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2019

GENERAL ELECTIONS

in Nigeria and its Compliance with the African Charter on Democracy, Election and Governance (ACDEG): Issues, Perspectives, Reforms and Recommendations



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INEC
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This Electoral Audit Report is a comprehensive research on the 2019 general elections with regards to how it conforms with the provisions of the African Charter on Democracy Elections and Governance in relation to democratic elections in member state. The Electoral Audit Report is produced in order to increased knowledge and awareness of the importance of international policy frameworks that deepen democratic elections. . This document is produced as part of the Mobilising Civil Support for the Implementation of African Governance Architecture; Pan-African Project. The project is supported by the European Commission and implemented by the consortium of 13 civil society organisations spread across West, South and East Africa with a strong regional approach lead by the three CSOs platforms of the 3 regional economic commission; namely; West African Civil Society Forum-WACSO, East Africa Civil Society Forum-EACSO, South Africa Development Council of Non-Governmental Organization-SADC-NGO.

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Executive Summary

In the last twenty years of democratic governance in Nigeria (199 to 2019), the country has witnessed six successive general elections conducted by the Independent National Electoral Commission (INEC), several off-cycle elections and many other bye-elections. The legal frameworks for all elections in Nigeria have been the 1999 Constitution (as amended) and successive Electoral Acts with the most recent being the 2010 Electoral Act (as amended). The constitution mandates the INEC to organize, undertake and supervise all national elections. It also gives the commission the power to register political parties; regulate parties' conduct, including auditing their accounts; conduct voter registration and maintain a national voter register; establish rules and regulations for election campaign; conduct voter and civic education; fix dates for elections; and delimit constituencies.

It is, however, important to note that the Electoral Act and guidelines were developed drawing from international best practices from democracies across the world including Africa. Nigeria is signatory to various international protocols on democracy and elections among which is the African Charter on Democracy, Election and Governance (ACDEG) adopted in 2007 but came into force in 2012. Essentially, the ACDEG aims to deepen democracy by strengthening political systems and processes that protect democratic principles across African states. This is clearly enshrined in chapter two of the protocol which spells out its objectives to include amongst others: "promotion and enhancement of adherence to the principle of the rule of law premised upon the respect for, and the supremacy of, the Constitution and constitutional order in the political arrangements of the State Parties." Across Africa, the ACDEG protocol has come to stand as a guiding framework for democratic consolidation and also a yardstick for assessing the quality of governance, particularly as it concerns the conduct of democratic elections in African states.

This report presents a baseline study of the 2019 Electoral Environment vis-a-viz the implementation of the ACDEG in Nigeria. Essentially using the ACDEG guideline as a framework of analysis, the report specifically examines how the electoral processes complied with the ACDEG provisions in all phases of the 2019 general elections. The study relied heavily on secondary sources such as ACDEG document, the 2010 Electoral Act (as amended), the 1999 Constitution of Nigeria as amended, and the INEC Guidelines for Conduct of the 2019 General Elections. Other secondary sources include the reports of some accredited international and domestic organizations with track records in observing and providing credible analysis of election outcomes. The study adopted a descriptive qualitative and quantitative approach in the presentation of this report.

1.0 Introduction

Nigeria has witnessed six successive general elections conducted by the Independent National Electoral Commission (INEC) after every four-year electoral cycle, between 1999 and 2019. Notwithstanding the various off-cycle governorship elections and other bye-elections conducted in-between the years, the legal framework for all elections in Nigeria have been the 1999 Constitution (as amended) and the Electoral Act of 2010 (as amended). The constitution clearly mandates that INEC organize, undertake and supervise all national elections. It also gives the commission power to register political parties; regulate parties' conduct, including auditing their accounts; conduct voter registration and maintain a national voter register; establish rules and regulations for the election campaign; conduct voter and civic education; fix dates for elections; and delimit constituencies. However, it is important to note that the Electoral Act and guidelines were developed drawing from international best practices from democracies across the world including Africa.

Nigeria is a signatory to various international protocols on democracy and elections among which is the African Charter on Democracy, Election and Governance (ACDEG) adopted in 2007 but came into force in 2012. Essentially, the ACDEG aims to deepen democracy by strengthening political systems and processes that protect democratic principles across African states. This is clearly enshrined in chapter two of the protocol which spelt out its objectives to include amongst others: "promotion and enhancement of adherence to the principle of rule of law premised upon the respect for, and the supremacy of, the Constitution and constitutional order in the political arrangements of the State Parties". Across Africa, the ACDEG protocol has come to stand as a guiding framework for democratic consolidation and also a yardstick for assessing the quality of governance, particularly as it concerns conduct of democratic elections in African states.

Accordingly, since Nigeria adopted ACDEG in 2007, the instrument has contributed to shaping democratic governance and reforms in our electoral processes and systems. This is reflected in the conduct and outcome of various elections held in the country. Since 1999, Nigeria has held several elections with different outcomes in terms of quality. For instance, the 2015 general elections remains remarkable because they were keenly contested, which led to the emergence of an opposition political party and loss of incumbent political party at the national level. In other words, power alternated from a sitting government to an opposition party. The 2019 elections compared to 2015 elections were largely reported to have been conducted in a tensed environment and some critical security challenges were identified across every region in the country. For instance, the Boko Haram insurgency in the north-east, banditry in the north-west, resurgence of separatist movement in the south-east, farmers-herders conflict across the middle belt and some southern parts of the country posed serious threats.

One other remarkable incident about 2019 elections aside security challenge was the postponement of the initial dates for the polls by INEC few hours to commencement of voting due to what it termed logistic challenges. More so, the voter turnout for the election was the lowest in the history of elections in the fourth republic with only 35.6 per cent voter turnout. There were reported cases of electoral violence in some voting locations across the country. The media, international and domestic accredited election observers revealed that the 2019 elections could be described as one of the worst elections in recent history of Nigeria elections. The level of electoral malfeasance and interference witnessed in the 2019 elections had significant impact on the outcome of the election. Some of the reported incidents in this regard include intimidation of voters and election officials, harassment of opposition parties, election observers and the media, unprofessional conduct by some security personnel, and misconduct by some political parties, among others (Centre for Democracy and Development [CDD], 2019).

Generally, looking back at the 2019 general elections in Nigeria vis-à-vis the provisions of ACDEG as it concerns democratic elections; one can observe electoral systems and processes that complied with ACDEG provisions as well as those that violated its basic provisions, particularly those provisions contained in chapter seven of the protocol which focuses on democratic elections.

In the light of the foregoing, this paper, presents a baseline study of the 2019 Electoral Environment vis-a-viz the implementation of the ACDEG. It does this by examining the various issues and perspectives that emanated from the 2019 general election using ACDEG guideline as a framework of analysis. The study is organized under the following themes:

- i. Electoral Process in Nigeria and Compliance with ACDEG
- ii. Election and National Development;
- iii. Political Party Organization and Reforms;

- iv. Citizens' Participation, Mandate Protection and Accountability in Elections;
- v. The Electoral Act and Compliance to the ACDEG
- vi. Elections, Security, Militarization of the State and Shrinking Civic Space
- vii. Election Observers and the Legitimacy of the Electoral Process.

2.0 Study Puzzles

Based on the seven broad thematic areas of the study as mentioned above, the following puzzles guided the study:

1. How did the electoral processes comply with the ACDEG provisions in all phases of the 2019 general elections in Nigeria?
2. To what extent did the 2019 general elections engender national development?
3. Did political party organization/reforms during the 2019 general elections comply with ACDEG guidelines on political party organization and reforms?
4. To what extent did the 2019 electoral process comply with ACDEG guidelines on citizens' participation, mandate protection and accountability?
5. Did the Electoral Act (in terms of the content & making of the Act) comply with the guidelines of the ACDEG?
6. To what extent did the conduct of 2019 general elections comply with ACDEG guidelines in the area of election security, demilitarization, and creating an enabling civic space?
7. How did accredited domestic, international election observers, traditional and social media reports impact on the Electoral Process?
8. What were the emerging electoral issues that the ACDEG failed to address as observed during the elections?
9. What actionable policy recommendations and possible reforms should critical election stakeholders implement to actualize commendable election outcomes in line with the goals of ACDEG?

3.0 Study Objectives

The broad objective of the study is to examine the outcome of the 2019 national election in Nigeria and the extent of compliance with the ACDEG. However, the specific objectives the study sets out to achieve are as follows:

- i. To assess how the electoral processes and systems complied with the ACDEG provisions in all phases of the 2019 general elections in Nigeria
- ii. To examine the link between election and national development in Nigeria;
- iii. To assess the character of political party organization and reforms in Nigeria;
- iv. To examine extent of citizens' participation, mandate protection and accountability in Nigerian elections with particular focus on the 2019 general elections

- v. To review the extent of compliance of the 2010 Electoral Act (as amended) with the ACDEG
- vi. To assess the connection between election, security, militarization of the state and shrinking civic space in Nigeria during the 2019 general elections;
- vii. To examine the extent to which election observers, citizens and media reports enhanced the legitimacy of the electoral process during the 2019 general elections in Nigeria.
- viii. To find out the emerging electoral issues which ACDEG did not adequately address.
- ix. To proffer actionable suggestions that could improve quality of elections based on international best practice and compliance with continental frameworks.

