

European Union Election Observation Mission Reports, Electoral Reforms and Credible Elections in Nigeria, 1999-2019: Implications for Future General Elections

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Abstract

International election observation in Nigeria is a democratic peer review exercise designed to assess and evaluate the conduct of elections in Nigeria with a view to correcting existing anomalies and moving the nation's democracy forward. But the essence of this exercise seems defeated as both the electoral reforms and the conduct of elections in Nigeria since 1999 appears not to have reflected the recommendations of the international election observers. It is against this back drop that this study examines the European Union Election Observation Mission's Reports in relation to electoral reforms and the conduct of credible elections in Nigeria. The study set out to investigate whether the observations of the EU-EOM actually reflect the democratic anomalies prevalent in Nigeria's elections or not; to examine whether there is any relationship between the recommendations of the EU-EOM and the various electoral reforms in Nigeria or not; to ascertain if the implementation of the electoral reforms will adequately address the democratic anomalies observed by the EU-EOM in Nigeria's elections or not. Using the content analysis techniques and in the light of the liberal democratic theory, it is argued that though the observations of the EU-EOM actually reflect the democratic anomalies in Nigeria's elections, there seems not to be any serious relationship between the recommendations of the EU-EOM and the various electoral reforms in Nigeria; as such, the conduct of credible elections in Nigeria still remains unrealistic. Thus, in order to enhance the conduct of credible elections in Nigeria, the recommendations of the EU-EOM need to be adequately reflected in the electoral reforms and effectively implemented.

Keywords: European Union, Mission's Reports, Election observation, Electoral Reforms, Credible Elections.

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I. Introduction

The conduct of elections in Nigeria has been closely observed by international election observers in 1999, 2003, 2007, 2011, 2015, and 2019. The various international election observers include but not limited to The Jimmy Carter Foundation, NDI, EU-EOM, etc. The EU Election Observation Mission was implemented as a joint project of the European Union and UNDP. In the various elections, they made various observations requiring both national and international attentions for adequate reforms to improve the conduct of elections as well as foster democracy in Nigeria. Many domestic election observer organisations, namely Transition Monitoring Group (TMG), Justice, Development and Peace Commission (JDPC), the Federation of Muslim Women's Associations of Nigeria (FOMWAN), Muslim League for Accountability (MULAC), Labour Election Monitoring Team (LEMT), conducted an excellent election observation. The EU was invited in February 2003 by the Nigerian government to observe the elections of April and May. In 2007, the EU was invited by the Independent National Electoral Commission (INEC), hence the European Union (EU) established an Election Observation Mission (EOM) with a mandate to conduct a comprehensive assessment of the electoral process in accordance with international standards for democratic elections.

The EU-EOM Elections Observations in Nigeria's 1999 General Elections

The EU-EOM and The Jimmy Carter Foundation observed the conduct of elections during transition to Democracy in 1999. The elections took place on December 5, 1998 local government council election; January 9, 1999 Governorship and State Assemblies Elections; February 20, 1999 National Assemblies Elections; and

February 27, 1999 Presidential Election. There were 66 members drawn from 12 countries that observed 335 polling units in 20 out of the 36 States of the Federation. These observers added to the 10,000 domestic election observers drawn from the 64 Pro- Democracy Groups across the country. These observers collectively noted that Registration of voters, held Oct. 5-19, 1998, had logistical problems that would hamper INEC's efforts at every subsequent stage of the election process; these included Shortages of materials, delays in the opening of registration centers, poorly trained officials, and attempts by political party agents to manipulate the process (EU-EOM, 1999; The Carter Center, 1999). Eventually, 57,369,560 voters officially registered did not reflect the expectations based on the nation's census count. Although the observers noted that the elections were relatively free and fair, there were several cases of "inflated vote returns, ballot box stuffing, altered results, and disenfranchisement of voters "(EU-EOM, 1999; The Carter Center, 1999). Consequently, President Carter signed a letter on behalf of The Carter Center that was sent to INEC Chairman Akpata; it stated as The EU-EOM (1999) and The Carter Center (1999) cited that:

There was a wide disparity between the number of voters observed at the polling stations and the final results that have been reported from several states. Regrettably, therefore, it is not possible for us to make an accurate judgment about the outcome of the presidential election.

Hence, the Carter Center and the National Democratic Institute for International Affairs recommended as follows: Promotion and strengthening of strict enforcement of Nigeria's electoral laws and regulations, based on a just and representative constitution, to prevent fraud and increase confidence in democratic institutions and processes; Ensuring that ruling and opposition parties work cooperatively to establish common rules of democratic conduct; Supporting local nongovernmental organizations and other civic-minded groups to play a watchdog role in safeguarding democracy; Emphasizing federalism and local government authority and providing for a reinvigorated judiciary to maintain the rule of law; Integrate the military into a democratic society and develop the mechanisms and knowledge among civilian leaders to oversee and manage security affairs (EU-EOM, 1999; The Carter Center, 1999).

The EU-EOM Elections Observations in Nigeria's 2003 General Elections

The 2003 general elections were conducted on 12th April 2003 (National Assembly); 19th April 2003 (Presidential and Gubernatorial elections); 3rd May, 2003 (State Assembly Elections). The elections were contested mainly by three major political parties, namely: Peoples Democratic Party (PDP); All Nigerians Peoples Party (ANPP); and Alliance for Democracy (AD). The EU Election Observation Mission consisted of eleven core team members: 38 Long Term Observers (LTOs), and 62 Short Term Observers (STOs - 51 coming from Europe and 11 locally recruited in the country from the staff of EU member states embassies). The European Parliament was present with a delegation of one MEP and one EP staff during the Presidential and Gubernatorial elections on 19 April. The total strength of the mission on the three Election Days varied between 108 and 118 persons. The European Union Election Observation Mission categorized their observations in terms of the:

- legal framework,
- election administration structures,
- conduct of the elections, and
- Media Monitoring

