



**First Statement by the National Democratic Institute and The Carter Center
on the Nigerian Electoral Process, 2003**

Abuja, 22 November 2002

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EXECUTIVE SUMMARY

This statement is the product of the National Democratic Institute and The Carter Center pre-election assessment mission that visited Nigeria Nov. 17-22, 2002. To support the work of the delegation, a 13-person advance team of observers visited nine states in all six geopolitical zones Nov. 7-15 and conducted more than 100 meetings and interviews. The statement details the delegation's observations and respectfully includes specific recommendations to stakeholders for ways to improve the conduct of the elections.

The delegation was warmly welcomed throughout the country, for which it expresses its profound gratitude, and urges all Nigerians to work together to ensure the integrity of the 2003 election process to advance the overriding goal of consolidating civilian, democratic government in Nigeria.

The delegation views very positively the enthusiasm of Nigerians to participate in the election process as voters and candidates. The high level of turnout for voter registration and expressed interest of so many political aspirants to compete for political office at the local, state and national level are promising signs of a growing commitment to democracy. The delegation was impressed by the open political climate and vigorous public debate.

However, with only five months remaining before the constitutional deadline for presidential elections, the electoral process appears stalled, though many Nigerians with whom the delegation met expressed the view that the elections ultimately will be held within the constitutional stipulation for the inauguration of the next administration by May 29. The delegation urges that the legal framework for the conduct of elections be resolved as soon as possible. Nigerians who met with the delegation expressed concern that the consequent failure as of this late date to establish and announce an election calendar and a firm timeline for necessary electoral implementation steps has damaged the integrity of the elections in the eyes of the public. Given the present state of uncertainty, the delegation itself was unable to fully assess the adequacy of election day preparations, such as the voters register.

From all sides, the delegation heard strong expressions of a lack of confidence in the independence and capabilities of the Independent National Election Commission. INEC pointed to the delay in receipt of needed funding. Taking concrete steps to build necessary confidence in INEC and the upcoming elections is an urgent and essential task. The serious flaws observed in the 1999 elections must not be allowed to reoccur.

In view of the rising political tensions in the country, the delegation recommends that action

be taken to put into place soon a comprehensive electoral security plan to prevent the possibility of violence, intimidation, and electoral fraud. Leaders and members of political parties in particular should demonstrate by their behavior a commitment to violence-free elections. As only an informed electorate can make a truly free voting choice, the delegation recommends greater voter education efforts and equitable access to public print and broadcast media for political parties and contestants.

I. THE DELEGATION AND ITS WORK

The pre-election delegation included: the Honourable Hage Geingob, former prime minister of Namibia; Charles Costello, Carter Center director of the Democracy Program; Barrie Hofmann, NDI deputy director for central and west Africa; Ron Gould, former assistant chief electoral officer of Elections Canada and former commissioner of the 1994 Independent Electoral Commission in South Africa; and Wayne Propst, NDI Nigeria country director.

Delegation members met with a cross-section of Nigerian government officials, political party leaders, election authorities, representatives of civil society, the private sector, and the international community. The delegation expresses appreciation to everyone with whom it met for freely sharing their views on the electoral process.

The delegation's principal purposes were to demonstrate the international community's interest in, and support for, credible and democratic elections in Nigeria and to make recommendations on how the electoral process might be improved.

NDI and The Carter Center believe that an accurate and complete assessment of any election must take into account all aspects of the electoral process. These include: 1) the legal framework for the elections; 2) an accurate and complete voters register; 3) the campaign period; 4) the voting process; 5) the counting process; 6) the tabulation of results; 7) election petitions and the application of sanctions for election violations; and 8) the process for the transfer of power. All activities in the pre-election period, including electoral preparations and the overall political environment, must be given considerable weight when evaluating the democratic nature of elections. The delegation does not pre-judge the overall process in this statement and realizes that no election can be viewed in isolation from the political context in which it takes place.

