

# ANALYSIS OF THE STRUCTURE OF NIGERIA'S INDEPENDENT NATIONAL ELECTORAL COMMISSION (1999-2011)

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## Abstract

The structure of election administration is a crucial component of the democratic project of any state. In Nigeria, it is widely acknowledged that the structural character of the country's election management body –the Independent National Electoral Commission (INEC) has over the years become the focal points at which elections are compromised. With insights from interviews and focused group discussion; conducted amongst INEC commissioners, staff and representatives of political parties within the period: 2009-2011, this paper is a graphic analysis of how the structure of INEC complicates the election administration process and democratic sustainability in Nigeria.

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**Keywords:** Elections, electoral commission

## Introduction

The structure of election administration is a crucial component of the democratic project of any state. Whether elections are conducted by an independent body, a ministry of government or by a mixed election administration system, the election management body (EMB) must be perceived as being neutral for the stabilization of a democratic regime. Indeed, this reality is at the centre of liberal democratic theory. However, the election administration system in many new democracies has generated a lot of controversy - arising

from the level of independence of EMB's, their professionalism and the acceptability of the elections they conduct.

In Nigeria, the election administration process since independence has always resulted in controversy and crisis arising mostly in part from the perceived collaboration of EMB's with the respective ruling military or civilian regimes. The implication as noted by Ajayi is that the history of electoral administration in Nigeria has been a "history of controversy engendered by electoral malpractices" (2007:142). It is in realization of the controversial and problematic nature of election administration in Nigeria; that an Electoral Reform Committee (ERC) was set up in 2007 to: "examine the entire electoral process with a view to ensuring that we raise the quality and standard of our general elections and thereby deepen our democracy" (The report of the Electoral Reform Committee- ERC: 2008).

While Nigeria's EMB – the Independent National Electoral Commission (INEC) plays a central role in the democratic project of Nigeria, it is widely acknowledged that the structural character of INEC has over the years become the focal points at which elections are compromised (ERC, 2008: 20). With insights from interviews and focused group discussion; conducted amongst INEC commissioners, staff and representatives of political parties within the period: 2009-2011, this paper is a graphic analysis of how the structure of INEC complicates the election administration process and democratic sustainability in Nigeria.

### **1. A general overview of the structure of election administration and EMB's**

Structurally, EMB's are classified according to different criteria; and they are differently placed in different state systems. They are said to follow a "governmental approach" when elections are run by regular civil servants; a "judicial approach" when judges are selected to administer elections; a "multi party approach" when party representatives compose the electoral body or an "expert approach" when political parties designate by consensus a group of experienced individuals renowned for their independence (Garber 1994; Harris, 1997). A more comprehensive three fold classification of EMB's has been formulated on the basis of structural characteristics that combine recruitment methods with functions performed: permanent; independent national electoral commissions, the centralized electoral system or the government ministry (Klein 1995).

In addition, the institutional shape of EMB's varies with a country's political and cultural traditions and its experience of democratic development (Pinto, 2000: 20). Table 1.1 presents a threefold categorization of the structure of EMB's across the globe.

**Table 1.1: A global categorization of the structure of election administration**

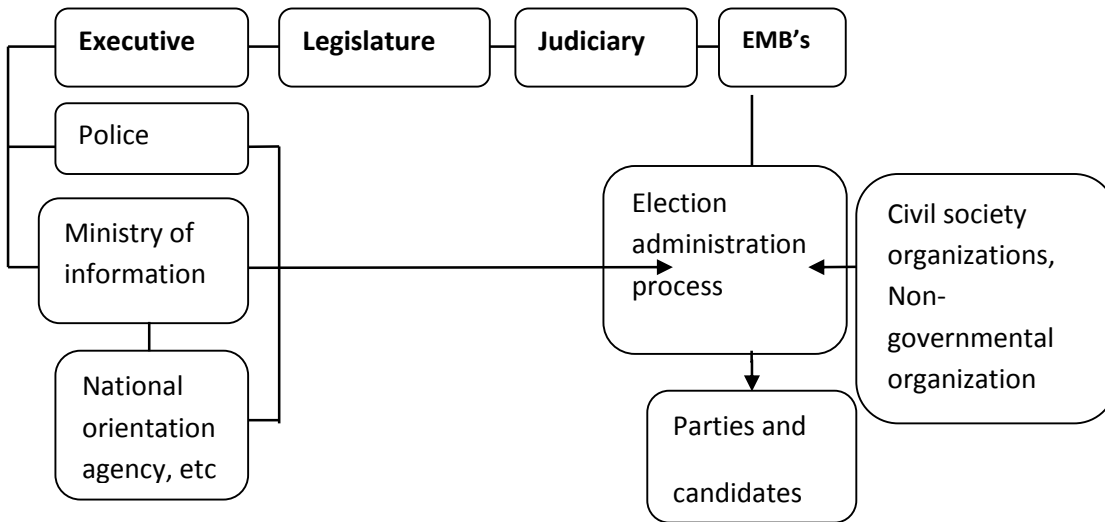
Institutional models	North America and western Europe (%)	Latin America Caribbean (%)	Asia and the Pacific (%)	Middle East and the Maghreb (%)	East and Central Europe (%)	Sub-Saharan Africa (%)	TOTAL (%)	Number of cases per institutional model (%)
Government runs the elections	43	12	30	45	—	8	20	29
Government under supervisory authority (Mixed model)	43	18	7	33	33	39	27	40
Independent electoral commissions	14	70	63	22	67	53	53	79
TOTAL	100	100	100	100	100	100	100	148
Number of cases per region	21	34	30	9	18	36	148	

