

## **CHAPTER TWO**

### **EXECUTIVE SUMMARY**

#### **2.1 REVIEW OF NIGERIA'S HISTORY WITH ELECTIONS**

The review of Nigeria's history with elections has revealed the following lessons:

**(a) Degeneration of Electoral Outcomes**

The 85-year-old history of Nigeria's elections shows a progressive degeneration of outcomes. Thus, the 2007 elections are believed to be the worst since the first elections held in 1922. The compelling need to embark on electoral reforms is thus obvious.

**(b) Role of Politicians and their Perception of Power**

The history also shows that elections conducted by the military tended to be more credible than those conducted by civilian authorities. The primary reason for this has been the effort by politicians to perpetuate their hold on power at all cost. Over the years, the politicians have become more desperate and daring in taking and retaining political power; more reckless and greedy in their use and abuse of power; and more intolerant of opposition, criticism and efforts at replacing them. The electorate, seeing their hopes dashed with each set of elections, have come to believe that politicians lack the will to use state power to transform the lives of ordinary citizens. This loss of confidence in governments by the electorate is a threat to our democratic project.

**(c) Expectations of Nigerians**

Historical evidence shows that Nigerians have always had very high expectations from their intercourse with politics and democracy. However, these expectations have, more often than

not, been dashed as politicians and political office holders seem to have less faith in properly conducted elections as a foundation for democratic governance than the electorate. Arising from the above, the electorate have become more vocal in their demand for positive action that will sanitize the electoral process. Using non-governmental and faith-based platforms as well as corporate and professional associations, a growing network or coalition of forces has emerged aimed at checking some of the excesses of the political class. This trend should be encouraged as the vigilance of the populace is the greatest insurance for good governance.

(d) **Role of Election Management Bodies and Other Agencies**

A review of the history of elections in Nigeria shows that a strong relationship exists between election management bodies (EMBs), security agencies and legal provisions that guide the conduct of elections. These institutional arrangements have over the years become the focal points at which elections are compromised. In the past 50 years, the country's EMBs have functioned for only 30 years and have been reconstituted five times and had eleven different Chief Executives, giving an average of 2.7 years tenure. The Committee's review also shows that the EMBs have been overburdened with too many responsibilities which has affected their performance. The historical analysis shows clearly that there is the need to reform aspects of the 1999 Constitution as well as the existing electoral laws, where they are inadequate or insufficient to guarantee the conduct of free, fair, credible and acceptable elections. An important target of such review should be the provisions for the appointment, membership, mandate, and funding of election management bodies as well as the roles of the security and other agencies.

(e) **Conflicts over Electoral Outcomes**

Historical evidence confirms that most political actors have often contested electoral outcomes. From the first election petitions of the 1950's to date, the judiciary has always provided a last port of call when out-of-court settlements could not resolve post election challenges. While the courts have discharged this important responsibility creditably, care should be taken not to drag the judiciary into the political arena too often as this can affect its credibility.

f) **Civic, Moral and Political Education**

The historical review shows clearly that there is the compelling need for massive investment in the institutionalization of broad based civic, moral and political education of Nigerians, politicians as well as the electorate, to inculcate norms, values and God consciousness. The pre-colonial emphasis on honesty and integrity, as well as balance between power and authority, on the one hand, and service, accountability and responsibility, on the other, should be restored and institutionalized in the political system. It is important that the teaching of civic, moral and political education grounded in Nigerian history should be made compulsory at the primary and secondary school levels. A people, largely ignorant of their past cannot defend their present and future.

(g) **Poverty and Corruption**

Poverty and corruption have been shown in this analysis to undermine democratic ethos and practice. Poverty breeds corruption and both undermine and threaten the foundations of democratic institutions and frustrate the will of the people

expressed in elections. Accordingly, the efforts to fight poverty and corruption should be intensified.

(h) **Welfare of Nigerians**

There is urgent need to reform and transform the Nigerian economy so as to improve the welfare and well-being of Nigerians and thus restore their confidence in government. Good governance, economic empowerment of the people and accountability must remain the yardstick for measuring the success of governments. When Nigerians are economically empowered, they will be better able to defend democracy especially when threatened by blundering politicians.

(i) **Inclusiveness**

One of the major problems of our electoral system over the years has been the near exclusion of critical sectors of the population such as women from governance. There is urgent need to evolve an electoral system which ensures that while elections are free, fair and acceptable, all major stakeholders in the electoral process, especially the political parties that perform creditably, women and other interest groups, are not sidelined in the emerging governments.

(j) **Tenure and Incumbency**

Incumbency and self succession have been shown in the analysis to be major factors in the corruption of the electoral processes and the violence that always features in elections. The new electoral system should thus aim at either eliminating both or reducing their impact to the barest minimum. This may require amendments of the 1999 Constitution and the Electoral Act 2006.

(k) **Military Interventions**

The military, from this analysis, always intervened when the institutions of democratic governance had broken down or the nation was facing possible disintegration. Therefore, the new political system, in its manner of operation, must be such as to make military intervention in governance and politics unnecessary and unattractive. New laws are needed to curb the mounting and increasing impunity with which politicians have breached existing electoral laws. It is significant to note that despite the well documented acts of electoral malpractices, no Nigerian has ever been convicted and punished for electoral offences since independence.

(l) **Civil Society**

Our analysis shows that civil society, especially the media and labour unions, have played an important role in the agitation for the expansion of political space for Nigerians and in monitoring the performance of governments. Civil Society Organizations should be empowered legally to enable them effectively discharge their functions as sentinels and watchdogs of democracy.

(m) **Multi-Party System**

We should review the inherited multi-party political system, especially given the performance of the existing fifty (50) parties which has tended to push the country towards becoming a one party state. The views expressed by Nigerians during the public hearingss were overwhelmingly in favour of reducing the number of political parties to between two and seven. It is not a mere coincidence that the relatively freest elections in Nigeria were those conducted under the two party system between 1989 and 1993.

## **2.2 THE ROLE OF INSTITUTIONS, AGENCIES AND STAKEHOLDERS IN SHAPING THE ELECTORAL PROCESS**

From the examination of the role of institutions, agencies and stakeholders in the electoral process, the following recommendations are made:

### **2.2.1 The Role of the National Assembly**

- a) The National Assembly should undertake a comprehensive review of the provisions of 1999 Constitution, Electoral Act 2006 and other laws to effect changes that are required to ensure free and fair elections as recommended in this Report.
- b) The National Assembly should review laws relating to appointment and qualifications of the Chairman and members of the Electoral Commission.
- c) The National Assembly should amend the 1999 Constitution to provide for the appropriation of funds for INEC in a manner that will guarantee its independence. In this respect, the funding of INEC should be first-charge on the Consolidated Revenue Fund of the Federation.

### **2.2.2 The Role of the Executive**

- a) The 1999 Constitution should be amended to guarantee the independence of INEC.
- b) The agencies under the Executive that are involved in elections shall not be used to undermine free and fair elections. Such agencies include the security bodies and the public service.
- c) The provisions of the Electoral Act 2006 which prohibit the abuse of the powers of incumbency, including the misuse of official powers and resources should be strengthened and enforced.

### **2.2.3 The Role of the Judiciary**

#### **Determination of Election Petitions**

- a) The judiciary should ensure prompt resolution of election-related disputes by increasing the number of election petition tribunals and consolidating petitions.
- b) The Electoral Act 2006 should be amended to shift the burden of proof from the petitioners to INEC to show, on the balance of probability, that disputed elections were indeed free and fair and candidates declared winners were truly the choices of the electorate.
- c) The procedure for producing evidence before tribunals should be re-examined in order to speed-up the hearing of electoral cases. Specific procedure rules should be made for election petitions.

### **2.2.4 Independent National Electoral Commission**

#### **2.2.4.1 Re-organisation of INEC**

- a) INEC should be re-organized and re-positioned to ensure its independence and professionalism in the conduct of elections in the country.
- b) The 1999 Constitution should be amended to ensure that INEC becomes truly independent, non-partisan, impartial, professional, transparent, and reliable as an institution and in the performance of its constitutional functions.
- c) INEC should consist of:
  - i) a Board that formulates broad electoral policy and direction for the Commission; and
  - ii) a professional/technical election management team to handle the actual conduct of elections .

#### **2.2.4.2 Composition of INEC Board**

The membership of the Board of INEC should consist of the following:

- a) a Chairman - who must be a person of unquestionable integrity;
- b) a Deputy Chairman – who must be a person of unquestionable integrity. However, the Chairman and Deputy must not be of the same gender;
- c) six persons of unquestionable integrity, 2 of whom must be women and 1 of whom must come from each of the six geo-political zones of the Federation;
- d) one nominee of Civil Society Organizations working in the area of elections and accredited by the proposed Political Parties Registration and Regulatory Commission;
- e) one nominee of Labour Organizations;
- f) one nominee of Nigerian Bar Association;
- g) one nominee of Women Organizations; and
- h) one nominee of the Media.