II. ELECTORAL CONTEXT

Hopefully, the 2003 elections in Nigeria will mark the first time since independence that an elected civilian government has successfully administered an election. The 1998-99 elections were widely seen as "transition elections" from military to civilian rule. Therefore the upcoming polls present a critical opportunity to advance sustainable, democratically elected civilian government in Nigeria.

The 1998-99 election process in Nigeria was widely viewed by both international and domestic observers as seriously flawed. Ballot box stuffing, rigging, and vote tabulation fraud occurred then and may reoccur in 2003 unless strong steps are taken to prevent them. These electoral problems may have been tolerated in 1998-99 because the elections took place in an atmosphere of relative calm.

The past four years in Nigeria have seen many challenges and conflicts, some of which threaten the integrity of the election process itself. Since 1999, thousands of Nigerians have died in ethnic and religious conflicts that have often been exacerbated by intense political rivalries and competition. The rise of ethnic militias and vigilante groups has contributed to the cycle of violence, and there are fears that these groups could endanger the conduct of peaceful and credible elections.

On a positive note, Nigeria's political environment also has been marked by dramatic improvements over the last four years. The military is now out of office and subject to civilian rule. Nigerians have expressed their firm commitment to consolidate democracy and the political climate is characterized by increased openness and vigorous public debate. Nigeria's elected chambers have played an increasingly important role in public life, while a reinvigorated judiciary commands renewed respect.

The delegation carried out its mission during a period when key unresolved issues have stalled the electoral process. Judgments in several court cases will determine the election timeline and the list of political parties that will appear on the ballot. Despite this uncertainty, registered political parties are holding primaries at the local, state, and federal levels in an intensely competitive and sometimes violent atmosphere.

However, expectations for a more credible election process in 2002-03 have increased, making improved electoral performance that much more critical. Nigerians have become increasingly aware that only credible and transparent elections, in which voters can exercise their rights in a calm and secure environment, will help mitigate or prevent election-related violence.

III. OBSERVATIONS

Legal Framework

The delegation found that serious doubts persist about the legal framework for elections. For example, the final number of registered political parties and the timeline for elections remain unresolved. This lack of clarity contributes to delays that threaten to derail the entire electoral process.

In early October 2002, INEC petitioned the court, asking that the 2002 Electoral Act be declared unconstitutional, in large part because the law requires state, federal, and presidential elections to be held on the same day. INEC officials assert that the constitution gives the commission, and not the National Assembly, the authority to set the dates for the elections. INEC also contends that it lacks the capacity to run simultaneous elections. A decision on this case is expected on Nov. 29, 2002.

In another case, political groups that sought registration as parties asked the court to nullify INEC's guidelines for party registration. On Nov. 8, the court declared many of the guidelines to be unconstitutional. Since then, the chief justice of the Supreme Court has stated that to be registered, the parties would need to satisfy remaining applicable INEC guidelines. The issue of who can compete in the elections, therefore, remains unresolved.

Timeline for Elections

Given the constitutionally mandated inaugural date of May 29, 2003, state and federal elections must be completed by April 29. The multiplicity of electoral activities demands a firm timeline that provides the roadmap for electoral authorities, as well as for political parties and voters. According to INEC, however, the commission cannot issue a timeline until the electoral law challenge is resolved. The absence of a clearly articulated electoral schedule makes it extremely difficult for election authorities, parties, civil society, and voters to prepare themselves for elections.

Uncertainty with respect to the timeline and the legal framework also has led to concerns that the electoral authorities will not have time to complete preparations for elections, including the acquisition of ballot boxes, printing of ballot papers, recruitment and training of election officials, and the development of a detailed operations plan.

Voter Registration

The delegation found that the compilation of the voter list is far from complete. INEC's decision to adopt a computerized registry to promote voter confidence in the list and minimize multiple registrations is laudable, but the process of creating a new computerized registry appears to be taking an inordinate amount of time. For example, delays in commencing the voter registration process have already caused local elections to be postponed three times. Further delays in completing the voter registry now threaten the possibility of keeping to a timeline for the remainder of the election process.