Source: Pintor .R.L (2000), *Electoral Management Bodies as Institutions of Governance, Bureau For Development Policy, United Nations Development Programme. Pp25*

As can be seen in table 1.1, while some patterns notably elections run by the executive branch alone remained tied to history, the more general trend worldwide, particularly in the new democracies of Latin America, Asia, East and Central Europe and Africa is movement towards an independent electoral commission. Thus, most EMB's are enshrined in constitutions as mechanisms to limit sudden change by executive action or ordinary legislative process. This is the case in some Latin American countries like Costa Rica and Venezuela; where the constitution establishes the electoral authority as a fourth

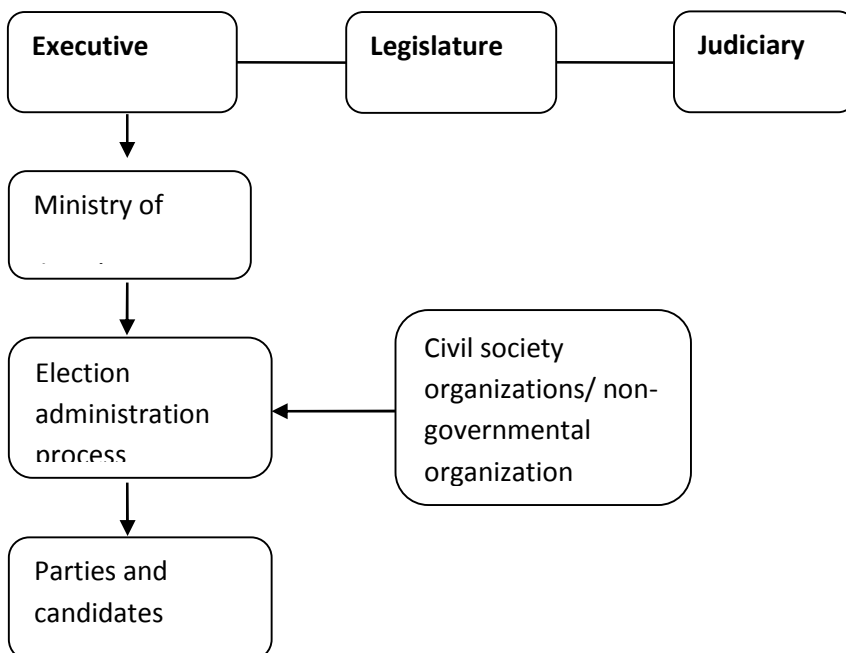
branch of government with the status of the executive, legislature and the judiciary. While many of the newly democratizing states of Africa have given their EMB’s constitutional status, very few of the EMB’s in Africa have actually been established as the “fourth arm of government”. The Nigerian case as shall be seen in the course of this paper is illustrative.

