

NIGERIA ELECTORAL REVIEW
Commonwealth Secretariat, IFES and the United Nations

**REPORT TO THE
INDEPENDENT NATIONAL ELECTORAL
COMMISSION (INEC) OF THE FEDERAL
REPUBLIC OF NIGERIA**

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FOREWORD

In requesting the Commonwealth Secretariat, IFES, and UNEAD to undertake this review, INEC has taken the lead in encouraging the reform of Nigeria's electoral process. It has, furthermore, placed this initiative clearly within the broader framework of the need to strengthen the country's democratic system and political culture.

The main conclusions of our review are designed to ensure that the powers of INEC are increased, and its access to resources enhanced, in order to ensure that the Commission is able to earn the unquestioned confidence of both the political parties and of civil society as a truly independent electoral management body. The proposed increase in the Commission's powers, however, can only be justified to the extent that its autonomy is fully safeguarded.

To that end, we believe that:

- The Constitution of Nigeria should be amended to broaden the mandate of INEC and to establish a new mechanism for the appointment of Commissioners that commands public confidence. Funding of the Commission, which must be adequate to meet its operational requirements, should be a constitutional charge on the consolidated revenue fund and not be subject to interference or manipulation by the Executive.
- The number of Commissioners should be reduced to improve decision-making within the organisation and the position of Resident Electoral Commissioner should be abolished and replaced by Commission-appointed State Electoral Officers. Commissioners should focus on defining policy and maintaining effective oversight, leaving day-to-day operations in the hands of the professional staff. A Chief Elections Officer should be appointed by the Commission as its chief executive and accounting officer.
- A new INEC Act should be passed which, among other things, spells out in detail the specific responsibilities and structure of the Commission consistent with its broader constitutional mandate.
- The Constitution should also be amended to provide for an independent Delimitations Commission responsible for drawing up all electoral boundaries.
- A new Electoral Act should be passed. Among the issues to be addressed are:
 - ✓ INEC must be required to publish a comprehensive electoral timetable covering all aspects of the electoral process.
 - ✓ A mechanism should be established to institutionalise interaction between INEC and the political parties. Parties should be consulted on all matters related to the electoral process, including the location of polling stations and the recruitment of temporary election staff.
 - ✓ Robust arrangements need to be put in place to control candidate and campaign funding and reduce the influence of incumbency.
 - ✓ The nominations system should be thoroughly overhauled to stamp out abuse. The names of only those candidates, and their parties, contesting a

particular election, should be included on the ballot paper. The ballot paper should not include other parties.

- ✓ The secrecy of the ballot needs to be assured and the procedures for counting, compilation and announcement of results simplified.
- It is essential to ensure compliance with the provisions of the Electoral Act and those of a revised *Code of Conduct for Political Parties*. There should be clearly spelled out administrative sanctions which can be brought to bear during an election without recourse to the courts. These powers should either reside with INEC or with a reconstituted election tribunals system or should be shared between these bodies.
- The law should ensure that election petitions must be disposed of within strict deadlines and the tribunals should not need to follow normal rules of evidence. They should focus on the substance of a particular case and not on the technicalities.
- There is need for a major restructuring of INEC in order to transform the organisation into a more effective election management body. This should involve a review of its management, staffing, financial controls, and operational procedures. The objective should be to develop a leaner, more decentralised, organisation built on modern management systems rather than the traditional civil service model.
- INEC should to be given the flexibility to recruit from outside the civil service on its own terms, and hire and fire on a performance basis. It should be established as an independent operating agency, fully accountable to National Assembly but able to set its own personnel and operating policies.

This is a massive programme of reform. It does, we believe, respond to the concerns expressed within the Commission, from among the political parties, and from civil society.

It is essential that consultation on electoral reform with the political parties and civil society bodies begin immediately. The objective must be to have in place a broadly acceptable new legal and administrative framework well in advance of the 2007 elections. The design of such a framework must be undertaken locally. We feel confident, however, that given political commitment to reform, the international community would make available whatever technical support or expertise might be needed to assist this process.

Time is short. It is now a matter of great urgency not only to embark on this programme of reform but also to ensure that the voters' registration process is completed and a comprehensive review of electoral boundaries is undertaken without delay.

On behalf of the team, I would like to express my thanks to the Chairman of INEC, Sir Abel Ibube Guobadia, KSA, and the Secretary, Dr. Hakeem Baba-Ahmed, OON, for their close cooperation and their willingness to make themselves and Commission staff available to us. Our work has been enormously enhanced by these consultations. Similarly, we greatly appreciate the time spent with the representatives of the political parties, the media, and civil society.

Finally, I would like to thank my colleagues in the team who worked so hard to produce this report. We offer it as one contribution to the continuing debate within Nigeria about how best to strengthen the country's democratic system and entrench a more open, tolerant and pluralist political culture.

Dr M S Gill
Team Chairman

REPORT TO THE INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) OF THE FEDERAL REPUBLIC OF NIGERIA

1. BACKGROUND

The deepening of democracy in any country is always a “work in progress”. In Nigeria there exists a powerful consensus, both among the political parties and within civil society, that – having just witnessed the transfer of power from one civilian government to another – the system is now in need of further fundamental reform.

Nigerians also recognise that they can benefit from the experiences of other countries, especially in Africa, about the design and implementation of such a reform programme.

Within this perspective, the Independent National Electoral Commission (INEC) invited the Commonwealth Secretariat, the International Foundation for Election Systems (IFES) and the United Nations Electoral Assistance Division (UNEAD), which have been actively involved in providing support for the development of the democratic system in Nigeria since the end of military rule, to undertake a review of the country’s electoral arrangements and to make recommendations with a view to electoral reform.

2. OBJECTIVES

The terms of reference for the review, as proposed by the Independent National Electoral Commission (INEC), were:

"...to review electoral arrangements in Nigeria and to make recommendations to the Government of the Federal Republic of Nigeria, the Independent National Electoral Commission, the Commonwealth Secretariat, the International Foundation for Election Systems and the United Nations Electoral Assistance Division".¹

INEC recognises that reforming Nigeria’s electoral arrangements must be examined within the broader context of the need to deepen and strengthen democracy. The open-ended nature of this mandate envisages that the review should be comprehensive in nature.

3. COMPOSITION OF THE TEAM

The Review Team, chaired by Dr. M. S. Gill, former Chief Election Commissioner of India, included high level officials from the electoral authorities in Kenya and South Africa as well as experts from Australia, Britain, Canada, and the United States.

The composition of the team appears as an Annex.

4. SCOPE OF WORK

The Team, in reviewing the terms of reference, and in consultation with INEC, decided to organise its work around the following main issues:

- *Constitutional and legal framework:* the Constitution, electoral laws and regulations (including the appeals process and relations with the State Independent Electoral Commissions [SIECs]);
- *Public participation in the electoral process:* including political party and civil society participation, campaigning, the media, voter education and codes of conduct;
- *Electoral operations:* including the voters' register, mobilisation and training of personnel, location of polling stations, management of electoral materials, communications, results management and logistics; and
- *Organisational structure and management of INEC:* including staffing, staff development, committees, financing, and management and financial procedures and systems.