While the delegation was encouraged by the enthusiasm of Nigerians to register, it was concerned by widespread reports of irregularities in the process. INEC had distributed 72 million registration sets for an estimated 60 million voters. A reportedly significant number of people nationwide were not able to register, however, despite repeated attempts to do so. According to numerous sources, partisan election officials and political aspirants hoarded voter registration materials, causing a shortage. In addition to withholding materials, the delegation also heard reports of buying of voter cards, multiple registrations, underage registration, registration by non-citizens, intimidation by party activists, inadequately trained election officials, and shortages of materials caused by logistical difficulties. To date, there has been no public accounting of the distribution of voter registration forms. While the new computerized system is designed to detect cases of multiple registration, concerns remain about the accuracy and number of voters on the resulting list.

Two months after voter registration took place in September 2002, completed registration forms are still being scanned into a computerized database in 37 processing centers around the country. The delegation heard varying estimates of the time needed to complete the scanning process. INEC anticipates its completion by the end of December. Following the completion of scanning, preliminary voter lists will be produced and posted during a "claims and objections" period that INEC intends to conduct for five days.

There are a number of additional unresolved issues surrounding voter registration. INEC originally planned to take photos of registered voters during the claims and objections period for inclusion in the voter list. However, in the delegation's meeting with INEC, the chairman stated that photographs would not be taken. Voter cards are required to vote, but it is unclear how or when these will be distributed. INEC announced publicly that it would reopen the list to accommodate those unable to register during the September exercise. It remains unclear, however, when this second round would take place and how the new registration would be

verified in time for all elections to be conducted by April 29, 2003.

Independence and Capacity of the Election Authorities

One of the characteristics of a truly independent election commission is access to resources that are totally under its control. Continued delays in the release of government funding to INEC by both the executive and the legislative branches of government undercut INEC's ability to carry out its responsibilities. Opposition party and civil society representatives repeatedly expressed to the delegation a lack of confidence in the independence and impartiality of both INEC and the State Independent Election Commissions.

While in competitive electoral environments political actors tend to be suspicious or distrustful of each other, in particular in the case of Nigeria, the selection of INEC and SIEC commissioners by the executive with no independent oversight mechanisms reinforces the perception that these bodies are partisan and lack transparency. Party leaders and others complained about the wholesale replacement of all of the resident election commissioners by the executive branch in early 2002. Although election authorities do meet with political parties, consultation tends to be inadequate. Civil society representatives complained about a lack of information and access to INEC. In a positive step, some SIECs report that they have formed political party liaison committees.

The creation of the SIECs as parallel election management bodies for conducting local government elections strains the resources allocated to elections and may lead to a duplication of effort in many cases. Although INEC and SIECs should be working closely together to conserve and share resources and avoid duplication, there appears to be much antipathy between the two bodies and little coordination of effort. On the one hand, SIECs generally blame INEC for the delay in the voter registration process and claim they are ready to hold local elections as soon as they receive the voter list. SIECs are acquiring their own election materials and hiring and training staff for local elections independent of INEC's acquisition, recruitment, and training. On the other hand, many political and civic leaders at the state level also expressed concern about the capacity of the SIECs and the lack of consistency of standards among states, as each is separately allocating budgets for the local elections.

Political Parties

Nigerian political parties increasingly engage in open and dynamic political debate. Most parties have expressed support for pertinent issues such as enhanced women's participation to include the waiving of nomination fees to encourage women candidates. However, political parties have failed to foster intra- and inter-party dialogue or to take other steps that could prevent political violence.

