the Constitution is distinguishable from the present situation. In that case a sitting President on his own declared the office of the Vice President vacant. Thus the issue was on the legality of that declaration. Consequently, the issue before the Supreme Court was not whether or not the court can declare the office of the President vacant. In other words, even the dictum of Akintan, JSC is an obiter, of course an eminent obiter if ever there is such.

Nevertheless, even Justice Akintan in that case made it clear that while the court may not declare the office of the President vacant section 146 speaks of 'Discharge of functions of President'. The logical inference from the obiter of Justice Akintan is that although the court may not declare the office vacant but in deserving cases it may permit or order the Vice President to discharge the functions of office of the President.

Onu, J.SC listed the conditions under which the Vice President can hold the office of the President at page 94 of the Report. He did not use the word 'vacant' and that obviously is advised. He listed those conditions in section 146 and separated permanent incapacity from

the removal of the President under section 144. This we contend supports our argument that there are two types of permanent incapacities.

The above interpretation of Honourable Justice Akintan's dictum is also supported by the view of Aderemi, JSC. While making the point that in important Constitutional cases like this courts should never plead frustration or that they are helpless. At pages 171-172 of the law report, he urged judicial creativity in the following powerful words:

'No legal problem or issue must defy legal solution. Were this not to be so the society as usual will continue to move ahead law. God forbid. We then remain stagnant and consequently become useless to mankind. With this unfortunate consequence at the back of his mind a judge whenever faced with a new situation which has not been considered before by his ingenuity regulated by law must say what the law is on that new situation after all law has a very wide tentacle and must find solution to all man made problems'.

Our present constitutional crisis certainly that calls for ingenuity.

But what is 'permanent incapacity'? 'Permanent disability' which is akin to 'permanent incapacity' is defined by the **Black's Law Dictionary** (Seventh Edition), page 474 as 'a disability that will **indefinitely** prevent a worker from performing some or all of the duties that he or she could do before an accident' (emphasis supplied). It is submitted that 'permanent incapacity' can be defined as any situation in which a person will be indefinitely prevented from performing some or all of the duties that he or she could do before. The President arising from his absence has not been able to perform most of his duties. In particular he has not been able to perform his function under section 148(2) which requires him to hold regular meetings with the Vice President and other ministers. Of course, he cannot delegate that power to the Vice President because that would mean that the Vice President would be meeting with himself, an absurdity that the lawmaker could not have imagined let alone intended.

Guidance exists in employment law. At any rate, rule 010101 of the Public Service Rules, 2006 states that the rules are applicable to the President to the extent that they do not conflict with the Constitution. Whenever an employee absents himself from work without any excuse or information to his employers (in this case the National Assembly which represent the people, the President's employer) he is liable to summary dismissal. See **Udegbumam v FCDA** (2003) 10 NWLR (Pt. 829) 487 at 502-503. In that case the Supreme Court affirmed a rule of the Civil Service to the effect that an employee who absents himself from duty without leave renders himself liable to be dismissed from service without formality and the onus shall rest on him to show that the circumstances do not justify the imposition of the full penalty. We submit that the onus rest on the President and his handlers to show that the circumstances of his absence do not warrant a conclusion that he suffers from permanent incapacity within the meaning of section 146 of the Constitution.

Conclusion

Our argument here has been that compliance with section 145 of the Constitution is mandatory and that where a President who travels out for medical treatment fails to comply with it, that failure should warrant an inference that he or she was either too infirm as not to be able to do so or that the President negligently or wilfully failed to comply with it. In both cases, the court should rise to the occasion and hold that the infirmity necessitating the inability or failure to comply with the provision of section 145 borders on permanent incapacity. Of course, the National Assembly may proceed against a defaulting President under section 143 and treat the failure to comply with section 145 as a gross violation or breach of the provision of the Constitution.

ENDNOTES

¹ S. 135 (2) of the Constitution of the Federal Republic of Nigeria, 1999

² S.146(1), *ibid*

³ S.146(3), *ibid*

⁴ The Constitution does not use the word 'impeachment' but 'removal'. Nevertheless, the word 'impeachment' is widely used by the courts and all to refer to the removal envisaged by section 143 of the Constitution.

⁵ *Onwuekwe v AGF; Adamu Farouk Aliyu & 1 or v AGF & 1 or; Incorporated Trustees of NBA v AGF*

Chapter Three

CONSTITUTIONAL REFORM AND POLITICAL SUCCESSION IN NIGERIA

Kabir Mato

INTRODUCTION

Constitutional Democracy is a relatively fragile development in Nigeria. Many factors are responsible among which was the incessant military intervention into the body politics of the nation, the failure of the political class to play the game of politics and governance in accordance with the basic norms characterising the model of government in place.