Once appointed, no organisation shall have the power to recall its nominee.

#### **2.2.4.3 Qualifications of Members of INEC's Board**

- a) Members of INEC's Board mentioned in 2.2.4.2 (a – b) above should be persons of integrity who are non-partisan, possess vast professional/administrative/academic experience, and are not less than 50 years of age.
- b) Members of INEC's Board mentioned in 2.2.4.2 (c – h) above should possess all the qualities mentioned in 2.2.4.3(a) above and they should not be less than 40 years of age.

#### **2.2.4.4 Nomination Process**

- a) For 2.2.4.2 (a - c) above, the National Judicial Council (NJC) should:



- i. advertise all the positions, spelling out requisite qualifications;
  - ii. receive applications/nominations from the general public;
  - iii. shortlist three persons for each position; and
  - iv. send the nominations to the National Council of State to select one from the shortlist and forward to the Senate for confirmation.
- b) For 2.2.4.2 (d - h) above:
  - i. each of the professional bodies should send 3 nominations to the NJC for screening;
  - ii. the NJC shall screen the nominations and make appropriate recommendations to the National Council of State which shall further screen and recommend one name for each category to the Senate for confirmation.

#### **2.2.4.5 Tenure of Office**

The tenure of office of the members of INEC's Board should be five years subject to renewal for another five years.

#### **2.2.4.6 Composition of INEC's Profession/Technical Management Team**

- a) At the national level INEC's management team should consist of professional/technical/operational officers as follows
  - i) A Secretary
  - ii) Departmental Directors
- b) At the State level, the State Independence 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. The State level Secretariat of INEC should therefore consist of 37 Directors of Elections, one for each State and the FCT, appointed by INEC, trained and posted to States

other than their States of origin. These Directors should be career officers, and non-partisan persons of integrity.

- c) At the Local Government level, full time 774 Local Electoral Officers should be appointed by INEC after public advertisement inviting applications and posted outside their own Local Government Area. At least one-third of these Local Electoral Officers should be women.
- d) At the Ward level, full time 8814 career Assistant Electoral Officers should be appointed by INEC after public advertisement inviting applications and posted outside their wards but within the Local Government Area.

#### **2.2.4.7 Other Recommendations**

- a) Section 153 of the 1999 Constitution which lists INEC as a federal executive body should be amended by deleting Sub-section 1(f) thereof.
- b) As consequential to the recommendation under paragraph 2.2.4.7(a) above wherever INEC appears in sections 153 – 158, it should be deleted.

#### **2.2.4.8 Unbundling of INEC**

For INEC to function efficiently, some of the functions currently performed by it should be assigned to other agencies as follows:

- a). **Political Parties Registration and Regulatory Commission** should be established and empowered to:
  - i) register political parties in accordance with the provisions of the 1999 Constitution and the Electoral Act 2006;
  - ii) monitor the organization and operation of the political parties, including their finances;
  - iii) arrange for the annual examination and auditing of the funds and accounts of political parties;

- iv) monitor political campaigns and provide rules and regulations which shall govern the political parties;
  - v) accredit domestic civil society groups and organizations working in the area of elections and provide rules and regulations which shall govern their observation of elections;
  - vi) accredit international election observers and provide rules and regulations which shall govern their conduct and observation of elections;
  - vii) accredit national and international media organizations observing elections and provide rules and regulations which shall govern their activities; and
  - viii) all the functions listed in section 46, 78 – 105 of the Electoral Act 2006.
- b) The Political Parties Registration and Regulatory Commission shall comprise the following members who should be non-partisan.
- i) A Chairman who must be a person of unquestionable integrity.
  - ii) A Deputy Chairman who must be a person of unquestionable integrity. However, the Chairman and the Deputy must not be of the same gender.
  - iii) Six persons of unquestionable integrity, 2 of whom must be women and 1 of whom must come from each of the six geopolitical zones.
- c) The mode of appointment of the Chairman and members of the Board of the Political Parties Registration and Regulatory Commission shall be as follows:
- i. the National Judicial Council shall advertise the positions of the Chairman, Deputy and the 6 National commissioners;
  - ii. the National Judicial Council shall screen the application received and recommend to the President for appointment subject to confirmation by the Senate;

- d) The Tenure of office of members of the Board of Political Parties Registration and Regulatory Commission shall be 5 years renewable only once.
- e) The Chairman, Deputy Chairman and Members of the Board shall be removed from office by the President acting on the recommendations of the National Judicial Council that the member be so removed for his/her inability to discharge the functions of his/her office or appointment (whether arising from infirmity of mind or body) or for misconduct or contravention of the Code of Conduct.
- f) The Political Parties Registration and Regulatory Commission shall have power to appoint, dismiss, and exercise disciplinary control over its own staff.
- g) Sections 221 – 229 of the 1999 Constitution should be amended to replace all references to INEC with the Political Parties Registration and Regulatory Commission.
- h) Section 15 of the 3<sup>rd</sup> Schedule to the 1999 Constitution should be amended to reflect the new roles and functions assigned to the Political Parties Registration and Regulatory Commission.
- i) An autonomous and constitutionally recognized **Electoral Offences Commission** should be established through a bill of the National Assembly and empowered to perform the following functions:
  - i) enforcement and administration of the provisions of the Act establishing the Commission;
  - ii) investigation of all electoral frauds and related offences;
  - iii) coordination, enforcement and prosecution of all electoral offences;
  - iv) enforcement of the provision of the Electoral Act 2006, the constitutions of registered political parties and any other Acts or enactments;

- v) adoption of measures to identify, trace and prosecute political thuggery, electoral fraud, political terrorism and other electoral offences;
  - vi) adoption of measures to prevent and eradicate the commission of electoral malpractices;
  - vii) adoption of measures which include but are not limited to coordination, prevention and regulatory actions;
  - viii) introduction and maintenance of investigative and control techniques towards the prevention of electoral malpractices and fraudulent election;
  - ix) the facilitation of rapid exchange of scientific and technical information among other democracies on the conduct of joint operation and training geared towards the eradication of electoral malpractices and fraudulent election;
  - x) the examination and investigation of all reported cases of electoral offences with the view to identifying electoral officers and staff of the electoral commission, individuals, corporate bodies or groups involved in the commission of electoral offences; and
  - xi) collaboration with election observing authorities within and outside Nigeria.
- j) The composition of the Electoral Offences Commission should be as follows:
- i. the Chairman who shall be the Chief Executive Officer and a person of unquestionable character;
  - ii. a Deputy Chairman who shall be a person of unquestionable character;
  - iii. six Nigerians of unquestionable character, 1 from each of the six geopolitical zones of the Federation;
  - iv. the Attorney-General of the Federation or his nominee not below the rank of a Director;

- v. the Inspector-General of Police or his nominee not below the rank of Assistant Inspector General;
  - vi. the Secretary to the Commission who shall be the head of the administration;
- k) The Chairman and members of the Commission who shall be non-partisan shall be appointed by the President subject to the confirmation of the Senate.
- l) The Commission shall make standing order regulating its proceedings or those of any of its committees.
- m) The Chairman and Deputy Chairman shall be non-partisan persons not below 45 years of age, and the members shall be non-partisan persons not below 40 years of age.
- n) The Chairman and Deputy Chairman shall hold office for a period of 5 years term and upon satisfactory performance may be re-appointed for another period of 5 years term and no more.
- o) Members of the Commission shall hold office for a period of 5 years and upon satisfactory performance may be re-appointed for another period of 5 years and no more.
- p) The Chairman, Deputy Chairman and Members of the Commission may at any time be removed from office by the President for inability to discharge the function of his/her office (whether arising from infirmity of mind or body or any cause) or for misconduct or acting on the advise of two-thirds majority of the Senate confirming that he/she be so removed for acts inconsistency with the Constitution or this Act.
- q) A **Constituency Delimitation Commission** should be established with institutional representation from INEC, National Population Commission, National Boundary Commission, Office of the Surveyor-General of the Federation, National Bureau of Statistics and National Identity Management Commission.

- r) A Centre for Democratic Studies should be established to undertake broad civic and political education for legislators, political office holders, security agencies, politicians, political parties and the general public.

#### **2.2.4.9 Ensuring Efficient Electoral Administration and Management by INEC**

##### **2.2.4.9.1 Voter Registration**

- (a) There should be adequate logistics for a continuous voter registration exercise. Work on the voters' register needs to continuously update the current level of registration, ensuring that all persons properly qualified and wanting to be registered have the chance to do so, thus achieving universal suffrage in Nigeria.
- (b) After the public verification period, INEC should undertake all necessary corrections and again display the voters' register at the voter registration centres. Permanent voter registration cards should be issued once the process has been concluded well in advance of election.

