



**STATEMENT OF THE
NATIONAL DEMOCRATIC INSTITUTE (NDI)
PRE-ELECTION ASSESSMENT MISSION
TO NIGERIA'S 2011 ELECTIONS**

October 15, 2010

I. INTRODUCTION

This statement is offered by an international delegation organized by the National Democratic Institute (NDI). The delegation visited Nigeria from October 10-15, 2010, to assess preparations for the 2011 national and state elections. The delegation's goals were to:

- demonstrate international support for Nigeria's democratization process;
- make an accurate and impartial assessment of the political and electoral environment in the pre-election period; and
- offer recommendations for enhancing confidence and participation in the process.

The delegation was composed of political and civic leaders as well as election and democracy experts from Africa, Asia and North America. The delegation, co-led by former President Ketumile Masire of Botswana and former Prime Minister Joe Clark of Canada, and included Dr. Christiana Thorpe, chairperson of the National Electoral Commission of Sierra Leone; Dr. Nazmul Ahsan Kalimullah, chairman of the National Election Observation Council of Bangladesh (JANIPOP) and professor at the University of Dhaka; Dr. Peter Lewis, director of the African Studies Program at the Johns Hopkins University School for Advanced International Studies; Dr. Chris Fomunyoh, NDI senior associate for Africa; Barrie Freeman, NDI deputy regional director for Central and West Africa; and Carlo Binda, NDI/Nigeria country director.

The delegation met with the chairman and senior officials of the Independent National Electoral Commission (INEC), political party leaders, members of the National Assembly, presidential aspirants, civic and religious leaders, government officials, the Acting Inspector General of Police, journalists, academics, citizen election observer groups, development partners, and the Chairperson of the Economic and Financial Crimes Commission. The delegation expresses its deep appreciation to everyone with whom it met for welcoming the mission and for sharing freely their views on the electoral process.

An accurate assessment of any election must take into account all aspects of the electoral process, including the legal framework for the elections; the ability of citizens to seek and receive sufficient and accurate information upon which to make political choices; the ability of political aspirants to organize and reach out to citizens in order to win their support; the conduct of the mass media in providing coverage of parties, candidates, and issues; the ability of citizens and political competitors to engage in the political and electoral process free from fear for personal security; the conduct of the voter registration process and integrity of the voter register; the right to stand for election; the conduct of the voting, counting, results tabulation, transmission, and announcement of the results; the handling of election complaints; and the

installation to office of those duly elected. Public confidence in elections and the legitimacy of the government that results from polls will depend, in large measure, on the degree to which the rights and guarantees noted above are respected.

There are encouraging developments in Nigeria's election process, however, concerted efforts are required to clarify the electoral calendar, implement practicable improvements and inspire public confidence and participation. This will require cooperation and vigorous action by all electoral stakeholders.

NDI is a nonpartisan, nongovernmental organization that works to support and strengthen democratic institutions worldwide through citizen participation, openness and accountability in government. The delegation conducted its activities in accordance with Nigerian law and the *Declaration of Principles for International Election Observation*, which is endorsed by 35 intergovernmental and international nongovernmental organizations, including the African Union, Commonwealth Secretariat, Economic Community of West African States, European Union, as well as NDI and others. In accordance with the Declaration of Principles, NDI and the delegation do not seek to interfere in the electoral process. The delegation is part of NDI's long-term observation of the Nigerian election process, and additional statements, releases and reports will be issued at later dates.

II. POLITICAL CONTEXT

Since the transition from military to civilian rule in Nigeria, elections held in 1998/99, 2003 and 2007 were marred by violence, voter intimidation, ballot stuffing, and the opaque tabulation and announcement of results. Each subsequent election has been less credible than the previous one. Although the 2007 election resulted in a historic transfer of power from one civilian administration to another, serious irregularities and election-related violence undermined the credibility of the outcome, weakened the legitimacy of the leaders elected, and led to increased public disillusionment with the democratic process.

President Umaru Yar'Adua, elected in 2007, acknowledged in his inauguration speech the need to reform Nigeria's troubled election process. Yar'Adua created the Electoral Reform Committee (ERC), chaired by retired Chief Justice Mohammed Uwais, and tasked it with holding nationwide consultations and offering recommendations to improve the electoral process before the 2011 polls. Efforts of Nigerian civil society to advance recommendations for reforming the electoral process, and to some extent recommendations of international observers, contributed to process surrounding the Committee's work. The Uwais report was completed and submitted to the President of the Federal Republic in December 2008. A significant number of the report's recommendations were subsequently incorporated into constitutional amendments and the 2010 Electoral Act. Regrettably, the Electoral Act was only signed into law in August 2010, just months before the January 2011 deadline for elections as stipulated in a new amendment to Nigeria's constitution. The amendment provided that elections be held not earlier than 150 days and not later than 120 days from the expiration of incumbents' terms in office (in this instance, May 29, 2011).