**Figure 1.1 A graphical illustration of EMB’s as the fourth institution of government (The independent model)**



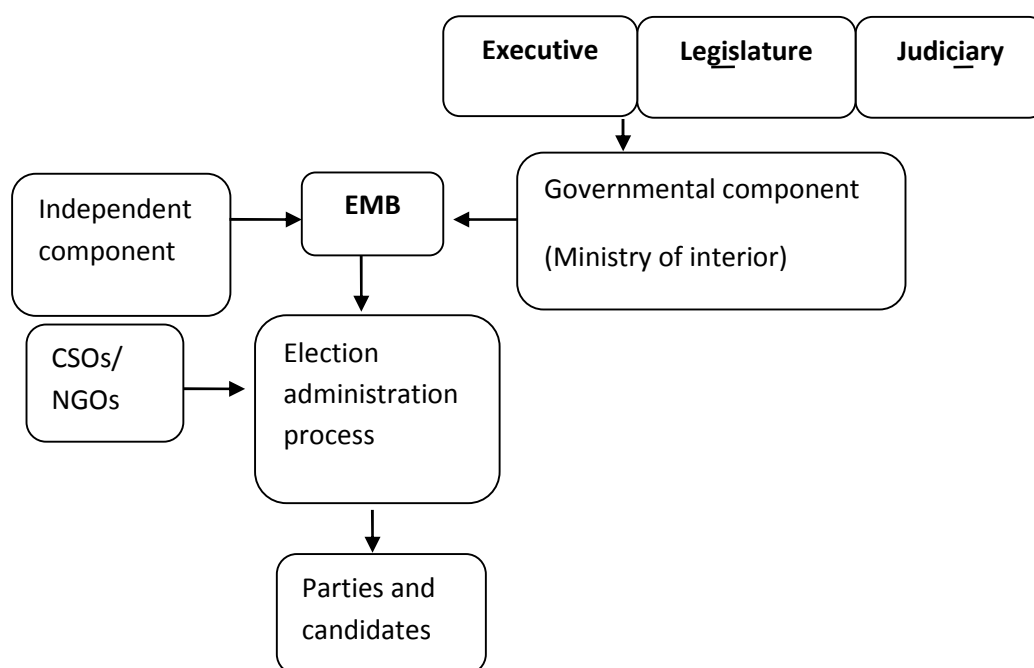
*Source: Moveh. D. O (2012), Election Administration and Sustainable Democracy: A Study of Nigeria’s Independent National Electoral Commission (1999-2011), Unpublished, PhD Dissertation, Department of Political Science, Ahmadu Bello University, Zaria*

**Figure 1.2 A graphical illustration of election administration as an agency of the government**



*Source: Moveh. D. O (2012), Election Administration and Sustainable Democracy: A Study of Nigeria's Independent National Electoral Commission (1999-2011), Unpublished PhD Dissertation, Department of Political Science, Ahmadu Bello University, Zaria.*

**Figure 1.3: A graphical illustration of a mixed model of election administration**



*Source: Moveh. D. O (2012), Election Administration and Sustainable Democracy: A Study of Nigeria's Independent National Electoral Commission (1999-2011), Unpublished PhD Dissertation, Department of Political Science, Ahmadu Bello University, Zaria.*

### 1.3 The structure and function of inec

The structure of Nigeria's election administration system is embodied in the INEC. INEC was established by Section 153 of the 1999 Constitution of the federal republic of Nigeria as a corporate body with perpetual succession and may sue and be sued in its corporate name. According to part one (1) of the third schedule of the 1999 constitution of Nigeria, sub section 15, INEC has the power to:

- a. Organize, undertake and supervise all elections to the offices of the President and Vice President, the Governor and Deputy Governor of a state and to the membership of the Senate, the House of Representatives and the House of Assembly of each state of the federation.

- b. Register political parties in accordance with the provisions of the constitution and act of the National Assembly.
- c. Monitor the organization and operation of the political parties, including their finances.
- d. Arrange for the annual examination and auditing of the funds and account of political parties and publish a report on such examination and audit for public information.
- e. Arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under the constitution.
- f. Monitor political campaigns and provide rules and regulations which shall govern the political parties.
- g. Ensure that all electoral commissioners, electoral and returning officers take the oath of office prescribed by law.
- h. Delegate any of its powers to any resident electoral commissioners
- i. Carry out such other functions as may be conferred upon it by an act of the National Assembly (1999 Constitution of Nigeria).

In addition to the functions assigned by the 1999 Constitution, the INEC establishment acts of 1998 gives the commission the power to:

- a. Conduct voter and civic education
- b. Promote knowledge of sound democratic electoral processes; and
- c. Conduct any referendum required to be conducted pursuant to the provision of the 1999 constitution or any other law or act of the National Assembly.

Sections 197 – 205 of the Constitution also provide for the establishment of State Independent Electoral Commission (SIEC) for each state of the federation. INEC has its Headquarters in Abuja, with offices in the capital cities of the thirty-six (36) States, including the Federal Capital Territory (FCT) as well as in the 774 Local Government Areas in the country.