##### **2.2.4.9.2 Design and Handling of Ballot Papers/Boxes**

- (a) INEC should ensure that ballot papers have watertight security features and should institute a transparent tracking system.
- (b) Ballot boxes should be placed in polling stations away from officials and party agents but in full view of the Presiding Officer.
- (c) The security of ballot boxes needs to be improved including the provision of seals and locks.
- (d) Ballot papers should be stored and distributed from locations within a reasonable distance of their appropriate polling stations. The desire to protect the sanctity of the ballot should not preclude ballots from reaching their destinations.

- (e) Ballot materials should be under the protection and oversight of security agencies and electoral officials in order to prevent local political leaders from obstructing their distribution.

#### **2.2.4.9.3 Polling Booths/Stations**

- (a) An accurate list of polling stations, including locations and the number of registered voters, should be made available to political parties and observers before elections.
- (b) INEC should ensure that voting booths, where applicable, are distributed in sufficient time to all polling stations and all polling staff are trained to erect them and fully implement all procedures designed to ensure secrecy of the vote.
- (c) INEC should identify all satellite polling stations so that voters will be properly directed to where they will cast their vote.
- (d) INEC should ensure that each polling station has a manageable number of registered voters, at most 500 to avoid congestion and delays in casting and counting votes on polling days.

#### **2.2.4.9.4 Distribution of Election Materials**

- (a) Adequate and timely preparation should be made with respect to election materials and the conduct of elections. The fire brigade approach adopted by INEC in 2007 is unacceptable. It is submitted that preparation for the next election should commence immediately.
- (b) INEC should identify its needs early enough and make arrangements for their procurement in good time to avoid logistics problems.
- (c) Election materials should be transported to the States early enough to ensure that voting commences at the scheduled time.
- (d) Adequate voting materials should be provided to the polling stations so that all eligible voters can exercise their civic rights.



- (e) INEC should develop and use suitable hand-over documentation for sensitive polling materials (result forms, ballot boxes, ballot papers etc).

#### **2.2.4.9.5 Voting Process and Procedure**

- (a) The use of electronic voting machines is recommended for future elections but this should be introduced gradually after a period of limited testing and experimentation.
- (b) In future elections, accreditation should take place first within a defined time-frame, to be followed by voting within a defined time-frame. Agents of political parties should be given copies of results and have the right to demand a re-count on the spot.
- (c) The Electoral Act 2006 should be amended to ensure secrecy of the vote for tendered ballots.
- d) INEC and other agencies involved in elections should make necessary information available to the media on time to avoid speculations

#### **2.2.4.9.6 Collation and Declaration of Results**

- (a) Contingency plans should be made for alternative power supply to collation centres where it may become necessary for collation to be done in the dark.
- (b) INEC should swiftly and publicly display detailed results of the elections, including all polling station results as well as collated information on the number of voters, votes cast, invalid votes etc.
- (c) All election results should be announced at the polling stations by the Presiding Officer, duly signed by and copies given to:
  - i. the accredited agents of the political parties that have entered for that election;
  - ii. the Police;
  - iii. the SSS.
- (d) Transparency in the results process in particular but also in the

general work of INEC should be improved. Results broken down by polling stations should be provided at each superior level. Final published results should be more comprehensive in terms of providing full information on number of voters, votes cast, invalid votes, votes scored etc.

- (e) INEC should publish presidential election results down to the lowest level prior to declaring a winner in order to demonstrate that the results are accurate and within expectations. This is very important since without vote analysis, at least at the State level, it is impossible to determine whether all the constitutional requirements for an election have been met.

#### **2.2.4.9.7 Stakeholder Meetings and Consultations**

There should be closer interactions between INEC and other stakeholders in a bid to build confidence and minimize suspicion and enhance their complimentary roles.

#### **2.2.4.9.8 Electoral Officers**

- (a) INEC should ensure that the manual for election officials should be available in each polling station and is followed closely by the officials.
- (b) The stipulated number of INEC staff should be present at each polling station.
- (c) INEC should use its Electoral Institute to establish a permanent pool of well trained and qualified electoral trainers to undertake continuous training of INEC staff.
- (d) For future elections, INEC should ensure that election officials, including ad-hoc staff are recruited and trained in good time, to ensure a more professional handling of the process.

#### 2.2.4.9.9 **Ad-Hoc Staff**

- (a) For its *ad-hoc* staff to be accountable, INEC should use National Youth Service Corps members and public servants as ad-hoc staff during elections. The list of ad-hoc staff should be published to enable the public raise objections to those with questionable character or partisan interests.
- (b) INEC should design a process of monitoring its ad hoc staff to ensure strict compliance with election guidelines. INEC should also ensure that election materials arrive polling stations on time.

#### 2.2.4.9.10 **Party Agents**

- (a) Party Agents should have clear official identification and should receive training regarding their roles and responsibilities.
- (b) All agents should be accredited at least 14 days before election and authenticated before the commencement of the election day.

#### 2.2.4.10 **Composition and Functions of State Independent Electoral Commissions (SIECs)**

It is recommended that the existing SIEC should be reorganized and integrated into the structure of INEC for greater efficiency and autonomy. This will entail constitutional amendment and statutory provisions integrating and coordinating the activities of the State offices of INEC and SIECs for all elections.

### 2.2.5 **Political Parties**

#### 2.2.5.1 **Additional Conditions for Registering Political Parties**

In addition to the existing provisions of the 1999 Constitution and the Electoral Act 2006, any political association wishing to be

registered as a political party must meet the following additional criteria and other regulations that will be made from time to time by INEC or the Political Parties Registration and Regulatory Commission.

- i. The association must maintain functional and verifiable offices in at least two-thirds of the States of the Federation.
- ii. The association should maintain 20% women in the membership of all its governing bodies.

#### 2.2.5.2 **Independent Candidature**

Independent candidates should be allowed to contest elections under the following conditions:

- i. Constituency based nomination by verifiable signatures of 10 registered voters in each ward in the constituency.
- ii. Payment of financial deposit which will be subject to refund if the independent candidate scores at least 10% of the total valid votes cast in that election in the constituency. The rate of deposit should be equal to 10% of the approved election expenses for the various offices as provided in Section 93 of the Electoral Act, 2006.
- iii. In addition to items (i) and (ii) above, the candidate must meet all other conditions for eligibility stipulated in the Constitution, the Electoral Act or any other laws.

#### 2.2.5.3 **Party Ideologies and Programmes**

- (a) All political parties should have identifiable ideologies and ideals which shall inform their programmes and the way and manner they intend to operationalise **‘the fundamental objectives and directive principles of state policy’** as contained in Chapter 2 of the 1999 Constitution. In furtherance of the above, parties should

be encouraged to establish think tanks at all levels to generate ideas. It is from such ideas that party manifestos are developed.

- (b) Encouragement should be given to policy-based, rather than personality-based politics.
- (c) Parties should be issue-based and should distinguish themselves from each other based on substantive issues of concern to voters rather than the personalities of their leaders. Parties are encouraged to seek to improve their understanding of voter concerns, address those concerns, and adopt responsive policies into their party platforms and manifestos.
- (d) There should be no dual leadership of political parties and primary election into offices should not only be conducted at all levels, but should also be open, monitored and their rules enforced by the electoral bodies.
- (e) All political parties participating in elections should send the names, photographs and specimen signature of their polling agents for appropriate authentication, to any election. Polling agents of the parties should authenticate the result sheets of the election by initialing them prior to the election and counter-sign them after the recording of results of the election.
- (f) Only parties contesting elections should have their names, symbols or logos on the ballot paper or electronic voting machine.

#### **2.2.5.4 Public Funding of Political Parties**

- (a) Political parties, for purposes of transparency and accountability, shall publicly disclose to INEC all sources of funding including donations.
- (b) Government should continue to fund political parties either directly or through the INEC. The political parties should be encouraged to raise funds of their own through sale of forms to candidates, fund-raising exercises, individual or corporate donations as well

as undertaking commercial activities. On donation by individuals for purposes of supporting elections, the following ceilings should apply:

(i)	President	=	N20 million
(ii)	Governor	=	N15 million
(iii)	Senate	=	N10 million
(iv)	House of Representatives	=	N5 million
(v)	State Houses	=	N2.5 million
(vi)	Chairmanship of Local Government	=	N3 million
(vii)	Councillorship	=	N500,000.00

- (c) The funding of political parties should be based on their performance in general elections. After the 2011 election, only parties that score a minimum of 2.5 per cent of the votes should be eligible to receive grants from public funds.
- (d) The Political Parties Registration and Regulatory Commission (PPRRC) should ensure that legal provisions to check political party financing and expenditure are fully enforced and the findings published in an open and transparent manner to ensure accountability.
- (e) Financing regulations established by the Electoral Act 2006 should be fully enforced by PPRRC. After the submission of annual financial returns by political parties, PPRRC should produce an audit report on the returns which should be made public. The requirement to submit a financial report on campaign expenditures should be enforced.

