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# Electoral Commissions and the Conduct of Elections in Nigeria: The Role of INEC

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## **A Historical Perspective of Electoral Commissions in Nigeria**

Other Electoral Management Bodies (EMBs) had existed before the advent of the Independent National Electoral Commission (INEC) in Nigeria. These EMBs with similar powers as INEC were reflections of Nigeria's political life. The number, to a large extent, underscores Nigeria's ability or inability to develop a political culture. What is clear, however, is that each time democracy is truncated by way of military intervention, the yearning for democracy increases and prompts the country to seek recourse in a new EMB.

The first Election Management body was the defunct Electoral Commission of Nigeria (ECN), which conducted the pre-independence elections of 1959. With the advent of independence, the government of Abubakar Tafawa Balewa set up the Federal Electoral Commission (FEC), which conducted the 1964 and 1965 elections. Following the first military *coup d'état* of 15 January 1966, the FEC was dissolved. It was not until 1978 that the Obasanjo military administration set up another electoral body; the Federal Electoral Commission (FEDECO). FEDECO conducted the transitional elections that ushered in Nigeria's Second Republic with Alhaji Shehu Shagari of the National Party of Nigeria (NPN) emerging as the President. Hardly had democratic rule taken off than it was extirpated in 1983 and FEDECO was promptly dissolved in 1987, when the administration of General Ibrahim Babangida began one of Nigeria's longest transitions to civil rule programmes. He set up the National Electoral Commission (NEC). NEC worked assiduously until the annulment of the presidential election in June 1993. General Sani Abacha, who took over power as Head of State from Chief Ernest Shonekan, Head of the Interim National Government (ING), then replaced NEC

with the National Electoral Commission of Nigeria (NECON) which conducted another set of elections to the local government councils to the National Assembly. The elected officers had not, however, been sworn into office before Abacha suddenly died in June 1998, aborting the process. General Abdulsalami Abubakar dissolved NECON in 1998 and established The Independent National Electoral Commission (INEC). (INEC'S Retreat, Kaduna, 16-20 August 2009).

Since independence, Nigeria has had eleven Chief Electoral Officers, the first being Chief Eyo Esau, who midwived the 1964/1965 elections, while Dr. Abel Guobadia was in charge in 1999, and Professor Maurice Iwu superintended the body from 2005 to 2010. Professor Attahiru Jega, a political scientist has been in charge as INEC Chairman since 2010 (see Appendix).

### **Electoral Commissions and Elections in Nigeria**

Most Nigerians believe that electoral commissions are central to the problems associated with the conduct of elections in Nigeria. The Electoral Commission of Nigeria (ECN) conducted the 1959 elections that led to the first neo-colonial civilian government in Nigeria. The outcome of the election was controversial and it led to the controversial 1964 regional elections in the Western Region. The controversies surrounding the 1964 elections were the basis for which the military decided to overthrow the civilian government in 1966 (Iyayi 2006:11). In 1979, FEDECO conducted elections that gave rise to the famous two-thirds of nineteen states' crisis. This controversy escalated because the military were alleged to be in favour of a particular group of people that they wanted to hand over power to (Iyayi 2006:11). In 1983, FEDECO was seen as instrumental to the return of NPN, the ruling party, into power by announcing that the number of registered voters had increased from 48, 499,07 in 1971 to 65, 304,818, in spite of the fact that the 1979 figure was considered to be highly inflated (Iyayi 2006:11). Similarly, the results of the 1999 elections were seen to have been pre-arranged with INEC so as to make the electoral process and results legitimate (Iyayi 2006:11). Again INEC was seen as part and parcel of the enormous fraud that characterised the 2003 and 2004 elections. According to the Transition Monitoring Group (TMG), INEC contributed its own fair share of electoral problems in the 2003 elections. The lack of clearly designated compartments for thumb-printing undermined the secrecy of the vote and exposed the voters to machinations of those that would have preferred 'community voting'. INEC also did not make adequate arrangements for the transportation of sensitive election materials to the polling stations and collation centres. Result sheets disappeared and re-appeared in different forms at collation centres whilst corrupt party agents simply sold unused ballot papers to the highest bidder. Following the reversal of the process for the order of the elections by INEC, voters deserted the state House of Assembly elections. Thus no voting took place in these elections, although winners emerged from the process.