The question of constitutional reform and political succession in our view is though not a phenomena peculiar only to Nigeria but to several other countries in Africa, in Asia and Latin America, a very serious threat to the realisation of the attainment of good governance and realization of the much desired economic political and social development of the society

CONSTITUTIONAL REFORM AND POLITICAL SUCCESSION

The first question to ask here is, does the issue of political succession in Nigeria revolve around the need for constitutional reform? If political succession is simply the acceptable and constitutional method of transferring power from one group to the other or from one individual to the other, then, a careful examination of the current provisions in the statutes is imperative.

Does the Nigerian constitution, 1999 contain adequate provisions on how power should transit from one person, group to the other? Are the provisions adequate to the extent that in the last ten years since the constitution was in force questions of succession were adequately addressed?

There is an ongoing dialogue among several experts in constitutional law and political science that the bulk of the political problems that Nigeria is facing are not really in the absence of laws but the inability of the actors and citizens to effectively deploy or put such laws into effective use.

The argument seem to be that the laws and the constitution of the country as they are now have not been effectively or even minimally put to use. The argument suggests that clamour for reforms on the constitution are not necessarily borne out of the failure or lapses that are observed in the documents but merely escape routes provided by the political elites who out of their desperation for political power have turned brazen and unable and unwilling to put the laws to simple test.

The argument here is that the constitution or the laws in Nigeria might not be the whole problem. There is the failure of the political establishment to subject itself to the will of the people by not only abiding by the provisions of the constitution and other laws but deliberate desire to operate in reverse order.

POLITICAL SUCCESSION: 1960-1999

Since political independence in 1960, Nigeria has had problems of political succession. In the first republic after the 1964 election which saw the refusal of the then President General to swear in the Prime Minister and the resultant political impasse marked the beginning of the national succession dilemma in Nigerian politics.

The impasse which was one of the factors that contributed to the truncation of the republic in 1966 was though seen as a simple misunderstanding borne out of the collapse of the accord between the majority Northern People's Congress (NPC) and the National Council of Nigerian Citizens, (NCNC), a very important development in the nation's political landscape.

The military got used to political power beginning with the January 15th intervention which was followed by several other changes of government until in 1979 when another attempt at civil governance

was made. All through the period between 1966 and 1979, three successive military regimes were recorded. From General Ironsi to General Gowon and Murtala/Obasanjo which formally organised national elections in 1979 and ushered in the government of Alhaji Shehu Shagari under the banner of the National Party of Nigeria, (NPN).

In the second republic under the NPN, the actors made better uses of the nation's constitution to the extent that democracy and rule of law were more respected than what the nation was made to make do with subsequently. The main problem occurred when the NPN consolidated its hold on power and thought it was necessary to do a credible election in 1983 which subsequently led to yet the intervention of soldiers on December 31st 1983.

From 1984 to 1993 when the military intervened in politics and governance, there was one counter coup led by General Babangida in August 1985 which basically was a palace coup that ousted the reign of Generals Buhari and Tunde Idiagbon.

The June 12 presidential election which was annulled by the military is another study in political succession problem. Reasons have not yet been advanced as to why the elections were annulled when a winner was already emerging. The impasse that followed the annulment was responsible for stepping aside of President Babangida and the ascendancy of Ernest Shonekan as the Head of an Interim Government that was sacked by the military junta led by General Abacha a few months later.

1993 to 1999 saw another batch of military ruler ship in Nigeria and the succession recorded was due to the death of General Abacha died mid 1998. General Abubakar wasted no time in organizing a transition to civil rule even if at a great cost and expense. The transition in 1999 was also smooth.

SUCCESSION UNDER THE 1999 CONSTITUTION

The 1999 constitution like several other constitutions modelled after American Presidential system has made sufficient provisions for

political succession at all levels. For instance, the most acceptable method of political succession recognised by the constitution is through the electoral process whereby representatives are freely elected by the citizens for a given term limit.

Apart from this, there are other provisions regarding succession within term limits which tackles other situations among which is incapacitation, resignation or impeachment from office. All these would be handled by the paper to be presented at this dialogue on legal issues. Important however is that the laws as they exist today have not been faithfully implemented to the extent that the nation may understand their real efficacy or otherwise.

It is important to posit at this juncture that the flawed elections in 2007 were basically poorly conducted in order to determine specific order of succession especially by those Chief Executives whose constitutional mandate of second term expired. The fear of the unknown was presented as the underlying reason behind the massive rigging and the do or die politicking which by and large is responsible for the mess that is being recorded especially at the centre stage of Nigerian politics.

