

INTERROGATING THE INDEPENDENCE OF INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) IN NIGERIA

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Abstract: *Nigeria operates a highly centralized federal system in which the president appropriates and wields enormous executive powers over the entire affairs of the Federation. The president exercises these powers by appointing government officials and determining their remunerations. In so doing and because institutions in Nigeria are relatively weak to check the excesses of some strong Nigerian politicians, the president appoints and also tends to influence how INEC principal officers discharge their statutory election functions. To ensure free and fair elections, and given the nature of its assignment on competing interests, the constitution guarantees INEC independence to ensure its neutrality and impartiality. However, INEC does not seem to enjoy independence. This study therefore, interrogates the independence of Independent National Electoral Commission in conduct of free and fair elections in Nigeria. The study leverages available documents, and personal experience premised on in-depth descriptive statistical and content analyses. The data elicited from these methods reveals that government interference in INEC membership composition, finances, and operations considerably accounts for recurring lethal electoral irregularities and deflates public confidence in the electoral process to stunning lows in Nigeria. Thus, this study argues that Nigeria's Independent National Electoral Commission (INEC) has not considerably asserted its independence to guarantee quality elections due to government interference in its management of Nigerian elections. This interference also exposes the weakness of government-driven electoral reforms, which underscore the need for voter-driven reformation to usher in an electoral system that is best and acceptable to the majority of the voting population in Nigeria and elsewhere.*

Keywords: *Small Arms Proliferation, Socio-Economic Development, North-East Senatorial District.*

INTRODUCTION

Experiences over the years have shown that democracy has emerged as the most acceptable form of political organizing all over the world. This is because it confers sovereignty on the people, making them kings in their domains. It gives them the singular power of deciding who rules over them. In short, it makes them active participants in the political process. Some of the cardinal principles of democracy include free, fair and credible elections; rule of law, fundamental human rights, checks and balances, separation of powers, good governance and accelerated human,

political and socio-economic development. Therefore, it is a truism that in all democracies across the globe, the centrality of elections is imperative and must remain so if democracy is to be consolidated (Iwu, 2009).

In all democracies in the world, elections serve two main purposes. First, it affords voters the freedom to choose candidates to manage their affairs for a given period and secondly, it gives the candidates the opportunity to canvass for the votes of the electorate in a free and fair contest. Aligning to the above, Apkotor (2016) asserts, “Elections provide essential validation for democracy by increasing the confidence of individual citizens in their ability to meaningfully participate in public life”.

However, when the electorate continuously faces repeated episodes of election rigging, political violence and mismanagement of the electoral process, the vote may not count; then, they lose confidence in the electoral process. Again, when one party is programmed to win in an election as is wont to happen in elections conducted by Independent Electoral Commission in Nigeria, the people question the integrity of the electoral management body and opposition parties boycott the polls.

To ameliorate this ugly scenario, the impartiality and fairness of the machinery and institutional processes put in place to regulate the conduct of elections become not only imperative but also essential for a legitimate democratic rule. Unfortunately, elections in Nigeria have been replete with several systemic maladies, namely; malpractices and violence, executive interference or power of incumbency syndrome and connivance of the electoral management body with politicians in perpetuating electoral fraud that have severally threatened and many times successfully truncated democratic rule (Akhaine, 2015).

Politicians interfere in every stratum of the Nigerian society and electoral institutions are not exceptions to this interference. Government interference is a subtle manipulative strategy government employs to influence the electoral process and determine its outcomes usually in its favour. In the context of election management in Nigeria, Section 158 of the CFRN guarantees the requisite autonomy of the Independent National Electoral Commission (INEC or the Commission). The Section provides that the Commission shall not be subject to the direction or control of any other authority or person (CFRN, 1999).

Regrettably, this autonomy is punctured by another constitutional provision vide Section 154 and Part I of the Third Schedule to the 1999 CFRN that empowers the president to appoint INEC’s principal officers like the Chairman, 12 National Electoral Commissioners, and 37 Resident Electoral Commissioners. Furthermore, INEC finances are subjected to presidential supervision through the Budget Monitoring and Price Unit and Federal Ministry of Finance between 1999 and January 2022 (Federal Republic of Nigeria [FRN], 2002, 2006, 2010), instead of legislative oversight by the federal legislature. Although the touted Electoral Act of 2022 provides for the early (not later than one year) release of election funds to INEC, the president (instead of budgetary

procedures with legislative oversight) still retains the power to release INEC funds in the extant Act. This retention places a question mark on the pursuit of credible and clean elections in Nigeria.

