



CITIZENS' MEMORANDUM FOR REFORM OF THE ELECTORAL LEGAL FRAMEWORK

IMPLEMENTING PARTNERS



Introduction

The Citizens Memorandum for Electoral Reforms presents proposals for improving Nigeria's electoral process. These proposals stem from a comprehensive analysis of current challenges and the need to rebuild public trust in the electoral process. The manifesto incorporates lessons from past reforms, the 2023 general election, and recommendations from domestic and international election observers. It aims to address the inadequacies, complexities and ambiguities of the 2022 Electoral Act and align the electoral legal framework with landmark judicial rulings that improve the electoral process. As the National Assembly undertakes another round of electoral reforms, the memo serves as a resource tool for legislators and other election stakeholders to understand priority electoral amendments and their strategic objectives.

The recommendations focus on two components of the electoral legal framework: the Constitution of the Federal Republic of Nigeria, 1999 (as amended), and the 2022 Electoral Act. The recommendations for the review of INEC's regulations and Guidelines are contained in the INEC Memorandum for administrative reform. The Citizens memo contains **thirty-seven (37)** recommendations across **fifteen (15)** strategic objectives and address **sixteen (16)** priority reform areas. Part I contains **twenty-one (21)** recommendations for constitutional amendments, while Part II proposes **sixteen (16)** amendments to the 2022 Electoral Act.



Approach to Electoral Reforms

Electoral reform is conceived as both a pre- and post-election activity designed to improve the integrity and credibility of the electoral process. It is a crucial part of the broader democratic reforms needed to deepen electoral democracy in Nigeria. While the focus has often been on the electoral legal framework, the partners acknowledge the necessity of attitudinal changes among all election stakeholders to achieve credible, transparent, and inclusive electoral processes. The approach to electoral reform is two-fold:

1. **Legal Reforms:** Electoral reforms often necessitate changes to the electoral legal framework such as Constitution, Electoral Act and Regulations and Guidelines for elections. This is vital as elections are rule-based activities. Regular reviews of electoral rules ensure clarity and address any shortcomings.
2. **Administrative Reforms:** These reforms involve administrative, strategic or operational policy actions by INEC or other institutions in the electoral process that do not require changes to the legal framework. Proposals for administrative reforms are outlined in the recently released EU-SDGN partners Memorandum to INEC on the 2023 general election.

Priority Areas for Reform

1. INEC Independence, Efficiency and Professionalism

2. Unbundling of INEC

3. Electoral Offences

4. Election Adjudication

5. Diaspora or Out-of-Country Voting

6. Special Seats

7. Political Party Reform

8. Constituency Delimitation

9. Voter Accreditation

10. Voter Register and Voter Registration

11. Women, Youths and PWDs Political Participation (Inclusivity)

12. Early Voting

13. Candidate Selection

14. Electoral Technology

15. Result Management Process

16. Media and Elections



Part 01

**Proposed Constitutional
Amendments on
Electoral Reform**



Strategic Objectives and Recommendations

01 Strengthen the independence and professionalism of INEC to ensure credible elections and inspire public trust in the electoral process

Recommendations



1. Review the process of appointments into INEC: The Constitution should be amended to remove the power to appoint the Chairman, National Commissioners and Resident Electoral Commissioners from the President and introduce a multi-stakeholder approach to appointments into INEC. The scope of consultations should expand beyond the Council of State to other critical stakeholders like traditional, and religious institutions including civil society.

(Relevant sections of the constitution- S 154, 158 and Section 14, Part F of the Third Schedule)



2. Professionalize INEC appointments: The Constitution should be amended to review the criteria for appointments into INEC. The current criteria of non-partisanship and unquestionable character prescribed by the constitution have proven inadequate. Therefore, professional skills and qualifications, health, age and gender should be introduced as additional criteria when making appointments in INEC. Election administration requires individuals with diverse legal, IT, logistics, statistics, and communications skills. The appointing authority should consider the age, health status and gender of nominees when making appointments to the commission.

