

**REPORT OF  
THE REGISTRATION  
AND  
ELECTION REVIEW  
COMMITTEE  
(RERC)**

\_\_\_\_\_

\_\_\_\_\_

— — — — —  
**FOREWORD**  
— — — — —

REPORT OF THE REGISTRATION AND ELECTION REVIEW COMMITTEE  
(RERC)

Copyright © INEC

All rights reserved. No part of this publication may be reproduced, transmitted, transcribed, stored in a retrieval system, or translated into any language or computer language, in any form or by any means, electronic, mechanical, magnetic, chemical, photocopying, recording, manual or otherwise, without the prior permission of the copyright owner.

First published 2012

*Cover Design:* Terfa Herman

*Designed & Printed in Nigeria by:*  
EDDY ASAE NIG. PRESS  
0802 325 1446, 0806 018 2441

**W**ith the conclusion of the General Elections in April 2011, the Independent National Electoral Commission (INEC) successfully completed the two central assignments it set for itself at inception in July 2010 namely, compilation of a new Register of Voters and conduct of the 2011 General Elections. Although the two exercises have been widely adjudged to be successful, the Commission could not have overlooked the many challenges that confronted it in conducting the registration and elections. Consequently, in line with its standing promise to Nigerians to continually improve the electoral process, the Commission decided to conduct a comprehensive evaluation of both the registration of voters and the general elections. In doing this, the Commission established a three-pronged process. First, there were internal reviews designed to enable INEC staff evaluate their own performance critically. Consequently, there were review meetings involving Electoral Officers, Administrative Secretaries and Resident Electoral Commissioners. Second, there were review meetings with major stakeholders. This was designed to enable stakeholders and INEC to jointly critique the work of the Commission during the registration and election. Among the stakeholders were civil society organizations, political parties, the media and the Interagency Consultative Committee on Election Security (ICCES). Finally, the Commission sought to have an independent body to review the registration and elections, drawing from its own direct investigations and the two preceding reviews. This gave rise to the establishment of the Registration and Elections Review Committee (RERC).

The Commission considered the type of independent audit conducted by the RERC as central to the continuous “lesson-learning” activities of the Commission. In order to make the evaluation productive, transparent and acceptable to the public, the RERC was not an internal “self-assessment” by the Commission. Instead, it involved knowledgeable persons from outside the Commission, who are seasoned experts in election administration fully understand the electoral process in Nigeria.

The overall goals of this comprehensive evaluation conducted by the RERC are as follows:

- To evaluate the registration exercise and general elections with a view to understanding the strengths and weaknesses of the Commission in the planning, coordination and execution of the projects.
- To, through this evaluation, embark on the process of repositioning the Commission to operate more efficiently by preparing to meet some of these challenges as its gradually moves towards the next Electoral Cycle.

- To, through these, assist in creating a world standard Electoral Management Body in which basic electoral best practices will be routine, and in which effective staff and organizational capacities will be developed to meet the challenges of an Electoral Management Body in a country such as Nigeria.

More specifically, the Commission charged the RERC to:

- Appraise all the operational processes for the voter registration and elections, including planning, organization, coordination and evaluation of activities, focusing particularly on such specific issues as logistics, procurement and delivery of materials, deployment of personnel, etc.
- Reassess the legal framework for the conduct of elections with a view to addressing some of the key legal challenges that had arisen in the course of both the registration and elections;
- Examine the role, performance and especially the overall administrative procedures and channels within and between Departments in the coordination and execution of the registration and elections;
- Review the processes of party primaries and nomination of candidates during the 2011 elections and INEC monitoring of those processes.
- Comprehensively assess the entire process of recruitment, training, deployment, performance and remuneration of Ad-hoc staff during the registration of voters and elections;
- Audit the Commission's cooperation and relations with other bodies such as MDAs, NGOs, security agencies and development partners during the registration and elections; and
- Identify and address any other outstanding issues in the registration and/or elections that are likely to impact on the conduct of the 2015 General Elections.

Clearly, this is a comprehensive and open mandate to ensure that all aspects of the work of INEC during the registration of voters and general election were evaluated by the Committee. It is clear that the RERC was given a freehand and nothing was either ruled out or ruled in.

In establishing the RERC, the Commission expected a number of outcomes, which I must say the Committee delivered successfully, namely a comprehensive report that will:

1. Feed into subsequent preparations for 2015 elections and restructuring of the Commission;

2. Assist the Commission to establish improved and more efficient business processes responsive to the current and future needs of the Commission; and
3. Enable the Commission to acquire a standing, in-house, capacity for project management, including the management of technical and human resources.

The RERC consisted of a Chairman and seven members, who are persons of proven integrity, requisite experience in electoral administration and research, as well as expertise in public policy. The membership of the Committee was as follows:

1. Professor Adele Jinadu Professor of Political Science and former member of the National Electoral Commission (NEC) Chairperson
2. Professor Festus Iyayi Professor of Business Administration Member
3. Mr. Clement Nwankwo Human Rights Lawyer and Head of the Civil Society Election Situation Room during the elections Member
4. Hajiya Saudatu Mahdi Women's Rights Activist and Executive Director, WRAPA Member.
5. Dr. Nasiru M. Yauri Senior Lecturer and Head, Department of Accounting at the University of Sokoto (UDUS) Member.
6. Professor Abdulhamid Ujo Professor of Political Science and member of the Justice Uwais Election Reform Committee Member
7. Professor Anthonia Taiye Simbine Research Professor, NISER, Ibadan Member
8. Hajiya Bilkisu Yusuf Journalist and human rights activist Member.

The Committee elaborated its own methodology, which included requesting the submission of position papers from staff of INEC and stakeholders, conducting oral interviews, reviewing of documents, undertaking visits to INEC facilities, as well as receiving commissioned papers from experts/consultants.

I am very pleased that the contents of this Report bear out the confidence that the Commission had in the members of the RERC. Indeed, the Report has added great value to the work of the Commission as it forges ahead with repositioning the Commission to become one of the best election management bodies in Africa. This Report will be a great companion and reference point for the Commission in its work for a long time to come.

This foreword will not be complete without expressing the sincere gratitude of the Commission to the Chairman and members of the RERC, who in spite of their tight personal schedules accepted this call to national duty. I must also thank in a special way the Democratic Governance and Development Programme (DGD) for their support to the work of the Commission. In particular, I wish to thank the partners who contribute to the funds of the Programme the European Union, DFID, UNDP, CIDA and KOICA. I also wish to thank specifically Ms. Titi Pitso of the DGD and Professor Sam Egwu of the Governance Programme of the UNDP for their untiring

support to the RERC. The International Foundation for Electoral Systems (IFES) has remained a dependable partner to the Commission. IFES provided technical support to the RERC by making available one of its consultants, George Carmona, to work with the Committee. The Open Society Initiative for West Africa and Open Society Justice Initiative also provided technical support to the Committee. I wish to thank in particular Jude Udo Ilo, Peter Ocheikwu and Chidi Odinkalu for this.

I must also thank the staff of INEC, at both the headquarters and States, for their openness and readiness to provide information to the RERC. This demonstrates a commitment to improvement in our work and to accept constructive criticisms. My special appreciation goes to all the stakeholders who spoke to the Committee while on field visits to the six geopolitical zones of the country. Your participation is an indication of the broad commitment to democratic principles and support to the Commission.

The secretariat of the RERC did a marvelous job in producing this report. The Committee Secretary, Mr. John Odah and his team Iduh Onah, Princess Hamman-Obels, Musa Shalangwa and Funmilayo Oluwole - therefore merit a special appreciation. Professors Mohammed Kuna and Okechukwu Ibeanu, my Special Assistant and Chief Technical Adviser respectively, deserve special mention here for their untiring work in designing the RERC, organizing the necessary logistics and also overseeing the successful completion of the work of the Committee.

Finally, I should point out that the Report of RERC must be seen as the beginning and not the end of what needs to be done. The challenge now is to take on board the recommendations of the Committee as we begin our planning for the 2015 General Elections.

Thankyou.

**Professor Attahiru M. Jega, OFR**  
Chairman, INEC  
October 2012

## TABLE OF CONTENTS

Forward		iii
Table of Contents		vii
Statement of RERC Chairman		viii
Appreciation		x
List of Abbreviations		xii
Preface		xiv
Chapter One	Introduction	1
Chapter Two	Executive Summary	7
Chapter Three	Appraisal of Operational Processes of the Voter Registration and Elections: Planning, Organization, Coordination and Evaluation of Activities Focusing on Such Issues as Logistics, Procurement and Delivery of Materials, Deployment of Personnel, etc	39
Chapter Four:	Assessment of the Legal Framework for the Conduct of Elections	55
Chapter Five:	The Role, Performance, Especially the Overall Administrative Procedures and Channels Within and Between Departments in the Coordination and Execution of Voter Registration and Election	69
Chapter Six:	Review of Processes of Party Primaries and Nomination of Candidates During the 2011 Elections and INEC Monitoring of the Processes	103
Chapter Seven:	Assessment of the Process of Recruitment, Training, Deployment, Performance and Remuneration of Ad Hoc Staff During the Registration of Voters and Elections	111
Chapter Eight:	Cooperation and Relations with Other Bodies	119
Chapter Nine:	Other Issues in the Registration and Election Exercises that are Likely to Impact on the Conduct of the 2015 General Elections	129
References:		137

**Statement by Chairman, RERC at the Presentation of the RERC Report to the Chairman, Independent Electoral Commission (INEC), Abuja, FCT, on Thursday, 5 January 2012**

Mr. Chairman, it is our great pleasure, at this momentous period in our great country's engagement with the challenges of democracy and development, to present to you our findings and recommendations on the 7 Terms of Reference you asked us to deliberate upon in our review of the 2011 Voter Registration and General Elections.

2. We cannot thank you and the members of INEC too much for the opportunity to be of service to you and our country and for granting us extra time to complete the review.
3. It is our fervent hope that you will find in our Report a rich vein of data and indicative pathways to enable INEC navigate much more skillfully and successfully the troubled, shark-infested and tempestuous, even dangerous waters of our electoral politics. We must add that doing this would necessarily require visionary transformative leadership by the top hierarchy of INEC.
4. Mr. Chairman, with your permission, we wish to use the opportunity of this formal presentation, to draw your attention to three seamlessly interconnected findings, which we have elaborated and illustrated in our Report and confronting which anchored our recommendations.
5. First, now as before, perhaps more so now than before, the contradictions spawned by our party system, reflected in deepening deficits of democratic ethos and of civic culture in our political parties, with their continuing grave assaults on their constitutions, remain the Achilles' Heels of electoral governance in our country. This finding informed several of our recommendations, especially those, which urge INEC, pending the establishment of the proposed Political Parties' Registration Commission, to explore more vigorously and proactively how best to use not only its regulatory and oversight powers over party political activities and finances but also its power of moral suasion to reorient, even nudge and encourage the political parties to be partners with it in improving electoral governance, particularly the conduct of fair, free, and credible elections, so vital to strengthening democratic politics in our country.
6. Secondly, much remains to be done to restructure and re-invent INEC, as a competent election management body, and to strengthen its ability and capacity to conduct credible elections. We are impressed that the current leadership of INEC has, as a matter of pressing priority and urgency, set in motion a process of self-critical examination and internal debate on how best

to reposition INEC the more effectively and efficiently to undertake its statutory mandate. Our recommendations are designed as inputs into the on-going internal review of INEC's administrative, financial, operational processes. What we wish to underscore, however, is the following: (i) there is need to proceed much more expeditiously with developing a medium- to long-term strategic plan for INEC, in partnership with key stakeholders in state and society; (ii) the imperative of a transformative leadership, at all levels of INEC's leadership hierarchy, which evinces collegiality, defined by mutuality and reciprocity, not only among the leadership but also between the leadership and the rank and file; and (iii) reconstitution of the Electoral Institute and strengthening it as an in-house training and research and development institution on various aspects of electoral governance and political behaviour.

7. Thirdly, the legal and political framework for electoral governance, particularly its normative and cultural underpinnings, poses "a present and clear" impediment to competitive party and electoral politics in the country. This much, with recommendations to mute it, was made clear in the Report of the Electoral Reform Committee. To grapple with this external reality, INEC, we believe, should explore, through voter education and dialogue with stakeholders, the creation of a broad-based national constituency to reform the framework, in ways to entrench a democratic political culture in the country. INEC can learn a great deal about how to proceed in this respect from what we identify in our Report as "outstanding recommendations," in other words, "Matters Arising" from the Report of the Electoral Reform Committee.
8. Mr. Chairman, I am done for now. It only remains for me on behalf of the RERC to wish you and other members of INEC Godspeed as you proceed with your refreshingly farsighted and determined attempt to make a difference for the better, in our electoral governance. It is not going to be easy, but that is the exciting challenge of transformative leadership.
9. God bless you. God bless our great Nation.

**L. Adele JINADU**

## APPRECIATION

**I**n the course of its work, RERC received invaluable assistance and support from several sources within and outside the INEC.

We gratefully acknowledge the honest contributions made by staff of INEC at various levels that the Committee had engagements with.

We thankfully appreciate the contributions made by the Chairman of the Independent National Electoral Commission, Prof Attahiru Jega whose frank interactions with the Committee provided us with very useful insights into the activities of the Commission within the short period of his appointment up to the period of the 2011 general elections.

Our thanks also go to the Secretary to the Commission, Alhaji Abdullahi Kaugama, for facilitating contacts with State INEC offices as well as principal officers at the INEC headquarters, as well as his personal interaction with the Committee from which we had clear insight of the Commission.

We equally thank the National Commissioners of INEC some of whom, despite their very tight schedules, were able to spare some time to oblige us basic information on the electoral process.

We want to specially thank Prof Okey Ibeanu, the Chief Technical Adviser to the Chairman and Prof Mohammed Kuna, the Special Adviser to the Chairman for always being there to guide us successfully through the INEC bureaucracy.

We equally thank the Resident Electoral Commissioners (RECs) and Administrative Secretaries, particularly those in states that hosted the Committee in the course of our field work to the geopolitical zones across the country. We cherish their frank contributions during our focus group discussions. Their vivid accounts of what transpired in the field provided the Committee with very helpful evidence of the administrative, operational, logistic and other organisational inadequacies in INEC as an electoral management body.

We are heavily indebted to directors and heads of various units at the INEC headquarters. Our interactions with them corroborated the mass of data generated from the field and further clarified the dynamics of the inherent crisis in the management and administration of our electoral process.

Our gratitude must also go to Princess Hamman-Obels and Musa Shalangwa for secretarial assistance and Onah Iduh for his painstaking work as assistant to the Secretary which proved invaluable to the work of the Committee.

The committee would also wish to register its appreciation to all political parties who not only registered their presence in our focus group discussions across the country but were passionate and spoke frankly especially on the character of our politicians and the undemocratic tendencies and practices imbedded in the internal politics of our political parties.

Finally, the committee equally appreciate(s) our para-military and security agencies, the Nigeria Police, State Security Service, Nigeria Customs Service, Nigerian Immigration Service, Federal Road Safety Commission, Nigerian Prisons Service, NYSC, CSOs and others who participated in our zonal focus group meetings and spoke on the noticeable security lapses in the electoral process.

We wish to place on record our appreciation to the UNDP Nigeria Office for supporting the work of the RERC which is a further demonstration of its support for enhanced electoral governance in Nigeria.

## LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
AFRC	Armed Forces Ruling Council
APGA	All Progressive Grand Alliance
AS	Administrative Secretary
CAN	Christian Association of Nigeria
COG	Commonwealth Observer Group
CO	Collation Officer
CSO	Civil Society Organisation
DDC	Direct Data Capturing (Machine)
EAPIC	Expanded Action Plan Implementation Committee
EMB	Election Management Body
EMOC	Election Monitoring and Observation Committee
EMOU	Election Monitoring and Observation Unit
EO	Electoral Officer
ERC	Electoral Reform Committee
EVM	Electronic Voting Machine
EU	European Union
FCT	Federal Capital Territory
FEDECO	Federal Electoral Commission
ICT	Information and Communication Technology
IDEA	(International) Institute for Democracy and Electoral Assistance
IFES	International Foundation for Electoral Systems
INEC	Independent National Electoral Commission
LGA	Local Government Area
MDAs	Ministries, Departments and Agencies
MFR	Member of the Federal Republic
Mni	Member of the National Institute
MoU	Memorandum of Understanding
NBA	Nigerian Bar Association
NBC	National Broadcasting Commission
NEC	National Electoral Commission
NGOs	Non Governmental Organisations
NNPC	Nigerian National Petroleum Corporation
NOA	National Orientation Agency
NRC	National Republican Party
NYSC	National Youth Service Corps
OFR	Officer of the Federal Republic
PDP	Peoples Democratic Party
PPRRC	Political Party Registration and Review Committee

PU	Polling Unit
RAC	Registration Area Centre
R&D	Research and Development
REC	Resident Electoral Commissioner
RERC	Registration and Election Review Committee
RO	Returning Officer
SDP	Social Democratic Party
SERVICOM	Service Compact with All Nigerians
SIEC	State Independent Electoral Commission
TOR	Terms of Reference
UNDP	United Nations Development Programme
UNIFEM	United Development Fund for Women
USA	United States of America

## PREFACE

### Background to Electoral Reform in Nigeria: An Overview

It is useful, if only briefly, to begin with some observations about the context provided by the post-second world war general history and political economy of Nigeria in shaping competitive electoral politics and electoral reform in the country. The salient characteristics of the history include:

- (i) The acquisition and monopolization of political power as a force for repression of oppositional forces and intolerance of diversity, and with it control over the state, its economic resources and the power of patronage over appointments in the public service and contract awards that goes with it;
  - (ii) The centralization of power in the executive branch, in disregard of provisions for separation of powers; and, flowing from it, the centralization of power in the executive branch;
  - (iii) The fusion of administration and politics, which remains a feature of our country's politics, has resulted in assault on independent regulatory and oversight institutions, such as INEC, with the consequential diminution of the non-partisan administration and management of elections, through the abuse of the power of incumbency by governing parties at all levels of our federal system of government.
2. The combination of this structural and cultural base on which the country's political economy rested in the immediate post-independence years, and even before then, shaped the dynamics and trajectories of competitive electoral politics in the country. This was understandable given the inherited first-past-the post electoral system, and its tendency to encourage a winner-takes-all political culture, which tended to turn politics and, therefore, electoral competition into a zero-sum game in what was in effect the conversion of the theatre of politics into a theatre of war.
  3. No less problematic for competitive electoral politics was the fragile character of the inherited electoral governance institutions and machinery, which the country inherited from the departing British administration at independence. The inherited electoral administration was easy prey to manipulation by ruling parties or coalition of ruling parties in control of regional and federal governments, who were not inclined to develop strong and independent

electoral management bodies. This was a major reason for the politicization of such bodies and their embeddedness in partisan party and competitive electoral politics during the country's First Republic, 1960-1966.

4. The major public policy problem of competitive electoral politics in Nigeria, despite various constitutional and political, including electoral reform since independence, but particularly under military administrations between 1976 and 1979, and 1986 and 1999, remains that of crafting electoral governance in ways to resolve or attenuate what persists as the major residual and salient problem of the colonial inheritance: using the instrumentality of electoral governance, i.e. its rules, procedures and institutional processes, its legal and political framework, not only to separate administration from politics but also to manage constructively and promote diversity, as a public interest objective, in ways to engender a new democracy-promoting and -deepening political culture.
5. Phrased in this way, the problem of competitive electoral politics in Nigeria is historically one of how to "secure" electoral governance from distortions, violations and manipulations, in ways that will manage diversity, in order to generate and sustain confidence in the legitimacy of democratic elections, and through it the legitimacy of democratic political succession in the country. This confidence is designed and is expected to flow from compliance with the underlying principle of elections in a liberal democracy: their ex ante indeterminacy, by which is meant the possibility of today's winners becoming tomorrow's losers, and today's losers becoming tomorrow's winners. [Przeworski, 1991:10] In other words, the distinctive feature or principle of democratic elections lies, therefore, in the possibility and prospects of the electoral defeat of incumbents holding elective public political offices. As Mozaffar [2002:86] puts it, "The legitimacy of competitive elections rests on the institutionalization of procedural certainty to secure substantive uncertainty...Electoral governance produces this procedural uncertainty."
6. Critical to this formulation is the notion of "free and fair" or "credible" democratic elections, which on one definition implies "freedom from coercion and fairness as the correlate of impartiality." [Lopez-Pastor, 2000:103] The notion of impartiality as applied to electoral governance, to rephrase the point made earlier above, involves a paradox: the requirement of the institutionalization of procedural certainty to secure the substantive uncertainty of electoral outcomes, or what is sometimes described as the "strategic dilemma of establishing democracy as a system of organized uncertainty" [Mozaffer, 2002:87; Przeworski, 1991]. The general failure to keep faith with this basic principle of elections in liberal democratic political systems has remained a recurrent and salient reform issue not only in the conduct and management of elections in Nigeria but also in debate over constitutional and political reform in the country. In this way, electoral reform in Nigeria has also, historically, been a central dimension of, and an important



subset of the constitutional and political history of the country, touching on the relationship between law and politics, in order words, raising contentious issue about the role of law as a force for political and social change.

7. This has in recent years raised yet another set of issues about elections and electoral reform in the country: the manipulation of the law, deriving from the inherent ambiguity of the language of the law and excessive focus on procedural technicalities to frustrate the spirit of the law, and to distort, even desecrate the electoral process, thereby further diminishing confidence in the law and the electoral process. This development has been a major substantive and procedural issue raised by the Nigerian Bar Association in its submission to the Electoral Reform Committee. The major plank on which the submission rested was shifting the burden of proof of issuing the Certificate of Return, to make it subject to judicial review before it was issued.
8. A study of the biography of competitive party and electoral politics and efforts to reform it in Nigeria shows that this is precisely what the tortuous and typically violent trajectories of democratic struggles for constitutional, electoral, political and socioeconomic reform in inclusive and participatory ways in the country, have all been essentially about: sanitizing the legal and political framework of electoral governance in the country, in order to secure its sanctity and legitimacy, broadly understood, in order to build confidence in it and to protect the people's electoral mandate and thereby secure the legitimacy of political succession.
9. Although the 2011 voter registration and the management and conduct of the general elections marked a great improvement over similar exercises in recent years; in 1999, 2003 and 2007, especially in the application of ICT to the voter registration and voting processes, and in inter-agency cooperation particularly over election security issues, the cumulated burden of the country's sad history of mismanaging democratic electoral governance is still ponderous.
10. The on-going debate on electoral reform in the country, even after the much-acclaimed 2011 voter registration exercise and elections, with its critical searchlight turned on how to engineer effective electoral governance, is partly a response to the documented reports, produced by government-appointed committees, internal reviews by the country's Independent National Electoral Commission, by the country's election observation groups and international ones, of electoral malpractices and deficits during the 1999, 2003, 2007 and 2011 general elections in the country. These reports documented and illustrated how the administration and management of the electoral process and elections in the country have seriously contravened the country's electoral laws and international conventions and standards, to which the country has acceded. The catalogued deficits in electoral governance are so legion and legendary and have been subjected to popular debate as not to need recapitulation or illustration here [See Jibrin Ibrahim, 2007].

11. The most grievous deficits emanate from the huge deficit of democratic political culture and the fragile character of democracy promoting institutions and of countervailing power centres in state and society to constrain and punish those who distort the electoral governance process for partisan party political and related sectional advantage, with impunity. However, the major deficits can be grouped into four broad categories, namely:
  - (i) Partisan use of state resources at the national and sub-national levels, through abuse of the power of incumbency by governing parties to obtain unfair electoral advantage for their parties' candidates;
  - (ii) Logistic, financial, and human resource capacity problem, arising out of the country's underdevelopment and its weak institutions;
  - (iii) The country's topography, creating access and distribution problems for deployment and retrieval of election materials and personnel in mountainous and riverine areas and;
  - (iv) The combination of a legal framework for electoral governance and a political and civic culture, which encourages and rewards electoral impunity.
12. What these observations suggest is that the continuing crisis of electoral governance and, therefore, of political succession to elective public political offices in the country reflects the contradictions thrown up by various reform attempts in post-colonial Nigeria to nurture and strengthen a democratic political culture and compact a credible and impartial legal and political framework for electoral governance, through constitutional/legal and political reform of the three levels of electoral governance in the country: (i) rule-making, i.e. rules of electoral competition and rules of electoral governance; (ii) rule application, i.e. organizing the electoral game; and (iii) rule adjudication, certifying election results and resolving disputes [Mozaffer and Schedler, 2002:8].
13. It is pertinent at this juncture to refer to the following six major attempts, among others, since 1975 to address the crisis of electoral governance in the country:
  - (a) The Constitutional Drafting Committee (1975);
  - (b) The Judicial Commission of Inquiry Into the Affairs of the Federal Electoral Commission (FEDECO), 1979-1983 (1984);
  - (c) The Political Bureau (1986);
  - (d) The Constitution Review Committee (1987);
  - (e) The Constitutional Conference (1995); and
  - (f) The Electoral Reform Committee (2007).
14. Indeed, much earlier than 1975, one of the six-point agenda agreed upon in resolving the constitutional impasse in the country following the October 1964 Federal General Elections was electoral reform, which was aborted by the January 1966 coup, which terminated the country's First Republic.

15. A major focus of these attempts was finding the 'right,' or "appropriate" constitutional/legal, electoral and political framework and recommending the substantive rules, regulations and institutional processes to ensure that elections do matter and make a difference as a core strategic mechanism for democratic political renewal, alongside other complementary and reinforcing mechanisms, necessary to strengthen, and arrest the real possibility of the reversal of, recent democratic gains in the country.
16. Linking electoral reform, in this manner, with constitutional/legal and political reform in Nigeria has generally had three broad but interrelated objectives which include the following:
- (i) Designing and ensuring efficient, effective, and politically non-partisan electoral governance institutions, rules and processes;
  - (ii) Reform of the party system to make them practise internal democracy, more "responsible," national in outlook and subjected to recognition, and subsequent recognition, registration, supervision, and oversight by the country's electoral body; and
  - (iii) Reorientation, through civic and voter education of the country's mainstream political culture, such that the political class, the political parties and the general public will evince and demonstrate a commitment to the rules and antecedent conditions for ensuring credible, i.e. essentially free and fair competitive elections.
17. Specifically in more recent years, especially since 1979, electoral governance reform to strengthen democracy in the country has generally been situated within the ambit of provisions defining the notion of free and fair elections, or of credible elections, in international conventions like the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples Rights, the Declaration on the Principles Governing Democratic Elections in Africa (2002), the APRM Declaration on Democracy, Political, Economic and Corporate Governance (2002), Guidelines for Electoral Observation Missions (2004), and the African Charter on Democracy, Elections and Governance (2007) among others, compliance with which national governments are accountable, and can be held accountable by the international community, at least through its power of moral suasion, and now increasingly through punitive sanctions and political conditionality.
18. What is already clear from the contradictions spawned by this seemingly permanent preoccupation with electoral governance reform is the need to avoid the fetishism of design, what Yogendra Yadav [2001:14] characterizes, in the case of India, as "a simplistic belief in the magic of design," particularly if it is "understood as a legal-constitutional design alone;" and to adjust expectations to the inherent limitations of reform, constitutional/legal, electoral and political, as a force for political and social change.
19. What is also becoming clear is the conflict of interest, and therefore, the problem that flows from it, in expecting beneficiaries of flawed electoral management, like presidents, state governors, legislators and ruling parties to act against their own interest by legislating and undertaking reforms that may serve to drive them out of power. It is this conflict of interest that also explains the protracted nature of reform, especially when constitutional reform has also been linked to electoral reform in the country. This much is clear from the rejection of some of the fundamental recommendations of the Electoral Reform Committee (ERC) by the government and prevarications in legislating and implementing some of the recommendations accepted by Government in the White Paper on the Report of the ERC.
20. Much can be learnt about the lingering challenge of the reform process and how to prevent democratic reversals, or "regressive coups" from the Latin American and Eastern European experience. As Przeworski [1991:51] observed, regarding the then fledgling democratic transitions in Southern Europe and Latin America, "the path to democracy is mined. And the final destination depends on the path. In most countries where democracy has been established, it has turned out to be fragile. And in some countries transitions have gotten stuck."
21. What the Latin American experience points to is the importance of distinguishing between two transitions: "a transition to democracy," (i.e. "establishing a democratic government") and "a transition to consolidated democracy," (i.e. "consolidating a democratic regime"). The distinction is relevant to the current Nigerian situation because, as the Latin American experience of "democracy by attrition" illustrates, "democracy is surviving not so much because of its own achievements as because of the seeming exhaustion of alternatives. Aware that they contributed mightily to the current crises and that they have no new answers; the militaries are reluctant to intervene again" [Mainwaring, O'Donnell and Valenzuela, 1992:296]. The lesson, therefore, is that to consolidate democracy, Nigeria needs to strengthen its electoral governance as a mechanism for engendering a democratic political culture, as has been done in countries all over the world where democratic regimes have been consolidated.
22. In conclusion, mention should be made of three important but seemingly neglected aspects of electoral governance, with perhaps indirect implications for the structure and process of the legal and regulatory framework of elections in Nigeria. The first is the progressive neglect of local government elections as a crucible for developing a political culture of democratic elections and the democratic management of diversity in the country.
23. Indeed, during colonial rule in the country there was a sense in which local government elections initially on an indirect, limited franchise basis provided the testing ground or laboratory for elections at higher levels of

administration. Yet, in Nigeria, since 1999, local government elections have generally fallen into desuetude, with state governments reducing local government to local administration, through setting up, contrary to constitutional provisions, unelected caretaker committees to run local governments. This is regrettable, if only because regular credible local government elections can be veritable mechanisms for the democratic management of diversity, political participation and inclusion; and for strengthening accountability mechanisms, bottom-up from the local to the state and federal levels.

24. The second neglected factor is the fact of underdevelopment itself. This has two dimensions. The first is the huge economic costs of voter registration and elections in the country, running into several millions of US dollars, which pose fundamental problems for electoral governance.
25. A related problem is the delay in the timely release of budgeted funds for elections owing to either the unavailability of such funds, especially if there are huge budget deficits, or the refusal to release them by rent-seeking civil servants, who see in the huge award of contracts for elections a source for their own personal enrichment. Fortunately, recent changes, which make appropriations to INEC a first charge on the Consolidated Revenue Fund, and new procurement regulations giving it substantial independence from the civil service rules and regulations, are welcome developments.
26. The second dimension arises from the relationship between administrative efficiency in election management and the conduct of elections on the one hand, and the depoliticization of electoral governance. This is because “in the context of limited financial and human resources prevailing in most emerging democracies, organizational excellence is difficult to achieve. Some irregularities are bound to happen. Yet, opposition parties tend to read technical failures as indicators of fraud. The “intersection between political suspicion and technical incapacity” may spark ardent disputes ...Preventing technical problems from contaminating an electoral process with corrosive suspicions is not an easy assignment” [Mozaffer and Schedler, 2002:9].
27. The third dimension is the need for a research and development (R&D) approach to electoral governance in the country, with emphasis on diachronic national and cross-national comparative studies, and the knowledge-based application of ICT and research findings to electoral governance in the country.

A graphic header for Chapter 1. It features a dark background with a white circular element on the left containing the word "CHAPTER" in bold white capital letters. To the right of this circle is a large white number "1". The graphic is framed by a thin white border.

## 1.1 Introduction

What makes democratic governance the most preferable system of government today is the institutionalization of periodic elections. The conduct of credible elections on a typically political party basis is the preferred means of choosing elective public officeholders. This observation underscores the definition of democracy as the government of the people by the people and for the people. It follows, therefore, that the electorate must play a central role in the electoral process, not only by just participating in the process, but also, by doing so in a manner that makes their vote secure so that it counts and is respected.

This situation can best be assured under conditions that facilitate a level playing ground for all candidates and participants in the electoral process. The conditions are expected to ensure not only compliance with statutorily set out procedures, rules and regulations for electoral competition but also the uncertainty of the outcome of the elections. This is what is referred to, when it is said that the hallmark of democratic elections is their ex ante indeterminacy, arising out of the procedural certainty, which is typically designed to ensure their substantive uncertainty.

There is a general perception both within and outside Nigeria that the conduct of the 2011 voters' registration and general elections was largely successful. This perception is due to the fact that the 2011 elections, by and large, crossed the threshold of the country's and international statutory standards stipulating the conditions for free, fair and credible competitive elections, particularly when viewed against the backdrop of previous general elections in the country, which were typically flawed.

In spite of the general conformity of the 2011 voters' registration and general elections with national and international standards, there were noticeable institutional constraints and behavioural/attitudinal lapses arising from the application of the procedures and processes guiding the conduct of both exercises. These constraints and lapses can be attributed to the complex structural and underdeveloped character of the Nigerian state, undemocratic nature of the country's political culture as well as the weaknesses embedded in the institutional framework of the Independent National Electoral Commission (INEC) as an electoral management body.

The limited improvement and success of the 2011 voters' registration and general elections was not unconnected with the consistent clamour for credible elections and the appointment of a new set of members of the Independent National Electoral Commission (INEC), under the dynamic leadership of Prof Attahiru Jega. Though their appointment came very close to the conduct of the 2011 voter registration exercise - a major exercise preparatory to the 2011 general elections, their intervention set the tone for not only the level of success recorded during the exercise but also brought immeasurable credibility to the 2011 general elections. To achieve this significant feat, the new INEC, under the proactive leadership of Professor Jega not only carried along both the rank and file of the Commission but also inspired them within the short period at its disposal, to overcome the many tough challenges of managing an INEC known for its notorious incompetence. This incompetence was manifested in the conduct of the 2007 elections. In fact, the late President Yar'adua, the chief beneficiary of the elections, not only admitted that the elections were flawed but he was also persuaded in view of the flaws to set up a 22-member Electoral Reform Committee on August 28, 2007 under the chairmanship of former Chief Justice of Nigeria, Hon. Justice Muhammadu Lawal Uwais (GCON) to examine the entire electoral process with a view to ensuring that we raise the quality and standard of our general elections and thereby deepen our democracy.

It was in order to consolidate on the achievements recorded, and to find a way out of the constraints and lapses experienced during the 2011 voters' registration and general elections, that INEC not only conducted a series of internal reviews and stakeholders' consultations and retreats across the country after the April 2011 elections but also decided to carry out a systematic review of the conduct of both exercises by an independent group of experts. This process led to the appointment and inauguration of the Voter Registration and Election Review Committee (RERC) in August 2011.

### 1.2 Committee's Terms of Reference (TOR)

The terms of reference of the RERC were to:

1. Appraise all the operational processes of the voter registration and elections including planning, organization and coordination and evaluation of activities focusing on such issues as logistics, procurement and delivery of materials, deployment of personnel, etc.
2. Assess the legal framework for the conduct of elections with a view to addressing some of the key legal challenges that had arisen in the course of both the registration and elections;
3. Examine the role, performance and especially the overall administrative procedures and channels within and between departments in the coordination and execution of the registration and elections;
4. Review the processes of party primaries and nomination of candidates during the 2011 elections and INEC monitoring of those processes;

5. Comprehensively assess the entire process of recruitment, training, deployment, performance and remuneration of ad hoc staff during the registration of voters and elections;
6. Audit the Commission's cooperation and relations with other bodies such as MDAs, NGOs, security agencies and development partners during the registration exercise and elections.
7. Identify other issues in the registration and elections that are likely to impact on the conduct of the 2015 General Elections and make appropriate recommendations.

### 1.3 Committee's Membership

The committee was made up of the following members:

1.	Prof. Adele Jinadu	-	Chairman
2.	Prof. Abdulhameed Ujo	-	Member
3.	Prof. Festus Iyayi	-	Member
4.	Prof. Anthonia Simbine	-	Member
5.	Dr. Nasiru Yauri	-	Member
6.	Hajiya Saudatu Mahdi MFR	-	Member
7.	Hajiya Bilkisu Yusuf mni	-	Member
8.	Bar. Clement Nwankwo	-	Member
9.	Comrade John Odah mni	-	Secretary

### 1.4 Duration of Assignment

The Committee was initially given 8 weeks within which to submit its report. However, it soon became apparent that this was not going to be feasible owing to the scope of the work that had to be done, the pressure on INEC officials at the zonal level, and the different commitments of committee members. The duration of the assignment was subsequently extended to January 5, 2012.