#### 2.2.5.5 **Jurisdiction of the Courts in Party Matters**

- (a) Political parties should establish internal machinery *for*

determining nominations of candidates in party elections.

- (b) In case of disputes, political parties should exhaust all party machinery available in resolving such disputes before going to court.
- (c) Disqualification of candidates fielded for any election should be done on the basis of the provisions of the 1999 Constitution and the electoral law by the Courts.

#### **2.2.5.6 Enhancing Internal Democracy in the Political Parties**

- (a) There should be reform of political parties with more insistence on intra-party democracy.
- (b) Party conventions, congresses and meetings should be held regularly at all levels and should be free from undue interference. Such party conventions, congresses and meetings should adhere to the scope of their power and authority as entrenched in the party constitution.
- (c) Party organs should play active roles in determining who is nominated to contest for positions in the party, appropriate to their levels.
- (d) There should be no cross-carpeting under any circumstance.
- (e) Given past internal problems concerning nomination of candidates, political parties should develop internal procedures for candidate nomination that are open, transparent, inclusive and democratic and require that those seeking nominations do not use intimidation, violence, bribery or similar unacceptable methods to gain nomination or office.
- (f) Reports of Administrative Panels should not be used to disqualify candidates. Section 182(1)(i) of the 1999 Constitution should be amended to allow only Judicial Reports and Tribunals to be so used.
- (g) Appropriate legal framework should be provided to support

justiceability of party nomination. There is no need to expend time and resources on a primary election that will be discarded while courts stand helpless. Section 86 of the 1999 Constitution should be amended to allow a candidate who feels aggrieved in a primary election to go to court.

- (h) The nomination process needs to be clarified and rationalised, ensuring that the procedures for nomination, complaints and appeals can be properly dealt with according to the timelines for the election, ensuring the timely identification of contestants and printing of ballots. The law should be clarified to properly, fairly and definitively identify the qualifications for candidates and the respective responsibilities with regard to verifying and confirming eligibility. In this regard, INEC should not be seen as the adjudicator in such cases, but rather as the recipient of legal decisions by a qualified court.
- (i) Political parties should give more attention to the nomination of women and youths as candidates.
- (j) Political parties should ensure that women have equal access to leadership opportunities within party organizations. To this end, political parties are encouraged to examine party structures and procedures to remove barriers that directly or indirectly discriminate against the participation of women in politics.

#### **2.2.5.7 Party Supremacy**

- (a) Only credible and tested party members should emerge as party candidates for elections.
- (b) In order to discourage people joining parties solely for the purpose of contesting election, there should be a qualifying period of membership of the party in addition to other criteria.
- (c) The party should carry out continuous monitoring of the performance of elected officers in relation to the party's manifesto.



- (d) In order not to undermine the party's capacity to enforce party supremacy at all levels, no office holder in the party should hold any position in government.

#### 2.2.5.8 **Guaranteeing the Survival of Multi-Party Democracy**

- (a) There should be a forum of all political parties to assess and evaluate on a regular basis the political situation in the country including the prospect of the survival of the multi-party democracy.
- (b) All political parties should respect the right of other parties to exist without being subverted or intimidated in any form.
- (c) Political parties should accept the outcomes of free and fair elections.
- (d) The Code of Conduct for political parties should not be limited to the party leadership but should be used as a civic education tool to help reduce tension and prevent or mitigate violence throughout the country. Concerted effort should be made within each electoral constituency to bring together electoral authorities, political parties, security forces, civil society, religious leaders and traditional leaders to implement the letter and spirit of the code. Women and the youth should be actively involved in this effort.
- (e) In order to enhance commitments that political parties have made in the Code of Conduct against violence and intimidation and to promote the active participation of women in the electoral processes, the Code of Conduct should include meaningful sanctions in cases of non compliance.
- (f) Parties should refrain from all acts of violence and inflammatory rhetoric and should discipline those candidates, representatives or members who encourage or participate in such activities.

- (g) All participants in the electoral process (Political Parties, Candidates, and Security Agencies) should obey all the laws governing elections.

## **2.2.6 The Role of Security Agencies**

### **2.2.6.1 Nigeria Police Force**

- a) The roles of each of the various security agencies during elections should be clearly defined.
- b) There should also be an effective coordination of the work of the various security agencies during elections.
- c) The curricula for the training of the police at all levels (basic/entry, intermediate and command courses) should include modules on democracy, elections, political parties and constitutional/statutory provisions on elections.
- d) The independence of the Police Force should be guaranteed by strengthening its autonomy from the control of the government of the day. The security of tenure of top police officers and the prevention of harassment of Police officers on account of professional discharge of their duties should also be guaranteed.
- e) The Police Force should be strengthened in the areas of communication, weaponry and transportation for effective mobilization, deployment and enhanced performance.
- f) Adequate provisions should be made for the safety, transportation and feeding of all security and law enforcement officials on electoral duties. This will reduce the likelihood of the officials succumbing to temptations from the politicians.
- g) The police force should organize training, lectures and workshops for its personnel prior to major elections.
- h) Provisions of the Police Act which vest operational control of the Police in the President of the Federal Republic of Nigeria are in

contravention of the 1999 Constitution. The former should therefore be amended.

- i) A Code of Conduct should be issued to police officers involved in election duties. Compliance should be monitored by a team set up by the Police Service Commission consisting of police officers, members of civil society organizations (NBA, human rights NGOs, observers, etc.). Violation of the code should be sanctioned.
- j) Considering that there are no less than 120,000 polling stations throughout the country, the size of the Nigeria Police Force should be significantly increased from the present total strength of 371,000 to enable the Police maintain presence at each polling station during elections.
- k) The law enforcement agencies should be properly oriented to appreciate the need for neutrality during elections. The Police in particular should be adequately funded and equipped to maintain law and order during elections.
- l) The Inspector-General of Police, the Chairman of INEC and other appropriate officials should establish comprehensive and effective measures for providing public security during each stage of the electoral process, from candidate selection, to voter registration, election campaigning, election day and the immediate post election day periods. The public should be informed of the existence of adequate security arrangements.
- m) The Nigerian Police Force and other security agencies should give adequate protection to electoral officials and materials as well as voters during elections to prevent criminal gangs from hijacking or tampering with the process.
- n) Contact telephone numbers of all supervising police officers in each division should be made public by INEC to enable observers and citizens place calls for assistance and/or re-enforcement as the need arises.

- o) The police should not carry weapons when they are on duty at polling stations.
- p) The role of security agencies especially the Police who must be posted to the Polling Units and Collation Centres should be limited to keeping law and order. Within the Polling Units and Collation Centres, the Police and personal security of politicians or any person, should not be allowed within the radius of 20 metres of Polling Units and Collation Centres. Security agencies must not be seen to tamper with or have anything to do with election results or materials.

#### 2.2.6.2 **Armed Forces**

- a) The armed forces should provide assistance to the electoral body in conveying electoral officials, registration and voting materials, when necessary.
- b) The leadership of the armed forces should not make statements that may be seen as intimidation of opposition political parties and the electorate.
- c) The armed forces personnel should not be deployed to polling centres or stations.
- d) The armed forces should discontinue acts of psychological warfare, including show of force through patrols in convoys of armoured personnel carriers and lorries, days prior to or on the eve or day of election, which may be construed as intimidation of opposition parties.
- e) The air force may provide assistance in the form of aerial surveillance to assist the police to detect sites of disorder during elections.
- f) The Navy may assist in conveying electoral and voter registration materials and officials in difficult or dangerous areas.

- g) The Armed Forces may offer assistance to the electoral body and the police force. However, they should be professional and impartial in doing so.
- h) Other than exercising their individual rights to vote, members of the Armed Forces should not be involved in the conduct of elections.
- i) As Commander-in-Chief of Nigeria's Armed Forces, the President should take concrete steps to ensure the neutrality of security forces during the election period.