Since 1999, elections organized by INEC are not free from government interference. The various electoral reforms intended to improve the quality of Nigerian elections have suffered from a similar fate. For instance, the use of new technologies, a journey that began in Nigeria with the automated fingerprint identification system (AFIS) in 2011 (Ladipo, 2022), faces asphyxiation and suffocates because INEC depends on the government for requisite support. This explains the reality that surrounds poor technology policy implementation in the country. This journey is associated with selective piecemeal implementation. For instance, the AFIS use by INEC was restricted to biometric voter registration. The registration, which was the fallout of the irregularities that grossly marred the 1998-9 transition elections and the 2007 general elections, laid the foundation for the production of permanent voter's cards (PVCs) and the adoption of smart card readers during the 2015 elections. The smart card reader is more reliable than the AFIS. Hence, the former replaced the latter during the 2015 elections. With the use of smart card readers for the 2015 elections, the card became a legal condition or requirement to participate in Nigerian elections (INEC, 2015a) even though the legality of these biometric devices is highly debatable (Nigeria Civil Society [NCS] Situation Room, 2015a).

The challenges that heralded the use of these devices in the 2023 elections forced INEC to jettison its biometric guidelines and adopted the use of fraud-promoting Incidence Forms. In specific terms, this directive violated Clause 8(b) of INEC guidelines on the use of card readers for accreditation (INEC, 2015b). The guidelines did not make any provisions for any other means in the event of card reader failure. Thus, Iwuoha (2018) averred that the Commission nevertheless went ahead to violate its set rules by clearing voters by hand, thereby undermining the very purpose for which biometric technology was adopted. The directive by INEC to use Incidence Forms implied the adoption of a dual accreditation procedure in the 2023 elections and a reversion to the problem it set out to address. The dual accreditation procedure is one in which voters are either electronically accredited with smart card readers or manually with Incidence Forms. These forms were introduced to remedy the problems of device failures. Unfortunately, this adoption removed the electronic safeguard the devices provided by way of securing the electoral process and exposed it to possible manipulations like ghost voting beyond the actual number of voters that came out to vote. It also paved the way for various forms of election manipulation by the politicians like double/multiple thumb printing to widen one's winning probability. Although the 2019 INEC guidelines provided for the use of Incidence Forms for voter accreditation (INEC, 2019), their use exacerbated the problem of electoral fraud during the 2019 elections. The repeal of the amended 2010 Electoral Act by the Electoral Act of 2022 eliminates the use of Incidence Forms and any form of manual accreditation. It recognizes the biometric voter accreditation system (BiVAS) as the only tool for accreditation. Although the BiVAS machine is also used for the electronic transmission of results, voting in Nigeria is presently governed by manual methods. Thus, Nigeria's electoral system is presently governed by biometric voter registration and accreditation, manual voting, and a combination of manual and electronic result management. The interplay of

this complexity occasioned by government interference still exacerbates the incidence of electoral irregularities and credible management of elections in Nigeria.

Objectives of the Study

The objective of the study is to interrogate the independence of the Independent National Electoral Commission (INEC) in conducting free and fair elections in Nigeria. The specific objectives of the study include:

1. To examine the extent to which Interference in INEC Membership Composition and Control of INEC Personnel affect free and fair election in Nigeria.
2. How **Interference in INEC Finances and Financial Dependence on Government affects conduct of free and fair elections in Nigeria.**
3. Ascertain how **Interference in INEC Operations and Manipulation of the Electoral Process affect conduct of free and fair elections in Nigeria.**