In relation to the legal framework, EU-EOM noted that "only candidates and political parties can file Election Petitions and no viable opportunity is given to address electoral malpractice for other interested parties, like voters" (EU-EOM, 2003). In the area of election administration structures, EU-EOM observed that the electoral authorities lack "independence" because (i) the appointment and removal of members of the electoral commissions at national and state levels rest with the ruling political executives; (ii) the electoral Commission lack autonomous sources of fund, and as such largely depend on the financial benevolence of the ruling political executives; (iii) administrative disconnect between the Independent National Electoral Commission (INEC) and the State Independent Electoral Commissions (SIECs) which distorts effective and consistent implementation within the States of the directives issued by the Headquarters. Regarding the conduct of the elections proper, EU-EOM pointed out that the elections were characterized by: inconsistencies in the total number of registered voters (from 67.9 million applications, only 60.8 million were accepted in the final register which fueled suspicion), late distribution of voters cards which occasioned relative disenfranchisement, late release of voters' lists, ballot box stuffing, multiple voting, forgery of results, and election related violence which resulted in 105 deaths of people (EU-EOM, 2003). On Election Day, the main problems included late opening of most polling stations, lack of secrecy of the vote and in certain areas elections did not take place. Some observers witnessed serious irregularities in the collation of results; In many instances, the announcement of electoral results remained incomplete and insufficiently detailed. In particular, the publication of official results did not include the number of registered voters. In certain States where results were made available, substantial discrepancies were recorded between votes cast for the Presidential and for the gubernatorial elections. In terms of Media

monitoring, although the media have the obligation of providing impartial and unbiased information to the electorate, this role was impaired by three major factors contrary to the standards set by the Electoral Law and the National Broadcasting Commission; the factors are: *power of incumbency, party finance, and poor economic conditions of the print media* (EU-EOM, 2003). It was observed that Federal and State-owned media were biased in favour of the parties and candidates in power throughout the elections; the more viable private media gave preferential attention to political parties that could finance their services; editorial and professional standards were clearly demoted in favour of commercial gain, as a result of the poor economic condition of most newspapers. In view of the foregoing observations, the EU-EOM (2003) recommended as follows:

i. Total review of the legal framework to remove inconsistencies and to provide for a better conduct of elections, in particular (a) introduction of provisions guaranteeing INEC's independence with regard to appointment and removal of key personnel as well as funding, (b) a merger of the dual structure of Resident Electoral Commissioners (RECs) and State Independent Electoral Commissions (SIECs) in order to increase institutional capacity of the election administration.

ii. With regard to the election administration, the main recommendations are: (a) Implementation of a permanent electronically based voter register including a central database and improved voters cards, (b) improved transparency of INEC activities, in particular better communication and service provided by INEC for political parties and candidates.

iii. Proper investigation and adequate punishment of all persons directly or indirectly involved in the perpetration of electoral irregularities, fraud, and violence.

iv. With regard to the media, EU-EOM recommended that National Broadcasting Commission should use its powers transparently and impartially to sanction media conduct which violates the law.

The EU-EOM Elections Observations in Nigeria's 2007 General Elections

The 2007 general elections were conducted on 14th and 21st April. The elections for State Governors and 990 Legislators in the 36 State Houses of Assembly were held on 14 April 2007; while elections for the President, 109 Members of the Senate and 360 Members of the House of Representatives took place on 21 April 2007. The EU EOM was led by Chief Observer Mr. Max van den Berg (Netherlands), Member of the European Parliament, and consisted of 11 Core Team experts, 66 Long Term Observers and 60 Short Term Observers from 21 EU Member States as well as Norway and Switzerland. The Team undertook observation in 33 of the 36 States plus the Federal Capital Territory (FCT). The general observation was that "the 2007 State and Federal elections fell far short of basic international and regional standards for democratic elections". Precisely, the observations of the EU-EOM (2007) could be categorized with respect to the:

- Legal framework,
- Voters registration,
- Transparency and Accountability,
- Election administration structures,
- Conduct of election,
- Media monitoring.

In terms of the *legal framework*, the EU-EOM noted that though the Electoral Act 2006 contains some improvement in comparison to the Electoral Act 2002, the EU-EOM observed uneven playing field for candidates and parties; the incumbent candidates and parties were observed to have misused state resources to take advantage of the electoral process at the expense of the opposition at both state and federal levels (EU-EOM, 2007). In relation to the *voter registration*, the exercise was observably marred by delays due to lack of direct data capturing machines, technical break downs and establishment of illegal voter registration centres. As a result, the quality of the final voter register was poor. Besides, permanent voter registration cards were not issued due to the late publication of the final voter register. Meanwhile, it was noted that the Independence of INEC from the executive was not established due to the fact that presidential involvement in the appointment of INEC Commissions was retained (EU-EOM, 2007). Consequently, the *election administration structure* was jeopardized; the EU-EOM noted that independence of INEC from the executive was not established due to: (i) the fact that the appointment of INEC principal officer was retained by the president. (ii) INEC was largely dependent the political executives for its fund. Essentially, INEC was responsible for administrative failure on a nationwide scale; (iii) INEC was selective and inconsistent in the application and enforcement of the electoral legislation; (iv) INEC unnecessarily delayed the accreditation of both domestic and international election observers; this restricted the oversight role they could play as most domestic observer groups only received accreditation cards on the day before the state elections, and the number of cards issued to them were insufficient (EU-EOM, 2007). The *conduct of the elections* was reported as being marred by irregularities and fraud ranging from lack of equal conditions for political parties and candidates, late arrival of polling officials and materials, incomplete polling materials, incorrect printing of ballot papers, under-training of polling staff, understaffing of polling stations, late starting of polling throughout the country, payment to potential voters,

under-age voting, double entries, missing and blurred pictures of voters, vote buying, ballot box stuffing, multiple voting, intimidation of voters, widespread voter disenfranchisement, alteration of official result forms, and stealing of sensitive polling materials (EU-EOM, 2003). In terms of the *media monitoring*, the EU-EOM (2007) acknowledged that the media expanded the scope of operations and became more vibrant; the presidential contestants and their parties were given equal access to discussion programmes, aired on state as well as private broadcast media, facilitating informed choices of voters. On the contrary, the media failed to adhere to the legal requirements to provide balanced coverage by state-owned media which showed bias in favour of the incumbent party; while the broadcast media focused on a small number of parties only. Observably, journalists were able to operate in an environment of relative freedom, given the systematic weaknesses that characterize the media sector. Meanwhile, the EU-EOM also observed that violence was a major issue of concern in the elections; this submission was based on available credible reports which indicated that at least 200 people, including some electoral candidates and police officers were killed in election related incidents of violence (EU-EOM, 2007). Essentially, transparency and accountability in the collation and publication of results, which required polling station results to be publicly displayed at all levels of the counting and collation processes were not done, thereby leaving the electoral process wide open to fraud; the voter register was not displayed at local level as required by the law and was only partly posted prior to election day for orientation purposes only. Hence, despite assurances by INEC, polling station result forms were not displayed at polling stations or superior levels of the election administration; also, at the time of the announcement of the result of the presidential election, some state presidential results had not been compiled or transferred to the INEC headquarters in Abuja. All this combined to cast doubt on the integrity of the results and the EU-EOM submitted that the process cannot be considered to have been credible especially given the lack of transparency and evidence of fraud, particularly in the result collation process, which eroded confidence in the results of the elections. Hence, the EU-EOM (2007) recommended as follows:

i. **Legal Framework:** In respect of the legal framework, the EU-EOM recommended (a) amendment of the Constitution, or complementing the national legal framework to ensure full adherence to the principles of political rights and freedoms related to elections contained in declarations, conventions, protocols and other instruments adopted by the UN, AU, ECOWAS and the Commonwealth; (b) institutionalised people including those in hospital as well as soldiers, security personnel and prisoners in the voting process; (c) amendment of the Electoral Act to ensure secrecy of the vote for tendered ballots; (d) outlining the responsibilities of INEC and the judiciary in the process of candidate nomination and disqualification in the Electoral Act; (e) removal of the legal provision which prevents independent candidates from contesting elections; (f) revision of Indictment as a ground for disqualification given the tendency for abuse and victimisation of political opponents; (g) amendment of the Electoral Act 2006 to stipulate the number of signatures required to be nominated as a candidate.

ii. **Voters Registration:** For Voters Registration, the EU-EOM recommended that: (a) INEC should improve on the voter register by removing double registration, under age entries, entries without pictures and other shortcomings with a view to ensuring public and political confidence at all stages of elections in Nigeria; (b) there should be a comprehensive public verification period of the voter register in good time prior to the local government elections to provide eligible voters with the opportunity to transfer their registration, scrutinise the voter register for false entries and register for the first time; (c) INEC should display the voter register at voter registration centre level; and issue Permanent voter registration cards once the process is concluded; (d) INEC should ensure that each polling station has a manageable number of registered voters, at most 750, to avoid congestion and delays on polling days;

iii. **Conduct of Elections:** regarding the conduct of election, the EU-EOM is of the view that: (a) Voting booths should be used in all polling stations and procedures to ensure the secrecy of the votes; (b) INEC should ensure that polling station officials allow voters waiting in line at the close of polling to vote;

iv. **Transparency and Accountability:** In this regard, the EU-EOM recommended that (a) INEC meetings, decisions, and publication of detailed polling station results at all levels of the election administration should neither be hidden nor delayed; (b) Political parties should be provided with copies of the voter register in a timely manner and, a full breakdown of figures should be published. (c) system for the nomination and appointment of INEC Commissioners and Resident Electoral Commissioners (RECs) should be transparent; (d) Complaints, appeals and petitions procedures should be enhanced to ensure clear, effective, transparent and timely processes for election stakeholders; (e) The Freedom of Information Bill should be adopted and duly implemented to provide a higher degree of transparency and accountability of public sector.

v. **Media Coverage:** In terms of media coverage, the EU-EOM recommended that: (a) The mass media provides equitable access, coverage, and airtime to political parties and candidates during the campaign period; (b) Prior to elections, state media should provide the electorate with an impartial and accurate voter education campaign, aired during peak viewer/listener times, informing voters in detail about the voting process; (c) NBC's structure should be modified in order to foster its institutional, functional and financial independence to be able to guarantee that the media cover elections according to the principles of fairness, balance and

impartiality; (d) State-owned media should be given greater editorial independence through the concept of public service broadcasting to guarantee principles of public interest and editorial integrity; (e) Nigerian authorities should undertake constructive measures to further liberalize the media sector, including encouraging the establishment of community radio stations.

The EU-EOM Elections Observations in Nigeria's 2011 General Elections

The 2011 general elections were held on 9 April for the National Assembly (Senate and House of Representatives); on 16 April, election for the Presidential office was held; and on 26 and 28 April, and 6 May elections for Governorships and State Houses Assembly were held. The elections were contested by 63 Political Parties at different levels; but the major political parties were PDP, ACN, CPC, and ANPP, while at state level, other parties were also active, such as the Labour Party (LP), and APGA etc. The EU EOM led by Chief Observer Alojz Peterle, a Member of the European Parliament was invited by the Independent National Electoral Commission; the team comprised 141 observers who were deployed to all the States and the Federal Capital Territory (FCT). The observers originated from the 27 EU Member States, as well as from Norway and Switzerland. The EU observers made 1,684 visits to polling units and observed the accreditation, voting and counting, and collation of results at 309 Centres at ward, Local Government Area (LGA) and higher levels. The major observations of the EU-EOM revolved around: the legal framework, voters registration, conduct of elections, Transparency and accountability, as well as media coverage (EU-EOM, 2011). . The EU-EOM (2011) observed that the **legal framework** for the 2011 General Elections provided an adequate basis for the conduct of democratic elections in accordance with international principles and with the international instruments ratified by the Federal Republic of Nigeria; for instance, the June 2010 amendment of the 1999 Constitution brought significant improvements on the financial autonomy of INEC and the introduction of the prerequisite for INEC's Chairperson and National Commissioners not to be members of a political party. But the legal framework was still replete with observable inconsistencies in implementation. In June 2010 the National Assembly and the State Houses of Assembly approved the first amendments to the 1999 Constitution, but the amendments failed to introduce some of the ERC's recommendations, such as the *independent appointment of the Chair of INEC and the Resident Electoral Commissioners (REC), the establishment of an Electoral Offences Commission, a Political Parties Registration and Regulatory Commission, and provisions for independent candidates to run for office* (EU-EOM, 2011).. The Chairman's resolve to adhere to election regulations was not always supported by the performance of the remaining INEC structure. For instance, contrary to INEC instructions, simultaneous accreditation and voting was observed in numerous polling units throughout the country for all the election days. This confirmed the lack of control that INEC headquarters experienced in their efforts to implement electoral procedures consistently. Besides the legal framework, **voters registration** was another vital aspect of the election observation. Despite tight schedule and logistical challenges to cover an estimated 70 million voters, Voter registration started on 15 January 2011 in all 36 States and the FCT, and was initially planned to run for 15 days. Approximately 240,000 ad hoc staff was recruited and trained, mostly enrolled from the National Youth Service Corps (NYSC). Owing to logistical challenges, the registration was extended for another week. On 2 March, INEC released the certified register: 73,528,040 voters (EU-EOM, 2011). Unfortunately, the voters' register held by INEC on Federal and State levels varied; there were inaccuracies regarding numbers of registered voters that were not corrected and omissions of names on the list, multiple registrations. Meanwhile, INEC declared to have identified 870,612 duplicate entries but it is not known whether those duplicates are due to registration errors or deliberate illicit registration attempts (EU-EOM, 2011). The **conduct of the elections** was characterized by underage voting especially in Northern Nigeria, inclusion of non-eligible citizens; Stakeholders and the general public seemed not to have complete confidence in the voters' register, but generally conceded that it represented a considerable improvement in respect to what had been previously available. Voting was organized in separate phases: one in the morning for the accreditation of registered voters and another in the afternoon for voting; this was expected to reduce the spate of rigging (EU-EOM, 2011). In terms of the **media coverage, the electoral act of 2010** stated that "media time shall be allocated equally among political parties or candidates". But this provision was not effectively implemented; the state-owned media dominated the broadcasting sector with the only exception of Lagos area, where commercial broadcasters capture the largest percentage of the audience. In the print media, privately owned press prevails (EU-EOM, 2011).. As in other sub-Saharan countries, radio is the most influential media. The freedom of speech was generally respected during the campaign period; but the Freedom of Information Bill that aims to guarantee each and every citizen's right to freely access public records remained pending in the legislature since 1998. Notably, the state-owned media was dominated and controlled by the ruling party, PDP at the expense of the opposition parties (EU-EOM, 2011).

