

# Centre for Democracy & Development

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## 2007 Elections: Democracy in Nigeria at a Crossroads

A CDD INTERNATIONAL ADVOCACY DOCUMENT

### 1 - Nigeria's 2007 Elections are Already at a Crucial Juncture

Nigeria's presidential, legislative and gubernatorial elections scheduled for 2007 have the potential to be a huge milestone in the history and development of democracy in the country, as they will be the first time one administration reaches its constitutionally mandated term limit and must hand over to a successor.

The elections of March/April 2003 saw Nigeria clear the hurdle of two successive elected governments for the first time in its history: However current President Olusegun Obasanjo must step down in 2007, making the establishment of a successor elected administration in that year even more of a potential landmark.

But just as observers concur that the 2003 polls were in many places marred by fraud and violence, the 2007 polls also contain huge potential to go badly off-track; to become not a milestone in democratic consolidation, but instead one marked by malpractice, injustice, criminality, violence, human rights abuses and increased instability.

Already, at least 18 months before polling, there is a clear trend towards negative developments oriented towards the 2007 elections.

While commonplace assertions that Nigeria faces imminent violent break-up are wide of the mark, we strongly believe that if current tendencies towards abuses of democratic procedure are not stopped, and the approach to elections is not characterised by a greater degree of law-abiding and constructive action by key stakeholders, the upcoming polls could become the source of serious abuses, instability and fatalities.

The greatest danger is not associated directly with national polls or polling days, although it is a sad likelihood that such occasions will see their share of abuses and violence, both spontaneous and organised. Instead, CDD's experience in monitoring Nigeria's electoral cycle continuously since 1999 leads us to believe that the main scope for malpractice, illegality and human rights abuses will occur on the margins, away from the highest reaches of national politics and will extend long before and after the actual campaign and polling period. Indeed, the aftermath of the 2003 polls has shown that the legacy of electoral malpractice can become a permanently destabilising factor, as for example in the ongoing political terrorism in Anambra state.

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## *2007 Elections: Democracy in Nigeria at a Crossroads*

Nigeria's oil-reliant economy, in which royalties and rents paid into state coffers are the main resource for development and self-enrichment, raises the stakes in competition for public office. For some time before elections, the prospect of new political opportunities can turn into a dynamic of deadly winner-takes-all competition, both among elites – where assassinations have become a commonplace method of eliminating competitors – and among communities, where groups vie to place their own representatives in strategic local positions. Such heated campaigns can lead to the destruction and displacement of entire communities, as is presently the case in many parts of the Niger Delta. Meanwhile, at the upper echelons of the political system, aspirants for office undermine the very institutions they wish to inherit in the process of trying to gain a footing in the system, for example in the large-scale diversion of public funds to their own campaign chests.

During the latter part of election campaigns, as politicians seek to build power-bases, the use of hired thugs and of large-scale political corruption increases hugely. As political actors seek to tip the playing field in their own favour, the undermining of institutions and the politicisation of elements in the electoral administration bodies and security forces also becomes a worrying issue. Abuses of freedoms of speech also become a concern as influential actors use state power to keep unwelcome disclosures out of the news. And if rival candidates in a given area are strongly associated with rival constituencies, old fault-lines, such as those to do with religious or ethnic differences, may re-open as they are politicised, leading to large-scale loss of life as seen in the past. Furthermore, heavy-handed police reactions to incidents of electoral violence are also in themselves a serious source of human-rights abuses.

Neither do election-related troubles end with the closure of polls and the announcing of results. Current government policies on electronic compilation of results and restrictive guidelines on observers combine to indicate that there will be a reduced degree of transparency in the compilation of results, a dynamic which is already beginning to erode trust in the system. The backtracking on a number of election results since 2003 has compounded that distrust. The cumbersome and long-winded process of election appeals tribunals delays judicial rulings until the initial winner has already become entrenched in position, leading to an even greater degree of frustration in those who feel they or their representatives have been cheated out of victory. Without effective recourse to justice such sentiments are often expressed in violence, which can become embedded in a cycle of instability. This is evident for example in Warri in Delta State where a 2003 gerrymandering dispute developed into an interethnic war which continues to severely disrupt everyday life as well as oil production activities in the area.