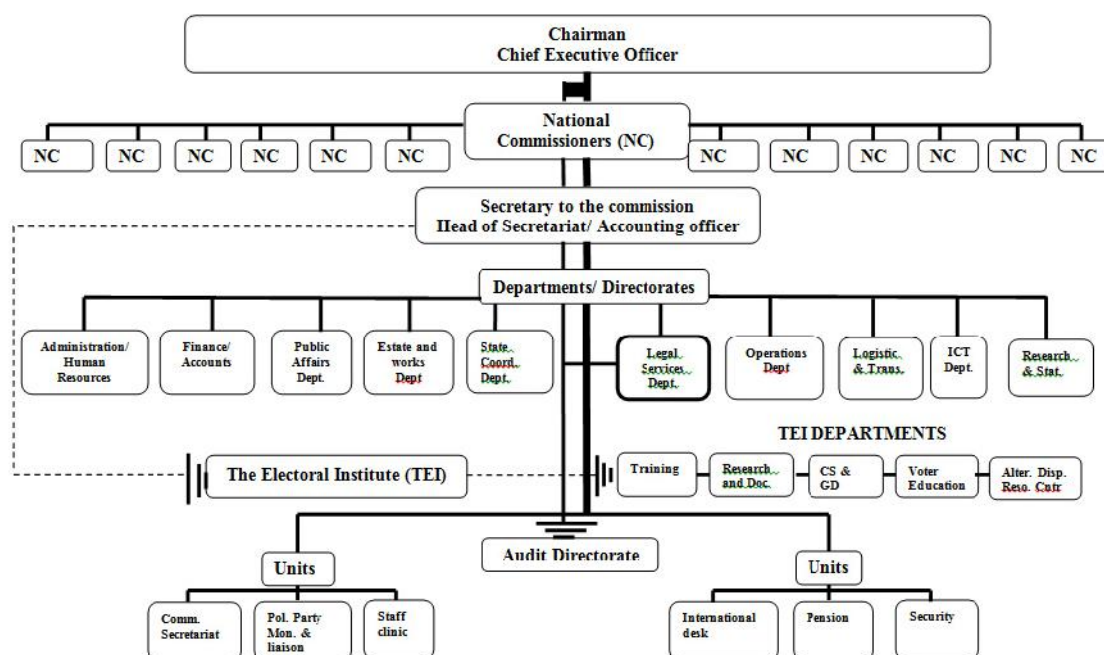
According to section 14, Part 1 of the Third Schedule of the 1999 Constitution, INEC shall comprise the following members:- A Chairman, who shall be the Chief Executive officer; and - Twelve other members to be known as National Electoral Commissioners. Section 14 also stipulates that the Chairman and the National Electoral Commissioner shall be persons of unquestionable integrity; and shall not be less than 50 years and 40 years old

respectively. The Constitution also provides for the appointment of a Resident Electoral Commissioner for each State of the Federation and the Federal Capital Territory Abuja.

At the apex of the organizational structure of INEC is the Chairman who serves as the Chief Executive Officer of the Commission; who together with the 12 National Electoral Commissioners constitutes the policy-making organ. Until the introduction of the 2006 electoral act, the Nigerian President had the power to appoint someone from the ranks of Federal Permanent Secretaries to serve as the Secretary to the Commission. Such an individual is also usually the Accounting Officer and Head of the Secretariat. The Commission, at the National Headquarters, functions through Departments and Directorates as shown in figure. 1.4. In June 2005 a key institution within INEC-The Electoral Institute (TEI) was established for the purpose of the following objectives:

1. Facilitate capacity building and professionalism in the commission through training and manpower development of the commission’s staff.
2. Engage in vigorous voter education activities with a view to achieving an increased and effective participation of the electorate in the electoral process.
3. Carry out electoral research and documentation (Igbani 2006: 56).

**Figure: 1.4 An organizational structure of inec headquaters**



Source: Research and Statistics Department INEC Headquarters, 2011

Since its establishment, INEC has conducted four general elections in Nigeria. These are the general elections of 1999, 2003, 2007 and 2011.

#### **1.4 Structural dependence of inec and the administration of elections in Nigeria**

There are two crucial areas in the structure of INEC which compromises its independence; with implications for the electoral administrative process and the sustainability of democracy in Nigeria. These are: the method of constituting the electoral management team (commissioners) and the funding of INEC.