Meaning of Independent Electoral Body

The autonomy of electoral commissions is beyond formal institutional arrangements of locations and composition. Moreover, electoral commission could be modeled with all the prerequisites of formal autonomy but denied of the basic requirements of impartiality. Ottaway rightly points out that incumbents not committed to democratic ideals could narrow the space, power, and capacity of electoral commissions to put in place strategic procedures for credible elections (Ottaway, 2003: 22-23). To understand the independence of an electoral commission requires going beyond its institutional arrangement. In particular, there is the need to consider the administrative and operational strategies of electoral management bodies. Besides, scholars of comparative politics have long appreciated the value of the political institutions to political elites in pursuing political goals (Bogaards 2007; Carter and Farrell, 2010; Elklit and Reynolds 2002; Elklit and Reynolds 2005; Gandhi, and Lust-Okar 2009; March and Olsen, 1984). Indeed, in the making, reforming, and/or running of electoral institutions, politicians know that they are actually in the game of winning or losing (Lijphart, 1994; Lijphart, 2006; Lijphart & Grofman, 1984). Each strives to protect their interests, and electoral commissions are not an exception. Thus, we argued that while professionalism, composition, and location are important in explaining the autonomy of an electoral commission, it is imperative to pay attention to the administrative and operational strategies of election management.

The meaning of autonomous electoral commission is often equated with its institutional location. The autonomy of electoral body, however, can be viewed from three broad perspectives: i) institutional setup; ii) operational powers and capacity; and iii) financial muscles. Given these arrangements, the autonomy of an electoral management body is much more than just its positioning in the scheme of government. Moreover, the autonomy of an electoral commission is an embodiment of institutional structures, political practices, and technical procedures. We, therefore, consider it necessary to carry out a similar procedure of segmentation of the concept of

autonomous electoral commission into categories of analysis. Accordingly, as a model of analysis, we agreed that the autonomy of INEC in the conduct of elections is best looked at from its institutional setup. The issue at stake is who appoints, what is the criterion for the appointment, and how long is the tenure of all electoral commissioners. Note, however, that this aspect has been extensively handled by qualified hands (Ibrahim & Garuba, 2009; 2010) and giving it much attention will amount to repetition of efforts. Secondly, the commission's operational power is better understood by looking at its ability to make and implement decisions independent of outside influence, its openness to all political contestants and other nonpartisan interests, and its operational efficiency in terms of electoral logistics (Table 3 column 3). In other words, autonomy is in the capacity of an organisation to enforce its rules (Gazibo, 2006).

Finally, no electoral commission can be regarded as autonomous if it has to go cup in hand looking for executive assistance to finance its operations. Thus, we expect to find the financial autonomy of a commission to manifest in the availability of funds for it to conduct its activities and absence of excessive bureaucratic or fiscal regulatory requirement, and late release of funds. Although there are other factors such as political culture, who appoints key electoral officials, criteria for appointing electoral officials, and their tenure in office, which impede the proper functioning of electoral commissions in Nigeria and Africa, empirical evidence indicates that the last two are the most pertinent. In fact, successive electoral commissions in the country expressed their concern over such obstacles. For example, in its 2003 elections report, INEC mentioned that from the year 2000 funding has been the basic challenge facing the commission (Independent National Electoral Commission (INEC, 2004: 69-70). Also, the Electoral Reform Committee Report (ERC) set up by the Nigerian government in August 2007 indicated that the nation's electoral bodies have been poorly funded (Electoral Reform Committee Report [ERC], 2008). Similarly, a former chair of the commission revealed that the commission is constrained by the 1999 constitution to properly discharge its functions.

Interference in INEC Membership Composition and Control of INEC Personnel in Nigeria

Nigeria operates a highly centralized federal system in which the president appropriates and wields enormous executive powers over the entire affairs of the Federation. The president exercises these powers by appointing government officials and determining their remunerations. In so doing and because institutions in Nigeria are relatively weak to check the excesses of some strong Nigerian politicians, the president appoints and also influences how INEC principal officers discharge their statutory election functions. Given the nature of its assignment on competing interests, the CFRN guarantees INEC independence to ensure its neutrality and impartiality. The 1999 CFRN and the extant Electoral Act contain the underlying set of rules, principles, and laws that form the basis for the conduct of elections in Nigeria (Adebiyi & Olowa, 2022). This set of rules, principles, and laws is provided to empower the INEC to dispassionately deploy any working strategies through electoral reforms and the use of technologies for election management without giving undue advantage to any candidate or political party.