4.0 Methodology

4.1 Research Design

In consideration of the broad and specific objectives of the study, case study research design was adopted for the study. Case study research design involves conducting in-depth study of a small number of specific cases in their real context and understanding how the cases were influenced by their contexts. Accordingly, compliance to the national elections to the ACDEG principles was examined within the context of the Nigerian state with specific focus on the conduct of the 2019 elections. In other words, while ACDEG is a continental charter implemented across African states, Nigeria as a country was singled out in the study as a specific case study to be examined. More so, since 1999, six general elections have been conducted in Nigeria by the INEC, however, the study focused mainly on the 2019 general election to draw insight as to the extent of compliance with the general principles of the ACDEG during the elections. This design is considered apt for a study like this given that there are nuances in the political contexts of various African countries implementing the ACDEG. Again, the political context in which the 2019 general election was conducted differed from the context of the previous elections. Despite these nuances, findings from this specific case study can be used to generalize about elections and implementation of the ACDEG across Africa.

4.2 Data Collection and Analysis

Data collection technique for the study was largely based on desk research which involved obtaining information from secondary sources through critical review of relevant documents and published reports related to the ACDEG and elections in Nigeria, particularly the 2019 general elections. Hence, the study relied heavily on official documents like ACDEG document, the 2010 Electoral Act (as amended), the 1999 Constitution of Nigeria as amended, and the INEC Guidelines for Conduct of the 2019 General Elections. Other secondary sources included reports of the accredited international and domestic organizations with track records on observing elections and providing credible analysis of the election. Such organizations include the National Democratic Institute, European Union (EU) Observer Mission, Commonwealth Observer Mission, Centre for Democracy and Development (CDD), CLEEN Foundation, Nigeria Election Working Group, Election Monitors, and Policy and Legal Advocacy Centre (PLAC), amongst other relevant documentary sources of information such as books, monographs, newspapers, and also articles published online.

5.0 Election and National Development: Some Theoretical Issues

Election among other meanings is generally described as a formal process of selecting a person for public office or accepting or rejecting a political proposition by voting. An election is a formal group decision making process by which a population chooses persons to hold public office through voting. Whereas National Development refers to a holistic change and advancement of a country which encompasses social, political, economic and cultural transformations; national development is evidenced in the overall improvement of the welfare of the citizenry of the nation or country.

It involves both qualitative and quantitative changes in the overall living standard of a nation or country, decrease in the rate of poverty, unemployment and inequality in the society.

The link between elections and national development can be deduced from the fact that free and fair elections could bring about leadership that is keen in improving the economic and social developments of the country. On the other hand, infrequent or uncompetitive elections have the potentials of retarding national development. This is because critical development efforts cannot succeed without a legitimate and democratically elected government that is responsive and accountable to its citizens. Elections, therefore, provides an important opportunity to advance democratization, encourage political liberalization and create enabling social, political and economic conditions that engender holistic and sustainable national development. It provides opportunity for popular social, political and economic forces to be unleashed for national development. Furthermore, elections engender political participation by enabling voters to periodically select leaders and hold them accountable for their performance in public offices. Accountability can be undermined when political office holders are not subjected to periodic election. Nevertheless, requiring political office holders to submit to regular and periodic elections helps to enhance accountability as political office holders seeking re-election would want to show transparency in the management of the commonwealth so as not to jeopardize their chances or the chances of their parties being re-elected. Hence, by being transparent and accountable to the people, political leaders foster national development. Conversely, if elections are not conducted or badly conducted, they lose their structural efficacy for policy improvement. Frequent elections are, therefore, critical for the health of any democracy. The Conduct of periodic elections is instrumental to achieving accountability in governance but elections fail to achieve accountability if they are not regular and properly conducted.

It is widely accepted that good economic policy is critical to successful development and the route to policy improvement is through accountability of governments to their citizens through proper elections. The correlation between elections and national development can further be understood within the context of elections being the cornerstone of democracy. It must be noted, however, that election in itself does not necessarily translate to democracy just as democracy does not necessarily equate development. Periodic elections create the room for democracy while democracy could provide the right atmosphere for socio, political and economic development. One major fact that tends to lend credence to democracy leads to development argument is that virtually all the developed countries of the world are democratic.

Indeed, for the majority of the people, democracy is meaningful only when it delivers socio-economic goods. In other words, political democracy must be linked to socio-economic development. There are, however, some countries of the world which are considered to operate undemocratic systems but which are developing economically in leaps and bounds and sometimes even faster than those considered more democratic. For instance, China, Taiwan, Singapore and India are cases in point. What these countries prove is that there are different routes to development and that the nature of a political regime may not necessarily determine

the rate of economic growth and development in a country. Authoritarian regimes in some countries have shown remarkable resilience for economic discipline and structural reforms, and thereby engineered tremendous economic growth in their countries.

However, within development practice and disciplines of thoughts, the nexus between democracy and development remains contestable. To some, liberal democracy provides the basic foundation for economic development. It is argued that libertarian values like freedom of speech and association, the rule of law, multi-party system and elections, the protection of human rights and separation of powers create the institutional context and processes for economic development to take place. It facilitates economic empowerment, provides a stable investment climate, and ensures rapid mobilization of national energies and resources for economic development. Democracy is conceived to be a worthy political project in itself and should not be forcibly associated with economic development. The political context and rights which democracy provides are ends in themselves, which make for human happiness in society. The rights to free speech, association, etc, are quite crucial to man and may not necessarily lead to material betterment⁸.

There have been critical changes on the political scene in Africa in the last two decades, with elections becoming the norm rather than the exception. For instance, between 1990 and 1994, thirty-one of the forty-one countries that had not held multiparty elections did so (Diouf cited in Ibrahim 2003). The decades following the democratic transitions of 1990s were also characterized by regular elections in Africa with alternation in power experienced in some countries including Nigeria in 2015. Similarly, long sitting autocratic presidents such as Yahyah Jammeh of The Gambia, Blaise Compaore of Burkina Faso, and Robert Mugabe of Zimbabwe, just to mention the most recent cases, have been removed from office. Hence, with these developments, Africa could be said to have joined the third wave of democracy which commenced in 1974 and led to dismantling of various authoritarian regimes across the world from Portugal to Greece.

It is, however, not clear if the phenomenon of democratization in the 1990s characterized by the increase in frequency of elections across Africa has returned the continent to the path of development. Despite the proliferation of multi-party

democracies and the holding of frequent elections across Africa, the continent is still afflicted by poverty, disease, unemployment, violent conflicts and many other indicators of underdevelopment. This seems to suggest very clearly that the frequency of elections does not necessarily equate with democracy⁹. In fact, election does not always enthrone democracy as many elections in Africa and other emerging democracies are flawed with irregularities, intimidation, violence, rigging and the like which undermine the will of the electorate. For instance, Nigeria's electoral history has been largely a history of large scale electoral fraud, violence, intimidation, vote buying and judicial theft of the people's mandate, often making the people vote without choosing. Despite the huge outlays expended by the election management body (EMB) in the conduct of successive elections, the outcome, have been, to say the least, below citizens' expectations.

5.1 The 2019 Elections and Prospects for National Development in Nigeria

One major objective of the ACDEG as contained in Article 2(8) is to promote sustainable development in State Parties. Hence, democratic elections can provide the spring board for sustainable national development if properly managed. This section explores how the 2019 general elections could catalyze national development in Nigeria.

Nigeria's 2019 general elections were remarkable in various ways, first, they marked the first elections conducted by the President Muhammadu Buhari led All Progressive Congress (APC) administration which took over power in 2015 having defeated the incumbent Peoples Democratic Party (PDP) at the polls. Secondly, they were the first elections conducted by the new leadership of the INEC led by Prof. Mahmood Yakubu. Thirdly, they were conducted under severe national security challenges such as the Boko Haram in the Northeast, farmers-herders conflict across the country particularly in the Middle belt, banditry and kidnapping in the Northwest, and secessionist agitation by the Indigenous People of Biafra (IPOB) in the Southeast. But whether the elections have the prospect of jolting Nigeria out of some of its developmental crisis and catalyzing national development is a critical question that needs to be interrogated.

The presidential and national assembly elections were earlier slated for 16th February 2019 but were postponed due to what the INEC attributed to logistic challenges. The postponement of the elections by the electoral body exerted social, psychological and financial burden on the people and raised concerns as to the preparedness and capacity of INEC to conduct a credible and acceptable polls in 2019. The abrupt postponement of the election created a feeling of disenchantment among voters and impacted negatively on voter turnout during the rescheduled election with voter turnout as low as 35.6 per cent as against 43.7 per cent witnessed in the 2015 general election. Beyond the socio-economic disruptions arising from the postponement of the election, the security lapses and the concomitant electoral violence witnessed in the 2019 general election equally impacted negatively on national development.