In view of the foregoing observations in the 2011 general elections, the EU-EOM (2011) recommended Prompt prosecution of people involved in election-related violence and offences; amendment of the constitution to introduce a transparent, inclusive and accountable system so that the INEC's Chairperson, INEC's National Commissioners and Resident Electoral Commissioners would be nominated and appointed

through an independent process as opposed to the current Presidential appointment.; amendment of the constitution to allow for independent candidates to run for office, in conformity with international principles for democratic elections; publication of official results broken down to polling unit, collation centres, wards and constituencies and states where applicable; Improved and timely training for all election staff; improvement on the quality of the voters' register by thoroughly crosschecking double registration entries, continuous updating of the voters' register; sufficient allocation of staff and resources at State and lower INEC levels; revision and strengthening of INEC's voter and civic education programmes; establishment of efficient media monitoring unit in all states of the federation by the National Broadcasting Commission (NBC) in collaboration with INEC to ensure broadcasters' compliance with the legal provisions.; Government should strengthen efforts to implement the National Gender Policy which provides for a minimum of 35 percent representation of women at all levels of political participation; reasonable, specific and adequate time limits should be included in the legal framework for the timely and effective filing, consideration and decision of petitions prior to elections; the Electoral Act should be amended to allow voters, domestic observers or other national election domestic stakeholders to file election complaints and petitions in all areas of the election process etc.

The EU-EOM Elections Observations in Nigeria's 2015 General Elections

The 2015 general election was also observed by the EU-EOM led by Santiago Fisas, a Member of the EU Parliament, Spain. The team observed the election from the party primaries to the post-election period. The EU-EOM had nine (9) analysts and 30 long-term observers deployed across the country. For the 28 March election, the mission was composed of over 90 observers from the EU Member States. The observers visited 357 polling, counting and collation units in 76 L.G.A. in 19 States; but for the April Election day, the Mission composed of 58 observers from 24 EU Members who visited 315 polling, counting, and collation units in 71 L.G.A. of 18 states. The observations made were mainly in the areas of *legal framework, voters registration, election administration, media coverage, transparency and accountability.*

The EU-EOM (2015) observed that except for the passing of the Freedom of Information Act in May 2011, the legal framework had not changed despite various legal reforms and initiatives. The legal framework is arguably not fully in line with universal and regional standards for elections committed to by Nigeria; this include: lack of provision for independent candidacy, insufficient campaign finance regulations, weak transparency requirements for the publication of results; as well as voters and civil society organizations inability to file petitions against the results; lack of institutional independence. Although the judiciary made serious efforts to provide timely administration of justice for the high volume of petitions, it was hindered by (a) lack of time limits for filing and adjudication of election suits, and (b) loopholes allowing lawyers to delay cases unnecessarily. This left majority of the cases pending before the courts thereby compromising the right to a timely remedy. Although no petition was filed against the outcome of the presidential election result, there were 255 petitions against the National Assembly results which challenged voting, counting, and collation processes as well as qualification and improper nomination during party primaries.

In terms of voters registration, the EU-EOM (2015) reported that though the Independent National Electoral Commission (INEC) attempted to improve the integrity of voters registration and identification by introducing biometric measures, they were limited by the (a) poor quality of biometric data capture; and (b) weak fingerprint recognition rate during polling. Nevertheless, INEC reported registering 68.8 million voters which is an estimated 78% of the total voting age population with approximately 82% of registrants PVCs being collected. In 11 states, over 92% PVC collection was reported; but this is not credible given that the dead had not been removed from the list since 2010. It was further regrettably observed that up to 100,000 PVC which were necessary for voting were not produced a day before the 28 March 2015 elections (EU-EOM, 2011). Thus, the EU-EOM noted that while the introduction of PVCs and Card Readers had been effective in increasing the reliability of the voter register and reducing opportunity for fraud, their impact had been limited by the seemingly poor quality of biometric data capture and weak fingerprint recognition rate during polling.

The election administration recorded highly competitive atmosphere characterized by incidents of violence, abuse of incumbency at state and federal government levels and attempts at manipulation. Also, systemic weakness and procedural shortcomings were recorded during collation and from analysis of polling unit results. But no centralized system fraud was observed. Meanwhile, 160 people died in election-related violence; the use of Card Readers deterred fraud by requiring use of a genuine PVC, but biometric voter identification was problematic and resulted in the use of manual process which increased opportunity for fraud (EU-EOM, 2011).