The Review Team worked closely with INEC officials, both at headquarters and in the States. The team also consulted with representatives of political parties and with civil society bodies in developing its major conclusions and recommendations.

5. NIGERIA MUST PLOT ITS OWN COURSE

Reform, if it is to be more than just cosmetic, must be truly home grown, driven by national considerations, and designed with the involvement of all stakeholders. It must respond to the specific historical and cultural experience of Nigeria and the country's changing social, demographic and economic environment.

At the same time, however, it is clear from the experience of many countries that there are a number of common areas of concern. Political parties, whatever their hue, are tempted to manipulate the electoral system to their own advantage, if they can get away with it. It is essential, therefore, to ensure that the electoral process is effectively insulated from undue interference by the executive and the ruling party.

This is normally best achieved through the establishment of a powerful and independent electoral management body, which commands the full confidence of

the electorate. Such confidence is only likely to be forthcoming if the organisation is seen to operate in an open, candid and consultative manner.

The electoral management body, which should be accountable to parliament, must manage elections effectively and efficiently; and ensure that the ruling party does not secure unfair electoral advantage from being in office. The body should also be the “electoral guardian” making sure that the law is respected and strictly enforced. INEC should become such an institution.

A genuine reform process will always have to overcome inertia from those comfortable with the *status quo*, including some within the bureaucracy, and will inevitably stimulate resistance from those with vested interests. In securing change, therefore, the quality of political leadership is critical. However, even where, as is the case in Nigeria, a high-level political commitment has been expressed, reform can still be an up-hill struggle. It is necessary to build a consensus of support within the legislature, among the political parties, and in civil society. Furthermore, there must be the capacity to execute reforms effectively and to supervise their implementation.

Nigeria has people with the skills, management expertise, integrity, and independence, as well as the financial resources, to carry out the necessary reforms. What is needed is to design a legal and administrative framework within which all these human, financial and material resources can be combined to produce a truly world-class electoral administration. In the absence of such a framework, no amount of external assistance and support, however well intentioned, will make a difference.

The Review Team offers the following suggestions as a contribution to developing a reform agenda to be implemented well before the next elections. These proposals do not, however, address all the issues of concern within the political process.

6. CONSTITUTIONAL & LEGAL FRAMEWORK

The Review Team recognises that the constitutional and legal framework governing elections in Nigeria needs to be thoroughly overhauled. The current uncertainty about the validity of the Electoral Act 2002 further underlines the need for reform. The primary objective of such a process should be firmly to entrench the constitutional independence of the electoral body as the basic building block for achieving internationally recognised good democratic electoral practice.

A review needs to be undertaken, therefore, to identify the present weaknesses, inconsistencies, gaps, unrealistic deadlines, and conflicts in the electoral legislation. The inadequacies of the Electoral Act 2002, what ever its status, has no doubt contributed to what many see as the sometimes less than punctilious respect for the provisions of the Act on the part of the authorities.

Such a review, conducted with the full involvement of all stakeholders, especially the political parties, should work to a clear and agreed timetable. The objective must be to have in place a broadly acceptable new legal and administrative framework well in advance of the 2007 elections.

This new and clearer legal framework will help to avoid the damaging delays in electoral preparations caused by litigation arising from ambiguities in the law. It will be important, however, to ensure that the new framework meets international standards and, once enacted, is fully respected by all those with responsibility for the electoral process.

6.1 ELECTORAL INSTITUTIONS

International experience shows that the existence of a powerful electoral management body, with effective and exclusive control over all aspects of the electoral process, and commanding the respect of the society as a whole, especially the political parties, is the best guarantee of the integrity of a country's democratic system.

6.1.1 Independent National Electoral Commission (INEC)

a. *Mandate*

The Constitution should be amended to broaden the mandate of INEC in order to make explicit and strengthen its role in protecting multiparty democracy and in helping to develop a political culture which is pluralistic, open and tolerant.

b. *Independence*

At the same time, it will be important for the new constitutional and legal framework to lay to rest any doubts about the independence of INEC and effectively to insulate the Commission from accusations of undue influence from the Executive.

The provisions for Presidential nominations to INEC, including the criteria for appointment, as well as Commissioners' security of tenure, and terms and conditions of service, need to be carefully designed to guarantee this independence.²

A new nominations mechanism should be established which is transparent and has the confidence of all key stakeholders, especially the political parties.³ The appointments process must not only safeguard INEC's independence but also – equally important – be generally perceived to do so. Appointments to the Commission should be staggered to ensure continuity.

c. *Structure*

It is also necessary to review the role and functions of the Commissioners, how many there should be, and whether all or any need be full-time. The Commissioners should be responsible for overall policy direction and control rather than for the day-to-day management of INEC.

Consideration should be given to reducing the number of Commissioners, possibly to seven (one from each geopolitical zone, plus the Chair). This would pay dividends in streamlining decision-making and helping to minimise the recurrent costs of the Commission. Direct management of the electoral process should be left to the professional staff.⁴

Within this context, it is important to clarify the respective responsibilities of the Chairman of INEC, who is chief executive, and the Secretary, who is accounting officer. There are many precedents which support the merging of these functions by designating a Chief Electoral Officer, appointed by the Commission, to manage the organisation.⁵ This approach, which would leave the Chair and Commissioners as the Board of Directors with overall responsibility for policy and broad direction, and the Chief Electoral Officer with delegated management authority, could improve the INEC's effectiveness and efficiency.

At both the national and the state levels, INEC should exercise its full authority to appoint, discipline and release staff. Discipline is particularly important in respect to any infringement of the election law.

At the same time, the position of the Resident Electoral Commissioner (REC), seen by many as politicised, should be abolished. There is no convincing case for retaining this tier of political appointment. INEC should then be given the power to appoint an INEC Electoral Officer for each State, under INEC's own authority. The INEC State Electoral Officer should, in turn, where appropriate and subject to approval by the Commission, be responsible for appointing Returning Officers.

d. *Funding*

Funding difficulties have greatly hampered the work of INEC. In order to strengthen the independence of the Commission, and facilitate strategic planning, arrangements should be put in place to guarantee the organisation's budget. INEC should consider presenting a budget covering a three-year period.

It is essential that, following budget approval, funds be released in a timely fashion to meet INEC's operational needs. This process should not be subject to interference or manipulation by the Executive, including any government department. INEC funding, both for its recurrent and for its election costs, should be a charge on the consolidated revenue fund.

e. *Parliamentary oversight*

There is a need to enhance the role of the National Assembly in overseeing the work of INEC. Oversight mechanisms should be strengthened to ensure effective reporting and accountability to the National Assembly.

The Commission should be required to prepare an annual report for presentation to the National Assembly as well as reports on each election. In addition, given the enormous costs involved, INEC should provide a management and financial audit to the National Assembly after each election.

f. *INEC Act*

The powers, responsibilities and structure of INEC should be clearly spelled out in substantive legislation (replacing Decree No. 17 of 1998). The legislation should also articulate the Commission's specific functions in a manner consistent with the proposed broader definition of its amended Constitutional mandate.