### 1.5 Methodology

The methodology adopted by the Committee in carrying out its assignment was interactive, participatory and consultative, supplemented with desk research. The committee invited and interacted with key officials of INEC at all levels, civil society organisations, security agencies, para-military organisations, political parties, media organisations, the National Youth Service Corps and other government agencies that played one role or the other in the 2011 electoral process.

In the course of its assignment, the RERC organized Focus Group Discussions (FGDs) in the six geopolitical zones in the country; namely, Lagos (South West), Port Harcourt (South South), Owerri (South East), Lafia (North Central), Bauchi (North East), and Kano (North West). Each FGD was attended by civil society organisations, security agencies, para-military organisations, political parties, media organisations, the National Youth Service Corps and other government agencies, Electoral Officers, Administrative Secretaries and Resident Electoral

Commissioners. The RERC also interacted with officials at INEC headquarter including the Chairman and National Commissioners of INEC, the Secretary to the Commission, Directors, Deputy/Assistant Directors, and Heads of Units/Departments. In the interactions with the different groups of respondents, they provided information to the RERC on their experiences during the 2011 voter registration exercise and the general elections after which the Committee members engaged them in further discussions.

The committee also relied on primary and secondary documents such as the Constitution of the Federal Republic of Nigeria, the electoral law, judgments of election tribunals, Report of the Hon. Justice Muhammadu Lawal Uwais-led Electoral Reform Committee, literature on and by electoral management bodies, expert theses and individually expressed views of members of RERC.

Finally, IFES made available one of its staff, Dr. Carmona, who not only interacted with the RERC to share his experiences on similar assignments in other countries but also conducted some preliminary organizational assessment of INEC and made the report of the assessment available to RERC.

### 1.6 Literature Review

Following its inauguration in August 2011, the initial agenda of the Committee was the identification and collection of relevant documents needed for its work. These working documents included:

1. Report of INEC Internal Retreat in Uyo after the 2011 election.
2. Justice Mohammed Uwais' Electoral Reform Committee Report.
3. Report of the Civil Society/Independent National Electoral Commission (INEC) Retreat in Nike Lake Resort, Enugu from 25-26 July, 2011.
4. Electoral Management Design: The International IDEA Handbook.
5. Constitutional & Legal Framework for the Nigeria 2011 General Elections.
6. Manual for Elections Officials 2011.
7. Preliminary Organizational Assessment: Independent National Electoral Commission (INEC) by Carmona G.V. (2011).

These documents were distributed to members who worked together as a team based on the terms of reference.

### 1.7 Method of Work by RERC

RERC met a number of times as a single group for preliminary deliberations on major issues surrounding the terms of reference and assigned tasks to individual members. It subsequently divided into Team A (North) and Team B (South), each team was tasked with the responsibility of undertaking field trips to its assigned group of states in the six geo-political zones in the country, divided for the purpose of the assignment into the Northern (North Central, North East and North West) and Southern (South East, South-South and South West) groups of geopolitical

zones. Team A was assigned to visit the three zones in the North while Team B was assigned the responsibility of making the field trips to the three zones in the South of the country. The locations to be visited in each of the zones were discussed and agreed upon. The RERC, through the division of tasks, expect that a representative picture of the perceptions of a loosely stratified sample of Nigerian stakeholders in the electoral process would emerge from the field trips, with regards to:

- (i) the 2011 voter registration and general elections; and (ii) their expectations about how best to reform the process. The two teams were composed as follows:

#### Team A (Northern Group of Geopolitical Zones)

- |    |                          |   |           |
|----|--------------------------|---|-----------|
| 1. | Prof Abdulhameed Ujo     | - | Chairman  |
| 2. | Dr. Nasiru Yauri         | - | Member    |
| 3. | Hajiya Saudatu Mahdi MFR | - | Member    |
| 4. | Hajiya Bilkisu Yusuf mni | - | Member    |
| 5. | Comrade John Odah mni    | - | Secretary |

#### Team B (Southern Group of Geopolitical Zones)

- |    |                           |   |          |
|----|---------------------------|---|----------|
| 1. | Prof Adele Jinadu         | - | Chairman |
| 2. | Prof Festus Iyayi         | - | Member   |
| 3. | Prof Anthonia Simbine     | - | Member   |
| 4. | Barrister Clement Nwankwo | - | Member   |

### 1.8 The Field Trips

During the field visits, the Zonal Teams held (i) intensive and interactive sessions with RECS, INEC Administrative Secretaries and selected INEC Local Government Electoral Officers; and (ii) focus group discussions with stakeholders, such as political parties, civil society organisations, faith-based and community-based organizations, NYSC, security agencies and media organisations. Team A held sittings in Kano for states in the North-West zone, Bauchi for states in the North-East zone and Lafia for states in the North-Central zone. Team B held sittings in Lagos for the South-West, Owerri for the South-East and Port Harcourt for the South-South zones.

RERC was disappointed that none of the RECs in the South East zone found the RERC's assignment sufficiently important for them to defer their other engagements to be present to receive and meet with it, on a matter so vital to the determination of INEC to reposition itself as a force for democratic consolidation and good governance in the country. In their absence, the RERC met with the INEC Administrative Secretaries in the zone.

In all the interactions and sittings, participants displayed high degree of passion by speaking frankly on various aspects of the RERC's TORs. There were however noticeable instances when Administrative Secretaries were not forthright in their comments where RECs were present but instead attempted to call individual team

members to disclose some issues deemed relevant to questions raised in the course of plenary meetings.

### 1.9 Interactions at INEC Headquarters

After the zonal trips, the RERC interacted with a majority of the heads of departments/units at the headquarters of the Commission. The Committee also met with the Chairman of the Commission, Prof Attahiru Jega, and raised issues pertaining to the preparation and actual conduct of the 2011 elections. The Committee initially requested to meet with the National Commissioners of INEC, but the meeting could not hold due to the tight schedule of the commissioners. However, with the Acting Chairman of INEC presiding, RERC met with some of them as a group towards the end of its assignment. The meeting provided the RERC the opportunity to reflect on its TORS and to consider matters arising from its zonal meetings. Thereafter, RERC members, individually or in groups, met with a number of INEC officials individually.

### 1.10 Conclusion

This report is derived from a careful analysis and interpretation of data derived through the methodology adopted for this review. The assignment has enabled RERC to identify the challenges facing electoral governance in the country, and to offer recommendations on how the challenges can be turned into opportunities. The overall objective is to enable INEC to design and conduct voter registration and elections in a way that will strengthen democracy and governance in Nigeria.



### Executive Summary

#### 2.1. Background to Electoral Reform in Nigeria

The review of the history of electoral reform in Nigeria points to the following as its significant defining features:

1. Despite various constitutional, political and electoral reforms introduced in Nigeria since its independence, the country is still faced with the challenge of crafting an effective electoral governance system. An effective electoral governance system is required to manage diversity and deepen democracy in Nigeria.
2. The problem of competitive electoral politics in Nigeria has historically been one of how to “secure” electoral governance from distortions, violations and manipulations, in ways that will manage diversity, generate and sustain confidence in the legitimacy of democratic elections, and through it the legitimacy of democratic political succession in the country. Critical to this formulation is the notion of “free and fair” or “credible” elections, which, on one definition, implies “freedom from coercion and fairness as the correlate of impartiality.” The notion of impartiality involves a paradox: the requirement of the institutionalization of procedural certainty to secure the substantive uncertainty of electoral outcomes. The general failure to keep faith with this basic principle of elections in liberal democratic political systems has remained a recurrent and salient reform issue not only in the conduct and management of elections in Nigeria but also in debate over constitutional and political reform in the country.
3. Electoral reform in Nigeria has also, historically, been a central dimension of, and an important subset of the constitutional and political history of the country, touching on the legal framework for electoral governance in the country. The concern with this legal framework was a major substantive and procedural issue raised by the Nigerian Bar Association in its submission to the Hon. Justice Mohammed Uwais-led Electoral Reform Committee (ERC).

- 3 The history of electoral politics in Nigeria and efforts to reform it shows that electoral reform has essentially focused on sanitizing the legal and political framework of electoral governance in the country, not only to secure its sanctity and legitimacy but also to build confidence in it, to protect the people's electoral mandate and enhance the legitimacy of political succession.
- 4 The management and conduct of the 2011 voter registration and general elections mark a great improvement over similar exercises since 1999. In particular, the application of ICT to the voter registration and voting processes as well as inter-agency cooperation especially over election security issues contributed to the success of the exercises. However, the cumulated burden of the country's sad history of mismanaging electoral governance is still ponderous, and had unwholesome impact on various aspects of the conduct of the 2011 voters' registration and general elections.
- 5 The on-going debate on electoral reform in the country, even after the much-acclaimed 2011 voter registration exercise and elections, is a response to the documented reports, produced by (i) government-appointed committees; (ii) internal reviews by the Independent National Electoral Commission; and (iii) reports of domestic and international observers since 1999.
- 6 The most grievous malpractices identified in the reports relate to the huge deficit of democratic political culture and the fragile character of democracy promoting institutions and of countervailing power centres in state and society to constrain and punish those who distort the electoral governance process and commit electoral offences with increasing impunity. However, the major deficits can be grouped into four broad categories, namely: (i) partisan use of state resources at the federal, state and local government levels, especially through the flagrant abuse of the power of incumbency by governing parties to obtain unfair electoral advantage; (ii) logistic, financial, and human resource capacity problem, arising out of the country's underdevelopment and its weak institutions; (iii) the country's topography, creating access and distribution problems for deployment and retrieval of election materials and personnel in mountainous and riverine areas; and (iv) the combination of a legal framework for electoral governance and a political and civic culture, which encourages and rewards electoral impunity.
- 7 What these observations suggest is that the continuing crisis of electoral governance in the country reflects the limited success of various reform efforts to nurture and strengthen a democratic political culture and put in place a credible and impartial legal and political framework for electoral governance in Nigeria.

- 8 A major focus of these attempts was finding the 'right,' or "appropriate" constitutional/legal, electoral and political framework and recommending the substantive rules, regulations and institutional processes to ensure that elections do matter and make a difference as a core strategic mechanism for democratic political renewal, alongside other complementary and reinforcing mechanisms, necessary to strengthen recent democratic gains in the country, and arrest the real possibility of their reversal.
- 9 Linking electoral reform, in this manner, with constitutional/ legal and political reform in Nigeria has generally had the following three broad objectives: (i) designing and ensuring efficient, effective, and politically non-partisan electoral governance institutions, rules and processes; (ii) reform of the party system to make the political parties practice internal democracy, more responsible and accountable to their members, appear national in outlook and subjected to recognition, and subsequent registration, supervision, and oversight by the country's electoral body; and (iii) reorientation, through civic and voter education, of the country's mainstream political culture, such that the political class, the political parties and the general public will evince and demonstrate a commitment to the rules and antecedent conditions for ensuring credible, i.e. essentially free and fair competitive elections.
- 10 Specifically, in more recent years, especially since 1979, electoral reform in the country has generally been situated within the ambit of provisions defining the notion of free and fair elections, or of credible elections, in international conventions on elections.
- 11 What is clear from the seemingly permanent preoccupation with electoral reform in the country is the need to avoid the fetishism of design, if it is understood as a legal-constitutional design alone.
- 12 What is also emerging is the conflict of interest, and therefore, the problem that flows from it, in expecting beneficiaries of flawed electoral management, like presidents, state governors, legislators and ruling parties to act against their own interest by legislating and undertaking reforms that may serve to drive them out of power. It is this conflict of interest that explains the protracted nature of reform, especially when electoral reform is linked with constitutional reform. This much is clear from the rejection of some of the fundamental recommendations of the Electoral Reform Committee (ERC) by the government and prevarications in legislating and implementing some of the recommendations accepted by government in the White Paper on the Report of the ERC.
- 13 Mention should be made of four important but seemingly neglected aspects of electoral governance, with perhaps indirect implications for

the structure and process of the legal and regulatory framework of elections in Nigeria. The first aspect is the progressive neglect of local government elections as a basis for developing a political culture of democratic elections and the democratic management of diversity in the country. Since 1999, local government elections have generally fallen into desuetude, with state governments reducing local government to local administration, through setting up, contrary to constitutional provisions, unelected caretaker committees to run local governments. Where elections are held, state governments have tended to use State Independent Electoral Commissions (SIECs) for partisan party political advantage. The second aspect is the fact of the country's underdevelopment. This has two dimensions. The first is the huge economic costs of voter registration and elections in the country, running into several millions of US dollars, posing fundamental problems for electoral governance. The second dimension arises from the relationship between administrative efficiency in election management and the conduct of elections on the one hand, and the depoliticization of electoral governance. This is because "in the context of limited financial and human resources prevailing in most emerging democracies, organizational excellence is difficult to achieve. Some irregularities are bound to happen. Yet, opposition parties tend to read technical failures as indicators of fraud. The "intersection between political suspicion and technical incapacity" may spark ardent disputes ...Preventing technical problems from contaminating an electoral process with corrosive suspicions is not an easy assignment." The third aspect is the need for a research and development (R&D) or knowledge-based approach and the more intensive application of ICT to electoral governance and reform in the country. The fourth aspect is the role of leadership at the highest level of the electoral management body in the credible management and conduct of elections. Thus the success or failure of the electoral commission at any period, especially in the light of the challenges faced during the period, is usually attributed to the quality of leadership at the helm of affairs at the electoral commission during the period. Any serious examination of the factors that contributed to the success or failure of voter registration and elections in 2011 must take significant account of this factor. The key issues in the leadership factor include the level of integrity displayed by the electoral body's leadership, their sense of vision and mission, the degree of trust that they evoke, their ability to motivate high levels of performance, their ability to build consensus and team work among divergent and often conflicting interests; in effect, their substance and style. At the electoral commission key leadership processes occur at the headquarters and state levels.

- 14 It is against this background that INEC inaugurated an 8-member Registration and Election Review Committee (RERC) under the chairmanship of Prof. A. Jinadu on August 2, 2011 to carry out an independent assessment of its performance in the voter registration

exercise and general elections in 2011. The RERC was provided with seven (7) Terms of Reference (TORs).

## **2.2. Operational Processes for Voter Registration and Elections [TOR 1]**

The analysis of the data on the operational process for the 2011 voter registration and general elections shows that the problems associated with the two major exercises are crosscutting. In other words, a challenge associated with one exercise invariably and always automatically is associated with the other. There is, therefore, the tendency of seeming replication of either the findings or recommendations with respect to all or most of the challenges associated with each of the terms of reference of the committee on voter registration and elections.

Given that INEC was constituted just about nine months before the elections, it must be commended for delivering what was clearly a significant improvement on the 2007 general elections. The registration of 70 million voters in a few weeks and implementation of a virtually new electoral law regime is an outstanding achievement.

The major findings and recommendations under this TOR are as follows:

### **2.2.1. Inadequate Personnel Training**

Training of personnel used during the exercise was inadequate. From the interactions during focus group discussions with RERC both in the field and at INEC headquarters, it was easy to identify that this was due to problems related to:

1. Late arrival of training materials; inadequate equipment for practical training of both the permanent and ad hoc staff of INEC
2. Insufficient time for training which did not allow for proper assessment of personnel before deployment to the field
3. A number of personnel that participated in the training were not selected for the exercise.

### **2.2.2 Late Arrival of Registration Materials**

In all the geo-political zones visited by RERC, there were complaints about the inadequate number of and late arrival of DDC machines and other registration materials during the registration exercise.

### **2.2.3 Distribution of Materials**

There were delays in the distribution of materials. The delays led to the late commencement of voter registration, especially, in rural areas.

### **2.2.4 Technical Capacity of Ad Hoc Staff**

There were technical challenges in terms of the ability of many of the ad hoc staff to use the DDC machines. This was especially the case during the first week of the exercise.



### **2.2.5 Multiple/Underage Registration**

Multiple registration and underage registrations were other major challenges during the 2011 registration exercise.

### **2.2.6 Lack of Public Enlightenment on the Display of Voters Register**

Although INEC did display the voters' register after the registration exercise, there were complaints from stakeholders during RERC interactions that that exercise was not given sufficient publicity by INEC, resulting in the poor response from the public.

### **2.2.7 Logistic Challenges**

There were noticeable lapses in the logistics and management which affected the success of the elections. Among these were:

1. Inadequate storage facilities in the states,
2. Late arrival of materials,
3. Poor mechanism for the retrieval of materials and;
  
4. Inadequate vehicles for some local government areas and state headquarters.

### **2.2.8 On Polling, Counting, Collation, Announcement and Transmission of Results**

There were some innovations that contributed to the efficient counting, collation, announcement and transmission of results. These include:

1. The verification of polling units which provided the Commission with the opportunity to have first-hand knowledge of the exact locations of polling units throughout the country.
2. The overnight camping of election officials and security personnel which enabled the timely commencement of polls.
3. The use of corps members as election officials. This enhanced the transparency and neutrality of the electoral process.
4. Part payment of allowances in advance which motivated election officials.
5. Restriction of movement of people including public office holders. This impacted tremendously as it restricted to some degree undue influence of political office holder on election personnel.
6. Creation of voting points quickened the process of accreditation and voting.
7. The adoption of the modified open ballot system reduced incidences of multiple voting.
8. The structure, that is, the alphabetical serialization and paging of voters register coupled with the provision of check boxes for accreditation and balloting assisted in the polling. Other innovations that worked were:
9. The transparent mode of accreditation and counting of votes cast encouraged voters and this brought a high degree of credibility to the process.

10. The use of academic and non-academic staff as Returning Officers (ROs) and Collation Officers (COs) shielded commission staff from probate accusation of bias and this also brought credibility to the whole process.

### **2.2.9. Recommendations**

It is necessary for INEC to correct the anomalies highlighted in the findings under this TOR, before the 2015 election. To this end, the following recommendations are made:

#### **1. Strategic Operational Plan**

Strategic and operational plans should be made as early as possible. Such plans will provide a blue-print for voter registration and electoral activities before the 2015 General Elections. The plans should contain activities and time for voter registration and election. Specific activities to be included are recruitment of ad hoc staff, training of both ad hoc and permanent staff, logistics arrangements, amendment of the legislative framework, and notice of polls and the conduct of all elections. To address the issues surrounding its planning and management of elections, in the future, RERC recommends that:

- (i) INEC should immediately develop a strategic plan with detailed timelines for all its forthcoming activities and develop a checklist necessary to ensure enhanced performance in all forthcoming elections and other INEC assignments.
- (ii) The strategic plan should outline clearly duties assigned to staff and the deliverables, the procedures and timelines for the deployment and remuneration of ad hoc staff and security agents participating in the elections.
- (iii) INEC should be restructured to ensure professionalism and efficiency in elections management and efficient implementation of the strategic plan.
- (iv) The strategic plan should ensure that electoral officers are posted in advance of the election to the local government areas they would be serving.
- (v) Guidelines for participatory strategic planning should include establishment of a Planning Committee to collate the inputs from all retreats and workshops that reviewed the 2011 elections and synthesize them for use in the plan.
- (vi) INEC should establish effective liaison with respective government ministries, departments, agencies and the National Assembly to secure availability of adequate funds for all its activities.

#### **2. Voter Registration**

- a. It is necessary to develop the administrative structure for continuous registration. A permanent administrative structure equipped with well

trained personnel should be established in each of the 774 local government areas in Nigeria to make the exercise on-going.

- b. The current voter registration centres are outdated due to changes in the demographic structures. There is a need to review the existing voter registration centres with a view of creating new ones to reflect demographic changes. The number and location of the new registration centres should be published and made accessible to political parties and other stakeholders.
- c. Higher quality DDC machines should be procured to avoid the challenges encountered during the 2011 voter registration exercise. Arrangements should be made with the suppliers for regular maintenance and repairs.
- d. INEC technical staff in the states and at the Commission's national headquarters should be involved in the development of soft-wares used for voter registration. This will prevent a situation where ad-hoc technical staff cannot handle technical challenges.
- e. The idea of using members of NYSC as ad hoc staff should be sustained. However, the Memorandum of Understanding between INEC and NYSC should be reviewed bearing in mind the lessons learned from the 2011 experience. The control and payment of corps members should be the responsibility of Resident Electoral Commissioners.
- f. The engagement of NYSC members as Presiding Officers and Assistant Presiding Officers should be strengthened. This can be realized by ensuring that corps members recruited are those whose length of service extends to (if possible) the end of the Election Petition Tribunals' proceedings. Supervisory Presiding Officers should be sourced amongst staff of the Commission who know the importance of the exercise and can be held responsible for non-compliance.
- g. There is a need to improve the process of coordination between registration officers and their supervisors. This will reduce the incidence of late commencement of registration and inadequate materials.
- h. The display of a voter register is useless without proper publicity as could be seen from the 2011 exercise. There is, therefore, a need for systematic publicity during the display of the register. All media organizations including print, electronic and sound should be deployed. Political parties, civil society groups, traditional rulers, religious leaders, youth organizations, and women associations should be actively involved in the exercise.
- i. The final figures of the voter register should be verified and confirmed before publication. It is necessary to avoid the mistakes of the 2011 exercise when different figures were released at various times.

- j. There should be timely distribution of materials including provision of logistics requirements to ensure early commencement of registration.
- k. The voter register should be thoroughly scrutinized to remove multiple registrants and include missing names.
- l. INEC and relevant stakeholders should undertake extensive and continuous voter education initiatives to deepen the understanding of electoral process and obligations of the electorate.
- m. There should be an improvement in the registration centre administration. There is also need for uniformity in procedures by all personnel.
- n. There should be an improvement in the training of registration officials to ensure uniformity and to reduce incidences of poor registration exercise.
- o. There should be prosecution of all offenders. Those convicted should be publicized.
- p. There should be better regulation of observer groups to remove those who were not accredited.
- q. INEC should be restructured in order to ensure professionalism and efficiency in elections management and efficient implementation of the strategic plan.

### **2.3. Legal Framework for Conduct of Elections [TOR 2]**

The following findings and recommendations flow from RERC's analysis of the data it collected on TOR 2.

#### **2.3.1 Voters Register**

Looking forward to the future, RERC is of the opinion that the provisions in the law regarding the registration of voters and the time provisions and sequences for it are adequate.

#### **2.3.2. Party Primaries**

INEC should take a firm position on its monitoring of party primaries ahead of coming elections. It is desirable that a strict interpretation of the Electoral Act should be applied by INEC in accepting a candidate as the one who has been chosen by his/her party in compliance with section 87 of the Electoral Act, and that this is interpreted to mean that since it is only such persons that fall within the definition of candidate in section 31 of the Electoral Act they cannot, therefore, be rejected by INEC.

In view of this, it must be noted that INEC was not able to respond to some of the notices received from the political parties informing it of planned congresses and conventions for the nomination of candidates for the April 2011 general elections. Given the limited time and human resources at its disposal, INEC could not map out an effective means for deploying its observers to be present at the different party primaries for the nomination of their candidates and could not, therefore, verify compliance with the relevant provisions of their party constitutions and of the Electoral Act 2010 (as amended) in cases of disputed primaries, where it did not send observers.

### **2.3.3 Notice of Elections**

It is preferable for INEC to issue notice of elections well ahead of the ninety days stipulated in the Electoral Act, 2010 (as amended). Indeed, to help keep its timelines, INEC should consider issuing an early notice for elections so that political parties can set the dates for their conduct of primaries and be prepared to submit their list of candidates within good time. This will also boost INEC's ability to properly and effectively observe the primaries of the parties.

### **2.3.4 Monitoring of Political Parties**

INEC appears to be hamstrung by its interpretation that the National Assembly's amendment of sections 31(1) and 86(1) of the Electoral Act 2010 precludes it from monitoring the activities of political parties. However, it is arguable that the principal law from which the provisions of the Act are drawn does not support this interpretation. The 1999 Constitution of the Federal Republic of Nigeria explicitly and unequivocally empowers INEC to "monitor the organization and operation of the political parties."<sup>1</sup>

### **2.3.5 Announcement of Results**

INEC should design a creative framework for systematizing the identification, training and monitoring of Returning Officers for the elections. University teachers or other identified groups or individuals appointed to serve as Returning Officers should be drawn into a pool and trained well ahead of the elections. In addition, such individuals should take the oath of office provided under the Third Schedule of the 1999 Constitution for election officials.

### **2.3.6 Political Party Finances**

There is no evidence that INEC has set up an effective process for monitoring and regulating the finances of parties or candidates for elections. INEC will need to put in place the necessary mechanisms to (i) make persons seeking elective office and their political parties to account for their campaign finances and other election-related expenses; and (ii) routinely and periodically publish the audited accounts of political parties' finances in national newspapers.

<sup>1</sup> Paragraph 15 (c), Third Schedule, Constitution of the Federal Republic of Nigeria

### **2.3.7 Election Petitions**

There is an urgent need for INEC to review the method of briefing lawyers with regard to cases involving it. The INEC Chairman should be fully and completely briefed on all litigations against INEC, including election petitions; so that proper instructions can be issued to lawyers acting on behalf of INEC. This will enable such lawyers to act without bias against any of the parties to an election petition. It will also ensure that the interest of justice is protected at all times.

### **2.3.8 Process of Obtaining Legal Advice**

It is unclear how the different units and departments of INEC obtain legal advice in carrying out of their tasks. It is, therefore, important to define an enduring and sustainable process of handling litigation and legal matters involving INEC on elections and non-election related issues.

### **2.3.9 Number of Political Parties/Deregistration of Political Parties**

The Committee is concerned that the number of political parties recognized by INEC and which expect to be listed on the ballot during elections is unwieldy and creates voter confusion during voting. The Commission should take proactive steps, consistent with its statutory powers to ensure that only parties that are seriously in operation are put on the ballot. INEC should creatively explore its powers over political parties, including its monitoring powers, to ensure that it creates conditions for registered political parties to qualify to be on the ballot. For instance, parties that fail a certain threshold in its monitoring of their activities could be excluded from the ballot, even if they remain registered.

### **2.3.10 Constitution and Electoral Act Amendment**

The Committee recommends that INEC creates a technical team of experts to review the portions of the 1999 Constitution (as amended) as well as the entirety of the Electoral Act 2010 (as amended), with a view to proposing amendments to both instruments that will further enhance its ability to conduct free and fair elections.

INEC should also:

- (1) Ensure that ballot papers to be used for future elections are custom made and specific to the particular elections, as well as serially numbered.
- (2) Provide for persons on election duty to vote on polling day.
- (3) Clearly outline voting access for all manner of disabled persons.
- (4) Devise specific bill to be proposed to the National Assembly as amendment to the Electoral Act or even the Constitution, to weed out unserious political parties from the ballot.
- (5) Engage with the Committees on INEC in the National Assembly, to pursue the passage of the Electoral Offences Commission bill.
- (6) Engage with the National Assembly to revisit the prohibition of electronic voting in the Electoral Act.

- (7) Implement the constitutional requirements for delimitation of constituencies, with due consideration of the possibility of a national census proposed for 2013.
- (8) Provide training to INEC officials on the contents and implementation of the Electoral Act and the Constitution.
- (9) Implement the provision of the Electoral Act that allows it to set up a Fund controlled by it and proactively raise funds that it can invest and use for expenditures not captured in the national budget.
- (10) Generally review the Constitution and the Electoral Act and propose as may be necessary, specific provisions or sections to be amended or enacted by the legislature.
- (11) Explore with other stakeholders the desirability of constitution amendment to put RECs under the direct appointment/nomination/management/control of INEC, in order to address the problem of partisanship of RECs
- (12) Ensure that ballot papers to be used for future elections are custom made and specific to the particular elections, as well as serially numbered.

#### **2.4 Organizational Structure of INEC [TOR 3]**

Although the organizational structure and processes of INEC revealed a number of strengths, they also expose several weaknesses with wide range of implications on the voters' registration exercise and the general elections. These weaknesses include:

##### **2.4.1. Over-delegation to Committees**

A number of problems that arose during the 2011 voters' registration exercise and the general elections probably arose from over delegation by the Chairman of the Commission. A typical event is the postponement of the election on April 2, 2011, an event that posed a grave threat to the stability of democracy in Nigeria.

While the overall success of the elections has dimmed the importance of the event, the different accounts of the event obtained by RERC indicate that the Chairman trusted too much in the ability of the Expanded Action Plan Implementation Committee (EAPIC) to deliver on its own monitoring and assessment of the situation. The Chairman therefore did not create other mechanisms for cross checking the accounts of EAPIC on its assignments and its assessments of developments as they occurred.

##### **2.4.2. Low Level Integration of other Levels of INEC's Leadership with the Worldview of the Chairman**

There is the perception both within and outside INEC that other levels of leadership in INEC are not or have not reoriented themselves in line with the vision of the current Chairman of INEC. The Chairman of INEC is viewed as 'alone in his crusade for a new INEC' while other levels of leadership below the Commission want to continue with 'business as usual'. Thus, there appears to be doubts as to the degree to which 'the new wind blowing in INEC' will be able to root itself as the appropriate

culture of INEC. In effect, there are doubts as to the sustainability of the new culture of integrity that is associated with INEC by virtue of Prof Attahiru Jega's appointment and current position as Chairman of INEC.

##### **2.4.3. Unwieldy Number of Departments**

The division of labour at INEC evolved from a 7 departmental structure in 1998 to an eighteen departmental structure in early 2010. There is overwhelming evidence that the current organizational structure is highly unwieldy.

##### **2.4.4. Staffing and its Disposition**

There is an obvious relationship between the number of departments in an organization and the number of staff. More departments will, all things being equal, also mean more employees. The number of employees in INEC is obviously a matter of concern especially in terms of their disposition. In the interactive sessions with directors and heads of department, there was unanimity that certain departments are overstaffed while others are understaffed.

##### **2.4.5. Poor Formalisation of Departmental Functions**

The functions of each of the departments in the current organizational structure of the Commission are provided in the relevant Annexure to this report. However, as the data collected indicates, there is little or no formalisation of functions in the Commission. This means that the functions of departments exist either as drawn up or spelt out by the departmental head or are emergent as the experience and assignments of the departments change.

##### **2.4.6. Overlapping Functions and Jurisdictional Conflicts**

The lack of formalisation suggests that some of the departments may have been created without adequate consideration of their relationship to the existing division of labour. This suggestion is supported by the clear cases of overlap between the functions performed by different departments.

##### **2.4.7. Ambiguity in Reporting Relationships and the Committee System**

Effective performance by individuals, units and departments requires clarity in reporting relationships. However, the evidence obtained by RERC is conclusive that there are major ambiguities in reporting relationships.

##### **2.4.8. Delay in Decision Making and Communication**

One major result of the confusion in reporting relationships is delay in decision making and bottlenecks in communication channels. Following the organogram, the Secretary to the Commission has at least eleven heads of departments reporting to him directly while there are also dotted line relationships between his office and the Electoral Institute. This span of control is simply too large.

##### **2.4.9. Motivation and Conditions of Service**

Motivation is a crucial element in staff productivity and commitment. The research evidence is conclusive that motivation has implications for job satisfaction, employee loyalty, and turnover among other indices. Poorly motivated employees

may resort to 'getting their own back on the organization' by restricting output, painting the organization in bad light before the public, leaking or selling organizational secrets and engaging in corrupt practices. For an organization like INEC that handles a sensitive and strategic political assignment, the degree to which its staff is motivated is a crucial question. Information obtained by RERC indicates that the majority of respondents believe that INEC staff are poorly remunerated and have poor working conditions.

#### **2.4.10. Indiscipline**

RERC's interactions with state level officers and directors/heads of department in INEC's headquarters indicate that indiscipline is a major problem in INEC. It seems, however, that the level of the problem has been reduced with the assumption of office by members of the new top leadership in INEC.

#### **2.4.11. Headquarters and State Offices**

The interactions with INEC staff at the state level offices indicate that the relationship between INEC state offices and the local government offices and between the state offices and the national headquarters is not very cordial.

#### **2.4.12 Over-centralization of Decision Making at Headquarters**

There is the perception at the state level offices of the Commission that decision making is over-centralized at the headquarters.

#### **2.4.13 The Role and Integrity of Resident Electoral Commissioners**

There is a great deal of controversy surrounding the role and integrity of Resident Electoral Commissioners, more commonly called RECs. RECs are defined within the framework of INEC as head of the state level offices of INEC.

#### **2.4.14. Communication Problems**

There are several dimensions to the communication problem. One dimension is lack of clarity in the communication between INEC headquarters and the state offices. Lack of clarity and conflicting instructions from INEC headquarters to the state offices were cited by state level officers as an impediment to their performance during the registration exercise and the elections.

#### **2.4.15. Relationship between the Resident Electoral Commissioners and their Administrative Secretaries**

RERC got the distinct impression that Administrative Secretaries in the state offices feel overwhelmed by the RECs. Although the role of Administrative Secretaries in INEC state offices can be said to be analogous to that of the Secretary to the Commission at INEC headquarters, almost all the Administrative Secretaries gave the impression that the RECs had little or no respect for their (Administrative Secretaries) offices.

#### **2.4.16. Recommendations**

In addition to recommendations coming out of previous reviews of the organizational structure of INEC, RERC makes the following recommendations,

which are informed by its own independent assessment of the problems. Specifically, and in the light of the findings, RERC would like to recommend as follows:

#### **2.4.17. Substance and Style of Top Leadership Team**

Based upon his antecedents, which were amply demonstrated in the course of the voters' registration and elections, Prof Jega has come to personify integrity for INEC. He has been able to do this as a result of a leadership style that is open, transparent, team oriented, accountable and with an ability to take full responsibility for mistakes. He should continue to maintain this style of leadership. However, he also needs to encourage other levels of leadership in the organization to follow his example. This can be achieved by making leadership an issue in discussions between Prof. Jega and INEC's leadership team.

#### **2.4.18 Competent and Committed INEC Staff**

INEC should strengthen the competence of existing staff by (i) rewarding and recognizing competence through creating appropriate reward and recognition systems/ ceremonies (ii) ensuring that competent personnel occupy positions and (iii) recruiting any additional staff that may be needed on the basis of professional competence.

#### **2.4.19. Special Ad Hoc Committees**

INEC should undertake an in-depth analysis of what worked well in EAPIC and what did not, for purposes of organizational learning and especially in preparation towards future elections. The analysis should be documented and subject to internal discussion within INEC. Based upon lessons learned, a re-engineered EAPIC should be used in future elections.

#### **2.4.20. Over-delegation to Committees:**

The postponement of the April 2, 2011 election was a historic moment in the electoral history of Nigeria. EAPIC was the major committee in charge of the core activities mandated for the elections. The postponement was therefore a result of the some organizational and operational lapses. Although the Chairman of INEC is of the view that the issues surrounding the postponement have been identified and mainly resolved by the Commission, it is recommended that the events and issues surrounding the postponement be documented for the record. One advantage of this is that it will be formalized within the institutional memory of INEC. INEC's own documentation will serve as the standard over time against which other accounts can be compared. Another advantage is that it will help the work of EAPIC in the future.

As much as the Chairman of the Commission may have confidence and rely on the feedback provided by the Commission's Committees, he or she should have some other mechanism for cross-checking information and decisions provided by Committees. One mechanism is playing Devil's Advocate with such information and decisions. Another is having another individual validate the information and decisions using independent means.

#### **2.4.21. Low Level Integration of Chairman's Office with Other Levels of Leadership**

What is at issue here is a key leadership challenge. To be or to remain in control does not require authoritarianism or the flagrant and unilateral display of power. The challenge is for the leadership to display courage and firmness in decision making even under pressure and difficult circumstances. It is to ensure that actions and activities that threaten the integrity of what has been achieved and what is hoped for are promptly apprehended and sanctioned, no matter who may be involved. The leadership must fight hard to ensure that it does not become a prisoner of gossip and its own or other people's fears. It must ensure that there are adequate rules and regulations that govern behaviour and that actual behaviour follows the laid down rules and regulations.

