



# **GUIDELINES FOR ELECTION OBSERVATION**

## **2019**

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## Foreword

Domestic and International Observers play crucial roles in conferring credibility on the electoral process by verifying that voters exercise their franchise in an environment devoid of coercion, intimidation or violence and in witnessing that the results announced are a true reflection of the votes cast. These observers are obliged to abide by the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers and Guidelines for Election Observation as issued by the Election Management Body.

The Independent National Electoral Commission (INEC) is convinced that subjecting the electoral processes and procedures to scrutiny by domestic and international observers is crucial in enhancing public perception and confidence in the transparency and credibility of our elections. The Commission therefore welcomes the presence of impartial domestic and international observers in its elections.

Accordingly, the Commission arranges for the accreditation of election observer groups and provides them with required identification to facilitate their unhindered movement around the country before, during and after elections. However, accredited observers are

expected to carry out their duties and responsibilities in accordance with the law and in line with international best practices.

The INEC Guidelines for Election Observation therefore provides necessary information on the processes and procedure for accreditation, the responsibilities of the Commission and observers, the voting process, what to observe and the format for reporting their findings and recommendations to the Commission. It is my expectation that observers would find the guidelines very useful in carrying out their election observation duties in an efficient and impartial manner.

**Professor Mahmood Yakubu**  
Chairman, INEC

# CHAPTER 1

## 1.0 GENERAL BACKGROUND AND INTRODUCTION

### 1.1 What is Election Observation?

Election observation is the process whereby elections in a particular country or locality are observed against set standards by an independent and impartial body of observers with the aim of identifying whether the elections conform to accepted guarantees of democratic participation, identifying flaws and challenges and making recommendations on how the process can be improved in the future. Election observation especially by domestic groups further reinforces the rights of citizens and their organisations to participate and ensure greater transparency in the manner their leaders are chosen. In simplified terms, election observation includes four main activities, namely, to:

- i. observe processes and activities organised before, during and after elections;
- ii. collate facts and observations that have been noted;
- iii. interpret the facts gathered against the laws governing elections as well as basic democratic standards, in order to see

- whether or not the elections meet the threshold of credibility as defined by law and accepted by the international community; and
- iv. outline the findings so collated and the interpretation based on them in a document or report.

## **1.2 Election Observation and Election Monitoring**

These two terms have sometimes been used interchangeably. However, there is a fundamental difference between the two. An election monitor is an integral part of the election management structure and has a role in the administration of the election.

In Nigeria, only the Independent National Electoral Commission (INEC) and its duly authorised personnel are empowered to monitor elections.

An Observer, on the other hand, does not have any role in the administration of the election nor does he have any control or oversight functions.

To further simplify these points:

- An election monitor exercises some level of lawful authority over the conduct of elections as well as over officials involved;

an observer has no such powers.

- In Nigeria, a monitor must be duly authorised personnel of INEC; an observer is independent and reports only to his or her organisation.
- A monitor can issue instructions and take decisions on behalf of INEC and, to that extent, would ordinarily possess a greater technical knowledge of the election process than an observer.
- To enable them fulfil their functions effectively, INEC is responsible for training election monitors on election administration. The training of election observers is the responsibility of the organisations that deploy them.
- The roles, powers and functions of monitors are created and regulated and the authority so exercised is clearly spelt out by law.
- Reports of election observers could assist election monitors to address flaws in the conduct of elections.

It is important to clarify these differentiations. Attempts

by observers to over-reach the ambit of their brief have in many cases resulted into misunderstanding and confusion. It is important to emphasise once again that under Nigerian law, it is only the INEC that has authority to monitor elections.

### **1.3 Why Observe Elections?**

Elections are them earns through which the people exercise their sovereign right to choose who governs them and what the political and other priorities of their government should be. Democratic elections are thus the opportunity for the people to express their sovereignty through the ballot to confer legitimacy to their government, renew its mandate if necessary or withdraw from it the authority to govern, which is the basis of an accountable government.

The task of accomplishing this goal lawfully is a collective duty shared by the government, voters, candidates, and the international community.

Election observation is in part an expression of solidarity with communities going through this process and also a way of ensuring that there is credible evidence on the basis of which it is possible to evaluate, assess and report on the credibility of the elections in terms of whether they meet the minimum thresh olds of democratic participation.