The 2007 elections fell short of national, regional and international standards for democratic elections. They were marred by very poor organisation, lack of essential transparency, widespread procedural irregularities and substantial evidence of fraud. According to the European Union Observer Mission:

The voter registration exercise conducted by INEC was marred by delays due to lack of available Direct Data Capturing Machines, technical breakdowns and establishment of illegal voter registration centres. The quality of the final voter register was poor and included under age voters, double entries, missing and blurred pictures of voters. The voter register was not displayed at the local level as required by law and was partly posted prior to Election Day for orientation purposes only. Permanent voter registration cards were not issued due to late publication of the final register.

The above observation suggests that electoral commissions in Nigeria have so far tended to serve the interests of the ruling party in power and have thus contributed to election problems in Nigeria. But these observations do not necessarily explain why these commissions do so (Iyayi 2006:12).

There have been instances when the election tribunals set up to adjudicate on the conduct of some elections had established that INEC was partisan, but the full weight of the law was never brought on those INEC officials. Lack of punishment, of course, results in impunity. Elections are conducted with billions of naira, and with frequent nullifications and high turnover of results, billions of naira go down the drain as yet another huge amount of money is budgeted for yet another re-run. Nobody has been prosecuted for such huge waste of the country's resources.

### *Purpose of the Study*

- To provide a critical analysis of the role INEC played at the state and federal levels in the 1999, 2003 and 2007 elections; determine its strengths and shortcomings, so as to proffer an appropriate solution to the country's electoral problems.
- To examine INEC as an institution in the context of its independence, impartiality, transparency, and accountability.
- To examine the institutional weakness of Nigeria's electoral processes and the legal framework for the conduct of elections as they relate to INEC.
- To establish the fact that the institution that is charged with managing the conduct of elections has a vital role to play in the growth and development of the nation's democracy.
- To proffer recommendations as to how INEC can conduct transparent and credible elections, so as to improve political stability and good governance in Nigeria.
- To provide a guide for INEC or any other future electoral body.

### *Methodology*

The study is both historical and analytical. The historical approach provides the genesis of INEC, while the analytical approach assesses the effectiveness of INEC in the performance of its functions. The analysis is approached from an institutional perspective and closely examines INEC's ability to function as a neutral, fair and transparent umpire during elections. The study used secondary sources of data collected from INEC offices in Abuja, Enugu, and Lagos, and materials from other libraries.

### *Key Concepts*

**Democracy** – According to the Webster dictionary, this is government by the people; rule of the majority; a government in which the supreme power is vested in the people and exercised by them directly or indirectly. Democracy is a human right, as such, it is included in a number of the most important international human rights standards, such as the Universal Declaration of Human Rights Art.1, which states that

Everyone has the right to take part in the governance of his country, directly or indirectly, or through freely chosen representatives...

Art.3 states that

The will of the people shall be the basis of the authority of the government; this will be expressed in periodic and genuine elections that shall be held by secret vote or by equivalent free voting procedures.

Thus democracy respects human rights and therefore also respects the rule of law, because the rule of law is part of human rights.

**Elections** – According to Okoye (2003: vii), elections are – A complex set of activities with different variables that act and feed on one another. It can be defined as a 'formal' act of collective decision that occurs in a stream of connected antecedent and subsequent behaviour. It involves the participation of the people in the act of electing their leaders and their participation in governance. Elections are not necessarily about Election Day activities, although it forms an important component. It encompasses activities before, during and after elections. It includes the legal and constitutional framework of elections; the registration of political parties, party campaigns, the activities of the security agencies and the government in power. It includes the authenticity and genuineness of the voter's register. It includes the independence or lack of it, of the electoral agencies and organs. It includes the liberalism or otherwise of political processes in the country and the independence of the adjudicating bodies in elections.

In a democratic nation, periodic elections of the executive and legislators constitute the principal institutional device for making sure that the government shall derive its just power from the consent of the governed. Elections are central to the functioning of modern democracy (Singh and Mishra 1991).

**Voting** – This is the simplest form of democratic participation and it is the most formal act of political participation, but not the exclusive form of citizens' involvement in the political system. It is one procedure generally accepted as binding within the political society, through which citizens make an explicit choice between alternatives in elections (Singh and Mishra 1991). The goal of any voting system is to establish the intent of the voter, and through it transfer the intent to the vote counter. The efficiency of the voting method and the accuracy of the vote counter are the crucial determinants of the ability and capacity of the system to correctly determine the wish of the voter (Iwu 2008:1).