Given the fact that the constitution has made sufficient provisions regarding succession as they relate to Governors, Deputy Governors and President and Vice President, the reality that the nation is grappling with at the moment is borne largely out of many factors that are both historical and structural, but two stands very clear.

Genuineness of the mandate that the elected officers are holding and secondly which is a derivative of the first is the poor political brinkmanship on the part of those in power and authority. Equally important is the lacuna by way of absence of any provision to handle the second problem mentioned here.

PRESIDENT YAR'ÁDUA AND THE CURRENT REALITIES

The growing national agitation in respect of the health of the president and the failure to transmit to the National Assembly a letter authorizing the Vice President to act as the president has generated

serious national controversies in the last few weeks. One would think that the express provision in the constitution as to the effect that the Vice President shall perform the functions of the president in the absence of the president was sufficient to empower the vice.

However provisions in other sections of the constitutions that have specified the need for authority transmission through the National Assembly and on the other hand the resolution of the Federal Executive Council before medical panel is constituted to ascertain the capacity of the president to continue in office poses a very serious constitutional challenge.

It is likely impossible for an Executive Council appointed by the president to invoke the relevant provisions of the constitution in that regard. The constitution is as it is presently, is deficient in this direction. There ought to be relevant provisions to address peculiar situations like the one Nigeria is in today.

For example, the constitution should be amended to delete the clauses which give powers to the Federal Executive Council to resolve and raise the medical team required to ascertain the suitability or otherwise of the president to continue in office on the basis of health issues.

Now that the National Assembly is in the process of amending the 1999 constitution, it is recommended that the issue of succession especially as they relate to indisposition of elected officers be relooked at with a view to removing all lacunas that are so far identified.

CONCLUSION

The author is of the view that despite the obvious pitfalls in the constitution, the major issue of succession just as is the case with elections are not completely the problems of the law but mainly the unwillingness of the operators of the system and the citizenry to put the laws to minimum usage.

Constitutional reforms may however increase the value politicking if provisions that are either vague or easy to be manipulated are opened to simplicity. All ambivalences and doubts should be removed as regards succession in order to make the national democratic process more transparent and difficult for those who may wish to capitalise and exploit situations.

Chapter Four

WOMEN AND POLITICAL SUCCESSION

Saudatu Mahdi

INTRODUCTION

The discourse around political succession is not a restricted phenomenon to any one country and neither is it peculiar to developments in Africa. It is a subject that has interested scholars worldwide who are not only concerned about the hiccups in the succession or smooth transition of power but also the pattern of succession in governance structures. In politics, the order of succession is the ascension to power by one politician or monarch after another, usually in a clearly defined order.

According to John Milton (1608 - 1674), 'The power of kings and magistrates is nothing else, but what only is derivative, transformed and committed to them in trust from the people to the common good of them all, in whom the power yet remains fundamentally, and cannot be taken from them, without a violation of their natural birthright.' Milton was speaking to the construct of inherited power as in monarchies and dynasties. However, and as trends have shown the world over, political succession is taking on the toga of inherited power. In Europe and Asia, the Middle East, and Africa, countries such as Russia, Sri Lanka, Pakistan, Guinea, Libya, Egypt, Saudi Arabia, Niger, and our own Naija Nigeria. have at one time or another had interesting scenarios in political succession.

Political succession issues took the centre stage in Saudi Arabia and Egypt and concerns were expressed about who would succeed the 85 year old Saudi King, Abdullah ibn Abdul-Aziz because his longstanding 83-year old crown prince (and half-brother) Sultan ibn Abdul-Aziz was hospitalized for several weeks with suspected cancer. There was agitation whether the kingship would be

transferred from the numerous ageing brothers and half-brothers who stand in line after Crown Prince Sultan, to the "next generation" of Princes? Some of the more senior ones were already nearing 70 years old. Similarly, there are concerns in Egypt about who succeeds the country's 81-year-old President, Hosni Mubarak, who has led the country since 1981 without naming a Vice-President as the age he is at makes a low probability for him finishing his current six-year term in office, which ends in 2011.

In India, political succession is more of a family affair which many in other countries may be criticised as giving some privileged few an advantage over others. It appears healthy for the Indian polity and even as the political dynasty of the early 60s and late 80s go, the power base of Indian politics is still controlled by the descendants of those dynasties. Dhananjay Mahapatra writes thus on this pattern of succession:

Crown Princes continue to be shepherded into politics by parents already successful in politics. Their entry onto the big political theatre is stage-managed without them having to waddle through the political grime, which often leaves most ticket aspirants dejected. But the family legacy helps them win and become an MLA or MP. One of the celebrated succession histories in India is that of the Gandhi family which started with the daughter of Prime Minister Nehru marrying into the Gandhi family which saw her reaping from two backgrounds of similar antecedents, which combined gave her dynasty a sustained hold on political power in India to date.

