



**STATEMENT OF THE
NATIONAL DEMOCRATIC INSTITUTE (NDI)
INTERNATIONAL PRE-ELECTION DELEGATION
TO NIGERIA'S 2007 ELECTIONS**

Abuja, May 10, 2006

This statement is offered by an international pre-election delegation organized by the National Democratic Institute (NDI). The delegation's teams visited Nigeria from April 29 to May 11 to assess preparations for the 2007 elections for President and Governors, and for National and State Legislators. The delegation is part of NDI's long-term program to observe Nigeria's election processes and is the ninth NDI election observation mission to Nigeria since 1998. NDI has maintained an office in the country since 1998 to assist Nigerians who are working to advance democratic processes through the National Assembly and civil society organizations. Though distinct from election observation, those activities helped to inform the delegation's work. NDI's programs in Nigeria are funded by the U.S. Agency for International Development and the British Department for International Development.

This delegation was composed of: Sir Ketumile Masire, former President of Botswana; Joe Clark, former Prime Minister of Canada; Karl Auguste Offmann, former President of Mauritius; Hage Geingob, Member of Parliament and former Prime Minister of Namibia; Jeanne Shaheen, former U.S. Governor of New Hampshire; Raila Odinga, former Minister of Roads, Public Works and Housing, Kenya; Martin Luther King III, U.S. human rights leader; Kenneth Wollack, President of the National Democratic Institute; Christopher Fomunyoh, NDI Senior Associate for Africa; and Keith Jennings, NDI/Nigeria Country Director. In addition to the work of the delegation, teams of election experts from Indonesia, Kenya, the United States and Zimbabwe visited all six of Nigeria's geo-political zones.

The purposes of the delegation were to: express international support for and interest in a democratic electoral process in Nigeria; examine the preparations for and the electoral environment leading up to the 2007 polls; and offer an accurate and impartial report on the character of the election process at this juncture. The Institute recognizes that it is the Nigerian people who will determine the credibility and legitimacy of those processes. The delegation's assessment is based on international standards and comparative practices for democratic elections, as well as provisions of Nigerian law. The delegation followed the Declaration of Principles for International Election Observation which was adopted in 2005 at the United Nations headquarters and endorsed by more than 20 intergovernmental and nongovernmental organizations.

The delegation would like to stress that it did not seek to reach any final conclusions on the 2007 electoral process, which is in its early stages. An accurate and complete assessment of any election must take into account all aspects of the electoral process, and no election can be viewed in isolation from the political context in which it takes place. The pre-election period, including electoral preparations and the political environment, must be given considerable weight when evaluating the democratic nature of elections, because this period is central to democratic political competition. Among the factors that must be considered are: the legal framework for the elections set by the constitution, electoral and related laws; the ability of citizens to seek and receive sufficient and accurate information upon which to make political choices; the ability of political competitors to organize and reach out to citizens in order to win their support; the freedom that citizens and political competitors have to engage in the political and electoral process without fear of intimidation, violence or retribution for their choices; the conduct of the voter registration process; the conduct of the voting,

counting, results tabulation, transmission and announcement processes; the handling of election complaints and the application of sanctions for electoral-related violations; and the process for the transfer of power based on credible electoral results. It is with these points in mind and in the spirit of international cooperation that the delegation offers the following observations and recommendations.

I. THE DELEGATION AND ITS WORK

The delegation held an intensive series of meetings with political and civic leaders, government officials and others concerned with Nigeria's electoral and political processes. Delegation members met with leaders from the ruling and opposition parties. The delegation also met with: the President of the Federal Republic of Nigeria; Commissioners of the Independent National Election Commission (INEC), including its Chairman; members of the National Assembly, including the Senate President, the Speaker of the House of Representatives and Chairmen of the Senate and House Committees on Electoral Matters; the Chief Justice of Nigeria and the President of the Court of Appeal; the Governors of Nassarawa, Abia and Lagos states; representatives of the media; leaders of Nigerian election monitoring and civil society organizations as well as social activists; members of the business, academic and religious communities; and the Inspector-General of Police. The delegation also met with representatives of the international community.