CDD notes a number of reform efforts being made by the current government, or initiated by individual actors of integrity and vision, and we wish to support this tendency. However we think it is vital to also fully explore the huge range of problems which remain unaddressed either through oversight or by design. In the two sections which follow, we first identify clear individual themes and issues before suggesting possible avenues by which to seek effective remedies.

## **2 – Identifying Key Issues**

CDD is well-placed to review the issues surrounding the 2007 elections in Nigeria as we have been closely involved in political reform efforts in the country since 1997. Over this period we have closely monitored, analysed and advocated on issues relating to electoral politics, and conducted our own long-term observation and qualitative assessment of Nigeria's previous legislative, presidential and gubernatorial elections in 2003. In Nigeria we have worked closely with other domestic observation and electoral reform bodies and have also taken part in election observation exercises in Zimbabwe, Ghana and most recently Togo, so that we have benefited not only from a broad and collaborative input into our work but also from a comparative perspective drawn from other African states with widely varying experiences of democracy.

- **Will There Be an Election in 2007?** As the 2007 polls approach, there are gathering fears that they make not in fact take place at all. Such fears are substantiated by constitutional drafts prepared by senior figures in the ruling party which propose fundamental changes to allow the incumbent administration to remain in power for two additional years. Such changes would not only provoke a huge hike in political tensions – given the already evident popular opposition to such an agenda – but would denigrate the constitution and encourage political actors to consider themselves above the rule of law.
- **INEC Independence:** Nigeria's Independent National Electoral Commission (INEC) is misnamed. The body is constitutionally a unit under the Federal Executive (Presidency), which also controls its staffing and finances, making INEC's operations ultimately subject to the control of a party which can be assumed to be highly interested in the outcome of the elections. Despite complaints that in 2003 some senior staff were thought to be partisan political appointees, and that the late release of funding to INEC clearly compromised the Commission's administrative and logistical capacity, nothing substantial has been done to redress these fundamental problems.
- **Electoral Law:** The legal codes governing political processes in Nigeria are ill-defined and often contradictory. The Citizen's Forum for Constitutional Reform (CFCR) has identified a number of currently problematic issues which need to be addressed in the forthcoming and much-delayed legislative initiatives to streamline electoral laws. These include exclusion of independent candidates, disenfranchisement of the many Nigerians who are living in the diaspora or who are members of the security forces, and the rules which permit functionaries of political parties to take up position in INEC.
- **Party Funding:** Although INEC has a legal responsibility to audit the accounts of political parties on an annual basis, it has not previously been fulfilling this duty. This and other issues surrounding party funding remain extremely murky. Disagreements between powerful 'godfather' party funders and candidates have led to destructive political crises in various parts of the country since the last polls. Meanwhile legal restrictions on electoral spending and contributions from outside the country remain unrealistic, consequently meaning that almost all parties break the law in this respect.
- **Electronic Voting and Transparency:** INEC and the Nigerian Government state that they remain determined to utilise a complex and expensive new system of voting using electronic booths in 2007, claiming that this will prevent rigging and aid collection of results. Yet civil society groups have reiterated in a series of consultations that the multi-million dollar system would be unsuitable and inadvisable, given not only the country's extremely poor electricity supplies, but the impossibility of independently observing and confirming results gathered in such a manner, the ease with which such results could be altered at the data collection stage, and the consequent general distrust the wider public has indicated in such a system.
- **Election Observation:** Recent indications that INEC intends to limit the presence of foreign monitoring and observation groups are highly worrying. While the widest and most effective monitoring has been undertaken by domestic groups, such as the Transition Monitoring Group (TMG) and the ecumenical Justice, Development and Peace Commission (JDPC), it is undeniable that foreign national, multilateral and non-governmental observer groups play an essential role in bringing to bear comparative experience, and more importantly in the wider international system, by testifying as to the credibility of an election as measured by international norms and standards, and

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therefore also indicating the credibility of the administration thus produced. Clearly the intention to limit their role can only be a retrograde step as far as transparency and accountability are concerned.