In addition to the Electoral Act, therefore, a separate INEC Act should be passed which, among other things, would give the Commission responsibility to:

- (i) ensure that the electoral processes meet internationally recognised democratic electoral practice;
- (ii) promote conditions conducive to the conduct of open and fair elections;
- (iii) promote knowledge of sound democratic election processes;
- (iv) establish and maintain liaison and co-operation with the political parties, civic society organisations, and the media;
- (v) provide advice to the National Assembly on electoral legislation and the enhancement of the electoral system;
- (vi) undertake research into electoral matters;
- (vii) promote voter and civic education;
- (viii) encourage independent monitoring and observation; and

- (ix) promote co-operation with and among persons, institutions, governments and organisations.

6.1.2 Delimitation

a. *Fairness is essential*

A fair election requires that constituencies should have a relatively equal voter population to ensure that each vote is, as far as possible, of equal value. However, today the size of constituencies can vary dramatically.

A new delimitation exercise for federal and state assembly constituencies will need to be completed before the 2007 elections. The demarcation of boundaries, according to the law, should be based on the 1991 census or the latest national census: with each constituency, as far as possible, containing the same number of inhabitants. Delimitation is currently a responsibility of INEC.

It seems highly unlikely, however, that the next federal census will be available in time to permit delimitation to be completed in a manner that would allow INEC to complete the preparations for the 2007 elections in a timely manner.

Furthermore, to undertake this task effectively would require INEC to develop a range of new technical skills at a time when the organisation has its hands full in completing the registration process and restructuring its operations.

b. *Establishment of a Delimitation Commission*

Consideration should be given to establishing a separate Delimitation Commission, appointed in a manner which commands the respect of the political parties and civil society, to undertake this task. The independence and impartiality of such a Commission should be guaranteed in the Constitution – as well as the tenure of office of the Commissioners. INEC should have a representative on the Delimitation Commission.

In Nigeria, there is a strong case for basing the delimitation of constituencies on the number of voters rather than of inhabitants. The Commission, therefore, should be required to draw up boundaries on the basis of INEC's voters' register and should also take into account the most current population figures. [See 8.2, below]

Other criteria in demarcating constituency boundaries might include: the physical features, the means of communication, geographical distribution of voters, any community of interest among voters, and previous electoral boundaries. The maximum

acceptable variation in size of constituencies should, however, be set in the legislation.

Electoral boundaries should be precisely and unambiguously defined and described in exact geographical terms. The Delimitation Commission should be required to produce maps in which the precise boundaries of the electoral districts are clearly demarcated.

Drawing up of election boundaries should be based on the reasoned conclusions of the Delimitation Commission following the holding of public hearings. No interested party should be in a position to interfere with or unilaterally to alter the recommendations made by the Delimitation Commission.

Whatever is decided, it is essential that arrangements for the delimitation of constituencies be put in place as a matter of urgency. The resources needed to undertake this task should be released in a timely manner. Following the completion of the delimitation process, INEC should ensure that all electors vote within the constituency where they reside.

6.1.3 State Independent Electoral Commissions

All elections in the country should be conducted applying the same legislative principles, regulations and procedures with regard to the transparency and efficiency of the electoral process.

The legal framework for the SIECs – responsible for local government elections – needs to be reviewed. The procedures for appointing the members of the SIECs should be redesigned to guarantee effective independence from the State governments.

Alternatively, especially given the difficulties inherent in developing credible separate electoral administrations in each of the States, and the need to avoid costly duplication, consideration should be given to integrating the SIECs fully within the management structure of a reformed INEC. In such a case, given the federal nature of Nigeria, it would be essential to keep the State Assemblies fully involved with regard to the organisation of local government elections. [See 6.1.1 c, above.]

6.2 REGISTRATION OF POLITICAL PARTIES & THE RIGHT TO PARTICIPATE IN ELECTIONS

6.2.1 Registration of political parties

There is need to revisit this issue following the decision of the court to strike down INEC's *Guidelines for the Registration of Parties* as unconstitutional.

Understandable concerns about the proliferation of parties might be addressed by, for example, establishing minimum membership requirements for political associations wishing to be registered. The law might also require that the registration of any party should be completed well in advance of the announcement of any election. This will ensure that the party concerned is able to devote its efforts to the campaign, and allow INEC to focus on candidate nominations.

A clear legal basis should be created for the cancellation of the registration of a party which has ceased to exist or which no longer continues to meet the statutory requirements.

Finally, INEC should ensure that provisions safeguarding the identity of previously registered parties – their names, their addresses, their acronyms, and their logos – are fully enforced in order to avoid any confusion amongst electors.

6.2.2 Right to participate in elections

Given that Nigeria has a first-past-the-post, constituency based electoral system, the right to participate in an election should focus on the nominations of individual party candidates.

Again, to avoid a proliferation of possibly frivolous candidates, consideration should be given to requiring that each candidate secure a certain number of signatures from voters within the constituency. Also, a deposit might be required from each candidate, which could be reimbursed, provided that the person received a certain percentage of the vote.

The ballot paper should only include the names of those candidates nominated for that particular election, together with their respective registered party names, acronyms, and logos: and not those of any other party. [See 7.1.2 and 8.7, below.]

6.3 ELECTORAL TIMETABLE

It is important to a successful election that electoral authorities prepare and make available a comprehensive timetable covering all aspects of the electoral process. INEC should be legally required to publish such an electoral timetable. [See 8.3, below.]

The Electoral Act should provide realistic deadlines for the various electoral processes. It would also be important that the Electoral Act clearly define the electoral campaign period.

6.4 PARTY LIAISON

It is critically important that political parties have confidence in the transparency and competence of the electoral administration. This not only contributes to fairness of the process, it also helps ensure the credibility and acceptance of the results.

In many parts of Africa it is now accepted practice to establish a party liaison structure providing a regular opportunity for parties to understand fully the arrangements for the poll and to discuss any issues of concern that may arise concerning the administration of the election or the campaign.

The political parties should have the right to be consulted on the major electoral processes – including the development of guidelines or codes which affect them – and should, at all times, be kept informed of relevant developments in election preparation. For instance, political parties should be consulted on the location of polling stations and the recruitment and training of local election staff. Openness about logistical and administrative plans, including for example, the printing of ballot papers, can also strengthen confidence in the process and in those managing it.

INEC's Political Parties Consultative Forum should be legally established to institutionalise interaction between the Commission and political parties and should be given clearly defined responsibilities and powers. The Forum should meet on a regular basis. This mechanism should also exist at the state and local levels.

6.5 CODE OF CONDUCT

Robust political campaigning is inherently conflictual and should, therefore, take place within certain agreed rules. In many countries, these are provided for in a code agreed with the parties, which may be gazetted as part of the regulations. Such codes often include sanctions to discourage breaches.

The Nigerian *Code of Conduct for Political Parties* needs to be strengthened. Arrangements should be put in place to ensure that the provisions of the Electoral Act and the Code are consistent and are fully respected and enforced.