#### **2.4.22. Unwieldy Number of Departments**

One clear action that the management of INEC must take is to reduce the number of departments. While it would be presumptuous to suggest the number of departments that should be allowed for in the structure, there are clear principles for the division of labour that INEC can take advantage of. Equally, there are legal definitions of what INEC is set up to do. These definitions can provide a basis for grouping activities into departments and units. Thirdly, the ERC Report made recommendations on the unbundling of INEC and proposed a number of independent and autonomous bodies from the current structure. The areas proposed for unbundling can provide a basis for a new structure of INEC. Fourthly, the International IDEA Handbook on Electoral Management Design provides a number of models for structuring an EMB. The models can provide a basis for the restructuring that is needed.

More specifically, it is recommended that:

- i. In line with the recommendations in the ERC Report, INEC should have a Board of Commissioners made up of (i) an Executive Chairman; and (ii) Commissioners with non-executive responsibilities. The responsibilities of the Board would be as was set out in the ERC Report to 'formulate broad electoral policy for the Commission'. (Report of the Electoral Reform Committee, Volume 1: Main Report, December 2008:154). It would also be to review and evaluate policy with a view of improving the performance of the Commission.
- ii. The Secretary of INEC shall be appointed by INEC, be responsible to and report directly to the Board through the Chairman of the Commission, and serve as head of the INEC Secretariat.
- iii. Below the Secretary of INEC will be Directorates. Each directorate should be composed of Departments. A department would be made up of units. This means that the idea of 'Desks' should be abolished.
- iv. Deriving from the functions assigned to INEC, the recommendations in the ERC Report that INEC should be unbundled and the comparative analysis of principles and models provided in the IDEA Handbook, the following Directorates should be created:

- The Directorate of Operations made up of the departments of Voter Registration, Elections and Education, Planning, Logistics and Transport, Political Parties (registration, monitoring, and liaison), ICT.
- The Directorate of Services made up the departments of Human Resources (including Training, Discipline, and Performance Management as units), Finance and Accounts, Administration (including Estate and Works, Staff Clinic and Internal Departments as units), States Coordination and Compliance and Performance Management (including SERVICOM as a unit).
- The Electoral Institute (including Research and Documentation and other units deriving from the functions that may be assigned to it).
- The following departments will report directly to the Chairman of the Commission: Audit, Legal Services (including electoral offences, and alternative dispute resolution as units), Public Affairs (including Protocol as a unit) and Security.
- All state offices of INEC should be headed by a State Electoral Commissioner. Each state office of INEC would have the same number of departments.
- Each Local Government Office of INEC should be headed by a Local Government Electoral Officer. The division of labour at this level would be simple. Each department represented in the State Office would have one or two corresponding officers in the Local Government Office of INEC. However, all officers would report directly to the Local Government Electoral Officer. There is no provision and we do not see any need for INEC to have offices and hence officers at the Ward level. It would be the responsibility of the Local Government Electoral Officer in each LGA to undertake the work of INEC in each ward of the LGA.

#### **2.4.23. Poor Formalisation of Departmental Functions: Recommendation**

The functions of directorates, departments and units should be clearly demarcated and defined. The demarcation of directorates and departments will be facilitated by the adoption of the organogram already proposed. All the jobs to be performed should be properly identified. Following this, person specifications and job descriptions should be developed and provided for each job.

#### **2.4.24. Overlapping Functions and Jurisdictional Conflicts: Recommendation**

The previous recommendations will, when adopted and implemented, deal with this problem. However, more specifically and, in order to increase the level of interdepartmental collaboration, there will be need for the top leadership team to involve the different directors/heads of department in a programme of team building.

#### **2.4.25. Ambiguity in Reporting Relationships and the Committee System:**

The current number and composition of Committees in the Commission facilitates confusion, ambiguity and conflicts. The composition and authority of the committees should be reviewed with clear provisions as to mandate, reporting

relationships and powers. In any case, no committee should have powers to usurp the powers provided to functional managers operating within roles provided in the organogram.

#### **2.4.26. Delay in Decision Making and Communication at Headquarters**

The adoption of the earlier recommendations will help address this problem. However, it is equally recommended that:

- (i) The span of control of the office of the Secretary to the Commission should be reduced.
- (ii) The office of the Secretary to the Commission should be supported with more professional staff and;
- (iii) A time management system should be introduced by the Secretary to help with the management and flow of people and materials in his office. One component of such a system would be to provide for the maximum length of time that any correspondence can spend at any stage of the process. Tracking the implementation of the system would help reveal where delays occur, for how long, why and what measures need to be taken to address them.
- (iv) Finally, there is the need to introduce a daily one-hour meeting of all direct reports as the very first activity of the day. Such meetings are in use in such companies as NNPC and have helped solve problems similar to observations made by subordinate officers at INEC about their experience with the office of the Secretary to the Commission.

#### **2.4.27. Motivation and Conditions of Service**

INEC employees should be taken out of the civil service conditions of service. Their conditions of service should reflect the highly sensitive assignment that they perform. In this regard, it is important to note the explanation of the Chairman of the Commission that a consulting firm has been contracted to provide technical support to the process of review of the conditions of service of INEC staff. We urge the leadership of INEC to expedite action on this matter as its conclusion will serve as a major incentive for more integrity and better service on the part of the Commission's staff. It is also recommended that the motivation package to be designed should include both intrinsic and extrinsic rewards, and that emphasis be given to staff training and development for all categories of staff. Moreover, complaints of staff about leaking roofs, unsafe passages that lead to injuries for staff, inadequate and crowded office space (as in cases where Heads of Department share a small office space with two or more staff) should be urgently addressed.

#### **2.4.28. Indiscipline**

INEC should review its rules and regulations, circulate them to all staff and ensure that the sanctions provided in the regulations are applied whenever breaches

occur. The impression must not be created that there are sacred cows in the organization and that connections or relations with people who have authority and power are a recipe for staying above the rules. The leadership of INEC and the Commission's Chairman in particular must show courage and lead by example in this area. The Disciplinary Committee of the Commission must be prodded to be alive to its responsibilities.

#### **2.4.29. Division of Labour in the State Offices**

Given the fact that all INEC offices perform identical tasks, the Commission's structure of work should be standardized. All state offices should have the same number of departments. Moreover, the nature and functions of such departments should be clearly spelt out and standardized.

#### **2.4.30. Over-centralization of Decision Making at Headquarters**

This problem was addressed at the Retreat for Resident Electoral Commissioners and Administrative Secretaries in Uyo. The retreat recommended 'decentralization' as a solution. However, decentralization will be counter-productive when procedures are not formalized and standardized across the issues, arenas and units around which decisions are made. Decentralization means delegating the authority to make decisions to lower levels of authority by higher levels. Thus the first step in any effort to decentralize must be the formalization and standardization of procedures. For example, higher levels of authority must identify the decision topics over which they are willing to delegate decision making authority to lower levels of authority. To reduce variation in decision making behaviour and outcomes, INEC must specify the standards for decision making on each issue. We support the call for decentralization with the proviso that it is undertaken within the framework outlined here.

#### **2.4.31. The Role and Integrity of Resident Electoral Commissioners**

All appointments, promotions, discipline and performance evaluation activities of all INEC staff must be under the centralized control of INEC's headquarters. A situation, where some staff members are under the control of INEC's leadership and others outside its control is a recipe for divisive political behaviour, intrigues, indiscipline and disloyalty. The state offices of INEC perform a crucial role in the electoral process; as such, gaps in their organizational structure should not be left unaddressed. RERC therefore recommends that INEC should have the authority to appoint all its officers.

The proposed organizational structure provides no role for Resident Electoral Commissioners. As already proposed in the new organogram, all state offices of INEC should be headed by a State Electoral Commissioner. By the same argument, each Local Government Office of INEC should be headed by Local Government Electoral Officer.

#### **2.4.32. The Role of SIECS**

We support the recommendation by the Uwais Committee that the State Electoral Commissions and SIEC structures should be brought under the single organizational framework of INEC. The ERC Main Report (Volume 1) recommended for example that, 'At the State level, the State Independent Electoral Commission (SIECs) should be re-organized and incorporated within the structure of the INEC to form a single election management body for the country'.

#### **2.4.33. Communication Problems: Recommendation**

In order to improve communication between the INEC's state offices and its headquarters, it is recommended that:

- (i) The line of communication between the headquarters and the state offices should be clearly defined in terms of who may communicate what and to whom.
- (ii) During voter registration and elections, a designated officer should be used in the communication between headquarters and the state offices.
- (iii) A forum should be created where the heads of the INEC state offices and the relevant officers at INEC headquarters with responsibility for coordinating the state offices can meet to share information, discuss and resolve problems. In effect, the forum would not be restricted to the heads of the state offices alone; it would involve the relevant headquarters officers. Such a forum could meet twice a year.
- (iv) Finally, it is recommended that information between headquarters and the states officers should flow through the established hierarchy of work relationships. This means that officers in INEC's headquarters would have to pass information to officers in the state offices through the heads of the state offices.

#### **2.4.34. Relationships between the Resident Electoral Commissioners and the Administrative Secretaries**

We expect that the adoption of the proposed organizational structure will deal significantly with incidents of conflicts between Resident Electoral Commissioners and the Administrative Secretaries. Special interventions such as workshops and organizational development initiatives aimed at improving relationships between the two categories of officers should also be explored. More specifically, the powers of RECs should be properly and clearly defined (or State Electoral Commissioners in the new proposed structure).

#### **2.4.35. Amendments to the Relevant Laws**

RERC recognizes that some of the recommendations made in this section will have legal implications. For example, the recommendation that the positions of RECs be abolished, that INEC appoint all its officers, that SIECs be decomposed into a single national election body and that INEC should have a Board with an Executive

Chairman at its head will require changes in the current legal framework that defines the operation of INEC. It is recommended that INEC's leadership should consider the legal implications of proposed reforms and develop a strategy for ensuring that the needed changes in the legal framework are effected.

#### **2.5. Processes of Party Primaries during 2011 General Elections and INEC's Monitoring Role [TOR 4].**

##### **2.5.1 Findings**

Nigeria's constitutions and electoral laws since 1979 have granted the country's electoral commission oversight, regulatory and supervisory powers over political party activities, including party primaries and finances, as an essential element of the reform of the country's party system. For example, the 1999 Constitution (as amended) empowers the National Assembly to provide INEC with the legal basis for promoting internal democracy in the political parties.

However, the powers of INEC to issue binding regulations, now as before, in respect of the conduct of party primaries, have invariably not been vigorously exercised by the country's electoral commissions because of political reasons and their (the commissions') lack of capacity. In the one famous attempt by the National Electoral Commission between 1990 and 1992 to exercise the powers aggressively, right from the onset of the introduction of party primaries, it ended up embedding and enmeshing the commission in partisan political controversy. It was the series of disputes over alleged irregularities and insinuations of the complicity of the National Electoral Commission (NEC), in the conduct of gubernatorial primaries that led to the "annulment" of nine state gubernatorial primaries of the Social Democratic Party (SDP) and four National Republican Party (NRC) ones in 1991, and the annulment of the presidential primaries of both parties in 1992, by the Armed Forces Ruling Council (AFRC).

Successive electoral commissions since then, especially since the return to democratic rule in 1999, have understandably, not been as proactive as they ought to be, to exercise their powers under the constitution to provide and enforce regulations to guide party political activities. This reticence has, perhaps, encouraged the political parties to jettison, with continuing and dare devil impunity, the laws of the land and their own constitutions on internal party democracy.

##### **2.5.2. Recommendations**

The following recommendations flow from the findings.

**2.5.2.1 Building Party Discipline and Cohesion:** Party discipline based on due process is the foundation for party cohesion, both of which are vital for the sustainability of federalism and democracy in the country. Party discipline, as the foundation for party cohesion requires, faithful compliance with the letter and spirit of party constitutions, which in turn must be informed by the broad



democratic principles enshrined in Chapters II and IV of the 1999 Constitution of the Federal Republic of Nigeria.

**2.5.2.2 Party Structure and Administration:** Party structure and administration must reflect the underlying philosophy of the reformed party system envisioned under the country's constitutional and political reform measures since the 1979 Constitution. This requires faithful adherence to the following principles of party organization and administration: With party membership at the ward level, the party structure and administration should be aggregated upwards from the ward through the local government and state levels to the federal (national) level, with each subsidiary level integrated, through membership, into the party structure and administrative machinery at upper levels of the party's hierarchy. In this way, autonomy at each level is complemented by shared rule at the proximate higher level of the party's governance structure, in what is essentially the application of the federal principle to party governance. The party structure and administration at each level must be autonomous within the spheres of competence assigned to it by the party's constitution, with provisions made for checks and balances by the other levels on the exercise of the autonomy.

**2.5.2.3 Party Congresses and Conventions:** Party congresses and conventions at local government, state and federal levels are mechanisms for managing diversity, accountability and inclusion in the governance of the political parties, including relevant party electoral processes for party and public political offices. Their membership should reflect diversity and be based primarily on the elective principle.

**2.5.2.4 Credible Party Primaries:** The decentralized party structure already outlined implies that, while the national executive committees of the political parties should issue guidelines for the primaries of each party, to ensure uniformity nationwide within the party, the power to organize the primaries should reside in the relevant or appropriate party congresses, e.g. for gubernatorial elections, in the state congresses of the parties. The electorate for the primaries should be limited, of course, to registered and financially current members of each party. This places the onus of compiling credible and authentic voters' registers for their party primaries in the parties, in ways that will engender confidence in the conduct of free and fair primaries, in much the same way as such registers are critical to the conduct of free and fair general elections by INEC. A major issue is whether prospective candidates for party primaries should be charged levies, as a precondition for eligibility to contest in the primaries. There is perhaps a case to be made for the view that the imposition of such levies is against the spirit of the primaries and that it can be, and as it has indeed been used to deliberately exclude or discourage some prospective candidates. It may in fact violate the rights and privileges of party members. For the organization of their primaries, the political parties should earmark a portion of their annual grant provided for under Section 228(c) of the 1999 Constitution of the Federal Republic of Nigeria, and embark on aggressive fund-raising activities, within limits imposed by statutory provisions

and regulations on party financing, as another source from which to fund their primaries.

**2.5.2.5 Enhanced Oversight Powers and Capacity of INEC:** It is desirable for INEC within the limits of its powers and resource capacity to exercise the combination of its oversight, regulatory and supervisory powers more vigorously and to find ways around factors and forces in state and society and within INEC constraining and vitiating those powers. For example, INEC should begin to issue binding regulations, backed with sanctions, which it is arguably empowered to issue by the country's Constitution, to regulate party political party activities. To this end, INEC should issue and enforce binding regulations on the conduct of party primaries. Its power of moral suasion, especially the power to name and shame, has generally not been vigorously and imaginatively explored and deployed publicly, as it ought to have been, to go above and beyond the parties to the general public through officially publicized pronouncements and public statements by the leadership of INEC. Therefore, to complement its statutory powers to issue regulations to guide political party activities, INEC should appeal directly to the general public about the implications of the conduct of flawed primaries by the political parties for democratic consolidation in the country. To this end, INEC should cultivate and nurture a broad national constituency in state and society to apply pressure for constitutional and electoral reform to give more legal teeth and force to its oversight powers and functions, in line with the relevant recommendations of the Report of the ERC.

## **2.6. Recruitment of Ad Hoc Staff [TOR 5]**

Despite the many problems that were associated with it, there is a general positive assessment of the deployment of ad hoc staff, particularly the NYSC during the 2011 voters' registration exercise and general elections.

### **2.6.1. Recommendations**

The RERC makes the following recommendations towards improving the use of ad hoc staff, especially from among serving NYSC members for election related duty. To be sure, most of the recommendations below are in the Memorandum of Understanding (MoU) between the INEC and the NYSC.

**2.6.1.1 Review of MoU:** There is a need to review the MoU between INEC and the NYSC especially to include annexes on the meaning and content of many of the paragraphs contained therein. The Commission needs to begin early to specially commission this kind of services to agencies, groups or individuals for concrete and workable ideas and solutions that should also be widely publicized and debated for popular awareness and acceptability.

**2.6.1.2 Institutionalizing Inter-agency Relationship:** It is imperative to envision institutionalizing the interagency relationship between INEC and NYSC. The best way to structure and assure a comprehensive synergy in the relationship between

the INEC and NYSC Directorate needs to be found because the NYSC service is transient with different batches in a single year, resulting in high yearly turnover.

**2.6.1.3 Cooperation between Mainstream INEC and Ad Hoc Staff:** In order to build and ensure cooperation between mainstream INEC and ad hoc staff, both categories of staff should be encouraged to see their roles as complementary and to work together to ensure credible elections.

**2.6.1.4 Intensive supervisory Roles for INEC Staff:** Having had some training and experience, INEC staff should not be relegated to the background; they should be saddled with the responsibility of supervising the ad hoc staff during elections.

**2.6.1.5 Security of Corps members:** The security of Corps members is a crucial issue and INEC should take steps to provide it.

**2.6.1.6 Introduction of Civic Education into the curriculum of higher institutions:** With regards to improving on the performance of ad hoc staff, in the long term, civic education is proposed for introduction into the curriculum of higher institutions while RECs and distinguished teachers of politics in universities are proposed to visit orientation camps weekly to give youth Corps members talks on elections and election duty with emphasis on orientation and practical experience sharing involving model and scenario building.

**2.6.1.7 Guidelines for Election Duty:** Guidelines for election duty need to be provided and publicized and offenders prosecuted for non-compliance. In view of reports that the NYSC ad hoc staff members were not careful in following instructions, it is recommended that in addition to the supervision of the NYSC ad hoc staff by INEC officials, NYSC zonal officers should be encouraged to supervise them as well during future elections. Staff of other organizations will also need their supervising officers for monitoring services during elections. For additional accountability, the names of ad hoc staff should be published so that the public can take a look at them and raise objections where necessary.

**2.6.1.8 Logistics Support for Call Duty:** Logistics support for call duty needs to be provided for during assignments while payment should only be made after work has been accomplished and the worker verified. In any case, the best agency to be responsible for payment has to be determined; for now, in order to avoid incidences of corruption and delayed payment, it is our view that the agency from which staff come, should handle their payment.

## **2.7 Audit of INEC's Relationship with other Organisations [TOR 6]**

### **2.7.1 Relationship with Political Parties**

In line with the provisions of the Working Document on Good Commonwealth Electoral Practice, INEC should continue to maintain a good working relationship with political parties. To this end, INEC should maintain an effective line of

communication with political parties. Political parties and or their representatives should be consulted in a meaningful fashion before important decisions are taken. Apart from this, the political parties, especially their followers, should also constitute an important target group for INEC's efforts in civic education.

### **2.7.2 Deployment of Security Personnel**

Deployment of security during registration of voters is as necessary as is done during election period. This is necessary in view of the revelations during the focus group discussions across the country on what transpired during the 2011 registration exercise. Apart from bringing order to the registration process, security personnel could offer protection to registration officers who will be better able to do their jobs.

Even though it may be dangerous for some categories of security personnel to carry arms, there is equally the need to arm security personnel for election duties at least with light arms. This must however be subjected to deeper and more critical consideration, given the need for protection of not only ad hoc and permanent staff of INEC; but also sensitive election materials.

### **2.7.3 Voter Education**

There should be a coordinated plan, including budgets, for voter education before the next general elections. Inter-agency collaboration for voter education and mobilization should be encouraged.

### **2.7.4 Constitutional Empowerment**

The Commission should seek to be sufficiently empowered through legislation or amendment of the Electoral Act so that certain powers of proper supervision that it currently lacks are given to it. When empowered, the Commission should be able to compel political parties to develop internal transparent bookkeeping procedures and as well made to abide by the true tenets of democracy in their internal politics. The bookkeeping procedures should provide details of the sources and application of political party finances especially with respect to campaigns.

### **2.7.5 Media Collaboration**

INEC should strengthen collaboration with the Nigeria Broadcasting Commission (NBC) for timely sanction of media houses that exhibit partisan bias in their programmes and reporting. Such sanctions as imposition of fine, suspension, or seizure of licence should be used to discourage state media houses from exhibiting partisanship.

The media should also be encouraged to host public debates amongst candidates or between political parties to enable the electorate to have an objective assessment of the intentions of candidates or manifestoes of political parties.

## 2.8 Other Issues [TOR 7]

The RERC draws attention to the following issues, which crosscut the various findings and recommendations in the previous chapters: (i) role of gender; (ii) best practices; (iii) information dissemination; (iv) reorganization of INEC; (v) accreditation of observers; (vi) delimitation of constituencies; (vii) electronic voting; and (viii) post-election violence, which are extensively covered in the ERC Report.

### 2.8.1 INEC and the RERC Report

The RERC recommends that INEC should take a serious look at the REC Report and the government White Paper on the Report, both of which identified crucial aspects of the country's electoral governance requiring improvement and both of which put forward recommendations and policy measures to advance them.

While some of the recommendations can and should be addressed and implemented through in-house measures by INEC, others require it to deploy its central position, influence and, above all, its anchoring role in the country's electoral governance. INEC can thus engage in constructive advocacy with stakeholders in state and society to give effect to them. In this way too, it will work to ensure that the required legal reform is undertaken to bring about the implementation of the recommendations.

The outstanding recommendations from the ERC Report and the Government White Paper are:

- (i) The unbundling of INEC, through the establishment of the Political Parties Registration and Regulatory Commission, the Constituency Delimitation Commission, and the Electoral Offences Commission;
- (ii) The reorganization and repositioning of the Independent National Electoral Commission (INEC), to ensure its autonomy and professionalism, through a process to be initiated by the National Judicial Council;
- (iii) The integration of the State Independent Electoral Commissions (SIECS) into INEC to ensure their autonomy;
- (iv) Introduction and use of electronic voting machines for future elections;
- (v) Modification of the electoral law to allow independent candidates to contest elections;
- (vi) Modification of the First-Past-the-Post electoral system with Proportional Representation electoral system, based on closed party lists;

- (vii) Modification of the Electoral Act to ensure that 30% of the party lists under proportional representation are reserved for women, and 2.5% for physically challenged, without prejudice to their rights to compete for representation under the first-past-the-post system;
- (viii) The Electoral Act should shift the burden of proof from election petitioners to INEC, and the rules of evidence formulated to achieve substantive justice rather than mere observance of technicalities;
- (ix) Resolution of all election petitions between returned candidates for elective executive and legislative positions in the general elections at all levels--- federal, state and local government---before winners are sworn in and assume office;
- (x) Political parties that score at least 2.5% of National Assembly seats should be considered for cabinet level appointments, in order to dilute the zero-sum approach, encouraged by the first-past-the-post electoral system to politics and power; and
- (xi) Electoral Act should guarantee the participation of civil society at all stages of the electoral process.

INEC should take steps to ensure that each of the above ERC recommendations is implemented.

### 2.8.2 The Role of Gender

The number of women who contested the 2011 general elections and those who were elected was very low, compared to the number of male candidates who contested and won. Women, therefore, continue to be under-represented in elective political offices, relative to their size in the country's population. To improve the situation during future elections, there is the need to revisit the recommendations of the ERC and identify areas that could put gender on the agenda.

INEC should monitor the implementation of gender sensitive provisions in the constitution and manifestoes of political parties as this will serve the purpose of mainstreaming gender into its activities and sanction political parties that violate them.

### 2.8.3 Best Practices

INEC should promote best practices by institutionalising what worked during the 2011 voters' registration general elections, such as the establishment of the Inter-Agency Committee on Election Security and use of the Situation Room.

#### **2.8.4 Information Dissemination**

INEC should make more information available to citizens, particularly disaggregated data containing analysis of the voters register, which show the percentage of men, persons with disability, women and youth as well as other demographic data. In particular, the messaging on elections including voting processes should be disability friendly.

#### **2.8.5 Reorganization of INEC**

This Report has drawn attention to some of the problems encountered during the elections, which were traceable to internal problems revolving around deficits in INEC's administrative, operational and technical capacity. In view of these deficits, INEC should embark on a major re-organization and repositioning of its various internal bureaucratic and operational departments, structures and processes ahead of the 2015 elections.

#### **2.8.6 Accreditation of Observers**

INEC should accredit observers in good time, preferably at least one month before the commencement of any election.

#### **2.8.7 Delimitation of Constituencies**

The National Assembly and INEC should ensure early delimitation of constituencies and the mapping and designation of polling units ahead of the 2015 elections. In this respect, RERC would like to point to the urgent need for INEC to draw the government's attention to the ERC recommendation on the creation of a Constituency Delimitation Commission, with institutional representation from the following institutions: INEC, the National Population Commission, National Boundary Commission, Office of the Surveyor-General of the Federation, National Bureau of Statistics and the National Identity Management Commission.

#### **2.8.8 Use of ICT**

Information and Communication Technology (ICT) should be prioritized and integrated into INEC procedures internally, with the use of social media optimized both in INEC's internal procedures and in the electoral process.

#### **2.8.9 Voting by Nigerians in the Diaspora**

It is variously estimated that there are about 10 million Nigerian citizens living abroad. However there is no legal provision for Nigerian citizens in the Diaspora to vote in the country's general elections. Recently, the National Assembly suspended its debate on a bill which seeks to amend the 2010 Electoral Act to extend voting rights to Nigerians living abroad. The bill, when passed into law, shall authorize INEC to "maintain as part of the National Register of Voters, a Voters' Register for Nigerians in Diaspora." INEC should take up the matter with the relevant authorities, with a view to reopening debate on the bill.

#### **2.8.10 Electronic Voting**

Nigeria's experience with the use of electronic voter registration and electronic transmission of results during the 2007 General Elections was very unpleasant.

There were many cases of the malfunctioning of the electronic voting machines (EVM). However the advantages of electronic voting far outweigh its limitations. RERC advises INEC to review this voting mechanism and adopt it subsequently, on a limited trial basis for future elections in the country. Provision should also be made for printed ballot paper as a backup in case the electronic voting machines malfunction. The printed ballot paper would assist in verification of votes should issues be raised during election litigation.

#### **2.8.11 Post Election Violence**

The National Assembly elections were peaceful but violence broke out after the presidential elections in some Northern states including Adamawa, Bauchi, Gombe, Kaduna, Kano and Taraba States. This led to the postponement of elections in Bauchi and Kaduna states. The violence was attributed to the perception of voters that the presidential elections were not free and fair. However, the violence could be traced to manipulation of voters by politicians. Because elective political offices are very attractive, the candidates for the offices and their supporters would do anything to win the elections. This do-or-die attitude also tends to encourage defeated candidates to instigate post-election violence.

The culture of impunity associated with elections must be checked. INEC must ensure that those who commit electoral offences are prosecuted without delay. The setting up of an Election Offences Tribunal as advocated by ERC should be vigorously pursued by INEC.

#### **2.8.12 Other Recommendations:**

Other recommendations are as follows:

1. INEC should work with the National Assembly and other stakeholders to review the relevant sections of the Constitution and the Electoral Act and address all gaps and problems in the legal framework of electoral governance in Nigeria highlighted in this Report and in other reports. Such review should be concluded before the end of 2012. This will ensure that the legal framework guiding subsequent elections is concluded in order to facilitate better understanding of the electoral process and enhanced elections management.
2. Targeted capacity building for different departments and personnel in INEC should be prioritized. There should also be emphasis on the development of standardized training. A comprehensive programme for capacity-building and training should be developed for all INEC staff at the national, state, and local government levels.
3. Staggering of elections based on criteria to be finalized by INEC should be considered ahead of 2015. This will allow for elections to be better supervised and managed effectively.

4. Electronic voting system should be introduced incrementally, beginning with bye-elections and re-run elections to ensure that short-comings observed are corrected ahead of general elections.
5. There is need to reorganize INEC to focus primarily on the management and conduct of elections; other related but less relevant duties should be given to other agencies in existence or to be created. The registration and monitoring of party political activities and financing should be unbundled from INEC and vested in the Political Parties Registration and Regulatory Commission, recommended by the ERC Report and accepted by the government White Paper on the Report.
6. INEC should conduct a detailed review of its organogram, departmental structures, remuneration, and personnel in line with the roles and duties expected of them. Such a restructuring would ensure the organization is better positioned for enhanced performance.
7. INEC should clarify and agree on a policy to guide the recruitment, training, and deployment of ad hoc staff for subsequent elections. This will build on the significant gains recorded in the recruitment and deployment of ad hoc staff during the April 2011 general elections. It is important that this activity should include a comprehensive audit of INEC staff to validate and establish actual numbers, spread, qualifications, experience, etc.
8. INEC should strengthen the Electoral Institute and the Gender Unit at its headquarters to include training of political parties on women's political participation and their impact on democracy and good governance.
9. INEC should develop modules to expose the political parties to basic principles of internal democracy, gender and democratic governance.
10. INEC should also examine and assess party primaries with a view to formulating and implementing reforms that will ensure fairness. INEC should lobby for the amendment of the Electoral Law to encourage independent candidates. INEC should make adequate provisions for effective participation of people living disability in the electoral process.
11. The commission should work with the National Assembly for the amendment of the Electoral law to avail Nigerians in the Diaspora an opportunity to participate in the electoral process. The integration of the Diaspora into the electoral process could thus begin after the 2015 elections.
12. There should be an adequate budget for procurement of quality EVM.

13. Gradual deployment of EVM machines to voting centres should precede mock and pilot elections in order to ascertain its effectiveness. This should be accompanied with (i) the training and re-training of INEC staff to enable them operate the machines (ii) enlightenment of voters on how to use the machines
14. Review of the legal framework to provide for electronic accreditation and voting in 2015.

#### **Further Recommendations on Elections**

All recommendations under the other terms of reference in one way or the other are related to the conduct of elections and registration. However other recommendations on the conduct of elections include the following:

- Efforts should be made to ensure prompt commencement of elections;
- Election supervisors should ensure that adequate materials are distributed to polling units in time;
- Supervisors should coordinate the activities of polling agents and election observers;
- Proper arrangements should be made for the safety of election materials on transit and at polling centres in case of interception by party thugs or the general break down of law and order;
- Proper record or documentation of the activities at every polling centre should be taken and kept by election officials; and
- ⊗ Proper record of unused election materials should be kept.

A graphic header for Chapter 3. It features a dark grey background on the left with a white circular shape containing the word 'CHAPTER' in bold white capital letters. To the right of this circle is a large white number '3' on a black rectangular background. A thin white vertical line is on the far left, and a thin white horizontal line is at the bottom.

## CHAPTER 3

**TOR 1: Appraise all the operational processes of the voter registration and elections including planning, organization and coordination and evaluation of activities focusing on such issues as logistics, procurement and delivery of materials deployment of personnel, etc.**

### **3.1. Voter Registration**

The importance of voters' register in the election process cannot be underestimated. Organizing a modern election is a complex activity, which requires complete data about those who are eligible to vote. From the perspective of electoral administration, the planning process of elections can only be done successfully with an accurate and authentic voters' register. Activities like logistic planning and management, Election Day coordination and delimitation of constituencies, wards and polling stations are all tied to the register of voters.

Political parties also need the register of voters to prepare for election. An authentic voters' register distributed to political parties before the Election Day is one feature of transparency of election management bodies. From the foregoing, it could be seen that registration of voters is a prerequisite for free and fair elections.

One major challenge that confronted the Independent National Electoral Commission (INEC) as it prepared for the 2011 elections was the need for a credible voters' register considering that the one used for the 2007 elections was highly defective and unreliable. As a result, INEC decided to conduct a new voters' registration exercise. While the Electoral Act 2010 made provision for continuous voters' registration, this could not take place due to what the Commission characterized as lack of infrastructure, notably inadequate administrative and logistic structures, which in the past, as in 2011, necessitated periodic registration prior to general elections.

Voters' registration was the first major assignment undertaken by the INEC under the leadership of Prof Attahiru Jega before the 2011 elections. The exercise was conducted from 15 to 29 January 2011 in all the 36 states and the FCT using Direct Data Capture (DDC) machines. The period of the exercise was extended by one week to 7 February 2011. The display of the register took place between 14 and 18 February 2011. A certified register of voters with 73,528,040 voters was published on 2 March 2011.

Based upon the testimonies of representatives of various stakeholders, RERC field trips to the six geo-political zones in the country indicate that the voters' registration exercise was by and large, successful. This was due to a number of factors, which include:

### **3.2. Reform of Legislative Framework**

The reform of the legislative framework made it possible for people to register without hindrance. Abuses of the process were minimized and lapses observed were immediately corrected. As an indication of transparency of the process, registers were made available to political parties.

### **3.3. Improved Funding**

Adequate funds were made available to purchase equipment and pay ad hoc staff. Sufficient numbers of equipments were purchased and disbursement of funds was made early enough for payment to workers. The use of DDC machines helped to reduce incidence of fictitious or multiple registrations. In addition, the exercise provided data for planning and other electoral activities.

### **3.4. New Leadership at INEC**

The new leadership of INEC was able to mobilize staff and resources to ensure the success of the voter registration exercise. Some level of checks and balances were put in place to correct challenges that arose in the process of implementing the programme. In addition, the staff was sufficiently motivated to enable them to put in their best. Those members of staff who were found wanting were disciplined. The sanitization of the Commission contributed to the success of the exercise.

### **3.5. Involvement of NYSC**

Members of the National Youth Service Corps (NYSC) were recruited and deployed as ad hoc staff for the voter registration exercise. The experiment proved to be very successful as it brought into the exercise some level of transparency. Most of the members of the NYSC performed their functions with exemplary conduct. Cases of conniving with politicians were reduced as NYSC members were generally able to resist the temptation to compromise their functions.

### **3.6. Prior Verification of Polling Centres**

The decision to verify polling stations prior to the registration also facilitated the exercise. Accurate information about locations of polling stations is necessary for effective planning for both voter registration and election. A total of 120,000 polling stations were located and additional polling units or otherwise referred to as "baby" units were created. The inventory of polling stations also facilitated planning and logistics activities.

### **3.7. Independence of INEC**

The perception of the neutrality or hands-off attitude of the Presidency towards the voter registration and the general elections enabled INEC to create a level-playing field for stakeholders. INEC was able to maintain its independence and integrity. This facilitated the success of the exercise.

### **3.8. Extension of Registration Period**

The decision by INEC to adjust the period of voter registration in relation to some challenges enabled it to accommodate reactions from stakeholders and produced a favourable environment for the exercise.

While the above-listed factors constituted the core areas of INEC's strengths during the 2011 voter registration exercise, data available to RERC from its field trips to all the geo-political zones indicate that INEC still has critical challenges to overcome in order to have a hitch free registration exercise in the future. A lot therefore needs to be done especially before the 2015 general elections.

The following are the most critical challenges that INEC must overcome, if it is to conduct a more successful registration exercise in the future.

### **3.9 (a) Absence of a Strategic Operational Plan**

(a) RERC established that INEC did not have a Strategic Operational Plan for the voters' registration exercise and that many of the major lapses in the 2011 registration exercise resulted from this fact.

#### **3.9.1 Personnel Training**

Training of personnel used during the exercise was not adequate. From the interactions during focus group discussions with RERC both on the field and at INEC headquarters, it was easy to identify that this was due to problems such as:

- (a) Late arrival of training materials; inadequate equipment for practical training of both the permanent and ad hoc staff of INEC.
- (b) Insufficient time for training which did not allow for proper assessment of personnel before deployment to the field; and
- (c) A number of personnel that participated in the training were not selected for the exercise.

During RERC's interaction with the ICT team at the INEC headquarters, a member of the team stated in relation to this and other problems thus:

"...The major problem we have been having is that when we are going for a major exercise like VR (voter registration) and other exercises, there should be a design and some contingency checks, then capacity building to drive a process adequately. The problem we had before like in the last voter registration was that fund came very late so both the software design, deployment of the hardware and everything was, you know, crashed, so capacity building was lacking. It took the ingenuity of the majority of the work force to drive the process."

### **3.10. Late Arrival of Registration Materials**

In all the geo-political zones visited by RERC, there were complaints about the inadequate number of, and late arrival of DDC machines and other registration materials during the registration exercise. The situation was so bad that replacement of consumables or accessories such as battery chargers, batteries,

printer toners, ink, manual registers, etc., posed major challenges as they were not available in sufficient quantity in many registration centres. A participant at the RERC North West Zone interaction held in Kano told RERC that:

“...In addition to what others have said, we observed that in some registration stations visited, there were no manual registers...I am talking about the manual registers; in some units, we discovered that the ad hoc officials were using exercise books to put in names of registrants during registration.”