(Relevant sections of the constitution - S 156, Section 14, Part F, Third Schedule)



3. Introduce timelines for INEC appointments: The Constitution should be amended to introduce timelines for appointing members to INEC to address unwarranted delays in constituting the commission's board. Appointments should be made within 30 days of a vacancy.



4. Review the appointment and discipline of Resident Electoral Commissioners (RECs): The appointment and discipline of RECs should be devolved to an administrative function that will be performed by the Commission.

(Section 14(3), Part F of the Third Schedule)

02 Strengthen the institutional autonomy, inclusiveness and capacity of State Independent Electoral Commissions (SIECs)

Recommendations



5. Review the mode of appointments into SIEC: The power to appoint the Chairman and members of SIECs should be removed from the Governors. The appointment process should be reviewed as follows;

- **Nomination:** Where a vacancy arises in the SIEC, the state assembly should set up an independent committee to handle nominations. The committee issues a widely publicized call for nominations.
- **Interview Panel:** Shortlisted candidates undergo an interview to assess competence, character and suitability for appointment to the SIEC.
- **Confirmation by the State Assembly:** The state assembly shall consider the report of the interview panel and public petitions. A two-thirds majority resolution by the state assembly is required to recommend a candidate to the Governor for swearing-in.

(Relevant section: Section 198).



6. Introduce timelines for appointment in SIECs: The Constitution should be amended to introduce specific timelines for appointing members to State Independent Electoral Commissions (SIECs). Appointments must be made within 30 days of a vacancy. This amendment will prevent unwarranted delays in constituting the commission's board, ensuring that SIECs can function effectively and without interruption.

(Relevant section: Section 198)



7. Strengthen the criteria for membership of SIEC: In addition to non-membership of political parties, the constitution should be amended to introduce age, integrity and competence as criteria for appointment into SIECs. Members of the SIEC should not be less than 25 years of age.

(Relevant Section: Section 4, Part II of the Third Schedule)



8. Safeguard the operational autonomy of SIECs: The constitution should explicitly state the power of SIECs to regulate its own procedure and its authority to confer powers and duties on any officer shall not be subject to the approval of the Governor. This amendment will align with Section 160(1), which protects INEC's independence by stating that INEC's powers

to make its own rules or otherwise shall not be subject to the approval or control of the President.

(Relevant section: Section 204(1))



9. Strengthen the financial autonomy of SIECs: To guarantee the financial autonomy of the SIECs, its funding should be on first-line charge. In other words, the funding of the SIECs should be charged to the Consolidated Revenue of the state. By incorporating this provision, the financial independence of SIECs will be safeguarded, ensuring that their functions are free from undue political influence.

(Relevant section: Section 121 (3))



10. Redefine the power and functions of SIECs: The powers of the SIECs should be reviewed to strengthen its independence and effectiveness. Its powers should be expanded to include;

- Monitoring of party primaries, congresses and conventions related to local government elections
- Monitoring of political campaigns and provision of guidelines and regulations for campaigns
- Conducting voter and civic education
- Promoting knowledge of sound democratic election processes at the local government level
- Delegating any of its powers to any Electoral Officer
- Carry out such other functions as may be conferred upon it by any law of the State Assembly
- Conducting any referendum required to be conducted under the provisions of the Constitution of the Federal Republic of Nigeria and any Law of the State House of Assembly.

(Relevant section: Section 4, Part II of the Third Schedule)

03

Improve the efficiency and effectiveness of INEC in the conduct of elections

Recommendations



11. Unbundle INEC: The Constitution should be amended to transfer the responsibility of INEC to register and regulate political parties and prosecute electoral offences to other institutions to be established by an Act of the National Assembly e.g. Political Party Registration and Regulatory Commission and an Electoral Offences Commission to reduce INEC's enormous and onerous responsibilities.