Nevertheless, the presidential and national assembly elections, the governorship and state assembly elections were finally held on 23rd February, 2019 and March 9th, 2019 respectively while the supplementary elections were conducted on the 23rd March, 2019. The presidential and state assembly elections were conducted across the 36 states and the Federal Capital Territory (FCT) Abuja while the governorship election held in 29 out of the 36 states. Supplementary elections were held for 5 governorship and 40 state assembly seats.

Generally, the conduct and the outcome of the election were fraught with several misgivings. For instance, despite the postponement, the election was characterized by late arrival of election materials and officials in several states, leading in some cases to the extension of voting to the following day. Election workers had to work for long hours into the night in many locations. The gross irregularities, violence and malpractices that characterized the 2019 elections poses legitimacy question on the government at the centre as well as in different states. The reports of non-state actors further validate this claim. For instance, the European Union Election Observer Mission (EU EOM) in its report noted that the elections were marred by operational and transparency shortcomings, electoral security problems and low voter turnout.

According to the report, the elections became increasingly marred by violence and intimidation. Various civil society organizations also criticized the election for falling short of expectations. For example, CLEEN Foundation regretted that despite its early warning of security threats in some states, security agencies were unable to mitigate election violence in Rivers, Akwa Ibom, Lagos and Kogi states during the polls. CLEEN Foundation noted that it received reports of incidents electoral malfeasance involving persons suspected to be military personnel and political thugs in Rivers State. This report was corroborated by Situation Room, a coalition of civil society organizations which noted that there was excessive military involvement in the elections especially in Rivers, Akwa Ibom and Imo States. In some cases, the Army was accused of disrupting the election by preventing INEC staff from carrying out their duties. In Lagos state, it was alleged that political thugs disrupted elections in different voting locations.

There were reported cases of deaths in some states in the country including Rivers, Akwa Ibom, Ebonyi, Kogi and Zamfara States. There were also cases of destruction of electoral materials and attack on security personnel on election duty. There were cases of harassment of election observers by security agents and political thugs while performing their civic duty.

Similarly, the Centre for Democracy and Development (CDD) categorized the following five states as hot spots during the election particularly the period of collation of results – Lagos, Osun, Kaduna, Rivers and Sokoto. According to CDD and based on its observers' reports, the aforementioned states experienced significant problems with the ward-level collation. These states accounted for 46 per cent of incidents of concern noted by the observers. The situation was especially bad in Rivers State where clashes between political thugs and security personnel disrupted several collation centres.

The shortcomings of the election notwithstanding, the EU EOM commended the fact that the elections were very competitive at all levels and that different parties and candidates were able to carry out their campaigns without clampdown by incumbent government at the federal or state levels. EU EOM also acknowledged the difficult political environment in which INEC had to work and was able to make some improvements such as simplification of the voting procedure. Accreditation and voting went on simultaneously and that reduced the pressure on voters and ensured that virtually all those accredited voted. Thus, the 2019 general election was able to widen the political space for various stakeholders to participate. The result showed that the Muhammadu Buhari of the APC was returned as president. The party also won majority seats in the two legislative chambers of the National Assembly.

The 2019 elections led to the actualization of the goals of the Not-Too-Young-To-Run (NTYTR) movement with the emergence of some youths in various elective positions especially in state Houses of Assemblies where 22 young legislators emerged across the 36 states. There is a sense in which the relative success of the 2019 elections succeeded in expanding the political space to accommodate the youths. Reports of some youths emerging as Speakers of State House of Assembly in states like Abia, Anambra, Oyo and Plateau states seem to raise hope of better days ahead. The implication is that issues concerning youth development may begin to top the governance agenda. If this happens, it has the tendency of catalyzing development across the country. The provision of constitutional safeguard for increased youth participation in governance is in resonance with Article 8 (2) of the ACDEG which stipulates that: "State Parties shall adopt legislative and administrative measures to guarantee the rights of women, ethnic minorities, migrants, people with disabilities, refugees and displaced persons and other marginalized and vulnerable social groups." Although there is an ongoing debate as to whether the current administration has done well in delivering development projects to the people in its first four years, undoubtedly, the 2019 election provided opportunity for the incumbent to retool their development strategies to accommodate criticisms so as to gain support of the people at the polls and secure legitimacy for the second tenure. The election also provided opportunity for the civil society to engage the incumbent on its development agenda and for the opposition to present alternative path to development at various levels. These engagements enabled the current administration to fine tune its development programmes to be more people oriented given that it would be facing another election in the next four years. However, any prospects for the just concluded elections leading to national development would depend largely on the character and quality of persons the President would appoint as aides, ministers, ambassadors, etc. More importantly is the willingness or otherwise of the president himself to be proactive in dealing with the myriads of challenges confronting the country, especially the variegated security challenges, poverty, unemployment and the perennial monster called corruption.

6.0 Analysis of Nigeria's 2019 General Election Processes and its Compliance with ACDEG

This section provides a baseline analysis of the electoral environment during the conduct of the 2019 general elections in Nigeria vis-à-vis the provisions of ACDEG. It presents political structures and processes which complied with the provisions of the ACDEG during the 2019 general elections in Nigeria, as well as areas where the electoral process failed to comply with the principles of ACDEG.

Apparently, adoption of the ACDEG protocol has greatly influenced the electoral processes and structures in Nigeria. While it could be argued that Nigeria has complied with the basic provisions of the ACDEG in some respects, there were some aspects of the elections that fell short of certain principles of the ACDEG, especially in terms of processes and structures. For instance, chapter seven of the protocol provides the basic principles that should guide the conduct of democratic elections in State Parties to the ACDEG. Specifically, Article 17 provides that State Parties shall:

1. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections.
2. Establish and strengthen national mechanisms that redress election related disputes in a timely manner.
3. Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections.
4. Ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels.

Essentially and in order to guarantee regular elections, Article 17 as cited above provides for four key processes and structures which must be in place to ensure free and fair elections. These four processes and structures are:

- i. Establishment and strengthening of an independent Election Management Body (EMB);
- ii. Establish and strengthen election tribunals;
- iii. Ensure mechanisms for access to media by all contestants;
- iv. Provide code of conduct for all stakeholders in all phases of the election.

In assessing the conduct of the 2019 general elections against the above ACDEG requirements, it is obvious that Nigeria substantially complied with the provision on the establishment and strengthening of an independent EMB, given that the INEC had already been established since 1999 as the EMB for conducting regular elections in the country. Besides, various efforts were made to strengthen the INEC to enable it conduct the 2019 elections in a free and fair manner. One of such efforts at strengthening the INEC was in the area of strengthening the financial autonomy of the organization. For instance, section 3 of the 2010 Electoral Act (as amended) provides for the financial autonomy of the INEC. This autonomy has enabled the Commission to perform its functions effectively.

Be that as it may, the independence of the Commission is threatened by the fact that the chairperson, national commissioners and the 37 resident electoral commissioners in each state and the FCT are still appointed by the President subject to confirmation of the Senate. This remains a structural weakness as it concerns the independence of the INEC. Again, the limited power of the INEC to effectively monitor political party organization, finances and primaries remained a weakness that contradicted the basic principles of ACDEG. The 2019 elections were conducted by an INEC which lacked the power to sanction stakeholders who violated campaign regulations and also reject nominated party candidates who did not fulfill legal requirements.

Again, efforts to further strengthen the INEC to improve the conduct and outcome of the 2019 general elections through amendment of the electoral bill was thwarted following the refusal of the President to sign the bill into law, after passage by the National Assembly. The bill would have bolstered the capacity of the INEC to conduct a more credible, free and fair election, in line with ACDEG principles. This is considering that the bill contained commendable provisions such as the inclusion of supplementary electronic transmission of results, ceilings for nomination fees in primaries, and a stricter definition of over-voting. The latest bill also included provision for the use of card readers and other technological devices, and regulated extensively the procedures for primaries and nomination of candidates.

Nigeria substantially complied with Article 17(2) of the ACDEG, which provides for the establishment and strengthening of election tribunals to ensure election related disputes are redressed in timely manner. For instance, section 285 and the Sixth Schedule of the 1999 Constitution provides for the establishment, composition and jurisdiction of Election Tribunals that would hear election petitions. Similarly, Part VIII of the 2010 Electoral Act (as amended) recognized these Tribunals and further stipulated the modus operandi by providing timing for constituting Election Tribunals, time line for filing election petition and for dispensing same. For instance, Section 134(2) stipulates that “An election tribunal shall deliver its judgement in writing within 180 days from the date of the filing of the petition”.