However, the INEC has not truly asserted this independence owing to government interference, which emanates from the constitutional provision that empowers an interested party to appoint its principal officers and other staff. This castrates and renders INEC impotent to guarantee credible elections in Nigeria. Again, the appointment of these officers has shown how a president can abuse such constitutional power through a process that is strange to the CFRN in favour of his kin and member of his political party (The Guardian, 2015; Akinwale, 2019; Ugbede, 2019; Iroanusi, 2020). The role of these officers in Nigerian elections has become worrisome to many Nigerians (NCS Situation Room, 2019; Momah, 2016). The primary reason for these abuses is because the president is an active participant in the electoral process coupled with challenging economic situations that expose some Nigerians to tow a less dignified path. Furthermore, INEC is expected to meet the demands of the merit system under public service governance within the constitutional framework of federal character in recruiting its election staff (permanent/ad-hoc).

However, like recruitments in other government institutions in Nigeria, ethnoreligious favouritism, patronage, and submission of lists of preferred candidates by politicians overshadow the aforementioned demands. The danger with this system is that it creates room to engage inexperienced staff at the altar of the best available hands, which has implications for the recurring logistical problems and election postponements in Nigeria. Interestingly, many Nigerians welcomed the Electoral Act, of 2022, with lots of praise because it explicitly authorizes the use of electronic technologies for voter registration, poll administration, and result management in Nigeria (FRN, 2022). But without prescient knowledge, the Act remains an offshoot of the faulty 1999 CFRN, which recognizes INEC as an appendage of the Nigerian presidency. These legislative documents subject INEC autonomy to presidential supervision through government institutions under the presidency. Thus, the INEC leadership selection process at federal and state levels has charges of irregularities.

The documents lack clear provisions for their effective implementation, which exposes INEC to the perception of partiality and highlights systemic weaknesses that undermine voter participation (EU EOM, 2023). This turns INEC into a willing tool in the manipulative hands of some Nigerian politicians, who employ suppressive strategies to discourage the use of new technologies for election administration. Politics bothers on who gets what, when, and how (Lasswell, 1936), and political behaviour within the context of politics is about the authoritative allocation of values for society or the distribution of rewards in wealth, power, and status that the system may provide (Easton, 1953). The federal executive branch of the Nigerian government determines who gets what, when, and how, and authoritatively allocates values in terms of who makes the list of the membership composition of the board of the Commission. In other words, INEC is a statutory electoral body duly established by the highest law (the Constitution) in Nigeria, but the same law has placed some limitations on its ability to function independently to provide a level playing ground for all Nigerians to participate in the electoral process. Of the 21 valid interviews we recorded in this study, 19 respondents representing 90.5 percent of the total heave blame INEC's poor performance on the appointment of its key officers by the president. Their views suggest that the president should not appoint INEC key officers. Two respondents (9.5%)

believe that the problem is not about who appoints but about wrongdoing having a commensurate consequence. One of the latter respondents further maintains that if any officer should be prosecuted according to law for electoral malfeasance, it will serve as a deterrent to future violators of electoral laws. In this country, such violators seem to be celebrated and that is the major problem with Nigerian elections (Interview S/№ 4). The appointment of INEC key officers plays a catalytic role in the policy direction of INEC in terms of how and what strategies (like technology use) to adopt for election management. Most Nigerian politicians are fraudulent and will not support INEC to implement an anti-rigging policy, which will get them out of the game.

Furthermore, this appointment, to a large extent, has taken an ethnoreligious dimension, which undermines meritocracy and leads to poor performance of the officers in implementing a policy that will ensure credible elections in the country.

Interference in INEC Finances and Financial Dependence on Government

Apart from the human element in any organization, finance is another important aspect. It is regarded as an organizational life wire (**YIAGA Africa, 2020b**; Ezeani, 2006). Bertrand Russell advanced the argument that, in everything, power lies with those who control finance, not with those who know the matter upon which the money is to be spent. The recruitment, remuneration, training, and motivation of election staff for effective performance, as well as procurement and deployment of new technologies to enhance its operations, require a huge amount of money. Regrettably, this strategic organizational asset (INEC finances) is under the supervisory purview of the Nigerian presidency.

