



**PRELIMINARY STATEMENT OF THE
NATIONAL DEMOCRATIC INSTITUTE (NDI) INTERNATIONAL
ELECTION OBSERVER DELEGATION TO NIGERIA'S APRIL 12
NATIONAL ASSEMBLY ELECTIONS**

Abuja, April 14, 2003

This statement is offered by the international election observer delegation organized by the National Democratic Institute for International Affairs (NDI) to Nigeria's April 12, 2003, National Assembly Elections. The delegation, totaling 50 observers from 12 nations in Africa, Europe and North America, is visiting Nigeria from April 7-22. The leaders of this phase of the delegation are the Honorable Sam Mpasu, Speaker of the Parliament of Malawi; Ambassador Sally Shelton Colby, former Deputy Secretary General of the Organization for Economic Cooperation and Development (OECD); Kenneth Melley, Secretary of the Board of Directors of NDI; and Patrick Merloe, NDI Senior Associate and Director of Electoral Programs.

The purposes of the delegation are to express the international community's interest in and support for a democratic election process in Nigeria and to offer an accurate and impartial report on the character of the election process to date. The delegation's assessment is based on international standards and comparative practices for democratic elections. Ultimately, however, it is the people of Nigeria who will determine the meaning and validity of the election process.

In preparation for these elections, NDI conducted two pre-election assessment missions jointly with The Carter Center in November 2002 and March 2003. Reports from those missions, along with NDI's periodic updates on the election process, can be found on NDI's web site at www.ndi.org. An NDI/Carter Center team also visited Nigeria during the voter registration exercise conducted in September. In addition, ongoing monitoring of the electoral process by NDI staff in Abuja contributed to the international observer assessments of the electoral process.

Since 1998, NDI has worked continuously with Nigerian partners to strengthen election, parliamentary and other democratic processes. The Institute is presently conducting a vigorous program to assist domestic election observation organizations in the country. The activities of this international election observer delegation are separate from those programs.

NDI does not seek to interfere in the election process, and the delegation wishes to emphasize that NDI does not at this point intend to render a conclusive assessment of the process. Tabulation of results for the National Assembly elections are not complete, and elections for president, governors and other officials are yet to be held.

SUMMARY OF OBSERVATIONS

Nigeria is facing the challenge of successfully transferring power from one elected civilian government to another for the first time since its independence in 1960. It is vital to the nation, the region and all of Africa that Nigeria consolidate civilian rule and develop genuine democratic practices. The 2003 elections are critical in this respect. They are crucial both for resolving peacefully the competition for political power in Nigeria and for providing a genuine democratic mandate that is the basis of the legitimacy and the authority of government.

The voting and counting processes for Nigeria's April 12 National Assembly elections unfolded more positively than was expected, due to the patience of voters, the efforts of electoral officials, the cooperative approach of political party agents in many places and the significant mobilization of domestic nonpartisan election monitors. However, concerted, extraordinary steps must be taken immediately by the Independent National Electoral Commission (INEC), the government and the political parties to remedy fundamental flaws in the election process, if the 2003 elections are to be credible.

Political violence throughout the continuing election period must be curtailed. The tremendous logistical problems that impaired the April 12 polls must be surmounted. Genuine secrecy of the ballot, which

was flagrantly ignored in these elections, must be guaranteed. In addition, measures must be taken to prevent underage voting, and the faulty tendered ballot mechanism should be eliminated.

The delegation offers several recommendations at the conclusion of this preliminary statement and will offer another preliminary statement following the April 19 elections. NDI will also present a final report on the election process.

THE ELECTORAL CONTEXT

No election can be viewed in isolation from the political context in which it takes place. While Nigeria's transition from military to civilian rule obscured shortcomings in the 1998-99 elections, flaws in the current process could damage public confidence in the electoral outcome and in the new civilian government.

For an election to be genuine, a large number of institutions and processes must operate properly, and civil and political rights must be respected. The pre-election period, including electoral preparations and the political environment, as well as the immediate post-election period, must all be given considerable weight along with election day procedures when evaluating whether or not elections are democratic.

NDI's final report will examine the overall nature of the election process. This statement concentrates on elements of particular importance to the April 12 election and issues that could help improve the process for the April 19 polls.

The Right and Effective Opportunity to Vote

Citizens have the right to participate in their government directly, as candidates and elected officials, or indirectly by freely choosing their representatives through genuine elections by universal and equal suffrage and through a secret ballot. These rights are guaranteed by international standards and by Nigerian law. Beyond providing for these rights in law, a government must provide citizens with a real opportunity for effective exercise of their rights. Nigeria's election process presents serious problems in this respect, including denying the opportunity to vote for poll workers, election day security personnel and others involved in helping to ensure polling integrity.

An effective opportunity to vote must include education about voting rights and procedures. This education must address equal rights and opportunities for women to participate in the political process, as well as equality for other traditionally underrepresented groups. Nigeria's efforts in this regard have been deficient. The delegation noted that women's political participation was particularly low in certain parts of the country.