##### **1.4.1 The constitution of the electoral management team (commissioners)**

There are two methods of determining the profile of members of electoral commissions. The first option involves appointing only members who are not partisan or politically inclined, while the second option involves the appointment of people on the basis of their political affiliation. In essence, the neutrality expected of the electoral commission may take two forms:

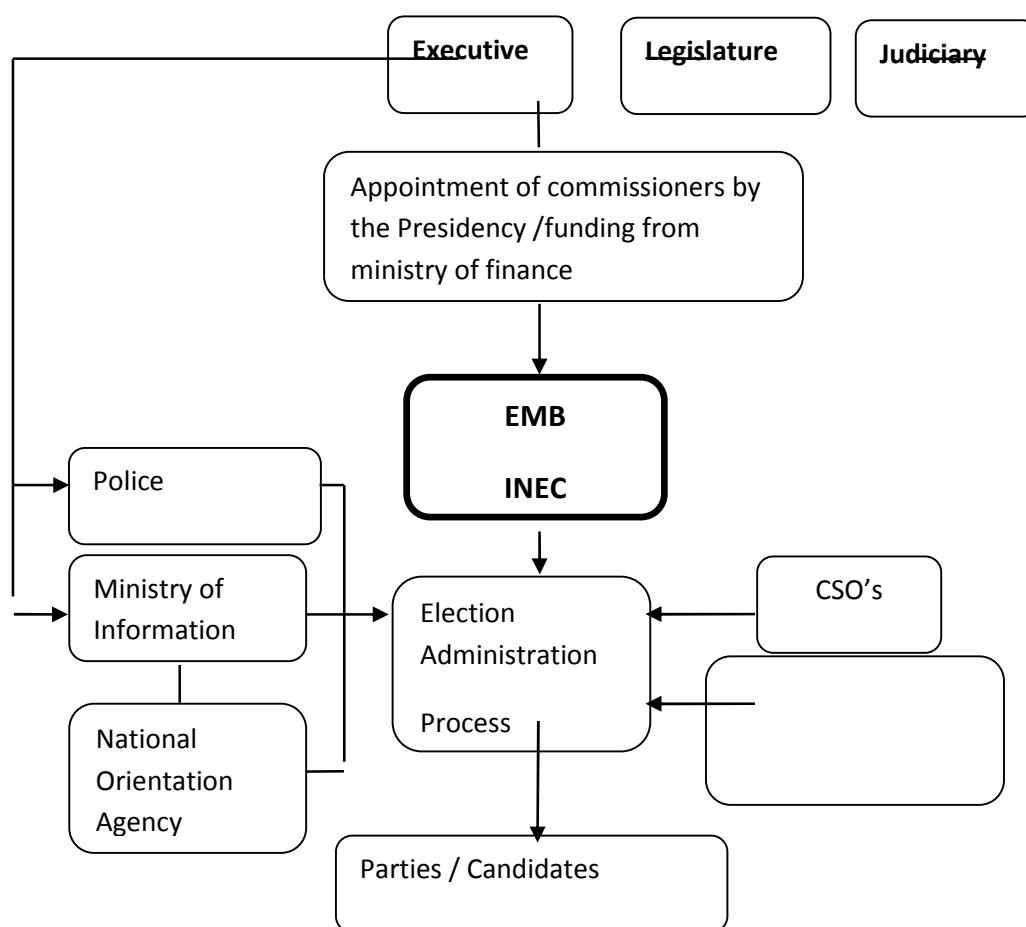
- I. Either a deliberate consideration of the political dimension; with the risk of partiality which is expected to be averted through a balanced representation of political forces; or
- II. An exclusion, in principle of any political consideration, which is manifested not only in the exclusion of political parties in the selection of the members of the commission, but also in the demand for non-partisan affiliation of members to be appointed into the commission (Hounkpe and Fall, 2011:11). This has supposedly, been the case in the constitution of members of INEC.

In the appointment of electoral commissioners Section 154 (1) of the 1999 constitution of Nigeria empowers the President to appoint the chairman and commissioners of INEC subject to the confirmation by the senate. Although this provision was not operational in the 1999 elections, the provision as gathered from interviews of political party officials and the transition monitoring group (TMG - a coalition of over 50 civil society organizations and human rights groups involved in election observation in Nigeria) ensured that former President Olusegun Obasanjo appointed members of his political party -the PDP as commissioners; who served in the electoral commission during the conduct of the 2003, 2007



and even to the 2011 Presidential elections. The TMG in particular; maintained that most of the national commissioners and particularly, the resident electoral commissioners (REC's) were nominated by PDP governors from their respective states. Indeed, this problem is compounded by section 156 (1) of the 1999 constitution of Nigeria which states that no person shall be qualified to be a member of INEC if he is not qualified or if he is disqualified for election as a member of the house of representatives.

