

MEMORANDUM ON PROPOSED BILLS ON ELECTORAL REFORMS IN THE 9TH NATIONAL ASSEMBLY

By : **Centre For Liberty**

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Open Society Initiative for West Africa



 **OSIWA**



General Elections in One Day

Section 25 of the Electoral Act 2010, as amended provides for the order that our elections should follow. We are proposing that this section should be amended to reflect that all elections into the office of the Senate, House of Representatives, Presidency, State Assembly and Governorship should be done in a day.

We believe this will ensure the following:

- 1. Reduction of the prevalence of violence in our elections:** The popularity of candidates across the ballots and the segregation of these candidates on different days encourage hoodlums to disrupt election strongholds of opponent parties. In the case of a one-day election, a disruption to one is a disruption to all the election through the ballots. This will amount to self-destruction and because we believe our politicians are self-interested, this will reduce the extent of electoral violence.
- 2. Reduction in cost of conduct of elections:** The cost incurred on running multiple elections will drastically reduce. While logistics needs of conducting all the elections in one day might increase and some might raise counter arguments based on the electoral sophistication of our current voter base, we believe that with adequate citizen orientation and the introduction of technology, such risks will be mitigated. The cost and practice of vote buying will also be reduced.
- 3. Reduction of economic lethargy caused by Election:** Research has shown that crucial economic activities are delayed and affected due to the long duration of the conduct of elections. Our foreign direct and portfolio investments witness severe decline in the buildup and during the elections. Economic activities are halted and in instances where elections have been postponed, the damage occurs twice. Having our elections in one day will address these challenges and restore economic activities within a faster period.



Full Biometrics for Accreditation and Electronic Transmission of Votes.

We propose that Sections 49, 63 and 65 of the Amendment must capture Full Biometrics for Accreditation and Electronic Transmission of Accreditation Data, and Electronic Transmission of Vote (results). We propose as follows: These sections should be amended to include electronic transmission of vote results in the same manner as the writers of the amendment bill expect that accreditation data should be transmitted i.e using a secure mobile communication gadget provided by INEC.

1. Electronic transmission of vote results: This amendment will curtail incidences of rigging of election results. The rigging of election results takes place between the period of announcing the results at the polling unit and the point of announcing the results at the collation centers. The full introduction of biometrics, electronic transmission of accreditation data and vote results from every polling unit to the next collation point and the central server of the Electoral Commission will provide more transparency, drive citizen participation in percentage of voters willing to come out and vote, embrace introduction of technology in our elections, reduce the number of inconclusive elections and fast tracks election litigation as this provides evidence of results in a quick and easy to access manner.

2. The adoption of blockchain technology to prevent any act of compromising all results recorded on the device. The use of USSD technology will also guarantee transmission over networks where transmission over data networks may be difficult.



Pre-Election Matters Appeal.

Section 87 subsections 24 and 25 of the proposed amendments discuss issues of pre-election litigation matters and the court's actions during the suit. We recommend:

1. The inclusion of a caveat that prevents the courts from replacing or substituting candidates from primaries and elections duly supervised by INEC, until the final determination of the suit. This ends the practice by the courts that ensure INEC finds it difficult in carrying out their duty as candidates are being replaced after every judgement from the courts. We also recommend a mandatory period within which a candidate must appeal the process in the courts.
2. We believe this reduces the interference of the courts in INEC's role, entrenches stability of the pre-election process and political atmosphere and strengthens internal party democracy. The repeated replacement of candidates by parties have caused delays, confusion and unnecessary expenditure by candidates and parties in waging campaigns for elections.



Ad Hoc Delegates Elections (Timing & Tenure)

The timing of the elections of the ad-hoc delegates and their term is provided for in Section 87(12) and subsections thereunder. The conduct of the Adhoc delegates election not later than 80 days to the general elections for all the positions gives room for prolonged court cases on pre-election matters. On this we recommend as follows:

1. An amendment to reflect a proposed timing of no later than 365 days to the primary election and in the case of unavailability of up to 50% of elected delegates in an election outside the general election, a fresh delegate election should be conducted no later than 60 days to the election.
2. Our proposal on the timing of this election puts into perspective the need to have delegates of a party as original members of the party who understand and have signed up to the party's goals and objectives. This proposal also limits to a large extent the practice of cross-carpeting of politicians from one party to the other a few months to the general election.