Election observation is undertaken in order to provide an impartial and accurate assessment of the nature of election processes for the benefit of the population of the country where the election is held. It provides opportunity for constructive criticism and engagement of election process to ensure improved performance in future elections. It is an expression of interest in protecting and promoting of common democratic values by organisations and governments who provide observers.

It is important to observe elections because election observation:

- Provides information on the basis of which an election process can be analysed;
- Beam the spotlight on the electoral process and discourage malpractices;
- It is a learning process and provides comparative information to assist other countries in improving their electoral process;
- Helps the observed state to identify lapses and recognise progress;
- Reinforces common standards and universal benchmarks on what elections should be;

- Enhance transparency and reinforces the integrity and credibility of the election process; and
- Empowers citizens' groups to observe elections as a means of conferring legitimacy on elected governments.

#### **1.4 Who is an Observer?**

For the purposes of these Guidelines, an Observer is a person sponsored by an organisation and accredited by INEC to observe elections within the guidelines established by INEC. An observer may be sponsored by a local, regional, continental or international organisation. INEC will not accredit as an observer an individual who is not part of or affiliated with any organisation.

There are two main types of Observers: Local and International Observers.

Local Observers are those sponsored by civil society organisations located, formed or based in Nigeria and whose activities are regulated by Nigerian law. It is desirable that the deployment of local Observer teams should have national coverage. Local Observer groups are encouraged to collaborate, pool resources and share burdens.

International Observers are Observers deployed by or

under the authority of governments, inter-governmental agencies, international organisations and other NGOs not domiciled in Nigeria.

## CHAPTER 2

### 2.0 ACCREDITATION OF OBSERVERS

#### 2.1 Criteria for Accreditation

Accreditation is the process by which INEC verifies and formally authorises the deployment of an observer. It is a necessary condition before any organisation or individual can observe elections in Nigeria. INEC is the only body that can accredit election observers. No other entity is authorised under Nigerian law to accredit election observers and any person or authority outside INEC that purports to do so acts unlawfully. Accreditation confers official recognition and gives the observers access to the locations where voting or balloting, counting collation and announcement of results take place.

The criteria for accreditation of domestic observers are as follows:

- Completion and submission of the application form in a manner prescribed by INEC.
- Evidence of registration with Corporate Affairs Commission (CAC).
- Evidence of registration with INEC CSO desk.
- Oath of neutrality.
- Evidence of previous electoral experience.
- Submission of a sample checklist for the

- observer groups.
- Evidence of capacity to fund the observer mission.
- Evidence of registration with FIRS.

The criteria for accreditation of foreign observers are as follows:

- Completion and submission of the application form in a prescribed manner by INEC;
- Letter of intent submitted to the Chairman, INEC through the parent Embassy.

## **2.2 Procedure for Accreditation**

The procedure for accreditation of observers shall entail the following:

- The Commission shall publish an advertisement on national dailies requesting interested observer groups to apply for accreditation.
- The advert shall specify the timeline within which such application shall be made. Applications made outside of the timeline shall not be considered.
- Application for accreditation as an election observer shall be done online through the approved URL with all the accompanying documents attached to the submission.
- Alternative to the online application forms,

observer groups could download and complete the application forms.

- At the close of the period of receipt of application and after due review by the Commission; list of successful Observer groups will subsequently be published in National Dailies and on the Commission's website.
- Successful accredited observer groups shall be issued with their login details to enable them submit the list and other particulars of their field officers to be deployed (on state-by-state basis). A timeline shall be specified in the advert for this process as late submission shall not be entertained.

### **2.3 Help Desk**

- A help desk shall be established in EPM Department, INEC Headquarters and Abuja to assist interested observer groups with the online application process.

### **2.4 Accreditation for Off-Season Elections**

While the above processes and procedures relate to general elections as well as standalone governorship elections, Commission still welcomes application for accreditation for other off-season and bye-elections. The procedure for that is

as follows:

- The Commission shall publish dates for bye-elections.
- Interested observer groups can apply to the Commission for accreditation through the Office of the Chairman INEC stating the election they are interested in observing.
- Such application shall be accompanied with the relevant documents.
- Upon due review of all applications, the Commission shall contact successful observer groups individually.