In addition to the delegation's meetings, from April 29 – May 2, the teams of elections experts held meetings in all six geo-political zones (Kano, Bauchi, Plateau, Lagos, Rivers and Enugu states) with state governors, members of the state legislatures, representatives of civil society and the media, commissioners of police and religious leaders.

II. ELECTORAL CONTEXT

By most accounts, Nigeria - Africa's most populous nation - is once again at a crossroads as the elections of 2007 provide the country with an opportunity to further consolidate its nascent democracy. The 2007 elections will be the third since Nigeria's transition from military rule in 1999; this will also be the first time in the country's history that a democratically elected government has served two full terms without interruption by the military, and is poised to oversee another set of national elections.

The delegation arrived in Nigeria on the eve of the signing of the Peace Agreement for Darfur. This was a vivid reminder of Nigeria's leadership role in Africa, underlining the fact that the deliberations on constitutional reforms and the conduct of the forthcoming elections will have an impact on political developments on the continent, as well as the future course of Nigerian democracy.

The delegation was gratified by the stated commitment of INEC and government officials to administer democratic elections. At the same time, concerted, forceful and sustained efforts are required if Nigeria's 2007 elections are to be successful, as there are significant challenges to the holding of credible elections.

III. OBSERVATIONS

Historical Context. A legacy of military rule has impeded the development of civilian political leadership and hampered the emergence of a democratic culture. Since achieving independence in 1960, Nigeria has suffered 29 years under military dictators and only 17 years of civilian rule. Years of unbridled corruption and poor governance have resulted in

weak political institutions, a decayed infrastructure, a feeble economy (outside the lucrative oil sector), and an impoverished population.

Nigeria's 1998-99 elections are best seen in the context of the broader impetus to end military rule. Nigerian and independent observers viewed the 1998-99 elections as the beginning of a process of democratization and the rebuilding of political institutions to sustain and broaden the efficacy of civilian rule. Consequently, the flaws of a rushed electoral process were largely overlooked or otherwise tolerated by the population and the political competitors.

Expectations for the election process were higher for the 2003 polls, both in and outside Nigeria. The elections were seen as an opportunity to further advance democratic gains. While the 2003 polls were successful in many respects, there were major problems that compromised the integrity of the election process. The elections tested the viability of many of Nigeria's weak public institutions, most notably the Independent National Election Commission (INEC). INEC was criticized for its perceived lack of independence from the executive branch and for institutional and professional shortcomings. Moreover, there were delays and lack of transparency in the voter registration process that disenfranchised eligible voters, high levels of political violence, vandalized, stolen and stuffed ballot boxes, most pronounced in Rivers, Kogi and Enugu states, altered results during the multi-tiered tabulation or "collation" process, all of which took place against a background of the wholesale replacement by the executive branch of state Resident Electoral Commissioners (RECs) in 2003 and the lack of fiscal autonomy and independence for the INEC.

The cumulative effect of these problems has contributed to a lack of confidence by the public in the Nigerian electoral process. A recent public opinion survey by the Afrobarometer reveals that only 9 percent of Nigerians believe that the 2003 elections were "completely free and fair."

Constitutional Amendment. The challenges that Nigeria faces with regard to the 2007 elections are compounded by the current debate over a constitutional amendment that would allow incumbent presidents and governors to seek a third term. This is part of a package of more than 100 proposed constitutional amendments that are being debated in the National Assembly. The controversial provision on term limits has dominated the political discourse in Nigeria and continues to overshadow other still-important constitutional reforms.

News reports note that the country is highly polarized about extending presidential and gubernatorial term limits to three terms. The reports were born out during meetings in Abuja and by the teams of elections experts that traveled to all of Nigeria's geo-political zones. The issue seems, at least in some quarters, to be adding to the regional and ethnic volatility in Nigeria. In addition, opinion polls conducted in April by the Afrobarometer indicate that over 80 percent believe that the current two term limit should remain.

International experience demonstrates that maintaining constitutional stability is important for building public confidence in the democratic nature of governance. Citizens elect representatives based in large part on the contract with the people that a constitution embodies. Changing that contract is best done in a process that ensures due regard to further strengthening the country's democratic institutions and practices.

