



Position Paper

**President Buhari's Rejection of the 2021 Electoral Bill:
Another opportunity to get it right**

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1. A few weeks ago, the President Muhammadu Buhari refused to assent to the 2021 Electoral Bill, which was passed by both chambers of the National Assembly on November 18, listing the inclusion of the compulsory direct primaries for political parties as his major concern.
2. President Buhari argued that the compulsory mode for selection of candidates is subject to manipulation and will lead to high costs of conducting primaries, violate citizens' rights, lead to litigation and cause security challenges.
3. Yes, political parties should be allowed to adopt the type of primary election that they choose. However, the primary focus should not be on the mode of primary a party adopts to pick its candidates but, on the quality, and credibility of elections (primary and general) in the country, as well as loopholes in the electoral legal framework.
4. This is another ploy to hoodwink Nigerians into the wrong discourse, in their usual pursuit to protect their selfish interests and distract citizens from other imperatives to strengthen the electoral process and consolidate on the nation's democracy
5. The primary concern and focus should be on how we can guarantee that primaries conducted by political parties are free, fair and democratic. Indirect primaries do not automatically translate to free, fair and democratic primaries nor do direct primaries. None is void of manipulation. Neither does any guarantee good governance; rather it is the strict adherence to democratic norms and abiding by the provisions of the law, INEC's regulations as well as party constitutions/guidelines in nominating candidates and conducting primaries for the polls that make a primary election free, fair and democratic. These should be the focus.
6. In the past, primaries undertaken by parties whether direct or indirect have been totally undemocratic. For instance, in the last local government primaries in Lagos, members of the All Progressives Congress (APC) complained that preparation for the direct primary as announced by the party leadership was too short, there was significant non-availability of election materials, there was the late arrival of electoral officers on the election day and a significant level of violence plagued the elections. This was the same situation in the APC Governorship primaries² in 2018.

¹ Guardian Reports available on: [https://guardian.ng/politics/mixed-feelings-over-lagos-apc-lg-primaries result/](https://guardian.ng/politics/mixed-feelings-over-lagos-apc-lg-primaries-result/)

7. Also, in the 2018 governorship indirect primaries in Delta, Professor Pat Utomi³ who one of the aspirant stated that he was refused access to the list of delegates to vote despite writing several letters to the party's state and national offices. He also mentioned that on the day of the primary elections, the venue and time of the primary elections were unknown and not disclosed. Similarly, in 2015, it was reported⁴ that the Chairman of the People's Democratic Party (PDP) in Delta State, Kingsley Esiso stated that candidates will be selected for the local government polls instead of conducting a democratic primary election.

8. There are even instances where a candidate will emerge through democratic means but the names sent to INEC will be illegally substituted with a name that neither won nor even contested in the primary election. This was the case in 2011 where INEC maintained that the Kano Congress for Progressive Change (CPC) gubernatorial primary election was won by Mohammed Sani Abacha, who polled the highest votes, the party insisted on fielding the name of retired Colonel Lawal Ja'afaru Isah as its candidate.⁵ The Commission caved.

9. It is the constitutional duty of INEC to monitor the primaries as required by law and INEC must hold political parties to the same high standard of free and fair elections that they expect from INEC during general elections. INEC ought to perform their oversight dutifully and be quick to void any primary election that is undemocratic.

10. In the Memoranda submitted to the INEC on electoral reforms after the 2019 general elections, the Youth Party recommended that party primaries be conducted much earlier than the current schedules as this would give the Commission more time to supervise primaries and possible aggrieved parties more time to get remedy before the election. Also, political parties should submit their party primaries guidelines within 12 months before their primary, this would enable INEC to determine the type of primary they elect to use; whether direct or indirect, the venue, availability of a transparent member register or delegate list and other related matters to enable the Commission prepare accordingly.

11. For example, in 2018, the Commission fixed 17th August to 24th August, for the conduct of party primaries including resolution of dispute arising from such primaries less than 6 months before the general elections. The timeframe is impracticably close to the election. It should be further noted that both the EU Election Observation Mission Nigeria Report on the 2019

² Business Post reports available on: <https://businesspost.ng/general/nwc-declares-lagos-apc-governorship-primary-illegal/>

³ Arise News reports available on: <https://www.youtube.com/watch?v=-ys7NC4Zpso&t=205s> ⁴ The Nation reports available on: <https://thenationonlineng.net/no-primaries-but-selection-in-delta-pdp/amp/>

⁵ Channels TV reports available on: <https://www.channelstv.com/2013/09/17/mohammed-abacha-dumps-defunct-cpc-for-pdp/>

Elections (EU Report) and the Joint Report by the National Democratic Institute (NDI) and International Republican Institute (IRI) on the Gubernatorial and State House of Assembly Elections (NDI/IRI Report) shared this opinion.

12. These are real issues that plague internal party democracy in Nigeria that need to be addressed. Apart from the lack of adherence to democratic ideals by parties themselves, the current legal framework is not suitable to strengthen internal democracy within the Nigerian political and electoral space. Importantly, INEC in the past have also failed to enforce strictly its oversight over the conduct of primaries as granted by the Constitution and the Electoral Act.

Recommendation on Primaries

To make primaries work in Nigeria we recommend;

- i. The Commission should diligently perform its oversight by voiding any primary election that is manifestly irregularly or illegally conducted regardless of lack of complaints by the candidates as most victims are under tremendous pressure not take up the issues in Court or with INEC.
- ii. The submission of register of party members and primary election guidelines to INEC a year before elections must be strictly enforced as lack of party register and primary election guidelines should render any primary null and void regardless of the mode (direct or indirect).
- iii. The issue of the timetable for the conduct of party primaries should be revisited, primaries may be held within 9 (Nine) months and not less than 8 (Eight) months' time frame prior to the general election as this will help address the current predominance of pre-election litigation.
- iv. The Commission should ensure that internal dispute mechanisms are strengthened and transparent to act as a pre-action protocol. It is advised that the composition of such panels be inclusive of a representative from the Commission only when it relates to matters arising from the conduct of primaries.
- v. Parties should submit their party primaries guidelines within 12 months before their primary, this would enable INEC determine the type of primary they elect to use whether direct or indirect, the venue and other related matters.
- vi. INEC should also embrace the use of technology and should mandate parties to utilize audio visual recording of their primaries.

- vii. INEC should encourage political parties to adopt e-voting for their primaries for transparency, convenience, ease of monitoring by INEC, safety and reduction in the cost of electioneering for both the parties and INEC. This can include SMS voting for people without access to the internet. This can be done by way of a template e-voting guideline that meets the requirement of law and INEC's requirements that interested parties can adopt for their primary elections.⁶
- viii. INEC should mandate Parties to periodically display their party register to their members every year, at least.
- ix. INEC should mandate political parties to submit their membership register to INEC, every year, to prevent interested party members from being excluded from primaries either as a candidate or a voter.

Signed

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