**Elections/Electoral Commissions** – According to Wikipedia online dictionary, it is in theory a non-partisan body that determines election procedures and district boundaries and oversees the conduct of elections. It is also an impartial administrator, with an independent body, being available to adjudicate in electoral disputes, re-engineer the political process, conduct elections and implement the various regulations devised to prevent every imaginable form of election misconduct (Derbyshire and Debyshire 1993:130). A neutral electoral commission is thus one of the fundamental pre-requisites for a truly free and fair election and the establishment of true democracy in any nation.

### **INEC and its Institutional Framework**

The commission is made up of a chairman and 12 national commissioners. The commission was established in accordance with section 153 (f) of the Constitution of the Federal Republic of Nigeria. The functions of the Commission, as stipulated in part 1 of the Third Schedule to the 1999 Constitution, are as follows:

- Organize, conduct, and supervise all elections and matters pertaining to elections into all elective offices provided in the Constitution of the Federal Republic of Nigeria 1999, as amended or any other enactment or law.
- Register political parties in accordance with the provision of the relevant enactment or law.
- Monitor the organisation and operation of the political parties, including their finances.
- Arrange for the annual examination and auditing of the funds and accounts of political parties and publish a report of such examination and audit for public information.
- Conduct registration of persons qualified to vote and the preparation, maintenance and revision of the register of voters for the purpose of any election.
- Monitor political campaigns and provide rules and regulations, which shall govern the political parties.
- Ensure that all Electoral Commissioners and Electoral Returning Officers take and subscribe to the oath of office prescribed by law.

- Delegate any power to any Resident Electoral Commissioner.
- Carry out such other functions as may be conferred upon it by a Decree or any other enactment of law.
- Divide the area of the Federation or as the case may be, the area of a state, local government or area council into such number of constituencies as may be presented by law, for the purpose of elections to be conducted by the Commission.

### ***Guiding Principles***

The principles that guide INEC in the fulfilment of its mission and vision are:

- **Transparency:** INEC will be open and transparent in all its activities and in its relations with political stakeholders, media organisations, INEC service providers and the people of Nigeria.
- INEC will strive to be truthful and honest in all its dealings with people, its political stakeholders and each other.
- **Credibility:** INEC will strive to ensure that the people of Nigeria and in particular the political stakeholders will readily accept all its actions.
- **Impartiality:** INEC will endeavour to create a level playing field for all political actors.
- **Dedication:** INEC will be committed to providing the highest quality election services to the people of Nigeria and will also work to ensure that merit will continue to be the basis for compensation, promotion and recruitment of staff.

The Commission consists of a Chairman who is the Chief National Electoral Commissioner, and twelve other members, known as National Electoral Commissioners. The Chairman and members of the Commission are appointed by the Head of State, Commander-in-Chief of the Armed Forces. In each state of the Federation and the Federal Capital Territory Abuja, there is an office of the Commission and a Residential Electoral Commissioner, who is appointed by the Head of State. The Commission also has a Secretary who is the Administrative Officer of the Commission.

Nigeria has a Federal system of government, with different tiers of jurisdiction, involving several levels of elections.

- Presidential Elections.
- Elections at the Federal Level, for the Senate and the House of Representatives.
- Elections at the State level, the elections of Governors and State legislators
- Elections at the local government level.

## Result of Findings

Going through various copies of the Electoral Magazine, an INEC publication, collected from the INEC offices, Professor Iwu is described as a man who introduced a lot of innovations into the electoral process, the Electoral Institute, now Electoral Institute of Nigeria, being one of them. Although the man has been castigated, vilified and abused, INEC strongly believes that the myriad of negative comments by people after elections is due to not having correct information. However, the facts remain that Iwu should bear responsibility for the bastardization of Nigeria's electoral process between 2005 and 2010. His intransigence in defending the indefensible – rigging of elections, ballot box stuffing, imposition of candidates, doctoring of election results and outrightly imposing those who never won primaries within their parties as elected cannot be forgotten. He was indeed, the face of Nigeria's democracy in its most decadent state.