Normal democratic governance necessarily includes processes for constitutional amendment, and no norm addresses presidential terms of office. Regrettably, the delegation heard many reports from civic and political leaders that there has been a lack of genuine

public consultation on the proposed amendments and that the process is generating uncertainty and anxiety about the timing and state of preparations for the elections. Critics of the amendment questioned the morality of what they see as a political move to benefit sitting officeholders.

Electoral Bill 2004. The degree to which citizens have an ability to understand and participate in the electoral framework reform process has significant implications for public confidence in their government and those holding office. Public hearings on the 2004 Electoral Bill provided adequate citizen input into the development of new legislation. In April, at the request of Nigerian political and civil society leaders, NDI provided to the appropriate National Assembly committee chairs and others a commentary on the Electoral Bill. The commentary and almost everyone with whom the delegation met agreed that despite shortcomings, the Electoral Bill contains numerous positive features and represents a significant improvement over the 2002 Electoral Act.

One issue that has generated particular controversy is electronic voting. The delegation and teams of elections experts found substantial confusion concerning whether electronic voting and related technologies would be introduced into the 2007 election process. Public skepticism as reflected by both political party and civil society leaders who discussed the subject with the delegation's various teams appears high concerning such electronic technology. Reasons cited for skepticism include concerns about lack of transparency and inability of political competitors to examine and verify the integrity of such technologies, worries about consequences of the country's unpredictable power supply, the level of education of the country's electorate, and the vulnerability of such technologies to manipulation. INEC informed the delegation that electronic voting will only take place on a "pilot" basis in select polling sites. This does not appear to be widely known.

Election Administration. In response to many of the irregularities witnessed during the 2003 elections, INEC informed the delegation of the steps that it is taking to improve the integrity of the electoral process. INEC's decision to create digitized voter ID cards could help reduce electoral misconduct. The development of Geographic Information Service (GIS) maps that capture detailed information about all 120,000 polling sites in the country could assist in the distribution and tracking of sensitive electoral materials. The creation of an Electoral Institute of Nigeria within INEC to provide enhanced training and professionalization of election workers could help build confidence in the capacity of INEC staff at all levels. While some claim the establishment of INEC "stakeholders forums" were sporadic, they could help foster communication with political parties and civic groups. In addition, unlike 2003 when INEC blamed its slow and inefficient management of the electoral process largely on delays in government disbursement of the Commission's budgetary allocations, INEC indicated that disbursements thus far were sufficient to cover its activities at this stage of the process.

Despite these positive developments and the composition of INEC having changed since the 2003 elections, many of the negative public perceptions remain. People are waiting anxiously for passage of the new election law as well as a release by INEC of the electoral timetable. Although INEC laid out a strategic plan for the 2007 elections, the civic and political leaders that met with the delegation appeared to be unaware of its contents. The uncertainty that this created has hindered voter education efforts and other public campaigns by political parties and civil society organizations, and has above all, greatly contributed to public suspicion and lack of trust in the electoral process. Indeed, the delegation noted that in general there has been a serious failure of communication between INEC and the Nigerian public on what could turn out to be positive developments. INEC was also the object of

significant criticism for its perceived lack of independence from the executive branch of government. The appointment of INEC Commissioners as well as Resident Electoral Commissioners (REC) and the discretion of the government in the INEC budgetary process undermines INEC's independence and effectiveness in the eyes of the public. This presents a continuing challenge for electoral integrity.

Resolution of electoral disputes. The process for resolving electoral disputes is lengthy and cumbersome. The delegation learned that out of a total of 519 petitions filed, 51 had to be sent back for re-trial. While all these petitions have now been disposed of at first instance, those decisions had led to a further 360 appeals, of which 15 still remain unresolved, with less than a year before the expiration of the mandate of those declared winners in 2003. Delays appear to have resulted both from the constitutional provision requiring a panel of five judges for each election tribunal, but also from the benefits to incumbents of exploiting interlocutory decisions to appeal and delay the conclusion of petitions.