The 2015 general elections were covered by about 200 radio stations; 150 television channels; 400 print media outlets and the internet. The State-owned media were however controlled and dominated by the incumbents at the expense of their political opponents. Generally, the media lacked (a) editorial independence (b) financial independence (c) safeguards of journalists (d) freedom of expression. The various Media outlets gave a variety of views; while government-controlled media failed to provide legally required equal coverage; instead, they clearly advantaged the incumbents (EU-EOM, 2011).

In terms of transparency and accountability, the collection, collation, and announcement of election results were seen as the weakest part of the polling process. In other words, the entire polling process was marred by lack of transparency and accountability as there were: no requirements for the distribution and display of copies of voting point result forms; no double-blind data entry during collation; an insufficient system for dealing with anomalies or suspicious results, no requirements for display of polling unit results at the first level of collation; thereby breaking the chain of results data, compromising stakeholders ability to check the veracity of announced totals (EU-EOM, 2011). Given that once results are announced, it can only be changed through judicial procedure, speed of results declaration was given priority over the thoroughness and credibility of the process.

The EU-EOM Elections Observations in Nigeria's 2019 General Elections

The 2019 general elections in Nigeria were conducted on 23rd February and 9th March for the Presidential/National Assembly Elections and Gubernatorial/State Houses of Assembly respectively. The EU-EOM was as usual invited by INEC to observe the conduct of the elections. A total of 148 foreign observers and 119 domestic observers were on ground. The EU-EOM was mandated to observe: the legal framework, voters registration, election administration, media coverage, transparency and accountability. On the election day, 9th March 2019, 73 EU Observers followed the opening, voting, and closing processes at 223 polling units, and the collation of results at 81 Centres across 22 States.

The EU-EOM (2019) observed meaningful changes in the legal framework since the last elections and they include: reduction in *minimum age requirements* for candidacy which enhanced more inclusive participation; *time-limits* for pre-election cases which improves opportunity for meaningful remedy. There was high degree of legal uncertainties as majority of the 640 pre-election cases arising from the 2018 Party primaries were not resolved before the election day. Regarding petitions, there are protracted time frames for postelection petitions: submissions are required within 21 days of the declaration of results, judgements within 180 days, and appeals disposed of within 60 days. The lengthy process is based on the need for petitioners to provide proof beyond all reasonable doubts with long and complicated evidence requirements involving INEC documents which are often hard to obtain. Besides, some *cases were lodged at multiple courts* with consequent *overlapping judgements* which created challenging confusions (EU-EOM, 2019). The suspension of the Chief Justice of Nigeria, Walter Onoghen, three weeks to the election day also generated ripples of constitutionality and crisis of confidence in the actions taken especially in relation to the process and timing of the suspension. Above all, attempts to amend the electoral act were unsuccessful and some legal shortcomings continued.

In terms of voters registration, there were over 84 million voters on the voters' register, including 14.3 million new registrants. However, the total figure includes a sizeable number of voters who have died over the last 8 years (EU-EOM, 2019). Meanwhile, INEC made efforts to facilitate the collection of PVCs, but the EU observers noted some logistical problems which hampered the collection such as non-provision of public data on PVC collection until 21st February 2019. The EU-EOM (2019) observed considerable variation between states in the number collected with some implausibly high as some states had up to 94% collection or more.

The observation of EU-EOM (2019) on election administration indicated generally that it was not quite free and fair though relatively peaceful. The elections were conducted in a complex security and politically-charged environment. Prior to the elections, INEC identified various risks, including: Physical attacks on INEC staff and facilities, as well as attacks on security personnel on election duty (EU-EOM, 2019). Improvements observed by EU-EOM in election administration included: more accessible electoral participation through faster voting process; strengthening the use of smart-card readers especially to record votes of voters manually identified if fingerprints were not recognized; enhanced secrecy of ballots to mitigate risks of votes-buying (change in polling unit layout, new method of ballot folding, ban on use of mobile phones in voting booths). Notably, training of polling staff was often late, overcrowded, and without sufficient copies of the manuals. Training on the smart-card readers sometimes took place without the devices, thereby precluding opportunity to practise. The conduct of the elections featured: late opening of the polling units which left voters waiting for hours, when polling units opened, essential electoral materials were missing; ballot boxes were not sealed; on some occasions, voting continued even when smart-card readers malfunctioned; secrecy of votes were not sufficiently protected; voters' register were not ticked as required, manual authentication procedures were not correctly followed when a smart-card reader was unable to recognize voters fingerprints; Violence prevailed despite the deployment of 350,000 police officers and 60,000 Civil Defence Officers and about 20 to 35 people were killed (EU-EOM, 2019).

The media coverage of the 2019 general elections was described as fair though there were observed hitches. The Federal government-owned media like the Federal Radio Corporation of Nigeria (FRCN) and the Nigerian Television Authority (NTA) as well as leading commercial broadcasters at national and regional levels, equitably divided airtime between the APC and PDP. The media creditably conducted: lively *talk shows* and *fact-checking projects* which assessed candidates' statements against statistical data and economic viability; this added to voters awareness and public accountability. Nevertheless, there were key obstacles to the freedom