Accordingly, in January 2019, the chairmen and members of the election petitions tribunals for the 2019 general elections were duly sworn in by the acting Chief Justice of Nigeria (CJN), Justice Tanko Mohammed. Despite these cases of compliance with the ACDEG on the establishment and strengthening of Election Tribunals, some processes and actions undermined compliance to the ACDEG. For example, the suspension of the Chief Justice of Nigeria, Walter Onnoghen by the Presidents on 25th January 2019 – just few days to the general elections – on the grounds of false assets declaration, put to question the integrity of the constituted Election Tribunals and independence of the judiciary, including the Election

Tribunal in dispensing election petitions for the 2019 general elections. This controversial suspension of the CJN few days to election did not only violate Article 2(5) of the ACDEG which required State Parties to “Promote and protect the independence of the judiciary”, it also demonstrated abuse of pre-election processes by the executive arm given that appointment of members of Election Tribunals is an integral pre-election activity. Again, the lengthy time lag (180 days) and complicated processes required before an election petition is dispensed by the Election Tribunals further demonstrates the weakness of Election Tribunals and poor compliance as it concerns ACDEG requirement on strengthening Election Tribunals to ensure conduct of free and fair elections.

Concerning Article 17(3) of ACDEG which require State Parties to ensure fair and equitable access by contesting parties and candidates to state controlled media during elections, Nigeria complied with the ACDEG by providing the legal framework requiring the media to give equal and fair access to contesting parties and candidates. For example, section 100(2) of the 2010 Electoral Act (as amended) provides that “State apparatus including the media shall not be employed to the advantage or disadvantage of any political party or candidate at any election.” Meanwhile, during the 2019 general elections, much of the media coverage focused on the two leading parties – the Peoples Democratic Party (PDP) and All Progressive Congress (APC).

With regards to providing binding code of conduct governing stakeholders in all phases of the electoral cycle as provided for by Article 17(4) of the ACDEG, there was substantial compliance by Nigeria in the conduct of the 2019 general elections. While the 1999 Constitution and the Electoral Act 2010 (as amended) provide the ground norms guiding the conduct of stakeholders in all phases of the electoral cycle, in January 2019, INEC published the 'Regulations and Guidelines for the Conduct of Elections' which provided a code of conduct to guide all stakeholders before, during and after the 2019 elections. However, as required by ACDEG, the code did not include “commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels”. Nevertheless, the political stakeholders complied sufficiently with the ACDEG principles as some political parties accepted the election results while some are currently challenging the results through legal channels. For instance, the main opposition political party, PDP is currently challenging results of the 2019 presidential election in the presidential appeal tribunal.

Generally, a review of the political structures and processes for the conduct of the 2019 general elections in Nigeria vis-à-vis the basic provisions of ACDEG reveal that while there were areas of compliance, there were equally structures and processes that undermined compliance to the basic principles of the ACDEG.

¹³ Reports of the Commonwealth Observer Group on Nigeria General Elections, 23 February 2019.



7.0 Political Party Organization and Reforms in Nigeria

Political parties are key features and institutions of modern democracy particularly since the beginning of the third wave of democracy because of their role in articulating policies and interests which they present as manifestos to the electorates in order to get their candidates elected into public offices. Apart from serving as platforms through which candidates can contest elections, political parties remain relevant in post-election period. A party in power plays a critical role in appointment of public office holders and in shaping policies and programmes of the state. Opposition parties are also crucial for shaping government policies and programmes and for promoting public accountability by serving as checks on the incumbent. Although the work of political education and sensitization are performed by the election management body and other agencies like the civil society organizations and the media, political parties have continued to play significant roles in educating, sensitizing and mobilizing their members and the public to participate in all phases of the electoral process. Thus, political party organization covers wide array of regulations such as minimum number of members required for a party to be registered, the necessary content of party constitution, registration fees, restrictions on party activities, framework for the monitoring of parties, sanctions where necessary and access to the ballot (Biezen & Bertoa, cited in Aiyede, 2018).

Just like many other modern democracies in Africa, political parties in Nigeria are regulated by the laws of the land. Since independence in 1960, Nigeria has practiced multi-party system except for the aborted third republic where two party system was practiced during the 1993 elections conducted by the military regime of Gen. Ibrahim Babangida. Since the return of democracy in the fourth republic, Nigeria has remained a multiparty democracy with the 1999 Constitution and the 2010 Electoral Act as amended providing the legal frameworks and ground norm for the conduct of political parties and their internal activities. Sections 221 to 229 of the 1999 Constitution as amended and Sections 78 to 101 of the 2010 Electoral Act as amended together provides for the organization of political parties in the country. Specifically, Section 221 provides that: “No association, other than a political party, shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at an election.”

By virtue of this provision, political parties remain the dominant actors and the only channel for accessing the ballot in any election in the country. The provisions of the 1999 Constitution and the 2010 Electoral Act as amended in the area of political party organization are in conformity with the spirit and letters of ACDEG particularly as it concerns strengthening political pluralism and institutionalizing multiparty political systems through registration of associations that meet the requirement for registration as political parties. For instance, one basic principle of ACDEG as expressed in Article 3(11) provides for “strengthening political pluralism and recognizing the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law.” This principle is sufficiently met by Section 78(1) of the 2010 Electoral Act as amended which states that: “A political association that complies with the provisions of the Constitution and this Act for the purposes of registration shall be registered as a political party.”

In accordance with the above principles and provisions on political party organizing as contained in the ACDEG and Nigeria's national laws, the 2019 election saw further liberalization of the political process expressed in the increase in number of political parties registered by INEC.

Although, the proliferation of political parties have been criticized in some quarters following ballot access by 91 political parties in the 2019 general election. For instance, Aiyede (2018, p.15) itemized some of the challenges connected to the proliferation of political parties to include:

- i. Challenges of supervision and monitoring political parties and handling of candidates at various levels;
- ii. Increase in the cost of elections;
- iii. Undue pressure on the commission to enter the ballot, with the attendant challenges of designing and managing the ballot paper, voter confusion and increase in the number of invalid votes;
- iv. Confusion of voter over too many party programmes and ineffective choice.
- v. Challenge of managing the polling station;
- vi. Increase in electoral disputes;
- vii. Prevalence of weak and non-institutionalized parties which deepen conflict rather than integrate the society.

Nevertheless, the access to ballot provided to 91 political parties during the 2019 general elections satisfied the basic

principle of the ACDEG and indeed the fundamental principle of democracy, which is to safeguard the right of citizens to participate in governance directly or indirectly by exercising their franchise at periodic elections.

Unfortunately, the increase in number of political parties occasioned by the liberalization of the political space by the extant electoral laws have also thrown up challenges connected with party organizing which needs to be addressed. For example, there has been emergence of many political parties that lack the capacity to function effectively as political parties. Some other political parties remain personal properties of few godfathers and do not really create the opportunity for membership and political participation. In fact, some scholars have noted that: Nigerian parties are run by godfathers and barons rather than members, and they have clientelistic networks that are used by the party barons to deliver the crowds for rallies and party congresses...consequently, the political relationship within the political parties is essentially one between patrons and clients and the clients are mobilized on pecuniary, ethnic or regional basis (Ibrahim & Hassan, 2013, p. 2).

Despite the above argument that most political parties are weak in Nigeria, they nevertheless play some roles in shaping government policies and programmes and in holding government in power accountable. For example, most of these parties play important roles in the democratic process by seeking redress in election tribunals and courts, where it feels there are irregularities at any stage in the electoral process. By seeking redress in the courts, political parties provide opportunity for the judiciary to provide interpretation of ambiguous sections of the law thereby deepening democracy. This process of seeking redress in the court is in line with the provisions of Article 17(4) of the ACDEG which requires state parties to:

Ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels.

8.0 Political Party Organization and Compliance with ACDEG Guidelines during the 2019 General Election in Nigeria

The African Charter on Democracy, Election and Governance (ACDEG) guidelines for organizing and reforming political parties and for the conduct of political parties during elections are found in Article 17 of the Charter. It provides that:

State parties shall among other things ensure fair and equitable access by contesting parties and candidates to state controlled media during elections; Ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections.

The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels.

In line with the above provisions of Article 17 of ACDEG, during the 2019 general elections, presidential candidates of political parties including President Muhammadu Buhari of the All Progressive Congress (APC) and the main opposition candidate Atiku Abubakar of the People's Democratic Party (PDP) signed a peace accord deal, pledging peaceful presidential and legislative elections. The aspirants called on their supporters "to refrain from violence or any acts that may in any way jeopardize our collective vision of a free, fair and credible election." The president said "We will vote according to parties but in the end, the only real party is Nigeria, our country." The candidates also pledged to "respect the outcome of free, fair and credible elections." The peace deal was brokered by the Chairman of the National Peace Committee (NPC), General Abdulsalami Abubakar, a former military Head of State. In the states, governorship candidates also signed peace accords to ensure that they and their supporters conduct themselves peacefully. They also agreed to accept the outcome of the polls as long as the electoral body would guarantee free and fair elections; or use only legal means to seek redress. This is a demonstration of compliance with the ACDEG guidelines on political parties organization.

Furthermore, the Chairman of the NPC said the objective of the peace accord was to ensure peace before, during and after the elections. He however admitted that the mere signing of the peace document would not achieve its objectives until and unless all actors accepted to work by its provisions. In other words, the peace accord was not enforceable under the law but

relied on the goodwill of the political parties and their candidates. Again, the fact that the peace accord was not a brainchild of the electoral body tends to reduce its political or electoral value. Nevertheless, it was a right step towards achieving a more robust and binding deal. Following the declaration of the result of the presidential election, the aggrieved political party – PDP approached the court to seek redress in line with the peace accord signed before the election and in compliance with the extant provisions of the ACDEG.