Either INEC must be given the authority to police the code or an election tribunal should be empowered to provide immediate relief in the case of infringements during the campaign periods: the responsible body, however, must have the necessary legal powers, capacity, and capability to

act. There should be no appeal in respect of minor administrative sanctions.

Some of the possible administrative sanctions for non-compliance with both the legislation and the Code might include, for example, a formal warning; a fine; or an order prohibiting or limiting the right of the party to hold public meetings, or to campaign in specified electoral districts, in the case of lesser violations.

More serious violations of the code such as using violence or intimidation, or a gross or systematic violation of the rights of other political parties, candidates or voters, might result in parties having their registration cancelled or their ability to campaign suspended: thus limiting the right to participate in the election.

Parties that restrict the free and safe access by any other party might be excluded from any voting stations in the areas concerned. In addition, where the vote is seriously compromised by violence or for other reasons, the elections could be cancelled and held at a later date – but within a specified maximum period. [See 6.7, below.]

It will also be important, in reviewing the electoral law, to clarify the current provisions which permit parties to make private arrangements to provide armed security guards for candidates and campaign events. In some parts of the country, it would appear, this has opened the way to party supporters being given arms to threaten and intimidate political opponents.

6.6 INCUMBENCY

There is need for stricter rules to inhibit the ruling party in any particular area from using public resources – human, financial, and material – for party political purposes, especially during the election period.

In addition, during an election campaign, robust and enforceable regulations are also required governing the role of civil servants, limitations on government policy announcements and spending commitments, and controls on state information activities.

The necessary powers, and capacity, to investigate complaints relating to incumbency and to apply sanctions should be the responsibility of either the Commission itself or the electoral tribunals: and dealt with expeditiously during the election campaign. [See 6.5 above & 6.8, below.]

6.7 PARTY & CAMPAIGN FUNDING

6.7.1 Regulating party funding

Election campaigns are expensive. Party membership fees seldom contribute more than a small percentage of the funds required. All parties, therefore, seek backing from commercial and other sponsors. This inevitably raises concerns about influence peddling and potential conflicts of interest. These problems are especially acute in Nigeria where, as has been apparent during and following the recent elections, money plays a particularly corrosive role in the political system.

The present legislation on campaign expenses and party funding is clearly inadequate. The law needs to include robust provisions relating to the disclosure not only of campaign contributions by parties and candidates but party funding more generally. It requires, therefore, not only review but also evaluation as to how such provisions can be enforced effectively. Whatever system is decided upon, INEC will require the expertise and capacity to monitor and enforce the regulations.

6.7.2 Public funding

The Electoral Act 2002 includes provisions for party and campaign funding, which were applied during the recent elections.

The advisability of providing public funding for political parties, however, and the most appropriate mechanism for doing this should be reviewed. It is possible, for instance, that rather than providing funds, public resources might be used to finance access to the media through party political broadcasts based on the number of candidates fielded. If public funds are to be given it is essential that INEC should have the capacity to monitor and report on the distribution and utilisation of these resources.⁶ [See 7.1.1, below.]

6.8 ELECTION TRIBUNALS

There is little confidence in the present electoral tribunal system. Election tribunals should be established at the beginning of the electoral process to ensure that disputes, both with respect to election irregularities and infringements of the *Code of Conduct for Political Parties*, can be dealt with expeditiously. Strict deadlines for dealing with each case should be established within the Act.

The tribunals should operate as administrative and not judicial bodies and should not be required to follow judicial rules of evidence. They could focus on the substance of the particular case and not on technicalities. The legal framework for the tribunals should, furthermore, be widened to allow any voter whose rights have been infringed upon to present a petition.

In addition, election tribunals or some similar appeals body should be empowered to receive challenges to the registration of voters, especially during the claims and objections process.

Alternatively, as has been suggested, INEC itself should be given the powers to adjudicate electoral disputes and to ensure compliance with the electoral law. [See 6.4, above.]

6.9 ELECTORAL SYSTEM

In some areas of the country, opposition parties have been effectively or completely eliminated from the State Assemblies. A number of factors may be responsible for this but it seems clear that the problem can in part at least be put down to the working of the electoral system.

The electoral system, particularly at State level, should be reviewed to determine whether or not to maintain the “first-past-the post” system or adopt a form of proportional representation or a mixed system.

6.10 TIMING OF ELECTIONS

There is also a case for considering not staging national and state elections concurrently. One election campaign should not be allowed to “crowd out” another. An option would be to ensure a gap of two years between the national elections (National Assembly and Presidential) and the State elections (gubernatorial and State Assembly). This would, among other things, allow voters to focus more clearly on the specific election and the candidates involved.

7. PUBLIC PARTICIPATION IN THE ELECTORAL PROCESS

7.1 POLITICAL PARTIES

7.1.1 Strengthening the parties

The party system is, at present, weak. Multi-party democracy can only function if there are parties capable of organising themselves in a democratic manner, building a constituency of support, developing their programmes, running effective campaigns, and being able to monitor the electoral process.

It is important to strengthen the capacity of political parties at each of the Federal, State, and local levels. INEC should explore how best programmes can be put in place to help build more robust and issue-driven political parties in Nigeria.

There is need for a non-partisan capacity building programme involving facilitating contact with political parties in other countries, participation in observation missions, staff training,

short-term course, the organisation of seminars, etc., which might be funded jointly by the Commission and external donors.

INEC should pay special attention to working with those responsible for administration within the political party structures in order to ensure that they can provide the necessary financial and other reports.

7.1.2 Internal party democracy

The behaviour of political parties in regard to the nomination of candidates, which tends to be chaotic and often seemingly corrupt, highlights the lack of internal party democracy. These problems, furthermore, can have a major negative impact on the management of the electoral process. Establishing inflexible candidate nomination deadlines and including the names of candidates on the ballot paper would encourage greater discipline. [See 8.7, below.]

Effective mechanisms are needed to ensure that the political parties operate in a more open and proper manner. In addition to monitoring the party congresses, INEC should use its authority – publicly if necessary – to insist on parties complying with the letter and the spirit of the electoral law.

7.1.3 Monitoring

The primary responsibility for monitoring the election rests locally with the political parties. They are more than observers. The party agents represent the first line in defence of Nigeria's electoral democracy. If the parties are unable, or unwilling, to shoulder this burden responsibly, they only have themselves to blame when things go awry.

The major parties are generally successful in mobilising their party agents, notably in their areas of strong support. However, they often do not fully understand their responsibilities and, on occasion, challenge the authority of the electoral officials. The party agents should be well trained to observe every step in the electoral process in order to improve the quality of their monitoring. [See 8.9.2, below.]

7.2 MEDIA

In a democracy, voters must be able to make informed choices in deciding how best to cast their ballots. This requires that all contesting points of view be fairly and equitably communicated. Parties should be able to reach their potential constituents. Even more important, however, citizens have the right to hear what the parties have to say. A lively, open and diverse media is critical in order to achieve all this.