## **CHAPTER 3**

### **3.0 RESPONSIBILITIES OF STAKEHOLDERS**

#### **3.1 Responsibilities of Observers on Election Day**

- 3.1.1 Organisations applying for accreditation for Observer teams shall bear the costs associated with organising and deploying its observation mission and teams.
- 3.1.2 It is the duty of International Election Observers and their sponsoring organisations to make their travel plans and fulfil the necessary immigration requirements for obtaining entry clearance to visit Nigeria. Local Observers shall also be responsible for transporting their observers to the respective polling centres where they will be deployed.
- 3.1.3 INEC shall not play any role in the deployment of observers except for providing basic information which may be required for such deployment (e.g., a map of polling stations).
- 3.1.4 Under no circumstances should observers

handle election documents in the polling station or physically assist the voting or counting process.

3.1.5 Each Observer on election observation duty shall be bound to:

- introduce himself or herself to the polling officer, collation or other officer responsible for the centre or duty station when they arrive and ensure that a good working relationship is established with the electoral officers, which will assist the process of observation;
- comply with the instructions of officials at the polling stations unless such instructions are manifestly unlawful. Any Observer who is dissatisfied with the official instruction should record the circumstances of such dissatisfaction in the appropriate observation report;
- avoid confrontation with election officials, security personnel and party agents;
- be prepared to present proof of accreditation to electoral and

security personnel who request them: observers must keep these documents with them at all times because elections can sometimes be unpredictable; therefore, observers are advised to keep the originals of their identity documents separate from accreditation documents and only carry the accreditation documents while in the field;

- avoid conductor communication capable of disrupting the voting and counting processes;
- avoid taking active role in resolving any disputes or complaints, even if asked to do so. However, observers may record any complaints made to them on the appropriate observation form, including details of the complaints; name, organization (where relevant) and contacts of those involved;
- have a deployment plan for the polling unit or stations to be covered;

- be encouraged to provide insurance cover for observers that are being deployed;
- wear the accreditation badge in a visible manner;
- avoid displaying, wearing or carrying any logos, colours, symbols identical or similar to those of any political party or candidate;
- abide by the instructions of INEC officials at the registration/polling and collation centres;
- to submit interim and final reports to INEC as observer groups;
- obtain endorsement of INEC Code of Conduct for observers.

## **3.2 Rights of Observers**

- 3.2.1 Accredited observers have the right to observe all phases of the electoral process with access to all registration/polling and collation centres.
- 3.2.2 Group is entitled to get official election observation kit issued by INEC.
- 3.2.3 Accredited observers have the right to

obtain information from electoral authorities at all levels.

- 3.2.4 Accredited observers have the right to issue public observation reports and statements concerning the progress of the electoral process.

### **3.3. Responsibilities of INEC**

The Independent National Electoral Commission recognises that it owes some responsibilities to the observers to ensure an effective observation exercise and that election observation can only be achieved if INEC and the observers work together. To this end INEC undertakes to:

- a) provide all the necessary assistance to enable International Observers to sufficiently prepare and fulfil their observation mission.
- b) issue invitation letters to International Observer missions which comply with the conditions for accreditation;
- c) ensure access for observers to all the stages and processes of elections;
- d) ensure reasonable access to all persons concerned with election process who are within the authority of NEC; and
- e) ensure that the election observers have

access to all relevant manuals and guidelines.

INEC may revoke the accreditation of any observer in the event he/she:

- a. violates the provisions of the regulations, procedures or code of conduct for observers;
- b. obstructs the electoral process;
- c. ask voters about their voting preferences while observing at polling stations.

### **3.4 Code of Conduct for Observers:**

Election observation is very sensitive work. Accordingly, Observers must conduct themselves responsibly. INEC expects that organisations have codes of conduct and will make every diligent effort to familiarise Observers sponsored by them with their codes. However, we have synthesized below a set of ethical principles that will guide the conduct of election Observers drawing from the African Union Principles, ECOWAS Guidelines and Declaration of Principles for International Observers, endorsed by various inter-governmental and international organisations. These guidelines apply to both local and international Observers:

- (a) An election Observer shall respect the

sovereignty of the Nigerian people to establish their own government as well as the fundamental rights guarantees contained in the Nigerian Constitution enabling citizens of Nigeria to vote and be voted for in exercise of this sovereignty.