Unlike what obtained in many states in the 2015 general elections, it appears opposition parties at the state and federal levels had increased access to state owned media for campaign purposes in the 2019 general elections. Again, the proliferation and popularization of private print and electronic media in Nigeria has opened wider platforms for political parties and thus reduced demand and patronage of state owned media. Again, a good number of politicians now float their own print or electronic media or both which they use for campaign and other purposes. These notwithstanding, there were some reports of denial of access to opposition parties to state owned media. For example, in Anambra State, it was alleged that the All Progressives Grand Alliance (APGA) led government denied the vice presidential candidate of the PDP, Mr. Peter Obi and some other opposition candidates' access to the state owned media Anambra Broadcasting Station.

The EU EOM observed that pressure was put on state-level private media in Abia, Bauchi, Edo, Gombe, Kwara and Plateau during the weeks between the elections. EU observers noted that one radio station was closed in Plateau after actively reporting on protests against the 23 February results. In Abia, a well-known local journalist/activist who criticized the governor was arrested after a live radio programme.

9.0 Compliance of the Electoral Act and the 2019 Electoral Process with ACDEG Guidelines: Citizens' Participation, Mandate Protection and Accountability

As signatory to the ACDEG, Nigeria has domesticated its principles by ensuring that the conduct of elections in the country conforms to the letters and spirit of the charter especially as it concerns election security. For instance, Section 29(1&2) of the 2010 Electoral Act (As Amended) provides that:

The Commission shall, for the purposes of an election or registration of voters under this Act, appoint and designate such officers as may be required provided that no person who is a member of a political party or who has openly expressed support for any candidate shall be so appointed. The Officers appointed under sub-section (1) of this section shall exercise such functions and duties as may be specified by the Commission, in accordance with the provisions of this Act, and shall not be subject to the direction or control of any person or authority other than the Commission in the performance of their function and duties.

Article 29 (3) of ACDEG stipulates that: State Parties shall take all possible measures to encourage the full and active participation of women in the electoral process and ensure gender parity in representation at all levels, including legislatures.

Also, Article 44(2c) of ACDEG stipulates that: the African Union Commission shall take the necessary measures to ensure that the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund provide the needed assistance and resources to State Parties in support of electoral processes.

PART I (2) of the 2010 Electoral Act provides that in addition to the functions conferred on INEC by the Constitution, the Commission shall have power to:

- (a) Conduct voter and civic education; and
- (b) Promote knowledge of sound democratic election processes.

¹⁴Aljazeera News Africa 13th February, 2019

¹⁵ibid

Part 3 section 9 (1) provides that the Commission “shall compile, maintain, and update, on a continuous basis, a National Register of Voters, which shall include the names of all persons entitled to vote in any Federal, State or Local Government or Area Council elections”, and that “Without prejudice to section 9(5), there shall be continuous registration of all persons qualified to be registered voters” (10. (1).

Section 19 (1) provides that “Subject to the provisions of section 9(5) of this Act, the Commission shall, by notice, appoint a period of not less than 5 days and not exceeding 14 days, during which a copy of the voters' register for each Local Government, Area Council or ward shall be displayed for public scrutiny and during which period any objection or complaint in relation to the names omitted or included in the voters' register or in relation to any necessary correction, shall be raised or filed”. Both the constitution and the Electoral Act also grant INEC the authority to “establish specific regulations and guidelines for the conduct of elections” ((NDI/IRI, 2019). Pursuant to this provision, INEC in January, 2019 released the guidelines for the conduct of the 2019 general elections. These provisions were intended to promote political awareness among the citizens and enhance citizen participation in the electoral process. They were also designed to afford every eligible prospective voter a fair chance of being captured and, therefore, enabled to participate in the electoral process. It is on record that these provisions were substantially complied with by INEC prior to the 2019 elections.

Meanwhile, to further ensure maximum citizen participation, the 2019 INEC Guidelines provides that “voting shall be in accordance with the Continuous Accreditation and Voting System (CAVS) procedures as specified in these Regulations and Guidelines, the Election Manual and any other Guide issued by the Commission.” By this arrangement, both accreditation and voting would go on simultaneously from 8.00am till 2:00pm, “provided that all voters already on the queue by 2:00pm shall be allowed for accreditation and voting (10a).

These provisions were intended to redress the situation in the past whereby prospective voters who were accredited in the morning were made to wait till noon to cast their votes.

Several of such accredited voters often drifted away from the polling units with many of them not coming back eventually to cast their votes. This situation prevented avoidable reduction of voter participation in the election in the past.

Also, in 2017 INEC introduced a continuous voter registration process whereby eligible citizens could register to vote on an ongoing basis and be added to the existing voter register, rather than creating a new register prior to each election. This change led to the registration of more than 14.5 million new voters between April 2017 and August 2018, a 21 percent increase from the number of registered voters in the 2015 elections. To further enhance a more inclusive participation of the citizens in the electoral and governance processes, the Not-Too-Young-to-Run or Age Reduction Bill, which amended the constitution to lower the age requirement for presidential and gubernatorial candidates to 35 years, and to 25 years for federal and state representative candidates, was passed by the National Assembly and signed into law by the president in 2018. This prompted a growing interest among youth in the 2019 elections leading to an increase in youth candidacy from 21 percent in 2015 to 35.2 percent in the 2019 elections (NDI/IRI, June 2019).

In line with the ACDEG requirement, and to forestall a resort to primordial and divisive politics, the Electoral Act 2010 prohibits parties and their candidates from engaging in campaign based on religion, tribe or sectional sentiment. The Act provides for sanctions in event of breach of this provision thus:

A candidate, person or association who engages in campaigning or broadcasting based on religious, tribal, or sectional reasons for the purpose of promoting or opposing a particular political party or the election of a particular candidate, is guilty of an offence under this Act and on conviction shall be liable to a maximum fine of N1,000,000.00 or imprisonment for a term of 12 months or to both (Section 102).

Articles 17 (3) and 27 (8) of ACDEG respectively stress the need to:

Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections; and Promoting freedom of expression, in particular freedom of the press and fostering a professional media.

To ensure equity in the deployment of the media in electoral campaigns as provided for in the stated Articles 17 (3) and 27 (8) of ACDEG, Section 100 of the Electoral Act provides as follows:

1. State apparatus including the media shall not be employed to the advantage or disadvantage of any political party or candidate at any election.
2. Media time shall be allocated equally among the political parties or candidates at similar hours of the day.
3. At any public electronic media, equal airtime shall be allotted to all political parties or candidates during prime times at similar hours each day, subject to the payment of appropriate fees.
4. At any public print media, equal coverage and conspicuity shall be allotted to all political parties.

¹⁶ See EU EOM Second Preliminary Report on the 2019 General Election

The Act further provides in Section 100 (6) that:

A public media that contravenes subsections (3) and (4) of this section commits an offence and on conviction be liable to a maximum fine of N500,000 in the first instance and to a maximum fine of N1,000,000 for subsequent conviction.

9.1 Mandate Protection and accountability

With regard to mandate protection, unlike in the past where voters were strongly warned to leave the vicinity of the voting area once they cast their votes, the 2019 electoral guidelines provided that “after casting his/her ballot, the voter is free to remain within the vicinity of the Polling Unit to witness the sorting and counting of votes and the announcement of results, provided he/she is orderly.” This particular provision empowered voters to observe proceedings within the polling area. It was through this means that citizens were able to witness and report some anomalies in the vote collation process through the social media.

Also as a means of mandate protection, both the Constitution and the Electoral Act established mechanisms for the resolution of disputes arising from elections. The constitution gives the Court of Appeal jurisdiction over disputes relating to elections for the president and vice president. It also provides for the Court of Appeal to establish election tribunals to handle disputes relating to the National Assembly, gubernatorial, and State House of Assembly elections. Whereas cases regarding the presidential and gubernatorial elections may be appealed to the Supreme Court, cases regarding the national and State Houses of Assembly terminate in the Court of Appeal (NDI/IRI, 2019).

The INEC initiated additional reforms in the 2019 elections, including the adoption of simultaneous voter accreditation and voting, the posting of results at the polling units, improvement of voter-verification technologies as well as a more robust review and disciplinary process for INEC staff (NDI/IRI, 2019). Overall, therefore, it could be seen that the provisions of both the Constitution of the Federal Republic of Nigeria (as amended), the Electoral Act 2010 (as amended) and the derivative Guidelines for the Conduct of the 2019 Election as issued by INEC is in line with the provisions and intendments of the ACDEG with regard to citizen participation, mandate protection, and accountability of the electoral process.

In practice however, many structural impediments appear to have undermined the realization of these lofty provisions in the 2019 elections. Several challenges, therefore, still exist with regard

to freeing up the electoral process in Nigeria as a result of which the level of citizen participation in the electoral process is still very far from impressive.