INEC should be empowered, and have the expertise and capacity, to ensure that the rights of all contestants in an election are protected in so far as the media is concerned. It must be able to ensure that the relevant provisions of the Electoral Act and the Code of Conduct are enforced. [See 6.4, above.]

The powers of INEC should also be strengthened, and its media monitoring capacity enhanced (or assigned to the National Broadcasting Commission (NBC), operating in that instance under INEC's direction during the election period), to ensure that the public broadcaster and the state media operate in a non-partisan manner.

INEC should encourage efforts to improve the professional standards of the media generally, including the commercially owned media, in covering elections.

7.3 CIVIL SOCIETY

7.3.1 **A force for good**

Civil society organisations play an active and positive role in the electoral process. It will be important to ensure that the experience gained during the recent elections, and the stronger links that have been developed among the organisations concerned, are protected and sustained.

7.3.2 **Civic & voter education**

a) *Civic education*

Democracy in Nigeria has been secured through the suffering and self-sacrifice of millions of people. It is not, however, simply a free gift from one generation to the next but also brings with it responsibilities. It must be progressively deepened and constantly defended. Fortunately, the experience of the struggle against military dictatorship has bequeathed a politically conscious civil society capable of responding to this challenge.

Protecting, defending and deepening democracy requires a commitment from all sections of society. Such vigilance, however, requires an active and politically conscious citizenry: citizens who understand their rights and responsibilities; who feel involved in and responsible for the healthy development of their local communities and of the nation as a whole; and who are concerned about their country's role on the African continent and beyond.

A number of civil society bodies are engaged in or developing longer-term civic education programmes designed both to increase awareness about the rights and responsibilities of citizens and provide people with the tools necessary to ensure accountability in the political system. Well-designed and

responsibly implemented programmes of this nature should be encouraged and supported by INEC.

b) *Voter education*

Voter education is important in order to:

- *encourage participation in the electoral process* (e.g. by telling people they must register if they wish to vote);
- *build confidence in the electoral process* (e.g. by helping people understand the process and reassuring them of its credibility); and,
- *help create a democratic culture* (e.g. by encouraging political tolerance; informing people of their rights and responsibilities, etc.).

Civil society bodies, working closely with INEC, play an important role in the area of voter education. [See 8.1.2, below.] The mass based organisations – including faith groups, women’s bodies, trade unions – which operate in direct and often face-to-face contact with their membership are particularly important. Much of this work takes place with only limited donor involvement or support.

In addition, during the last election, the use of donor assistance to broadcast radio jingles provided an important additional means used by such bodies to reach an even larger constituency. Election related NGOs can play an important role in helping to provide technical support and materials for such programmes.

It is important, however, that those funding voter education programmes should periodically evaluate their impact and make available such evaluations to INEC and other stakeholders.

7.3.3 **Observation**

Close cooperation among domestic observer groups is essential to mount an effective and comprehensive observation exercise. [See 8.13.1 and 18.13.2, below.]

Efforts should be made to cover all polling stations, to be present throughout the voting and the count, and then to accompany the transfer of results. This requires increased cooperation in the area of deployment. All the main organisations are now, it is understood, convinced of the need to build such cooperation for the future.

There are, however, gaps in election observation: civil society, for instance, no longer has any institutional capacity to monitor the

media since external funding of the organisations which undertook this task dried up some years ago.

7.3.4 Conflict management

Many ordinary Nigerians, as well as the civil society organisations involved in the electoral process, remain deeply concerned that elections might lead to a significant increase in violent conflict. These anxieties centre on the dangers of intense campaigning reigniting smouldering regional or inter-ethnic clashes; on worries that ongoing conflicts about resources might be intensified by electoral activity; or that campaigning itself might degenerate into open conflict between the supporters of the various political parties.

Civil society organisations can and already do play an important role in the reduction of tension during an election period. In undertaking this work, they try to liaise closely with the electoral authorities, the political parties, and the security forces. There is a need, however, to strengthen such activities and improve coordination.

Given the inherently conflictual electoral environment, consideration should be given to establishing constituency level peace committees to, among other things, engage in mediation and encourage the development of community-based training programmes on dispute resolution.⁷ This should complement INEC's work, through the proposed party liaison structures, to resolve inter and intra party conflicts as they arise during the course of election campaigns. [See 6.4, above.].

7.3.5 Donor dependence

Civil society bodies suffer from an excessive dependence on external donors. Much of the activity undertaken in connection with elections, but by no means all of it, would not have happened without foreign funding. This is likely to remain the case. Efforts should be made, however, to mobilise local resources to fund election observation, voter education and conflict management initiatives.

8. ELECTORAL MANAGEMENT

8.1 CIVIC & VOTER EDUCATION

8.1.1 Civic education

INEC should work with the appropriate bodies within the public sector and in civil society to develop longer-term civic education programmes. [See 7.3.2 a), above.]

This might, for instance, include encouraging the development of civic education programmes, especially within the security forces and through the development of new school curricula. [See 8.10, below.]

8.1.2 Voter education

It is essential that INEC should have the capacity and resources to ensure that the electorate is fully informed about the electoral process. At present, however, the Commission does not have a specific mandate, nor does it have the expertise or resources, to develop a voter education strategy. Recent efforts, although highly commendable and well received, have inevitably been fragmentary and *ad hoc*.

It is proposed earlier in this report that INEC's mandate be broadened to include voter and civic education. [See 6.1. f. (vii)] The Commission should, therefore, develop the necessary expertise and be given adequate resources to ensure that effective voter information and education programmes are implemented.

8.1.3 Need for coordination

Civil society voter or civic education initiatives can themselves be problematic. Concerns are sometimes voiced about impartiality and there is always a possibility for such initiatives to become a disguised form of canvassing. Civil society programmes, furthermore, also run the risk of achieving only patchy coverage. INEC should maintain a dialogue with those engaged in such programmes to encourage a more comprehensive coverage, especially within the rural areas and among disadvantaged and minority groups.

To that end, consideration should be given to establishing a national forum for civic and voter education. The forum might, among other things, discuss the need for INEC to develop generic materials and a Code of Conduct for voter education providers. [See 7.3.2, above.]

INEC should encourage the development of imaginative ways to promote new initiatives rather than itself necessarily running such programmes. It will also be important, in undertaking this task, to

develop a dialogue with the political parties in order to ensure that they themselves become actively involved in educating their own constituencies – especially in regard to the code of conduct.

8.2 VOTER REGISTRATION

8.2.1 Voters' Register

A sound voters' register, which protects the rights of qualified citizens and minimises the possibility of electoral fraud, is of central importance in organising credible elections. All eligible voters, but only those who are eligible, should be included. The voters' register must be as accurate and defect-free as possible: this is a *sine qua non* for the conduct of a good election.

The voters' register of some 60 million voters exists in electronic form at the state level but there is not, as yet, a consolidated national version of the register covering all the States. Difficulties and delays during the recent registration meant that the process of claims and objections, and the display of the register at the local level, was not handled in full compliance with the law. It will be important to ensure that any deficiencies, such as a voter being placed in the wrong constituency, are rectified. The new register should be posted at the local level to allow for claims and objections to be dealt with. [See 6.1.2. b), above.]