of the media which include: (i) *vague legal provisions*, (ii) the media's *financial dependence* on government advertising especially at state level, (iii) *cumbersome and costly licensing requirements* for broadcast media. Generally, the media coverage was characterized by (a) *partisan programming*: the federal government-owned NTA, State-run media, and local commercial radio stations owned by politicians were all partisan in covering election-related activities in favour of the government, party or candidate in control; for instance, during the EU-EOM's 32 day monitoring, President Buhari had *two hours* and *eight minutes* of direct speech within the news while Atiku Abubakar had only *seven minutes* (EU-EOM, 2019); (b) *Blurred line between governing and campaigning*: the media coverage did not show any clear-cut difference governing and campaigning because half of NTA news featured the President's institutional activities, while many public service announcements promoted federal schemes correlated with 2015 campaign promises of the sitting President; (c) *Control of the Media by Incumbents*: the EU-EOM (2019) also observed that most state-owned and state level media especially radio stations and television channels monitored, served the interests of the incumbent governor; 8 out of 9 stations afforded up to 85% of their news to the governor and the presidential candidate he endorsed. This negatively affected voters' access to independent reporting particularly in areas without commercial channels. (d) *Denial of Access to the Media*: there were several cases of candidates being denied access to radio broadcast which culminated in the consequence that voters had limited access to diverse information needed to make informed choice; (e) *Self-Censorship*: the reporting environment was stifled through intimidation by security and regulatory agencies. For instance, the military and other security actors temporarily closed the Daily Trust's Offices in Abuja and Maiduguri on 6th January; similarly, the Nigerian Broadcasting Commission (NBC) issued intimidating Warnings to 4 leading TV news Channels over alleged hate speeches in paid-for programmes; journalists were also harassed in some fiercely contested states; (f) *lack of specific data protection laws*: this leaves personal data collected by various state institutions including the Nigerian Communications Commission (NCC) and the Independent National Electoral Commission (INEC) , vulnerable to potential abuse; (g) *Distorted use of digital communication platforms*: although the online media and social networks were important platforms to impart and access information, social influencers manipulated the process by creating multiple twitter accounts through which they amplified partisan messages either to support the sponsor or attack opponents; sometimes, the messages sent to voters were unsolicited and the comments found to include some inflammatory language along party, regional, and ethnic lines. All this resulted in rampant *disinformation* that confused and misled voters with negative implications for electoral success and risks of violence (EU-EOM, 2019).

Transparency and accountability in the 2019 general elections was relatively stifled as there was general lack of public information especially from the Independent National Electoral Commission (INEC). Notably, there were evident problems in completing result forms and they were not publicly displayed in half the counts observed thereby weakening transparency. Although the counting of individual ballots was often undertaken in public view, result forms were not completely filled out while result forms did not reconcile and were not publicly posted thereby reducing transparency and accountability. More so, there is lack of public information on INEC *decisions, plans and materials*; for instance, while political parties and voters were getting ready for the elections on 16th February, 2019, it was postponed barely five hours to the opening of the polling for reasons of inadequate logistics (EU-EOM, 2019). Even the online digital communication platforms could not be assessed by the EU-EOM due to lack of transparency.

ELECTORAL REFORMS IN NIGERIA, 1999 - 2019

The various electoral reforms in Nigeria were anchored on the three main electoral acts of 2001, 2002, 2003 (amendment), 2006, and 2010. The various electoral acts and reforms are rooted in the recommendations of various election observation reports and electoral reform committee reports. Some of the recommendations include those of the European Union Election Observation Mission (EU-EOM) for the various election years; as well as the recommendations of different electoral reform committees set up government like the 2007 Justice Mohammed Uwais Electoral Reform Committee.

Electoral Reform in Nigeria from 1999 to 2019 started with the "transition decrees " issued by the military regime based on which the 1998 local elections and the 1999 State and national elections were conducted. Members of the National Assembly elected were tasked to draft electoral laws to guide future elections (Akinduro, 2012). The 2001 Electoral Act was the outcome of the National Assembly Draft; this however became object of political and legal controversial because the process was largely driven by the National Assembly. The 2001 electoral act was contested in court for two reasons: (i) The Abia State Attorney General contested that its bearing were on local government elections and therefore within the powers of the State Independent Electoral Commission; (ii) there were no inputs from INEC. Consequently, the 2001 Electoral Act was repealed, another bill was drafted that had inputs from INEC and also had bearing on state and national elections. This gave rise to the 2002 electoral act with new legal challenges because (a) INEC questioned the powers of the National Assembly to determine "*Order of Elections*"; (b) political parties challenged that the criteria provided in the act for party registration violated the right and freedom enshrined in

the constitution (Akinduro, 2012). These cases led to the amendment of the 2002 Electoral act which was later passed as the 2003 Electoral Act. After the 2003 general elections, INEC undertook a comprehensive postelection review exercise which resulted in the drafting and submission of the 2005 Electoral Reform Bill to address the gap in the previous legislation; hence, the outcome is the 2006 Electoral Act based on which the 2007 general elections were conducted.

After the 2007 general elections regarded as non-compliant with international standards by international observers and admitted by Late President Yar'Adua in his inaugural speech, the Justice Mohammed Uwais Electoral Reform Committee was set up. The Committee in its report identified the following factors as responsible for electoral irregularities, malpractices, disruptions, and violence: (a) the character of the Nigerian State as the arena of electoral contests; (b) the existence of weak democratic institutions and processes; (c) negative political culture; (d) weak legal/institutional framework; (e) lack of independence and capacity of electoral management bodies (Aiyede, 2012). Consequently, the Uwais Electoral Reform Committee among other things recommended: (i) removal of the power of the President to appoint and remove chairperson and members of INEC and giving it to the National Judicial Council; (ii) Mixed Electoral System comprising elements of proportional representation where parties that win 2.5% of seats in the National Assembly be considered for cabinet positions; gender balance, to reduce intensity of electoral competition; (iii) Establishment of Electoral Offences Commission to prosecute electoral offenders. The Committee prepared three draft bills: Amendment to the 1999 Constitution; Amendment to the Electoral Act 2006; and an amendment relating to the establishment of the Electoral Offences Commission. The recommendations of the Justice Mohammed Uwais Committee was reviewed by the Federal Executive Council and the National Council of States; the White Paper released rejected important aspects which include:

I. The removal of the power of the president to appoint and remove chairperson and members of INEC;

II. Incorporation of the State Independent Electoral Commissions into the Structure of INEC;

Instead, the President sent some electoral reform bills to the National Assembly requiring among others:

(a) A Bill increasing the membership and extending the tenure of members of INEC; this was thrown out by Senate because it required constitutional amendment.

(b) A Bill relating to the establishment of Political Parties Registration Commission; this was thrown out by the Senate because it involved unnecessary duplication of the function of INEC.

Eventually, the Electoral Reform as captured in the 2010 Electoral Act featured: (i) The funding of and qualification for membership of INEC; (ii) The announcement of election results at polling units; (iii) The 180-day deadline set for decisions by a tribunal on an electoral petition; (iv) A demand for Party Primaries to determine party Nominees; (v) Provision for the continuous registration of voters.