### **3.11. Delays in Distribution of Materials**

As was the case with the late arrival and shortages of materials, there were equally delays in the distribution of these materials. The delays contributed to the late commencement of voter registration, especially, in rural areas. While this was partly a result of the earlier identified problem of late arrival of the materials, RERC further learnt that this was largely due to challenges resulting from over centralization of functions at the INEC headquarters, which invariably led to frustration of both INEC staff as well as the electorate who waited for many hours before they could be registered. Participants in all the focus group discussions revealed that registration did not commence in many areas on the first day of the exercise.

### **3.12. Technical Capacity of Ad Hoc Staff**

Another problem was the technical challenge posed by the inability of many of the ad hoc staff to use the DDC machines, especially in the first week of the exercise.

Apart from the reported problems with the DDC machines such as overheating, disk and software failures, RERC gathered from respondents at INEC headquarters that owing to the short time span between the procurement and the delivery of registration equipment, there was very little time for thorough training of ad hoc staff so as to prepare them to handle the job professionally because “capacity building was lacking.” Ultimately, the technical challenge resulting from this not only led to the extension of the exercise but also affected the quality of the register to some degree.

### **3.13. Multiple/Underage Registration**

Multiple and underage registrations were other major challenges of the 2011 registration exercise. While INEC prior to the exercise proclaimed publicly that it had put in place several technical and administrative measures to check this twin problems in the country's electoral system, there were still many instances of multiple and underage registration in many parts of the country. Although this was a recurring complaint from all the zones visited by RERC, the account of one of the participants at the North West hearing in Kano reflects how pervasive this problem was.

“From what I have seen as a private citizen that participated in the registration exercise, there were a number of problems with the registration exercise...INEC had made it very clear that those that were involved in multiple registration or underage registration would be sufficiently sanctioned by the law and it is now about four or five months after the election and there is no report of any person that has been prosecuted for involvement in this. When I was monitoring the registration exercise on behalf of INEC, in Yelwananzia specifically that I went, there were piles of people that were there wanting to register. The registration officer, a corper, refused them registration and then people came to say that these are our children and they must register; either that they are allowed to register or registration will not continue in the area...and these people are known. Some few law enforcement agents were there; the workers were there...In fact there was a person whom I counseled, he said he had registered the first time that he wanted to register for the second time and I said if you had registered the first time and do it the second time then you are invalidating your registration. He said he had seen people who had registered more than ten times. So when the registration exercise was over, somehow I went to that area and he said you have cheated me and I asked him why and he said those people that registered ten, eleven times were able to vote ten, eleven times, me that you denied, you counseled me, you cheated me because you made me to register only once. So I think this is one of the things that INEC can do.”

### **3.14. Display of Voters' Register**

Although INEC did display the voters' register after the registration exercise, there were many complaints from stakeholders during RERC interactions that the exercise was not given sufficient publicity by INEC and hence the poor response from the public. RERC found out that the confusion during the general elections when voters had to move from polling station to polling station in search of their names was a direct result of this public apathy or inadequate publicity as the case may be.

### **3.15. Recommendations**

In view of these findings, RERC recommends as follows:

#### **3.15.1. Strategic Operational Plan**

Given that the major lapses in the 2011 registration exercise resulted from the finding that INEC had no operational plan for such a major exercise, RERC recommends that for INEC to correct these anomalies, it should as a matter of utmost priority put a mechanism in place to undertake long term and short term strategic plans for the exercise in the future. Through this mechanism, the Commission would be in a position to produce an operational plan far ahead of not only the registration exercise but also its other major programmes.

RERC is of the opinion that the process for such a plan for the 2015 general elections should be initiated now. The plan should contain activities and time for voter registration and election. Specific activities to be included are (i) recruitment and



training of ad hoc staff; (ii) retraining of permanent staff; (iii) formulation of logistics strategies and arrangements; (iv) amendment of the legislative framework, including notice of polls and the planning of a tentative timetable for the conduct of all elections, etc.

### **3.15.2. Continuous Voters' Registration**

As a result of experiences gained from previous registration exercises which were carried out shortly before general elections, RERC considers it of paramount importance that INEC should begin to formalize the voters' registration, instead of the current ad hoc approach by integrating the process into its structure of administration so that voter registration will become a continuous exercise as against the prevailing arrangement. In other words, it is recommended that a permanent administrative structure reinforced with well-trained personnel should be established in at least all the 774 local government areas of the country in the first instance and in all wards subsequently to facilitate ease of registration of potential voters and make the exercise on-going.

### **3.15.3 Creation of New Registration Centres**

From the complaints received during RERC zonal meetings, it is obvious that the current voter registration centres are outdated due to migration and changes in the country's demographic profile. There is therefore the need to review the existing configuration for the purpose of creating new registration centres that will take into account current demographic realities. The number and location of these new registration centres should be published and made available to political parties and other stakeholders.

### **3.15.4. DDC Machines/Technical Staff**

Although RERC noted from available data gathered from its field trips that some of the DDC machines were of low quality, it also found out that much of the technical hiccups resulted from the lack of technical capacity on the part of the INEC staff who procured the equipment to test and certify them as being in good shape and ready for use before being supplied and deployed to the field for the purpose of the registration exercise. It is therefore recommended that apart from using technically competent hands to handle procurement of sensitive materials, the equipment and materials so procured should be tested and certified as being in good shape and ready for use by INEC before being supplied. Additional arrangements should also be made with suppliers for regular maintenance and repairs of the procured equipment.

RERC noted from the interactions with key officers at the INEC headquarters that core technical staff of INEC were not fully involved in the procurement process, resulting in the technical problems experienced. For this reason, it is recommended that INEC's technical staff at its state offices and national headquarters should be involved in the design of software used for the exercise and also trained by the vendors. This will prevent a repeat of the 2011 situation.

### **3.15.5. INEC/NYSC Members**

The idea of using members of NYSC as ad hoc staff should continue. However, changes should be introduced in their management in the light of the experience from the 2011 exercise. The Memorandum of Understanding between INEC and NYSC should be reviewed. Ultimately, the control and payment of corps members should be the responsibility of Resident Electoral Commissioners.

The engagement of NYSC members as Presiding Officers and Assistant Presiding Officers should be strengthened. This can be realized by insisting that corps members recruited are those whose length of service extends to (if possible) the end of the Election Petition Tribunals proceedings. Supervisory Presiding Officers should be sourced amongst staff of the Commission who know the importance of the exercise and can be held responsible for non-compliance.

There is a need to improve the process of coordination between registration officers and their supervisors. This will reduce the incidence of late commencement of registration and inadequate materials.

### **3.15.6. Display of Voters' Register**

INEC should give the display of voter register wide publicity. There is, therefore, a need for systematic publicity during the display of the register. All media organizations including print and electronic should be deployed. Political parties, civil society groups, traditional rulers, religious leaders, youth organizations, and women associations should be actively involved in the exercise.

The final figures of the voter register should be verified and confirmed before publication. It is necessary to avoid the mistakes in the 2011 exercise when different figures were released at various times.

### **3.15.7. Voter Education**

INEC and relevant stakeholders should undertake extensive and continuous voter education initiatives to deepen the understanding of electoral process and to emphasize the obligations of the electorate to ensure a smooth and hitch-free exercise.

There is also the need to improve the administration of registration centres, in order to ensure procedural uniformity by all personnel and from one centre to the other. This should be done through the training of ad hoc registration officers and the retraining of permanent staff of INEC to ensure uniformity and reduce incidences of poor registration exercises.

### **3.15.8. The 2011 General Elections: Strategic Operational Plan**

In its interactions with directors and unit heads, RERC discovered that though there was an operational plan for the 2011 elections, it was not executed as designed because of what appear to be conflicting or overlapping of functions. This became clear from the testimonies of the Secretary to the Commission, the Head of Logistics and Transport, and the Head of Operations at INEC national headquarters.

According to the Secretary, the Jega-led Commission inherited an operational plan from its predecessor, the Iwu-led INEC:

“Yes, this present commission came up in June 2010 and as an organization, it inherited so many things in terms of this strategic plan and operational plan. There was something already for the commission which I could remember the previous commission was about to implement then the present commission came with a new idea but didn't totally throw away what had been there. On looking at it, they invited each department to brief the commission about the plan of operation of each department. Later, the commission came up with the plan for the conduct of the 2011 election. But from what they did, there was no much difference from what had been there. It is only that they looked at it and improved it in some areas; I am talking of the strategic plan. Then we came to the operation of that plan. When it comes to the operation, the only difference I noticed between the previous commission and the present commission for the operational plan is empowerment of committees; that is giving all powers to the standing committees to operate the plan independently. That is, if it is logistics, it is Logistics; if it is operation, it is Operation, if it is registration, it is Registration, if it is voter education, it is Voter Education and so on while the previous commission brought everything together; the inputs from the various departments are brought together and treated centrally. Then when they have started and in the middle the commission notices any disconnect in the work given to the committees to operate in terms of policy, then a sub-committee will be set up to harmonise the activities of all the committees.

But in what seems to be a contradiction of the foregoing observation by him, the Secretary said:

“...as of now it is difficult to say this is exactly the operational plan of the commission, they rely very much on the committee independently. They inherited a lot of things because I have been with the previous commission.”

While it is obvious from the testimonies that the Commission has an operational plan, it is equally clear that the plan may have been undermined by what looked like internal disorder due to either bureaucracy or lack of coordination and communication among principal officers. In discussions with the RERC, one of the directors at the Commission's national headquarters observed that:

“We communicate with our brother directors and colleagues one-on-one whether by memo, by phone or by actual physical visit and interaction. And so far that is a bit problematic because not everybody is open to or receptive to this kind of peer review where you will have one-on-one, openly and directly point at our weaknesses and strengths. And in public service even a day's seniority counts and some could evoke it to even block effective communication. It does happen and I'm not unmindful of that”

Invariably, these varying accounts indicate, and thus corroborate the observation of many INEC staff, especially at the state level offices, that if there was an operational plan, it was not comprehensive enough to overcome the perennial challenges which occur during every election. Some staff stated that even when an operation plan was finally developed, states offices and the Directors in charge of field operations were not sufficiently involved in the conception and formulation of the plan.

In addition, the plan lacked proper coordination while the timeframe for planning for the elections was extremely tight. INEC had to engage in an extremely high level of planning and displayed great skill in a very short time. However, the rushed preparations for the elections made the cost of conducting the elections very high. Other external factors affected the ability of INEC to develop a comprehensive plan. The factors include the uncertainties surrounding the exact date for the conduct of the elections and the constitutional question about whether the President's assent was required to give statutory force to the constitutional amendment.

### **3.15.9. Recommendations on Strategic Plan**

To address the issues discussed above RERC recommends as follows:

- INEC should immediately develop a strategic plan with detailed timelines for all its forthcoming activities and develop a checklist necessary to ensure enhanced performance in all forthcoming elections and other INEC assignments.
- The strategic plan should clearly outline duties assigned to staff and the deliverables, the procedures and timelines for the deployment and remuneration of ad hoc staff and security agents participating in the elections.
- INEC should be restructured to ensure professionalism and efficiency in elections management and efficient implementation of the strategic plan.
- The strategic plan should ensure that Electoral Officers are posted in advance of the election to the Local Government Areas where they would be serving.
- Guidelines for Participatory Strategic Planning should include the following:
- Establishment of a Planning Committee to collate the inputs from all retreats and workshops that reviewed the 2011 elections and synthesize them for use in the plan.
- Ensure effective liaison with respective government ministries, departments, agencies and the National Assembly to secure availability of adequate funds for all its activities.

### **3.15.10. Election Processes**

The improvement recorded in the election process contributed to the overall success of the 2011 elections, when compared with previous ones. The

improvement was due largely to innovations introduced by the Commission. INEC, after making a number of innovations, adopted the modified open ballot system for the election. The system requires that voters should be accredited within a prescribed period in the morning and wait or come back later to vote using a secret ballot again within a prescribed period. Other innovations were (i) the counting of votes and the display of the results of the election at each polling station; (ii) the use of new voters' register and (iii) the deployment of NYSC members as presiding officers, and deployment of academic staff of tertiary institutions as collation/returning officers. INEC's decision to postpone the elections due to logistic problems and its manner of consulting the political parties in handling the postponement created a feeling of trust and gave a sense of transparency in the conduct of the elections.

### **3.15.11. Challenges of the Electoral Process**

The RERC observed the following lapses in the electoral process, which require prompt action by INEC:

- The collation process appeared to be the weakest link in the conduct of elections because there was no effective mechanism to control and monitor this stage of the election process. Certain irregularities were also observed particularly in the voter registration process such as the inclusion of names of people that had relocated or had died.
- On the actual voting day, under-age voting was rampant and it was difficult to prove or curtail. Others were instances of proxy voter registration and multiple voter registration which were major problems that affected the voting exercise. There were also extraneous issues that caused confusion among voters; for instance, while INEC encouraged voters to stay close to polling units to observe voting proceedings, the guidelines issued by the National Security Adviser against loitering at polling units made voters to move out of the vicinity of polling centres. Apart from this, the rampant instances of cross-carpeting and defections across parties due to inducement created unnecessary confusion among voters some of whom had become confused on which candidate or political party to vote for.

### **3.15.12. On Logistics**

Logistics involve procurement of materials, movement of people and materials, storage and retrieval of such materials for the implementation of a designated activity. The improvement in logistics management during the election contributed to the success recorded in the 2011 elections.

Some of the areas of strength in logistics management identified by RERC were: (i) establishment of zonal stores, which enhanced the distribution of materials to the states; (ii) bulk procurement of materials, which ensured uniform quality of materials procured for the elections; (iii) the involvement of the Central Bank of Nigeria in the storage of sensitive materials, which prevented leakage; and (iv) the procurement of vehicles for most LGAs, which facilitated transportation.

### **3.15.13. Logistic Challenges**

There were however some noticeable lapses in logistics management which affected the success of the elections. Among these were:

- (i) Inadequate zonal storage facilities in the states,
- (ii) Late arrival of materials,
- (iii) Poor mechanism for the retrieval of materials and;
- (iv) Inadequate vehicles for some local government areas and state headquarters.

### **3.15.14. Recommendations on Logistics**

To improve on the logistics arrangement for elections, RERC recommends that INEC should consider the following:

- i. The procurement of non-sensitive and non-perishable materials well ahead of the election to avoid risky last minute arrangements such as those that led to the postponement of April 2, 2011 National Assembly elections.
- ii. Instituting a regime of heavy sanctions against contractors, to be reflected in the terms and conditions of their contract with INEC. Contractors should be made to understand in clear terms that default by them would be tantamount to an act of national sabotage in view of the critical importance of elections to national stability. Vendors who do not deliver on contracts as at and when due for delivery should, therefore, be severely penalized or prosecuted to serve as deterrence.
- iii. Stores should be established in all states and local governments. The appropriate INEC headquarters department should be empowered to distribute materials to states but under strict supervision.
- iv. Adequate arrangement and supervision should be made for the deployment of vehicles to states.
- v. The administrative structure at the state offices should be streamlined in order to ensure uniform and effective implementation of operational plan.
- vi. INEC staff election schedule of duties should be reviewed to ensure that pursuing INEC's statutory mandate to conduct free, fair and credible elections is given the utmost priority on election day by its staff and;
- vii. Allowances due to all personnel that participate in electoral activities should be paid before or during the exercise.

**3.15.15. On Polling, Counting, Collation, Announcement and Transmission of Results**

From the field trips, RERC noted that there were some innovations that contributed to the efficient counting, collation, announcement and transmission of results. These include:

- i. The verification of polling units which provided the Commission with the opportunity to have first-hand knowledge of the exact locations of polling units throughout the country.
- ii. The overnight camping of election officials and security personnel which enabled the timely commencement of polls.
- iii. The use of corps members which enhanced transparency and neutrality of the electoral process.
- iv. Part payment of allowances in advance which motivated election officials.
- v. Restriction of movement of people including public office holders. This impacted tremendously as it restricted to some degree undue influence of political office holders on election personnel.
- vi. Creation of voting points which quickened the process of accreditation and voting.
- vii. The adoption of the modified open ballot system which reduced incidences of multiple voting.
- viii. The structure, that is, the alphabetical serialization and paging of voters register coupled with the provision of check boxes for accreditation and balloting assisted in the polling. Other innovations that worked were:
- ix. The transparent mode of accreditation and counting of votes cast encouraged voters and this brought a high degree of credibility to the process.
- x. The use of academic and non-academic staff as returning officers and COs shielded commission staff from probate accusation of bias and this also brought credibility to the whole process.

**3.15.16. The Challenges of Polling, Counting, Collation, etc.**

In spite of the above improvement recorded by it, INEC faced some challenges with the processes leading to, and with the actual conduct of the general elections. For instance, the postponement of the April 2, 2011 polls generated a lot of apprehension among voters across the country. Other challenges faced include:

1. The lack of consistency in the voting process caused confusion in many polling centres in some states leading to lack of conformity to established procedures in many polling stations and therefore causing delays of polling due to late arrival of election officials or late delivery of polling materials. This also disenfranchised numerous registered voters as they could not find their names on the voters list.
2. There were several cases of non-compliance with the directive that no polling station should have more than 500 voters. RERC discovered that some polling stations had more than 1,000 voters.
3. There were problems of poor communication between INEC headquarters and state offices and several cases of under-age and multiple voting as well as violation of secrecy for voters.
4. Another major challenge was the rescheduling of polling in 15 senatorial districts and 48 federal constituencies spread across 20 states for various reasons. INEC was only able to conduct elections in 86% and 87% of the senatorial districts and federal constituencies respectively on April 9, 2011.

**3.15.17. Recommendations on Polling, Counting, Collation, etc.**

For efficiency and transparency in collation and counting of votes, INEC should consider the following recommendations:

**3.15.18 (a) Polling Units**

1. Establishment of Polling Units in new settlements.
2. All election observers should receive their accreditation packs ahead of the elections to ensure their deployment and arrival in good time for monitoring and observation.
3. Redistricting should be prioritized and concluded well ahead of the 2015 general elections and Polling Units should be redrawn to ensure that each has a maximum of 500 voters.

**3.15.18 (b) Counting of Ballot**

1. Introduction of e-counting with paper trail.
2. The practice of cancelling unused ballot papers before counting should be sustained to avoid fraud.
3. Counting should be done during the day and counting centres should be well illuminated.

### **3.15.18 (c) Collation of Results**

1. Security of men and materials at collation centres should be improved.
2. There should be proper and adequate training for Collation Officers (COs) at all levels.
3. State offices should be involved in the recruitment, training, selection and deployment of Collation Officers.
4. Effort should be made to introduce video recording of collation at all levels of collation.
5. Collation centres should be illuminated by providing uninterrupted power supply and ensure that there is adequate security presence at all collation centres.
6. Collation forms should be designed to capture all constituencies, political parties and other details.

### **3.15.18 (d) Transmission of Results**

1. On the spot announcement and transmission of election results and the pasting of copy of election result on form EC 60E at all levels where announcement of results are done to enhance credibility of the process.
2. IT-based equipment for transmission of election result should be secured to avoid hacking.
3. Education of the electorate on the Commission's mode of announcing election results should be intensified.
4. Functional transmission equipment should be provided at all levels of counting and collation.
5. INEC should publish the result of all the polls conducted during the April 2011 election on its website and the practice should be sustained.

### **3.15.18 (e) Voter Education**

- i. Voter education should be continuous and should not be restricted to major electoral events.
- ii. INEC should strengthen its partnership with other organizations such as National Orientation Agency (NOA), Civil Society Organisations, and the media to increase the reach of its voter education activities.

### **3.15.18 (f) Staff Recruitment for Elections**

1. The appointment of National Youth Service Corp members and university lecturers as Returning Officers and Collating Officers should continue as that strategy brought credibility to the process.
2. The practice of redeploying Election Officers that are permanent staff of the Commission should continue as it restored public confidence in the process.

### **3.16. Challenges of Using Ad Hoc Staff**

Despite the popular acclaim on the use of NYSC members and university lecturers as ad hoc staff during the last elections, some challenges were associated with the tactic. In many states, RECs were reportedly opposed to working with the lecturers although in most cases reasons for the objection were not provided. In some states, there were discrepancies in the figures of serving Corp members. The figures that INEC headquarters received from the NYSC headquarters were often higher than the actual number of Corp members on ground in the states. Others are cases of non-payment of NYSC ad hoc staff as well as lack of schedule of duty for all officers on duty post so that they all know their responsibilities.

#### **3.16.1. Recommendations on NYSC and University Lecturers**

1. INEC should continue to use university lecturers and where RECs have any objection to appointment of particular ad hoc staff, credible reasons should be provided.
2. Verification of NYSC members should be conducted before sending the list of those for appointment as ad hoc staff to INEC for deployment on election duties.
3. Either the NYSC or INEC should make adequate budgetary provision for their participation in the 2015 general elections and;
4. NYSC should collaborate with security agencies and INEC to provide adequate training for corps members to ensure their safety.



# CHAPTER 4

**TOR 2: Assess the legal framework for the conduct of elections with a view to addressing some of the key legal challenges that had arisen in the course of both the registration and elections.**

## **4.1. Background**

Two major legal instruments guide elections in Nigeria. They are the Constitution and the Electoral Act. Both legal instruments define and describe the provisions and requirements guiding the conduct of elections in the country.

The Independent National Electoral Commission (INEC) is a creation of the 1999 Constitution.<sup>2</sup> Its membership includes a Chairman who is the nation's Chief Electoral Commissioner, and twelve other members known as National Commissioners. Both the Chairman and the National Commissioners are nominated by the President, after due consultation with the Council of State, and confirmation by the Senate. They serve for one renewable term of five years and can only be removed from their positions by a two-third majority vote in the Senate.<sup>3</sup>

The Constitution<sup>4</sup> provides for the following powers and functions of INEC:

- a. Conduct of elections to the offices of President, Vice President, Governor, Deputy Governor and National and State Houses of Assembly
- b. Register political parties in line with the Constitution and the Electoral Act
- c. Monitor political parties their operations, finances, etc.
- d. Examine and audit of funds of political parties and publicly report on same
- e. Register voters and maintain the register, including its revision
- f. Monitor and regulate political party campaigns
- g. Ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe to the Oath of Office prescribed by law.
- h. Delegate any of its powers to any Resident Electoral Commissioner

<sup>2</sup> Section 153, Constitution of the Federal Republic of Nigeria, 1999

<sup>3</sup> Sections 155 and 157 respectively, Constitution of the Federal Republic of Nigeria, 1999

<sup>4</sup> Constitution of the Federal Republic of Nigeria, Third Schedule, para 15 (a)-(i)

In addition to the Constitution, the Electoral Act, 2010 (as amended) confers on INEC the following additional functions:

- a. Create and administer an Independent National Electoral Commission Fund separate from funds received under the national budget.
- b. Establish offices in each state of the Federation to which it may assign tasks as it deems fit.
- c. Hire and exercise disciplinary control over its staff.
- d. Compile, maintain, and update on a continuous basis, a National Register of Voters, in this Act referred to as the "Register of Voters". There is the additional power to integrate the supplementary register into the national voters register at least 30 days before a general election.
- e. Issue voters card to registered voters.
- f. Set dates and issue notices of election
- g. Accept nominations of candidates for elections by political parties
- h. Print ballot papers in the format that includes the symbols of political parties
- i. Issue certificates of return for elections conducted
- j. Register and de-register political parties
- k. Monitor political party expenses and campaign finance.
- l. Prosecute for electoral offences
- m. Delegate any of its powers as may be appropriate.

Following criticisms of the 2007 general elections, the Federal Government created the Electoral Reform Committee (ERC) headed by former Chief Justice of Nigeria, Justice Muhammadu Lawal Uwais (Rtd.), to review the electoral system and recommend changes. Among the several recommendations made by the ERC was the suggestion to amend the provisions of the Constitution to guarantee the independence of INEC and provide for its financial autonomy.<sup>5</sup>

The legal environment that governed the 2011 elections was constantly reviewed. The process of amending the 1999 Constitution and for enacting the Electoral Act was not finalized until five months to the April 2011 general elections. Indeed INEC must be commended for delivering what was clearly a significant improvement on the 2007 general elections under such a condition. This is especially against the background that the Commission was constituted only in July 2010 and had the herculean task of preparing a voters' register of more than 70 million persons in a few weeks and implementing the election-related provisions of the amended 1999 Constitution and of the Electoral Act, 2010 as amended.

In view of the fact that ten out of the twelve members of the Commission, and the Chairman of INEC were new members of the Commission, it is commendable that INEC was able to conduct a credible voter registration exercise and a series of

<sup>5</sup> See the Recommendations of all of the reform recommendations of the ERC

credible elections that by and large commanded the approval and respect of both the country and the international community.

Although the voter registration exercise and the conduct of the general elections marked significant improvement on previous exercises and elections, a review is important to determine the extent to which the Constitution (as amended) and the Electoral Act 2010 (as amended) had contributed not only to the positive outcomes but also to the lapses and lacuna in the constitutional and legal architecture that needed improvement.

Looking to the future, RERC believes that constitutional and legal provisions for the registration of voters and the time provision and sequence for it are adequate. However, based on its findings, RERC would like to point to some challenges pertaining to the constitutional and legal framework for electoral governance. The RERC draws attention to the following issues, which require proactive action by INEC, working alone or with other stakeholders.

#### **4.2. Analysis and Findings: Legal Issues around Voter Registration and Elections**

At every stage of the preparation and execution of the 2011 elections, INEC was faced with the challenge of interpreting and applying the provisions of the Constitution and the Electoral Act, both of which were undergoing debate and amendment during preparations for the 2011 voters' registration and general elections.

#### **4.3. The Voters' Register**

In carrying out its functions and exercising its constitutional and legal powers preparatory to the 2011 elections, INEC was faced with the challenge of deciding whether to use the existing voters' register, which many Nigerians saw as discredited, or to produce a new one within the very limited time available to it. Since the Voters' Register is a critical part of any election, there were concerns that the 2011 elections would be flawed if a new register of voters is not compiled.

The Electoral Act confers on INEC the power to determine the number of polling units to be created and the number of people that can be registered at each polling unit.<sup>6</sup> As a practical measure, INEC limited the number of persons to be registered in a polling unit to 500. In some polling units where there was a spill-over, INEC created what it called "baby units," comprising additional 300 names on the register attached to a substantive polling unit.

A person may only register in a Constituency where he is ordinarily resident, works or originates from.<sup>7</sup> In addition, only Nigerian citizens who are 18 years and above,

<sup>6</sup> Section 42, Electoral Act 2010

<sup>7</sup> Section 12, Electoral Act 2010

at the date of registration may present themselves for registration. Double registration is prohibited and it is an offence to violate any of the requirements for registration. The voters' registration exercise, which took place between January 15 and February 7, 2011, throughout the country, was carried out using newly acquired Direct Data Capturing (DDC) machines. There was the display of the register of voters from 14 to 18 February 2011, to enable members of the public file claims and objections, as statutorily required.

At the end of the exercise, INEC in compliance with the Electoral Act certified a final Register of Voters containing 73,528,040 voters.

The voters' registration exercise was largely successful, although several complaints of missing and wrong placement of names were reported. There were also complaints that INEC failed to adequately display the register of voters for claims and objection as required by the Electoral Act,<sup>8</sup> and in some cases it failed to do so.

It is important to look at the legal provisions relating to the registration of voters. As already stated, the 1999 Constitution (as amended) and the Electoral Act 2010 (as amended) contain relevant provisions on voter registration and related issues. The key issues under the Electoral Act 2010 (as amended) on the registration of voters relate to the statutory periods for (i) the compilation of the register; (ii) continuous registration; (iii) display of the register; (iv) filing claims and objections; and (v) prosecuting voter registration offences. The Electoral Act 2010 (as amended) clearly provides that INEC must publish the Register of Voters at least 60 days before the date of the general election. The National Assembly had to amend the Act to reduce the minimum number of days to 60 from the original 90 days, to enable INEC to publish the Register within the statutorily stipulated period.

As pointed out above, INEC must be commended for successfully carrying out the uphill task of registering about 73million voters from the scratch and for conducting the elections, given that most of the commissioners were new and that the logistics challenges were enormous.

#### **4.4. The Independence of INEC**

The consultations of RERC with stakeholders in the various geopolitical zones unmistakably point to serious concerns with how to assure and strengthen the independence of INEC more seriously, if the gains recorded during the 2011 elections were to be consolidated and improved upon during future general elections.

The same concerns were expressed about the independence of State Independent Electoral Commissions. The concerns revolved around the need to reform the process of, and the power for appointing the members of both the national and

---

<sup>8</sup> Section 19, Electoral Act 2010

state electoral bodies, vested in the President (in the case of INEC) and Governors (in the case of SIECS), subject to confirmation by the Senate and the Houses of Assembly, respectively.

Under the 1999 Constitution (as amended), the Chairman and members of INEC and the Resident Electoral Commissioners of the States and FCT are appointed by the President, subject to confirmation by the Senate. They can only be removed upon a two-thirds majority vote of the Senate.

With respect to the independence of INEC, the ERC had proposed a new appointment procedure for the Chairman and members of a reconstituted INEC, with the power of (i) screening nominated candidates vested in the National Judicial Council; and (ii) appointment vested in the National Council of State, subject to confirmation by the Senate. Although this recommendation was rejected by government, RERC is of the opinion that it should be reopened as part of the ongoing national debate to strengthen the INEC.

The RERC also believes that the recommendation of the ERC on the reorganization and integration of State Independent Electoral Commissions into the structure of INEC for greater efficiency, which was rejected by government, should be reopened as part of the ongoing national debate on constitutional reform.

A situation where INEC does not have the statutory power to appoint or remove RECS makes it difficult for INEC to exercise disciplinary control over them. RERC, therefore, recommends that INEC should initiate a proposal to amend the Constitution to allow for it to appoint State Directors of election or RECs who are its staff and are subject to its disciplinary control.

#### **4.5. Party Primaries and Congresses**

One of the biggest challenges faced by INEC in the conduct of the 2011 general elections was how to monitor the primaries and congresses of the political parties to ensure that their conduct was in compliance with relevant provisions of their respective party constitutions, the 1999 Constitution (as amended) and the Electoral Act 2010 (as amended).

Initially the 1999 Constitution had provided for the conduct of elections to various elective public offices not earlier than 60 days and not later than 30 days before the expiration of the term of office of the holder. The National Assembly in response to the recommendations of the Election Review Committee (ERC) amended the Constitution to allow for the conduct of such elections 150 days (five months) before the expiration of the term. The amendment reversed an earlier provision that had required that the elections hold not later than 120 days before expiration of term. The amendment has the effect of reverting to the earlier Constitutional provision of not later than 30 days. In effect, INEC is now able to conduct elections within a period of five months to one month to the expiration of any term. Conducting the elections earlier will help address the concerns of those who would



like to see election petitions concluded before a winner is sworn in to assume their seats.

The Electoral Act 2010 (as amended) outlined provisions for the conduct of party primaries and congresses. Under the Act, parties are required to give INEC at least 21 days notice of any convention, congress, conference or meeting convened for the purpose of electing members of its executive committees, other governing bodies or nominating candidates for any elective public political office.<sup>9</sup>

INEC is empowered under the Electoral 2010 Act (as amended) to observe any of the party activities listed above and to ask a party to provide it with additional information or clarification on any of its activities that may seem contrary to the law, its constitution or any of its regulations or guidelines.<sup>10</sup>

It means therefore that political parties are required under the law, to ensure that INEC is present whenever primaries and congresses are being conducted. Section 87 of the Electoral Act 2010 (as amended) provides conditions that political parties must fulfill before they can present candidates to INEC for inclusion in the ballot. Where a political party decides to nominate its candidate through direct primaries, it must ensure that all aspirants are given equal opportunity of being voted for by members of the party.

A more complicated process is the nomination of candidates through indirect primaries. The Electoral Act 2010 (as amended) stipulates in section 87 the steps that a political party must follow, before a person qualifies to be described as its candidate. It would seem that where a party fails to comply with the strict requirements of section 87 for the conduct of its indirect primaries, then the person nominated as candidate by the party does not qualify as such, in view of the provisions of section 31 of the Electoral Act 2010 (as amended) that:

“(1) Every political party shall, not later than 60 days before the date appointed for a general election under the provisions of this Act, submit to the Commission, in the prescribed forms, the list of the candidates the party proposes to sponsor at the elections, provided that the Commission shall not reject or disqualify candidate(s) for any reason whatsoever.”

INEC was faced with the challenge of interpreting and applying the provisions of section 31 of the Electoral Act 2010 (as amended) vis-à-vis section 87 of the Act. This affected several cases where there were petitions against political parties for handpicking and arbitrarily imposing candidates. INEC's decision and attitude was to allow the persons presented as candidates by the political parties to be on the ballot for the elections, especially after notifying the party of its observations and concerns.

<sup>9</sup> Section 85, Electoral Act 2010

<sup>10</sup> Section 86(2) Electoral Act

INEC should take a firm position on this matter ahead of coming elections. It is desirable that a strict interpretation of the Electoral Act should be applied by INEC in accepting a candidate as the one who has been chosen by his party in compliance with section 87 of the Electoral Act, and that this is interpreted to mean that since it is only such persons that fall within the definition of candidate in section 31 of the Electoral Act they cannot, therefore, be rejected by INEC.

Again, INEC was not able to respond to some of the notices received from the political parties informing it of planned Congresses and Conventions for the nomination of candidates for the April 2011 general elections. Given the limited time and human resources at its disposal, INEC could not map out an effective means for deploying its observers to be present at the different party primaries for the nomination of their candidates and could not, therefore, verify compliance with the relevant provisions of their party constitutions and of the Electoral Act 2010 (as amended) in cases of disputed primaries, where it did not send observers.

Ahead of future elections, INEC will need to work out a comprehensive programme and strategy to observe and attend party primaries and congresses. It may be useful for INEC to create a timeline within which political parties would be required to hold their primaries, congresses and conventions for nomination of candidates. This way, INEC will be in control and be able to compel parties to respect the provisions of their constitutions and of the extant Electoral Act requiring them to conduct free and transparent primaries.

#### **4.6. Notice of Elections**

Prior to the submission of the list of candidates is the requirement in section 30(1) of the Electoral Act 2010 (as amended), that INEC publish not later than ninety days before the day appointed for holding of an election, a notice stating the date of the election and place for the delivery of nomination papers. In the 2011 general elections, INEC duly issued such a notice and received nominations at its headquarters in Abuja.

It is preferable for INEC to issue such notice well ahead of the ninety days stated. Indeed, to help keep its timelines, INEC should consider issuing an early notice for elections so that political parties can set the dates for their conduct of primaries and be prepared to submit their list of candidates within good time. This will also boost INEC's ability to properly and effectively observe the primaries of the parties.

INEC is also required ahead of a specific election and no later than 14 days before the day publish in such manner as it may deem fit, a notice specifying the day and hours fixed for voting, the persons entitled to vote and the location of the polling units.<sup>11</sup>

<sup>11</sup> Section 46, Electoral Act 2010

#### 4.7. Submission of List of Candidates

The Electoral Act 2010 (as amended) requires that political parties submit, in the prescribed form, the list of candidates for the elections not later than 60 days before the general election. This requirement was largely complied with during the last elections.

In addition, INEC is required under the Act to publish the personal particulars of nominated candidates in the constituency where the candidates intend to contest the election, within 7 days of the receipt of their personal particulars.

The Act authorizes any person to apply to INEC for a copy of nomination form, affidavit and any other document submitted by a candidate at an election and INEC is obligated upon payment of a prescribed fee, to issue such person with a certified copy of the document within 14 days. It appears that INEC had some difficulty with publishing the personal particulars of candidates in their specific constituencies, as required by law, although the names of some candidates were published on INEC's website.