9.2 Extent of Citizens' Participation, Mandate Protection and Accountability during the 2019 General Elections in Nigeria

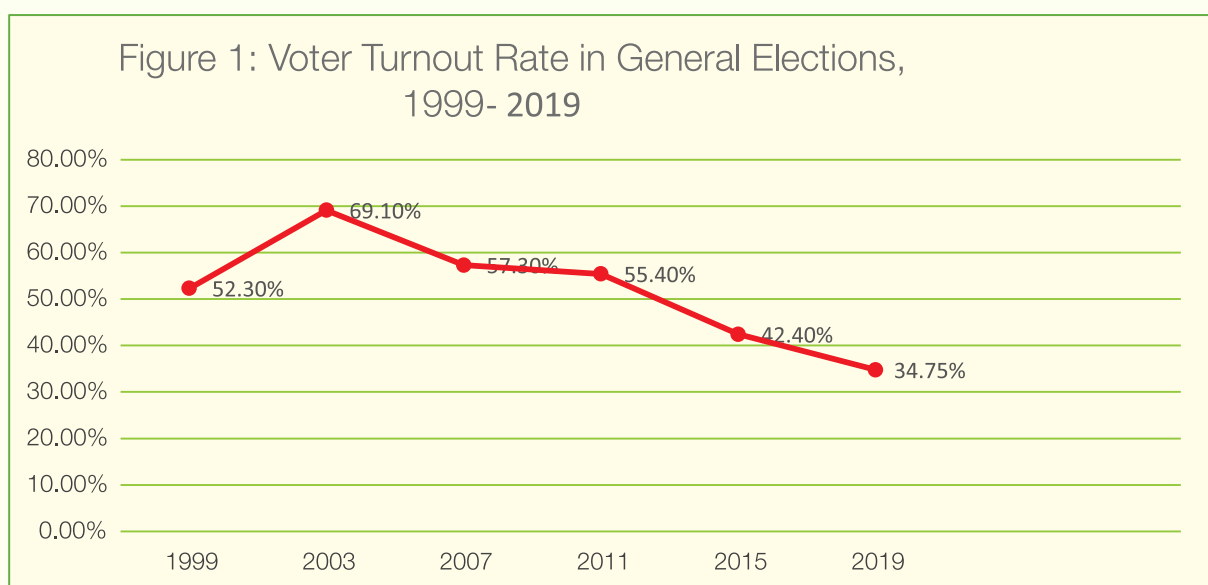
In spite of the lofty provisions in the legal instruments that guided the 2019 election and the mobilization efforts by INEC, the 2019 elections recorded the lowest level of voter turnout in the annals of elections in Nigeria. Data from the INEC showed that of the 82,344,107 voters on the electoral register for the 2019 election, only 28,614,190 voters, representing 34.75 per cent of registered voters actually voted in the 2019 Presidential election. Of these, just 33.18 per cent (27,324,583) of the 82,344,107 registered votes were valid and used to determine the final decision. Table I shows the total number of presidential vote as announced by INEC.

Table 1: Statistics on Presidential Elections Announced by INEC

Presidential Vote Totals as Announced by INEC	
Total number of registered voters	84,004,084
Total number of registered voters (as collated)	82,344,107
Total number of accredited voters (as collated)	29,364,209
Total number of valid votes (as collated)	27,324,583
Total number of rejected votes (as collated)	1,289,607
Total number of votes cast (as collated)	28,614,190
Percentage turnout (as collated)	35.66%

Source: IRI/NDI Nigeria International Election Observation Mission Final Report June, 2019, p. 36

Although Kano State had the highest number of votes cast with 1,964,751 and 1,891,134 valid votes, Jigawa had the highest rate of voter turnout with 55.67 per cent (1,171,801) of its registered voters showing up for accreditation. This was followed by Katsina State with 48.45 per cent (1,555,473) and Sokoto State with 46 per cent or 871,891 valid voters. Meanwhile, Lagos State led the states with the lowest voter turnout of 17.25 per cent (1,089,567), followed by Abia with 18 per cent or 323,291 votes and Rivers with 19.97 per cent (642,165) valid voters. Figure 1 below shows the trend of voter turnout in Nigeria since 1999 with 2019 registering a record low of approximately 37% (Adedigba, 2019).



In their preliminary reports following the 2019 elections, five international election observation missions to Nigeria namely: the African Union (AU), International Republican Institute/National Democratic Institute (NDI), Electoral Institute for Sustainable Democracy in Africa (EISA), the Commonwealth and the European Union Observation Mission (EU EOM) noted that the electoral commission made a number of improvements since 2015, including continuous accreditation and voting. The reports also lauded the broadening of the political space as evidenced by the high number of registered voters, political parties and candidates who took part in the elections.

Be that as it may, several sore points in the electoral process were however identified. These included: limited opportunity for Nigeria's Internally Displaced Persons to vote; the Election Day postponement of the polls on February 16; the late

opening of several polling units on Election Day, which left voters waiting for hours uncertain of when voting would begin; and the absence of public information from INEC about the situation. It was also observed that federal government-owned radio as well as leading commercial broadcasters at the national and regional levels, divided airtime between the main parties, APC and PDP, which left little space for smaller parties. There was also clear partisan programming by the Nigerian Television Authority (NTA), state-run media and local commercial radio stations owned by politicians as a result of which, with the exception of a few states, voters had limited access to diverse and factual information on which to make an informed choice (Odunsi, 2019).

The mission further noted with dismay that key electoral reforms proposed after the 2015, and which would have enhanced the electoral process, were still not passed into law. It also observed that while there was a slight increase in the number of women presidential candidates, women's participation as candidates remained low. Of the 73 presidential candidates, only three were women and two of them withdrew their candidature. There was also marginal increase in the number of young people recruited as candidates (Iroanusi, 2019).

In its final report, the EU EOM acknowledged that overall the elections were competitive, with parties able to campaign. It, however, noted that such competition was primarily between the APC and PDP. In total, there were 91 registered political parties, with 73 candidates for the presidency. In the absence of any legal provision for independent candidates, the ability of citizens to run for office is determined by party primary procedures. The report further observed that the primaries overly restricted citizens from running as candidates, lacked integrity measures, and were often controversial resulting in extensive legal challenges. The financial requirement to contest in the primaries of the two main parties involved prohibitive financial costs of up to N45 million (around EUR 110,000). It identified procedural problems encountered to include an overall lack of transparency, winners being subsequently changed by party leaderships, and parties not having objective criteria for screening candidates. Meanwhile, INEC lacks powers to reject any candidate; instead it is obliged to accept all candidates whether the primaries lack integrity or not (EU EOM, 2019).

Other key challenges to the electoral process as identified in the report included: severe operational and transparency shortcomings, electoral security problems, last minute postponement of elections, insufficient robustness of results collation process as well as inadequate information provided to the public (EU EOM, 2019). The report decried escalation of election-related fatalities, and the contentious role played by security agencies. It also indicted the leading parties for their failure to rein in acts of violence and intimidation by their supporters, and for their abuse of incumbency at federal and state levels.

On media coverage of the elections, the EU EOM report showed that except for federal radio, state media primarily served the interests of the president or the governor at state level. Journalists were subject to harassment, and scrutiny of the electoral process was at times compromised with some independent observers obstructed in their work, including by security agencies. The number of women elected fell again. These systemic failings show the need for fundamental reform so that elections will better serve the interests of the Nigerian people.

The report further pointed out that the legal environment for the conduct of elections in Nigeria is hazy and that attempts to amend the Electoral Act were unsuccessful as a result of which legal shortcomings continued, including in regards to specific procedures for the use of smart card readers. Worse still, official consolidated versions of updated legislation are not available, resulting in insufficient awareness of legal changes and consequent confusion (EU EOM, 2019).

Political finance regulation is also dysfunctional and fraught with incomplete legal provisions and lack of enforcement. This undermines transparency and equality of opportunity among contestants, and key beneficiaries of campaign spending, such as media houses, online platforms and advertising agencies, which are not subject to disclosure requirements. For instance, according to EU-EOM report, in the build up to the 2019 elections, the INEC was only able to monitor campaign spending of 17 candidates, out of more than 20,000, and in the end, it failed to initiate prosecutions for non-compliance with campaign finance rules. Also, systemic drawbacks curtailed media pluralism, including cumbersome broadcast licensing requirements while media freedom was further curbed by vaguely-defined content restrictions, and attacks and harassment of journalists.

On a positive note, a range of civil society organisations effectively contributed to election reform, scrutiny and voter awareness. Positively, the civil society-led "Not Too Young To Run" campaign resulted in constitutional change which reduced the minimum age for candidates seeking elective positions. Citizen observers provided vital information updates over the election days, which was particularly important when information was not forthcoming from the INEC. Coordinated

independent observation of different aspects of the election positively contributed to the accountability of the process. However, observers were subject to some obstruction, harassment, threats and arrests by security personnel and party supporters. Mistreatment and obstruction of election observers compromises transparency and the integrity of the electoral process. Delays in the commencement of accreditation by the INEC also placed an undue organizational burden on citizens (EU-EOM, 2019).

