

## EXECUTIVE SUMMARY

The 2015 elections were historic, with the opposition winning for the first time since the transition from military rule in 1999, and with the incumbent presidential candidate, Goodluck Jonathan, conceding defeat and thus paving the way for a peaceful handover of power. However these highly competitive elections were marred by incidents of violence, abuse of incumbency at state and federal levels, and attempts at manipulation. The Independent National Electoral Commission (INEC) made commendable attempts to strengthen electoral arrangements, however systemic weaknesses leave the process vulnerable to abuse by political contenders. Procedural shortcomings were evident, in particular during collation and from analysis of polling unit results, however no centralised systemic fraud was observed. Excessive deference to judicial mechanisms for enforcement and corrective action risks protracted resolution to grievances. Media outlets gave a variety of views, however government-controlled media failed to provide legally-required equal coverage, clearly advantaging incumbents.

The security situation, the large population, infrastructure challenges, and the fierce political competition, made for an extremely challenging election environment. On 7 February 2015 INEC postponed the elections scheduled for 14 and 28 February by six weeks. This followed the National Security Advisor and all the Armed Services and Intelligence Chiefs stating that they could not guarantee security for the proposed election days as six weeks was needed to conclude military operations against Boko Haram. An initiative for peaceful elections was launched on 14 January under the auspices of former UN Secretary-General, Kofi Annan, with the signing of the Abuja Accord by the presidential candidates and their parties. The Abuja Accord was later adapted in all 36 states.

Despite various legal reform initiatives since the 2011 elections, the legal framework has not changed except for the passing of the Freedom of Information Act in May 2011. Therefore, a number of fundamental shortcomings are still to be addressed, with the legislative framework not fully in line with universal and regional standards for elections committed to by Nigeria. These include, *inter alia*, the lack of provision for independent candidacy, insufficient campaign finance regulations, an absence of provisions empowering INEC to sanction campaign violations, weak transparency requirements for the publication of results, and voters and civil society organisations unable to file petitions against the results.

INEC has gained credibility since the appointment of the new Chairperson in 2010, however it is not clear to what extent the institution has been reformed. During the 2015 elections INEC appears to have performed impartially in challenging circumstances, although criticism increased following both election days. However, given the insufficient requirements for transparency and full public accountability as well as a lack of full institutional independence, the election administration remains vulnerable to partisan operations and/or weak delivery that risks exploitation by parties. The law overly-restricts INEC's powers rendering it insufficiently effective in challenging inappropriate actions of political contenders. INEC regulatory guidelines include polling safeguards, however serious procedural weaknesses persist particularly in regards to transparency and collation rigor. Shortcomings were evident, with preparations only improving after the six-week postponement.

INEC's constitutional responsibility to undertake delimitation of constituencies is unregulated. Although delimitation is required every 10 years, the current boundaries date back to 1996, despite a census in 2006. During the intervening period, INEC has conducted

boundary reviews several times but reportedly has not finally submitted proposals to the National Assembly. There are currently profound disparities in the size of constituencies, which is not consistent with equality of the vote or constitutional requirements. However precise calculation of constituency variations is not possible due to the lack of available population data broken down by constituency.

Positively INEC attempted to improve the integrity of voter registration and identification by introducing biometric measures. INEC reports registering 68.8 million voters, an estimated 78% of the total voting age population, with approximately 82% of registrants' permanent voter cards (PVCs) being collected. However in 11 states over 92% PVC collection was reported, which is implausible given that the deceased have not been removed from the list since 2010. Regrettably, up to 100,000 PVCs, which are necessary for voting, remained unproduced one day before 28 March election day. While the introduction of PVCs and card readers has been effective in increasing the reliability of the voter register and reducing opportunity for fraud, their impact has been limited by the seemingly poor quality of biometric data capture and subsequently weak finger-print recognition rate during polling. As of yet, there does not appear to be a plan for maintaining the voter register.

The constitutional preclusion of independent candidates is inconsistent with the individual right to stand for office and can be criticised for exacerbating party control, which is problematic given the extensively reported culture of corruption within parties. Thus voters are left with reduced choices available on election day, which also weakens opportunity for the accountability function of elections. There is insufficient legal regulation of party primaries, with INEC lacking powers of enforcement, as INEC is legally barred from disqualifying candidates.