**Figure 1.5: A graphical illustration of Nigeria's election administration system**



*Source: Moveh. D. O (2012), Election Administration and Sustainable Democracy: A Study of Nigeria's Independent National Electoral Commission (1999-2011), Unpublished, PhD Dissertation, Department of Political Science, Ahmadu Bello University, Zaria.*

As can be seen in Figure 1.5 Nigeria's election administration system does not conform to the independent model (as in figure 1.1), the governmental model (as in figure 1.2) or the mixed model (as in figure 1.3). In fact, there is either, an apparent confusion as to which model of election administration to operate in Nigeria or a deliberate complication of

the structure of the election administration system in the country. While INEC is presented and labeled as an “independent body” it has in reality been constituted as an extension of the executive (figure 1.5 is indicative). The personal observation of the researcher corroborates this fact. For example it was observed in all the INEC offices visited across Nigeria that the official vehicles of INEC; including the Toyota land cruiser jeeps of the commissioners were tagged “Presidency”. Thus, to what extent can INEC be independent when even its logistics is tied to the executive? Furthermore, it will be noticed in figure 1.5 that there are other institutions controlled directly by the executive which play important roles in the electoral administration process. The police for example provide security; while the ministry of information and the national orientation agency play important roles particularly in the area of voter education. Civil society organizations also play important roles in the area of voter education in Nigerians election administration process. However, more worrisome is the role played by political parties (through state governors and local government chairmen) in the electoral administration process. Political parties in Nigeria are not members of the management team of INEC; yet, apart from being subordinated to the electoral administration process, political parties and candidates also play a part in the administration of elections in Nigeria. Information gathered from focused group discussions amongst INEC permanent staff indicated that political parties and candidates provided part of the logistics for the administration of elections; with a view to influencing the outcome of the process in their favour. For example in the voter registration exercise of 2002 and 2006 generators for powering the computers used for registration and accommodation for electoral officers was provided by parties through the state governors and local government chairmen. When asked if the commission (INEC), had not made any arrangements for the logistics of the elections the respondents noted that except for the activities leading to the 2011 general election, in the 1999, 2003 and 2007 elections, the commission told electoral officers to liaise with their governors and local government chairman for logistics! This reality is corroborated by the chairman of INEC who noted with regards to the logistics of the 2011 general elections:

...we met a budget on ground and you are aware that the 2010 appropriations were reduced. That budget cut also affected us because while we were requesting for 74 billion Naira for the direct data capture machines and other logistics our capital budget was reduced by 8 billion. That money was meant to address some of the infrastructural decay in our state

and local government offices which are in a state of disrepair...we will be making a representation to the government on this so that we will reduce to the barest minimum the dependence of our staff on governors and local government chairmen for some logistics because we found out that some of them (INEC Staff) make themselves available to be used by going to the governors and local government chairmen to request one favour or the other (Daily trust 31<sup>st</sup> August, 2010).

While the foregoing statement by the INEC chair in the run up to the 2011 elections suggest attempts towards reducing the dependence of INEC on the state and local governments for logistics, it also accentuates another structural problem of the commission-funding.

#### 1.4.2 The funding of INEC

Electoral finance, seen as the cost that a country incurs as a result of the various activities undertaken by an EMB and other agencies in the conduct of an electoral process has been the object of controversy in many emerging democracies including Nigeria. Indeed, while the funding of elections in Nigeria appear to be costly, the controversy surrounding electoral finance arises more from who finances the EMB and how, than from the actual cost of conducting the elections. This notwithstanding, a categorization of electoral finance for the three main models of EMB's can be made.

According to the United Nations Development Programme (UNDP) and IFES cost of registration and elections (CORE) project, electoral finance may be divided into three categories namely:

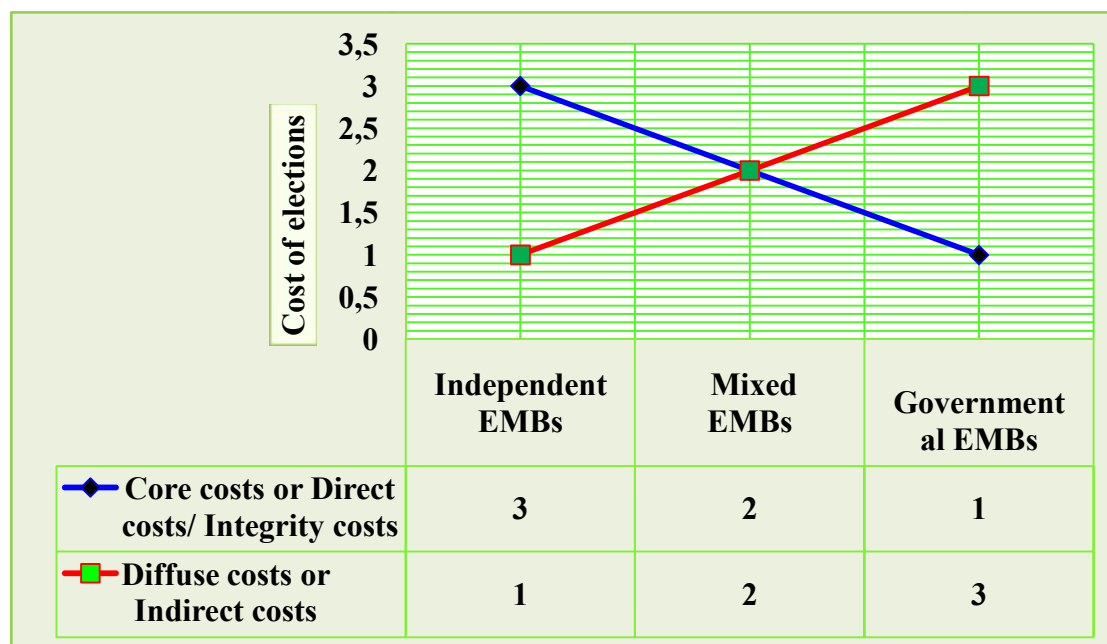
- a. **Core cost (or indirect cost):** This refers to those costs that are routinely associated with implementing an electoral process in a stable electoral environment.
- b. **Difusse cost (or indirect cost):** This refers to those cost for electoral related services that cannot be disentangled from the general budget of agencies that assist with the implementation of an electoral process; and

**c. Integrity cost:** This refers to those cost over and above the core costs that are necessary to provide safety, integrity, political neutrality and a level playing field for an electoral process. Integrity costs are often largely sponsored by the donor community; and may not be included in EMB budgets, even though they cover functions within the EMB's mandate (international IDEA, 2008).

According to the CORE project of IFES, core costs are proportionally highest in stable democracies (or what may be referred to in the context of this research as sustained democracies); as progress towards democratic sustainability tends to lead to a decrease in integrity cost and an increase in core costs. Furthermore, the CORE project of IFES further suggests that diffuse cost tend to be higher in stable (sustained) democracies; especially in Western Europe and North America, where electoral processes are more likely to be implemented by governmental EMBs under the governmental or mixed model of election administration. EMBs under the independent model are however more likely to have sole responsibility for electoral functions; and thus higher levels of readily identifiable direct cost and a lower level of diffuse cost than EMBs under the governmental or mixed model; Figure 4.8 is indicative.

**Figure 1.6: Electorak finance in different EMB**

#### Models



*Source: Moveh. D. O (20121), Election Administration and Sustainable Democracy: A Study of Nigeria's Independent National Electoral Commission (1999-2011), Unpublished, PhD Dissertation, Department of Political Science,*

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In line with figure 1.6, INEC alone bears the core costs of election administration in Nigeria. According to section 3 (1) of the 2006 electoral act; there is to be established for the commission a fund to be known as the independent national electoral commission fund. Section 3(2) of the electoral act 2006 identifies other sources of the commissions funds to include: monies allocated by the Federal Government of Nigeria to enable it exercise its constitutional functions, monies accruing to it by way of interests from investments made on the fund, and aids and grants made by development partners to facilitate its ability to carry out its functions. Furthermore, the commission subject to section 5 of the 2006 electoral act is to be funded under six budgetary heads, namely:

1. Consolidated revenue fund charges (including personal emoluments of national commissioners and resident electoral commissioners).
2. Cost comprising salaries and allowances of staff of the commission.
3. Overheads comprising office running costs, travels and transportation, the maintenance of equipment, utilities, bank charges etc.
4. Special electoral capital comprising the cost of balloting instruments (i.e. ballot papers, result sheet, ballot boxes etc).
5. Special electoral capital (including ad-hoc staff training cost, allowances of ad-hoc registration and poll officials, etc) and other structural capital (comprising the construction of buildings, purchase and installation of equipments like generators etc)
6. Purchase of vehicles etc (Ibrahim 2010: 35)