- (b) Observers shall respect the laws of the host country and the authority of the bodies charged with the administering the electoral process. Observers must follow any lawful instruction from the country's governmental, security and electoral officials. Observers also must maintain a respectful attitude towards electoral officials and other national authorities
- (c) Observers shall abide by these Guidelines and any other terms of reference or instructions given to them by their organisation.
- (d) Observer organisations shall attend all INEC briefings to which they are invited, familiarize themselves with the applicable laws, ensure that they transmit information from such briefings and laws to all deployed Observers and carefully adhere to the methodologies employed by their observation mission.

- (e) Observers shall also report to the leadership of their organisation any conflict of interest or any improper conduct by other Observers who are part of their mission. For this purpose, conflict of interest arises when the observer is unable to maintain impartiality on account of any bias or preference in relation to political parties, candidates or the authorities or any issue connected to the elections.
- (f) Observers shall maintain strict impartiality in the conduct of their duties and will not at any time, publicly express or exhibit any bias or preference in relation to national authorities, parties, candidates or with reference to any issue in contention in the election process.
- (g) Observers shall undertake their duties in an unobtrusive manner and will not knowingly or wilfully interfere in the electoral process. Nothing in these guidelines removes the right of the Observers to bring irregularities to the attention of the election officers but they must not give instructions or countermand the election officers.
- (h) Observers shall base their conclusions on their

personal observation or clear and convincing fact. Conclusions should not be based on or drawn from speculations, hearsay or exclusively from media or internet-based report that the Observer has not personally verified.

- (i) Observers shall not prejudge the election outcome.
- (j) Observers shall display identification provided by INEC at all times during election duties and must provide other forms of identification if required or requested for by any national authority
- (k) Observers shall refrain from making any personal comments to the media on what they observed during elections before the election observation mission makes their statement.
- (l) Observers shall not accept any gift or favours that might influence their work.
- (m) Observers shall at all times, during the period of observation, including during private time away from work, exercise sound judgment and display a high level of personal discretion.

- (n) Observers shall not attempt to take part in the actual administration of the election.
- (o) Observers shall not attempt to play active role in resolving disputes or complaints to avoid the possibility of compromising the Observer group's eventual position on the matter.
- (p) Observer must not take any unnecessary or undue risk. Each Observer's personal safety overrides all other consideration.
- (q) Observers are responsible for their safety and security.
- (r) Observers do not enjoy **immunity** from prosecution or criminal responsibility for electoral offences or any other offences recognized under the laws of the Federal Republic of Nigeria.
- (s) Observers must be very careful and exercise utmost sense of discretion in their choice of words in describing the elections.
- (t) Any Observer who flouts these guidelines may have his or her accreditation cancelled and in the case of an act that constitutes an offence under Nigerian laws, such a person may be

prosecuted.

### **3.5 Accreditation Cards**

The commission shall issue accreditation cards to all the field officers being deployed by successful observer groups. This is to ensure ease of movement and proper identification on Election Day. The accreditation cards shall have the following details:

- INEC logo;
- The name of the observer;
- The name of the body he/she represents;
- A recent passport photo of the observer;
- Date of expiration;
- INEC official stamp;
- Serial number of the card.

The accreditation cards shall be distributed to individual observers by officers of the Commission at the State/LGA Offices of the Commission few days to the polling day and in the presence of the contact person for each observer group.

### **3.6 Rejection of Application**

Application shall be rejected if submitted after the deadline for submission or when applications submitted are incomplete, inaccurate or submitted by an ineligible body. Applications shall also be rejected when the eligible body does not meet the conditions provided for in the relevant INEC regulations, procedures or the Code of Conduct.

### **3.7 Revocation of Registration/Accreditation**

INEC may revoke the accreditation of any observer group or an individual observer if the group/ individual:

- violates the provisions of the regulations, procedures or code of conduct of observers;
- obstructs the electoral process;
- asks voters about their voting preferences while observing at polling stations.