- **Internal Party Democracy:** No political system based on parties can be expected to function in a democratic manner if the parties which underpin it are themselves undemocratic. Yet the current situation in Nigeria is that internal party primaries are frequently decided using bribery, thuggery, and subversions of procedure. The local government and state-level congresses of the ruling People's Democratic Party in October and November 2005 have already been characterised by rigging of internal votes using methods as varied and crude as preferential distribution of party membership cards and the holding of duplicate polls. The more powerful the party, the more intense the competition for positions becomes, and there have already been assassinations of candidates aspiring for positions in the local structures of the nationally ruling party.
- **Gender Imbalances:** Women are massively underrepresented in Nigerian political structures, comprising only 6.6% in the lower House of Representatives and 3.8% of the 103 Senators. CDD's 2004 study *Women, Marginalisation and Politics in Nigeria* concluded that, for those not lifted to public prominence as the spouse or dependent of a powerful male politician, structures remain extremely prejudiced and opportunities for women to enter politics are extremely limited.
- **Generational Imbalances:** If anything, these constitute a more marked inequality than the gender imbalances mentioned above. There is a clear generational divide as evident in Nigerian politics as it is in the public affairs of many other countries, which is as yet not being addressed in extant reform proposals. While the formal political scene is dominated by those of more mature years, including many in their seventh or eighth decade, the role of youths (a term applied loosely in the Nigerian context to anyone below their mid-30s) is usually limited to that of campaigning footsoldiers, hired muscle or political thugs. Although politics everywhere tends to be dominated by the more experienced, the exclusion of such youths – who constitute far more than 50% of the population – in Africa is potentially highly dangerous. Those who feel they cannot have a legitimate political voice become radicalised and turn to other solutions, as evident from the multiplying youth 'cults' and armed militias in the Niger Delta, who are no longer responsive to traditional elders or other systems of authority.
- **Registration:** The problem of underage, repeat and other fraudulent voting has been compounded by the lack of satisfactory voter registration, and the short time-frame allotted for such exercises.
- **Census:** The accurate compilation of a voter register also relies on the efficient and accurate execution of the forthcoming National Population and Housing Census, scheduled for March 2006. Such exercises have previously been extremely problematic in Nigeria.
- **Logistics and Administrative Arrangements:** The inadequate provision of electoral materials and the inadequate arrangements made for their timely & secure storage delivery was a huge issue in previous elections. On top of this it is also important that those materials provided, such as ballot papers, be easy to use for a population comprising a large proportion of people who are functionally illiterate. Delays to the electoral processes increase the likelihood of mistakes and inefficiency. Administrative inefficiency not only unfairly denies citizens the opportunity to exercise their right to vote, it increase suspicions of foul play in an already tense political atmosphere.
- **Impunity for Offenders:** Political actors and other rights transgressors in Nigeria continue to commit frauds, abuses and acts of violence buoyed up by the knowledge that, as very few such offences are successfully prosecuted even in the rare instances when they are brought to court, they can expect to enjoy almost complete impunity for their actions. More usual is that beyond an initial police intervention, politically-related crimes and human rights abuses are simply not investigated.

### **3 – Identifying Opportunities for Improvement**

- **Extensions and Third-Termism:** Not only Nigeria's President, but also other leading figures in the political establishment should make it publicly and repeatedly clear that changing the laws on length of tenure in a way which will directly benefit themselves is not a consideration.
- **INEC Independence:** The Independent National Electoral Commission should be reformed to make it worthy of the name – it should be placed on a statutory footing as an independent organ of the Nigerian state, and as such should have a dedicated and protected funding stream. Appointments to the body should be based on a more transparent and broad-based body.
- **Electoral Laws:** During the forthcoming streamlining of electoral laws into a single document, all provisions should be revised on the basis of wide consultations, with the aim of closing loopholes, clearing up contradictions and eliminating unfair or discriminatory practises entrenched in current legislation. As INEC cannot proceed with arrangements until the legal framework has been resolved, the Legislature and Executive should make the scrutiny and passage of the Electoral Bill 2004 a matter of priority.
- **Party Funding:** The Electoral Bill 2004 currently before the National Assembly contains a number of promising suggestions to enhance transparency around the role of money in politics, and should be adopted. In addition, political parties should be strongly encouraged to submit audited accounts to electoral authorities, and should be subject to sanction if they do not do so. Furthermore, political parties should take it upon themselves to publicly volunteer information on their finances in order to show the public that they can be trusted to be similarly transparent in their exercise of public office.
- **Party Primaries:** In order to defuse the dangerous tension around competition for internal party positions, and to allow political parties themselves to become more equitable and representative bodies, Nigerian political parties should allow non-partisan monitoring of internal selection and election procedures.
- **Representation of Women:** Proportional representation of women in the body politic should be ensured by making quota provisions on a regional, party or percentage of total seats basis, as has been enacted in many other countries across Africa and the world.
- **Youth Representation:** The simplest and most obviously satisfactory approach might be for national and state legislatures to adopt binding rules stipulating a certain number of seats reserved for representatives under a certain age, or for political parties to be encouraged to make similar rules dictating that a certain percentage of their candidates be under a given age.
- **'Certification' of Individual Races:** One idea proposed to frustrate local-level attempts at rigging came from discussion with members of the Nigerian Bar Association. The idea is that it might be possible to form local voluntary oversight committees including trained legal practitioners as well as other well-informed members of the local public to oversee individual races at a ward or other very localised level. The idea would be that such a group would then issue or withhold their own certification that the results were obtained in a satisfactory manner in accordance with prescribed procedure. This idea is tied specifically to the problem of getting rapid and satisfactory outcomes from post-election tribunals – the intention being that the published findings of such a committee would count as an admissible 'expert witness' in such legal reviews of election outcomes.
- **Changes to Registration:** The move to make a computerised register of voters is welcome but is only the first step in rendering the composition of the electorate more transparent. Another essential step is the satisfactory conduct of the forthcoming national census – without such figures there is not even a rough guide of how many can be expected to be legitimate voters in future elections. This is even more important if electronic voting is to be used: Knowing the accurate voter population in different wards and local governments will serve as an indication that there are inconsistencies in the electronic vote count.
- **Impunity:** Lastly but most importantly, despite the clear and obvious holes and inconsistencies in the current constitutional framework and in electoral laws, a huge amount of difference could be made simply by effectively applying the laws which already exist.