Prior to the enactment of the Electoral Act, of 2022, elections were governed by such legal instruments as the CFRN of 1999 and the Electoral Acts of 2002, 2006, and 2010.⁷ During these periods, funds disbursement for election management was a major challenge that led to substantial poor reparation of elections. For instance, voter registration was delayed in 2003 and 2007 because of the delayed fund disbursement (Akinduro, 2011). In October 2006, several INEC checks were not honored because the Budget Monitoring and Price Unit within the Office of the President did not clear INEC payments for critical electoral materials (National Democratic Institute, 2008). During the 2019 election season, the INEC budget for the 2019 elections was ₦189,007,272,393. Regrettably, 86 days before the elections on November 22, 2018, the Federal Government partly released ₦143,512,529,455, which represented 76 percent of the total sum. On December 21, 2018, 57 days prior to the elections, the outstanding balance of ₦45,495,012,938 was released. This does not augur well for election planning and preparation (**YIAGA Africa, 2020**).

Additionally, the amended Electoral Act of 2010 required the Commission to submit its financial year estimate of expenditure and income to the Ministry of Finance. In Section 5(1) and (2), the Act directed the Commission to keep proper accounts, which must be audited by the Auditor General of the Federation (FRN, 2010). This Act was repealed and replaced with the Electoral Act, of 2022, which provided for early release of INEC funds, but the power to release these funds still

resides with the President (FRN, 2023). A situation where the government delays or engages in the piecemeal release of funds to INEC vitiates the very essence of INEC autonomy makes it susceptible to political influence and undermines its ability to guarantee credible elections.

Interference in INEC Operations and Manipulation of the Electoral Process

Two essential components that are very crucial to the operations of any modern organization are human and financial elements, and whoever controls these elements invariably is in firm control of the organization and its operations. Because INEC is not in firm control of its human and financial elements as it is currently constituted, its efforts to organize credible elections have not achieved appreciable results, measured by the unending incidence of irregularities that embody elections in Nigeria. The use of biometric devices to provide the opportunity for voters to determine their elected leaders through the ballots is sabotaged at the level of implementation by those who control the INEC. Although INEC policy implementation has a tint of decentralization at state and local levels, policymaking by INEC follows the centralized model. This is because the operations of INEC state and local government offices strictly follow the directives from the central office (CFRN, 1999; Akinduro, 2011). We maintain that INEC and the various reform measures it has initiated represent a top-down approach to the plethora of electoral problems bedeviling Nigeria without the requisite buy-in from the people.

In modern administrative practice, the one-single approach has not demonstrated efficiency and effectiveness in optimally addressing complex issues without buy-ins from other relevant stakeholders. Following this absence of a participatory framework in which stakeholder contributions are not factored into INEC policy turnout, the stakeholder operations during elections usually run at cross purposes with the INEC implementation process. Even when INEC uses its Information and Voter Education Committee to mobilize the people through its voter sensitization programmes, the reality during the implementation stage deviates from the policy objectives and information acquired through the programmes. Thus, Mthethwa (2012) asserts that it is an entrenched practice in administration that when people are allowed to freely participate in policymaking and their views form part of the policies, they will also ensure that the policy objectives come to fruition during the implementation stage. This provides an insight into why there are always issues with INEC in terms of policy implementation during elections. Thus, one can convincingly argue that INEC's claims of reforms have mainly served the purpose of belongingness and receiving assistance from development partners as frequent failures to dispassionately implement its reform objectives have demonstrated.

Additionally, considering election preparation, the environment of the election period is one of intense politicking and heightened tension (Abada et al., 2023), and the deployment of men (both poll officials and security personnel) and materials are done in a fashion akin to a war situation (Mbah, Nwangwu & Ugwu, 2019). The environment also depicts an atmosphere of poor democratic orientation on the side of Nigerian politicians who rarely believe in the dual nature of electoral contests: every election inevitably produces either a winner or a loser. This situation is also exacerbated by the notion that access to power guarantees access to state resources (Onuoha,