Table 1: Summary of EU-EOM Recommendations, Electoral Reforms, and Critical Remarks

Year	Code	EU-EOM Recommendations	Electoral Reform	Critical Remark
1999	1	Legislation of Electoral Laws	2001 Electoral Bill	The first electoral law
	2	Compilation of reliable voters register	Continuous Voters Registration exercise	Shortage of personnel and materials hindered it.
	3	Independence of Electoral Institution (INEC)	INEC chairman and Commissioners to be appointed by the President.	Nonpartisanship and impartiality of INEC is not guaranteed.
	4	Expansion of media Coverage and press freedom	Enhanced Media Coverage and Press Freedom	The enhanced media coverage is in principle than in practice
	5	Improve Transparency and accountability	Results to be declared at polling units	Results not declared at polling units.
2003	1	Make laws to enable other interested parties, like voters to file cases in court to address electoral malpractices.	Only candidates and political parties can file Election Petitions	no viable opportunity is given to other interested parties to address electoral malpractice.
	2	Powers to appoint and remove INEC Chairperson and members should shift from the Political executives to the National Judicial Council; INEC should have fiscal and administrative independence	Fiscal independence of INEC is captured	Administrative independence of INEC is not guaranteed because appointment and removal of Chairperson and members still rests with

				the Political executives
	3	Implementation of a permanent electronically based voter register including a central database and improved voters cards;	Provision for: continuous voter registration; restraint of serving government official from voting as delegates in party primaries	Inadequacy and malfunctioning of the electronic machines for voters registration; hence, unreliable voters register; non-inclusion of government official in voting as party delegates is upheld
	4	improved transparency of INEC activities, in particular better communication and service provided by INEC for political parties and candidates.	Electoral act provided for display of voters register and election results at all levels of voters registration; as well as counting and collation of results.	the voter register was not displayed at local level as required by the law; polling station results were not publicly displayed at all levels of the counting and collation;
	5	National Broadcasting Commission should use its powers impartially to sanction media conduct which violates the law	NBC empowered to sanction media conduct which violates the law	Law was not enforced as federal and state owned media favoured the incumbents and were not sanctioned.
2007	1	Review of the 2006 electoral act to (a) include institutionalised persons like security, health workers, prisoners etc in voting process; (b) ensure secrecy of the vote for tendered ballots; (c) clearly define the role of INEC and the Judiciary in the nomination and disqualification of candidates for election; (d) remove the legal provision which prevents independent candidates from contesting elections; (f) remove Indictment as a ground for disqualification given the tendency for abuse and victimization of political opponents.	The 2010 Electoral Reform Act captured mainly (a) the funding of and disqualification for INEC members; (b) the announcement of election results at polling units; (c) the 180-Day deadline set for decisions by a tribunal on an electoral petition; (d) party primaries to determine party nominees; continuous registration of voters.	Recommendations for institutionalised persons to vote, secrecy of votes, clear definition of the roles of INEC and Judiciary in nomination, independent candidacy, and removal of indictment as basis for disqualification were not captured in the 2010 electoral act.
	2	INEC should improve on the voter register by (a) removing double registration, under age entries, entries without pictures etc; (b) ensuring manageable number of registered voters, at most 750 per polling unit.	The 2010 Electoral Reform mainly captured a new biometric Register of voters.	The new biometric register of voters still had double registration, under age entries, entries without pictures; there was no additional polling units to reduce voting population per polling unit.
	3	(a) Powers to appoint and remove INEC Chairperson and members should shift from the Political executives to the National Judicial Council; INEC should have fiscal and administrative independence; (b) Voting booths should be used in all polling stations and procedures to ensure the secrecy of the votes; (c) INEC should	The 2010 Electoral Reform mainly captured (a) remodified Open Ballot System; (b) serial numbering and colour-coding of ballot papers, result sheets, and security	The independence of INEC was not guaranteed since the appointment and removal of the INEC Chairperson and members remained the function of the political executives.

		ensure that polling station officials allow voters waiting in line at the close of polling to vote;	coding of ballot boxes.	
	4	(a) Passing the Freedom of Information Bill; (b) INEC meetings, decisions, and publication of detailed polling station results at all levels of the election administration should neither be hidden nor delayed; (c) system for the nomination and appointment of INEC Commissioners and Resident Electoral Commissioners (RECs) should be transparent.	The 2010 electoral act captured more open and transparent procedures, modalities like pasting of voters register; pasting of results at the polling units and collation centres.	the voter register was not displayed at local level as required by the law; polling station results were not publicly displayed at all levels of the counting and collation.
	5	(a) The mass media provides equitable access, coverage, and airtime to political parties and candidates during the campaign period; (b) Prior to elections, state media should provide the electorate with an impartial and accurate voter education campaign; (c) Editorial Independence of the State-owned Media; (d) NBC's structure should be modified in order to foster its institutional, functional and financial independence to be able to guarantee that the media cover elections according to the principles of fairness, balance and impartiality;	The recommendations were captured except for NBC's structure to be modified in order to foster its institutional, functional and financial independence.	The media largely favoured the incumbents and the wealthy at the expense of the political opponents and politicians who cannot sponsor media coverage
2011	1	Amendment of the constitution and review of the 2010 electoral act to: (a) shift the responsibility of appointing and removing INEC Chairperson and members from the Presidency to the Judicial Council; (b) provide for independent candidacy; (c) provide for other interested parties to file cases in courts over election matters.	There was no amendment to the 2010 electoral act.	INEC Introduced some internal reform measures but did not address the desired legal components
	2	improvement on the quality of the voters' register by thoroughly crosschecking double registration entries, continuous updating of the voters' register	Compilation of Fresh Biometric Register of voters with Voter Identification Number (VIN), photo ID, and Fingerprints.	the voters' register held by INEC on Federal and State levels varied; there were inaccuracies regarding registered voters that were not corrected and omissions of names on the list, multiple registrations; INEC declared to have identified 870,612 duplicate entries.
	3	The electoral process should be improved upon to accommodate institutionalised persons and exclude underage voting as well as non-eligible citizens	The electoral reforms were mere reviews of what was already in place and did not address the recommendations precisely	characterized by underage voting especially in Northern Nigeria, inclusion of non-eligible citizens;
	4	publication of official results broken	Sorting and counting	Results were not