Also in its final report on the 2019 general election released in June, the NDI/IRI mission identified several procedural challenges which, ultimately, hindered participation, mandate protection and accountability in the election. The report noted that following the 2011 and 2015 elections, stakeholders identified areas for additional electoral reform and in 2016 the National Assembly, in consultation with INEC, drafted a bill to amend the Electoral Act to reflect such reforms. The proposed amendments which sought to codify the use of smart card readers and other forms of electronic voting, increase penalties for vote buying, impose higher fines on media houses not providing candidates equal airtime, and make the voter register and results electronic and accessible, were eventually not signed into law (NDI/IRI, 2019). This was largely due to the mistrust and acrimony between the presidency and the 8th National Assembly, and also due to partisan political considerations. The non-signing of the bill rendered the legal framework for the 2019 elections anachronistic to the democratic aspirations of the citizens. The report also identified other challenges to the 2019 elections to include:

- Lack of internal democracy and consequent flawed candidate selection process within the two major political parties. Some primaries were undercut by vote buying and poor communication from party leaders about methods for voting and even the location of the nomination conventions and the composition of party membership lists. In some other instances, candidates who won their primaries, including numerous women and youth, were removed from the list by party leaders and replaced by preferred candidates. Aggrieved aspirants filed nearly 800 election petitions, many of which were still pending in the courts on Election Day.

Systemic barriers which hindered women, youth and people with disabilities from participating actively in political parties, including running for elected office. In the end:

- The two major political parties, the APC and PDP, fielded only 24 and 31 women candidates respectively, for the bicameral National Assembly's 469 seats.. Neither the APC nor the PDP fielded women candidates for governor.
- Inter- and intraparty disputes, which caused insecurity as the campaign period intensified, including the use of inflammatory rhetoric by political parties and their candidates, leading to increased risk of clashes between supporters of opposing candidates.
- Increased and brazen cases of vote buying at polling units compared with previous electoral cycles. Vote buying was witnessed in at least one LGA in each of Nigeria's 36 states and Abuja.
- There was also massive disinformation, including the use of false and unverified rhetoric in the pre-election period, which tended to skew public perceptions, raise tension and fuel the potential for violence (NDI/IRI, June 2019).

Wilmot (2019) surmised that the 2019 elections were replete with logistical failures and delays, misconduct, voting irregularities, and violence that resulted in the deaths of at least 58 people during the period of the presidential elections, and approximately 600 people since the start of campaigning in November 2018. Two weeks later, Nigeria's governorship elections experienced violence that led to at least 17 deaths as well as blatant interference by political actors and security agents. In seven states, INEC declared the election inconclusive because the number of cancelled votes was higher than the leading candidate's margin of victory.

Mr. Rupiah Banda, former President of Zambia and leader of the Electoral Institute for Sustainable Democracy in Africa (EISA) Electoral Observer Mission to Nigeria expressed concern that after six consecutive elections, electoral violence remains a feature of Nigeria's electoral landscape. He noted that the incidences of arson, thuggery and destruction of property in the build-up to the 2019 election raised doubts about the capacity of the security agencies to effectively secure the electoral process. These doubts were further heightened by the fire outbreaks at INEC offices just before the elections (Odunsi, February 25, 2019).

10.0 Election Security, Militarization of the State and Shrinking Civic Space

The success of any election is also determined by the extent to which the citizens are provided secured environment to

freely vote and be voted for. Hence, security is critical for the conduct of election. The African Union Charter on Elections Democracy and Governance (ACDEG) adopted in 2007 and ratified by Nigeria provides the basic principles for election security. Moreover, the 2010 Electoral Act (as amended) provides for the conduct of personnel of security agencies during elections. However, more often than not political leaders particularly the incumbents deploy security personnel during elections in order to intimidate and harass the opposition so as to gain undue advantage over the opposition. Hence, militarization of election has become a common feature of elections conducted across African countries.

The ACDEG since its adoption has become a yardstick for assessing the quality of election security and extent of militarization of election in African states. Article 14(1) of the ACDEG provides that:

State Parties shall strengthen and institutionalize constitutional civilian control over the armed and security forces to ensure the consolidation of democracy and constitutional order.

Similarly, Article 19(2) of the ACDEG provides that:

Each State Party shall guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission.

Furthermore, Article 32 (4&5) of the Charter provides among others that:

State Parties shall strive to institutionalize good political governance through: Relevant reforms of public institutions including the security sector; Harmonious relationships in society including civil-military relations.

What the above provisions imply is that states must make every necessary effort to ensure that adequate provision is put in place to guarantee security of lives during elections and to also protect election materials from destruction. It further implies that there must be a secured environment to ensure that eligible voters cast their votes without hindrance. The aim of these provisions is to maintain neutrality of the security personnel by ensuring that the security architecture at the various polling units during the election is under the direction of the electoral umpire. Unfortunately, despite the provisions of the ACDEG, the state in Nigeria has continued to be militarized. The extent and pattern of militarization has continued to shrink the civic space.

11.0 Election Observers and the Legitimacy of the Electoral Process

Election observation can lend legitimacy to elections especially where reports of election observers demonstrate that the basic principles of democratic elections were observed in the conduct of the elections and that the electoral outcome reflects the wishes of the electorates. More so, election observations have the tendency of strengthening the electoral process through constructive engagement and policy recommendations that may emanate from election observers. In recognition of the critical role of election observers in enhancing democratic elections, Article 19(2) of the ACDEG provides that “Each State Party shall guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission”.

Given the significance of Nigerian election for democratization and security on the African continent, the 2019 general election attracted numerous election observers - both domestic and international. Prominent among these observers were the International Republican Institute (IRI) and the National Democratic Institute (NDI). Thus, From September 19-28, 2018, the IRI and the NDI conducted an assessment of the electoral process in order to enable them give standard witness account and unbiased opinion. In addition to the observation by internationally accredited observer groups, other credible domestic observer groups played significant roles in the overall election observation during the 2019 general elections.

For example, YIAGA group provided parallel vote tabulation which served as an essential check on the presidential election process. The Situation Room - an umbrella group of around 70 CSOs - played a critical role in holding INEC, the political parties and the security forces to account. The CLEEN Foundation focused on the work of the security agencies by providing election security threat assessment in the pre-election phase and also monitored activities of security agencies during and after the election. The Centre for Democracy and Development undertook a range of activities including fake news and disinformation. According to the EU Observer Mission, such coordinated independent observation of different aspects of the election positively contributed to the accountability of the process.

As noted by the IRI and NDI, the purpose of the pre assessment was to:



- Assess the current political and electoral environment in the lead-up to the 2019 general elections;

- Assess preparations for the general elections and offer recommendations to enhance citizen confidence in the process and mitigate violence;
- Demonstrate international support for Nigeria's democratization process.

In their pre-election reports, the IRI and NDI albeit acknowledging some notable improvement in comparison with preceding elections in Nigeria, also decried some lapses such as security threats, vote buying, incitement to violence and disinformation, low women participation in the electoral processes, amongst others. They urged the government to ensure the timely passage of the amendment to the Electoral Act 2010; provide sufficient and timely funds so that INEC and other electoral bodies can fulfill their responsibilities as prescribed by law. They called on security services to maintain the highest level of professionalism and impartiality in facilitating the electoral process. While urging security agencies to refrain from actions that could be perceived as partisan interests, they also stressed the need for security agencies to protect the right of citizens to exercise their votes freely, enforce laws against election malfeasance (including vote buying). They further encouraged other accredited observers and journalists to perform their work in a professional manner.

Reports of some of the election observer groups legitimized the outcome of the 2019 general election. For example, report from the YIAGA Africa Parallel Vote Tabulation (PVT) estimates did not differ significantly from the results announced by INEC. YIAGA Africa PVT estimates revealed that for the presidential election, the APC should receive between 50.0% and 55.8% of the vote while the PDP should receive between 41.2% and 47.0% of the votes as shown in the table below. The group also remarked that its projections were also consistent with the officially announced vote shares for the other 71 political parties who contested in the 2019 presidential election.

Table 2: Comparison of INEC Official Results with YIAGA AFRICA WTV Estimates for the 23 February, 2019 Presidential Election (Select Political Parties)

PARTY	INEC	YIAGA AFRICA WTV				MATCH
	OFFICIAL RESULT	ESTIMATED	MARGIN OF ERROR	ESTIMATED RANGE		
				LOWER LIMIT	UPPER LIMIT	
APC	55.6%	52.9%	± 2.9%	50.0%	55.8%	
PDP	41.2%	41.1%	± 2.9%	41.2%	47.0%	

Source: YIAGA Africa (2019): Compendium of YIAGA Africa Watching the Vote Statements on the 2019 Presidential Elections

In addition to legitimization of the election, activities of observer groups also played the following three key roles in legitimizing the 2019 general elections:

- They pointed out the flaws in the entire electoral process. For instance, the report of the EU observer mission revealed the flaws in the pre-election, election and post-election phases of the 2019 general elections. The report specifically noted the weaknesses in pre-election activities such as voter registration which was characterized by inability of INEC to remove names of deceased thereby leading to inflated voter registered. The report also revealed the incidence of violence and vote-buying during the election phase while the malfeasance at the collation stage of the election was equally reported by the EU Observer Mission and other observers like the Centre for Democracy and Development.
- The election observers also recommended areas that required strengthening for future democratic elections in Nigeria. For example, while the EU Observer Mission proffered 30 expert recommendations, the Commonwealth Observer Group came up with 24 expert recommendations, all of which would contribute to strengthening electoral systems and processes in Nigeria.