#### 2.2.6.3 **The Role of Other Security Agencies**

- a) Enact law strengthening proper oversight of security agencies by the National Assembly.
- b) Armed orderlies should not go to polling areas in uniform on election days.
- c) Civic education should be intensified so that the personnel of security agencies can also imbibe democratic culture.
- d) The security personnel to be mobilised for elections must be selected or screened through a rigorous process to determine their suitability in terms of value, knowledge, orientation, discipline, competence and integrity. Selected officers should be adequately trained well in advance.
- e) An effective coordination of personnel from the different agencies must be ensured in order to enhance efficiency, accountability and discourage impunity.
- f) During elections, dignitaries should be restrained from moving about with armed security details.
- g) In the discharge of their duties, security services should:
  - (i) not interfere in the balloting procedures on election day, but should ensure that voters feel safe and are

- unhindered to exercise their rights and civic responsibility through the ballot box;
- (ii) take all appropriate measures to curb electoral violence, including ensuring timely deployment of adequately equipped and briefed personnel, and cooperate with other security agencies including the Nigerian Security and Civil Defence Corps; and
  - (iii) work cooperatively with other stakeholders to provide proactive, and impartial policing and to ensure that existing laws are enforced without fear or favour.
- h) During elections, security agencies should not be placed under the direction of INEC.

#### **2.2.7 The Role of the Media**

- a) Media practitioners should be adequately trained in the provisions of the electoral law so that they can appropriately enlighten the public and be guided by them. The Nigerian Union of Journalists, National Broadcasting Commission, Broadcasting Organisation of Nigeria, and the Independent National Electoral Commission should conduct such training.
- b) The National Broadcasting Commission and the Nigerian Press Council should be strengthened so that they can effectively monitor the activities or programmes of the media to ensure that they conform to the provisions of the electoral law. Violations should be promptly sanctioned in accordance with the law.
- c) The media should intensify its exposure of violations of the electoral laws.
- (d) The media should play an advocacy role for dialogue and debate and ask questions of all aspirants on their manifestos and ideologies.

- (e) The media should promote politics of ideas and issues, not name-calling or invectives.
- (f) The media should act as a buffer against tension created by the political class by presenting the issues as they are, not garnished with embellishment or undue sensationalism.
- (g) The media should be able to proactively detect the fault lines in the electoral process before electoral hills develop into electoral mountains.
- (h) The media should consistently highlight the things that unite the country, namely national peace, national security, national integration, and ethno-religious tolerance, rather than the things which divide the country.
- (i) The media should abide by the Code of Ethics for Nigerian journalists drawn by the Nigerian Press Organisation and the Nigerian Press Council.
- (j) A print or electronic medium shall give access and equal opportunity to all political parties or candidates of such political parties and independent candidates:
  - i. A denial of such access and equal opportunity constitute an offence punishable in the first instance with N1,000,000.00 and on any subsequent violation with a fine of N5,000,000.00;
  - ii. Staff of a radio or television station should not be sanctioned in any manner for giving access or equal opportunity to any registered political party of candidate including independent candidate.
- (k) The media should be encouraged to continue its vigorous free debate, while tempering passionate reporting with the need to respect the truth and adhere to international standards of journalistic integrity. Media outlets should act in a non-partisan manner and remember their responsibility to provide the most accurate unbiased information to the general public.

- (l) The NBC should ensure that publicly funded media allocate equal airtime to political parties and candidates competing in an election in order to ensure equity of coverage for all.
- (m) Prior to elections, state media should provide the electorate with an impartial and accurate voter education campaign, aired during peak viewer/listener times, informing voters in detail about the voting process.
- (n) The government and other stakeholders should demonstrate genuine commitment to promote press freedom.

#### **2.2.8 The Role of Religious and Traditional Institutions**

- (a) The role of religious and traditional leaders in public enlightenment, civic education, voter education and mass participation in the political process should be promoted.
- (b) Religious leaders should use their considerable moral authority to speak with one voice and strongly encourage political party leaders to eschew violence and obey the provisions of the Constitution and Electoral Law.
- (c) Traditional leaders should be encouraged to be non-partisan and neutral in the political process and to continue to educate their people to actively participate in the electoral process in a peaceful manner.

#### **2.2.9 The Role of Civil Society Organisations**

- a) Electoral legislations should guarantee the participation of civil society at relevant stages of the electoral process, including:
  - i. monitoring of campaign financing;
  - ii. monitoring unlawful use of public facilities for election campaigns and electioneering;
  - iii. monitoring of electoral violence, malpractices, and those behind them and issuing reports on them;



- iv. monitoring the enforcement of sanctions against persons who have violated the electoral laws; and
  - v. Civil society organizations should continue and expand their broad civic and voter education about the importance of the elections, the voter registration process, and where, when and how to register and to vote.
- (b) Civil society organizations interested in election observation should strengthen their capacity to coordinate and cooperate in such endeavours in order to maximize their coverage of the entire process.
  - (c) Civil society organizations should take advantage of their capabilities to help educate and inform voters on the mechanisms and importance of registering to vote and in the significance of the elections to the consolidation of Nigeria's young democracy.
  - (d) Civil society organizations should be encouraged to actively engage in exercising their "watchdog function" and work to hold politicians and political institutions accountable during the electoral process.
  - (e) The right of domestic observers to observe the entire election process should be guaranteed by law.
  - (f) The Electoral Act 2006 should be amended to establish a clear procedure, including appropriate criteria, for approval or rejection of an application for accreditation.

#### **2.2.10 The Role Of International Organisations**

- a) Contributions of international organisations and NGOs should be recognized and utilized for the development of the electoral process in the country.
- b) Accreditation of international organisations as observers should be encouraged.

- c) Financial and material contributions already received from these organisations should be properly accounted for by INEC to ensure transparency and accountability.
- d) INEC should be fully independent and should not receive funds from any international bodies.

## **2.3 THE ELECTORAL SYSTEM**

### **2.3.1 Applying a Combination of First-Past-The-Post and Modified Proportional Representation for Legislative Elections at the Federal, State and Local Government Levels**

- (a) Nigeria should retain the First-Past-The-Post electoral system but should also inject a dose of Proportional Representation based on closed party lists, thus evolving a mixed system.
- (b) The First-Past-The-Post system shall continue to be used for all elections in the country, but for elections to the House of Representatives, State Houses of Assembly and Local Government Councils, the mixed system shall be used.
- (c) For elections to the House of Representatives, the existing 360 seats would be retained and filled by the First-Past-The-Post system. In addition, 108 additional seats (i.e. 30% of the existing 360 seats in the House of Representatives) will be created and filled through the Proportional Representation system.
- (d) The arrangement in (c) above will be replicated in State Assemblies and Local Government Councils throughout the Federation. This implies that in each of these legislatures, additional seats representing 30% of existing ones shall be created and filled through the Proportional Representation system.
- (e) Performance of political parties in an election conducted under the mixed system shall be the basis for allocating the Proportional

Representation seats. The threshold to be met by parties for sharing the Proportional Representation seats shall be the total number of valid votes cast in the entire First-Past-The-Post election divided by the number of available Proportional Representation seats for that election. This threshold will represent the minimum number of votes a party must win to be allocated a Proportional Representation seat.

- (f) Political parties shall nominate for the Proportional Representation election at least 30% female candidates and 2% physically challenged candidates for legislative elections.
- (g) If a political party wins up to 70% of the seats in an election conducted under the First-Past-The-Post, it should be excluded from benefiting from the Proportional Representation.
- (h) The Electoral Act 2006 should be amended to establish criteria for the production of party lists for the allocation of Proportional Representation seats in a manner that will ensure the inclusion of women and disadvantaged groups.

### **2.3.2 Proportional Representation and the Under-Representation of Women and other Disadvantaged Groups**

- (a) The Electoral Act 2006 should be amended to ensure that 30% of party lists under the proposed Proportional Representation system are reserved for women and 2% for physically challenged persons, without prejudice to their right to also compete for representation under the First-Past-The-Post system.
- (b) Civil society and the United Nations Development Fund for Women (UNIFEM), in close collaboration with the Ministry of Women's Affairs and the National Commission of Human Rights, should continue their efforts to enhance the participation of women in public life. In particular, a permanent, sustained and effective nationwide grassroots campaign targeting the

participation of women as voters and as candidates should be undertaken.

- (c) In making appointments of Ministers and Commissioners, special consideration should be given to women.

### **2.3.3 System of Voting**

There are practices associated with the current voting system that are worthy of retention. The following are recommended for retention:

- (a) Open Secret Ballot System: This allows a voter to go into a polling booth to mark his ballot in secrecy and drop it in the ballot box in the open.
- (b) Provision of fixed polling booths: The use of institutional buildings such as schools, community centres etc which are centrally located, where available, or permanent polling locations should be encouraged.
- (c) Accreditation of registered voters prior to the commencement of voting for the purpose of tracking how many people cast their ballot in a polling station.
- (d) Display of voter's register prior to the elections to enable registered voters, political parties, and the electorate generally make claims and objections.

### **2.3.4 Voter Education**

The current system provides for voter education to be undertaken by the Election Management Bodies, civil society and relevant government agencies. This is a positive element that is worthy of retention. There is the need for a sustained campaign of civic and political education to enable the electorate understand the electoral system as well as their rights and obligations in the entire electoral process.