Following the death of President Yar'Adua in May 2010, Vice President Goodluck Jonathan acceded to the presidency. President Jonathan appointed Professor Attahiru Jega, a respected academic, to replace the much-maligned chairman of INEC, Maurice Iwu. Professor Jega's credentials as a pro-democracy advocate and honest administrator, and his early efforts to make INEC more accessible to political parties and civil society organizations, have raised expectations that the coming elections would be more credible than previous electoral exercises. Professor Jega's appointment has been seen by many as a tangible commitment of President Jonathan's promise that the 2011 elections would be conducted in a transparent manner. Nonetheless, much remains to be done within a realistic timeframe, particularly given Nigeria's negative electoral history.

In September 2010, INEC requested that it be given until April 2011 to prepare for credible elections, notably the production of a new voter register to replace the flawed 2007 register. The Nigerian government, political parties, civil society and media are in favor of the postponement, and both chambers of the National Assembly are considering draft legislation to that effect at the time of the delegation's visit.

Currently, five candidates have expressed their intent to compete for the nomination of the ruling People's Democratic Party (PDP). At the same time, opposition parties, including the All Nigeria People's Party (ANPP), the Congress for Progressive Change (CPC), the Action Congress Nigeria (ACN) and the Labor Party, are preparing to field candidates for the presidential race.

There was expressed concern to the delegation that President Jonathan's decision to seek the PDP nomination would interrupt the party's principle of "zoning," under which Northern and Southern aspirants alternate as presidential candidate. While some party supporters say that a Southern presidential candidate would aggravate regional tensions, others in the PDP contest that view.

III. FINDINGS

The delegation was pleased to find heightened interest in the 2011 elections and the determination of many individuals and civic organizations to promote citizen engagement at all levels of the electoral process. At the same time, there is a deepening sense of the need to change the approach to elections in Nigeria. Many political actors expressed concern that the legacy of flawed elections has a negative impact on Nigeria's political and economic development, as well as its standing in the world.

The delegation observed that while many Nigerians are determined to actively participate in the 2011 elections, they are fearful that verbal commitments to electoral reform may not translate into concrete actions to match. The delegation found a sense of urgency among Nigerians to see demonstrable steps in election preparation.

The delegation also noted positive developments that augur well for credible elections, including: the appointment of a well-respected academician and university administrator as chairman of INEC, passage of the 2010 Electoral Act that provides for more transparent

candidate selection processes and lays out regulations for monitoring political party behavior and addressing electoral malfeasance, and the determination of diverse Nigerian civic organizations to advocate for fair and transparent elections.

The delegation identified a number of hurdles that could undermine a successful electoral process, such as delayed agreement on the legal framework, security and policing of the polls, and the efficiency of INEC organs at the local government, constituency and ward levels. Allowing sufficient time to organize credible elections would give INEC the opportunity to conduct a critical voter registration exercise and meet the logistical challenges of holding general elections in a country with an estimated voting population of 70 million citizens.

Legal Framework

At the time of the delegation's visit, the most pressing election-related priority before Nigeria is the need to resolve lingering doubts surrounding the legal framework and timetable for the 2011 elections. The amended constitution pushed the election date forward from April to January 2011 to allow more time for the adjudication of electoral disputes before the swearing-in of new elected officials on May 29. However, the late date at which the reforms were adopted resulted in a very tight timeline for election preparations, which caused INEC to call for the election dates to be pushed back to April. That in turn requires passage of another constitutional amendment by the National Assembly and two-thirds of the state houses of assembly.

Many Nigerians agree that more time for preparations could improve the electoral process. However, the delegation notes with concern that continuing uncertainty surrounding the electoral timetable could render planning even more difficult for all electoral stakeholders and potentially diminish the enthusiasm of potential voters.

INEC and Preparations for the 2011 Elections

The appointment of Professor Jega generated goodwill and high expectations, though there is concern that expectations will be difficult to meet unless change at the top of INEC is accompanied by reform at all levels of the election management body. The delegation heard concerns that in previous elections some polling officials – particularly returning officers whose final announcement of results can only be challenged in court – have been subjected to financial inducements and intimidation by some politicians and their supporters. The delegation learned that INEC is exploring ways to better staff polling operations on election day and may reach out to organizations such as the National Youth Service Corps to provide a pool of educated and committed poll workers.