In Pakistan, the Bhutto family escapades of political succession through a bitter and bloody history have kept power at not too far a distance from the family. Today the son of late Benazir Bhutto is the heir to the leadership of the popular political party led by his mother and is being held in trust by his father.

Tracking the long lines of political succession in India and Pakistan, two questions arise. The first is how and where do core players in political successions derive their motivation from? Studies and events have two simple answers. They are either born into a politically inclined lineage or are products of the corridors of power

who have learnt the art of political machinations for relevance, survival and in some cases legitimacy. The second question arises from the spoils/benefits of political succession. For what reason do people go to all extent to ensure the script of a succession plan are acted out? Again and simply put; it is a conjecture of perceived and real security, control of resources and sustainability for their vision and prowess all in the name of the good of the institutions or countries.

In Africa, Kenya has also witnessed political succession crisis. Writing on political succession and related conflicts in Kenya, Charles N. Mwaura posits thus on the conflict of political succession in the African continent:

'The conflict generated by political succession is conflict over control of the state, where conflict is about who governs and does not usually envisage the creation of a new state. The unity of the state is tacitly accepted, by competing elites and conflict centres on control of state and state resources.

He also noted some related conflicts that had emerged from political succession in Kenya namely conflict between the state and university students, (re) emergence of institutions of Civil Society, ethnic violence and insecurity, corruption and economic conflict and constitutional reforms.

POLITICAL SUCCESSION IN NIGERIA

Chief Richard Akinjide, (SAN), Nigeria's former Attorney General of the twelve two third fame, argues that democracy and the challenges of succession owe their origin and political ideals to the Greeks and the Romans, who in turn, owe a lot of their ideas to the Egyptians thereby tracing the sources back to ancient Africa.

Nigeria has had its own fair share of political succession problems since independence, and there is no guarantee that an end has come to it. Nigeria's leadership succession problem dates back to the first coup staged by the five majors on January 15, 1966 and the counter coup that followed which later culminated in an unfortunate 30

month civil war. Political succession has haunted Nigeria since independence specially at the national level, a problem viewed as systemic and in which transition from one elected government to another has remained a nightmare. Meanwhile, the June 12 debacle has gone down in history as a watershed in the political history of Nigeria.

Not until 2003 was Nigeria able to finally break the jinx of one elected government 'successfully' organizing election for another term in office; there was no coup to interrupt the process. In 2007, the third term agenda was going to create a succession crisis in Nigeria but for the hand of God! For the first time, an elected government was able to successfully hand over to a new Government. Nigeria is due for another general election in 2011 the exact date is yet to be announced and work is in progress on electoral reform and constitutional reforms. Nigeria is at another crossroads and for the last six months politicians have been around issues of individual, party, presidential succession! What with the tension created by the 'vacuum' in the absence of President Yar'adua away in hospital with no fixed return date. The order of the day is one of alignments and realignments of political forces based on calculations around incumbency, succession, opposition and of course the race for the coveted posts of President and Governors.

Political succession crisis may be pronounced at the Federal level in Nigeria but the phenomenon also rears its ugly head at the lower levels of governance. Constituent members of each state and local government believe that power must not just alternate between the South and the North of Nigeria, it must also be rotated among the different zones and interests within each state or local government. There are complaints of marginalization or total neglect. It has resulted in intra-party crisis, factionalisation, and politicians using unconstitutional and extra-judicial means to settle disputes in their desperate pursuit of capturing state power.

WOMEN AND POLITICAL SUCCESSION IN NIGERIA

Numerically strategic as gender is, it is not a frontline issue in the political succession discourse. Nigerian women have more stakes in

political succession in the country than men as they stand to be more affected by its challenges and outcomes. This means they have a role to play in both averting it and resolving it. The reality today is that Nigerian women as active voters, aspirants and candidates in elections in the three elections since the return of democracy in 1999 cannot stand aloof in the emerging debacles of political succession.

Looking back at the 2003 and 2007 elections, the significance of the gender factor as a block was minimal save for campaign outings with tokenism being the order in most of the political parties. The women's movement is also yet to become a force to reckon with in political negotiations around succession in party and governance structures. Women are also not privy to the calculations by party machineries due to their absence in decision making structures. The absence of internal party democracy acys against the interest of weak and vulnerable members out of the picture of political succession. In the Lagos 2007 elections, the wife of a slain gubernatorial aspirant who picked up the gauntlet of her husband's campaign could not get the ticket from the PDP even after winning 2 primary elections. For party stalwarts political succession as an opposition party was considered too delicate to be left in the candidature of a woman who only had the sentiments of party members behind her.