The national voters' register needs to be consolidated and finalised and, as foreseen in the legislation, mechanisms should be put in place to ensure that the register is updated on a continuous basis.

INEC needs urgently to develop and articulate a clear strategy, budget, and timetable to ensure it achieves these two objectives. Commission staff will need to be recruited or trained in order to take over the work currently being undertaken by external consultants. Alternatively, a long-term relationship should be established with a competent and experienced firm to supply the necessary expertise on an as-needed basis and help to build an in-house capacity.

INEC should also consider bringing in an independent consultant to undertake an assessment of the present situation and to make recommendations as to priorities, target dates and costs.

Basic non-sensitive voter information from the voters' register, such as name, gender, age, and voting area, should be made available to political parties in electronic form. The list of Registration Centres should be widely publicised and also placed on the web site. INEC should – while protecting sensitive information – make the register widely available and also, over the longer term, place it on the website.

8.2.1 Management of voters' cards

The problems experienced during the 2003 elections in regard to the distribution of temporary voters' cards highlights weaknesses in management. An exercise of this nature requires an extremely high level of planning and stringent quality control. INEC did issue instructions concerning the need for electoral officers to report fully on this process. Unfortunately, it was too late to put in place any effective mechanism to protect against abuse.

The current voters' cards will need to be replaced. However, the issue of whether or not permanent voters' cards are desirable and, if so, what format they should take, needs to be determined at the earliest date.

If so decided, over 60 million voters will probably need to be photographed and given the new cards – a mammoth and expensive task which would need to be undertaken well before the next election. Arrangements will then have to be put in place to issue cards to those who are newly brought on to the voters' register during the process of updating the register.

8.3 ELECTORAL TIMETABLE

INEC should prepare and make available a comprehensive timetable of each step in the electoral process. This might include deadlines for: the closure of the voters' register; the nomination (and withdrawal) of candidates; publication of lists of candidates; publication of the voters' register; acquisition of electoral materials; packaging and distribution to polling stations; publication of lists of polling stations, etc.

In order to ensure full compliance with such a timetable INEC will need to embark on a major programme of strategic and operational planning. Clear priorities, in regard to staffing and resources, will have to be established, activities scheduled, and essential milestones identified. All electoral activities will need to be integrated with these respective deadlines. [See 9.2, below.]

The Election Timetable should, as proposed, be issued as a legally binding regulation of the Commission. [See 6.3, above.] Publication of the timetable would make it easier for INEC itself as well as political parties and observers to monitor these processes effectively. In addition, INEC should draw-up an internal timetable of the administrative actions which need to be taken to ensure that election deadlines are met.

INEC should also consider issuing a public notice that the various steps in the process have been completed and in a manner consistent with the timetable. These notices, together with information about the actions taken, such as the list of constituencies, candidates' names, etc, should all be placed on the Commission's website for public information.

8.4 REGULATIONS

INEC is empowered to make regulations concerning the administration of the electoral process. Such regulations should be the basic reference for all those involved in organising an election. They are needed in order to provide a clear and detailed legal framework for the arrangements that are then articulated more simply in the election manuals. It is important that such regulations be comprehensive, issued well in advance, and be numbered, dated and included in the Commission's election manuals.

8.5 VOTING & COUNTING

The procedures for voting and the count, including the protection of the secrecy of the ballot, need to be reviewed and revised.

8.5.1 Voting

The secrecy of the vote, which is a basic democratic principle, has not been a part of Nigerian voting tradition. Election procedures should, therefore, be reviewed to protect secrecy and then become an integral part of the training programmes for INEC polling officials, party agents and security officials. The principle of ballot secrecy should also be incorporated into voter education initiatives.

8.5.2 Counting and collation of results

Nigeria's four and five-step processes of counting and collation provide great opportunities for manipulation of the true figures. Every additional level of collation, following the count at the polling station, adds significant additional levels of mistrust on the part of the political parties, the media, and the general public.

A simpler and more transparent system, eliminating collation of results at the ward and local government levels, must be developed which provides for polling station results to be transmitted directly to a central point and announced on a poll-by-poll as well as an aggregate basis. The announced results should also include figures on the number of registered voters and ballots cast, including spoiled or invalid ballots, on a poll-by-poll basis to enhance verifiability.

8.6 MANUALS

It is also important that the manuals and procedures for an election should be comprehensive and produced well in advance of the training of election officials (as well as of observers and security force personnel). Otherwise, it is impossible to manage effectively the training of the many thousands of temporary staff required. Any delay also undermines efforts to plan and implement essential voter education initiatives. Copies of the Manual should be made available to all Presiding Officers.

8.7 NOMINATIONS

The nominations process is a complex operation which must be managed with a strong eye to detail and in strict compliance with the law. INEC needs to put in place a more reliable and efficient system to collect, verify, and confirm nominations – and to ensure that the political parties meet the established deadlines. A review should be undertaken to clarify the respective responsibilities of INEC headquarters and State offices in this process.

The date for the nomination of candidates, established through INEC regulations and under the provision of the Electoral Act, should be rigidly enforced by the Commission. Under no circumstances should parties be permitted to add or substitute candidates after the closing date for nominations changes. In particular, substitutions of candidates after the posting of official candidates lists by INEC – and particularly during or following the voting – should be rejected as a violation of basic rights of the voters to know for whom they are voting.

The names of candidates should in future be included on the ballot paper. This will both improve the quality of elections, by ensuring the voters know the identity of the candidates, and impose a discipline on the political parties. Only those parties with candidates nominated for a particular election should be included on the ballot paper. [See 6.2.2 and 7.1.2, above.]

8.8 RECRUITMENT

The delivery of good elections rests largely on the competence, neutrality and integrity of some 500,000 temporary electoral officials: from returning officers, who are key personnel for the management of elections and declaration of results, to presiding officers and their subordinate staff.

Better mechanisms are needed to screen applicants before they enter into the service of the electoral system. In particular, greater transparency is required in the selection of officials, including consultation with the political parties and the early publication of lists of officials for public scrutiny. A database of qualified persons should be maintained.

In some parts of Africa the process of recruitment at the local level is monitored by the political parties. Parties and civil society bodies should

be encouraged to observe all aspects of the recruitment and training of electoral staff in order to enhance confidence in the election.

8.9 TRAINING

8.9.1 Temporary election staff

It is important to ensure that – as envisaged by INEC – training programmes take election staff through a dry run of the procedures and in particular the process of determining valid votes, undertaking the count, and completing the necessary forms. Special attention should be given to ensuring staff understand fully the importance of protecting the secrecy of the ballot and of performing their functions impartially.

A decentralised training plan is needed which should be implemented with the full involvement of State INEC officials. Understandably, training of such a large number of people has to take place through a “cascade” system. It is essential to have an effective mechanism to intervene at all levels to ensure that the standard of training remains of a consistently high quality.