INEC should take serious steps to comply with this legal provision in future elections. Particularly, INEC should ensure that details of candidates are published on its website so that members of the public outside of the Constituency of the candidate may be aware of the information. The Electoral Act 2010 (as amended) provides for a person's candidature to be challenged in court of law and their names removed as candidate on the basis of a court order. Also to be noted is the provision in section 31 (8) of the Electoral Act 2010 (as amended), stipulating penalty against a political party which presents to the Commission the name of a candidate who does not meet the qualifications stipulated under the law.

#### 4.8 Substitution of Candidates

In previous elections, INEC suffered judicial embarrassment and public condemnation for the rampant cases of substitution of candidates by political parties. During the 2011 elections, this was not a major issue. INEC was able to ensure that the legal provision regarding the substitution of candidates was largely complied with. Under the Electoral Act 2010 (as amended),<sup>12</sup> no political party is allowed to change or substitute its candidate whose name has been submitted, except in the case of death or withdrawal by the candidate. The Act also stipulates that a candidate may only withdraw his candidature, by notice in writing signed by him and delivered by himself to the Political party that nominated him for the election and the political party shall convey such withdrawal to the Commission. The withdrawal is only allowed not later than 45 days to the election.

#### 4.9 Order of Elections

INEC was presented with a fait accompli following the decision of the National Assembly to state the order of elections in the Electoral Act 2010 (as amended).

<sup>12</sup> Section 33, Electoral Act 2010

Under section 25 of the Act:

“Elections into the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the Membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation shall be held in the following order:

- a. Senate and House of Representatives;
- b. Presidential election; and
- c. State House of Assembly; and
- d. Governorship elections.”

Previously, INEC was at liberty to decide in which order to conduct the various elections. INEC should explore the possibility of ensuring that the electoral law in the future grants it the power and flexibility to decide in which order to conduct such elections. It should be pointed out that the Electoral Act 2010 (as amended) does not preclude INEC from deciding to hold the first and second sets of elections on the same date, provided that ballot papers for the first set (Senate and House of Representatives) are administered before that of the second set.

#### 4.10. Monitoring of Political Parties

INEC appears to be hamstrung by its interpretation that the National Assembly's amendment of sections 31(1) and 86(1) of the Electoral Act, 2010 precludes it from monitoring the activities of political parties. However, it is arguable that the principal law from which the provisions of the Act are drawn does not support this interpretation. The 1999 Constitution of the Federal Republic of Nigeria (as amended) explicitly and unequivocally vests the powers and function to “monitor the organization and operation of the political parties,”<sup>13</sup> in INEC.

The provisions of the Constitution, therefore, clearly override the provisions of sections 31(1) and 86(1) of the Electoral Act 2010 (as amended). INEC should, therefore, fully explore all of the legal ramifications of this constitutional power and enforce its monitoring of political parties, including their Conventions and Congresses, as well their funding and finance, to ensure compliance with the law and respect for democratic principles.

During the April 2011 general elections, some political parties operated without much regard for internal due process, consultation and involvement of its members in decision making, as required by their constitutions and the Electoral Act 2010 (as amended). To date, party executives are dissolved and reconstituted, in disregard of their party constitution and the country's law, and without due regard or deference to INEC's monitoring role. INEC's oversight and regulatory duty under a democratic dispensation and in compliance with the law should include ensuring

<sup>13</sup> Paragraph 15 (c), Third Schedule, Constitution of the Federal Republic of Nigeria

that political parties operate within the ambit of their constitutions in deciding how decisions are reached, how candidates for general elections are nominated, and how their executives are elected. Failure to comply with party constitutional limits should be sanctioned. To this end, the human resource capacity of INEC's Political Party Monitoring Unit should be enhanced and strengthened through requisite training and empowered financially for a better and more effective enforcement of monitoring compliance with the relevant provisions of their constitution and the Electoral Act by the parties.

#### **4.11. Collation, Transmission and Announcement of Results**

INEC is empowered to appoint: (i) presiding officers at polling units; (ii) ward collation officers at the ward collation centres; (iii) local government collation officer at the local government area; and (v) state collation officer at the State level to collate results of elections.

The process of collation and announcement of results is outlined in section 27(2) of the Electoral Act 2010 (as amended) as follows:

- “(2) The Returning Officer shall announce the result and declare the winner of the election at:
- (a) Ward Collation Centre in the case of Councillorship election in the Federal Capital Territory;
  - (b) Area Council Collation Centre in the case of Chairmanship and Vice Chairmanship election in the Federal Capital Territory;
  - (c) State Constituency Collation Centre in the case of State House of Assembly election;
  - (d) Federal Constituency Collation Centre in the case of election to the House of Representatives;
  - (e) Senatorial District Collation Centre in the case of election to the Senate;
  - (f) State Collation Centre in the case of election of a Governor of a State;
  - (g) National Collation Centre in the case of election of the President.
  - (h) The Chief Electoral Commissioner shall be the Returning Officer at the Presidential election.”

The process of collation and announcement of results did not designate the particular INEC official to perform it, except in the case of the Chairman of the INEC, who is specifically mentioned and described as the Chief Electoral Commissioner. The INEC Chairman is the Returning Officer for the Presidential election.

In the 2011 general elections, INEC recruited ad hoc staff as returning officers. This was a role hitherto performed by Resident Electoral Commissioners in the States, under the supervision of a National Electoral Commissioner. Most of the returning officers appointed for the elections were well-respected academics. Although there were isolated instances of lapses and complaints, this new practice seemed to have been largely successful.

In view of this, INEC should design a creative framework for systematizing the identification, training and monitoring of Returning Officers for elections. University teachers or any other group or individuals identified to serve as returning officers should be drawn into a pool and trained well ahead of the elections. In addition, such individuals should take the oath of office provided under the Third Schedule of the 1999 Constitution for election officials.

During the zonal tours of RERC, INEC officials expressed their understanding of the rationale for this decision by INEC headquarters. They however indicated their desire to be involved and consulted on how the decisions are made in this regard.

However, there is a general sentiment in support of the continuation of the practice of appointing Returning Officers from outside the Commission. Stakeholders consulted during the zonal meetings consulted by the RERC expressed the view that the practice helped to boost the credibility of the results that were announced.

#### **4.12. Political Party Finances**

The Constitution and the Electoral Act empowers INEC to monitor political parties including their finances and to arrange for the annual examination and auditing of funds and accounts of political parties.<sup>14</sup> INEC is also required to publish its report on such examination and audit. To this end, the Electoral Act 2010 (as amended) stipulates that INEC's report shall be published in three national newspapers.<sup>15</sup>

In addition to its powers to audit and publish its report on the finances of political parties, INEC has powers to place limitation on the amount of money or other assets, which an individual or group of persons can contribute to a political party. INEC also has powers to enforce the limitation on election expenses of political parties and their candidates. Indeed, the relevant law provides that the INEC determine, in consultation with the political parties, the election expenses to be incurred by them in the course of an election. The Act further requires political parties to submit to INEC a separate audit of their election expenses, no later than six months after an election, with such returns signed by each political party's auditors and counter-signed by its Chairman. The audit is to be supported by a sworn affidavit by the signatories as to the correctness of its contents.

The political parties are also required to file a statement of the contributions made by individuals and entities to the election expenses of its candidates, not later than three months after the announcement of the results of the election.

There is no doubt that the 1999 Constitution (as amended) and the Electoral Act 2010 (as amended) have made clear provisions to govern the finances of parties and of the candidates for elections. Reports from the 2011 general elections

<sup>14</sup> Para 15(d), Third Schedule, Constitution of the Federal Republic of Nigeria, 1999

<sup>15</sup> Section 29 Electoral Act 2010

indicate that it may have been one of the most expensive elections in recent times, with several of the candidates, particularly incumbents spending huge sums of money or having their parties or supporters spending huge sums on their behalf.

There is little evidence that INEC has set up a viable and effective machinery or process for monitoring or regulating the finances of parties or candidates for elections. INEC will need to put in place the necessary mechanisms and processes to hold political parties and persons seeking elective office respectively to account for mismanagement of party funds, including public funds received from INEC and for unlawful expenses made during election campaigns.

#### **4.13. Electoral Offences**

The Electoral Act 2010 (as amended) clearly provides for sanctions and their enforcement against offences identified in the Act. The electoral offences range from double registration during the voter registration exercise to election-day offences and crimes committed by political parties.

There are limited reports of prosecution of electoral offences. Under the current laws, INEC has the powers to carry out the prosecution of persons, who are accused of electoral offences. With the numerous reports of offences allegedly committed during the April 2011 general elections, including electoral violence, it does not appear that INEC has the manpower and resources to pursue all of the prosecution. What was clear, however, from the RERC's zonal meetings is the general view expressed by participants at the meetings that electoral offences in the country would only begin to reduce and pre- and post-election violence arising from them considerably reduced, if perpetrators were expeditiously prosecuted.

In this respect, the RERC finds it compelling to underscore the need for government to take urgent action to step up the process, including legislation, for the establishment of the Electoral Offences Commission, alongside other measures for the prosecution of electoral offenses, as recommended by the ERC and accepted by government in its White Paper on the ERC Report. INEC should engage government and the National Assembly on the urgent need for such legislation.

#### **4.14. Election Petitions**

In several respects, election petitions represent a major barometer to measure the success of an election. There is no doubt that the number of election petitions following from the 2011 general elections was fewer than the petitions received after the 2007 general elections. Nevertheless many of the petitions went to the tribunals, several of which have been completed at the tribunal level. Some of them are at appeal stages. There is no doubt that the constitutional amendments that set time limits for the conclusion of election petitions and expedited judicial hearings have been very useful.

During the zonal tours and meetings with stakeholders, the RERC received reports of INEC reluctance to comply with judicial orders for the production of election

documents. There were also reports from lawyers of delay on the part of INEC's legal department to issue letters briefing them to handle matters on behalf of INEC. At a meeting with the legal department at INEC headquarters, officials attributed this to communication gaps between the previous INEC supervising National Commissioner on legal matters and the legal department, stating that the matter has now been finally resolved.

There is an important need for INEC to review the method of briefing lawyers to represent it. The INEC Chairman should be fully and completely briefed on all litigation against INEC, including election petitions; so that proper instructions can be issued to lawyers acting on behalf of INEC. This will enable such lawyers to act without bias against any of the parties to an election petition and it will, therefore, ensure that the interest of justice is protected at all times.

#### **4.15. Process of Obtaining Legal Advice**

It is unclear how the different units and departments of INEC obtain legal advice in carrying out of their tasks. This is probably due to the absence of clearly set out guidelines for their obtaining such advice. From the observation of the RERC, INEC has a consortium of lawyers, from among which some lawyers were retained just ahead of the conduct of the 2011 general elections. This team or consortium has mostly provided legal advice to the office of the INEC Chairman. It handled specific pre-election matters and INEC's involvement in the Presidential election petition. Several of the other cases have been assigned to lawyers on an ad hoc basis. It will be important to define an enduring and sustainable process of handling litigation and legal matters involving INEC on elections and non-election related issues.

#### **4.16. The Role of the Legal Department**

The Legal department is central to the activities of all of the other departments and units within INEC. All legal negotiations and contracts are vetted by the legal department. For this reason, the department ought to be staffed by competent lawyers and headed by one with considerable post-call experience and solid reputation.

#### **4.17. Number of Political Parties/Deregistration of Political Parties**

The RERC is concerned that the number of political parties recognized by INEC and who expect to be listed on the ballot during elections is unwieldy and creates confusion during voting. INEC should take proactive steps in ensuring that only parties that are seriously in operation are allowed to be put on the ballot.

INEC should creatively explore its powers over political parties, including its monitoring powers, to ensure that it creates conditions for registered political parties to qualify to be on the ballot. For instance, INEC should consider issuing regulations to the effect, among others, that political parties that fail to cross over a certain threshold in its monitoring of their activities could be excluded from the ballot, even if they remain registered.

#### 4.18. Amendment of the Constitution and Electoral Act

The Committee recommends that INEC creates a technical team of experts to review the portions of the Constitution as well as the entirety of the Electoral Act 210 (as amended), with a view to (i) reviewing RERC's analysis and findings as outlined above; and (ii) proposing amendments to both instruments that will further enhance its independence and, therefore, its ability to deliver on free and fair elections.

The Committee further recommends that INEC should:

1. Ensure that ballot papers to be used for future elections are custom made and specific to the particular elections, as well as serially numbered.
2. Provide for persons on election duty (including ad hoc staff) to vote on polling day.
3. Clearly outline voting access for all manner of disabled persons.
4. Devise specific language to be proposed to the National Assembly as amendment to the Electoral Act 2010 (as amended) or even the 1999 Constitution (as amended), to require the non-inclusion of unserious political parties on the ballot. The smaller the number of parties on the ballot paper, the fewer the number of voided votes is likely to be.
5. Engage with the government and the Committees on INEC in the National Assembly, to pursue the passage of the Electoral Offences Commission.
6. Engage with the government and the National Assembly to revisit the prohibition of electronic voting in the Electoral Act.
7. Implement the constitutional requirement of delimitation of constituencies.
8. Provide training on the contents and implementation of subsisting Electoral Act and the Constitution to officials of INEC at all levels, including headquarters and the States.
9. Implement the provision of the Electoral Act 2010 (as amended) that allows it to set up a Fund controlled by it and proactively raise funds that it can invest and use for expenditures not captured, or inadequately provided for in the national budget.
10. Generally study the 1999 Constitution (as amended) and the Electoral Act 2010 (as amended) and propose as may be necessary, specific provisions or sections to be amended or enacted by the legislature.

## CHAPTER 5

**TOR 3: Examine the role, performance and especially the overall administrative procedures and channels within and between departments in the coordination and execution of the registration exercise and elections.**

### 5.1. Summary of TOR

This TOR requires RERC to 'examine the role, performance and especially the administrative procedures and channels within and between departments in the coordination and execution of the registration and elections'. In effect, it requires RERC to examine the extent to which the existing organizational structure or crucial aspects of it hampered or facilitated the execution of the registration of voters and subsequent elections in 2011.

### 5.2. Major issues surrounding the TOR: Challenges, with Some Historical and Current Perspectives

The structure of an organization serves as the launching pad for its goal attainment. The crucial aspects of the organizational structure are its definition of roles and responsibilities or division of labour, the established relationships between the roles, the nature, scope and range of the administrative procedures, systems and processes, channels of communication between and within roles and hence departments and units, the methods of coordinating tasks and achieving synergy of effort and the structure of authority relationships within the organization.

While a structure may respond to the organization's strategy, it is also the case that an organization's strategy responds to its structure. In the final analysis, both are determined by the strategic choices exercised by members of the dominant coalition in the organization. A major implication of this is the attention that it draws to agency: the leaders of an organization are not imprisoned by contextual definitions of what may be regarded as the appropriate structure even when these are encoded in some legal framework. They need to and do exercise choices in the light of their own understanding and experience about a structure that fits the purpose of what they are trying to achieve in a given environment.

Against the above background, the issues surrounding the 'role, performance and especially the administrative procedures and channels within and between departments in the coordination and execution of the registration and elections' were defined by RERC to include a review/examination of the following:

- a. Strengths of the existing structure in terms of the substance and style of top leadership team, the level of competence and commitment staff).
- b. Weaknesses of the existing organizational structure in terms of:
  - i. The level integration of office of Chairman with other levels of leadership,
  - ii. Number of departments,
  - iii. Staffing levels,
  - iv. The role and work of committees (special ad hoc committees, delegation to committees, clarity in reporting relationships and the committee system),
  - v. formalization of departmental functions and jobs,
  - vi. degree of overlap of functions and jurisdictional conflicts,
  - vii. Level of delays in decision-making and communication at headquarters,
  - viii. Level of employee motivation and conditions of service,
  - ix. Level of discipline,
  - x. Relationship between headquarters and state offices (division of labour in the state offices, centralization of decision making at headquarters, the role and integrity of Resident Electoral Commissioners, communication problems between INEC headquarters and the state offices, relationships between the Resident Electoral Commissioners and the Administrative Secretaries and;
  - xi. Legal Implications of needed changes.

### 5.3. The Existing Organogram

The legal framework establishing INEC gives its leadership a great deal of latitude in the structuring of the Commission's activities. The 1999 Constitution of the Federal Republic of Nigeria as amended provides in Section 153, for example, that:

"...there shall be an Independent National Electoral Commission which shall have 'a Chairman, who shall be the Chief Electoral Commissioner' and 'twelve other members to be known as National Electoral Commissioners... There shall be for each State of the Federation and the Federal Capital Territory, Abuja, a Resident Electoral Commissioner ... The Commission shall have power to:

- “(a) organize, undertake and supervise all elections to the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation;
- (b) register political parties in accordance with the provisions of this Constitution and an Act of the National Assembly;
- (c) Monitor the organization and operation of the political parties, including their finances;

- (d) arrange for the annual examination and auditing of the funds and accounts of political parties, and publish a report on such examination and audit for public information;
- (e) arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under this Constitution;
- (f) monitor political campaigns and provide rules and regulations which shall govern the political parties;
- (g) ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe to the Oath of Office prescribed by law;
- (h) delegate any of its powers to any Resident Electoral Commissioner and;
- (i) carry out such other functions as may be conferred upon it by an Act of the National Assembly.”

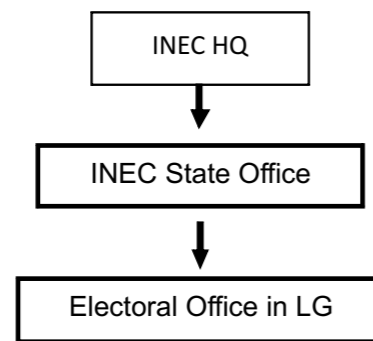
In addition to the provisions of the 1999 Constitution (as amended), the Electoral Act, 2010 (as amended) also provides that:

- i. The Independent National Electoral Commission shall be a corporate body with perpetual succession and may sue and be sued in its corporate name;
- ii. There shall be established in each State of the Federation and Federal Capital Territory, an office of the Commission which shall perform such functions as may be assigned to it, from time to time, by the Commission;
- iii. The Commission may appoint one or more committees to carry out any of its functions under this Act and;
- iv. There shall be a Secretary to the Commission who shall be appointed by the Commission'.

These provisions of the Constitution and Electoral Act are conclusive that the Commission has powers to structure and restructure its activities in line with its functions, its experience and conditions existing in its environment. The actual history of the structuring of activities in INEC confirms this conclusion.

There are two noticeable characteristics of the organizational structure: the one reflecting the spatial distribution of work; the other reflecting the internal distribution in each location. With regards to the first characteristic, INEC is organized into a Headquarters Office in Abuja, state electoral offices in each of the 36 States of the Federation and Abuja, and electoral offices at the headquarters of the 774 Local Government Areas in the country (Figure 1)

**Fig. 1 Spatial structure of INEC**



In the case of the second characteristic, each spatial unit has a structure that has both vertical and horizontal dimensions. To understand the challenges of INEC's structure, the components of both instances must be understood, first separately and next, in their inter-relationships. In this regard, the structure of work, activities and authority relationships at the headquarters office of INEC is crucial. We will therefore begin with an analysis of the relationships at this level before proceeding to an analysis of the relationships between the headquarters office and the two other levels in the structure.

**5.4. The Headquarters Organogram**

There is conflicting evidence as to the number of departments that made up the headquarters in 1999 and how this structure evolved between 1999 and 2011. This conflict is partly the result of the nomenclature used in demarcating between activity areas. For example, some units are described as departments while others are described as directorates.

In both cases, however, departments and directorates may be headed by officers at the same level. The accepted practice is that departments are demarcated within directorates with lower level officers in the departments reporting to a Director who serves as the head of the directorate.

Available evidence suggests that as the headquarters structure evolved, some departments and directorates that featured in the earlier structure did not feature in the later ones (Table 1) This, in itself, is not a weakness: organizations need to evolve structures that are appropriate for the circumstances in the given environment. However, a difficulty occurs when departmentalization is not based upon a set of consistent principles. This situation appears to have characterized the division of labour in INEC between 1999 and at the time of this report.

By 2010, for example, the Commission had expanded to seventeen (17) departments and directorates at the Headquarters Office (Annexure 2). These directorates and departments include:

1. Office of the Secretary
2. Administration and Human Resources
3. Finance and Accounts
4. Public Affairs
5. Estate and Works
6. States Coordination
7. Legal Services
8. Operations
9. Logistics and Transport
10. ICT
11. Research and Statistics
12. The Electoral Institute
13. Training
14. Research and Documentation
15. Civil Society and Gender Desk
16. Voter Education
17. Alternative Dispute Resolution Centre
18. Audit Directorate

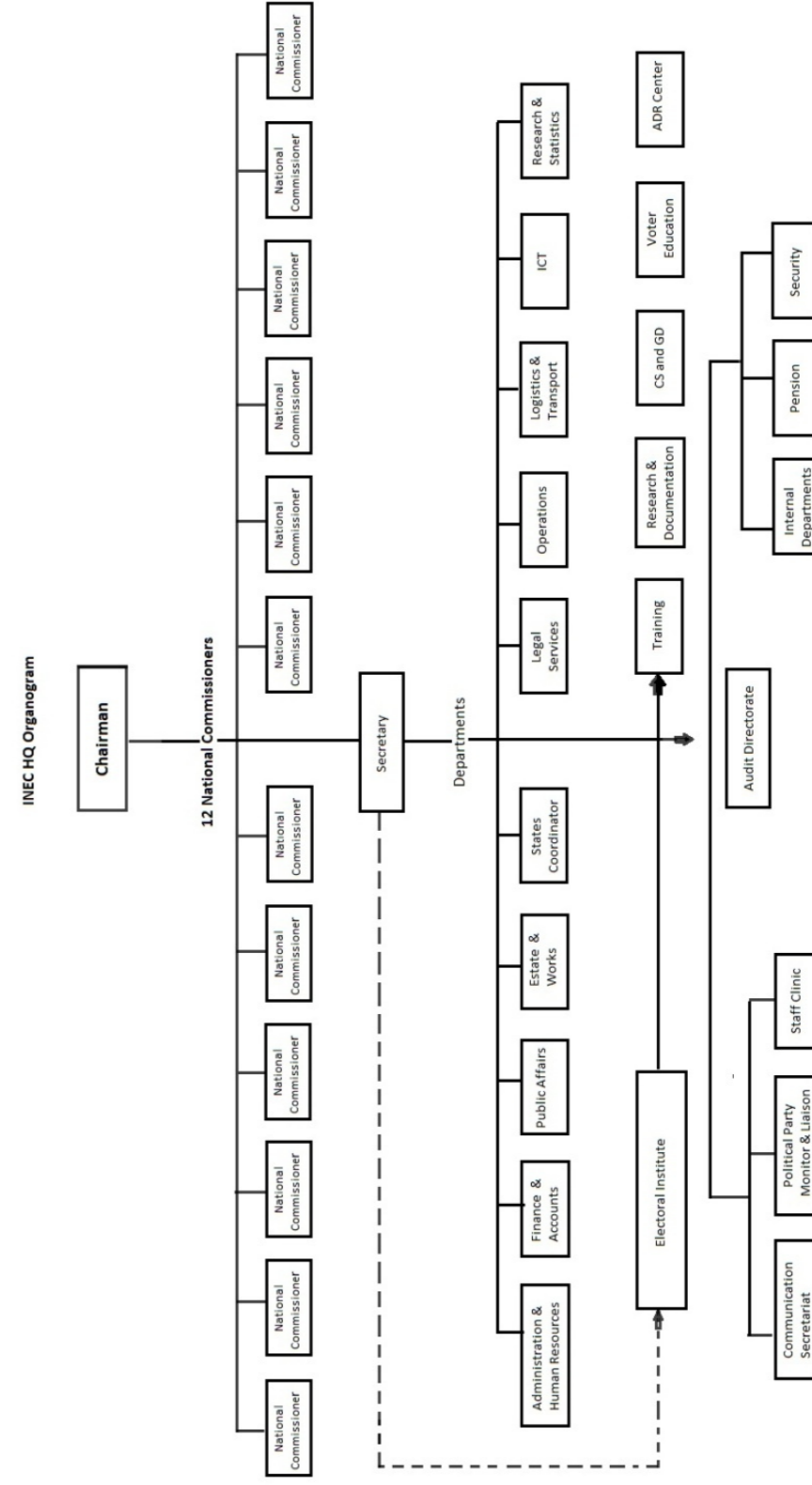
**Table 1. Evolution of INEC's Organizational Structure (1999-2007)\***

	<b>Departments and units - 1999 elections</b>	<b>Departments and units - 2003 elections</b>	<b>Departments and units - 2007 elections</b>
1	Field Services Department	Department of Operations	Finance and Accounts
2	Legal Services Department	Information and Communication Technology	Human Resource Management
3	Finance and Supplies Department	Department of Administration and Human Resources	Estate and Works
4	Personnel Management Department	Estate, Works and Transport Department	Administration and welfare
5	Electoral Logistics Department	Finance and Accounts Department	Public affairs
6	Planning Research and Statistics Department	Public Affairs Department	Political Parties Monitoring and Liaison
7	Public Affairs Department		General Administration
8	Estate, Works and Transport Department		Department of Operations
9			Department of Logistics and Transport

10			Department of Information and Communication Technology
11			Department of Training
12			Research and Documentation Department
13			Department of Voter Education
	<b>Directorates</b>		
14		Commission Secretariat and State Coordination	Directorate of Voters Registry
15		Directorate of Legal Services	Directorate of compliance and Performance Management
16			Audit
17			Legal
	<b>Units</b>		
18		Pension	Clinic
19		Audit	Security
20		Security	Election Monitoring and Observation Unit
21		International Liaison	Passages and International Liaison
22			State coordination
23			Civil society and gender desk

\*Source: Carmona G.V. (2011) Preliminary Organizational Assessment: Independent National Electoral Commission (INEC), submitted to the Registration and Election Review Committee, 9<sup>th</sup> September 2011: 27-27

Fig 2



\*Source: Carmona G.V. (2011) Preliminary Organizational Assessment: Independent National Electoral Commission (INEC), submitted to the Registration and Election Review Committee, 9<sup>th</sup> September 2011: 8



### **5.5. The State Level Organizational Structure**

The organizational structure of INEC at the state level provides for a Resident Electoral Commissioner as its head and for an Administrative Secretary as head of the Secretariat at the state level. Theoretically, each state office of INEC is expected to have five departments/units each headed by an officer at the appropriate level.

### **5.6. The Local Government Level Organizational Structure**

The organizational structure of INEC at the Local Government Level provides for an Electoral Officer (EO) as head of the office. Beyond this, there appears to be no further specification as to the division of labour between the EO as head of the office and other staff who may be posted to the office.

As should be obvious, the state and local government level offices of INEC represent the theatre of operations; decisions of the headquarters are implemented at these levels. It is at the level of the local government, for example, that materials are distributed, that voters actually register and vote; and where votes are counted. Therefore, problems in interdepartmental relationships encountered at the headquarters level will compound problems that may exist at these levels.

### **5.7 The Committee System**

Besides the departmental structure, there are also as Fig 2 shows, twelve (12) National Commissioners with quasi executive responsibilities. These responsibilities are exercised through the system of Committees, where a lot of the work of the Commission is done. As at the time of preparing this report, there were 15 standing committees and several ad hoc committees. A number of departments are grouped under each committee which is chaired by a National Commissioner. More than one Commissioner may serve on a Committee.

Theoretically, each head of department is expected to report through the Secretary to the Commission to the Chairman of the Commission. In addition, the decisions of each Committee that is chaired by a National Commissioner are expected to be reviewed by the Commission before implementation.

As a result of the need to achieve the goals of the 2011 Elections, the Commission also created special committees. The most significant of these was the Expanded Action Plan Implementation Committee (EAPIC). Made up of twelve members (6 National Commissioners, 3 directors and 3 representatives from the office of the Chairman of the Commission) and headed by one of the National Commissioners, EAPIC was charged with the responsibility of preparing, organizing and implementing activities towards the successful discharge of the Commission's mandate to conduct free and fair elections. Thus EAPIC played a crucial role in the voters' registration exercise and in the subsequent elections. EAPIC was expected to work with each of the departments and directorates not only in terms of receiving inputs from them for its own decisions but also in terms of directing the work of the departments to accomplish its own decisions. A large part of these decisions would then be communicated to the state level offices, suppliers and other groups for implementation.

### **5.8. Administrative Procedures**

Every organization establishes procedures for conducting its work. A procedure may be conceived of as 'an event that has regularity of occurrence and is legitimized by the organization' (Pugh and Hickson, 1976:31). Procedures may be differentiated in terms of their degree of formalization and standardization. Procedures are formalized when they are written down and can be referenced. They are standardized when 'there are rules or definitions that cover all circumstances and apply invariably. Those rules would include those on how to proceed in cases not specifically covered' (Pugh and Hickson, 1976:31). The bigger the size of an organization, the greater the need for procedures that are formalised and standardized. Procedures enable organizations to reduce variance in the treatment of similar cases; they lend consistency to organizational action and enable evaluation of actions taken. They thus have implications for organizational effectiveness.

There are, of course, a variety of procedures. These would include decision making procedures, information conveying procedures, procedures for carrying out decisions, performance management procedures and procedures for integrating people and work. At INEC, important procedures would include decision making, purchasing, recruitment, communication and logistics among others. In effect, each area of work in the Commission would be expected to have a set of procedures. The nature of the procedures would have implications for voter registration and elections.

### **5.9. Organizational Processes**

Although not specifically captured in the terms of reference given to it, the RERC considered the strategic issue of organizational processes in their relationship to the performance of INEC during the voter registration and election exercises. Organizational processes are emergent behaviours by individuals, groups and parts of the organization that give the organization a characteristic dynamic. While, procedures indicate, for example, the routines to be followed in carrying out tasks and activities, processes lend a dynamic to the routines by indicating how the routines are carried out and what happens when they are carried out.

While there are several organizational processes (communication, motivational, performance management, etc), the most critical process in any organization is leadership. When the staff of INEC refer to different periods in INEC by demarcating between 'different commissions', one is tempted to assume that they are referring to different organisations instead of one. However, the crucial factor that makes the demarcation possible and which also makes sense in the world of the Commission (and perhaps not so much to outsiders) is the period of rule of a particular group of leaders in INEC. Thus the success or failure of INEC in any period, especially in the light of the challenges faced during the period, is usually attributed to the quality of leaders at the helm of affairs at INEC during the period. Any serious examination of the factors that contributed to the success or failure of voter registration and elections in 2011 must take significant account of this factor.

The key issues in leadership process include the level of integrity displayed by leaders, their sense of vision and mission, the degree of trust that they evoke, their ability to motivate high levels of performance, their ability to build consensus and team work among divergent and often conflicting interests; in effect, their substance and style. At INEC, key leadership processes occur at the headquarters and state levels. Although, there is no doubt that these processes also occur and have significance at the local government level, there is very little information on what happens at this level, mainly because it is still largely emergent within INEC's task and power structures.

Historically, INEC has had four sets of top leadership teams and therefore, four 'Commissions,' between 1998 and 2011. These are the Justice O.I. Akpata Commission (1998-2000), the Dr Abel Guobadia Commission (2000-2005), the Professor Maurice Iwu Commission (2005-2010) and Professor Attahiru Jega Commission (2010 - date). While the Akpata leadership conducted the 1999 general elections, the Guobadia Commission conducted the 2003 general elections and the Iwu leadership conducted the 2007 general elections. All general elections featured voters' registration exercises. However, while the 1999 and 2003 general elections provoked controversies, it is widely agreed that the 2007 general elections were the worst in Nigeria's electoral history. It is also widely acknowledged that leadership factor played a central role in the performance of the electoral system during each of the periods. It is against the background of this immediate history that the 2011 voter registration and election exercises took place. It is also against this background that the current examination of the performance of the organizational structure and leadership processes as they impacted upon the voters' registration and election exercises in 2011 has special relevance.

#### **5.10. Strengths and Weaknesses of the Existing Structure and Relationships: Analysis of Data**

The mass of data generated indicate that the existing organizational structure of INEC has several strengths and weaknesses especially in their actual and potential impact on the conduct of voters' registration and the general elections in 2011. We shall present the strengths before addressing the weaknesses.

#### **5.11. Strengths**

The evidence shows that the current organizational structure and processes have a number of strengths that contributed to the relative success of the 2011 Voters' Registration exercise and General Elections. These strengths include:

#### **5.12. Substance and style of top leadership team**

The critical organizational strength of INEC during the 2011 Voter Registration and General Elections was the leadership at the helm of affairs at INEC. In particular, the fact that Professor Attahiru Jega was appointed Chairman of the Commission created the expectation that the exercises would have integrity. The actual conduct of the Commission in carrying out the voters' registration and election exercises

under the leadership of Professor Attahiru Jega lent credibility and integrity to the exercises.

As noted by the International Observer Groups and Missions in A Compendium of Reports and Recommendations on the 2011 April General Elections (2011:21-22), 'Prof Jega's nomination resulted in a boost of confidence and increased expectations for the general elections. He repeatedly expressed his commitment to conduct credible elections and led INEC on this basis'. Leading INEC on that basis meant that he displayed personal integrity, had and shared his vision for a new INEC, and built a team that could deliver the voters' registration and elections through the deployment of this vision. This point is significant because the history of INEC is littered with the broken promises of leaders who also 'repeatedly expressed their commitment to conduct credible elections'.

What is significant from the point of view of leadership is not expression of commitment but the demonstration of commitment to credible, acceptable, free and fair elections. To demonstrate commitment, the Chairman of INEC must exhibit courage, transparency, impartiality and the ability to take responsibility for major snafus such as that which occurred on April 2, 2011 when the general election had to be postponed.

It is equally instructive that in the interactions of RERC members with various stakeholders across the country, individuals and groups were unanimous that the voter registration exercise and the elections were as successful as they were because of the substance and style of Prof. Attahiru Jega's leadership. Members of staff of INEC that the RERC interacted with also shared this view. For example, a participant at the interactive session in Port Harcourt said:

"I want to begin by commending the Commission for the change that is unfolding. It appears to me like a dream that in Nigeria we are evolving into such a credible process and it is happening right in my own time. I think this about the first time in our history for such a conscious effort..." (Sister Elma .... Of Justice, Development and Peace Committee, Port Harcourt).

An Administrative Secretary at the interactive session in Owerri said:

"... There was something that was particular about the current chairman, when one of his students, I remember one of the items I was going through, one of his students made a comment; I have not forgotten what that student said. He was a graduate, I think he was in a graduate class, he made this statement that if you are a student in the class being lectured by Prof Jega, then you are equally a potential Professor; makes a lot of meaning to me because I know it is like somebody is trying to decorate somebody and simplifying what he knows. He is not just coming and giving lectures and leaving you blank. But when he lectures you, he takes you to where he is anticipating and where his focus is. So I believe that the same template is unfolding now in the commission and I believe as staff we need to also cultivate that habit, you know, of falling in line and keying in to the vision of

the leadership. So, when we heard about the Review Committee it didn't take us as a surprise and be that as it may we have thoughts to put down; some few things. Like you said if there are some additional things to do, we will do because we are looking for Nigeria that there is need for us to move forward to the next level as a country and as a nation. We anticipate that by 2015, we should be able to make a mark, you know, to the whole world. We also heard that now you see that the Chairman of the Commission has been recognized as the Chairman of the parliamentary group, the election observer group to Liberia. I think that's a good thing for us. Whether we want to believe it or not we are moving forward."

Prof Jega himself has repeatedly emphasized that he conducted the 2011 voter registration exercise and the general elections with the same set of INEC staff that had been used during the 1999, 2003 and 2007 election exercises. The difference between the Commissions of 1998/2000, 2000/2005, 2005 - 2010 and the current Commission can be put down to the pattern of relationships and methods of work that the leadership forged within the Commission and between the Commission and external groups to deliver on essentially the same mandate.