What has emerged though is the obvious rise of the familial ticket for women. Over 70% of women in elective posts have family ties with key Government or political office holders. This entry point viable as it may seem is likely to prove counter productive to the agitation for women's increased numbers in politics. It has in many instances been the reason for the disconnect between the women's movement and these women who do not see themselves as products of the 'primary constituency' of women, but rather more of their familial prowess and disposition. Two factors are prominent in the emerging familial entry points of political succession in Nigeria. One is marriage and the other parentage. The circumstances have ranged from sentimental (for wives and daughters of incumbent leaders or party stalwarts) to consessioning but hardly is there a situation of more concrete facts of such as party zoning, credibility, constituency strength or issue based reasons. Even as the few strugglers (those with no familial ties) try to

situate themselves, women politicians have had to gamble and depend on agreements with their male counterparts which most often robs them of positions and access to power positions.

CHALLENGES OF POLITICAL SUCCESSION IN NIGERIA

Succession as discussed in the introductory part of this chapter has its actors, drivers and beneficiaries. Most often and as is the case in many developing nations like Nigeria, the primordial considerations are self serving and far removed from common good. The instinctive push is for survival and more technically and legally a shield from accountability. The rush of many elected officers to remain in relevant positions even at the expiration of tenured posts is first to take the 'immunity' cover provided by section 350 of the 1999 Constitution. The strategy being to remain in office for as long as it may take to either wipe away institutional memory or to commit the records of their deeds to the archives after the statutory period of 10 years. Even though the statute of limitation can be invoked, many office holders believe that clinging to some office grants a cover from prosecution. This brings to mind the issue of the freedom of information bill which even in the last one week we have seen suffer a set back at its 10th presentation in the lower Chamber.

A number of factors have been identified as key challenges to seamless and productive political succession problem in Nigeria.

Absence of True Federalism

The structural and resource design of Nigeria has concentrated too much power at the centre. The clamour for federal appointments as the entry point for access to the national 'cake' accounts for the cut throat calculations and manipulations for political succession.

The Incumbency Factor

Incumbency is a major concern and is one of the most potent tool for political succession. State resources and institutions are converted to self serving ends that finally muzzles out competition and opposition. It is exploited to install anointed 'heirs' to posts that will ordinarily not admit many of those enthroned by departing officers who are calculating for sustained relevance and security. Sadly though, many

of these contraptions have failed with emerging acrimony that has further polarised succession in at least 15 states in Nigeria. Maybe the best case in this category may be that in Lagos which has not only served the 'master' but have also given to citizens a messiah of sorts.

Corruption

The loss of social ethos of morality and responsibility where aggrandisement and the spoils of office which make the venture of service a gold mine while justifying self enrichment and 'redistribution' a social responsibility for which one is rewarded by the community with titles and local privileges. This is a main attraction for political succession.

Weak Institutional Framework for Accountability

The absence (until 1999) of institutional structures to address the excesses of commission and omission in governance provide a safe haven for the manipulation of power to the detriment of the majority of citizens. Institutions such as the EFCC, ICPC and mechanisms such as the whistle blowers.

Decay in the Social Fabric

Many politicians have a wrong motive for seeking elective offices. Impunity among these beneficiaries of succession is intoxicatingly high. The absence of internal party democracy allows for the 'recycling' of a few people who will do everything to hold on to power. For this cabal, peaceful democratic change is made impossible as it translates into loss of power for them.

Dysfunctional Democratic Institutions and Poor Observance of the Rule of law

The bane of political transition through elections is the low performance of electoral institutions whose actions and inactions have made it very easy for political mercenaries to manipulate and seize power at all costs. Efforts of aggrieved parties to seek redress through the judicial system have proved ineffective for checking political pundits who exploit the system to ascend or remain in power. With responsive provisions to dispense with election disputes, the crises of political succession disputes will be minimized if not eliminated.

Ineffective/Conspiring Legislature

In Nigeria, the paucity of content and quality in the legislative arms of government has provided a platform for manipulation especially of the Constitution to allow for political succession; usually to the bidding of the Executive. The 3rd Term agenda was an exception given the massive pressure elected representatives faced at all levels not to succumb to a constitutional amendment that would have changed the tenure of the President and Governors to the detriment of the true spirit of democracy.

In all of these challenges, women and weaker players on the political landscape are the worse off while the polity pays by way of enduring bad governance and misrule. The current constitutional debate can be put to rest with a more willing legislature that does not have its attention focused on 2011 as against the good of Nigeria. The failure to respond to constitutional provisions compounded by the pronouncements of key legislative officers has put the institution and the nation to ridicule. Who knows but for the resounding agitation from all quarters, Nigerians may have been left in doldrum until kingdom come while a cabal of political secessionist held the reigns both for Yar'adua and for themselves either way it ends.