Candidacy is also *de facto* overly-restricted by parties requiring aspirants to pay a non-refundable fee that for the two main parties went up to 27 million Naira (approximately €134,000), leaving the possibility to stand beyond the reach of the vast majority of citizens. "Zoning", whereby elected positions rotate between different geographical areas within a constituency, is often applied, which *de facto* excludes aspirants from other localities. Various implementation problems were widely reported and also observed by EU experts, including arbitrary rejections during "screening", corrupted election processes, and voting procedures that lack transparency and certainty. Also parallel primaries reportedly took place and parties did not always respect the results of their own primaries.

The campaign environment was extremely competitive and tense. Incidents were reported in all parts of the country resulting in more than 160 people killed in election-related violence since early January. Campaigning for the federal and state level elections took place concurrently, with large-scale rallies conducted during the first phase (before postponement) and meetings with traditional, religious and youth leaders in the second phase (after postponement). Issue-based campaigning was overshadowed by negative tactics, with increasing use of inflammatory language, hate speech and religious, ethnic and sectional sentiments and appeals. Violations of campaign regulations were reported in all parts of the country with both Peoples Democratic Party (PDP) and All Progressives Congress (APC) representatives and candidates seen to misuse incumbency at federal and state levels. Mechanisms for monitoring and sanctioning non-compliance were *de facto* non-existent and violations remained unaddressed throughout the whole campaign period.

While the broadcast media sector is still dominated by the federal and state government-controlled media, which primarily serve incumbents' interest, the steady growth of private outlets and use of social media contributes to pluralistic media environment overall. Although media freedom is improving, self-censorship is exercised, and some instances of harassment and attacks against journalists during the campaign were reported.

EU election Observation Mission (EOM) monitoring results of the government-owned Nigerian Television Authority (NTA) and Federal Radio Corporation of Nigeria (FRCN), the two leading media networks with the widest coverage, showed that both provided extensive exposure to the PDP and its officials (the President and Federal Government). On NTA news, coverage of PDP and its officials totalled 84%, which contrasted with APC's 11%. A similar pattern was identified in FRCN's news, and in NTA's editorial programmes. More extreme uneven coverage was identified in some state-controlled radio stations, with over 95% of airtime allocated to incumbent governors seeking re-election. Thus federal and state government controlled media gave incumbents clear advantage over their opponents. This, along with passiveness of the media regulator, the National Broadcasting Commission (NBC), to challenge such bias and effectively regulate the broadcast media, is not fully consistent with the regulatory framework for the elections or international standards requiring the state controlled media to ensure fair and equitable access by contesting parties. Positively, some private media provided overall balanced and fair coverage of key contesting parties.

On 28 March election day voters displayed commendable commitment. Overall in sites visited, polling passed peacefully with appropriate performance by security forces, although over 19 killings were reported. Generally the process may be characterized as disordered and prolonged. Although polling procedures were insufficiently followed, EU EOM observers saw no evidence of systematic manipulations. The use of the card readers deterred fraud by requiring use of a genuine PVC for that polling site, but biometric voter identification was problematic, resulting in a manual process being undertaken that increased opportunity for fraud. Voting and counting procedures were not always followed and results were not generally publicly displayed. Collation, particularly at the first (ward) level was problematic with weak scrutiny, results not always arriving intact, inconsistent checking, and some repeated alterations of results forms observed. Over 2.3 million of those accredited in the morning (7.3%) did not stay on to subsequently cast their ballot in the afternoon.

On 11 April election day there were increased security incidents, with at least 30 people killed, predominantly from inter-party clashes and attacks on election sites, with problems being most pronounced in Rivers and Akwa Ibom states. Again EU EOM observers saw no evidence of centralised systematic fraud. Overall the process appeared to be more efficient, however procedural shortcomings continued to be prevalent. Card reader fingerprint verification was again problematic, party agents were at times seen interfering in polling officials' work, and essential ballot checks were not consistently performed during counting.

Overall the system of results collation and announcement lacks safeguards and transparency measures, with the speed of results declaration given priority over the thoroughness and credibility of the process. There is minimal opportunity to submit complaints with resolution of grievances deferred to the courts. The lack of a fully effective results information system was evident for example in the declaration of the presidential results showing 1.4 million fewer registered voters than previously officially announced by INEC. Except for the presidential election INEC centrally did not publish results. There appears to be high

tolerance amongst stakeholders to shortcomings in transparency and precision in numerical data provided.