This also ensures that incumbents can focus on governance rather than politicking in the last few months of their tenure.



Eligibility of Members Participating in Primary Elections

The proposed amendments to section 87 of the Principal Act also makes provision for the eligibility of members who can become ad-hoc delegates in an indirect primary election and registered members are to vote in a primary election.

We propose as follows:

1. That only elected ad-hoc delegates should elect the candidate to be nominated by the party for any office. The section should be amended to reflect the eligibility of members who can participate as only registered members who have been members of the party for more than 365 days can be elected as delegates.
2. That only ad hoc delegates should be allowed to vote in indirect primaries. This is in line with Section 87 (25) which mandates parties to provide equal opportunity for all contestants. Statutory delegates who are not elected provide an unequal opportunity in favor of incumbents seeking election to be voted for against the challengers.
3. That only direct primaries should be conducted for councilors, local government chairpersons and members of states houses of assemblies.



On Campaign Finance Reform

We find that proposed amendments to the Electoral Act 2010 do not contain any amendments on campaign finance reforms. Section 225 of the 1999 Constitution (as amended) provides the Independent National Electoral Commission the powers to mandate all political parties to submit a statement of its assets and liabilities and a detailed annual statement and analysis of its sources of funds and expenditures.

While this clause leaves out the details of assets, sources of funds and expenditure of campaign organizations, the constitution gives the National Assembly in Section 228 the powers to confer the commission with other powers 'as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the commission" to exercise its functions.

In this vein, to ensure the reform of campaign finance in Nigeria, it is proposed that the Election and Party Monitoring Department of the INEC should be strengthened to ensure transparency in this regard and penalize candidates for falsification or non-submission of campaign finance records if necessary.



Ensuring Compliance with the provisions of the Act.

The proposed amendment has provided for instances of criminal liability for various electoral offences. Prior to this amendment the INEC has recorded challenges with sanctioning of erring officers where necessary and punishing other forms of electoral crimes. Electoral crimes are fundamentally grievous solely because they are committed against the entirety of the Nigerian people.

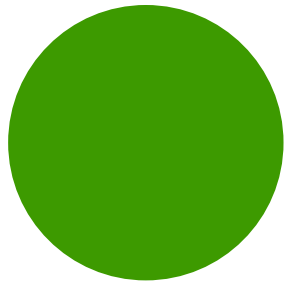
To address this, we strongly recommend the establishment of an Electoral Offences Tribunal to be saddled with the responsibility of obtaining justice for Nigerians who have been victims of electoral crimes (either in their personal capacity i.e electoral violence) or jointly (in instances of vote buying, electoral victimization and all forms of rigging).



Strengthening INEC

We believe further that it is important to equip INEC with the ability to effectively discharge its duties. In this regard we recommend the following:

- 1. Financial Independence:** We recommend that the INEC budget should be prepared separately in a manner to ensure access and disbursement of funding required to prepare for elections at least a year prior to the election dates.
- 2. Unbundling of INEC:** The commission is saddled with numerous responsibilities and we recommend that the various parts of INEC should be able to discharge its responsibilities without the need for the direct input or supervision of the INEC Chairman.
- 3. Outsourcing of Logistics:** INEC should consider engaging professionals in the logistics and dispatch industry to ensure delivery of electoral materials. It may however perform oversight functions to confirm delivery of said materials timeously and in good condition.
- 4. Independence of the INEC Chairman:** Mode of appointment of the Chairman should be reconsidered in line with the recommendations of the Uwais report. Internal and external factors hindering the commission from effectively discharging its duties should also be examined. Further partnerships with CSOs and other stakeholders is recommended in this regard.



Conclusion

We do not only desire Electoral Act 2020 (Repeal and Re-enactment), we want all stakeholders in the electoral process to consider the need to put in place an enduring electoral reforms. This proposal captures strategic amendments that can significantly help to transform the conduct of elections in Nigeria. For instance, while the elaborate proposed amendments to the Electoral Act by Senators Ovie Omo Agege and Abubakar Kyari address some issues that impact on the state of elections in Nigeria, our review shows that the impact of the bill would be better felt if our proposal is accommodated in the final draft of an Electoral Bill. This is because, a much more reformist bill will address most of the issues that have been identified by Nigerians as constituting challenges to our elections.



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