THE WAY FORWARD

In view of the foregoing, what role can the Nigerian women play and what needs to be done generally to ensure that we have a smooth political succession that will not destabilize the polity? What do we need to do to ensure that Nigerian women get a fair deal in our political transition so that the fortunes of the womenfolk does not dwindle when power is transferred from one set of leaders to another either at the Executive, Legislative or Political party levels? Some options that may be considered include:

Nigeria must practice true federalism that will ensure that more power is devolved to the constituent geopolitical zones so that the power that is concentrated at the centre in the present arrangement will no longer be there. This will make unnecessary the “do or die” contest for power during national elections for executive and legislative positions because the centre will no longer be attractive to

desperate politicians whose motive for seeking power is not to serve but for personal aggrandizement and enrichment. The National Assembly should make this a top issue in the on-going constitutional reforms. According to Major-General Chris Alli (rtd),

The Nigerian federal system is a colossal deception of the highest order, a colonial, political construction inherited by the elite in 1960. He adds;

The struggle among the contending interests for the control of the central government is the major source and cause of Nigeria's cut-throat politics and recurring instability.

There is also a very strong linkage between the military barracks, oil resources and coups d'etat as soldiers ravage the nation to assuage personal and group appetite for power and wealth

- **Constitutional Reforms:** To ensure that elections take place well ahead of expiration of tenure of current elected officials and all election disputes are resolved before those so declared winner are sworn in. This has been well articulated in the Justice Uwais Electoral Reform Report. The National Assembly should incorporate into the new Electoral Law this recommendation and similar recommendations that seek to ensure smooth political transition.

Nigerian women must be more involved in the political process at all levels right from the ward level to the federal levels. Women must not take the back seat. They must aspire and make concrete and articulated steps to penetrate the party caucuses and leadership groups where calculations and decisions are being made as regards who takes what, who gets what and who goes for what position. When women are involved from the outset about who succeeds who within their parties, they will be able to bring gender perspective to the discussions and eventual decisions. Who says a woman cannot aspire to succeed a man whose constitutional two-term has expired in the case of a Governor or President?

Who says that even as parties move an elective or party office to another zone within a state or country, gender should not be a factor in deciding who occupies the office in the zone it is zoned to? However, this will only be amplified to become an issue when women are more involved and don't stay aloof or depend on familial ties only. Women must be more involved and demand what they want. In September 2004, it was reported that the influential Zanu-PF Women's League entered the Zimbabwean ruling party's succession race and was lobbying for politburo member Joyce Mujuru to be nominated as vice-president during the party's December congress. It is not a sin to aspire legitimately; what is good for the goose is sauce for the gander. Making your demand known and clear is one step to getting it. If you aim at the sky, you may first reach the house top, which gives you a platform for better negotiation next time.

President Ellen Johnson-Sirleaf would not have been elected the first Liberia's and Africa's first female president in 2005 if she had not stepped forward in the succession struggle that threw that country into political conflagration for many years. The 68 female candidates who won seats in Afghanistan's 249-member parliament. In 2005 through seat reservation in accordance with the country's post-war constitution which reserves a quarter of the seats for women would not have been elected if they refused to participate in the post war processes. Neither would former scientist Angela Merkel have emerged Germany's first female Chancellor in November 2005, two months after a fiercely contested election if she had minded her own business. These women were elected because they stood to participate in the succession process.

- Towards ensuring increased women's participation, the National Assembly must, as part of the electoral reform and constitutional amendment, include provision for 35% affirmative action for women's election into legislative offices at levels of government under exclusive seat reservation which has proved globally to be the most effective way to achieve increased women's participation and representation in governance. It has worked in Uganda, Afghanistan, South Africa etc. It will work also in Nigeria if adopted.

Women must speak up against unconstitutional and retrogressive succession plans whenever the danger sign becomes obvious as Nigerians overwhelmingly did during the third term saga. Not only must we ensure that any succession plan is constitutional, we must ensure that it is inclusive and will promote peace and unity among constituent members of the society the political offices seek to serve. Many politicians in developing countries don't mind destabilizing the society just to achieve their selfish political interests. They can wake up with their cronies and sycophants to amend the party constitution and alter existing arrangements that have been agreed upon by stakeholders thus heating up the polity.