Voter Registration Mechanisms Have Undercut Universal Suffrage. Exercise of universal suffrage defined under Nigerian law requires an effective voter registry. A person's name must appear on the registry, and they must have a new voter's card (or a slip showing that they registered to vote) in order to receive a ballot. As noted in the NDI/Carter Center pre-election assessment reports, the voter registry was not completed in a timely, transparent manner, and the public did not receive the benefit of a claims and objections period that allowed corrections of the registry. As a consequence, eligible voters may have been disenfranchised, and ineligible persons, including what appeared to be significant numbers of underage youth, may have been able to vote illegally on April 12. The consequences of disenfranchisement and/or illegal voting resulting could affect perceptions of the validity of the elections, which in the heightened competition of the April 19 polls could lead to rejection of results and even violence.

Delayed publication of the voter registry and lateness of the distribution of voter cards (which in some places began the day before the elections) added to administrative burdens and confusion on election day at many polls.

Secrecy of the Ballot Was Flagrantly Violated Nationwide. Voting in private and corresponding secrecy of the ballot is a key element in establishing the free choice of representatives. INEC's Manual for Election Officials instructs poll workers to set up polling stations so that voters can mark their ballots in secret. However, almost universally, international and domestic observers reported that there was no ballot secrecy in

polling stations observed. In many, many polling stations, voters marked their ballots under the watchful eye of police and within view of polling officials, political party agents and/or observers. The delegation noted that the principle of the secret ballot was not only violated but poorly understood by polling officials and voters alike.

The failure to meet this fundamental condition for democratic elections is all the more disturbing in light of the emphasis placed on the issue by observers of the 1998-1999 elections in Nigeria. Lack of ballot secrecy creates the potential for intimidation and undue influence that corrupt the election process. The delegation could not determine the extent of such practices in the April 12 poll.

The Tendered Ballot Process Subverts Universal Suffrage. Nigeria provides for the issuance of a “tendered ballot” to persons who have a voter card, are on the voter list and who upon arrival at the polling station discover that their name is already marked as having voted or for persons who have a voter card and are not on the voter list. In Nigeria, the tendered ballot process does not provide any means for validating the ballot, and the ballot has no chance of ever being properly included in the count. The intent of the process may be to defuse potential conflicts at the polling station, but it disenfranchises potentially eligible voters and therefore subverts universal suffrage.

Political Violence

In the pre-election period, there were numerous instances of election-related violence, including assassinations of well-known political figures. The level of political violence created an atmosphere of anxiety and fear that the election process could be disrupted or even derailed.

In contrast, the April 12 voting process took place in a relatively peaceful manner, although there were incidents of serious localized political violence and voter intimidation, particularly in southern regions of the country. The heightened presence of security forces in many parts of the country, as well as calls for peaceful polls by governmental, electoral, civic, religious and political leaders, apparently helped to deter zealous political activists contemplating violence and poll disruptions. Any successful completion of the 2003 election process will depend on the continued forceful efforts of the political parties and their supporters to curtail violence. This is particularly important in light of the high stakes and heightened competition surrounding the April 19 presidential and gubernatorial elections.

Electoral Preparations and Logistics

INEC continues to be hindered by its lack of fiscal autonomy and independence. The appointment of the INEC Chairman and its members by the executive, with no independent oversight mechanisms, reinforces the perception that INEC and electoral bodies at the state level may be affected by partisan interests. Continued delays in the release of government funding to INEC by the executive and the legislative branches of government undercut INEC’s ability to carry out its responsibilities.

The pre-election period was marked by significant delays by INEC in the completion of the voter registry, the verification of candidates, as well as the recruitment and training of polling officials. Election day itself was marred by INEC’s inability to deliver and safeguard voting materials in a timely and secure manner. Significant delays led to late starts at a majority of polling stations across the country. This triggered a domino effect of delaying the end of voting, counting of ballots, closing of polling stations and tabulation of results, which still are not finalized.

Unnecessary bureaucracy in the counting and tabulation process created potential for mistakes and possibilities for manipulation. The collation stage was adversely affected by the insecure transfer of ballot boxes, inadequate lighting and inadequate presence of party agents or domestic monitors. While this delegation was not able to verify results at the local government areas or at higher stages, it encourages political party agents and election observers to closely monitor the consolidation of results and to report on their findings.

Nonetheless, voters exhibited exemplary restraint in the face of lengthy delays in the opening of polling stations across the country. Thousands of electoral officials, from INEC commissioners to polling station staff, worked diligently to overcome logistical shortcomings in order to conduct voting, counting and vote consolidation processes.

Domestic Election Monitoring

One of the most encouraging elements of Nigeria's election process is the mobilization by citizen organizations of thousands of nonpartisan election observers. A significant number of election monitoring groups applied for and received accreditation from INEC for approximately 48,000 election day observers. INEC is to be commended for providing unhindered access to election day procedures for domestic and international election observers. Effective election monitoring by Nigerian organizations contributes not only to promoting the integrity of the 2003 elections but sets the stage for monitoring electoral and political processes in the future.