At a later date INEC commendably set a positive precedent and published polling unit results forms on the Internet, albeit after the deadline for submission of petitions. This is a major step forward for transparency and promoting accountability. By the time of completing this report (20 July 2015), INEC reports having published 91.9% of presidential election results forms, although for the South South the rate is only 81%. EU EOM analysis of a stratified sample of 272 randomly selected presidential results forms revealed very significant problems that raise questions about the potential for manipulations, quality of polling staff training, and management of the process. Most strikingly 35.3% of polling unit results forms analysed had altered figures (unclear by whom), 34.2% had mathematical anomalies, 33.8% had no rejected (invalid) votes, 32% had 95% or more valid votes for one party, and 20.6% had the same number of accredited and actual voters. The majority of polling unit results forms contained multiple shortcomings, as assessed against eight criteria examined by the EOM. The EU EOM ensuing analysis does not constitute evidence of fraud, rather it identifies problematic issues arising that warrant review to avoid their recurrence in future elections.

In the presidential election, the opposition APC candidate General Buhari won with 53.96% of votes, while President Jonathan of the PDP came second with 44.96%. APC also secured the majority of the seats in the National Assembly with the seemingly most updated INEC results showing APC winning 60 out of 109 seats in the Senate (55%) and 212 out of 360 seats in the House of Representatives (58.9%). The remaining National Assembly members are PDP, with only eight seats won by smaller parties, all in the House of Representatives. According to INEC and media reports on the gubernatorial elections in 29 states, APC won 20 and PDP 9.

The judiciary made serious efforts to provide timely administration of justice for the high volume of pre-election suits. Nevertheless, the lack of time limits for filing and adjudicating of pre-election suits, in combination with loopholes allowing lawyers to delay cases unnecessarily, left the majority of cases pending before the courts for after the elections, thus compromising the right to a timely remedy. No post-election petitions were filed against the presidential outcome, while there were 255 petitions against National Assembly results. In addition to challenging voting, counting and collation processes, many relate to qualifications and improper nomination during party primaries.

Despite efforts by some police departments, in many cases electoral offences appear to have not been actively investigated and therefore charges have not been brought. INEC was not proactive in prosecuting electoral offences, with an evident lack of coordination with the police on arrests and investigations, which risks further engendering boldness by electoral crimes perpetrators.

The observation conducted by various citizen observer networks enhanced the transparency of the process and contributed to electoral debate. During the 28 March presidential election there was a parallel results verification through the Transition Monitoring Group's "*quick count*" that "*confirmed official results*" but also disclosed results manipulation in four states in the South South. However citizen observation largely focused on polling and there was only very limited, if any, observation of other important parts of the election process. Furthermore, CSOs command mixed levels of confidence in their political neutrality,

impartiality, and ability to give a measured response, with various groups being regarded as aligned to one of the parties and/or over-loyal to the election administration.

The 28 March National Assembly election furthered the negative 2011 trend with another decrease in the number of women elected. It appears that only 8 women won a seat in the Senate (7.3%) and 18 in the House of Representatives (5%). Thus the proportion of women elected is well below the 30% Beijing Declaration and Platform for Action and the 35% National Gender Policy targets. At state level, 11.4% of gubernatorial candidates and 14.36% of SHoA contestants were female. No woman was elected as a governor.

Nigeria has ratified the UN Convention on the Rights of Persons with Disabilities. However, the National Disability Bill, long-awaiting presidential assent, includes only general provisions on the political participation of persons with disabilities. Positively, INEC was receptive to consultations with disability organisations and developed various innovations. Some parties included general references to disability issues in their manifestos, however reportedly only three persons with disabilities contested the 2015 general elections (none of whom won a seat).

#### Priority recommendations:

1. Establish a more inclusive parliamentary mechanism for cross-party involvement in the selection and approval of the INEC Chairperson and National Commissioners. INEC's independence be further developed through direct power to appoint and remove Resident Electoral Commissioners.
2. After a thorough review of the 2010/2014 registration processes, elaborate a plan for developing and maintaining the voter register, to include improving biometric functionality, removal of the deceased, and extended enrolment of new registrants. Such processes be subject to stronger INEC supervisory checks with greater scrutiny from agents, observers and the media.
3. Merge accreditation and voting processes on election day for ease of access for voters, while maintaining other safeguards, in particular mandatory biometric voter identification (through the use of voter cards and card readers).
4. The Constitution be amended to allow for independent candidacy for all elected positions.
5. NBC regulatory authority be strengthened (including through the power to grant broadcasting licenses), its monitoring capacities developed, and requirements be established for NBC public reporting on monitoring findings and sanctions applied.
6. Reasonable and appropriate time limits for the effective filing, hearing and determination of pre-election suits be established in the legal framework in order for cases to be completed well in advance of election day.
7. Political parties be required to have policies and provide regular information on the promotion of women's political participation within the party, as candidates, and more widely. Consideration be given to requiring parties to have a minimum representation of women in leadership positions and as candidates.