Voter Education and Registration. The delegation was concerned by the absence of broad awareness among citizens about the rules of the game in an environment where elections could be held as early as March 2007. Apart from the debate on tenure elongation (the "third term" issue), little attention is being given to other proposed constitutional amendments and there is a lack of understanding that the draft Electoral Bill 2004 presently being considered by the National Assembly is separate from the proposed constitutional amendments and that it too contains important issues relating to electoral integrity. The delay in passage of the Bill has hampered civic education efforts by INEC and civil society organizations. It has also made it difficult for political parties to prepare for the forthcoming elections.

The delegation was also concerned about the multiple delays and lack of information regarding the voter registration process. These concerns were evidenced in the voter registration pilot conducted in Abuja.

Political Parties. Political parties are weak, ineffective and lack broad national structure. However, representatives of those parties expressed confidence in their ability to present Nigerians with viable electoral choices if more information about the electoral process was made available and if they had a "level playing field." Electoral competition is also seen as personality-driven rather than policy-based, which has resulted in loyalty to an individual rather than allegiance to a party or ideology. Because of these weaknesses, other elements, such as - labor unions, civic organizations and independent media - of civil society are viewed by some as the only viable opposition force.

Security. The delegation and the teams of elections experts heard reports from around the country that indicate the security situation surrounding the 2007 elections is highly unpredictable. Given the prevailing electoral environment, in particular agitation surrounding the third term debate and commonly expressed doubts about the impartiality of INEC, there is a reasonable basis to fear that frustrations could lead to an increase in electoral related violence. Many report that portions of the security forces could act in a politically partisan manner. To counter such behavior, informal security forces or vigilante groups have been organized by some. These "extra-legal" security groups act on behalf of their sponsors often intimidating opponents and creating a climate of fear. The use of armed militias by political parties in states such as Rivers, Delta and Anambra created a general environment of intimidation in the 2003 elections that reduced voter turnout or curtailed voting processes.

In meetings with Commissioners of Police in a majority of the states visited, it became clear that there is an inconsistent understanding of the role of the police in the election. All of the Commissioners acknowledge their duty to ensure a secure election environment and seem optimistic that the elections will be peaceful. However, their interpretation on the division of labor between INEC and the police, especially on the issue of training security forces, varies from state to state. The Inspector-General reported that the police are planning to educate their officers on their roles and responsibilities during the election process, but the level of coordination with INEC on that point was unclear.

RECOMMENDATIONS

No electoral framework is perfect, and all electoral and political processes experience problems. Nigeria has covered much ground since the 1998 beginnings of transition to civilian rule and democratic governance. Though problematic, the 2003 elections stood out as the completion of a full civilian term of government and election of successor and second-term office holders. The delegation notes these substantial accomplishments and the many positive features of the the electoral and broader political environment. It also notes that this is a relatively early point in the process leading to the 2007 Nigerian elections. It is nonetheless an important juncture in that process. There is sufficient time to address shortcomings and lingering defects from past elections, as well as the issues in the present political debate. The delegation therefore respectfully offers the following recommendations, in light of comparative electoral practices and in the spirit of international cooperation.

Election Administration

- While INEC has received all of the funds it needs to date, in order to enhance the perception of autonomy for the Commission, the government should release the remainder of the budget for the election as soon as possible.
- Training programs on electoral related matters should be conducted for law enforcement officials. The general content should be disclosed publicly to enhance transparency and public confidence. Development of a comprehensive public security plan for the electoral process also should be made publicly known, and the plan itself in appropriate detail should be publicly available.
- Soon after the Electoral Bill is enacted, INEC should issue to the public an electoral calendar setting forth the deadlines and scheduled dates for all electoral processes. It should periodically issue revised and updated versions of the calendar.
- Plans for the nationwide voter registration process should immediately be provided and publicized.
- Detailed and comprehensive explanations about the voter registration cards to be issued, the purpose to which they will be put and any safeguards that they will offer should be provided by INEC.
- The results of INEC's voter registration should be publicized as widely as possible, including posting the same on its own website.
- INEC should consider holding the stakeholders forums more frequently at the national, state and local government levels. The election authorities should make

every effort to be responsive to the concerns and recommendations that political parties and civic groups raise at these forums.