#### **4 – How the International Community Can Make a Difference**

- The international community can make a big difference to the conduct and outcomes of Nigeria's 2007 elections by using all available channels to reiterate that real reforms and improvements are structural, not personality-driven. The Nigerian government's international partners should impress upon it that constitutional reform efforts should be about a legacy of lasting improvements, not the perpetuation of narrow interests, agendas and ambitions.
- Representatives of both developed-world and other African nations should also remind the Abuja government that as a regional leader, Nigeria has the power to set trends for other countries too, and that therefore what happens in Nigeria in the run-up to 2007 will have implications for the rest of the continent.
- The international community can also help by strongly encouraging Nigeria's government to publicly and unequivocally disown plans to greatly reduce the number of foreign monitors during the elections, as highlighted in previous CDD advocacy efforts.
- Donor nations should make it clear that, as the quality, credibility and legitimacy of any government depends on the process which produces it, the conduct of the 2007 electoral process will have a major impact in determining future levels of aid disbursements made directly to the Nigerian government.
- As a matter of related importance for tackling the enormity of corruption-related electoral malpractices in Nigeria, the international community should be more pro-active in combating money-laundering in international financial centres.
- Development partners should encourage Nigeria's government to re-assess the electronic voting initiative as regards its desirability, practicality and cost-effectiveness. If the government remains determined to use electronic voting, partners should support efforts at ensuring free and fair elections by providing technical support to INEC on the effective use of electronic voting systems, and support election observation groups in training in methods to detect rigging when electronic processes of voting and collation are used.
- Donors should support the government and Nigerian NGOs by providing training and funds for monitoring the 2006 census to ensure that the 2006 census is fair, transparent, and accurate. Another intervention relating to the census could be in providing satellite imaging to show different areas of the country to serve as a means of evaluating the accuracy of the census figures.
- The international community should support Nigerian NGOs and civil society groups that will carry out intensive civic education and public enlightenment towards the elections.
- International election observation bodies should review their participation in Nigerian political processes to ensure that their observations cover the whole electoral cycle in some form, not just a short period around polling. Equally, when dealing specifically with the polling process, it is important that they should make their interim statements widely available to the public as soon as possible after the conclusion of voting, in order to prevent the watering down of their findings through misrepresentation, as has happened before.
- International observer groups and representatives should express interest in extending their observations to the internal elections held by political parties.
- Donors should also increase aid, both funding and technical assistance, to domestic observer groups who have been by far the most effective monitors of electoral processes in Nigeria. This should include both support for mass observation of the 2007 polls, and also for longer-term engagement and monitoring of the full electoral cycle.

*CDD will be happy to provide more information on any of the aspects mentioned above. For more information on any of these issues, or details of the civil society processes mentioned in the text, please contact us at the addresses above or by email:*

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