¹⁷ EU Observer Mission (2019). Nigeria 2019 General Elections Final Report

12.0 Social Media and Citizen Journalism and the 2019 Election Outcomes

The advent of new media technologies, 3G, 4G and most recently 5G technologies in Nigeria has seen rapid growth of citizen journalism and online based civic activism. The constant increase in figures of active internet users in Nigeria and the fast growing awareness of user abilities and affordable gadgets, gives room for previously marginalized communities to become part of the digital public sphere. These developments have aided media start-ups and increased an interaction in the social and political spaces in Nigeria. As a new source of information, the internet has made significant contributions and is fast rising to be the major source of information and platform for civic engagement. According to recent statistics, the Nigeria Communication Commission (NCC) stated that as of March 2019, internet users had risen to 115.9 million; well over 50% of the entire populace. Relying on various social media platforms, online communities have mushroomed with millions of photos and videos being shared daily inside and outside of Nigeria. The decentralized nature of the internet has allowed for more information to be imparted to citizens and ensured less gate-keeping.

Thus, citizens have taken advantage of the situation to closely monitor, investigate, comment and be actively and passively involved in the national, social and community growth and development on all fronts. Social media influence has become a source of livelihood and citizens are not only using the avenue as means to advertisement, but constantly monitoring corporate and political power online, placing them under scrutiny and surveillance. For instance, the EU Observer Mission noted that:

Citizen observers provided vital information updates over the different election days, which was especially important when information was not forthcoming from INEC. For example, they provided real-time information on the late opening of polling units and other operational shortcomings. They also provided information on electoral security issues, including the problems in Kano and elsewhere during the supplementary elections, as well as the behaviour of different security agencies.

The political sphere and active players in democracy and leadership are not unaware of these developments or the effects thereof and have adjusted in acting out their various roles and responsibilities. The emergence of social networking sites which is heralded by the advent of the internet is opening up the public sphere to a more transparent and participatory form of democracy. This has resulted in easier and more convenient access to information; dissemination of news is no longer an exclusive preserve of the conventional media. Nigerian citizens are now actively involved in producing and generating media content in the country and are no longer passive consumers of media contents anymore. Many of them are known critics and will ask series of questions over any shady reportage. Application of discretion seems to be the new trend and would evolve to threads of debate and scrutiny.

INEC has acknowledged these developments, having an official Twitter and Instagram handle through which they communicate with the public on new developments and encourage Nigerians to reach them through their phone numbers, hashtags, which they display on those platforms. The collation of results from various polling units nationwide were published on these handles and most active users readily shared their experiences via tweets, posts, pictures and videos, which in some cases, went viral. The electoral violence recorded in some polling units in Lagos and Rivers States and a host of other states were first shared on social media platforms and went viral.

This informed the cancellation of some wards and polling units' result. Images and videos made the rounds all over the internet of perceived rigging, underage voting, ballot box snatching and burning of election materials.

The awareness that the general public have an eye on citizen journalism through the social media has helped to put a lot of anomaly in check. Perpetrators are cautious and wary about cameras around them as one clear image, a recorded conversation or videotape, can put a person's reputation on the line. Regrettably, the reliability of some information circulated via the technological innovations in the media during the election was threatened by the emergence of sophisticated fake news. To help address this issue, the Centre for Democracy and Development (CDD) established a fake news tracking and analysis centre for the period of the election. Among all the suspected fake news in circulation especially via social media on Election Day, the CDD Election Analysis Centre fact checker system identified two major narratives that dominated the social media landscape on Election Day. The disinformations were centred mainly on anti APC/PDP; anti INEC; and anti-establishments. Many of the stories that circulated followed trends which pointed to a concerted attempt at attacking the integrity of the system and the electoral process, and therefore undermining it.

13.0 Conclusion

From the foregoing analysis, it is obvious that even though the provisions of Nigeria's electoral instruments -the constitution, the electoral act, and the guidelines for 2019 election as issued by INEC - conformed substantially, in theory, with the provisions and requirements of the Africa Charter on Elections, Democracy and Governance (ACDEG), it diverged in some important aspects. The study also observed that some aspects of the ACDEG Articles on election related matters are obsolete and requires repealing to suit emerging trends in electoral processes across Africa. The study, therefore, makes the following recommendations towards reforming and improving the electoral process in Nigeria and possible review of some provisions of ACDEG.

14.0 Recommendations

Government (Election Management Body)

1. Given the growing complexity of election management and importance of electronic technology in election management, INEC should strengthen its capacity to adopt and implement electronic technology in election management particularly in the area of electronic voting, collation and transmission of results. This would reduce the errors, malfeasance and delays in result tabulation and collation, and equally enhance credibility of the entire electoral process.
2. INEC should improve its communication policy and strategies to ensure that the Commission is proactive in engaging the masses with accurate and timely information as at when due. Regular meetings should be held with the civil society and other critical stakeholders to ensure that INEC's election management processes are made public and transparent. This would build trust; reduce panic and peddling of fake news in the polity.
3. INEC should strengthen its mechanism for monitoring and sanctioning violation of campaign expenditure limits by political parties. More transparency should be built into party financing to reduce money spent by political parties and candidates in contesting elections.
4. INEC should be unbundled into at least three autonomous agencies. One of the agencies should be in charge of registration of voters and political parties/monitoring.

The other should be in charge of logistics including local printing of election materials. The third should take charge of conducting elections. This would reduce the cost of conducting elections, enhance effectiveness in election management and further build in credibility into the electoral process.

5. Personnel of security agencies trained and deployed for election duties should be held personally accountable for their conduct at their point of duties. Hence, names of personnel posted at various points during elections, including their commanding officers should be published at least 48 hours to elections. The military should only be involved at the request of INEC officials.
6. The Commission should further come up with stringent measures to ensure that only well established political parties have access to the ballot. This can be achieved by seeking amendment to the Electoral Act to include forfeiture of access to the ballot by political parties who fail to conduct primary elections and those who contravene the campaign expenditure limit.
7. The jurisdiction of Election Tribunals should be extended to also cover pre-election cases. The 180 days time line for dispensing pre-election cases should also be reduced. To actualize this, judicial capacity should be strengthened through the appointment of more judges and training on election-related matters.

¹⁸ European Election Observer Mission (2019), Nigeria General Election 2019 Final Report, p.47.

8. In line with ACDEG's principle of inclusivity and political plurality, legal requirements should be made for political parties to have minimum representation of women, youths (between age of 18 to 35) and People Living with Disability (PWDs), among candidates for elections. Failure to comply should be sanctioned with denial of access to ballot.

Civil Society and Citizens

1. Civil Society Organizations should develop mechanisms to verify INEC's preparedness prior to Election Day. Hence, INEC activities preparatory to election should be calibrated to enable CSOs monitor milestone achievements of which activities have been achieved, which are outstanding and which can significantly affect readiness for elections on the specified dates.
2. Election observers including citizen observers should be allowed to observe all phases of the election from the pre-election activities such as voter registration and party primaries through the election activities and post election activities such as collation and transmission of results.
3. The civil society should further push for the signing into law of the amendment to the 2010 Electoral Act (as amended). This would resolve issues connected to electronic collation of results.

African Union

1. The African Union Commission should consider a comprehensive review of the ACDEG to accommodate the complexity and emerging issues in election governance in Africa. There are specific emerging issues confronting electoral processes in recent time in Africa which ACDEG did not address. For instance, the issue of vote buying, disinformation (fake news), through the social media has continued to mar electoral process in most Africa countries.
2. The African Union should consider stipulating sanctions for individuals found guilty of sponsoring and/or participating in electoral malfeasance. More so, sanctions should be stipulated on state parties who contravene the basic provisions of ACDEG in areas of democratic elections such as intimidation, harassment or obstruction of observers through state security agencies.
3. The African Peer Review Mechanism should be adopted to develop benchmark for monitoring and evaluating commitments to the principles of ACDEG on democratic elections.
4. The African Union Commission through the Democracy and Electoral Assistance Unit should increase frequency of interaction with INEC, Civil Society and security agencies during the election planning phases. This will enable it avail critical stakeholders of relevant expert and technical assistance needed to ensure full compliance with ACDEG principles on democratic elections.

¹⁹ See the Election Day Preliminary Report on the 2019 Presidential and National Assembly Elections 2019 by CDD Election Analysis Centre, 24th February 2019

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