## **2.4 ENSURING THAT THE ELECTORAL PROCESS MEETS INTERNATIONAL STANDARDS**

- a) Nigeria should ratify the African Charter on Democracy, Elections and Governance.
- b) The 2002 OAU/AU Declaration on Principles Governing Democratic Elections in Africa should be made part of the Code of Conduct for Political Parties.
- c) The Nigerian Government and the Election Management Body should create a conducive environment for independent and impartial national observation of elections.

## **2.5 ENSURING THE CONCLUSION OF ELECTION DISPUTES BEFORE SWEARING IN OF NEWLY ELECTED OFFICIALS**

- (a) There is need to produce rules and procedures that enhance speedy disposal of election petitions.
- (b) The law should shift the burden of proof from the petitioners to INEC to show that disputed elections were indeed free and fair and complied with the provisions of the Electoral Act.
- (c) Rules of evidence should be formulated to achieve substantive justice rather than mere observance of technicalities.
- (d) Elections to the office of President and Governors should be held at least six months before the expiration of their terms. A maximum of four months should be devoted to hearing petitions by the tribunals and another two months for hearing appeals by the Court of Appeal or Supreme Court. No executive should be sworn in before the conclusion of the cases against him/her. In the case of legislators, no one should be sworn in before the determination of the case against him/her.
- (e) INEC should have no right of appeal.

## 2.6 DEALING WITH POST-ELECTION TENSION

### 2.6.1 Adjudication of Election Disputes and Reduction of Post-Election Conflict

- (a) The adjudication of presidential and gubernatorial election disputes should be concluded expeditiously, before swearing-in of winners of the elections. This will require the amendment of **Section 132(2)** and **Section 178(2)** of the 1999 Constitution and section 149 of the Electoral Act 2006.
- (b) All offences committed within the electoral context should be prosecuted expeditiously. The prevailing atmosphere of impunity with regard to election offences should be ended by prosecuting and holding accountable those responsible for electoral offences, including those of a criminal nature. This would reduce the impunity which has marred Nigeria's electoral process to date, and which threatens to undermine citizens' confidence in the country's political institutions.
- (c) The Rules of Procedure in the First Schedule to the 1999 Constitution and the Practice Directions 2007 are inadequate for quick and effective disposal of election petitions. A new exhaustive body of Rules is required to address shortcomings.
- (d) The legal burden of proof to show that election was not mismanaged should always be on INEC. The petitioner only needs to introduce evidence of mismanagement to shift the burden.
- (e) Corrupt practices per se, once shown to be widespread, should invalidate elections.
- (f) Aggrieved parties in electoral matters should be encouraged to continue to respect the rule of law and exercise their constitutional rights peacefully and where necessary, seek redress through constitutional means.

- (g) Infringement of laws and regulations concerning the funding of political parties and electoral campaigns should be subject to effective sanctions. Greater effort should be made by INEC and the relevant prosecuting authorities to initiate criminal proceedings for serious violations.
- (h) A special prosecutorial body to be known as Electoral Offences Commission should be established to work independently in the arraignment and prosecution of electoral offenders. This will include offences arising from failings of INEC before, during and after voting day.
- (i) The Electoral Offences Commission should cooperate closely with security agencies to prosecute persons accused of committing such offences.
- (j) A candidate shall be deemed to have committed a corrupt practice if it was committed with his knowledge and consent.
- (k) When the Court of Appeal sits to hear appeals on election petitions, at least five judges should sit.

#### **2.6.2 Diluting the Zero-Sum Approach to Electoral Politics**

- (a) Political parties that secure at least 2.5% of national assembly seats during general elections should be considered for cabinet level appointments. This strategy will help to reverse the zero-sum approach to competitive electoral politics among the political class, which the FPTP system has historically encouraged in the country, and attenuate the consequential post-election tension it tends to create.
- (b) To the same end of diluting the zero-sum approach to competitive electoral politics and therefore of attenuating post-election tension in the country, a modified form of proportional representation to

make the country's electoral process more competitive by being more reflective of the relationship between proportion of electoral votes won by a political party and its legislative representation should be adopted.

### **2.6.3 Long-term Measures to Reduce Post-election Tension**

- (a) In the long run, the best approach to reduce pre- and post-election tension is to pursue more aggressively, confidence-building measures in the electoral system. Once people believe that elections are by and large free and fair; and therefore credible, they will more readily accept their outcomes.
- (b) In addition, the following recommendations, which focus more on preventive measures to reduce pre- and post-election tension are made.
  - i. Sustained civic education and public enlightenment on the responsibilities and duties of the electorate in ensuring credible elections.
  - ii. Encouraging a culture which views elections, not as war, but as part of a wider and continuous process of ensuring accountability in public life.
  - iii. A process of piloting or sequencing change in the conduct of elections, such that trial elections can be held to test out the feasibility of proposed changes. It is for this reason that elections at the local government level can serve as crucible for nurturing the conditions for credible elections in the country.
- (c) Improving popular perception of election as free and fair by:
  - i. ensuring that voting takes place with minimal hitches, in other words ensuring an efficient and competent administration of elections, by making it easy for the electorate not only to know well-ahead their polling centers but also how to vote;



- ii. reduction or elimination of wasted votes by adopting the Proportional Representation system;
- iii. releasing results in a timely fashion and making them accessible to the public.

## **2.7 POLITICAL AND CIVIC EDUCATION**

### **2.7.1 Changing the Election Mindset of Nigerians**

- (a) There is need for all stakeholders to see elections as only a part of a process and not a terminal point in the development of politics. Citizens need to be assured that Term Limits will always be respected as a means of building confidence. Certainty and predictability have to be introduced into the system, that is, the belief that if we lose, we can try again. In this way, both the winners and the losers can become learners in the game of imbibing political culture. This will make politics a game to be enjoyed, not a war to be fought.
- (b) Money bags and godfathers thrive where the State and its influence are absent. Government should therefore take seriously a broad policy of service delivery to prevent desperate politicians from exploiting the prospects of these services to intimidate and blackmail our people into submission.
- (c) There is the need for serious sanctions and punishment for electoral malfeasance. Political parties that show a proclivity to violence or intolerance in ideology, policy or the kind of candidates they field should be sanctioned.
- (d) There is the need to ensure that the laws guiding the electoral body and political parties are in conformity with the fundamental laws of the land, capable of promoting justice and fairness for all. When laws are weak and electoral bodies have too much power, there will be the temptation for the competitors to take the law into their hands by falling back on their thugs.

- (e) As a long term measure, there is the need for political socialization of the youth in school and the political education of adults to understand the negative consequences of electoral fraud and violence.
- (f) There is the need to change the attitudes of the political class, to abide by the rules of the game, perceive politics as a game and not a battle, and to appreciate the dangers of the “winner takes all” approach.
- (g) The political parties must be strengthened and their officials regularly trained.
- (h) The police force should be strengthened to check the activities of hoodlums and thugs, and prosecute of all politicians with militias or armed gangs.
- (i) There should be massive disarmament of all political touts, and curbing illegal possession of firearms and other instruments of violence. We should reverse the democratization of violence, and allow only the State to wield legitimate violence.
- (j) Reform of the electoral process requires an enlightened and socially conscious electorate that is empowered morally and materially to make informed choices and resist manipulation of the process. In this regard, a Centre for Democratic Studies should be established to facilitate inter-agency cooperation and engage with civil society in the conduct of civic and political education.
- (k) The Centre for Democratic Studies, INEC and other stakeholders should engage in sustained public education campaigns in the period leading up to the 2011 elections, including mass media campaigns on registration and voting processes and procedures. These campaigns should be supplemented with individualized information efforts to allow Nigerians to know the location of their registration and voting

stations.

## 2.8 CURBING VIOLENCE IN ELECTIONS

- (a) There is the need to deal with incidences as well as the root causes of violence related to elections. Quite often, attention is focused on incidences without a longer term view of how to address the root causes of the problem. For example, only sustainable, systemic reform measures can provide employment and curtail the profound phenomenon of youth unemployment, which feeds into, and fans violence related to elections.
- (b) There is the need to effectively regulate behaviour and actions of contestants, voters, officials, etc in the entire electoral process and to carefully frame rules and regulations covering all aspects of the electoral process. No stone should be left unturned in this regard.
- (c) There is the need to effectively police the election process and enforce rules and regulations by assigning well trained, impartial and honest law enforcement and security agents and agencies to help police and secure the electoral process. In particular, the Nigeria Police Force should wake up to its responsibility in law enforcement, in prevention as well as detection of crimes.
- (d) There is the need to ensure proper and adequate training of all personnel involved in election matters, both permanent and *ad hoc* staff. We have cogent lessons to learn from places such as India, which have very small number of permanent elections staff and deploy enormous numbers of *ad hoc* staff in short periods of electoral duties, yet with requisite professionalism, decency, honesty and neutrality in the management of elections.
- (e) There is the need to involve credible stakeholders, especially Non-Governmental Organisations (NGOs) and Community Based Organisations (CBOs) in the electoral process, particularly in voter

education and general public enlightenment. This is essential given the serious need for a positive change of attitude from fatalistic resignation to democratic assertiveness.