## CHAPTER 4

### 4.0 WHAT TO OBSERVE

An observer has an obligation to know exactly what to observe and what is important. It is necessary for observers to participate in any briefing by the Commission and use the opportunity to seek any clarification they may require. The areas of observation may include:

- a. The legal and institutional frame work;
- b. The electoral/political environment;
- c. Arrangements affecting the safety and security of election officials, voters and other participants;
- d. Management of electoral logistics and its contribution of electoral materials;
- e. The integrity of the electoral preparations, including voter registration and voter education;
- f. The degree of political competitiveness;
- g. The inclusiveness of the electoral system, civic education and the extent of citizen participation;
- h. The extent of human right violations and election-related violence;
- i. Evidence of any violence, intimidation,

- interference with private exercise of the franchise;
- j. Incidence of election malpractice;
  - k. The professionalism of security agencies;
  - l. The extent to which security has affected the participation of the people in the electoral process;
  - m. The conduct of the main institutions and agencies;
  - n. The integrity of the conduct of the poll, including accreditation, voting, counting, collation and declaration of result;
  - o. Their solution of electoral disputes.

## CHAPTER 5

### 5.0 REPORT OF OBSERVATION

All accredited observer groups shall be expected to forward report of the election to the Commission at the end of the exercise. This report shall be in two forms: preliminary and final reports. The preliminary report shall be submitted within 48 hours upon declaration of the results. The format for preliminary report (titled online synopsis of group observation) has been designed by the Commission and shall be made available to accredited observer group before each election.

The final report, which shall be submitted within 4 weeks of the election, shall have the following features :

- Size of the observation mission and area of deployment.
- Full polling unit number (State/LGA/RA/PU) and name of the polling unit to enable INEC to easily follow-up on incidences reported.
- Facts and figures when making assertions so as to give more accuracy and objectivity to the raised claims.
- Appropriate formatting: certain parts of the document need to be in bold, others italics and so on.

- Clear picture usage: it is important that any pictures used are clear and relevant in the context of the report. It is always best to use pictures taken by members of the election observation team.
- Appropriate referencing of external material: it is important to reference all data and information obtained from outside the observation team.
- Appropriate layout: this will facilitate easier flow of information and assimilation by readers.

*Issued this ....day of ....., 2019.*

Professor Mahmood Yakubu

Chairman, INEC

# APPENDIX 1

## POLITICAL AND ELECTORAL SYSTEM

Nigeria is a Federation comprising 36 States and one Federal Capital Territory (FCT), Abuja and 774 Local Government Areas. INEC conducts selections for executive and legislative positions in Federal and State Government. In addition, INEC is responsible for conducting elections into the Area Councils in the Federal Capital Territory of Abuja.

Elections into Local Government Councils in the 36 States of Nigeria are conducted by the State Independent Electoral Commissions, which are outside of INEC's authority.

### ● EXECUTIVE OFFICES

For each election, the country is divided into constituencies with respect to positions in the executive arm of government. The entire country is treated as one constituency for the Presidential Election and the Chairman of INEC is statutorily designated as the Chief Electoral Officer in Presidential Elections. Each of the 36 States constitutes a constituency for the purpose of elections into the offices of the governors at the State level. Each Area Council in the FCT is also treated as a constituency for the purpose of electing an Area Council

Chairman.

Nigeria's 1999 Constitution prescribes the conditions that candidates must fulfil in order to be declared winners in an election into an executive office. These conditions are as follows:

**1(a) President**

A person is duly elected as president, where, if there are more than one candidates, he or she scores a majority of votes as well as at least one-quarter of the votes cast in each of two-third of the states of the federation. Where, however, there is only one candidate, he must obtain a majority of YES votes over NO votes as well as not less than one-quarter of the votes cast at the election in each of at least two-thirds of all states in the country and the Federal Capital Territory.

**(b) Run-Off (1<sup>st</sup> and 2<sup>nd</sup>)**

In default of a candidate being elected as stated in paragraph(a) above, a second election run-off shall be held within seven days as follows:-

- (i) Election between the candidate that scores the highest number of votes and another with highest majority of votes in the highest number of states. Where there is more than one candidate with the highest

number of states, the candidate with the highest total votes among them shall be second candidate.