Despite this more open political environment, opposition parties share a perception that the political playing field in Nigeria is heavily tilted in favor of the ruling party. They complain about a lack of access to state-owned media, insufficient information from INEC, and the use by the ruling party of state resources for partisan purposes. The dispute over party registration has delayed the release of public funds for political parties, thereby making it difficult for parties to undertake important activities, such as the training of party agents for the registration process. Almost every Nigerian with whom the delegation met, including members of the ruling party, expressed uncertainty about the electoral timeline and process.

Moreover, political competition seems to be driven by a focus on personalities rather than policies, issues and party platforms that could enable voters to make informed choices. The prerequisites of office appear to be the driving force for some seeking party registration, nomination, and election in what was frequently described to the delegation by party members themselves as a “do or die” competition.

Security and Potential for Violence

Numerous instances of violence have occurred in Nigeria that could be linked to competition for electoral office. Many Nigerians anticipate further violence and intimidation beginning with the party primaries and running through the entire electoral process. In some parts of the country, “area boys” and vigilante groups have been used for partisan purposes, and as elections approach, there is concern that such groups will incite politically motivated violence and intimidate prospective voters.

Police have the responsibility for providing security during the election process, but many people expressed the fear that there may be an insufficient number of appropriately trained police to cover the estimated 120,000 polling stations nationwide. Moreover, there does not appear to be a coordinated nationwide strategy between INEC and security agencies to ensure electoral security. The delegation also heard complaints that police have acted in a partisan manner and that in at least one state had denied opposition parties permission to hold party meetings and other political events.

Voter Education

It is common practice that election authorities assume the primary responsibility to inform voters about all aspects of the election process. Civil society organizations commonly complement their efforts. In Nigeria, however, INEC claims that the National Orientation Agency, a state organ within the Ministry of Information, has full responsibility for voter education. The delegation is concerned that National Orientation Agency lacks resources for its mission and does not appear to have a relationship with INEC.

For the voter registration exercise, there seems to have been an uneven experience with voter education around the country. In some states, there were extensive voter education efforts, but these seemed to be the initiatives by individual resident election commissioners rather than the result of a nationwide campaign. In other states, the authorities conducted little voter education. Various civil society groups conducted campaigns to encourage voters to register and inform them of the process, and faith-based organizations also encouraged their members to participate. Political parties also have an important role to play in educating voters but did not seem to be active in this respect during the voter registration process.

Domestic Observers

Domestic nonpartisan election observers have a crucial role to play in the election process by encouraging citizen participation, deterring and detecting irregularities, and providing accurate and impartial information to the public on the conduct of elections.

Several domestic observer groups, including the Transition Monitoring Group and the Justice, Development and Peace Commission of the Catholic Church, recruited, trained, and

deployed observers for the voter registration exercise in September. Their ability to observe voter registration, however, was inhibited by repeated delays in the registration process, and late notification of revised procedures for accreditation from INEC that required observers to appear personally with a photograph at the state INEC office and to pay an accreditation fee. In the end, most domestic observers did not receive accreditation. Despite these difficulties, the Transition Monitoring Group and the Justice, Development and Peace Commission of the Catholic Church issued widely publicized reports on the process. They plan to continue monitoring the process with intentions to deploy observers on election day.

The delegation was pleased to learn that political parties also deployed party agents to monitor the voter registration process and plan to deploy pollwatchers during the voter registration “claims and objections” period and on election day. Well-trained party agents can protect party interests, strengthen transparency in the process, and discourage election-related violence.

To effectively fulfill their responsibilities, domestic observers and party agents must resist efforts at bribery, intimidation, or other forms of coercion. There were incidents of this sort during the 1998-99 elections.

IV. RECOMMENDATIONS

The delegation noted the strong desire of Nigerian citizens and officials for democratic elections in 2003. With this in mind and in the spirit of international cooperation, the delegation respectfully offers the following recommendations.