In Egypt for example, it was reported in November 2009 that the women under what they called "Women against Hereditary Succession" launched an alliance to block the alleged plan by President Hosni Mubarak to hand over power to his son. According to Enas Abdel Karim, the spokeswoman of the group which claimed to have no affiliation to any political party or religious group, "The group is independent and limited to women. It is not open to men" The spokeswoman added, "That our movement is limited to women does not underestimate men. The aim is to show that women have a big role in bringing about changes and introducing reforms,"

The bold initiative by the women followed speculations that that Mubarak, 81, was grooming his younger son Jamal, a banker-turned-politician, to take over after him but the two Mubaraks had repeatedly denied the speculations. But as they say, there is no smoke without fire, and in politics anything can happen. Many times politicians fly a kite and want to test public opinion. Therefore, women as important stakeholders cannot afford to sit back and allow the men to fight their battles for them hoping to be crowned after the battle had been won. Women must insist that the rule of law and constitutionalism, gender equity, inclusiveness, openness and transparency, which are the essential components of good governance, are strictly observed.

Women need to develop leadership development programmes through which younger women will be mentored for political leadership so that they can take over from those who are old and

leaving the scene. This will allow for continuity and sustainability of gains recorded in the advocacy and efforts channeled towards securing a better deal for women in political participation and representation. I am not a politician but a trained administrator, and in administration, we always talk about succession planning, which I believe politicians are not opposed to you need a bit of the skills and wisdom that every profession provides including native intelligence in order to excel in politics which has been rightly defined as organized conflicts for political power. In succession planning, one is looking at how to transfer the reins of power from one set of managers or leaders to another, and planning determines whether the transition is a success or a disaster. Hear what Susan Gunelius has to say about this:

The question of proper succession planning carries with it some amount of risk. There is the risk of selecting the wrong individual, the risk of selecting someone who prefers you exit your position sooner than later, and the risk of looking for a clone rather than a compliment. However, none of these risks outweigh the damage that can be done to your company and/or division by not taking any action at all. Simply leaving an organization to find its own way will inevitably result in wasted time, money, and morale. Better to find that trust and confidence every great leader needs and put it to work for the betterment of your company and yourself.

I believe older women currently in politics and holding offices need to mentor younger ones without nursing the fear that they will upstage them and take over from them. Whether they like it or not, one day some of these younger ones will take over from them but the older ones should be seen as contributing to their success when they do take over.

- Nigerian women must be peace advocates. Politics by practice often involves conflicts but this must not be allowed to degenerate to physical conflicts leading to threat to life and even loss of lives and property. As natural peace makers, Nigerian women in the political parties must wage peace when their male counterparts are threatening to wage war. As it is often said, It is better to jaw-jaw

than to war-war Political conflicts must remain in the realm of debates, negotiation, dialogue and discourse. Women outside the political parties can also work together under different civil society groups, coalition or alliance to advocate peace and emphasize the need for politicians to eschew violence and follow the path of constitutionalism and rule of law. As the Holy Book says, Blessed are the peace makers, for they shall be called the children of God. It has been acknowledged the role the Liberian women played in making the warlords see the need to sign agreement to end the senseless and pernicious war in Liberia.

- The electoral managers and the judiciary must perform their duties without fear or favour. They must not be at the whims and caprices of the incumbent. A situation where these two critical institutions submit themselves to the influence and manipulation of the Executive either at the Federal or State level will not augur well for a smooth political succession.
- The parliament must be independent and act not as an appendage of the Executive. Wherever the Legislature becomes an appendage of the Executive, it becomes easy for the Executive to manipulate the law and the constitution of the country through amendments that can create succession problem. Sit tighter Presidents or heads of government hardly acts alone; they find accomplices in rubber stamp Legislature which pass into law their undemocratic agenda. Having a critical mass of women in parliament can help to discourage a situation where the parliament acts against the interest of the majority of the people since women are more likely to avoid legislation that can throw the society into avoidable crisis. The parliament in the spirit of the principle of separation of power must act as check on the Executive in order to avoid abuse or manipulation of the Constitution of the country.

CONCLUSION

Nigerian politicians need to understand the real essence of public service, respect the Constitution of the country and that of their parties and allow the electorate to have the last decision via the ballot on which power should be handed over to by any incumbent. They should learn from happened in recent past in Ghana where a ruling party lost the Presidential election to a party and candidate it had defeated in two previous elections. John Kuffour who Jerry Rawlings handed over power to did not set a bad precedent; he handed power back to Jerry Rawlings' party and indeed to the man who was Rawlings Vice-President while he was in office. The man who couldn't use the power of incumbency as Vice-President won the keenly contested election outside of government. This is how smooth transfer of power is done in a civilized society where credible elections are conducted by people of honour. Until it is possible in Nigeria for a ruling party to lose election especially at the federal level and still hand over peacefully, Nigerians will have no confidence in our electoral process and the number of voters in successive elections in Nigeria will keep on dwindling. The people must first trust the process before they will buy into it.