- (ii) A failure of either of the candidates to meet the majority of votes and score of over a quarter of votes casting each of at least two-third of all the states and FCT, winner at two-third and last run-off elections shall be the candidate who scores the majority of votes cast in the election.

### **2(a) Governor**

A person is elected Governor, where, if there are two or more candidates, he has the highest number of votes cast in addition to not less than one-quarter of all the votes cast in each of at least two-thirds of all the Local Government Areas of the state. However, in the case of single candidates to be elected a Governor, the candidate must score a majority of YES votes over NO votes cast in a minimum of two-thirds of all at the Local Government Areas in the State.

### **(b) Run-Off(s) (1<sup>st</sup> and 2<sup>nd</sup>)**

The failure of a single candidate to be elected shall result in fresh nominations. In the case of more than one candidate, there shall be a run-off election between the candidates who secured the highest number of votes cast and the candidate who secured the majority of votes in

the highest number of Local Government Areas. Where those with the highest number of Local Government Areas are more than one, the candidate with the next highest total of votes cast at the election shall be the second candidate. Two other run-offs are organized where there is no clear winner in the first run-off. The candidate with a majority of the votes cast at the third run-off is elected the Governor of the State.

## ● **LEGISLATIVE OFFICES**

INEC also organises selections into legislative positions at the federal and state levels as well as for councillorship of the Area Councils in the FCT. The federal legislature is bicameral, comprising a Senate and a House of Representatives.

- The Senate comprises 109 members. Each State of the Federation comprises three Senatorial Zones, each zone being recognised as a separate constituency for purposes of electing one Senator.
- The House of Representatives comprises 360 member selected from 360 Federal Constituencies. Each State is divided for this purpose into different federal constituencies. Each federal constituency elects or return some member to the House

of Representatives.

- Each State has a House of Assembly as its legislative arm of government. Members of the House of Assembly are elected from State Constituencies, which are different and much smaller than Federal Constituencies.
- In the FCT, for the purpose of fulfilling the legislative functions of local government in the Area Councils, Councillors are elected for each of the Wards. A Ward is a Constituency for the purpose of electing a Councillor in the Area Council elections in the FCT.

The legislative candidates become winners the moment they score a simple majority over their opponents. The Executive positions are, however, determined by specific majorities as follows:

### ***(a) National Assembly***

The National Assembly shall comprise:

- (i) 109 Senators, i.e. three Senators per state while FCT has only one Senator:
- (ii) 360 Members of the House of Representatives, representing 360 constituencies delimited according to population "as nearly equal as

possible".

### ***(b) State Houses of Assembly***

There are 990 members of the 36 State House of Assembly. Each member represents a State Constituency.

### ***(c) Chairman and Councillors in the Six Area Councils of FCT, Abuja***

The Federal Capital Territory, Abuja is made up of six Area Councils headed by elected Chairmen and Councillors.

The administration of elections to the offices of the Chairmen/Councillors is regulated by the Electoral Act 2010.

## **● THE VOTING METHOD**

In every election, every voter is entitled to have his/her vote counted and every vote must count. This INEC continuously strives for ways and means to make the voting method increasingly effective.

The Commission has, therefore, adopted the open-secret ballot system as prescribed by the Electoral Act 2010.

Nigeria currently has 119,973 polling stations. Each polling station is headed by one Presiding Officer and assisted by three Assistant Presiding Officers. This is in

addition to the security agencies and political party agents who must be in every polling station. Supervisory Presiding Officers are engaged to supervise 10 No. polling stations. At the close of voting, the Presiding Officer counts the votes in the presence of party agents and the results are made public in each polling station before being transmitted to the collation centres for collation before formal declaration.

## APPENDIX 2

### ECOWAS PRINCIPLES OF DEMOCRATIC ELECTIONS

- The Election Management Body (EMB) should be independent and neutral, and should have the confidence of all the political actors.
- No substantial modification should be made to the electoral laws during the last six months before holding an election, except with the consent of a majority of the political actors.
- Elections must be organized on the dates or at the periods fixed by the electoral law.
- Women have equal rights with men to vote and be voted for, as well as hold public office at all levels of governance.
- A reliable voters' list must be produced, drawn upon a reliable registry of births and deaths.
- The voters' list should be prepared in a transparent and verifiable manner with the collaboration of the political parties.
- The electorate should have access to the list of voters whenever the need arises.