#### **5.13. Competent and Committed INEC Staff**

The fact that the new top leadership team at INEC did not have to 'import new staff' to attain the level of performance that was attained during the 2011 exercises indicates that INEC staff or the majority of them are a source of strength to INEC. There are thus within the Commission a number of competent, highly committed individuals who have integrity and who under the right leadership and organization can surpass not only current levels of performance but levels of performance attained by comparable EMBs in other parts of the world. Thus during our interactions with the various categories of INEC staff, we came across several individuals who demonstrated high levels of moral involvement and declared their readiness 'to sacrifice personal interests for the interests of INEC'.

#### **5.13. Special Ad Hoc Committees**

Another major organizational strength of INEC in the voters' registration and election exercises was the creation of special ad hoc committees such as the Expanded Action Plan Implementation Committee (EAPIC) at the national headquarters and RACs at the state level. Available evidence suggests that these committees facilitated the planning, organizing and implementation components of the exercises to a higher degree than would have been possible had the Commission relied on the existing departments and committees alone.

#### **5.14. Weaknesses**

Although the organizational structure and processes in INEC reveal a number of strengths, they also expose several weaknesses that impacted on the 2011 voter registration exercise and the general elections. These weaknesses include:

#### **5.15. Over-delegation to Committees**

Although not expressly indicated by the data, there is a sense in which some of the problems that arose during the voter registration exercise could be interpreted as

arising from over-delegation by the Chairman of the Commission. A typical event is the postponement of the election on April 2, 2011. The first in the history of elections in Nigeria, the event posed a grave threat to the stability of democracy in Nigeria.

While the overall success of the elections has dimmed the importance of the event, the different accounts of the event obtained by RERC indicate that there was too much reliance on the ability of the Expanded Action Plan Implementation Committee (EAPIC) to deliver on its own monitoring and assessment of the situation. There was therefore no other mechanism created for crosschecking the accounts of EAPIC on its assignments and assessments of developments as they occurred. While we shall address problems in the use of the Committee system later, it also appears to be the case that a lot of the work that ought to be done by individuals, including the Chairman of the Commission and Heads of Department/Directorate is delegated to Committees.

Alluding to the problem of over-delegation, a key informant observed that:

"...Then we came to the operation of that plan. When it comes to the operation, the only difference I noticed between the previous commission and the present commission for the operational plan is empowerment of committees; that is, the standing committees are given all powers to operate all the plans independently. That is, if it is Logistics, it is Logistics; if it is Operation, it is Operation, if it is Registration, it is Registration, if it is Voter Education, it is Voter Education and so on while the previous commission brought everything together; the inputs from the various departments are brought together and treated centrally. Then when they have started and in the middle the commission notices any disconnect in the work given to the committees to operate in terms of policy, then a sub-committee will be set up to harmonise the activities of all the committees. While I am saying so is that as of now, it is difficult to say this is exactly the operational plan of the commission, they rely very much on the committee independently."

Some INEC officers at lower levels observed, for example, that 'the Chairman believes he is still in the university system where everything is delegated to committees'. They note that the university and INEC are radically different organisations and that individuals need to take responsibility more in INEC than would be typical of the university because of its in-built culture of the committee system.

#### **5.16. Low Level Integration of other Levels of INEC's Leadership with the Worldview of the Chairman**

There is the perception both within and outside INEC that other levels of leadership in INEC are or have not been integrated into the worldview of the Chairman of INEC.

The Chairman of INEC is viewed as 'alone in his crusade for a new INEC' while other levels of leadership want to continue with 'business as usual'. There thus appears to be doubt as to the degree to which 'the new wind blowing in INEC' will be able to root itself as the appropriate culture of INEC. In effect, there is doubt as to the sustainability of the new culture of integrity that is associated with INEC by virtue of Prof Attahiru Jega's appointment and current position as Chairman of INEC.

A participant at the interactive session in Bauchi while expressing concern over some lapses in the 2011 voter registration exercise and elections stated for example that:

“... We had to pardon Jega because we know, yes, from the academics he was still battling to understand the psychology of the technocrats he was meeting in the INEC office. These people don't want change; Jega wanted good election but the officers in the commission, most of them, did not tell him the right thing to do. It was at the last minute that he realized this. Yes, so many things were not done and that election cannot be said to have been 100 percent properly conducted...”

At the same interactive session in Bauchi, another participant from NYSC declared that:

“... the bedrock of all these (bad) things is corruption sir. If we can sanitize this corruption, the whole aspect of it will be minimized and I believe Prof Jega is corrupt free but he is inexperienced in terms of so many things, just like somebody else mentioned.”

A nuanced interpretation of the comments of several informants, especially internal INEC staff, at the interactive sessions in the zones would be that there is doubt and even fear as to the degree to which the current Chairman of INEC is or can remain in control of the situation. We want to take special note of the strategic imperatives faced by the Commission in the conduct of the 2011 elections: the new leadership had to deliver credible and acceptable elections within a greatly shortened timeframe with the same INEC officers that had been greatly discredited as a result of the farce of the 2007 elections. As the Chairman of INEC explained during his interaction with RERC, he took the strategic decision to play down on issues that could raise dissent, controversy and occasion distraction from the goal of delivering free, fair and credible election. He concentrated his energies on achieving the desired results.

#### **5.17. Unwieldy Number of Departments**

As has been reported, the division of labour at INEC evolved from a 7 departmental structure in 1998 to an eighteen departmental structure in early 2010. There is overwhelming evidence that the current organizational structure is highly unwieldy and arose without due diligence to principles of organizing. A key informant told the RERC:

“... When I was here as a director in Human Resources, I think we had only seven key departments. But when I came as Secretary I found so many departments that were previously units or subsidiaries as departments. Well, policy makers can do so many things and so on so they created so many departments and that has become a problem; one of space and two the little resources we have are stretched and at the same time misused. Some will complain that they don't have working materials but when you go there you see nothing being done.”

The number of departments may also mean that some departments have no real work to do. Some of the informants disclosed for example that, “The Commission does not pay attention to what we do.” Others admitted that they do not have any approved budgets for their departments and that they operate from the votes of other departments or activity areas. One director said: “There are no job descriptions. If you enter some offices here, you will find some directors doing nothing. They have nothing to do...”

#### **5.18. Staffing and the Disposition of Staffs**

There is an obvious relationship between the number of departments in an organization and the number of staff. More departments will, all things being equal, also mean more employees. The number of employees in INEC is obviously a matter of concern especially in terms of their disposition.

During the interactive sessions with directors and heads of department, there was unanimity that certain departments are overstaffed while others are understaffed. To demonstrate the range of problems associated with the quality as well as quantity of staff and their disposition, we reproduce below some of the typical observations during the interactive session at the headquarters of INEC:

“... The people we have are adequate in number but in terms of quality, it is not adequate; it is poor...Our department has become a dumping ground for Confidential Secretaries...”

“...Management staff have the right attitude. Intermediate staff have problems. They need training. The technical staff have great competence. However, we have paucity of staff in the technical area...”

“...In terms of number, we are not okay. We need additional training...”

#### **5.19. Poor Formalization of Departmental Functions**

The functions of each of the departments in the current organizational structure of the Commission are provided in the relevant Annexure to this chapter. However, as the data generated indicates, there is little or no formalization of functions in the Commission. This means that the functions of departments exist either as drawn up or spelt out by the departmental head or are emergent as the experience and assignments of the departments change.

When asked to state the functions of a department, a Director and Head of the department noted for example that: “We developed the functions of the department by ourselves. None was given to us.” While it may be tempting to believe that the situation developed after more departments were created by the Commission early in 2010, the Secretary to the Commission indicated that the situation has been with the Commission from the very beginning:

“... So in terms of schedule of duties, actually this has been very controversial by the previous Commission and the present Commission. Even when I was in the Human Resources Department, committees had been sitting back to 2005. We were to come up with schedule of duties. With due respect to the Chairman (Prof Ujo) when he was REC of Kaduna; I know he knew that there is no clear schedule of duties in the headquarters of the electoral commission. You do what you do and leave the rest but something came up but implementing it is a problem. That is why all the departments, up to today, they can tell you they don't have clear schedule of duties. It is only that administratively, when we see something that looks like legal matter, we say take it to Legal Department and something related to logistics, we say take it to Logistics and so on and so forth. But up to this moment, there is nothing in the Commission to say that these are the duties assigned to a particular department or unit. To the best of my knowledge, not yet...”

#### **5.20. Overlapping Functions and Jurisdictional Conflicts**

The lack of formalization suggests that some of the departments may have been created without adequate consideration of their relationship to the existing division of labour. This suggestion is supported by the clear cases of overlap between the functions performed by different departments. All the Directors who were asked their opinion on the functions of the departments admitted that there are clear and several cases of departments and units with overlapping functions. The typical responses were:

“... The configuration is unwieldy. There is need for streamlining. There is conceptual confusion when it comes to activities...”

“... There are feelings of empire building... Perhaps moving people around could be a solution...”

“... Many departments perform the same functions...”

“... There is a thin line between some departments. The departments are too many. We should not have more than 12...”

“... Actually, there are units that should be merged...”

“There are related departments performing similar functions...”

“Our functions are in conflict with the functions of other departments...”

The consequences of overlapping functions are several. These include confusion in reporting relationships. Another consequence is the absence of synergy. Several respondents admitted the existence of conflict and lack of synergy as a result of overlapping functions. Conflicts are reported between the departments of Voter Education and Public Affairs and between Operations and Logistics. “Feelings of empire building” are also reported as are “colleagues who deliberately hinder

other people's work” or who “pull rank” to prevent work being done. A third consequence is the cost and possibility for ineffectiveness in coordination. As two Directors separately observed:

“...Actually, I think there hasn't been much synergy between EPML, Legal and DRU...”

“...Sometimes, you do not know who to report to, what to report, where to report to, how to report. We have too many 'ogas'...”

Indeed, the Secretary to the Commission confirmed that jurisdictional conflicts are frequent and that sometimes he has difficulty deciding which department has responsibility for what:

“... That is true, that is quite true because up to this time, sometimes there is argument. I may minute on a file and then a director will come to me and say why do you send my file to so and so department, you know it is my duty. Sometimes I had to read a whole content and then they will agree and say yes, you are supposed to or the other person is supposed to. But if there is a clear definition of functions, it will be easy. Then in terms of department relationship, it is almost the same thing. The department relationship actually overlaps. This Commission always observed and the Chairman used to talk to me about it. Each department always try to create its own empire which in election administration, with due respect to the Chairman, is not like that, you have to walk this way, we always tell them. Like the Public Affairs Department will hide information of enlightenment of the public on voter education. I mean it is like they are; if you look at it very well, aiming at the same thing, so many of them. The relationship between the departments actually is weak but it is caused by what we said earlier, overlapping and no clear schedule of duties. This, if I can put it together, Mr. Chairman, I was with various Commissions creating what they want to create; like the previous Commission made so many departments, so many units.”

Obviously, the quality of relationships between departments had implications for voter registration and the elections. While some did not admit this, a director confirmed that, “relationships with other departments created problems for voter registration and elections. I had to supervise staff in other departments.”

#### **5.21. Ambiguity in Reporting Relationships and the Committee System**

Effective performance by individuals, units and departments require clarity in reporting relationships. However, the evidence obtained by RERC is conclusive that there are major ambiguities in reporting relationships. This ambiguity is facilitated by the imposition of the committee system upon the formal hierarchy of statuses as well as by the provision for a Secretary with powers that approximate those of a Permanent Secretary in the formal bureaucracy. As has been noted, every organization creates standing and ad hoc committees for the purpose of conducting its work. However, the membership of committees as well as the authority that the committees exercise is usually subordinated to the formal system of authority relationships within the organization.

In the case of INEC, the ambiguity arises partly because several of the committees whose membership includes Directors and Heads of departments are chaired by National Electoral Commissioners who although do not have executive responsibility, except as may be assigned to them by the Chairman or the Commission, sometimes or often do exercise such responsibility. In theory, most Directors and Heads of Department are expected to report to the Secretary of the Commission who in turn is expected to report to the Chairman of the Commission. In practice, the existing committee system requires Heads of Department and Directors to report to both the Secretary to the Commission and the Chairman of the Committee of which they are members. Thus committees may take decisions and actions that ought to be taken by the Secretary to the Commission, the Directors/Heads of Department or even by the Chairman of the Commission.

This practice results in partial organizational blindness and inertia for parts of the organization (that is, those decision units that ought to have the information to act do not come to have such information and therefore do not act). The implication of this for organizational efficiency and effectiveness as they relate to the crucial objectives of voter registration and elections can only be better imagined. However their effects on Directors and Heads of Department are real as can be attested to by their comments in the course of their interactions with members of RERC.

#### **5.22. Delay in Decision Making and Communication**

One major result of the confusion in reporting relationships is delay in decision making and bottlenecks in communication channels. Following the organogram, the Secretary to the Commission has at least eleven Heads of Department reporting to him directly while there are also dotted line relationships between his office and the Electoral Institute. This span of control is simply too large. The large span of control for the Secretary to the Commission means that matters and information must queue up for attention. Thus when asked to 'name the most important area in which the office of the Secretary to the Commission could be of more help to departments and units in the Commission' one director complained that:

“... Accessibility to the Secretary is the area. You have a problem to discuss with the Secretary and you spend 2-3 hours waiting to see him. He needs more efficient staff to assist him. By the time files are out, the matter is over...”

The implications of delays and “by the time files are out, the matter is over” are better imagined in a voter registration exercise and elections that are conducted under stringent timelines within an overall framework of activities that occur as a race against time. In the interactive session with the Chairman of the Commission, he also agreed that the Secretary to the Commission needs the support of more professional staff. Providing more professional staff in a situation of a high span of control may, however, not solve the problem. What is required is a smaller and more manageable span of control.

Some of the key informants also reported having difficulty receiving information from other departments. As one Director noted: “One difficulty is with relevant departments giving us information, for example, Operations.... Contracts are paid without our input.”

#### **5.23. Motivation and Conditions of Service**

Motivation is a crucial element in staff productivity and commitment. The research evidence is conclusive that motivation has implications for job satisfaction, employee loyalty, and turnover among other indices. Poorly motivated employees may resort to 'getting their own back on the organization' by restricting output, painting the organization in bad light before the public, leaking or selling company secrets and engaging in corrupt practices.

For an organization like INEC that handles what might be considered to be the most sensitive and strategic political assignment in the country, the degree to which its staff members are motivated becomes a crucial question.

It is true that Nigeria is regarded as one of the most corrupt countries in the world. Given the fact that the level of corruption in a country is determined by the level of corruption in its constituent institutions and organisations, it might be well to excuse any level of corruption that might be found in INEC.

However, as already stated, no level of corruption can be tolerated in INEC because of the sensitivity of the assignment that it performs. Thus a level of motivation appropriate to the level of the importance of the mandate of INEC becomes necessary. More fundamentally, motivation is both a factor in performance and also a consequence of performance. Employees that have performed well expect to be rewarded for that level of performance.

Many employees at different levels of the organisational hierarchy in INEC believe that they are not well rewarded not only in the light of what they are set up to do but also in the level of special challenges of conducting voter registration and elections. While they may have been content to express this view in muffled tones before the 2011 voter registration and elections because of the very poor performance of the Commission in past election exercises, their widely acknowledged improved performance in the 2011 exercises have led to more confidence on their part to state their case for improved motivation and rewards.

Motivation, of course, can be achieved by a variety of means. However, the most noticeable components which INEC and indeed other Nigerian employees' value are the tangible ones that are usually covered by the 'conditions of service.' Among these, for all categories of Nigerian employees (senior and junior), salary ranks as top priority. In this regard, INEC employees are no different. In our interactions with INEC staff at the state level offices and at Headquarters, employees at all levels consider their conditions of service and particularly, their salaries, as 'unsatisfactory'.

While one Director stated that; “we are okay to some extent with the conditions of service,” he nevertheless indicated that “there is no policy on motivation. We need a policy to provide for risks that our staff are involved in...”

Other respondents were much more pessimistic. The typical comments were:

“...Looking at comparable federal institutions, we are much worse; our take home pay is peanuts. There should be other packages that cater for staff beyond take home pay...”

“...Conditions of service? They are not very good...”

“...Conditions of service? They (our employees) want to be placed in a special package. They want improvement...”

When asked about how good conditions of service are in the Commission, one Director quipped, “Not good. What is good is that there is very regular payment of salaries...”

While one Director believes that the conditions of service were okay, another said:

“We need better pay. We need hazard allowance. We need both financial and non-financial rewards. We don't have a good capacity building programme.”

On the balance, it would be correct to conclude that most officers believe that the conditions of service are not good enough and need to be improved, especially in the light of the special kind of work that INEC employees perform and the conditions under which they provide this performance.

#### **5.24. Indiscipline**

Indiscipline can have a major debilitating and constraining impact on organisational effectiveness. It can undermine morale, productivity and create organisational crisis. Considering the time constraints that voters' registration and elections face, the prevailing level of indiscipline can be an additional factor that makes or mars the success of the efforts of the organisation. Our interactions with state level officers and Directors/Heads of Department in INEC's headquarters indicate that indiscipline is a major problem in INEC.

When asked to comment on the problem, the Chairman of INEC said it is true but that the level of indiscipline has reduced with the assumption of office by members of the new leadership. However, lower level officers at the level of directors believe that it remains a serious problem. One of the Directors succinctly stated the problem in the following words:

“... There is no discipline in INEC. A Director will call an officer and the officer will refuse to obey the Director because he or she is connected to a Commissioner...”

Another director said:

“...I will make a personal remark. The level of discipline is low. The way staff are recruited leaves room for improvement. People have allegiance to the immediate boss rather than the Commission. People do what they like. There is need for reorientation...”

Yet another said: “There is serious complacency and laxity in many places. In the Local Government offices, hardly do you find anyone there. They are never there.” However, this key informant put the blame for the situation on the facts that, “After the four-year electoral cycle, there is nothing left for people to do. There is need to have job descriptions that provide for continuity in task performance. People must have jobs to do. Job descriptions means that tasks are available that occupy the time of all the staff.”

Still another Director stated: “The level of indiscipline in the headquarters is more acute than in the states. People come to work at 8am because Jega comes here at 7am.”

Although there are disagreements as to level of indiscipline that exists, the evidence is conclusive that it does exist and that for the majority of directors, it is indeed, a very serious problem. Although a number of factors may be posited as being responsible, our earlier discussion of beliefs about conditions of service as being inadequate may be a contributory factor.

#### **5.25. Headquarters and State Offices**

The interactions with INEC staff at the state level offices indicate that there are problems in the relationships in the state offices and between the state offices and INEC headquarters and between both levels and the LGA field offices. These problems include the division of labour within the state offices, over-centralisation of decision making at headquarters in relation to the state offices, the role and integrity of the Resident Electoral Commissioners, the relationships between the Resident Electoral Commissioners and the Administrative Secretaries, communication between headquarters, state offices and the LGA level offices.

#### **5.26. Division of Labor in the State Offices**

There is doubt as to the number of departments that should have a presence in the state office of INEC. Theoretically, the number of departments is expected to be five but in practice, the number of departments ranged from five to seven. Given the fact that the departments at the headquarters office do not have formal schedules of duties, it is also the case that the functions of the departments in the state offices are also not formalised.

### 5.27. Over Centralisation of Decision Making at Headquarters

There is the perception at the state level offices of the Commission that decision making is over-centralised at the headquarters. To indicate how serious the problem is, a REC noted during the interactive session in Lagos how INEC headquarters buys wooden boards that cost N80 centrally for distribution to the states; a purchase that he noted could be made in the states at less cost and with greater speed of delivery.

In Owerri, it was also noted that:

“...The commission is asking the state to make their own input. In fact, the last letter which they wrote that the state which has not made their own input they may lose out. Which means that the Commission is prepared to look at your peculiar cases particularly with regards to what you need, that can make you to move forward. So the last budget for the elections was basically that of the Commission at the Headquarters but it was still the same process that was being used to plan across the nation...”

### 5.28. The Role and Integrity of Resident Electoral Commissioners

There is a great deal of controversy surrounding the role and integrity of Resident Electoral Commissioners, more commonly called RECs. RECs are defined within the framework of INEC as heads of the state level offices of INEC. However, although an apparently powerful position that is provided for within the structure of relationships in INEC, the position is not conferred with any specific functions or duties. Rather, this powerful head of the state level structure of INEC is to draw its functions and duties from the benevolence of the Chairman of INEC. The method of appointment of RECs adds to the potential for conflict between RECs, headquarters officers and the Administrative Secretaries in the State level offices of INEC. Under the constitutional and legal frameworks, RECs are appointed directly by the President.

Although RECs require screening by the Senate, they remain the appointees of the President. Although occupying subordinate positions within INEC's organisational framework, RECs however cannot be removed by the Chairman of INEC. Rather, the removal of a Resident Electoral Commissioner requires the approval of Senate and the President. These provisions relating to the appointment and removal of RECs are a clear call to indiscipline on the part of any REC who has strong backing from the appointing authorities and who has a disposition for mischief.

### 5.29. Communication Problems

There are several dimensions to the communication problems in INEC. One dimension is clarity in the communication between INEC headquarters and the state offices. Lack of clarity and conflicting instructions from INEC headquarters to the state offices were cited by state level officers as a problem that impaired their performance during the registration exercise and the elections. They noted that conflicting and ambiguous instructions negatively impacted on their ability to ensure timely delivery of materials, coordination of the various groups involved in the exercises and other related activities.

As one Administrative Secretary explained:

“...Then like I said conflicting instructions and guidelines, since we started I would say at the level of indictment at the Commission's policy level because as you know they had only the short time so some instructions they give you, tomorrow they will change it and say make sure. And of course you can know the implication when such things happen...”

Another Administrative Secretary confirmed the destabilizing effects of conflicting instructions from INEC headquarters. As he noted:

“...The major problem was the conflicting instructions that almost destabilized us. The Secretary to the Commission will issue instruction on a particular item in the morning and as you are implementing it, a National Commissioner will bring another instruction countering what you have started implementing in the afternoon; by the next day, a third instruction different from the other two will be issued. The conflicting instructions are left like that but I feel it is good for us to flog it to know what is meant by conflicting instructions from headquarters...”

A second aspect of the communication problem cited by the officers at the state level is the means/mechanisms, as well as the frequency of communication among officers at the state level, especially RECs and between state level officers and their superior officers at the headquarters. The Resident Electoral Commissioners, for example, are of the view that they need to have a RECs' forum where they can share common problems and propose solutions. They indicated that such a forum does not currently exist and that, if it does, it is at best, on an ad hoc basis. They also noted the absence of some regularity in their communication as a group, with officers at the headquarters.

A third dimension of the communication problem that was cited and which had negative consequences for the ability of the state offices to coordinate field activities involved in the voter registration exercise and elections was the tendency of headquarters officers to bypass the relevant superior officers in the state offices and interact directly with officers under them.

As one Administrative Secretary puts it:

“...headquarters, even when they relate, ICT will relate with the staff at the state level, yourself who is supposed to coordinate things effectively will have no idea of what instructions were given. At that point it will not be effective in coordination and I think we need to look at these things very carefully...”

### 5.30. Relationships between the Resident Electoral Commissioners and the Administrative Secretaries

Members of RERC got the distinct impression that Administrative Secretaries in the state offices feel overwhelmed by the RECs. Although the role of Administrative



Secretaries in INEC state offices in relation to the RECS can be said to be analogous to the role that the Secretary to the Commission performs at INEC headquarters in relation to the Chairman and members of INEC, almost all the Administrative Secretaries gave the impression that the RECs had little or no respect for their offices. In effect, and as our experience confirmed, they are intimidated and cannot express their honest opinions in the presence of the Resident Electoral Commissioners. While this sense of intimidation is helped by the fact that RECs are heads of the state offices of INEC within the legal framework, this is however downplayed by the absence of specific powers attached to the office of the REC. Thus the REC is perceived to have far wider powers than may actually be the case.

### 5.31. Conclusions

The current structure of activities and relationships in the Commission especially as it impacts upon the ability of the Commission to conduct free, fair, credible and acceptable voter registration exercises and elections has strengths and weaknesses. The appointment of the current Chairman is, by all accounts, a major milestone for INEC. His style of leadership, ability and transparency are major strengths for INEC. In this regard, the National Commissioners and other staff in INEC who have responded to his style are also major strengths for INEC.

However, there are several challenging problems in the organisational framework and in relationships between departments in INEC. The challenges include: (i) the large number of departments; (ii) the low level of formalisation of departmental functions; (iii) the absence of job descriptions; (iv) the ambiguity in reporting relationships and communication created by the committee system; and (v) the relationship between the INEC state offices and INEC's headquarters, notably between INEC and RECs.

Some of these issues have been examined by different groups in the past, including INEC itself. However, RERC's examination has gone much farther than others not only by identifying and focusing on the roots and nature of some of the problems but also by unearthing additional problems. Issues that were perhaps considered 'no go areas' by the internal dialogue in the Commission have been examined in this report. RERC is thus in a position to make far reaching recommendations that should support some of the solutions already being mused over at INEC.

It is also important to note that as this work is being done, INEC has already commissioned consultants to restructure the Commission. We are convinced that this section of the entire report and the recommendations contained in it will be rich materials for the work of INEC and the consultants. We now turn to our recommendations.

### 5.32. Recommendations

Before proceeding to our recommendations under this TOR, it is necessary to acknowledge that previous efforts to examine the range of issues covered here have made some recommendations that are worth noting. These efforts include:

- The Retreat of RECs and Administrative Secretaries at Uyo in July, 2011
- The Retreat for INEC Electoral Officers and National Commissioners at Merit House Abuja, in July 2011
- The Post-Election Report of the Commonwealth Observer Group in 2011
- The Report of the Uwais-led Electoral Reform Committee in December, 2008.

On the electoral framework and election administration, the Commonwealth Observer Group recommended, for example, that:

“... It is important that the appointment mechanism for the Chairman, Commissioners and RECs is inclusive and ensures broad political and public confidence. To reiterate the recommendation from the 2007 COG, there are many different models to achieve this but direct appointment of national Commissioners and RECs by the President should be avoided, unless the shortlist had been provided by a more inclusive, representative body. At the very least, direct appointment by a President who may be a contestant in the poll or otherwise an interested party can raise the spectre of undue political influence over the appointed officials...”

It also recommended in the area of election administration that:

“...An independent audit should be undertaken of INEC staff performance at all levels. The Commission should be able to reward professionalism and commitment. It should also review appointment policies, removing underperforming employees and legally prosecuting those who committed electoral offenses...”

On procurement, it recommended the:

“... Strengthening of procurement, logistics and operational capacity, and thorough planning should be a priority for INEC. The setup of an operational plan with input from the different areas and strong internal coordination needs to be further developed. Additionally, procurement should be transparently publicised.”

The various INEC in-house retreats also made a number of recommendations. For example, the INEC Post-Elections Retreat for Resident Electoral Commissioners and Administrative Secretaries which examined the role of the organisational and legal framework of INEC in the 2011 voter registration exercise and general elections at the Le Meridien Hotel in Uyo, Akwa Ibom State from 18th-19th July, 2011 recommended the following among others (Independent Rapporteur of RECAS Retreat, 2011):

- Decentralization
- A review of the duties of legal officers at the state level
- Voters' education to be under Public Affairs Department
- Voters education to be decentralized to the grassroots
- Overlapping departments be streamlined for purpose of effectiveness

- Introduction of ADR in state offices
- INEC should propose for the establishment of forensic department (section 61-68)

More specifically, the consensus reached through these forms of internal dialogue believe that for INEC to avoid problems in voter registration and elections, the Commission needs to 'Localize and decentralize procurement of non-sensitive election materials with standards set by the headquarters (Carmona Report, 2011, Annexes).

On the problem of communication, the series of internal dialogues recognize the need for the Commission to:

- Communicate at both lateral and horizontal levels
- Identify a reliable person to communicate between the REC and staff in the field during critical periods such as elections
- Channel communication directly to avoid distortion, establish lucid and clear communication between headquarters and states. Send communication through circulars, text messages, and e-transmissions
- Make provision in the Electoral Act to accommodate these changes.

On the problems of operational planning and coordination, the series of internal dialogues recommend that INEC should:

- Decentralize planning processes to involve state and local government offices.
- Strengthen bottom-up planning process at all levels (LGA, state and headquarters).
- Establish a Standing Committee on Planning and Operation at state and LGA levels to improve the planning process and to deal with data collection on those levels
- Involve the state offices in the various levels of planning of field operations. Ensure the participation of all Directors involved in direct field operation at the commission in the Operations Committee (i.e. logistics operations, voter registry and training).
- Improve interaction, coordination and liaison between it and States and LGAs for inputs to policy matters.

On the crucial issues of strengthening the capacity of INEC in the areas of structuring of activities, motivation and discipline, the internal dialogues agreed that the Commission would need to:

- i. Streamline the Commission's administrative structure at the state offices in order to ensure uniform and effective implementation of operational planning.

- ii. Standardize structure at the state level in terms of Departments and Units. Clearly delineate duties and schedules. Place professionals where they belong and encouraged professionalism for maximum efficiency and clearly defined and delineated functions to avoid overlap and unnecessary rivalry.
- iii. Identify through capital development and structuring program staffs that can no longer fit into the system and replace them with competent fresh graduates who will mature in the system.
- iv. Conduct advance training with designed modules with particular emphasis on practical acquisition of skills.
- v. Reorient all staff to appreciate their roles
- vi. Insulate INEC staff from vagaries of electoral processes through a special independent salary structure that is removed from civil service structure
- vii. Ensure complete upgrading of REC accommodation and provide the same for Admin Secretaries when required.
- viii. Streamline method of issuing policy guidelines, directives and instructions.
- ix. Improve and clarify operational guidelines for the conduct of elections.
- x. Review INEC staff involvement in election duties so that the office is not handicapped on election-day.

RERC generally supports these resolutions reached by the Commission on the basis of the series of post-2011 registration and elections critical self-examination that it conducted. RERC also supports the observations of the European Observer Group on the electoral framework and administration and procurement. All the recommendations address problems that derive from the structuring of activities, the relationships between departments, communication and the commitment of INEC staff. These recommendations must therefore be read as providing additional support for the recommendations of RERC based upon its own independent assessment of the institutional challenges facing INEC as it strategically plans for future general elections. In the light of the findings, RERC recommends as follows:

#### **5.4 Relationships at the National Headquarters of INEC: Substance and style of top leadership team: Recommendation**

Based upon his antecedents, which were amply demonstrated in the course of the voter registration exercise and elections, Prof Jega has come to personify integrity for INEC. He has been able to do this as a result of a leadership style that is open, transparent, team oriented, accountable and with an ability to take full responsibility for mistakes. He should continue to maintain this style of leadership. However, he also needs to encourage other levels of leadership in the organisation to follow his example. This can be achieved by making leadership an issue in the discussions between members of the top leadership team with Prof Jega acting in the capacity of a coach and counselor.

### **5.5. Competent and Committed INEC Staff: Recommendation**

INEC should strengthen the competence of existing staff by:

- i. Rewarding and recognising competence through appropriate reward and recognition ceremonies/systems.
- ii. Ensuring that competent personnel occupy positions and;
- iii. Recruiting any additional staff that may be needed on the basis of professional competence.

### **5.6. Special Ad Hoc Committees: Recommendation**

INEC should undertake an in-depth analysis of what worked in EAPIC and what did not, for purposes of organisational learning and especially in preparation towards future elections. The analysis should be documented and subject to internal discussion within INEC. Based upon lessons learned, a re-engineered EAPIC should be used in future elections.

### **5.7. Over-delegation to Committees: Recommendation**

The postponement of the April 2, 2011 election was a historic moment in the electoral history of Nigeria. EAPIC was the main Committee in charge of the core activities mandated for the elections. The postponement was therefore a result of some organisational and operational lapses by the EAPIC.

Although the Chairman of INEC is of the view that the issues surrounding the postponement have been identified and mainly resolved by the Commission, it is recommended that the events and issues surrounding the postponement of the elections on April 2, 2011 be documented for the record. One advantage of this is that it will be formalised within the institutional memory of INEC. INEC's own documentation will serve as the standard history against which other accounts can be compared. Another advantage is that it will help the work of EAPIC in the future. It is also recommended that although the Chairman of INEC may have confidence and rely on the feedback provided by Committees, there should be some other mechanisms in place for crosschecking information and decisions provided by Committees. One mechanism is playing Devil's Advocate with such information and decisions. Another is having another individual validate the information and decisions using independent means.

### **5.8. Low Level Integration of Office of Chairman with Other Levels of Leadership: Recommendation**

What is at issue is a key leadership challenge. To be or to remain in control does not require authoritarianism or the flagrant and unilateral display of power. The challenge is for the leadership to display courage and firmness in decision making even under pressure and difficult circumstances. It is to ensure that actions and activities that threaten the integrity of or derogate from what has been achieved and what is hoped for are promptly apprehended and sanctioned, no matter who may be involved.

The leadership must fight hard to ensure that it does not become a prisoner of gossip and its own or other people's fears. It must ensure that there are adequate

rules and regulations that govern behaviour and that actual behaviour follows the laid down rules and regulations.

### **5.9. Unwieldy Number of Departments: Recommendation**

One clear action that the management of INEC must take is to reduce the number of departments. While it would be presumptuous to suggest the number of departments that should be allowed for in the structure, there are clear principles for the division of labour that INEC can take advantage of.

Equally important is the fact that there are legal definitions of what INEC is set up to do. These definitions can provide a basis for grouping activities into departments and units.

Thirdly, the ERC Report made recommendations on the unbundling of INEC and proposed a number of independent and autonomous bodies from the current structure. The areas proposed for unbundling can provide a basis for a new structure of INEC.

Fourthly, the International IDEA Handbook on Electoral Management Design provides a number of models for structuring an Election Management Body (EMB). The models can provide a basis for the restructuring that is needed.

More specifically, RERC recommends that:

- a. In line with the recommendations in the ERC Report, INEC should have a Board of Commissioners made up of (i) an Executive Chairman; and (ii) Commissioners with non-executive responsibilities. The responsibilities of the Board would be as set out in the ERC Report to 'formulate broad electoral policy for the Commission'. (Report of the Electoral Reform Committee, Volume 1: Main Report, December 2008:154). It would also be to review and evaluate policy with a view to improvements in the performance of the Commission.
- b. The Secretary of INEC shall be appointed by INEC, be responsible to and report directly to the Chairman of the Commission, and serve as head of the INEC Secretariat.
- c. Below the Secretary of INEC will be Directorates. Each directorate should be composed of Departments. A department would be made up of units. This means that the idea of 'Desks' should be abolished.
- d. Deriving from the functions assigned to INEC, the recommendations in the ERC Report that INEC should be unbundled and the comparative analysis of principles and models provided in the IDEA Handbook, the following Directorates should be created:
  - The Directorate of Operations made up of the departments of Voter Registration, Elections and Education, Planning, Logistics and Transport, Political Parties (registration, monitoring, and liaison), ICT).
  - The Directorate of Services made up the departments of Human Resources (including Training, Discipline, Performance Management

as units)), Finance and Accounts, Administration (including Estate and Works, Staff Clinic and Internal Departments as units), States Coordination and Compliance and Performance Management (including SERVICOM as a unit).

- The Electoral Institute (including Research and Documentation and other units deriving from the functions that may be assigned to it).
- The following departments will report directly to the Secretary of the Commission: Audit, Legal Services (including legal services, electoral offences, and alternative dispute resolution as units), Public Affairs (including Protocol as a unit) and Security.
- All state offices of INEC should be headed by a State Electoral Commissioner. Each state office of INEC would have the same number of departments.
- Each Local Government Office of INEC should be headed by a Local Government Electoral Officer. The division of labour at this level would be simple. Each department represented in the State Office would have one or two corresponding officers in the Local Government Office of INEC. However, all officers would report directly to the Local Government Electoral Officer. There is no provision and we do not see any need for INEC to have offices and hence officers at the Ward level. It would be the responsibility of the Local Government Electoral Officer in each LGA to undertake the work of INEC in each ward of the LGA.

#### **5.10. Poor Formalization of Departmental Functions: Recommendation**

The functions of directorates, departments and units should be clearly demarcated and defined. The demarcation of directorates and departments will be facilitated by the adoption of the organogram already proposed. All the jobs to be performed should be properly identified. Following this, person specifications and job descriptions should be developed and provided for each job.