However, for INEC, the panacea for election rigging is the electronic voting system, which has four major components: electronic voter register, voter accreditation and authentication, electronic balloting and electronic transmission of results. These would eliminate violence, money laundering, ballot box stuffing, fraudulent counting of votes and resultant manipulation in elections.

Going through the official report of the 2007 general election by INEC, some issues are highlighted as having hindered the elections and INEC's performance in particular. These include:

- Lack of financial autonomy was a major problem, which resulted in undue delays with ultimately detrimental consequences.
- Electoral constituency delimitation. This did not allow for a proper level playing field for political participation in elections.
- The deployment of appropriate technology i.e. electronic voting machines were proposed and not approved by the National Assembly.
- The majority of the political parties were not represented at the polling centres so as to minimize complaints and irregularities.
- The Constitution does not specifically provide the power for the commission to disqualify candidates whose submitted claims are found to be false.
- The Commission's resort to receiving electoral logistic support from the state and local government. Although, this is good in itself, it needs to be investigated to ensure that INEC staff are not blackmailed or compromised at the grassroots level by politicians.
- Producing sensitive election materials abroad result in delivery delays, thus crippling logistic plans.
- The inability of the various commands and security organisations to deploy their personnel to all the 120,000 polling units nationwide during

elections is a serious challenge. This is the reason why cases of ballot snatching and other forms of electoral offences happen during voting.

- Nigeria's vast terrain and geographical complexity poses logistical problems in distributing materials to all nooks and crannies of Nigeria. Staggering elections could solve this problem even though it will probably create other problems, e.g. a bandwagon effect in voting pattern.
- The principle of first-past-the-post, whereby the candidate with the majority of votes is declared the winner, even with the slimmest number, allows nomination/ substitution of candidates, which has been the bane of Nigerian electoral system. INEC advocates for the proportional representative system, where the emphasis is on the political party that is allocated a seat, based on the percentage of votes scored in elections.

Despite what INEC might think of its performance during elections, the majority of national and international observers and the generality of the Nigerian public, think otherwise. Monitoring of elections in Nigeria and other developing countries is done in order to put a stamp of credibility on the outcome of such elections. The Carter Centre in collaboration with the National Democratic Institute for International Affairs (NDI), based in Washington D.C., that had President Carter and General Colin Powell in its large delegation, was amongst those who monitored the 1999 general elections. Their observations are well-documented in the literature, including the following:

- The monitors in the 1999 were unanimous in their verdict that there were massive irregularities in all the elections. The international monitors put the voter turn out to be 20 per cent while the election results indicated 30 – 40 per cent (Aluko, 1999:2).
- President Carter, though a personal friend of Obasanjo, refused to put his stamp of approval on the presidential vote – 'There was a wide disparity between the number of voters observed at the polling station and the final results that was reported from several States' (Aluko 1999: 2)
- The Transition Monitoring Group (TMG), a coalition of 70 human rights and civil liberty NGOs, said that both sides committed fraud. Yet the 1999 elections was upheld and given legitimacy by INEC.

After the 1999 elections, political observers were not comfortable with the fact that the president was vested with the power to appoint the Chairman and members of INEC. Section (1) of the 1999 Constitution of the Federal Republic of Nigeria, gives him these powers and the arrangement allows the Commission to draw its funds from the Presidency. Analysts believe that with this arrangement, the incumbent could always use his position to influence INEC. They doubted very much that a chairman appointed by the president and who depends on him for funds can, in practical terms, be an impartial umpire (Okusabor 2001:5). Indeed, since these funds are not personal, the real explanation for dancing to the

whims and caprices of Mr. President could lie elsewhere, and my suspicions are lack of integrity and corruption.

In the 2003 elections the EU Observation Mission, noted that:

- The electoral preparation by INEC, particularly the registration of voters, started late; and thus led to recurrent delays during the course of elections.
- INEC did not disseminate adequate guidelines and instructions on matters regarding political party campaigning and candidate nominations.
- The number of total registered voters by INEC shortly before Election Day varied greatly and fuelled suspicion, particularly as the process of detecting and deleting millions of applications in a short period was herculean.
- The established parties were identified as being involved in malpractices. INEC was unable to counter such tendencies, as a result of insufficient level of logistical and inadequate implementation of its own procedures.
- The 2002 Electoral laws that guided the 2003 elections stipulated that INEC should issue guidelines on campaigns, but it failed to do so.
- INEC's training capacity was small, in regards to the number of people who had to be educated on electoral matters.
- INEC's organisational, technical and structural shortcomings opened up new doors for fraudulent activities conducted by the parties and their candidates.