- The preparation and the conduct of elections, as well as the announcement of results should be done in a transparent manner.
- Adequate arrangements should be made to hear and dispose of petitions relating to the conduct of elections and the announcement of results.
- Election-related civil society organizations should be involved in educating the public on the need for peaceful elections.
- A candidate or party that loses an election should concede defeat in accordance with the electoral law.
- All holders of power at all levels should refrain from acts of intimidation or harassment against defeated candidates or their supporters.

## APPENDIX 3

# AFRICAN UNION DECLARATION ON THE PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS IN AFRICA

*-AHG/Decl.1 (XXXVIII)*

### ● PREAMBLE

We the Heads of State and Government of the Organization of African Unity, meeting in Durban, South Africa, at the 37<sup>th</sup> Ordinary Session of the Assembly of the OAU, have considered the Report of the Secretary-General on strengthening the role of the OAU in election observation and monitoring, as well as the advancement of the democratization process.

- Considering the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union, particularly in its Articles 3 and 4;
- Reaffirming the Algiers Decision of July 1999 and the Lomé Declaration of July 2000 on the Framework for an OAU response to UN constitutional changes of government, which laid down a set of

common values and principles for democratic governance;

- Considering the CSSDCA Solemn Declaration adopted by the Assembly of Heads of State and Government of the OAU in Lomé, Togo, in July 2000, which underpins the OAU's agenda of promoting democracy and democratic institutions in Africa;
- Considering the New African Initiative (NAI) now referred to as the New Partnership for the African's Development (NEPAD) adopted by the Assembly of the Heads of State and Government in Lusaka, Zambia, in July 2001, by which, through the Democracy and Political Governance Initiative, African Leaders undertook to promote and protect democracy and human rights in their respective countries and regions, by developing clear standards of accountability and participatory governance at the national and sub-regional levels;
- Reaffirming the importance of the Universal Declaration of Human Rights adopted in December 1948, as well as the

International Covenant on Civil and Political Rights adopted in December 1966, which recognized the will of the people expressed through free and fair elections as the basis of the authority of government;

- Reaffirming also the significance of the African Charter on Human and Peoples' Rights adopted in Nairobi, Kenya, in June 1981, which recognized the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives;
- Recalling the Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-economic Situation in Africa and the Fundamental Changes Taking Place in the World, adopted in Addis Ababa, Ethiopia, in July 1990 wherein OAU Member States undertook to continue with the democratization of African societies and the consolidation of the democratic institutions;
- Recalling further the African Charter for

Popular Participation in Development adopted in Addis Ababa, Ethiopia, in July 1990, which emphasized the need to involve the people of Africa in the spheres of economic and political governance;

- Referring to the Cairo Agenda for Action adopted in Cairo, Egypt, in 1995, which stressed the imperative of ensuring good governance through popular participation based on the respect for human rights and dignity, free and fair elections, as well as on the respect of the principles of freedom of the press, speech, association and conscience;
- Cognizant of the fact that each Member State has the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the African Union and the universally accepted principles of democracy;
- Considering the ever-growing role already played by the OAU in the observation/monitoring of elections and the need to strengthen the Organization's efforts in advancing democracy in Africa;

- Agree and endorse the following Principles Governing Democratic Elections in Africa:

## ***I. Principles of Democratic Elections***

1. Democratic elections are the basis of the authority of any representative government;
2. Regular elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;
3. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;
4. Democratic elections should be conducted:
  - x Freely and fairly;
  - x Under democratic constitutions and in compliance with supportive legal instruments;
  - x Under a system of separation of powers that ensures in particular, the independence of the judiciary;
  - x At regular intervals, as provided for in National Constitutions; by impartial, all-

inclusive competent accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics;

## **II. *Responsibilities of the Member States***

We commit our Governments to:

- a) Take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of our respective countries;
- b) Establish where non exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters' registers, etc would be addressed;
- c) Establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- d) Safe guard the human and civil liberties of

all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes;

- e) Promote civic and voters' education on the democratic principles and values in close cooperation with the civil society groups and other relevant stakeholders;
- f) Take all necessary measures and precaution stop repeat the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;
- g) Ensure the availability of adequate logistics and resources for carrying out democratic elections, as well as ensure that adequate provision of funding for all registered political parties to enable them organise their work, including participation in electoral process;
- h) Ensure that adequate security is provided to all parties participating in elections;
- i) Ensure the transparency and integrity of the

entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and/other observers/monitors;

- j) Encourage the participation of African women in all aspects of the electoral process in accordance with the national laws.