#### **5.11. Overlapping Functions and Jurisdictional Conflicts: Recommendation**

The previous recommendations will, when adopted and implemented, deal with this problem. However, more specifically and, in order to increase the level of interdepartmental collaboration, there will be need for the top leadership team to involve the different directors/heads of department in a programme of team building.

#### **5.12. Ambiguity in Reporting Relationships and the Committee System: Recommendation**

The current number and composition of Committees in the Commission facilitates confusion, ambiguity and conflicts. The composition and authority of the committees should be reviewed with clear provisions as to mandate, reporting relationships and powers. In any case, no committee should have powers to usurp the powers provided to functional managers operating within roles provided in the organogram.

#### **5.13. Delay in Decision Making and Communication at Headquarters: Recommendation**

The adoption of the earlier recommendations will help address this problem. However, it is equally recommended that:

- i. The span of control of the office of the Secretary to the Commission should be reduced.
- ii. The office of the Secretary to the Commission should be supported with more professional staff.
- iii. A time management system should be introduced by the Secretary to help with the management and flow of people and materials in his office. One component of such a system would be to provide for the maximum length of time that any correspondence can spend at any stage of the process. Tracking the implementation of the system would help reveal where delays occur, for how long, why and what measures need to be taken to address them.
- iv. Finally, there is the need to introduce a daily one-hour meeting of all directors as the very first activity of the day. Such meetings are in use in such companies as NNPC and have helped solve problems similar to those that subordinate report at INEC in relation to the office of the Secretary to the Commission.

#### **5.14. Motivation and Conditions of Service: Recommendation**

It is recommended that INEC employees be taken out of the civil service conditions of service and that their conditions of service reflect the highly sensitive assignment that they perform for the country. In this regard, it is important to note the explanation of the Chairman of the Commission that the top leadership team has indeed already apprehended the problem and that a consulting firm is to be contracted to provide the detailed facilitation support for a review of the conditions of service of staff of the Commission. We urge the leadership of INEC to expedite action on this matter as its conclusion will serve as a major incentive for more integrity and better service on the part of the Commission's staff. It is also recommended that the motivation package to be designed should include both intrinsic and extrinsic rewards and that greater emphasis be given to staff training and development for all categories of staff.

#### **5.15. Indiscipline: Recommendation**

RERC recommends that INEC should review its rules and regulations, circulate them to all staff and ensure that the sanctions provided in the regulations are applied whenever breaches occur. The impression must be created that there are no sacred cows in the organisation and that connections or relations with people who have authority and power are not recipes for staying above the rules. The top leadership of INEC and the Chairman of INEC in particular must show courage and lead by example in this area. The Disciplinary Committee of the Commission must be prodded to stay alive to its responsibilities.

**5.16. Headquarters and State Offices: Division of labour in the state offices: Recommendation**

Given the fact that all INEC offices perform identical work, this structure of work should be standardized. All state offices should have the same number of departments; moreover, the type and functions of such departments should be clearly spelt out and standardized.

**5.17. Over Centralisation of Decision Making at Headquarters: Recommendation**

This problem was considered at the Retreat for Resident Electoral Commissioners and Administrative Secretaries in Uyo. The retreat recommended 'decentralisation' as a solution. However, decentralisation will be counter-productive when procedures are not formalised and standardized across the decision making topics, arenas and units. Decentralisation means delegating the authority to make decisions to lower levels of authority by higher levels. Thus the first step in any effort to decentralise must be the formalisation and standardization of procedures. For example, higher levels of authority must identify the decision topics over which they are willing to delegate decision making authority to lower levels of authority. To reduce variation in decision making behaviour and outcomes across topics, they must specify the standards for decision making on each topic. We support the call for decentralisation with the proviso that it is undertaken within the framework outlined here.

**5.18. The Role and Integrity of Resident Electoral Commissioners**

All appointments, promotions, discipline and performance evaluation activities of all INEC staff must be under the centralized control of INEC's headquarters. A situation, where some staff members are under the control of INEC's top leadership and others outside its control is a recipe for division, intrigues, indiscipline and disloyalty. The state offices of INEC perform too crucial a role in the electoral process for the existing gaping loophole in the configuration of INEC to be left unaddressed. RERC therefore recommend that INEC should have the authority to appoint all its officers.

The proposed organisational structure provides no role for Resident Electoral Commissioners. As already proposed in the new organogram, all state offices of INEC should be headed by a State Electoral Commissioner. By the same argument, each Local Government Office of INEC should be headed by Local Government Electoral Officer.

**2.19. The Role of SIECS**

We support the recommendation by the Uwais Committee that the State Electoral Commissions and SIEC structures should be brought under the single organizational framework of INEC. The ERC Main Report (Volume 1) recommended for example that, 'At the State level, the State Independent Electoral Commission (SIECs) should be re-organized and incorporated within the structure of the INEC to form a single election management body for the country'.

**2.20. Communication Problems: Recommendation**

In order to improve communication between the state offices of INEC and INEC's headquarters, it is recommended that:

- i. The line of communication between the headquarters and the state offices should be clearly defined in terms of who may communicate what and to whom.
- ii. During voter registration and elections, a designated officer should be used in the communication between headquarters and the state offices.
- iii. A forum should be created where the heads of the INEC state offices and the relevant officer at INEC headquarters with responsibility for coordinating the state offices can meet to share information, discuss and resolve problems. In effect, the forum would not be restricted to the heads of the state offices alone; it would involve the relevant headquarters officers. Such a forum could meet twice a year.
- iv. Finally, it is recommended that information between headquarters and the state officers should flow through the established hierarchy of work relationships. This means that officers in INEC's headquarters would have to pass information to officers in the state offices through the heads of the state offices.

**5.21. Relationships between the Resident Electoral Commissioners and the Administrative Secretaries: Recommendation**

RERC expects that the adoption of the proposed organisational structure will deal significantly with the incidence of conflicts between Resident Electoral Commissioners and the Administrative Secretaries. Special interventions such as workshops and organisational development initiatives aimed at smoothing relationships between the two categories of officers should also be explored. More specifically, the powers of RECs should be properly and clearly defined.

**5.22. Legal Implications: Recommendation**

RERC recognizes that some of the recommendations made in this section will have legal implications. For example, the recommendations that (i) the positions of RECs be abolished; (ii) SIECs be decomposed and integrated into INEC; and (iii) INEC should have a Board with an Executive Chairman at its head will require changes in the current legal framework that defines how INEC should operate. It is recommended that INEC's leadership should take these and other legal implications on board and develop a strategy for ensuring that the needed changes in the legal framework are effected urgently.

A decorative header for Chapter 6. It features a dark grey background on the left with a white circular graphic containing the word "CHAPTER" in bold white capital letters. To the right of this is a large white number "6" on a black rectangular background. A thin white vertical line is on the far left, and a thin white horizontal line is at the bottom.

## CHAPTER 6

**TOR 4: Review the processes of party primaries and nomination of candidates during the 2011 elections and INEC monitoring of those processes.**

### **6.1. Major Issues**

The introduction of party primaries in Nigeria was designed to address some pitfalls in the country's experience with democracy and competitive party and electoral politics between 1945, when the fledgling modern party system in the country began to take roots, and 1966, when the series of constitutional and political crisis, which had dogged the country since the immediate post-independence years eventually led to the collapse of the country's First Republic in January 1966.

Political parties play significant role in shaping competitive electoral politics in democratic countries, even as electoral systems also shape the character of party systems and political parties in these countries. Thus, political parties function typically to present the electorate with a choice of candidates and programmes from which to choose and, thereby, help periodically in the determination of which party or coalition of parties will govern. This is a functional definition of a political party.

However, the mutual impact of the party system and electoral politics in Nigeria is best viewed in the broader context of a number of developmental circumstances, which shaped the course and history of competitive party and electoral politics in the country. These are, notably (i) the colonial experience and the party system that emerged out of the agitation of the country's nationalist movement for decolonization and the enlargement of the franchise between the early 1940s and the late 1950s, with on one account about 18 political parties contesting the 1959 general elections in the country (Ngou, 1989:94); (ii) the country's post-independence political economy and social structure, which serve as sites for patrimonial politics or booty capitalism and, with it, the intersection of federalism and the political mobilization of ethnicity for competitive party and electoral politics; and (iii) the impact of military rule and the politics of military-brokered democratic transitions on constitutional and political, including electoral reform.

The dynamic interplay of these developmental circumstances gave rise to the following democratic deficits in the countries politics: (i) the unwholesome influence of money on competitive party and electoral politics; (ii) the personalization of party politics; (iii) the escalation of election-related violence; and (iv) lack of confidence in the country's successive electoral commissions.

To tackle the deficits and reform the party system, which largely contributed to them, the country has moved, since the constitutional and political reform of 1975-1979 brokered by the Murtala/Obasanjo military administration and later by the Babangida administration, between 1986 and 1993, from a functional to an essentially structural definition of a political party. This structural definition, while retaining the functional definition, places emphasis on the following core and anchoring constitutional/structural requirements for party formation: (i) national outlook and spread; (ii) internal democracy; and (iii) recognition, registration, oversight and supervision of party political activities and financing, including the audit and publication of the audited reports of party's finances by the country's electoral commission.

The import of the series of constitutional, electoral and political reform since 1976-1979, well-articulated under the Babangida military administration and drawing on the Report of the Judicial Commission of Inquiry into the Affairs of the Federal Electoral Commission (FEDECO), 1979-1983, and the Political Bureau Report, 1987, was the compelling need to reform the country's party system in order to strengthen democracy and to engineer a political culture of democracy-promoting competitive party and electoral politics.

To this end, three core assumptions or expectations, which still subsist, anchored the reform of the party system under the Babangida administration, in modification of the party reform begun under the Murtala/Obasanjo administration. These are that political parties: (i) subscribe to, expound and demonstrate commitment to the values and principles of government provided for under the Fundamental Objectives and Directive Principles of State Policy in the country's Constitution; (ii) reflect the multifaceted or variegated tapestry of the "face" or "federal character" of Nigeria in their leadership, membership, structure and organization; and (iii) practice internal democracy in their policy-making processes, including the election of their party executive committees and nomination of candidates for elective public political offices, bottom-up from the ward level, through local government and state levels up to the national level.

Added to the three core assumptions were the design objectives of creating a democratic political culture and emphasizing issues-based differentiae, on the basis of "a little-to-the-right," and a "little-to-the-left," to distinguish one political party from the other and to de-emphasize the cult of personality and God-fatherism in political party organization and competitive party and electoral politics.

The overall objective is, therefore, (i) to create a legal and structural-institutional framework and process for electoral governance; (ii) in which political parties reflect in their internal decision-making processes the mirror image of democratic competitive party and electoral politics; and (iii) in doing so, become mechanisms for nurturing transformative leadership and the consolidation of a democratic political culture. The invention of party primaries under the reformed party system during the failed transition to democratic rule between 1987 and 1993 was designed to achieve this objective.

## 6.2. Analysis and Findings

How well has the structural-institutional process reform of the country's party system worked or achieved this objective? What inferences are to be drawn, specifically in respect of the April 2011 general elections about the state of internal democracy in the political parties that fielded candidates for the elections?

The reform has muted the political mobilization of ethnicity, in the sense that (i) there are now no ethnic-based political parties; and (ii) the post-1987 political parties cannot be said to be clones of the political parties under the First Republic.

What has remained a major problem, right from its introduction in 1989/1990 as the linchpin of the reformed party system, and as was clearly evident in the party nomination process for the 2011 general elections, is the pronounced absence of internal democracy within the political parties and the heightened and unwholesome role of money and the emergence of money-bags and "god-fathers." These two features of the country's party system pose serious threats to democracy and competitive electoral politics and they are also major causes of intra-party violence, with spill-over effect as inter-party violence.

As required by law, the constitutions of the political parties provide for elaborate mechanisms of internal democracy, such as separation of powers and checks and balances, within their structures and institutions.

For example, Article 14 of the Constitution of the Action Congress provides that "all party posts... shall be filled by democratically conducted elections..." and Articles 18 and 19 provide for nominations of candidates for election into public offices by party primaries. Article 20 provides for election panel to adjudicate disputes arising from the conduct of party primaries [National Orientation Agency, 2007:81-113].

To take another example: Article 6 of the 2005 Constitution of the Peoples' Democratic Party prescribes that "the party shall be a democratic organization....", while Article 16 provides that "the National Convention, the Zonal, State, Local Government Area and Ward Congresses shall meet to elect the officers of the party at the various levels of the party structure..." Article 17 provides for nomination of party candidates for election into elective public political offices by primaries [National Orientation Agency, 2007:1033:1061].

The electoral laws since 1989 have also required political parties to conduct party primaries for the nomination of their candidates for elective public political offices. For example, the Electoral Act, 2010 (as amended) provides under Section 87 for political parties to hold such primaries.

However, the provisions of their constitutions and the electoral laws have typically been more often breached than respected and complied with by the political parties; so much so that the reform objective of internal democracy continues to be seriously vitiated and defeated. As the Electoral Reform Committee (ERC) [2008:26] put it, “the structure of the political parties is such that internal democracy is virtually absent.”

During the run up to the 2011 general elections, the National Chairman of one of the leading political parties declared publicly that the party leadership had would not bother conducting party primaries to nominate its candidates for the general elections, since the leadership knew those it wanted to nominate.

The decentralized party structure of the reformed party system, with its elaborate checks and balances between and among various layers and levels of authority from ward to the national level, has fallen prey to pressures from executive pre-eminence at the national and state levels by governing parties and the national executive of the parties, and to over-bearing “God-fathers,” all of whom virtually handpick party political and public political officeholders.

In field consultations organized by the Registration and Election Review Committee (RERC) with stakeholders including the political parties, one issue was repeatedly raised: internal democracy is lacking in the political parties.

In the case of party primaries, the allegations are typically that they are (i) not conducted as provided for under party constitutions and party primaries' nomination and elections guidelines; (ii) manipulated to favour candidates preferred by the party leadership or sponsored by “God-fathers”; (iii) effectively “sold” to the highest bidders, through the imposition of prohibitively high fees for the collection of primaries nomination forms or purchase of voters and primaries' officials; and (iv) used to exclude prospective candidates who are disqualified from standing as candidates in the primaries, on the basis of spurious allegations.

In many cases, primary results are disputed. In several cases apparent winners are declared losers, and apparent losers are declared winners. Names of candidates who never took part in primaries are often substituted with those declared winners. For example, during the party's primaries in 2007, the Peoples' Democratic Party (PDP) substituted the name of Chibuike Rotimi Amaechi who won the PDP primaries in Rivers State with that of Celestine Omehia, who did not who contest the party's gubernatorial primaries.

In respect of the party primaries for the 2011 general elections in Rivers State, the RERC was informed of the substitution by the party's national executive committee, of the name of winner of the primaries conducted in the state by another person by the national executive of one of the major political parties in the country. This was allegedly done in disregard of the name of the winner submitted to it by the party's state executive committee, which conducted the party's primaries.

The assault on internal democracy within the political parties is a major cause of serious cracks within their rank and file. Resistance to imposition of candidates has generally met with even more intolerance and high-handedness by the party leadership, creating intra-party schisms, heightened political tension and violence in the polity, including alleged assassinations. More ominously, internal party conflict generated by lack of internal democracy within the political parties has dragged the judiciary into serving as reluctant adjudicators of unresolved intra-party disputes, with the judiciary's integrity impugned or exposed to public ridicule.

From an initial position of declining jurisdiction over what they viewed as an “internal affair” of the political parties, the courts have now accepted jurisdiction over primaries election- related disputes brought before them by aggrieved party members. [Okoye, 2009; Jinadu, 2011].

The cases of unresolved intra-party disputes over the conduct of party primaries have proliferated since 1999, underscoring serious deficits in their internal democracy and dispute resolution mechanisms, with aggrieved members seeking redress in the courts.

The following observation by Ollawa [1989:16] about the state of internal democracy in the country's political parties under the reformed party system of the Second Republic remains true of today's political parties:

“The paradox of party politics in the Second Republic is that despite a well-intentioned constitutional attempt to evolve a party system, which would promote stable contest between parties, presumably characterized by different programmes manifested in issue-oriented ideologies...what emerged in practice was transactional politics based on opportunistic and informal networks of politicking replete with intra-party factionalism that constantly led to shifting alliances, a situation which unavoidably supplanted the formal structures of party organization....the basic problem centered on the subversion and perversion of the intrinsic values and principles governing the operation of the system by politicians, whose party affiliations were rooted more in the pursuit of financial rewards, opportunities and linkages in dyadic relation to some party notables.”



Nigeria's Constitution and electoral laws since 1979 have granted the country's electoral commission oversight, regulatory and supervisory powers over party political activities, including party primaries and finances, as an essential element of the reformed party system. For example, the 1999 Constitution (as amended) provides for the National Assembly to give INEC stronger powers to ensure internal democracy within the political parties.

In line with the provision, the initial version of the Electoral Act 2010, Section 87(9) stipulated that, "Where a political party fails to comply with the provisions of this Act in the conduct of its primaries, its candidate for election shall not be included in the election for the particular position in issue." But this provision was deleted under Section 31(1) of Electoral Act, 2010, (as amended) which stipulates that, when political parties submit their lists of candidates, "the Commission shall not reject or disqualify candidates for any reason whatsoever."

However, the oversight powers of INEC, now as before, in respect of the conduct of party primaries, have invariably not been vigorously exercised by the country's electoral commissions, because of political reasons and the commissions' lack of capacity. One famous attempt by the National Electoral Commission (1990-1992) to aggressively exercise its powers right from the onset of the introduction of party primaries, ended up in the commission in enmeshing itself in political controversy. It was the series of disputes over alleged irregularities and insinuations of the complicity of the National Electoral Commission (NEC) in the conduct of gubernatorial primaries that led to the annulment of gubernatorial primaries of the Social Democratic Party (SDP) in nine states and gubernatorial primaries of the National Republican Party (NRC) in four states as well as the annulment of the presidential primaries of both SDP and NRC in 1992.

Successive electoral commissions since then have, understandably, not been as proactive as they ought to be in exercising their powers under the constitution to provide and enforce regulations to guide party activities. This reticence has, perhaps, encouraged the political parties to jettison the laws of the land and their own constitutions on internal party democracy.

### 6.3 Recommendations on Party Primaries

The following recommendations can be derived from the analysis and findings under this TOR.

**(a) Building Party Discipline and Cohesion:** Party discipline based on due process is the foundation for party cohesion. Party discipline as the foundation for party cohesion requires faithful compliance with the letter and spirit of party constitutions, which in turn must be informed by the broad democratic principles enshrined in Chapters II and IV of the 1999 Constitution.

**(b) Party Structure and Administration:** Party structure and administration must reflect the underlying philosophy of the reformed party system envisioned under the constitutional and political reforms adopted since 1979. This requires faithful adherence to the following principles of party organization and administration: with party membership at the ward level, the party structure and administration should be aggregated upwards from the ward through the local government and state levels to the federal (national) level, with each level integrated, through membership, into the party structure and administrative machinery at upper levels of the party's hierarchy. In this way, autonomy at each level is complemented by shared rule at the proximate higher level of the party's governance structure, in what is essentially the application of the federal principle to party governance. The party structure and administration at each level must be autonomous within the spheres of competence assigned to it by the party's constitution, with provisions made for checks and balances by the other levels on the exercise of the autonomy.

**(c) Party Congresses and Conventions:** Party congresses and conventions at local government, state and federal levels are mechanisms for managing diversity, accountability and inclusion in the governance of the political parties, including relevant party electoral processes for party and public political offices. Their membership should reflect diversity and be based primarily on the elective principle.

**(d) Credible Party Primaries:** The decentralized party structure already outlined implies that, while the national executive committees of the political parties should issue guidelines for the primaries of each party, to ensure uniformity nationwide within the party, the power to organize the primaries should reside in the relevant or appropriate party congresses, e.g. for gubernatorial primaries in the state congresses of the parties. The electorate for the primaries should be limited to registered and financial members of each party. This places the onus of compiling credible and authentic voters' registers for their party primaries by the parties, in ways that will engender confidence in the conduct of free and fair primaries, in much the same way as such registers are critical to the conduct of free and fair general elections by INEC. A major issue is whether prospective candidates for party primaries should be charged levies, as a precondition for eligibility to contest in the primaries. There is perhaps a case to be made for the view that the imposition of such levies is against the spirit of the primaries and that it can be, and as it has indeed been used to deliberately exclude or discourage some prospective candidates. It may in fact violate the rights and privileges of party members. For the organization of their primaries, the political parties should earmark a portion of their annual grant provided for under Section 228(c) of the 1999 Constitution of the

Federal Republic of Nigeria, and embark on aggressive fund-raising activities, within limits imposed by statutory provisions and regulations on party financing, as another source from which to fund their primaries.

- (e) **Enhanced Oversight Powers and Capacity of INEC:** It is desirable for INEC within the limits of its powers and resource capacity to exercise its regulatory powers more vigorously and to find ways around factors and forces in state and society and within INEC constraining and vitiating those powers. For example, INEC should begin to issue binding regulations, backed with sanctions, which it is arguably empowered to issue by the country's Constitution, to regulate party political party activities. To this end, INEC should issue and enforce binding regulations on the conduct of party primaries. Its power of moral suasion, especially the power to name and shame, has generally not been vigorously and imaginatively explored and deployed publicly, as it ought to have been, to go beyond the parties to the general public through official publicized pronouncements and public statements by the leadership of INEC. Therefore, to complement its statutory powers to issue regulations to guide political party activities, INEC should appeal directly to the general public about the implications of the conduct of flawed primaries by the political parties for democratic consolidation in the country. To this end, INEC should cultivate and nurture a broad national constituency in state and society to apply pressure for constitutional and electoral reform to give more legal teeth and force to its oversight powers and functions, in line with the relevant recommendations of the Report of the ERC.
- (f) **Internal Democracy in Political Parties:** RERC recommends that INEC should engage directly and more constructively with the political parties in order to enhance internal democracy in them. Specifically, RERC recommends that INEC should hold a dedicated and high level forum for, and with the political parties to highlight and address the problem and find sustainable solutions to them.

A graphic header for Chapter 7. It features a dark background with a white circular element on the left containing the word "CHAPTER" in bold, white, sans-serif capital letters. To the right of this circle is a large, white, stylized number "7". The graphic is framed by a thin white border.

**TOR 5: Comprehensively assess the entire process of recruitment, training, deployment, performance and remuneration of ad-hoc staff during the registration of voters and elections.**

### **7.1. Background**

In order to augment its staff during personnel intensive electoral exercises such as voters' registration and conduct of elections, the Independent National Electoral Commission (INEC) hires ad hoc staff. For the 2011 general elections, INEC engaged about 240,000 ad hoc personnel, mostly from the National Youth Service Corps (NYSC) to help in each of the registration and conduct of the elections<sup>16</sup>.

7.2. INEC's decision to utilize mainly the services of the NYSC as ad hoc staff for election-related duty is one of the innovative and crucial reforms that made it easy for its stakeholders to provide support and continue to trust it despite some organizational failings that manifested during the preparation and conduct of the elections. The decision to have the NYSC assist in the voters' registration process in particular was innovative and crucial for ensuring the integrity of the process. The NYSC, an agency created to help reconstruct, reconcile and rebuild the country after the Nigerian Civil war in 1970, and which deploys fresh graduates all over the country for a one-year period of national service, is in good stead to provide this kind of support to an agency, with a mandate to conduct an important national service such as voter registration and elections. Additionally, as the purpose of the scheme is primarily to inculcate in Nigerian youths the spirit of selfless service to community, and to emphasize the spirit of oneness and brotherhood of all Nigerians, irrespective of cultural or social background<sup>17</sup>, the NYSC is in a good position to support an agency such as INEC in its crucial assignment. Thus, of the approximately 240,000 ad hoc staff that were recruited and trained for voter registration, the overwhelming chunk came from the NYSC. According to reports,

<sup>16</sup> Final Report, European Union Electoral Observation Mission to Nigeria on the 2011 General Elections, p. 12.

<sup>17</sup> NYSC Homepage, <http://www.nysc.gov.ng/index.php>.

the dedication and pro-activeness of NYSC volunteers helped ensure the integrity of the voter registration and the general elections.

However, this was not the first time NYSC members would be involved in conducting elections. Formerly, NYSC members were only used in bye or re-run elections. As such, the idea of having NYSC as part of the INEC's ad hoc staff did not, as it were, emanate from the present leadership of INEC. For example, INEC engaged NYSC members as ad hoc election staff during the bye elections and other supplementary elections<sup>18</sup> following the 2007 elections, with satisfactory results. Appointment of NYSC members as ad hoc election staff was one of the issues that were discussed and recommended in its report by the Electoral Reform Committee. The argument for using NYSC members as INEC ad hoc staff rests on the assumption that civil servants, mainly teachers and others in the states, were usually considered to be the people that could be manipulated by the various state governments through their abuse of the power of incumbency, as indeed perceptions, true or false, by the general public of their complicity in rigging elections has generally shown. It was assumed that educated people who could not be so manipulated needed to be employed, in place of civil servants; the more so, as is the case with the NYSC, if they are people that could be held responsible and sanctioned for compromising their role in the conduct of elections. For example, NYSC members, knowing that their discharge certificates could be withheld if they compromise their positions would be encouraged to do their work well. This was part of the reasoning that persuaded the ERC Report to recommend that INEC ad hoc election staff should be primarily and largely recruited from among serving NYSC members.<sup>19</sup>

## 7.2. Analysis and Findings

This was the background to the agreement and partnership, which INEC entered into with the NYSC Directorate to use serving NYSC members as INEC ad hoc staff during the 2007 general elections in the country. Based on the experience that the commission's reliance on different categories of ad hoc staff to meet its statutory responsibilities, had tended to compromise the voters' registration and electoral process through the generally willful acts of sabotage to the sanctity of the process by the ad hoc staff, INEC decided to opt for an agreement and partnership with the NYSC Directorate for the conduct of the 2011 voters' registration and general elections.

---

<sup>18</sup> According to the Secretary to the Commission, this was in Kogi and later Adamawa state in 2009. Then, priority was simply given to youth corpsers in the search for ad hoc staff and the relationship seemed to be working fine. In his view, the commission is more confident about the NYSC people than to go back to its traditional sources that were most often compromised.

<sup>19</sup> Report of the Electoral Reform Committee, Volume 1, Main Report, December 2008, p59, Section 2.2.4.9.9.

Where shortfalls were experienced, serving NYSC members, who were deployed for ad hoc election duty, were supplemented by senior university students and federal civil servants. The essential consideration was, as much as possible, to insulate INEC staff and its ad hoc staff from direct contact with balloting instruments during elections to avoid their being accused of compromise or bias as well as assure the transparency of the management and conduct of the voters' registration and elections by INEC. In addition, reputable senior academic staff and professionals supervised the procedures and processes for the collation and announcement of results, in order to enhance their credibility and transparency. Vice-Chancellors and other senior university teachers were used as returning and collating officers. They also served in other categories of election-related functions.

## 7.3. Recruitment of Ad Hoc Staff

The Registration and Election Review Committee (RERC) found out that appointment of ad hoc staff is normally not the responsibility of INEC headquarters. It is mostly that of the Resident Electoral Commissioners (RECs). Sometimes, even a Local Government Electoral Officer (EO) can, within his/her own domain, compile a list of appointable people within that environment, and forward same to the REC or Administrative Secretary, who looks at it, sends it to the security services to vet, before a provisional ad hoc staff list is compiled and forwarded to the state INEC Headquarters for approval. More often than not, RECs and EOs were under pressure for the recruitment of ad-hoc staff from partisan stakeholders, who would want to plant their surrogates as ad hoc election staff, with a view to unduly influencing and compromising the voters' registration and election process.

In principle, therefore, the use of ad-hoc staff is inevitable and the modality for their recruitment, training, deployment and payment is what needs to be better handled to ensure the success of future voters' registration exercises and elections. Such a modality will require pre-test during minor elections, such as bye-elections, for purposes of perfecting it, prior to the more large-scale general elections.

The recruitment process during the conduct of the 2011 voters' registration and elections created problems in that some states were advised not to recruit ad hoc staff from higher institutions funded by state governments. Unfortunately, some states like Jigawa and Zamfara, have no federal institutions, and thus, ad hoc staff had to be recruited from neighbouring, and sometimes far away states (Kano and Sokoto respectively). The maintenance of such staff was not easy and there was difficulty paying them the same amount paid to ad hoc staff based at Jigawa or Zamfara States.

In view of this, clear criteria for the recruitment of ad hoc staff must be set out in the following order of priority:

- (i) Serving NYSC members;
- (ii) Senior level undergraduates of federal tertiary institutions;
- (iii) Staff of federal tertiary institutions; and
- (iii) Staff of relevant federal institutions.

As far as feasible, employees and functionaries of state and local governments should not be recruited as INEC ad hoc staff.

#### **7.4. Training of Ad Hoc Staff**

Only one or two workshops/training sessions were allegedly held with the recruited youth corper members. It has been suggested that the training of ad hoc personnel should have been held long before the time they were held; and that time was too short for the ad hoc staff to be well briefed about their assignment, if they were to undertake it satisfactorily. In short, there was inadequate time for ad-hoc staff training. To this end, it was suggested that recruitment of ad hoc staff should come two years before the election. This sounds like creating and maintaining a list of vetted permanent ad hoc staff, whose recruitment will enable INEC to know their ad hoc staff better and train them for a longer period. In any case, improved and timely training and re-training need to be put in place for all staff but especially ad hoc staff.

#### **7.5. Deployment of Ad Hoc Staff**

Often, the ad hoc staff were posted to very remote places and areas characterized by difficult terrain in riverine areas particularly for election duty. There was either no prior experience of the environments or there was no ample time or provision for prior visit to the location of duty. This may have resulted in incidences of willful abandonment of duty post, as was reported in parts of Ondo and Rivers States. At other times, means of transportation on the day of election duty was not provided and constituted a problem leading to attacks or delays. In view of this, as much emphasis should be placed on the criteria for the deployment of ad hoc staff as on their orientation and experience-sharing involving model and scenario building.

#### **7.6. Remuneration of Ad Hoc Staff**

There were several problems concerning the issue of the remuneration of ad hoc staff. On their part, INEC staff often feel that such funds should have been channeled through INEC while the NYSC coordinators believe that it was better for the funds to be given to them to disburse. The ultimate aim has to be for those who work to get paid for jobs carried out by them and not merely for some people or agencies to bask in the glory of being paymasters.

In any case, it was the widespread opinion of stakeholders from RERC's field consultations that allowances were badly paid because a uniform amount was given to ad hoc staff without consideration for their peculiarities and/or the peculiarities of the terrain where they performed election related duty.

Additionally, payments to ad hoc staff were allegedly not made promptly. Hence, the ad hoc staff generally arrived at their assigned polling units (PUs) empty handed and hungry. As a result, they were fed by communities, and were, thereby, vulnerable to undue influence. In some cases, delays in payment were due to the failure of ad hoc staff to furnish INEC or the NYSC with the required information about their bank details.

#### **7.7. Main Issues in the Recruitment, Training, Deployment and Remuneration of Ad Hoc Staff**

Some RECs refused to use NYSC members and substituted them, on the ground that those substituted did not show up for duty on registration and/or Election Day. To avoid substitution of Corps members, it was decided that the funds for payment of ad hoc staff be sent directly to the coordinator of the NYSC so that if a REC happens to substitute, he/she will do so at his/her own cost. Indeed, an indication of the possibility of sabotage can be seen in the suggestion during some zonal interactions that RECs should be given a fair share in the appointment of ad-hoc staff during election time. Thus, it was suggested at one of the zonal interactions that, "the RECS should be given more autonomy to fully operate".

In some cases, the list of ad hoc staff sent to INEC for deployment contained names of NYSC members who have passed out. This was observed to be an apparent mistake from the NYSC coordinating unit, and it was only discovered when such deployed ad hoc staff did not show up for election duty. It constituted a big challenge. Many NYSC members did not also report for their assignment, apparently because they considered themselves not answerable to INEC. As a result, INEC had to fall back on non-NYSC members to fill the gap created. In essence, because a large number of the ad-hoc staff was not primarily hired by INEC, exercising control over them was a herculean task.

In other cases, there were reports that some university lecturers claimed not to have been consulted and were not interested in the job. This constituted a problem at the last minute.

RERC was informed that it appeared that at the beginning of the registration and later voting exercises there was a general negative perception of mainstream or permanent INEC staff. INEC was viewed as a corrupt organization and its staffs were considered as corrupt by both the general public and the ad hoc staff. The perception did not help the INEC permanent staff in the job they carried out. In the recruitment of ad-hoc staff, particularly the NYSC members, it appeared that they were over-briefed and that they believed they were going to work with criminals. As a result, the NYSC members were said to have displayed a holier than thou mindset which sent a very bad signal to regular staff.

Furthermore, the RERC found that in many instances, INEC ad hoc staff that were deployed to conduct the registration exercise were put under pressure to allow for the inclusion of underage registrants<sup>20</sup>.

Therefore, there is need to find a way of ensuring that the NYSC ad hoc staff are properly briefed and trained, so that they can get a proper understanding of their assignment, the implications of doing a bad job and the sanctions available for non-compliance with the demands of the assignment. In short, it is crucial to assure the commitment of the NYSC ad hoc staff. RERC's interactions confirmed that, to a large extent, the inclusion of NYSC members saved many of the INEC staff from temptation to compromise the sanctity of the elections on the one hand, and from threats on the other hand.

The lack of security and other logistics support for the NYSC ad hoc staff had some consequences in some parts of the country. For example, in some places, the choice before them was either to cooperate with and cave in to thugs and the youth in the area or to refuse and be beaten. There were other instances where the NYSC ad hoc staff turned a blind eye to violations of the electoral law, particularly in relation to under aged registration and voting. Indeed, it can be concluded that the NYSC ad hoc staff were afraid to go into certain areas for the registration of voters because of security concerns. The risk in their assignment and the lack of security were confirmed with the killing of some NYSC ad hoc staff in Bauchi following the presidential elections. Although insurance covers were taken out for INEC ad-hoc staff, this was not public knowledge.

Some NYSC members did not exhibit high sense of maturity. In several reported cases, they took to rioting and demonstration and were generally rebellious. For example, their attitude to work became highly disillusioned and troubled, when their allowances were not paid on time.

In some states where NYSC ad hoc staff were inadequate or did not show up, the presiding officers who were not NYSC members were used. In Borno, these non-NYSC ad hoc staff came mainly from the university. Unfortunately, all the money for such category of staff was paid to the NYSC headquarters. This has resulted in arguing and juggling leading to protests and general dissatisfaction towards INEC.

There were complaints with regards to the recruitment, training, deployment and remuneration of ad hoc staff. In addition to the complaints mentioned above, it was observed in Kano for instance, that NYSC ad hoc staff got information ahead of INEC staff on the field, especially the RECs. Based on this, they came to harass state offices

---

<sup>20</sup> Final Report, European Union Electoral Observation Mission to Nigeria on the 2011 General Elections, p. 2.

about payment. The MoU between the NYSC and INEC clearly states that funds for NYSC ad hoc staff were to be paid directly to NYSC. Many INEC officials held the view that these should have been channeled through the INEC state offices. More importantly, these officials complained that it was important that payment should only be made after the NYSC ad hoc staff had satisfactorily performed their registration or election duty.

#### **7.8. Recommendations**

Despite the many problems, there is a general positive assessment of the deployment of ad hoc staff, particularly the NYSC during the 2011 voters' registration exercise and general elections. The conduct of, and patriotism exhibited by the NYSC ad hoc staff during the voters' registration and the general elections were so exemplary that international and local observers singled them out for commendation. The NYSC ad hoc staff came in handy at a time many Nigerians had lost confidence in INEC staff and state civil servants.

The RERC makes the following recommendations towards improving the use of ad hoc staff, especially from among NYSC members for election related duty. To be sure, most of the recommendations below are in the MoU between the INEC and the NYSC. However, the MOU does not break them down or is not explicit in stating what can or needs to be done with regard to particular issues.