The delegation was informed that INEC's budget is now a "first line" charge on the Federal consolidated accounts, which gives the body more financial independence from the Executive branch than in the past. The timely release of funds to INEC is a marked improvement over previous election cycles.

The delegation commends INEC for reaching out to different stakeholders, including political parties, civil society and Nigerian security services. However, a number of individuals and

groups with whom the delegation met expected INEC to be more proactive in providing public updates on the status of electoral preparations and explaining emerging challenges to conducting credible elections. As registration and voting procedures are elaborated, they expect INEC to develop voter education materials and outreach strategies in consultation with Nigeria's National Orientation Agency.

Professor Jega has led INEC into a more mutually respectful relationship with Nigerian civil society organizations. He has promised to expedite the accreditation process for domestic and international observers in 2011, as monitoring groups faced major challenges in receiving accreditation to observe past elections.

Despite these positive developments, the delegation notes that a cardinal aspect of the electoral process, voter registration, has yet to begin. Many Nigerians worry that the logistical and capacity challenges associated with INEC's plans to develop a new, electronically based voter register could further delay the registration process. The delegation also notes with concern that many of Nigeria's estimated nine million students in universities and other institutions of higher learning could be disenfranchised by the requirement to register and vote at assigned polling places that may not coincide with their physical locations, which vary during school and vacation periods. Large-scale problems with voter registration, including attempts to create an electronic registry in an unreasonably compressed time, undermined past elections. Particular attention therefore is needed to ensure that the present registration builds voter confidence through transparency, verification, and public education.

Security Environment

The NDI delegation arrived in Abuja one week after two lethal side-by-side car bombs exploded in the city on October 1 during celebrations marking the 50th anniversary of Nigeria's independence. An exchange of accusations by politicians from opposing camps about the source of the violence has exacerbated an already volatile situation. Continuing restiveness in the Niger Delta, recent cases of kidnapping in several states, and pockets of religious extremism and violence raise concerns over the ability of Nigerian security services to adequately provide security in a nonpartisan manner during all stages of the electoral process, and protect citizens' rights to assemble and vote in peaceful conditions.

In past elections, some elements of the country's security services have been accused of acting in a partisan manner, including the disruption of opposition rallies and indifference to instances of violence and other electoral malfeasance.

The delegation is encouraged by the stated commitments of the Acting Inspector General of Police (IGP) to ensure the conduct of free and fair elections, and by the steps being taken by the IGP to obtain a proper interpretation of provisions of Nigeria's Public Order Act. The delegation hopes that a proper interpretation will be implemented to safeguard political rights. The importance of this is highlighted because police have recently invoked this law to prevent a number of political meetings and other events. The delegation learned that efforts are being made

to better coordinate the various security agencies in order to ensure a peaceful electoral period, including during political party primaries and also highlights the importance of this being done.

Political Parties

The delegation was impressed that many Nigerians are determined to make sure that the 2011 elections are a true reflection of the will of the electorate, in contrast to the pattern of previous elections. This is partly the result of the lack of consensus within the ruling PDP around a presidential candidate, and also the result of the optimism of several opposition parties about their potential to galvanize the electorate.

Some citizens that met with the delegation expressed fears that a “do or die” mentality could heighten negative competition and raise the risk of politically motivated violence. The delegation commends and encourages the evident desire among Nigerians to participate in greater discussion around policies, issues, and party platforms that could enable voters to make informed choices.

Internal Party Democracy

The 2010 Electoral Act includes significant changes to the candidate nomination process, with emphasis on primaries designed to increase internal party democracy. In its current form, the Act also prohibits political appointees from serving as voting delegates in party primaries. The delegation learned that a draft bill pending before the National Assembly would amend this provision, although it is unclear how the National Assembly would vote on the amendment.

The delegation notes with concern rising fears that, if poorly managed, the PDP primaries could be so contentious as to exacerbate regional, religious or ethnic tensions, perhaps resulting in violence. A free, fair and transparent primary process could mitigate these tensions. While the delegation does not seek to elevate any particular political party or single it out for criticism, this point was emphasized to the delegation by Nigerians across the political spectrum.

Citizen Engagement

Nigeria’s vibrant civil society has been a driver of electoral reform, with a number of prominent individuals and organizations contributing substantively to the work of Justice Uwais’ Electoral Reform Committee. Civic engagement in the debate over electoral reform since the 2007 election has galvanized civil society to be more invested than ever before in better political processes, including the promotion of issue-based campaigns and peaceful, credible elections.