(Relevant sections of the constitution – Paragraph 15, Third Schedule)

04 Address electoral impunity through effective electoral offences prosecution

Recommendations



12. Establish an Electoral offences commission: The responsibility for the prosecution of electoral offences should be vested in an independent institution with the mandate to coordinate, enforce and prosecution all electoral offences.

(Relevant section: 144).



13. Limit the exercise of the power of nolle prosequi: The constitutional power of nolle prosequi vested in the Attorney-General of the Federation or of a state should not apply to electoral offences.

(Relevant section: 174(c)).

05 Enhance legitimacy, stability and integrity of the electoral process by concluding all pre- and post-election matters before swearing-in of elected officials

Recommendations



14. Review the timeframe for holding election: The Constitution should be amended to review the timeframe for the conduct of elections to enable INEC conduct elections earlier than current 150 days as enshrined in the constitution. Elections should hold not earlier than 240 days and not later than 90 days to the end of the term of current holder of the office.

(Relevant sections of the constitution sections 76, 116, 132, and 178)



15. Reduce the time for hearing and determination of pre-election matters and election petitions:

The constitution should be amended to reduce the timeline for concluding matters arising from party primaries and nomination of candidates from 180 days to 90 days from the date of filing of the suit. All pre-election matters should be concluded before the date fixed for an election.

Similarly, amendment should be made to constitution to reduce the timeline for resolving all election petitions from 180 days to 90 days from

the date of filing of the suit. Timeframe for the disposal of appeals on pre-election and election petitions should be reduced from 60 days to 30 days.
(*Relevant sections - 285(6), (7), (10) (12)*)



16. Terminate all pre-election appeals at the Court of Appeal: Appeals on pre-election matters related to National Assembly and State Houses of Assembly should terminate at the Court of Appeal.



17. Limit filing of cases to jurisdiction of cause of action: Amend the Act to require litigants to file cases exclusively in the judicial division where the cause of action arose, addressing the menace of forum shopping
(*Relevant section: 29(5)*)

06

Protect citizens right to vote in elections

Recommendations



18. Introduce diaspora and out-of-country Voting: Amend the constitution to permit diaspora and out-of-country voting to address the exclusion of Nigerians in diaspora from voting during elections. Special voting procedures should be determined by the Independent National Electoral Commission (INEC).

(*Relevant sections - 77, 117*)

07

Safeguarding the participation of marginalized groups in the electoral process

Recommendations



19. Creation of special seats for women in the legislature: As a temporary measure to increase women representation, the constitution should be amended to create special seats for women in the National and State assemblies.

(*Relevant sections - 71, 77, 91, 117*)

08 Strengthen the institutional, political, and financial capacity of Political Parties to enhance transparency, accountability and inclusivity

Recommendations



20. Strengthen the requirement for party registration: Amend the constitution to introduce additional criteria to be fulfilled by association seeking registration as political party. For instance, an association must maintain functional and verifiable offices in at least two-thirds of the state of the federation and the association must maintain 35% women in the membership of all the governing bodies.

(Relevant sections - 222)

09 Promote fair and equitable representation by addressing the distortions in constituency delineation and delimitation

Recommendations



21. Introduce a percentage of deviation from population quota: In determining the boundaries of constituencies, the Constitution should be amended to introduce a tolerance limit of 15% deviation to remove the ambiguity about the relationship between constituencies. This will provide a uniform standard in constituency boundary delimitation.

(Relevant section - 72, 91 and 112)



Part 02

Proposed Amendments to the 2022 Electoral Act



Strategic Objectives and Recommendations

10 Increase citizens' engagement through improved voter and civic education



Recommendations

1. Amend the Electoral Act to mandate interagency collaboration on voter education. The responsibility of voter education should be shared between INEC, National Orientation Agency and civil society organizations.