Such training, furthermore, as is recognised by INEC, should focus not only on the mechanics of the electoral administration but also on the role of the elections within the democratic process as a whole. It is critical to explain the values on which democratic elections should be based.

8.9.2 Other stakeholders

Party Agents, observers and members of the police are also present at polling stations.

It is important to ensure that these people understand their specific rights, duties and responsibilities in order to play a positive role during voting and counting (and not complicate the work of the Presiding Officers).

The bodies responsible for deploying such personnel need to provide training for these officials. INEC should work closely with them to ensure that their training materials and methodology are comprehensive and fully consistent with the electoral legislation and INEC guidelines.

8.10 LOGISTICS

It is essential that all necessary materials – including voters’ register, ballot papers, forms, ballot boxes – required for the conduct of voting are distributed in good time to enable the election to commence at the appointed hour.

There is a need to streamline logistics in order to improve the storage, distribution, tracking and retrieval of sensitive and non-sensitive election materials. For instance, procedures are required to create a clear and traceable audit trail of all sensitive balloting materials. Numbered ballot box seals and ballot paper serial numbers should be assigned for each polling site: and those numbers recorded by poll workers, observers and party agents as appropriate. Such changes would help ensure that such materials do not go astray and would increase confidence in the process.

The electronic voters' register, providing accurate and easily accessible data on the number and distribution of voters, should in future give a much sounder basis for planning logistics around the election.

8.11 SECURITY

Although generally speaking the Nigerian police do a good job to protect the electoral process, and the Police Service Commission (PSC) is to be commended for its monitoring activities, there is certainly room for improvement. INEC, in addition the training provided around elections, should encourage the development of a comprehensive civic education programme to help reinforce understanding of and respect for democratic values in the police service.

8.12 COMMUNICATIONS

The INEC web site should be used as an indispensable tool to improve communications with stakeholders and the public and strengthen the overall transparency of the election process. The establishment of the Media Results Centre for the 2003 elections was also an important contribution to the openness in dealing with the outcome of the electoral process.

These initiatives should be the beginning of a more active communications strategy designed to explain fully the policies of INEC. The Commission needs to continue engaging positively with the media to ensure that its actions are fully understood by the political parties and the electorate generally. Good relations with the media are critical in ensuring public confidence in the electoral management body.

8.13 OBSERVATION

INEC should provide accreditation to both domestic and international observer groups for the full duration of the electoral process.

8.13.1 Domestic observation

Civil society observer groups, which worked well together are to be congratulated for the positive role they played during the recent elections. [See 7.3.3, above.] Their success was facilitated by the decision of INEC to create a streamlined and efficient mechanism for the accreditation of observer organisations. Appropriately, no fees were charged and approved organisations were empowered to accredit their own personnel.

Further efforts should be made to strengthen domestic observation of the electoral process as a whole. For example, INEC's current observer Code of Conduct seems rather negative in its spirit. The understandable need to control the activities of observers, in order to ensure they do not obstruct the electoral process, should be balanced by a clear statement about the important role they play.⁸

The Civil Society Consultative Forum, put in place by INEC to support coordination with domestic observer groups, should be retained and built upon. At the same time, domestic observer groups should be encouraged to provide a report of their observations to INEC. This forum, which might review such reports, would be well placed to play an important continuing role in improving domestic observation and in strengthening links between INEC and civil society.

8.13.2 International observation

INEC should also create mechanisms to maintain dialogue with international observer groups. International bodies interested in the health of Nigerian democracy should be encouraged to develop a longer-term relationship with the Commission. Simply arriving for the election, issuing a public statement on the conduct of the poll, and then departing for four years is not likely to have a continuing impact on those involved in managing the electoral process.

9. ORGANISATIONAL STRUCTURE AND MANAGEMENT

9.1 ORGANISATIONAL STRUCTURE

9.1.1 Delegation of responsibilities

INEC, which inherited the bureaucracy of the former electoral administration, has a substantial establishment and recurrent cost structure both at headquarters and in the States. The size of this establishment does not necessarily contribute to effective and efficient electoral management.

A restructured INEC must ensure that management responsibilities and authority are effectively delegated to the organisation's executive officials and directors.

Similarly, a much greater level of responsibility should be delegated to the States. This strategy, however, which might involve greater responsibility in such matters as the procurement of non-sensitive materials, voter education, and work with the political parties, could only be contemplated if there is a significant strengthening of INEC's State offices.

Both at headquarters and in the States there is a need to develop much clearer work programmes with well-defined, measurable targets and quantifiable outputs linked to a carefully managed performance bonus scheme.

9.1.2 Communications

With increased delegation there is an accompanying need for constant communications and coordination among headquarters' directorate and staff and between INEC and its State offices.

For the work of INEC to run smoothly it is essential for information to flow easily throughout all sections of the Commission. Otherwise, key members of staff remain confused, programmes are not implemented effectively, and morale declines.

It is clear that there have been difficulties in this regard both within the Headquarters and – even more acutely – between Abuja and the States. It is essential that such problems should be addressed.

9.1.3 Staffing levels, outsourcing & use of consultants

Although there is always important work to be undertaken, especially in light of the expansion of the Commission's mandate proposed in this report, periods of intense activities will inevitably focus around the specific events of the electoral timetable.

At present, however, the number of Commissioners seems large and the staff complement is excessive at headquarters and in the States. [See 6.1.1 c), above.] This has the effect of draining funds which could be used to enhance INEC's efficiency and effectiveness.

The appropriate level of staffing, therefore, needs to be reviewed in the light of the Commission's priorities and strategic plan. As part of this process, clear job descriptions should be provided to all employees. INEC should, at the same time, explore what functions might be usefully outsourced; and the extent to which short-term expertise can be utilised to undertake specific tasks.

9.1.4 **Career development & training**

The training of the Commission's core staff, both at Headquarters and in the States, needs to be improved. At the same time, a process of staff assessment should be put in place, linked to a programme of professional upgrading, and career development, in order to develop a cadre of election administration professionals.

The INEC training department, which at present is small, requires strengthening. There is need to develop a comprehensive and coordinated training strategy designed to raise standards and to ensure that all staff have a clear understanding of their responsibilities, of INEC's mandate, and how it should be implemented. INEC needs to put in place a quality control mechanism for its training activities.

Within this context, opportunities should be developed to allow staff members to benefit from short-term courses, internships, observer missions, and attachments. Such activities, however, must be well structured and carefully integrated into an overall human resources development programme.

9.2 PLANNING

9.2.1 **Administrative culture**

The administrative ethos of INEC remains that of the traditional civil service. It administers elections, reacting to events, rather than managing the delivery of the election, preparing pro-actively for deadlines to come. The Commission does prepare operational plans but often these do not seem to be coordinated, systematically followed or implemented in a timely fashion.

The management style remains essentially hierarchical with even senior staff being given tasks to perform rather than taking delegated responsibility for particular areas of work. As staff development programmes begin to have an impact, greater emphasis should be placed on delegating substantive responsibilities to competent staff.