### **III. *Elections: Rights and Obligations***

1. We reaffirm the follow in rights and obligations under which democratic elections are conducted:
2. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law.
3. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according o the laws of the country and as guaranteed by the Constitution, without any kind of discrimination.

4. Every citizen shall have the right to free association and assembly in accordance with the law.
5. Every citizen shall have the freedom to establish or to be a member of a political party or Organization in accordance with the law.
6. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land.
7. Individual or political parties shall have the right to appeal and to obtain timely hearing against proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country.
8. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives.
9. No individual or political party shall engage in any act that may lead to violence or

deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities.

10. All stakeholders in electoral contests shall publicly renounce the practice of granting favours, to the voting public for the purpose of influencing the outcome of elections.
11. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing abusive language, incitement to hate, and other forms of provocative language that may lead to violence.
12. Every candidate and political party shall respect the impartiality of the public media by undertaking or refrain from any act which might constrain or limit their electoral adversaries from using the facilities and resources of the public media to air their campaign messages.

13. Every individual and political party participating in elections shall recognize the authority of the Electoral Commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a Commission/Body in order to facilitate their duties.
14. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the Constitution and the electoral laws and accordingly respect the final decision of the competent Electoral Authorities or, challenge the result appropriately according to the law.

#### ***IV. Election Observation and Monitoring by the OAU***

We request the OAU to be fully engaged in the strengthening of the democratization process, particularly by observing and monitoring elections in our Member States, according to the following guidelines:

1. The observation and monitoring of elections shall be undertaken subject to a memorandum of understanding between

the OAU General Secretariat and the host country in accordance with the principles enshrined in this declaration and the laws of the host country.

2. In performing their obligations, the election observers or monitors shall be guided by detailed guidelines to be prepared by the General Secretariat drawing in separation from the essential thrust of this declaration, the specific mandates and terms of refer once determined by the particular case in question as well as the wider legal framework of the country staging elections.
3. Member States should ensure that invitations to the OAU to participate in election observation or monitoring resent at least two months before the date of the election.
4. Member States should refrain from imposing any fees and/or charges on OAU observers i.e. registration/accreditation fees etc. And facilitate easy access of observers/monitors to locations of elector all events/activities and unhindered in the

performance of their tasks.

5. The General Secretariat shall have the right to decline in vitiations to monitor elections which in its considered opinion, do not measure up to then or motive standards enunciated in this Declaration.

## ***V. Role and Mandate of the General Secretariat***

Further request the OAU Secretary General to take all necessary measures to ensure the implementation of this Declaration by undertaking, in particular, the following activities:

- a) Strengthen its role in the observation and monitoring of elections within the legal framework of the host country, in accordance with the memorandum of understanding reached with that country;
- b) Mobilize extra-budgetary funds to augment the General Secretariat resource base so as to facilitate the implementation of this Declaration;
- c) Undertake a feasibility study on the establishment of a Democratization and Electoral Assistance Fund, to facilitate a

successful implementation of this Declaration.

- d) Under take a feasibility study on the establishment within the OAU General Secretariat of a Democratization and Election Monitoring Unit that will also discharge issues on good governance;
- e) Compile and maintain a roster of African Experts in the field of election observation and monitoring and democratization in general in order to deploy competent and professional observers and to avail itself of their services whenever necessary. Member States on their part are requested to assist by making the names of their experts available to the General Secretariat;
- f) Workout better standards of procedures, preparations and treatment for personnel selected to serve on OAU observer missions.
- g) Promote cooperation and work in partnership with African Organizations and International Organizations, as well as national institutions, non-governmental Organizations and civil society groups

involved in the elected monitoring and observation work.

- h) Publish and make the General Secretariat Reports on the observation/monitoring of elections and other related activities open to all Member States and the public at large, as a means of consolidating electoral and democratic processes on the continent.