- (f) Involving other credible partners, especially the Media, to preach peace and due process, and to be effective whistle-blowers against those who facilitate or engage in violence and fraud is imperative.
- (g) Political parties must be positively engaged in the political process so as to promote dialogue, tolerance and peaceful inter-party relations.
- (h) There is the need to positively engage the traditional institutions in the electoral process, especially to promote peace and harmony in local communities.
- (i) There is the need to generally dignify but demystify public office and make contestants and the general public realize that winning an elective office is a call to public service, and not a ticket for self-aggrandizement.
- (j) Politicians found using thuggery or any form of election violence should be severely sanctioned. Political parties should draw up a code of conduct to be subscribed to by candidates standing on their platforms.

## **2.9 PERSONS WITH DISABILITIES**

The National Assembly should enact laws appropriate for the protection of persons with disabilities to enable them exercise their rights to register and to vote.

## **2.10 PROVISIONS OF THE 1999 CONSTITUTION WHICH IMPACT ON THE QUALITY AND CREDIBILITY OF ELECTIONS**

### **2.10.1 Domestication of International Standards Applicable to Elections**

There should be enactments to ensure full adherence to the principles of political rights and freedoms related to elections contained in declarations, conventions, protocols and other instruments adopted by the UN, AU, ECOWAS and the Commonwealth.

## **2.10.2 Provisions with Respect to Qualification for Elections**

### **Independent Candidacy**

Sections 65 (2)(b) and 106 of the 1999 Constitution should be amended to make provisions for an individual to run as an independent candidate.

## **2.10.3 Provisions with respect to the independence of INEC**

- (a) Section 153 of the 1999 Constitution should be amended to remove INEC from the list of Federal Executive Bodies.
- (b) The composition of INEC's board should be as follows.
  - i. Chairman, who must be a person of unquestionable integrity.
  - ii. Deputy Chairman, who must be a person of unquestionable integrity. However, the Chairman and Deputy must not be of the same gender.
  - iii. Six persons of unquestionable integrity, two of whom must be women and one of whom must come from each of the six geo-political zones.
  - iv. One nominee of Civil Society Organizations working in the area of elections and accredited by the proposed Political Parties Registration and Regulatory Commission.
  - v. One nominee of Labour Organizations.
  - vi. One nominee of Nigerian Bar Association.
  - vii. One nominee of Women Organizations.
  - viii. One nominee of the Media.

Once appointed, no organization should have the power to recall its nominee.

- (c) The appointment procedure for the Chairman and members of the Board should be as follows:  
For 2.10.3 b (i - iii) above, the National Judicial Council (NJC) should:
- i. Advertise the positions, spelling out requisite qualifications.
  - ii. Receive applications/nominations from the general public.
  - iii. Shortlist three persons for each position.
  - iv. Send the nominations to the National Council of State to select one and forward to the Senate for confirmation.
- (d) For 2.10.3 b (iv – viii) above:
- i. Each of the bodies should send three nominations to the National Judicial Council for screening.
  - ii. The NJC shall screen the nominations and forward them to the National Council of State which shall further screen and send one name for each position to the Senate for confirmation.

#### **2.10.4 Security of Tenure of INEC Chairman and Members (Section 155 & 157)**

- a) The Chairman and members of the Board of INEC may only be removed by the Senate on the recommendation of the National Judicial Commission (NJC) by two-thirds majority of the Senate which shall include at least 10 members of the minority parties in the Senate.
- b) Section 155 of the 1999 Constitution should be amended to provide that the tenure of office of the Chairman and members of the Board of INEC shall be five years from the date of appointment, renewable only once.
- c) The process of renewal of the appointment of members of the Board of INEC shall be by the Senate on the recommendation of the NJC.

#### **2.10.5 Funding of INEC**

Section 84 of the 1999 Constitution should be amended by adding subsection (8) to read as follows:

***“The election expenditure and the recurrent expenditure of the Independent National Electoral Commissioners offices (in addition to salaries and allowances of the Chairman and members mentioned in subsection 4 of this section) shall be first charge on the Consolidated Revenue Fund of the Federation.”***

#### **2.10.6 Provisions with Respect to Delimitation of Constituencies**

A Constituency Delimitation Commission with institutional representation from INEC, National Population Commission, National Boundary Commission, Office of the Surveyor-General of the Federation, National Bureau of Statistics and National Identity Management Commission should be established to handle the task of constituency delimitation and the complaints that arise from it.

#### **2.10.7 Provision with Respect to INECs Power to Register Political Parties**

- (a) Amend Section 222 of the 1999 Constitution to add two more conditions to be met by Associations seeking registration as political parties, namely:
  - i) The associations must maintain functional and verifiable offices in at least two-thirds of the States of the Federation.
  - ii) The associations must maintain 20 percent women in the membership of all their Governing Bodies.
- (b) Establish a Political Parties Registration and Regulatory Commission which shall be empowered to perform the following functions:

- i. Register political parties in accordance with the provisions of the 1999 Constitution and the Electoral Act 2006;
- ii. Monitor the organization and operation of the political parties, including their finances;
- iii. Arrange for the annual examination and auditing of the funds and accounts of political parties;
- iv. Monitor political campaigns and provide rules and regulations which shall govern the activities of political parties;
- v. Accredite domestic civil society groups and organizations working in the area of elections and provide rules and regulations which shall govern their observation of elections;
- vi. Accredite international election observers and provide rules and regulations which shall govern their observation of elections;
- vii. Accredite national and international media organizations observing elections and provide rules and regulations which shall govern their activities.

#### **2.10.8 Provisions with Respect to the Finances of Political Parties**

Amend Section 225 (b) of the 1999 Constitution so that political parties are not allowed to receive funds from any source abroad.

#### **2.10.9 Provisions with Respect to Dates of Presidential and Gubernatorial Elections (Section 132-134, 178-179) and National and State Assembly Elections (Section 76, 116)**

Sections 132 (2) and 178 (2) of the 1999 Constitution should be amended to appoint a single date for Presidential and Gubernatorial elections which should be held at least six months before the expiration of the term of the current holders of the offices. Similarly section 64(1) and 105(1) of the 1999 Constitution should also be amended to appoint a single date for National and State Assembly elections which should hold two years after the Presidential and Gubernatorial elections.



**2.10.10 Provisions with Respect to Election Tribunals and Determination of Election Petitions (Section 285 and the 1999 Constitution)**

- a) The number of tribunals should be increased by reducing the number of judges that sit on a tribunal from five to three, so that more tribunals can be established per State.
- b) In order to minimize the filing of frivolous petitions, the Electoral Act 2006 should be amended to provide that if a petitioner loses a case, he should be ordered by the court or tribunal to bear the full expenses of the respondent.

**2.10.11 Provisions with Respect to Prosecution of Electoral Offences**

- a) Amend Section 174 (c) of the 1999 Constitution such that the constitutional power of *nolle prosequi* vested in the Attorney-General of the Federation or of a State does not apply to electoral offences.
- b) Amend the Electoral Act 2006 to establish an Electoral Offences Commission to perform the following functions:
  - i. enforcement and administration of the provisions of the Electoral Act;
  - ii. investigation of all electoral frauds and related offences.
  - iii. Coordination, enforcement and prosecution of all electoral offences;
  - iv. enforcement of the provisions of the Electoral Act, the constitution of registered political parties and any other Acts or enactments;
  - v. adoption of measures to identify, trace and prosecute political thuggery, electoral fraud, political terrorism and other electoral offences;

- vi. adoption of measures to prevent and eradicate the commission of electoral malpractices;
- vii. adoption of measures which include but are not limited to coordination, prevention and regulatory actions;
- viii. introduction and maintenance of investigative and control techniques towards the prevention of electoral malpractices and fraudulent election;
- ix. the facilitation of exchange of scientific and technical information with other democracies on the conduct of joint operations and training geared towards the eradication of electoral malpractices and fraudulent election;
- x. the examination and investigation of all reported cases of electoral offences with the view to identifying electoral officers and staff of the electoral commission, individuals, corporate bodies or groups involved in the commission of electoral offences; and
- xi. collaboration with election observers within and outside Nigeria.

## **2.11 PROVISIONS IN THE ELECTORAL ACT, 2006 WHICH IMPACT ON THE QUALITY AND CREDIBILITY OF ELECTIONS**

### **2.11.1 Funding INEC**

The funding of INEC should be first charge on the Consolidated Revenue Fund of the Federation.