2008), and the lucrative benefits and privileges attached to public offices in the country (Abada et al., 2023). Thus, those who control the Nigerian government are in a firm grip on the INEC and influence its operations to increase their odds of victory in any electoral contests. This depicts why Nigerian elections are undermined by incidences of violent electoral irregularities with their attendant loss of lives and property (see Angerbrandt, 2018; Onapajo, 2014). Elections held in this situation cannot be free and fair and will not wear the hallowed toga of credibility (see Onuoha et al., 2020; Merloe, 2008). Ideally, elections are supposed to be a peaceful contest among political actors and their outcomes will either produce winners or losers. However, in the case of Nigeria, elections have become a must-win contest. They have also become bloody, violent, and lethal. The biometric devices introduced to address election-related issues by reducing human interface have turned out to facilitate them on account of government interference in biometric policy implementation, thereby making every election season in Nigeria a life-taking period. Conclusion Many African countries that embraced multiparty electoral democracy in the 1990s are today slipping off the democratic coast in geometric progression with illiberal features defining their democracies due to politics of self-interest against politics of public service. Thus, this study is an empirical contribution to this unending issue within the context of controlled INEC independence occasioned by government interference in INEC membership composition, finances, and operations that result in lethal electoral irregularities in Nigeria. By its nomenclature and constitutional recognition as a statutory federal body, INEC conveys the notion of independence. By this, INEC is expected to exercise its independence in determining functional strategies to improve the quality of Nigerian elections. But the reality is that INEC independence exists in the attachment of “independent” to its name. It has not truly demonstrated its independence in providing a level playing ground for parties and their candidates seeking to gain power through elections. It has not also ensured that all eligible Nigerian voters have the opportunity to cast their ballots for any candidates of their choice and seamlessly allowed all participants (parties, candidates, voters, and observers) to be involved in the electoral process. The 1999 CFRN on which basis INEC derives the legal impetus for its existence, contains various crisis-ridden and ambiguous provisions, which Nigerian politicians leverage to hold it hostage and interfere in its electoral operations. The fact that Nigeria operates a multiparty competitive electoral system predisposes the need for INEC to maintain a high level of independence driven by people of high moral standards to ensure that election outcomes are a reflection of the choices made by the electorate through the ballots. Today, many Nigerians have serious misgivings about Nigerian elections regarding the constitutional provision which empowers the president to appoint principal officers of the INEC. This constitutional INEC design delinks the institutional INEC independence from its operational independence, which existence is determined by the government. With this design, elections in Nigeria have charges of partial implementation of electoral rules, result alterations, snatching of election materials, arrest and kidnapping of poll staff, manipulation of the electoral process, vote buying, and violent disruption (Electoral Reform Committee, 2008; Olaniyan, 2020). The various INEC intervention programmes such as bottom-up and top-down election sequences, reliance on academia, legislative reforms, and introduction of new technologies are undermined by government interference.⁸ The study queries the voter turnouts because the basis (voter register) on which it is measured is questionable. Cases of

underage voters, double registrations, and infiltration with names of dead people and foreigners surround the register in Nigeria (Vanguard, 2022; NCS Situation Room, 2015; EU EOM, 2015).

Again, INEC does not have any database to identify Nigerians with party affiliation to enable it to ascertain the affiliation status of its ad-hoc staff before their engagement in election management. In the absence of this database, one can conveniently make a logical case that the retinue of INEC adhoc staff is mostly party loyalists who can subtly operate within the system to help politicians to influence the electoral process, determine its outcomes, jeopardize the credibility of the process, and shrinks the public confidence to stunning lows. These findings underscore the need for voter-driven electoral reforms since government-determined ones have not addressed the fundamental problems with the electoral system in Nigeria.

Conclusion and Recommendations

The president exercises these powers by appointing government officials and determining their remunerations. In so doing and because institutions in Nigeria are relatively weak to check the excesses of some strong Nigerian politicians, the president appoints and also influences how INEC principal officers discharge their statutory election functions. Instructively, this study does not claim to offer a one-swoop explanation of the myriad of electoral problems facing democratic operations in developing countries by exposing the enduring systemic interference in election management in Nigeria. It leaves other plausible explanations in the domain of further studies. Such studies should explore other factors and explain why the various legislative reforms in Nigeria as elsewhere have failed to address the fundamental problems relating to EMB's operational independence, logistics arrangements, and/or budgeting challenges.

In view of the foregoing, there is need for constitutional amendment to guarantee the independence of INEC. There is need for INEC to receive funding directly from the consolidated revenue account. The appointment of the INEC personnel should not be done by president as this will remove some of the influences he has on the Commission.

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