The delegation lauds the enthusiasm and dedication with which citizen monitors are preparing to observe the electoral process across the country. Based on the experience of the last decade, domestic monitoring groups would play a critical role in providing Nigerians with the information needed to accurately assess the integrity of their electoral process. They are equally important in deterring and detecting irregularities during voter registration, the pre-election period, on election day, and in the post-election period. Many of these groups are eager to take

advantage of technological innovations to improve their ability to protect citizens' right to vote, and their right to have those votes accurately counted. One civil society consortium -- composed of the Federation of Muslim Women's Associations in Nigeria; Justice, Development, and Peace/Caritas Nigeria; the Nigerian Bar Association; and the Transition Monitoring Group -- recently launched Project 2011 Swift Count, an initiative that will use statistical random sampling on election day to verify the accuracy of official voting results. The delegation was pleased to learn that a number of groups has begun designing programs to improve citizen knowledge and awareness of the electoral process.

RECOMMENDATIONS

The delegation believes that with sufficient political will, many of the shortcomings of previous elections can be addressed. However, this will require determined efforts by political and civic actors to work together with a sense of urgency and commitment toward peaceful and credible elections.

In the spirit of international cooperation, the delegation offers the following recommendations for review and consideration:

To the Government of Nigeria:

- Nigeria's leadership should continue to publicly affirm its commitment to free, fair and credible elections in 2011.
- The government should make clear that electoral misconduct by public officials, politicians, and members of the security services will not be tolerated.

To the National Assembly:

- The National Assembly and state assemblies should act on the constitutional amendment permitting the postponement of the elections from January 2011 to a later date. Given the short time frame, it is urgent to clarify the electoral schedule.
- The National Assembly should consider passing legislation following earlier recommendations by the Uwais Committee and a submission to the body by the Executive Branch to create an Electoral Offenses Commission or other such entity in order to prosecute offenders and curb impunity.

To INEC:

- INEC should continue to enhance and facilitate open communication with political parties, civil society, security services, media and other election stakeholders on a regular basis throughout the electoral period. These entities bring different perspectives to elections, and collaboration among them can build trust and improve the electoral process.
- INEC should consider creating an interparty dialogue mechanism that meets regularly during all stages of the electoral process at the national, state and local levels. Examples such as Sierra Leone's Political Party Liaison Committee, Ghana's Inter-Party Advisory

Committee, and South Africa's Peace Committees have played key roles in reducing election-related tensions in those countries.

- INEC may wish to consider contingency plans for voter registration in case the challenges associated with electronic registration equipment hinder its current strategy.
- INEC should be proactive in informing the public so that citizens can participate in all aspects of the electoral process in a timely and informed manner.
- Election observers should be granted accreditation well before the start of voter registration so as to facilitate adequate training on, and monitoring of, all aspects of the electoral process. Observers should be guaranteed access to registration, polling, and collation centres..
- INEC should develop an effective voter education program to inform citizens of election procedures and regulations.

To Security Services:

- Security services should require that all officers must remain neutral and avoid intimidating voters. They should ensure that priority during elections is placed on protecting civilians and should stress that disciplinary action will be taken against any and all officers who use their powers to favor any political party or candidate or to harm the electoral rights of any party, candidate or citizen.
- Security services should develop a strategy for effectively coordinating election-related security measures at the national, state, and local levels both within the security sector and with the election commission, political parties, civil society, and other election stakeholders.
- The leadership of the security services should ensure that the roles of different security agencies during the election are well-defined internally and communicated to the broader public.

To Political Parties:

- Political parties should consider measures to reduce politically motivated violence. Codes of conduct with enforcement mechanisms and structured multiparty dialogue could be implemented in order to reduce the likelihood of conflict during the electoral process.
- Political parties should strive to improve internal democracy, especially around pertinent issues such as the candidate selection process, and the inclusion of women and youth as candidates and leadership.

To Civil Society:

- Conduct civic and voter education campaigns through all phases of the electoral process.
- Nonpartisan citizen monitors should provide impartial assessments of the electoral process so that citizens can judge the integrity of the process. Observers should adhere to regional and international standards and principles guiding election monitoring.
- Monitor party primaries where possible and provide independent evaluations of democratic procedures within the political parties.

NDI will continue to observe the electoral process and will issue additional statements as appropriate. NDI will cooperate with other international election observation missions to Nigeria's elections and with nonpartisan election observation efforts by Nigerian citizen groups and other actors in accordance with the Declaration of Principles and Nigerian law.