- INEC should carry out unbiased recruitment of election officials and provide adequate training and credentials.
- INEC should facilitate and provide timely accreditation to domestic monitors and international observers for all aspects of the election process, including voter registration.
- INEC should consult with the political parties and election monitoring organizations in the adoption of regulations and procedures that allow effective observation of counting, transport and other transmission, tabulation and announcement of results to address concerns about potential problems and manipulation. INEC's plans to electronically capture results from each polling site could enhance credibility in the tabulation process and deter misconduct. These plans and the system should be open to domestic and international observers.
- Where results declared by INEC are set aside by the decisions of election tribunals, INEC should conduct internal investigations and take steps to sanction those of its staff found to have been involved in electoral malpractices, including criminal prosecution where appropriate.

Police

- The Inspector-General, INEC and other appropriate officials should establish at the earliest date comprehensive and effective measures for providing for public security at each stage of the electoral process, from candidate selection, to voter registration, election campaigning, election day and the immediate post election day periods. The results of such an initiative should be made public.

Electoral Tribunals

- An expedited process should be developed for electoral tribunals to adjudicate election complaints and prosecute those who are found to violate the electoral law.

National Assembly

- The National Assembly should exercise appropriate legislative oversight over the implementation of the Electoral Bill 2004 once it is passed.

Political Parties

- Nigerian political parties are in the process of adopting a code of conduct. All parties should be encouraged to sign. This effort however, should not be limited to the party leadership but used as a civic education tool to help reduce tensions and prevent or mitigate violence throughout the country. Therefore, there should be a concerted effort in each local government area to bring together electoral authorities, political parties, security forces, and civil society and religious leaders to implement the letter and spirit of the code. Women and youth should be actively recruited for this effort.
- Given past internal problems concerning selection of candidates, political parties should develop internal procedures for candidate selection that are open, transparent and democratic and require that those seeking nominations pledge not to use intimidation, violence or bribery to gain nomination or office. Emphasis should be placed on recruiting women and youth.

- Parties should pay particular attention to developing electoral programs based on clearly articulated positions on those issues. Clear platform and systemic views of governance issue contribute to stable and sustained approaches to governance and more rational electoral and political organization.
- The political parties should ensure that their agents are adequately trained in order to achieve a nationwide pollwatching effort.

Civil Society

- Civil society organizations should continue and expand their broad civic and voter education about the importance of the elections, the voter registration process, and where, when and how to register and to vote.
- Civil society organizations interested in election observation should coordinate and cooperate in such endeavors in order to maximize their coverage of the entire process.
- Organizations such as the Nigerian Bar Association (NBA) and other professional bodies should encourage their members to volunteer for service as ad hoc election officials as proposed by INEC. The NBA should consider offering pro bono services to voters who are experiencing difficulty exercising their franchise.
- We commend the initiatives by religious leaders in Nigeria to speak with one voice and urge them to extend that practice to promote the integrity of the election process. Religious leaders should use their considerable moral authority to speak with one voice and strongly encourage political party leaders, government officials and INEC to make a concerted effort to ensure a non-violent election process.
- Religious leaders should also use their influence among their constituencies to promote non-violence as they participate throughout the election process.

CONCLUSIONS

The delegation wishes to express its deep appreciation to everyone with whom it met for welcoming the delegation's mission and for freely sharing their views on the electoral process.

This delegation came to Nigeria early in the electoral process to demonstrate international support and to stand behind Nigerian efforts to organize an election that will reflect the will and enjoy the confidence of the people. We were heartened by the dedication we witnessed by many interlocutors. We encourage all those that have demonstrated their commitment to democratic elections to stay actively engaged in the process. We believe that early corrective measures and sustained political will among all those who will participate in this process could ensure that the election will be conducted properly. If this is done, the elections will be seen as contributing to the consolidation of Nigeria's democratic system and will promote peace and stability in the region and the continent. NDI and the members of this delegation remain committed to support this effort.