There is a need to review the MoU between INEC and the NYSC especially to include annexes on the complete meanings/contents of many of the paragraphs contained therein. The Commission needs to begin early to specially commission this kind of services to agencies, groups or individuals for concrete and workable ideas and solutions that should also be widely publicized and debated for popular awareness and acceptability. It is imperative to envision institutionalizing the interagency relationship between INEC and NYSC. The best way to structure and assure a comprehensive synergy in the relationship between the INEC and NYSC Directorate needs to be found because for one, NYSC service is transient with different batches in a single year and therefore high turnover.

There were instances of gross misconduct on the part of ad hoc staff no doubt, as some Corps members also tried to use their positions to extort money, but the baby need not be thrown away with the bath water because there were also many instances where Corps members refused to be compromised.

In order to build and ensure cooperation between regular INEC staff and ad hoc staff, regular staff should be re-orientated about the role of the ad hoc staff and the need for them to see the ad hoc staff as partners in progress. Also, ad hoc staff must be informed that they are in, due to inadequacy of staff, as support pillars to regular staff, and for the nation's ultimate benefit.

Furthermore, having had some training and experience, INEC staff should not be relegated to the background; they should still be saddled with intensive supervisory roles to play during elections.

The security of Corps members is a crucial issue. To be sure, the Committee was informed that chaos was caused not only by persons disgruntled by election results, but also by some of those who were not allowed to supply or who were not recruited as ad hoc staff. Youth Corps members were intimidated. In the short term, ways to secure NYSC members on election duty need to be found. Many PUs were certainly without security officers on election days. Where available, these were unarmed.

With regards to improving on the performance of ad hoc staff, in the long term, civic education is proposed for introduction into the curriculum of higher institutions while RECs (or whoever takes on their role) and distinguished teachers of politics in universities are proposed to visit orientation camps weekly to give youth Corps talks on elections and election duty with emphasis on orientation and experience sharing involving model and scenario building.

Meanwhile, guidelines for election duty need to be provided and publicized and offenders prosecuted for non-compliance. Following reports that the youths in particular were not careful in following instructions, it is recommended that in addition to INEC staff supervision, supervision of NYSC ad hoc staff by their zonal officers should be encouraged in future elections. Staff of other organizations will also need their supervising officers for monitoring services during elections. For additional accountability, the names of ad hoc should be published so that the public can raise objections about them either on the basis of partisan interest or questionable character.

INEC needs to have its own voice out there. Positive things such as insurance undertaken for ad hoc staff should have been widely publicized. It will help to douse potential fears of Corps members and their families about participating in the programme. In the light of the experience of some Corps members in the Northern states, it is most likely that in future, many Corps members posted to the North will refuse to serve. Over time, these fears will be allayed.

Logistics support for call duty needs to be provided during assignments while payment should only be made after work has been accomplished and the worker verified. In any case, the best agency to be responsible for payment has to be determined; for now, in order to avoid incidences of corruption and delayed payment, it is our view that the agency from which staff come, should handle their payment.

A graphic header for Chapter 8. It features a dark background with a white circular element on the left containing the word "CHAPTER" in bold, white, sans-serif capital letters. To the right of this circle is a large, white, stylized number "8". The graphic is framed by a thin white border.

**TOR 6: Audit the Commission's cooperation and relations with other bodies such as MDAs, NGOs, security agencies and development partners during the registration and elections.**

**8.1. Major issues**

Election management bodies worldwide depend significantly on their relationships with various stakeholders, usually observed in varying degrees of cooperation and coordination, to record success in the conduct of free, fair and credible elections. The experience of election management bodies in various countries demonstrate that the success of elections depends invariably on the success of the cooperation and coordination of the election management body with various governmental, international and civil society organisations (CSOs), Ministries, Departments and Agencies of government (MDAs), and international organisations are also major actors in political and electoral reforms.

At a post-election retreat in 2011, election managers from across Nigeria noted that the role and participation of stakeholders such as civil society organisations, political parties, development partners and donor agencies was very helpful to electoral administration and election-related information management. It therefore recommends regular meetings with stakeholders even during post-election periods<sup>21</sup>.

Apart from the value and resources which stakeholders can bring to the electoral process, their participation in the conduct of elections usually strengthens public confidence in the integrity and validity of election results, thereby helping to engender public ownership of the election process itself and democracy generally by all stakeholders.

Similar to what obtains in other democratic societies where periodic elections form the basis of representation and governance, the Independent National Electoral

<sup>21</sup> See Report of the Four-Day Retreat for INEC Electoral Officers and National Commissioners, Merit House, Abuja, 11<sup>th</sup>-14<sup>th</sup> July, 2011

Commission has a structure that supports cooperation with various stakeholders before, during and after elections. The purpose of this cooperation is to enhance the quality of elections. INEC's relations and collaboration with stakeholders are mainly in the areas of (i) training of INEC permanent and ad hoc staff; (ii) civic education and voter mobilization; (iii) security, before, during and after elections; (iv) election monitoring; and (v) funding of elections.

### **8.2. Analysis of Data and Findings**

In this section, the activities of the Commission in the 2011 registration of voters and general elections form the basis of analysis. Data is mainly descriptive generated from desk research and a number of focus group discussions held with various stakeholders and INEC officials across the country in line with the methodology adopted by RERC.

### **8.3. Training of INEC Permanent and Ad Hoc Staff**

The dynamics of election require constant training and retraining of election workers. This is mainly because of the recruitment of new staff (both permanent and ad hoc) who must be equipped with the knowledge of the processes of an election, and the introduction of new techniques, facilities, equipment and processes of election which require that the Commission's staff must be retrained to be able to handle these new challenges. Little evidence exists to show that the Commission has any meaningful collaboration with CSOs, MDAs and development partners in training of staff with respect to election duties. The Commission mostly takes responsibility for the training of its staff. However, development partners contribute in training of election observers and monitors.

### **8.4. Civic Education and Voter Mobilisation**

Civic education, voter education and voter mobilisation are essential components of the electoral process. These interrelated activities enable the citizens to understand their responsibilities as candidates and voters during elections as well as stimulate the participation of citizens in the electoral process.

INEC collaborates with a number of MDAs and CSOs in educating the electorate and mobilising them for the elections. The Commission collaborates with Ministry of Information and the National Orientation Agency in civic education and voter mobilization though stakeholders complained that the National Orientation Agency (NOA) does not have the required equipment and resources to successfully carry out voter education and mobilization. There were strong recommendations that the Commission should do voter education to complement NOA's shortcomings and more so because it is more familiar with the issues of election on which the electorate are to be informed. Others feel that since the NOA has a structure that reaches to the grassroots, it should continue to do voter education but government should improve funding to the Agency. To this, a participant during RERC sitting in Kano stated that:

“Voter education should be conducted through INEC instead of NOA. INEC has more knowledge of the issues and can reach the grassroots better through a coordinated programme they can mount. It is unfortunate that the agency that handle voter education now, NOA, don't have the fund to do it properly. They don't have sufficient mobilisation vehicles; they don't have public address systems. Voter education still suffers because these agencies are not properly equipped.”

During its stakeholders' interactions, RERC gathered that while traditional institutions and faith based organizations were used in the mobilization of voters and maintenance of peace before, during and after elections, it was not as rigorous and widespread as was necessary to make the desired impact.

### **8.5. Security**

Collaboration with security agencies is essential both for the registration of voters and elections. In the 2011 registration of voters, the Commission had very minimal collaboration with security agencies such as the army, and the police. Participants at the focus group discussions during the Committee's visits to the zones unanimously submitted that the Commission did not seek the collaboration of security personnel during the registration of voters.

Participants were of the view that most of the problems associated with the registration of voters, except those related to the quality and efficiency of the registration machines, were due to insufficient security presence in many registration centres or instances where the security personnel were compromised. Some politicians attempted to induce registration officers to issue voter's card to under-aged voters by threatening to deal with them; other politicians compelled or bribed registration officers to bring registration equipment to their homes where all sorts of registration malpractices were perpetrated. These malpractices happened mainly because of the absence of security personnel at the registration points or where they were present; they are too few or aided and abetted the malpractice.

In his presentation to RERC in the North East zonal sitting, a Resident Electoral Commissioner stated that:

“When I worked during the registration people were happy. When there is problem in the village where villagers were trying to force people to register under-aged, we called in the police and immediately they were there and protected our people. During the election when they were beating up my presiding officer and you call on the police, he will say oga, sorry, please comply; they are more than us here but the bottom line is that he doesn't know what he is going to get out of this and he knows what he is going to get out of the politicians.”

“So I think we do not have to hide these facts and pretend that everything in Nigeria is normal, that everybody is working according to the rules and things are going on fine; no, we have to also look at the Nigerian mentality and see how we can block all those channels and make sure people who work get paid and they are conscious of what they are supposed to do because I am sure this election; well its reported to be one of the best elections so far.

“You know the past ones, the senatorial, presidential, in most states it was fairly okay but when it came to that of governors, we said now the field is yours, we lost control, I can tell you I lost control because people will call me from a polling station, I will go there and police will tell me, we have settled the problem sir only to go back and somebody calls me to say, oga sir, you don't know, those police were protecting the thugs that have come to disturb us? It is so bad! It is so bad! It is so bad! Were the people in police uniform? That is what the police want to say, that there were people in police uniform pretending to be following political agents. No sir, I believe they were police, I believe it because I have seen it and it is unfortunate. At one point I said look, why should I mess up myself coming to do this kind of thing. You know, you go and these are people who are supposed to protect you but they are protecting the one who is messing up the election. At the end of the day, we tell the world that we are doing a free and fair election.

“There is some element of freedom and fairness in some of the elections but the last one in most states, there was serious problem because there was so much at stake; so much money had changed hands. Even at the polling units people were selling votes; there is nothing you can do because the person who is supposed to protect you also is not being paid and somebody is paying him.”

Although there were instances of the scenario recounted above, the data from the field trips indicate that during the general elections, INEC's collaboration with security agencies through the Inter-Agency Security Committee contributed in no small measure to the dramatic reduction of violence, compared to previous elections. The Commission established an Inter-Agency Security Committee at the National and State levels. However, there were complaints that the Committee did not meet regularly in some states and some security agencies complained that they were not invited to the meetings of the Security Committee.

Generally, the Security Committee was useful in the coordination of security efforts during the elections. It discharged some important functions in the deployment of men for election duties. Also, through the Committee, the Commission was able to identify 'flash points' where security threats were imminent. The identification of such flash points made it possible for the committee to take appropriate steps to minimize the eruption of violence and the disruption of elections in a number of places.

Political parties, however, claimed that security agencies did not play their roles well during the elections. They claimed that in a number of locations, security personnel were partisan and supported some political parties and candidates. A number of reasons were given why security agencies did not play their roles well during the election. Politicians claimed that the senior officers of the security agencies refused to pay lower ranks their allowances. As a result, some security personnel trekked long distances to reach their duty posts and in some cases were provided transportation and feeding by local politicians. In the words of a respondent, the politicians pay security agencies better than the Commission and for this reason, security agents tended to either look the other way when malpractices were being perpetrated or even helped in perpetuating them. As recounted by one of the RECs in his account above, sometimes the police protected the thugs that were “messing up” the election because the party to which the thugs belong had 'settled' the security personnel. Supporters of political parties even claimed that sometimes the police threatened them when they tried to complain of election irregularities.

Participants in some of the zonal group discussions observed that security “personnel were made totally useless during the election”. This, according to them, was because they were not allowed to carry arms during elections so as not to intimidate voters. Because of this rule, participants revealed, voters or politicians were rather the ones intimidating the security personnel. This, it was stated led to rampant cases of kidnapping of electoral officers, snatching of ballot boxes and ballot box stuffing.

Part of the security arrangement in the 2011 general elections was the use of vehicles with tracking devices provided by the Federal Roads Safety Corps (FRSC). Unfortunately, field interactions showed that the vehicles were not used in all locations, and even where they were used, the Commission did not use them throughout the election period. Perhaps this was due to the inadequate supply of the vehicles.

#### **8.6. Election Monitoring and Observation**

The selection of election observers and monitors is the responsibility of the Election Monitoring and Observation Unit (EMOU) of INEC. The Unit issues accreditation papers to both local and international election observers after they are found to have complied with laid down requirements. The EMOU also trains the election observers with the support of international development partners who provide financial support for the training.

The interactions of RERC with Directors at INEC headquarters and other testimonies from the zones indicate that local election observers sometimes connived with political parties to commit electoral fraud and offences. Some stakeholders alleged that such connivance was possible because of the influence



and pressure some politicians exerted on INEC to pick observers or monitors whom they could influence to do their bidding. In her testimony before RERC, a stakeholder stated in response to a question on the issue that:

“Prof, what you have asked is so lovely. I have handled this before; I did Anambra elections, I did FCT general elections and I found out that most of our local observers are partisan; most of them. I have an example and it is in our report. A group came from Anambra and one of our top men here said I should register them and I did. At the heat of the Anambra elections I was called; remember, this is supposed to be an independent observer, and was told that how come that the commissioner allowed a person that is partisan, an ACN member, to observe election in Anambra. I told him that he is supposed to be an independent observer...It is not only there, most of the observer teams we have, when they go to their states of origin they take sides; Imo is another example...

“The observer teams that went to Imo were bought over by the state government because they came here to complain...I will say it anywhere and I will defend it; they were lodged in a hotel and paid money per number per room. Now the issue of money became a problem and they came back here to report to us. They were asked to sign a report prepared by the state government for observers and once some of them refused to sign those ones, it became a problem.”

The major perception that emerged from the consultations and meetings of the RERC on the role of election observers and monitors was that the activities of most election observers were limited to the federal and state capitals or local government headquarters and that they did not observe elections in the remote areas where irregularities usually take place. As a result, their reports on the elections tended to be inadequate and failed to reflect the true picture of what happened during the elections.

The stakeholder referred to above further recounted to RERC that:

“I will start with the bias of election observers. With all due respect to this committee, I head a unit and I'm somebody that is very neutral, to the best of my knowledge. We have designed this EMOC One form which is on our website now for those who want to observe elections with us and then we have this score sheet which the committee endorsed for us. Whatever we do we do based on this and not on the basis of names to the best of my knowledge. Now we are scoring them, so if you need our criteria, of course we call upon you, this is the criteria we have and now we are working on it, there is no issue of bias, I'm not a party to it...but at times a commissioner can come and tell you, that day I sent you a name, please make sure that name goes in. If you leave me, this is the criteria which I will work with and which I will defend anywhere, anytime.

“During the elections, I was here, I wouldn't be anywhere, so I will say what I know about. We have observers who are sincere and who will stand by what they believe in but because of poverty in Nigeria, most of the groups that say they are observer groups come out looking for money. At times they will call me, madam is there any way you can link me with a state government? I say if you don't want to do this job, forget it, INEC is not paying any money. So this issue is dicey. Most of them, because INEC does not pay them, they will not want to go to the interior areas, so they economize their funds to stay in state capitals and just monitor what happens there. If you have these observer groups in remote areas in Nigeria, if they are, they are very few; most of them are in the cities. One, they say that INEC does not pay them and they won't waste their money going to work for INEC, still they apply to us to accredit them.”

### **8.7. Funding of Election Activities**

The Commission during the last general elections received substantial budgetary allocation from the Federal Government for the purpose of election activities. However, through its collaboration with a number of development partners (UNDP, EU, IFES etc) the Commission received substantial funding for its activities. Development partners funded election activities such as training and deployment of election observers and monitors, civic education and voter mobilisation, as well as election evaluation among others.

### **8.8. The Media**

The role of the media, including its relations with INEC during elections includes (i) coverage of INEC election activities; and (ii) providing access to political parties to educate the populace on their party political activities, manifestoes and electoral campaigns. INEC needed the collaboration of the media to mobilize the populace with respect to their civic responsibilities as well as to educate them on its activities especially in conveying the registration and election timetables to the public. The media also played an important role in political party campaigns. Many participants expressed their dissatisfaction with the practice whereby some media houses, particularly government owned ones, supported incumbents and denied opposition political parties coverage of their activities.

The role of the private media houses during the elections tended to be different from government-owned media, in that they had more freedom to support and endorse candidates of their choice. However, they were under obligation of the law to provide fair access to political parties and candidates.

Some participants in the focus group discussions blamed the National Broadcasting Commission, the broadcast media regulatory agency for its failure to ensure that all parties and candidates were accorded fair media coverage during electioneering. Stakeholders alleged that there were hardly any, perhaps few sanctions from the NBC against media houses who were found to have brazenly breached the code guiding political broadcasting during electioneering campaigns.

### **8.9. National Youth Service Corps**

One of the most contentious areas of collaboration between INEC and other bodies in the last general elections revolved around the recruitment and deployment of members of the National Youth Service Corps (NYSC) during the 2011 registration of voters and the general elections.

The security of the members of the NYSC was the major challenge to the Commission in this collaboration. From the interactions held throughout the zones, the RERC gathered that members of the NYSC were not provided sufficient security during the voter registration exercise. As a result of this, many of the youth corps members were exposed to various forms of intimidation during the voter registration exercise and elections. It was alleged that some politicians cashed in on this laxity by either offering the corps members bribes, or where that failed to work, tried to induce them with threats to register under-aged voters and multiple registrants.

A common complaint in most of RERC's interactions and even at the INEC headquarters was the alleged failure of the Commission to also deploy core NYSC staff as ad hoc staff but for the sole purpose of monitoring or supervising the corps members during both the registration and election exercises. It was argued that if NYSC zonal staff had been engaged to supervise the corps members, they would have been able to take disciplinary measures against erring corps members who flouted the guidelines for both processes.

Another complaint noted by the Committee concerns the inability of many corps members to correctly write names of voters. According to some participants, this resulted in numerous instances of voters not finding their names during the display of voters register and elections. An All Progressive Grand Alliance (APGA) participant at the zonal meeting in Bauchi described the nature of this problem as follows:

Another issue concerning the registration is the corpers who were not conversant with our names...My name is Adamu Danjuma Musa; my first son's name is Musa Adamu Danjuma. I hope you get it? My names are (sic) Adamu Danjuma Musa. My first son's name is Musa Adamu Danjuma. So if you ask or you tell the officer my name is Adamu Danjuma Musa, he can't write what he himself cannot read because he is not conversant with the names here. So all I am saying is that if somebody from Katsina state can be brought into Bauchi to write my name, I don't think he will have any problem. So also, if I am taken to Borno state to write any name, anybody's name, I wouldn't have any problem because I am conversant with the names. So, so many eligible voters were given wrong names and at the end of it, when you come to the board you will see your name but you don't know it is your name because it was not properly written. So that has to be taken into consideration."

Other complaints include lack of computer literacy by many corps members which made the voter registration exercise very difficult.

### **8.10. Political Parties**

The character and disposition of politicians and political parties drew scorching comments from participants at all the zonal stakeholders' meetings. In the interactions at the INEC headquarters, there were equally comments, which indicated that the major crisis in the country's electoral or political processes come from the disposition of politicians to the acquisition of political power.

INEC's staff, CSOs, security personnel and even the political parties themselves blamed politicians and their parties for under-aged voting and most of the electoral fraud that took place during the last general elections. Stakeholders also agreed that there were considerable degree of insecurity and the violence at some polling units during the elections due to the attitude of some of the politicians who sponsor thugs to disrupt the peaceful conduct of elections.

RERC's interactions with the INEC Chairman, National Commissioners, the Secretary to the Commission, and Directors at the INEC National Headquarters indicate that a major impediment to INEC operating as an efficient election management body is its inability to effectively supervise or direct the electoral process because of constitutional constraints, already elaborated elsewhere in this report. As a result of the inability, it was argued that INEC lacks fundamental powers and the capacity to compel political parties to obey rules guiding the conduct of free and fair elections, such as those relating to campaign finances and fielding of candidates through properly conducted party primaries.

### **8.11. Recommendations**

#### ***8.11.1. Relationship with Political Parties***

In line with the provisions of the Working Document on Good Commonwealth Electoral Practice, INEC should continue to maintain good working relationship with political parties. The Commission should, therefore, maintain an effective line of communication with political parties. Political parties and/or their representatives should be consulted in a meaningful fashion before important decisions are taken. Apart from this, the political parties, especially their followers, should also constitute an important target group for INEC's civic education programmes.

#### ***8.11.2. Deployment of Security Personnel***

Deployment of security during registration of voters is as much necessary as it is during the election period. This is necessary in view of the revelations during the focus group discussions across the country on what transpired during the 2011 registration exercise. Apart from bringing order to the registration process,

security personnel could offer protection to registration officers who will consequently be better able to do their jobs.

### **8.11.3. Regulating the Media**

INEC should strengthen collaboration with the Nigeria Broadcasting Commission (NBC) to ensure the application of prompt sanctions against state media houses that show partisanship in their programmes and reporting of party electioneering activities and campaigns. Sanctions such as fine, suspension or even seizure of licence should be sufficient to discourage such state media houses from partisan support of candidates of governing parties.

The media should also be encouraged to host public debates amongst presidential and other candidates or even between political parties to enable the electorate have an objective assessment of the candidates and manifestoes of the political parties.

A graphic header for Chapter 9. It features a dark background with a light-colored circular element on the left containing the word "CHAPTER" in white, bold, uppercase letters. To the right of this circle is a large white number "9". The graphic is framed by a thin white border.

**TOR 7: Identify other issues in the registration and/or elections that are likely to impact on the conduct of the 2015 General Elections and make appropriate recommendations.**

### **9.1. Introduction**

The RERC draws attention to the following issues, which crosscut the various ones, findings, and recommendations in the previous chapters.

The RERC advises that INEC takes a serious look at the ERC Report and the government White Paper on the Report, both of which not only identified crucial aspects of the country's electoral governance requiring improvement but also put forward recommendations and policy measures to advance them.

While some of these recommendations can be addressed and implemented through in-house measures by INEC, others require it to deploy its central position, influence and leading role in the country's electoral governance framework to engage in constructive advocacy with stakeholders to give effect to them and to accelerate the required legislative reform to bring them about.

The outstanding recommendations from the ERC Report and the Government White Paper are: (i) the unbundling of INEC, through the establishment of the Political Parties Registration and Regulatory Commission, the Constituency Delimitation Commission, and the Electoral Offences Commission; (ii) the reorganization and repositioning of the Independent National Electoral Commission (INEC), to ensure its autonomy and professionalism, through a process to be initiated by the National Judicial Council; (iii) the integration of the State Independent Electoral Commissions (SIECS) into INEC to ensure their autonomy; (iv) introduction and use of electronic voting machines for future elections; (v) modification of the electoral law to allow independent candidates to contest elections; (vi) modification of the First-Past-the-Post electoral system with Proportional Representation electoral system, based on closed party lists; (vii) modification of the Electoral Act to ensure that 30% of the party lists under proportional representation are reserved for women, and 2.5% for physically challenged, without prejudice to their rights to compete for representation under

the first-past-the-post system; (viii) the Electoral Act should shift the burden of proof from election petitioners to INEC, and the rules of evidence formulated to achieve substantive justice rather than mere observance of technicalities; (ix) resolution of all election petitions between returned candidates for elective executive and legislative positions in the general elections at all levels-federal, state and local government-before winners are sworn in and assume office; (x) political parties that score at least 2.5% of National Assembly seats should be considered for cabinet level appointments, in order to dilute the zero-sum approach, encouraged by the first-past-the-post electoral system to politics and power; and (xi) Electoral Act should guarantee the participation of civil society at all stages of the electoral process.

In what follows, further elaboration and illustration of the findings and recommendations of the RERC are provided for emphasis in view of their significance to advance and strengthen the prospects for free, fair, credible elections and help consolidate democratic governance in the country.

## 9.2. The Role of Gender

Women featured in the election as polling staff, election observers, among other functions they performed. For example, in the Presidential elections, about 40 percent of the election staff and 36 percent of the presiding officers were female, with their proportion lower for collation officers.

The number of women who contested the 2011 general elections and those who were elected was insignificant, compared to the number of male candidates who contested and won. Women, therefore, continue to be under-represented in the composition of elective public political offices, relative to their size in the country's population. For example, female candidates accounted for only 9 percent of those who contested for the National Assembly elections, 8.7 percent for State Houses of Assembly, 3.7 per cent for governorship and 17 percent for deputy governorship, even though INEC's Gender Unit and the activities of various stakeholders targeted women political education, women's political participation and voter education. Nevertheless, there is clear possibility that women's performance at the 2011 general elections could repeat itself in 2015. To avoid this, there is the need to revisit the recommendations of the ERC and identify areas that could put gender on the agenda. Among the recommendations in the ERC Report are:

- (i) gender balance in the top leadership of the reconstituted INEC, so that the Chairperson and the Deputy Chairperson shall not be of the same sex, with two of the six members to be women, of whom one shall be nominated by women's organizations;
- (ii) at least one-third of INEC's 774 Local Government Electoral Officers shall be women;

- (iii) adoption of alternative forms of electoral system, such as the modified proportional representation for legislative elections at the federal, state and local government levels to promote and enhance increased women representation in legislatures by ensuring that 30 per cent of party lists are reserved for women, without prejudice to their right to also compete for representation under the first-past-the-post electoral system;
- (iv) CSOs and the United Development Fund for Women (UNIFEM), in close collaboration with the Ministry of Women's Affairs and the National Commission for Human Rights, to continue with their efforts to enhance the participation of women in the country's public life, notably in the area of sustained nationwide campaign and political education targeting the participation of women as voters and as candidates; and
- (v) special consideration to be given to the female gender, in the appointment of ministers at the federal level and commissioners at the state level.

## 9.3. Best Practices

INEC should promote its best practices by institutionalising what worked during the 2011 voters' registration general elections, such as the establishment of the Inter-Agency Committee on Election Security. The co-ordination and co-operation it engendered among the security agencies and between them and INEC contributed largely to the smooth operation of the voters' registration and general elections in several places across the country and to the generally commendable performance of security agencies.

The setting up of the Situation Room by INEC was another best practice of the April 2011 general elections. It enabled INEC to monitor what was happening on the field and to communicate with the Security Agencies for speedy intervention. It was another indication of the value-added contribution of cooperation and coordination between INEC, the Security Agencies and CSOs, which ought to be consolidated.

## 9.4. Information Dissemination

INEC should make more information available to citizens, particularly disaggregated data containing analysis of the voters register, which show the percentage of men, persons with disability, women and youth as well as other demographic data. In particular, the messaging on elections including voting processes should be disability friendly.

## 9.5. Reorganization of INEC

This Report has drawn attention to some of the problems encountered during the elections, which were traceable to internal problems revolving around deficits in INEC's administrative, operational and technical capacity. Among the deficits were:

- 1 The civil service bureaucratic procedure under which INEC operates.

- 2 The inability of INEC staff to effectively carry out their duties, because of the absence of an organizational strategy in INEC.
- 3 The disconnection between INEC headquarters and its field offices, reflected, for example, in the failure to ensure compliance with directives during elections. During the elections, information sharing between INEC's headquarters and INEC field workers was inadequate, with ICT facilities not properly utilized.
- 4 There were also the legal obstacles that created grey areas, particularly Section 129 of the Electoral Act on the power of INEC to control events at the polling stations. Section 133 of the Electoral Act poses a challenge to INEC's oversight on the voting process. It is vague and open to varied interpretations.

In view of these deficits, INEC should embark on a massive re-organisation and repositioning of its various internal bureaucratic and operational departments, structures and processes ahead of the 2015 elections.

#### **9.6. Accreditation of Observers**

INEC should accredit observers in good time, preferably at least one month before the commencement of the 2015 elections.

#### **9.7. Delimitation of Constituencies**

The National Assembly and INEC should ensure early delimitation of constituencies and the mapping and designation of polling units ahead of the 2015 elections. In this respect, RERC would like to point to the urgent need for INEC to draw attention of government and the National Assembly to the ERC recommendation on the creation of a Constituency Delimitation Commission, with institutional representation from the following institutions: INEC, the National Population Commission, National Boundary Commission, Office of the Surveyor-General of the Federation, National Bureau of Statistics and the National Identity Management Commission.

#### **9.8. Use of ICT**

Information and Communication Technology (ICT) should be prioritized and integrated into INEC procedures internally, with the use of social media optimized both in INEC's internal procedures and in the electoral process.

#### **9.9. Voting by Nigerians in the Diaspora**

It is variously estimated that there are about 10 million citizens living abroad. However there is no legal provision for Nigerian citizens in the Diaspora to vote in the country's general elections. Recently, the National Assembly suspended its debate on a bill, which seeks to amend the 2010 Electoral Act to extend voting rights to Nigerians living abroad. The bill, when passed into law, shall authorize INEC to "maintain as part of the National Register of Voters, a Voters' Register for Nigerians

in Diaspora." INEC should take up the matter with the relevant authorities, with a view to reopening debate on the bill.

#### **9.10. Electronic Voting**

Nigeria's experience with the use of electronic voter registration and electronic transmission of results during the 2007 General Elections was very unpleasant. There were many cases of the malfunctioning of the electronic voting machines (EVM). However the advantages of electronic voting far outweigh its limitations. RERC advises INEC to review this voting mechanism and adopt it subsequently, on a limited trial basis for future elections in the country. Provision should also be made for printed ballot paper as a backup in case the electronic voting machines malfunction. The printed ballot paper would assist in verification of votes should issues be raised during election litigation.

#### **9.11. Post Election Violence**

The National Assembly elections were peaceful but post election violence broke out after the presidential elections in the Northern States of Adamawa, Bauchi, Gombe, Kaduna, Kano and Taraba States and in isolated places across the country, with the elections in Bauchi and Kaduna postponed to April 26-28, 2011.

The violence was attributed to the perception of voters that the presidential elections were not free and fair. However, the violence could be traced to manipulation of voters by politicians. Because elective offices are very attractive, the candidates for the offices and their supporters would do anything towards the candidates winning the elections. This do-or-die attitude also tends to encourage defeated candidates to instigate post-election violence.

Thousands of people were allegedly and reportedly killed and properties worth billions of naira destroyed, as a result of the post-election violence in April 2011. For example, the Committee set up by the Federal Government to look into the immediate and remote causes of the 2011 post-election violence put the loss of lives at 943 persons, and 838 injured nationwide. In Kaduna alone, 827 people lost their lives. Property destroyed nationwide was put at 40.6 billion naira. The Committee attributed the outbreak of violence to the incitement of voters by politicians.

Refugee camps were filled with thousands of internally displaced persons. The high cost of contesting elections eroded the spirit of sportsmanship in politics, with losers typically refusing to accept defeat in good faith. The culture of impunity also ensures that those who commit electoral offences are not prosecuted. The seeming inability of, or delay in prosecuting electoral offenders also tends to encourage the impunity.

### 9.12. Summary of Recommendations:

We draw attention to some of our major recommendations below:

- i. INEC should work with the National Assembly and other stakeholders towards reviewing the relevant sections of the Constitution and the Electoral Act to address all gaps and problems in the legal framework of electoral governance in the country highlighted in this report and in other reports.
- ii. Such review should be concluded before the end of 2012. This is to ensure that the legal framework guiding subsequent elections is concluded in order to facilitate better understanding of the electoral process and enhanced elections management.
- iii. INEC should be restructured in relation to its recruitment and staffing, with emphasis placed on the definition of job roles and requirements and the matching of such roles with relevant skills. Such restructuring should address the issue of staff redundancy and under utilization of personnel.
- iv. There should be definition of the duties and responsibilities of INEC departments with regard to the discharge of the mandate of the Commission.
- v. Targeted capacity building for different departments and personnel in INEC should be prioritized. There should also be emphasis on the development of standardized training manuals to ensure the professionalization of INEC staff.
- vi. Staggering of elections based on criteria to be finalized by INEC should be considered ahead of 2015. This will allow for elections to be better supervised and managed effectively.
- vii. Electronic voting system should be introduced incrementally, beginning with bye-elections and re-run elections to ensure that short-comings observed are corrected ahead of general elections.
- viii. There is need to reorganize INEC to focus primarily on the management and conduct of elections; other related but less relevant duties should be given to other agencies in existence or to be created.
- ix. INEC should conduct a detailed review of its organogram, departmental structures, remuneration, and personnel in line with the roles and duties expected of them. Such a restructuring would ensure the organization is better positioned for enhanced performance.

- x. INEC should clarify and agree on a policy to guide the recruitment, training, and deployment of ad hoc staff for subsequent elections. This will build on the significant gains recorded in the recruitment and deployment of ad hoc staff during the April 2011 general elections. It is important that this activity should include an audit of INEC staff strength.
- xi. Development of a comprehensive program for capacity-building and training for all INEC staff at the national, state, and local government levels.
- xii. INEC should as a matter of priority embark on the immediate prosecution of all electoral offenders. INEC should, in addition, draw the attention to the need to create urgently the Electoral Offences Commission, recommended by the ERC and accepted by the government's White Paper on the Report.
- xiii. As already recommended by the RERC, the Constituency Delimitation Commission, accepted by the government in its White Paper on the ERC should be created and tasked with re-districting electoral constituencies ahead of the 2015 general elections.
- xiv. The registration and monitoring of party political activities and financing should be unbundled from INEC and vested in the Political Parties Registration and Regulatory Commission, recommended by the ERC Report and accepted by the government White Paper on the Report.
- xv. INEC should strengthen the Electoral Institute and the Gender Unit at its headquarters to include training of political parties on women's political participation and their impact on democracy and good governance.
- xvi. INEC should develop modules to expose the political parties to basic principles of internal democracy, gender and democratic governance.
- xvii. INEC should monitor the implementation of gender sensitive provisions in party's constitution and manifestoes as this will serve the purpose of mainstreaming gender into its activities and sanction political parties that violate them.
- xviii. INEC should also examine and assess party primaries with a view to formulating and implementing reforms that will support a more level playing field for all. INEC should lobby for the amendment of the Electoral Law to encourage independent candidates. INEC should make adequate provisions for the disabled to participate effectively throughout the electoral process.

- xix. INEC should work with the National Assembly for the amendment of the Electoral law to avail Nigerians in the Diaspora an opportunity to participate in the electoral process.
- xx. The integration of the Diaspora into the electoral process could thus begin after the 2015 elections INEC Administrative and Operational structure and Elections.
- xxi. Adequate budget for procurement of quality EVM.
- xxii. Gradual deployment of EVM machines to voting centres should precede mock and pilot elections in order to ascertain its effectiveness.
- xxiii. Training and re training of INEC staff to enable them operate the machines.
- xxiv. Enlightenment of voters on how to use the machines for voting should be carried out long before the election.
- xxv. Review of the legal framework to provide for electronic accreditation and voting in 2015.

## REFERENCES

- Ibrahim, Jibrin (2007), *Nigeria's 2007 Elections: The Fitful Path to Democratic Citizenship*, Special Report Number 182, Washington, D.C.: United States Institute for Peace.
- Lopez-Pastor, Rafael (2000), *Electoral Management Bodies as Institutions of Governance*, New York: Bureau for Development Policy, United Nations Development Programme.
- Mozaffer, Shaheen (2002), "Patterns of Electoral Governance in Africa's Emerging Democracies," *International Political Science Review*, Volume 23, Number 1.
- Mozaffer, Shaheen and Andreas Schedler (2002), "The Comparative Study of Electoral Governance: An Introduction," *International Political Science Review*, Volume 23, Number 1.
- Ojo, Jide (2009) *Implication of the ERC Gender Recommendations on Electoral Management Bodies*; A paper presented at Gender and Constitution Reform Network (GECORN) multi-stakeholder dialogue addressing key gender issues in the Electoral Reform process held at Rockview Hotel on Monday, April 6, 2009.
- Przeworski, Adam (1991), *Democracy and the Market: Political and Economic Reform in Eastern Europe and Latin America*, New York: Cambridge University Press.
- Pugh, D.S. and Hickson, D.J. (1976) *Organizational Structure in its Context: The Aston Programme I*, London: Saxon House.
- Scott Mainwaring, Guillermo O'Donnell and J. Samuel Valenzuela (eds.), (1992), *Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspective*, Notre Dame, Indiana: University of Notre Dame Press.
- Yadav, Yogendra (2001), "A Radical Agenda for Political Reforms," Seminar 506: *Reforming Politics*, October.