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COMMUNIQUE ISSUED AT THE POLICY DIALOGUE ON POLITICAL SUCCESSION ORGANISED BY THE AFRICAN CENTRE FOR LEADERSHIP, STRATEGY AND DEVELOPMENT (CENTRE LSD) ON 27TH JANUARY, 2010 AT DENIS HOTEL, ABUJA.

PREAMBLE

The African Centre for Leadership, Strategy and Development organized a Policy Dialogue on Political Succession in Nigeria on 27th January, 2010 at Denis Hotel in Abuja. The dialogue was attended by academicians, politicians, civil society organizations and the media.

The policy dialogue was held in the context of the constitutional and succession crisis in Nigeria occasioned by the absence of the President, Alhaji Umaru Musa Yar'Adua who left the country 65 days ago for medical treatment abroad without proper handover to the Vice President, Dr. Goodluck Jonathan as provided for in the 1999 Constitution of the Federal Republic of Nigeria.

The dialogue observed as follows:

1. Political succession or the transfer of power from one person, group or government to another is very important in any country because it affects the stability, survival and development of nations.
2. The issue of political succession is of strategic importance as it affects a lot of other processes especially the allocation of resources and reward; definition of national goals and internal distribution of power.
3. There are conditions and rules that guide political succession in every country and when these rules are followed, it allows for smooth and seamless political succession.
4. Constitutional democracy in Nigeria is very fragile because of many factors including incessant military intervention and failure of the political class to play according to the rules of the game of politics and governance.
5. Since political independence in 1960, Nigeria has had problems of political succession including the 1964 impasse, the 1966 military coup, the 1983 coup, the annulment of the

June 12 presidential election and the present logjam of the absence of the president for 65 days.

6. Democratic organizations and institutions such as political parties, civil society, labour, the legislature and the judiciary have critical roles to play in ensuring smooth political succession.
7. In Nigeria, the present logjam can be resolved by the President transmitting a letter to the National Assembly for the Vice President to become acting President in line with section 145 of the constitution or the Executive Council of the Federation passing a resolution on whether the president is capable of discharging his functions in accordance with section 144 of the constitution or the president is removed from office based on section 143 of the constitution.
8. Gender has not been a frontline issue in the political succession discourse in Nigeria.
9. The challenges to political succession in Nigeria include among other things absence of true federalism, incumbency factor, corruption, weak democratic institutions, decay in the social fabric and ineffective and compromised legislature.
10. The rise of Presidential system of government where the President accumulates tremendous power has led to the accumulation of power in one person who controls the political party machinery and resources of state.

The dialogue resolved as follows:

1. The 1999 Constitution should be amended to make the Vice-President to automatically become acting President with the absence of the President.
2. Political succession in Nigeria should be guided by adherence to the rules and procedure of succession, the conduct of credible, free and fair elections and citizen participation in governance and development.
3. The resolution of the present political and constitutional crisis requires short term, medium term and long term strategies

that should include immediate handover of the presidency to the Vice President, Dr. Goodluck Jonathan; voter education, protection of mandate, electoral and constitutional reform and changing the nature and character of the state and the conduct of politics, political party organizing and eventual capture of power by democratic, radical and progressive forces in Nigeria.

4. The constitution should be amended to provide for 35 percent affirmative action for women's election into offices at all levels of government.
5. Women should speak up against the unconstitutional and retrogressive succession plans being manipulated by a tiny cabal for selfish and parochial interest.
6. Women need to develop leadership programmes through which younger women will be mentored for political leadership.

The dialogue called on all democratic organizations and institutions including political parties, civil society, youth, labour, the legislature and judiciary to rise up to their duties and responsibilities to ensure a resolution of the present succession crisis so that there will be a smooth and peaceful transition now and the future.

The dialogue called on Nigerians to rise up to the challenges of political succession, governance and development in Nigeria and participate actively in political mobilization for transformative change in Nigeria.

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ABOUT CENTRE LSD

The African Centre for Leadership, Strategy and Development (Centre LSD) is a non-profit, non-governmental organisation established under Nigerian laws to build strategic leadership for sustainable development in Africa. The vision of Centre LSD is an African society where there is dynamic, strategic and visionary leadership committed to sustainable development. The Centre's mission is to work with forces of positive change to transform society through appropriate leadership, strategy and development approaches. The centre is guided by the values of transparency and accountability; integrity; transformative change; feminism; diversity; dignity of the human person and Pan-Africanism.

The major focus of work is in the giant of Africa Nigeria but the centre works across Africa with a Pan-African perspective with partners in all the sub-regions in Africa. The Centres' strategy, programme and actions focuses on Africa with the operations being run from Nigeria partnering with organisations across

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ENDNOTES

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