Although the Commission appreciates the need to adopt project management methods, the implications of this are not fully recognised. Often progress is not tracked and problems are not addressed until deadlines have been reached (or passed).

As a result, INEC has experienced difficulties in building the infrastructure required to support elections: logistics and warehouse system, financial systems (including both accounting and budgeting), recruitment and human resources procedures,

and reliable communications between the headquarters and the States.

The management of large scale, complex information technology projects, such as for the voter registration process, have also proved problematic. [See 8.2, above.]

9.2.2 Coordination

At present, INEC's management structure is compartmentalised and does not facilitate the overall direction and coordination of all the essential inputs to the electoral process. Both cross-departmental and inter-departmental coordination of activities, essential for efficient working and to ensure that each aspect of the preparations is undertaken in the appropriate sequence, are ineffective. One way to facilitate such coordination would be the establishment of an election management group, comprising the department heads, under the Chief Electoral Officer, with the authority to control and direct the process.

9.3 FINANCING AND BUDGETARY CONTROL

Without assured financing, INEC will never be an effective, independent electoral management body. The Commission must be given adequate resources in a timely manner so that the logistical and other arrangements necessary to ensure the realistic planning and organisation of voter registration, the delimitation of constituencies, and polling administration can be carried out. The Commission's budget, therefore, should be a charge on the consolidated revenue fund. [See 6.1.1 d, above.]

At the same time, however, INEC must ensure value for money. Greater clarity is needed in respect both the Commission's financial and budgetary processes as well as to procurement and the letting of contracts. The operations of the tender process need to be reviewed and there should be public investigations of any alleged bribery or corruption.

Furthermore, the use of INEC vehicles, especially in the States, where these expensive assets are being under-utilised and improperly stored between elections, should be reviewed. An external financial audit of INEC's books after each election should be made mandatory and the findings published.

International donors can play an important role in supporting the work of the Commission, notably in the area of technical assistance. It is important, however, that the INEC should avoid entering into expensive, donor-driven programmes that it will find difficult to sustain.

9.4 A NEW APPROACH

An electoral organisation is judged on its ability to put in place management systems capable of dealing with a large number of complex activities which need to be undertaken within tight deadlines. This involves the ability to plan ahead and deal effectively with contingencies as they arise.

This critical task is difficult to achieve within a traditional civil service framework. INEC needs to develop specialist skills and competencies, and its natural partners in this process are not necessarily government departments, but other electoral Commissions, particularly in Africa. Furthermore, INEC needs to be given the flexibility to recruit from outside the civil service on its own terms, and hire and fire on a performance basis. Otherwise, the Commission will continue to experience difficulties in recruiting and retaining people with essential skills.

Arguably, it would be best for INEC to be established as an independent operating agency, fully accountable to the National Assembly but able to set its own personnel and operating policies. This is important if the organisation is to build up the capacity of electoral management over time, and avoid long-term dependency on external support. The Commission should, in the meantime, where appropriate, seek support from outside electoral management experts to help in the design and development of its institutional reform programme.

10. FINAL REMARKS

The Review Team was deeply impressed by the willingness of INEC, including the Chairman and Commissioners, as well as the Secretary and his staff, to explore openly the challenges facing the organisation. INEC has made real progress, for instance in efforts to capture the voters' register on an electronic database, a mammoth task, and is strongly committed to continuing to streamline and improve its operations. The improvements achieved during the later stages of the recent election, suggest that with time and commitment real progress can be achieved. The Commission has also made commendable efforts to strengthen working relations with the political parties and with civil society bodies.

However, in its interaction with people from the political parties, civil society bodies, including those from the faith communities, journalists, and civil servants, the Team could not but be struck by the overwhelming pessimism – not to say cynicism – evident about the prospects for achieving reform. Nigerians know their problems. Many, however, felt that the moves to moderate the excessive influence of incumbency, to reduce the power of money, and to increase efficiency in the delivery of elections were doomed to failure even before they started. The “Nigeria factor” was mentioned, even by senior officials, as an excuse for inertia. This is a counsel of despair.

These views were widespread. The onus is on the political leadership of the country to show that this cynicism is indeed misplaced: that the Nigerian political system does have the capacity to reform itself.

To that end, the Review Team believes it is essential that a package of constitutional, legal and administrative changes, along the lines sketched out in this report, be implemented within an agreed timetable.⁹ The changes proposed involve a significant increase in the autonomy and powers of INEC. Although essential, this is only likely to be acceptable to the political parties and to civil society provided that the independence of the organisation is fully guaranteed. INEC must have the unquestioned confidence of society as a whole.

The next general election is scheduled for 2007. Time is short, therefore, to complete the complex processes which must be put in place so that the new arrangements are well bedded-down and fully operational in good time. Otherwise, the next elections will again face major problems.

Notes

- ¹ Letter from Dr. Hakeem Baba-Ahmed, OON, Secretary of INEC, to H.E. Don McKinnon, dated 4 June 2003.
- ² It appears that party membership, and indeed sponsorship by a political party, is one of the constitutional requirements for appointment to the Commission. Either this is an error in legislative drafting or represents a weakness in the legal framework.
- ³ In South Africa, for instance, candidates are interviewed in public by a committee composed of the President of the Constitutional Court, and other senior figures from independent oversight agencies before a short list is sent to the President for nomination.
- ⁴ The Electoral Commission in India, for example, which has a federal structure, a population of more than one billion and has experienced significant regional and ethnic tensions, has only three Commissioners. South Africa, also with a federal structure, has an Electoral Commission with only five Commissioners not all of whom are fulltime.
- ⁵ The Principles for Corporate Governance in the Commonwealth, for instance, states: 'The Board should "ensure that there is an appropriate balance of power and authority on the board which is, *inter alia*, usually reflected by separating the roles of chief executive officer and chairman . . ."
- ⁶ This should involve INEC in calculating the amounts available for distribution, publishing this information, and then transferring the funds to the parties. The Commission should also develop programmes to strengthen the administrative and accounting skills of staff within the political parties who must account for these resources. The Commission should receive and evaluate narrative reports and audited statements from

-
- the parties on the use of these resources. This information should provide the basis for the preparation of an audited account and report for presentation by the Commission to the National Assembly.
- ⁷ The experience of Kenya, South Africa, and Uganda provides useful models for the establishment of such Peace Committees.
- ⁸ The South African Code, for instance, requires observers to provide the Commission with a comprehensive review of the elections taking into account all relevant circumstances including: the degree of impartiality shown by the Commission; the degree of freedom of political parties to organise, move, assemble and express their views publicly; the opportunity for political parties to have their agents observe all aspects of the electoral process; the fairness of access for political parties to national media and other resources of the state; the proper conduct of polling and counting of votes; and any other issue that concerns the essential freedom and fairness of the election.
- ⁹ Such a timetable will need to provide for: (i) informal consultation with the political parties; (ii) public debate and participation; (iii) legal drafting by INEC; (iv) review of the draft by the Presidency and Ministry of Justice; (v) scrutiny of the draft by the relevant National Assembly committees; (vi) debate and vote by the National Assembly; (vii) signature by the President.