Ogunsanwo (2003:14-15) commenting on the 2003 elections said that INEC was certainly and genuinely not in absolute control of activities on election day. He also pointed out that INEC could not vouch for the integrity of the election officials who were engaged all over the country (Ogunsanwo 2003:15). He further pointed out that a major flaw in INECs management of the 2003 General Elections was the declaration of individuals who did not contest elections as winners i.e. those who neither won party primary elections within their party caucus, nor were known candidates (Ogunsanwo 2003:16).

The report of the EU Observation Mission on the 2007 elections pointed out that the 'elections at both state and federal levels were marred by very poor organisation, lack of essential transparency, widespread procedural irregularities, substantial evidence of fraud, widespread voter disenfranchisement at different stages of the process, lack of equal conditions for political parties and candidates and numerous incidence of violence'.

The 2007 elections were regulated by the 1999 Constitution and a new Electoral Act was adopted for this – The 2006 Electoral Act. Atiku Abubakar's disqualification by INEC resulted in significant logistical problems for the presidential elections, following the 16th April decision of the Supreme Court, to

allow Atiku to run for the 2007 Presidential elections. Generally, several logistical problems were experienced:

- a) INEC failed to provide information on the final number of candidates and the final number of voters per constituency and the number of ballot papers that were printed and distributed, and it made no provision for results to be posted at the polling stations.
- b) There was a lot of delay in completing the voter registration exercise, which in turn affected the distribution of permanent voter registration cards.
- c) Ballot papers were produced with pictures missing and names misspelt in some cases.
- d) INEC failed to distribute the ballot papers on time to states, and from there to the LGAs, wards, and polling stations. This led to serious delays and disruptions and, in a number of cases, cancellation of election. In Lagos State, some candidates' names were missing from the Senate and House of Representatives ballot papers, causing a cancellation of elections in two senatorial elections in the state. In Enugu, polling did not start before 1500hours. Although INEC was aware of the serious delay in opening the polling station, no regulation was issued to extend the official polling hours. In Enugu North, it was found that completely different results in favour of the ruling parties were recorded on the result sheet, when compared to those of six polling stations.
- e) The voter registration exercise conducted by INEC was marred by delays, due to lack of Direct Data Capturing Machines, technical breakdown, and battery and light problems.

## Observations

Going through the litany of irregularities that marred elections in Nigeria in the 1999, 2003 and 2007 elections in particular, it is obvious that a big problem exists with election management in Nigeria, even if INEC feels that most of the ills plaguing elections had nothing to do with it. The then President, Musa Yar' Adua in reaction to the irregularities that characterised the 2007 general elections, said that he was going to carry out a radical restructuring of the Nigerian electoral system, when he was sworn in on the 27 May 2007. Consequently, on 28 August 2008, a 22-member Electoral Reform Committee, headed by retired Honourable Justice Mohammed Lawal Uwais, former Chief Justice of Nigeria, was set up. His mandate was to examine the entire electoral process with a view to ensuring that the quality and standard of our general elections are raised, thereby ensuring transparent democracy (Ayonrinde 2009:1).

The Electoral Act 2006 is a great improvement on the Electoral Act 2002, which regulated the 2003 elections. It contained some measures to make INEC more efficient, such as the appointment of the Secretary by INEC, instead of the

President. It also provided for the financial independence of INEC by setting up a fund for it. This fund was, however, not established for the 2007 elections. It provided clear procedures and timetable for the voter registration exercise. It did not, however, address the issue of INEC's independence. The Chairman and the 37 Resident Electoral Commissioners are still appointed by the President after consultation with the Federal Executive Council and the Senate. There is no requirement for results to be displayed at polling stations and for a breakdown of polling station results to be displayed. There is also no clear procedure for handling of complaints and appeals before election day. Also, no specific time limit is provided for the publication of results and for the determination of election petitions (Report of the EU Observation Mission 2007).