### **2.11.2 Appointment of Chairman and Members of the Board of INEC**

The appointment of the Chairman, Deputy Chairman and members of the Board of INEC shall be channeled through the National Judicial Council which should be empowered to:

- i. advertise the positions, spelling out requisite qualifications;
- ii. receive applications/nominations from the general public/specified civil society groups;
- iii. shortlist three persons for each position;
- iv. send the nominations to the National Council of State to select **one** for each category and forward to the Senate for confirmation.

#### **2.11.3 National Register of Voters and Voters' Registration**

- (a) Voter registration should be fully computerized and based on biometric data to detect and eliminate multiple registration. The process should be ongoing to ensure that Nigerians upon attaining the age of 18 can register in their constituencies. INEC should take advantage of the data and mandate of the National Population Commission and National Identity Management Commission so that routine cross-referencing can be made on a sustained basis.
- (b) There should be a comprehensive public verification of the voters' register through a simplified process which should be done in good time prior to elections to provide eligible voters with the opportunity to transfer their registration, scrutinize the voter register for false entries and register for the first time.
- (c) Political parties should be provided with copies of the voters register in a timely manner and, in order to ensure accountability and transparency, a full breakdown of figures should be published.

#### **2.11.4 The Offence of Buying and Selling Voter's Card**

The penalty for anyone convicted of certain offences relating to a voter's card as set out in Section 24 of the Electoral Act 2006 should be extended to include legal disability to participate in elections conducted under the Act for a period of ten years.

#### **2.11.5 Date for Elections**

- (a) Amend Section 26 of the Electoral Act 2006 to take away from INEC the power to fix dates for elections. Also amend the Constitution to fix dates for elections which should hold at least six months before the date of swearing in to provide adequate time for concluding all election petitions before swearing in of elected candidates.
- (b) The Presidential and Gubernatorial elections should take place in the first week of November of the election year; Friday, Saturday and Sunday excluded in deference to the religious sensibilities of Moslems, Seventh-Day Adventists and Christians respectively. The elected chief executives should be sworn-in in May the following year, an interval of six months to allow for the disposal of election petitions arising from the elections.
- (c) National and State Assembly elections should take place in the second week of November and should be held two years after Presidential and Gubernatorial elections i.e. in 2013, assuming that the next Presidential Election is held in 2011.
- (d) Transitional provisions should be made in the Constitution for the next set of National and State Legislators due to be elected in 2011 to serve a term of two years.
- (e) Local Government Elections should hold within the third week of November, 2010.

#### **2.11.6 Establishment of Polling Stations**

- (a) Section 43 of the Electoral Act 2006 should be amended to provide detailed specifications including number of voters per polling station, layout of a standard polling station and adaptation of polling stations to accommodate the needs of disabled voters.
- (b) Polling stations should be located at institutional buildings such as schools, community centres etc, which are centrally located.

Where these are not available, INEC should set-up temporary polling stations at permanent locations.

- (c) Each polling station should consist of not more than 500 voters.

#### **2.11.7 Voting Procedure: Open Secret Ballot**

- (a) The use of the Open Secret Ballot system should be continued.
- (b) Amend Section 53 (2) of the Electoral Act 2006 to lift prohibition on the use of Electronic Voting Machines.

#### **2.11.8 Political Parties**

- (a) The 1999 Constitution and the Electoral Act 2006 should be amended to remove from INEC the power to register and monitor political parties. This power should be vested in a new body to be known as Political Parties Registration and Regulatory Commission.
- (b) In addition to the conditions stipulated in the 1999 Constitution, the Electoral Act 2006 and any other laws, any association seeking registration as a political party should meet the following conditions:
  - i. the association must maintain functional and verifiable offices in at least two-thirds of the States of the Federation;
  - ii. the association should maintain 20% women in the membership of all its Governing Bodies.

#### **2.11.9 Campaign for Elections**

- (a) Regulations should be developed by the legislature to provide proportional access to radio and television for political parties and candidates competing in elections, not only stipulating fair and equitable coverage but also providing a framework where these provisions are guaranteed. In cases where candidates and

political parties purchase airtime for their advertisements and coverage of their rallies, these programmes should be clearly signposted as such.

- (b) The sanctions provided under Sections 101 – 105 of the Electoral Act 2006 should be enforced by the Political Parties Registration and Regulatory Commission.

#### **2.11.10 Independent Candidature**

The 1999 Constitution should be amended to allow independent candidates to contest elections under the following conditions:

- a) constituency based nomination by verifiable signatures of 10 registered voters from each ward in the electoral constituency;
- b) payment of financial deposit which will be subject to refund if the independent candidate scores at least 10% of the total valid votes cast in that election in the constituency. The rate of deposit should be equal to 10% of the approved election expenses for the various offices as provided in Section 93 of the Electoral Act 2006;
- c) in addition to items (i) and (ii) above, the candidate must meet all other conditions for eligibility stipulated in the Constitution, the Electoral Act or any other laws.

#### **2.11.11 Procedure for Local Government Council Elections**

The Electoral Act 2006 in Section 120 – 123 has dealt with the procedure for Area and Local Government Council elections. The Committee observes that States have their individual laws for Local Government Council elections. In view of the doctrine of covering the field, the provisions of the Electoral Act should apply to all Local Government and Area Council elections.

#### **2.11.12 Electoral Offences**

All offences relating to registration of voters by a candidate should, upon conviction, in addition to other penalties in the Act, carry a period of ten years disqualification from contesting any election.

#### **2.11.13 Bribery and Conspiracy**

The disqualification period for any candidate, upon conviction, for corrupt practices under section 131 of the Electoral Act 2006 should be increased to ten years.

#### **2.11.14 Determination of Election Petitions**

The 1999 Constitution should be amended to specify the period for considering petitions as follows: The determination of cases by tribunals should take four months and appeals should take a further two months, a total of six months.

#### **2.11.15 Persons Entitled to Defend Election Petitions**

Amend Section 144 (2) of the Electoral Act 2006 so that only the electoral commission is joined as respondent in an election petition. The joinder of electoral officials and ad hoc staff that took part in the conduct of elections should be dispensed with once the electoral body is made a party in the election petition.

#### **2.11.16 Time Limit for Disposing of Election Petitions**

A time limit should be set for disposing of election petitions and appeals from the decision of the Tribunal by amending the 1999 Constitution to provide that

- (a) An Election Tribunal should deliver its judgment in writing within one hundred and twenty days from the date of the election.

- (b) An appeal from a decision of an Election Tribunal should be heard and disposed of within sixty days after the judgment of the election tribunal.
- (c) The Court in all appeals, should adopt the practice of first giving its verdict and reserving the reasons for the verdict to a later date.

#### **2.11.17 The Issue of Elected Persons Remaining in Office Pending Determination of Appeal**

- (a) Repeal Section 149 of the Electoral Act 2006.
- (b) No elected person should assume office until the case against him/her in the Tribunal or Court is disposed of.

### **2.12 PROVISIONS OF OTHER LAWS WHICH IMPACT ON THE QUALITY AND CREDIBILITY OF ELECTIONS**

#### **2.12.1 Election Petition Tribunals and Court Practice Directions 2007**

The President of the Court of Appeal should take necessary measures to protect witnesses in election petitions by concealing their identity to ensure their safety.

#### **2.12.2 The Police Act and Guidelines for the Conduct of Police Officers on Electoral Duty**

- a) The functions of police officers on election duties listed in paragraph 4.4.3.3 (a) – (f) of this report should be incorporated into the Police Act.
- b) The Inspector-General of Police should be appointed by the President on the recommendation of the Police Service Commission to the National Police Council, which in turn, shall forward its nomination to the Senate for confirmation. His/her



removal from office should also be by two-thirds vote of the Senate after an investigation establishing his/her misconduct.

- c) The Nigeria Police Force should include in its training curriculum a course on the role of the police during elections. The guidelines for the conduct of police officers on election duties as published by the Police Service Commission should provide a framework for this curriculum.
- d) Section 9 (4) of the Police Act which provides that the President shall be charged with the operational control of the Nigeria Police Force is in conflict with Section 215 (2) of the 1999 Constitution and should be accordingly amended.

## **2.13 THEMATIC AMENDMENTS TO THE CONSTITUTION**

There is the need for a thematic Constitutional review relating to all provisions that have direct bearing on the electoral process without waiting for wholesale review of the 1999 Constitution.

## **2.14 IMPLEMENTATION OF THE REPORT**

The Committee is convinced that the recommendations contained in this Report are necessary and sufficient to improve the quality of our elections. To this extent, the Committee recommends that there should be urgency on the part of the President, the National Assembly, Governors, State Assemblies and others in effecting the constitutional, statutory, administrative and institutional changes required to achieve the desired effect.