A number of major civil society organizations sponsoring domestic election monitoring efforts, including the Transition Monitoring Group (TMG), the Justice Development and Peace Commission (JDPC), the Nigeria Labor Congress (NLC) and the Trade Union Congress (TUC), the Federation Of Muslim Women's Associations of Nigeria (FOMWAN) and the Muslim League for Accountability (MULAC), are for the first time using common observation forms and are cooperating in the transmission of observer findings through a rapid electronic communication system designed to aid their reporting on the elections.

The delegation also was encouraged by the presence of political party agents in most of the polling stations it observed. While the level of engagement of party agents varied, their efforts to guard their party's legitimate interests helped foster credibility and faith in the democratic process.

THE DELEGATION AND ITS WORK

The delegation's observations are based upon an extensive series of meetings with leaders from the following parties: Alliance for Democracy (AD); All Nigeria People's Party (ANPP); National Democratic Party (NDP); Peoples Democratic Party (PDP); and United Nigeria People's Party (UNPP). The delegation also met with: representatives of the Independent National Election Commission (INEC), including Chairman Guobadia and Secretary Baba-Ahmed; leaders of Nigeria's nonpartisan election monitoring organizations, including the TMG, JDPC, NLC and FOMWAN. The delegation also met with representatives of the international community, including members of the African Union, the Commonwealth Secretariat, the European Union, the International Republican Institute, the United Nations Electoral Assistance Division and the International Foundation for Electoral Systems.

The delegation arrived in Abuja on Monday, April 7 and met with various domestic and international actors over the proceeding two days. On Thursday April 10, the delegation members were deployed to the following 10 states: Adamawa, Cross Rivers, Delta, Enugu, Kaduna, Kano, Kogi, Lagos, Niger and Ogun. The meetings conducted in Abuja were replicated at the local level by our delegation. On election day, the teams observed the voting and counting process in more than 200 polling stations. Following the elections, the delegation members returned to Abuja to share their findings and prepare this statement.

CONCLUSION AND RECOMMENDATIONS

The delegation was encouraged by the determination of Nigerians to exercise their right to vote in the April 12 elections, and it commends both the dedication of thousands of polling officials who worked to overcome election day difficulties and the commitment of Nigerian nonpartisan election monitors to help ensure the integrity of the process. It is in recognition of these efforts and in the spirit of international cooperation that the delegation respectfully offers the following recommendations:

- 1) Promoting Peaceful Elections:** Political party leaders, governmental and electoral officials and civic leaders must demand that political activists refrain from any activity that could spark election-related violence. Leaders should make public calls for peaceful elections. Civic groups

should continue to closely monitor and impartially report on political violence. Public security officials should maintain order and prosecute perpetrators of election-related violence.

- 2) **Addressing Logistical Deficiencies:** INEC must take decisive steps to ensure the prompt delivery of election materials and to safeguard the integrity of ballots and other sensitive electoral items, such as tallysheets, ballot boxes and stamps. Government authorities should make available funding and all resources needed for INEC to accomplish its work, including vehicles, petrol and personnel. Provision should be made for effective conduct of secret voting, proper counting and accurate tabulation of results, including providing lights, candles, calculators and other materials to facilitate the process, as practicable.
- 3) **Ensuring Ballot Secrecy:** It is possible to create a private space in almost any voting area to ensure secrecy of the ballot. INEC should make a definitive effort to instruct all polling officials in this regard and enforce compliance. For example, instructions should be immediately conveyed to all electoral officials in advance of the April 19 polls. Public service announcements should be broadcast and otherwise circulated to educate citizens on the importance of ballot secrecy, using slogans such as: “Your Vote Is Your Secret.” Flyers or other reminders to this effect should be included in all polling station materials.
- 4) **Ensuring Security and Transparency of the Vote Tabulation Process:** Counting and tabulation of results must be done in a transparent manner. INEC should allow and encourage political party agents and domestic election observers to have access to these processes and allow them to check INEC control mechanisms as well as to conduct their own verification exercises.
- 5) **Eliminating the Tendered Ballot Mechanism:** The Nigerian tendered ballot mechanism may hold some value if prospective voters believe that it would allow them the chance to have their political choice counted in the election process. However, such ballots must not be counted as valid votes. It is therefore best if the tendered ballot mechanism is eliminated or modified to conform with the practices of other countries.

The delegation is grateful for the warm welcome it received from voters, election officials, candidates and political party leaders, domestic election monitors and other international election observer delegations. It is the delegation’s great hope that the days leading to the April 19 polls and beyond will be free of political violence, that the balloting, counting and tabulation processes will run well and that the will of the voters will be freely expressed and respected. NDI will continue to monitor the process closely and offer its support for democratic elections in Nigeria.