The pertinent question here is: can an electoral management body be impartial, taking into account that it is the President that appoints its Chairman and Commissioners and also finances it? Could Iwu have been able to go against the wishes of the President who said categorically to the hearing of all Nigerians that the *forthcoming election is a 'do-or-die affair? Winning in the forthcoming election is a matter of life and death for PDP. I will not hand over power to anybody who will not continue the reform agenda'* (Akogun 2007:17). It therefore follows that the independence of INEC is a fundamental pre-requisite for the success of elections and democracy in Nigeria.

Nigeria has had very poor antecedents in conducting free and fair elections, elections having consistently been mired by poor organisation by the Electoral Management Body, leading to questionable voters' registration, the disenfranchisement of credible voters, intimidation, bribery, violence and outright manipulation of results. Decades of these bad experiences have made most Nigerians lose faith in the electoral process (Olutola 2007:16).

President Yar'Adua thus started off on the right footing, by setting up the Uwais Electoral Reform Committee, which had on 12 December, 2008, submitted the following recommendations:

- a) Creation of three commissions, viz (1) Electoral Offences Commission (2) A Constituency Delimitation Commission; and (3) A Political Parties Registration and Regulatory Commission. These were all in the bid to unbundle INEC.
- b) Putting the power of appointing the Chairman of INEC in the hands of the Judiciary and Legislature.
- c) making constitutional allowance for Independent candidacy.
- d) Disposing of electoral litigation before elected officials are sworn in.
- e) Applying stiff punishment on of electoral offences at special tribunals.
- f) Banning cross carpeting by office holders.
- g) Including civil society organisations in INEC board.

- h) Providing of security of term for INEC members to insulate them from external forces.
- i) Shifting the burden of proof from petitioners to INEC, where widespread malpractices are alleged.
- j) Abolishing the Residential Electoral Commissioners.

The Uwais Committee prepared three draft bills along with the report: Bill amending the 1999 Constitution, Bill Amending the 2006 Electoral Act and a Bill to Establish the Electoral Offences Tribunal.

A nine-member Committee of the Federal Executive Council, led by Dr. Shettima Mustapha, was set up to draft a white paper from the report. The draft White Paper agreed basically to the Uwais report, and adopted the recommendation that the National Judicial Council should appoint the INEC Chairman, after the position has been duly advertised.

This recommendation led to the setting up of another three-man Committee led by the Attorney General of the Federation, Michael Aondoakaa. The Committee rejected the recommendation of the Uwais Committee, on the appointment of INEC Chairman and said that the President should appoint the Chairman, subject to the approval of the National Assembly. It also disagreed that all petitions should be exhausted before an elected officer is sworn in. It said election petition could last up to six months. It agreed on the unbundling of INEC, but rejected the inclusion of the Nigerian Labour Congress in the INEC board. It called for an independent candidate to make a financial deposit that would be determined by INEC. The burden of proof it says should still remain with the petitioner and not INEC.

For a government which says that it is keen on electoral reforms, it would seem that the government turned down all the recommendations that would make the executive unable to control INEC and make the rigging of elections easier to unravel in court and less rewarding for the perpetrators (Ayorinde 2009:4).

While looking at INEC, one cannot fail to mention the positive initiatives and programmes it had for the 2007 general elections:

- (1) Awareness campaigns in the media through jingles about Nigerians' civic duties and obligations.
- (2) Training of INEC staff as well as ad-hoc staff.
- (3) Partnership with the Nigerian and international civil society organisations, setting up of stakeholders forums.
- (4) Establishment of an Electoral Institute in each of the six geo-political zones (Kwaja 2007).

## **2010 Electoral Act**

At the 15th African Union Summit held in Uganda in 2010, President Goodluck Ebele Jonathan said ‘I would not also want to conduct an election in which people would raise issues. I want a situation where at the end of elections nobody will go to court because there would be no reason for people to go to court’. The National Assembly in 2010 approved the 2010 Electoral Act in preparation for the 2011 general elections in Nigeria. Here some degree of independence has been granted INEC, which will now get its funds from the consolidated fund. In general, it appears that significant progress has been made in respect of the Electoral Act, to allow for a freer and fairer election under the administration of Goodluck Jonathan.