		down to polling unit, collation centres, wards and constituencies and states where applicable.	of results openly to be witnessed by voters, party agents and election observers; pasting copies of results in polling units and collation centres.	publicly declared, pasted, or broken down in polling units or collation centres.
	5	establishment of efficient media monitoring unit in all states of the federation by the National Broadcasting Commission (NBC) in collaboration with INEC to ensure broadcasters' compliance with the legal provisions.	Not Established	the state-owned media was dominated and controlled by the ruling party, PDP at the expense of the opposition parties without consequences.
2015	1	Amendment of the constitution and review of the 2010 electoral act to: (a) shift the responsibility of appointing and removing INEC Chairperson and members from the Presidency to the Judicial Council; (b) provide for independent candidacy; (c) provide for other interested parties to file cases in courts over election matters.	The 2010 electoral act was not reviewed for the 2015 general elections; but INEC made comprehensive reviews of its structure, policy, and plan	INEC introduced Strategic Plan (2012-2016); Election Project Plan; Election Management System; Smart Card Readers; Alternative Dispute Resolution Mechanism; Election Risk Management Tool; graphics design centre; review of election guidelines/litigation and court judgements that indicted either the commission or its staff;
	2	Improve the integrity of voters registration and identification.	Introduction of the Biometric Measures	The Biometric measures were limited by the (a) poor quality of biometric data capture; and (b) weak fingerprint recognition rate during polling.
	3	Improve the Electoral Process through reduction of malpractices like rigging, violence, abuse of incumbency, and punishment of individuals who commit electoral offences; accommodate voting by institutionalised persons and the Diasporas.	Existing electoral act already addressed electoral malpractices; but did not address the question of voting by institutionalised persons and Diasporas.	The elections were characterized by incidents of violence, abuse of incumbency at state and federal government levels and attempts at manipulation.
	4	Enhance Transparency and accountability through distribution and display of voters register and results at every polling units and collation centres as the case might be.	This has already been captured in earlier reforms; but enforcement has been challenging.	the collection, collation, and announcement of election results were seen as the weakest part of the polling process
	5	Need for efficient media monitoring unit in all states of the federation by the National Broadcasting Commission (NBC) in collaboration with INEC to ensure broadcasters' compliance with the legal provisions.	Passing of the Freedom of Information Act in May 2011; but the recommendations are not reflected.	the media lacked (a) editorial independence (b) financial independence (c) safeguards of journalists (d) freedom of expression. while

				government-controlled media failed to provide legally required equal coverage; instead, they clearly advantaged the incumbents
2019	1	Accenting to the Electoral Amendment Bill already passed four times by the National Assembly	President refused accent first on 13 th March and finally on 6 th December 2018	Refusal of the President to accent was based on the reason that any amendment to the Electoral laws close to election would bring confusion
	2	Buildup on the voters register to enhance confidence among voters and stakeholders.	Build-up on the 2015 voters register with additional 14.3 million new registrants	total figure includes a sizeable number of voters who have died over the last 8 years.
	3	Mandatory use of Smart Card Readers (SCR); enhance secrecy of votes at polling units; provision of adequate staff and materials for successful conduct of the election; proper accreditation of voters.	faster voting process; strengthened use of smart-card readers especially to record votes of voters manually identified if fingerprints were not recognized; enhanced secrecy of ballots to mitigate risks of votes-buying	Ballot boxes were not sealed; essential materials were missing; no protection of votes secrecy; procedure for manual authentication of voters not followed where SCR failed.
	4	Enhance public information on INEC <i>decisions, plans and materials</i>	No specific data protection laws in Nigeria; hence, personal data of voters were vulnerable to abuses	Transparency and accountability in the 2019 general elections was relatively stifled as there was general lack of public information especially from the Independent National Electoral Commission (INEC)
	5	Preventing key obstacles to the freedom of the media which include: (i) <i>vague legal provisions</i> , (ii) the media's <i>financial dependence</i> on government advertising especially at state level, (iii) <i>cumbersome and costly licensing requirements</i> for broadcast media.	That electoral reform bill that could address the recommendations was not accented to.	Media coverage featured (a) partisan programming; (b) Blurred line between governing and campaigning; (c) control and dominance of the media by incumbents

Source: Compilation by the Author from Various EU-EOM Reports on Nigeria's General Elections.

II. Summary Of Findings

1. The observations of the EU-EOM actually reflect the democratic anomalies that characterise Nigeria's elections.
2. There seems not to be any serious relationship between the recommendations of the EU-EOM and the various electoral reforms in Nigeria; this submission draws from the fact that the various electoral reforms only addressed more or less the peripheral aspects of the recommendations, but ignored the critical aspects such as:
 - i. The function of appointing and removing the chairperson and members of INEC which still rests upon the President; this jeopardizes the independence of INEC in discharging its electoral responsibilities.

- ii. The non-inclusion of “independent candidacy” in the legal framework for contesting election; this gives excessive powers to political parties in determining electoral outcomes from party primaries against popular will.
 - iii. The exclusion of institutionalised persons like soldiers, security agents, and prisoners etc from the voting process is a structural disenfranchisement.
 - iv. The non-provision for Diasporas in the legal framework for voting in Nigeria.
 - v. Non-Provision for other interested parties like voters and civil society organizations to file cases in courts over election matters.
3. The conduct of credible elections in Nigeria still remains unrealistic because the critical aspects of the EU-EOM recommendations which could guarantee free and fair elections have not been provided for in the Electoral Reforms.

III. Conclusion and Recommendations

In view of the foregoing expositions on the reports of the European Union Election Observation Mission, it may seem that the various electoral reforms did not at all draw from their recommendations; It is however evident that the various electoral reforms had some strengths arising from the EU-EOM reports which have helped to improve on the conduct of credible elections in Nigeria; they include the introduction of post-election reviews, continuous voter registration, relative financial autonomy of INEC, Freedom of Information Bill, Publication and display of voters register as well as results at polling units and collation centres respectively to enhance transparency and accountability. Meanwhile, it is argued that though the observations of the EU-EOM actually reflect the democratic anomalies in Nigeria’s elections, there seems not to be any serious relationship between the recommendations of the EU-EOM and the various electoral reforms in Nigeria; as such, the conduct of credible elections in Nigeria still remains unrealistic. Thus, in order to enhance the conduct of credible elections in Nigeria, the critical aspects of the EU-EOM recommendations need to be adequately reflected in the electoral reforms and effectively implemented.

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