Building Confidence in the Election Process

- Resolve Pending Court Cases. Ongoing judicial proceedings have delayed the election process and distracted the election authorities and political parties from their preparations for elections. The resolution of these cases in a timely and unambiguous manner is critical to establishing the legal framework for elections.
- Establish Timeline for Election Preparations. INEC should promptly and publicly announce an election calendar and a timeline for election preparations. The calendar should be established taking into consideration the alternative possibilities of election dates. This will include published dates for a preliminary voter registry, party and candidate nomination deadlines, dates for a period of claims and objections, the reopening of voter registration, and the issuance of voter cards. INEC should communicate an operations plan that includes purchase of election materials, recruitment and training of staff, and accreditation of observers. By providing political parties, civil society, and voters with a clear view of the process, INEC will strengthen its credibility. These actions also should enable INEC and SIEC officials to move forward on successive stages of the process.
- Complete the Voter Registration Process. INEC should take concrete steps to ensure that a complete and accurate preliminary voters list is made public as quickly as possible so that any new registration and the claims and objections process can take place, enabling the list to be finalized in a timely manner. INEC also should publicly clarify the procedures for acquiring a voter card.

- Enhance Transparency. INEC should make every effort to reassure the public of its independence from all political influence. INEC should hold weekly meetings with the Political Party Consultative Forum at the national level and extend a similar structure to the state level. INEC should designate a commissioner to meet on a regularly scheduled basis with civil society organizations, including domestic observer groups, and the media. These efforts would serve to enhance communication links and reduce distrust of INEC's conduct of the election process.
- Ensure the Rights of Domestic and International Observers. Following up on INEC's statement welcoming and recognizing the contributions of domestic and international observers, INEC should clarify and facilitate accreditation procedures for both at an early date and respect their rights to observe all aspects of the election process. The delegation notes that accreditation fees for domestic observers are not in accordance with internationally accepted standards for domestic observation and should be eliminated. INEC should issue written instructions to officials at all levels to allow accredited observers unimpeded access to all aspects of the process. Domestic observers equally have the responsibility to engage constructively with electoral authorities and should take positive steps to do so.

Security and Accountability

- Denounce Violence and Intimidation. All political actors should publicly denounce the use of violence for political gain and instruct their representatives at all levels to refrain from such acts before, on, and after election day. Political parties in particular should take immediate steps to reduce tensions and prevent violence from occurring. These could include adopting and adhering to political party codes of conduct and requiring activists and agents to sign oaths to desist from acts of violence and intimidation. Given the importance of preventing violence, the delegation suggests that the National Assembly reconsider the need for strong legislative action in this area.
- Design National Security Plan. Police, government and election authorities, with input and ongoing participation from civil society, should cooperate at all levels to design, make public, and implement a comprehensive nationwide security plan for the election process. Training should be provided to police on their role in the election process, and the election security plan should ensure that adequate security is present at all polling stations.

An Informed Voting Public

- Conduct Voter Education. The Nigerian government should adequately fund appropriate authorities, such as National Orientation Agency, to carry out voter education programs on all aspects of the election process. Civil society groups and parties also should increase efforts to educate voters about their rights and encourage them to participate. These efforts by civil society and the political parties, however, do not release the state from its responsibility to inform voters about the process.
- Provide Media Access. National and regional media outlets should ensure that all political parties have equitable access through balanced reporting and equal rates for advertising. The Electoral Act requires government-owned print or electronic media

to provide equal access on a daily basis to all registered parties or candidates, and these outlets have a special responsibility to do so as a publicly funded service.

The National Democratic Institute for International Affairs and The Carter Center are independent, nongovernmental organizations that have conducted impartial election observation programs in Africa and around the globe. The purposes of this delegation were to express the support of the international community for a democratic election process in Nigeria and to assess the evolving political environment surrounding the upcoming elections, as well as the state of electoral preparations. The delegation conducted its activities according to international standards for nonpartisan international election observation and Nigerian law. NDI and The Carter Center do not seek to interfere in the election process or, at this juncture, to make a final assessment about the process. Both institutions recognize that, ultimately, it will be the people of Nigeria who will determine the credibility and legitimacy of the outcome.