(Relevant section: Section 2)

11. Improve the integrity of the voter register and voter verification



Recommendations

2. **Review the requirement for voter identification:** With the successful introduction of the BVAS, which stores biometric information of voters, the Act should be amended to permit the use of other legally acceptable means of identification for voter verification in addition to the already produced Permanent Voters' Card (PVCs). These means of identification include a driver's license, international passport, national identity card, electronically downloadable voters' card from INEC website and any other means of identification as may be determined by INEC. Further production of the Permanent Voter Card (PVC) should be discontinued.

(Relevant section - 47(1))



3. **Legally sanctioned Independent Audit of the voter register:** The Electoral Act should compel INEC to undertake a comprehensive independent audit of the voter register to eliminate duplications, multiple registrants and ineligible voters to enhance the credibility of the voter register. The audit process should be subjected to public scrutiny to improve its transparency.

12 Protecting voting rights and inclusiveness of elections

Recommendations



4. Early voting: Amendments to the Electoral Act are necessary to introduce early voting for eligible voters on essential election duties such as security personnel, INEC staff, election observers, journalists etc.



5. Review the format of election information for persons with disability: INEC should be legally mandated to ensure all election results and communication such as notices are available in mode, means and format easily accessible to the persons with disabilities.



6. Periodic expansion and reallocation to polling units: The Act should be amended to mandate INEC to conduct a review of polling units and ensure equitable distribution of voters to polling units every five (5) years.



7. Strengthen INEC's mandate of constituency delimitation: The electoral act should be amended to explicitly state that INEC has power to delimit Local Government Areas, and Registration Area as well as well Electoral Wards. Additionally, a tolerance maximum deviation of 15% be introduced to ensure uniform standard and eliminate ambiguity in constituency delimitation.

(Relevant Section: 100)

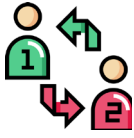
13 Improving the quality of candidate selection

Recommendations



8. Introduce Sanctions for Non-Compliance with Party Register and delegate list Submission: Amend the Act to impose sanctions on parties that fail to submit their register of members and list of delegates at least 30 days before primaries, congresses, or conventions, similar to the existing penalties for not notifying INEC of these events.

(Relevant section: 77(3))



9. Limit Substitution of Candidates After Final List: Explicit provisions should be incorporated into the Electoral Act to prohibit political parties from withdrawing and substituting candidates after a two-week period following the publication of the final list of candidates, except in cases of death, as stipulated under Sections 33 and 34 of the Electoral Act 2022.

14 Safeguarding the use of electoral technologies to ensure election integrity

Recommendations



10. Compulsory electronic transmission of results: Strengthen the Electoral Act to make electronic transmission of results mandatory, including the upload of polling unit level results and results sheets used at different levels of results collation.



11. Introduce legal timelines for testing and mock exercise of electoral technologies: The National Assembly should make further amendments to the 2022 Electoral Act to establish the principles and introduce timelines for the mandatory conduct of testing and mock exercises for electoral technologies deployed by the electoral commission.



12. Fix the ambiguities in the results management process: Further review the electoral act to address the ambiguities in the results collation and transmission process and the role of technology in the results management value chain.

(Relevant section – 60(5), 64(4), (5), 42(2) and 47(2))

15 Facilitate equal access to media during elections

Recommendations



13. Discounted airtime/advert rates for marginalized groups: Introduce provisions in the Electoral Act that compels public media (broadcast and print) to grant underserved and marginalized groups, particularly women, youth and People with Disabilities (PWDs), special discounted airtime/advert rates during election campaigns.



14. Legal distinction between free access and paid access: Further amendments to the Electoral Act are necessary to clearly differentiate between provisions for free access and paid access for political parties and candidates to the media during election campaigns.



15. Limit liability for breach of deadline for media campaigns to media organizations: The penalty for contravening the provision in the Electoral Act that bans campaigning within twenty-four hours immediately preceding or on election day should be restricted to the offending entity (the media house) and should not extend to the “principal officers” or “other officers” of the media house.

(Relevant Section: 96(1))



16. Protection for Journalist on Election Day: Security agencies should be required by law to provide protection for accredited journalists and election observers on election day.



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