The changes in the 2010 Electoral Act mostly reflect the suggestions of the Uwais-led Electoral Reform Committee (ERC), and that of the new INEC chairman, Alhaji Attahiru Jega. Some of the following changes were made:

- (1) Elections will be divided into Federal and State government elections. The National Assembly and the Presidential elections will take place before the State Governor and State Assembly elections.
- (2) Under section 78 of the amended law, parties that fail to win a seat in either the National Assembly or State Legislative bodies can be unregistered. This means that at least 50 political parties can be removed from the official list of political parties.
- (3) Section 91 places a cap on how much money can be spent on an individual campaign. Presidential aspirants are limited to spending a N1 billion while gubernatorial candidates can only spend N200 million. National Assembly aspirants can spend N40 million and State Assembly aspirants can spend only N20 million. Under section 92(3), all political parties have to submit their expenses to the commission six months after elections, duly signed by political party auditors and the chairmen. Failure to do this leads to a conviction and/or a N1 million fine.

## **Conclusion and Recommendations**

When all is said and done, restructuring and re-organising the electoral framework is only a small part of the bigger challenge that Nigeria faces. The democratic environment in Nigeria needs to be reformed because, generally, Nigerians do not have much confidence in the elections, umpired by an Electoral Management Body that is in the pocket of the ruling political party. There has to be an attitudinal change amongst political stakeholders. A new electoral mindset has to emerge. Take the elections that took place in Ghana in 2008, John Atta Mills, a Professor of Law and an opposition candidate emerged as the President, defeating

the incumbent in office. This was not the first time it would be happening in Ghana; the immediate former President John Kuffor attained this feat when he defeated and took over from the Jerry Rawlings' ruling party in 2000. Nigerians must stop seeing elections as something that must be won at all costs. It is not a do-or-die affair, contrary to Obasanjo's claim in 2007. Nigeria's political elite must not put their selfish and greedy desires above national interest. Nigerians should be allowed the right to choose their leaders. Election campaigns must be based on solid and concrete issues. Issues-based campaigns and the candidates' strategies are the keys to gaining the support of voters. The political campaigns should not be an avenue for thuggery and assassination of political opponents. If politicians say that they have come to serve the people and not their own interests, then the people's right to choose their own leaders and ask questions about how they are governed must be allowed.

Another question to be asked is the readiness of the political elite to ensure proper implementation of the Electoral Act and to respect the peoples' will? If they are really determined to serve the people, then the will of the people would be of paramount importance to them, and they would only be able to rule because the people want them to rule them, and not because they managed to rig their way into office by using the electoral umpire to legalize their nefarious acts. To crown it all, they expect that the people would give their full support to their programmes when they know that they never gave them the mandate to rule. It only follows that if you have voted a certain political party into office, you would be committed to its programmes and would want it to succeed. Most of the unpatriotic acts of Nigerians are due to the fact that they believe they had nothing to do with the installation of the government of the day, so they do not really care if it succeeds or fails.

In Nigeria, the political class needs to seriously alter their mindset, before any legal framework can work. This turn-by-turn Nigerian mentality, for a piece of the national cake is killing democracy in Nigeria. The best legal framework amounts to nothing without value change at the appropriate levels of society. We need to get our priorities right. If integrity, honour and truth mean nothing to our political elite and leadership, then democracy, which is a human right, will continue to elude us. There is a need for those who are examining the electoral reforms instituted by the late President Yar'Adua to be sincere to themselves and Nigerians as a whole. They should put Nigeria first and do what is right for the country. Fortunately, the foot dragging on the electoral reforms was addressed to a large extent when President Goodluck Jonathan signed the 2010 Electoral Reform Act into law. Having good legislation is one thing, but making it work so that free and fair elections are conducted in Nigeria, is another thing, because, as was said earlier, even the best legal framework will amount to nothing if Nigerians do not change the way they think and what they value.

As regards INEC, going through its mandate, vision statement and guiding principles, it is clear that Nigerians would be pleased if these laudable goals could be achieved by the Commission. But it is obvious that this is not being done satisfactorily yet. This chapter recommends the following for INEC:

- (1) INEC should start planning early, in order to forestall a repeat of the previous lapses.
- (2) INEC should learn to listen to the complaints of the masses if it wants to be respected. After all, there are only a handful of politicians who are going to rule the majority. If the majority is complaining, then INEC owes the masses the duty to listen and see what they can do to address the issues raised.
- (3) The way INEC officials are maligned by the generality of Nigerians is enough for the officials to stand up and say no to being used for the selfish gains of anybody. Its leaders should have the nerve to resign if need be. Their integrity should be of paramount importance to them.
- (4) INEC will still be held responsible for the activities of its ad-hoc staff. So to say that they committed the atrocities is no excuse. It is INEC's duty to see that it trains these categories of staff well, as they would be held responsible for what they do or do not do.
- (5) INEC has to be more committed to voter education. This has to be done at the grassroots level where there are many uneducated people. The local language should be used, so that the people can understand what their rights are and how valuable their votes are.
- (6) Amendment of the 2010 Electoral Act has been completed, so that INEC has some level of financial autonomy. However, the funds have to be released in time so that it can be adequately utilized for proper preparation for the elections.
- (7) INEC Chairman should not be appointed by the President, so that he does not have to keep on looking over his shoulders.
- (8) INEC has to sort out all outstanding issues on electoral constituency delimitation, for fairer political participation in future elections.
- (9) INEC has to know how to properly handle electronic voting. Officers have to be adequately trained on how to use the machines. There must be enough machines and stand-by generators in case of electricity failure, and for areas where there is no electricity. A technology-based balloting system, if properly and wholesomely implemented, would solve a lot of problems, like ballot box stuffing, use of fake voters and general manipulation of results etc.
- (10) Nigeria has a vast terrain, which is complex in nature. INEC should be allowed to stagger the elections. There are places like the creeks of the Niger-Delta, which might not be so easy to get to. Logistics has always been

one of the main problems INEC has encountered. Staggering elections over a period of one month could help INEC's logistics problems.

- (11) The Nigerian Security and Printing Mint should be able to print ballot papers for elections. If we are serious there will be no fraud. Getting these materials printed abroad causes immense logistic problems as well as depletion of foreign exchange.

INEC should realise that it is the institution charged with supervising Nigeria's elections. The politicians seeking office are only a handful of representatives of the people. The masses to be ruled are in the majority. It is its duty of INEC to ensure that the majority get their wish; nobody but they can do this for them. Thus if the people's choice of who to govern them is going to be attained it is only INEC that can make sure that their wishes are fulfilled. Doing the bidding of a handful of people in power would result in a disgruntled populace who are far removed from those that have stolen their votes and make a mockery of democracy. In this case, governance would suffer as the level of service delivery will be low.

## References

- Akogun, Kunle, 2007, 'April Polls: Voting for Another Impasse', *Thisday*, June 3.
- Aluko, Mobolaji, 1999, *Monitoring Nigeria's Elections-The Carter Formula*, Buttosville, MD, USA,
- Ayorinde, Olujun, 2009, 'Thinkering With A Report', *Views*, 10:56.368
- Derbyshire, J.N., and Derbyshire I., 1993, *World Political Systems*, Chambers.
- Iwu, Maurice, 2008, 'Electronic Voting and the Future of the Electoral System in Nigeria', *The Nigerian Electoral Journal*, Vol.2., No.1., May.
- Iyayi, Festus, 2006, *Elections, INEC and the Problems of Elections in Nigeria*, Abuja: INEC. Kwaja, Chris.2007, 'INEC and Management of Elections: Lessons from Nigeria', retrieved from (<http://www/afrimap.org/english/image/paper/kwaja-inec-nigeria-EN-0pdf>) 05 May 2009.
- Ogunsanwo, Alaba, 2003, 'Keynote Address', in Remi Anifowose and Tunde Babawale, eds, *2003 General Elections and Democratic Consolidation in Nigeria*. Lagos: Friedrich Stiftung.
- Okaisabor, Thompson, 2001, 'INEC and 2003', *Daily Times*, 9 Sept.
- Okoye, Festus, 2003, 'Do the Votes Count?' Final Report of the 2003 General Elections of Nigeria.
- Olutola, Bello, 2007, 'Elections and the Challenges of Nation-building', *The Punch*, April 13, INEC, 2009,
- 'Report of the INEC's Retreat on the Operational Plans for 2011 General Elections', held from the 18-20 August 2009, in Kaduna. retrieved from ([http://www.Nigerdeltacongress.com/marticles/monitoring\\_Nigeria\\_elections-t.htm](http://www.Nigerdeltacongress.com/marticles/monitoring_Nigeria_elections-t.htm)). May 2009.
- Singh S., and Mishra, Suresh, 1991, 'Powers of Elections Commission: A Legal Perspective', *The Indian Journal of Public Administration*, Vol. xxxvii, No.3:361.