Over the years, two key issues relating to the funding of INEC have generated controversy. These are: the approval of election expenditure and the method of disbursement of approved funds on a timely basis. As can be seen in the foregoing six budgetary categories of INEC; while the salaries and allowances of commissioners are charged directly on the consolidated revenue reserves, election expenses in Nigeria are not. This creates serious problems for the election administration process in Nigeria; as INEC has to join the queue at the ministry of finance for its funds. Indeed, given the huge capital outlay required for INECs activities, the performance of its responsibilities has largely been dependent on the government which makes decisions about funding. While for many independent EMBs, funding is a separate line item in the national budget; released directly to the EMB by the

treasury, this is not the case in the Nigerian situation. As a result, the disbursement of funds to INEC has not always been timely. For example, in the run up to the 2003 elections, INEC cried out three times for funds enable it carry out its statutory responsibilities (LEMT 2003). The delay in the release of the funds affected the commissions operations to the extent that it severely constrained the over half a million ad-hoc staff of various categories (polling assistants, polling clerks, presiding officers, supervisory presiding officers, collation officers and returning officers) recruited to run the over 120,000 polling stations and collation centers in the country (Ibrahim, 2010:35-36). As was gathered from focused group discussions with INEC staff; it also manifested in the delay in embarking on voter registration, the holding of stake holders' dialogues and procurement and acquisition processes. In the run up to the 2007 elections the situation was not different. The late preparation and training of ad-hoc staff and the delay in the distribution of INEC guidelines on the elections to local and foreign observers also resulted from the delay in the release of funds to the commission. Similarly, in the run up to the 2011 general elections the chairman of INEC raised alarm about the negative implications the delay in the release of funds will have for the electoral process. In fact, in the case of the 2011 general elections an observer noted:

The legislative exercise of reviewing and approving a budget for INEC was a sad display of an inherent lack of professionalism, transparency and commitment to the fundamental elements of democracy and governance. Despite adequate knowledge of the need to address INECs budgetary crisis, both houses of the legislature opted to remain on holiday. INEC chair had informed the legislature that he would need 74 billion naira by 11th August to have any chance of conducting credible elections. The distinguished members of the senate did not convene until 10<sup>th</sup> August in what was referred to as an emergency session...such a lackadaisical attitude to the duty to promptly and adequately address the issue of funding INEC undermines the capacity of INEC and poses a direct challenge to democracy in Nigeria (Okoye, 2011).

## **1.5 Summary and conclusion**

The structural challenge of Nigeria's election administration system has to do with the manner of appointment of commissioners of INEC and the funding of the commission. Indeed, INEC does not conveniently fit into any of the three main models of EMB's (that is the independent, governmental or mixed model). While INEC is being described and presented as an independent body, it has in reality been constituted as an extension of the executive. The implication of this fact is that the incumbent regime occupies a position where it could undermine the election administration process to its advantage. Establishing the structural independence of INEC; particularly in the area of appointment of commissioners and funding is therefore a basic requirement for guaranteeing the credibility of the election administration process and the sustainability of democracy.

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United Nations Development Programme- UNDP (2000), Election Management Bodies as Institutions of Governance, Bureau for Development Policy, UNDP.



**Appendix 1: List of interviewees and nature of interview schedule**

1. Dr. Samson F. Awujoola, Head of Operations, INEC Delta state office, recorded interview conducted on the 6<sup>th</sup> October 2010.
2. Mr. A. Junaid, Head of Operations, INEC Ondo state office, recorded interview conducted on the 8<sup>th</sup> October, 2010.
3. Engr. Rotimi Fashakin, National Publicity Secretary, CPC, recorded interview conducted on the 6<sup>th</sup> December 2011
4. Mal. Lawal Shuaibu, National Secretary, ACN, Recorded Interview conducted on the 8<sup>th</sup> December 2011.
5. Hon Lawan Shettima Ali Secretary General ANPP. Interviewed (Recorded) through Mal. Abdullahi Yusuf Gashua, Director of Special Duties and Special Adviser to the National Secretary, ANPP on the 6<sup>th</sup> December 2011.
6. Alhaji Shittu Adegbola, Administrative Secretary, INEC Ekiti state office, recorded interview conducted on the 8<sup>th</sup> October, 2010.
7. Mr. Festus Okoye, former National Coordinator Transition Monitoring Group. Recorded interview conducted on the 9<sup>th</sup> December, 2011.
8. Mr. Ezuma Sunny N. INEC Headquarters (the electoral institute), unrecorded interview/ informal interactions.
9. Mal. Adamu Umar, INEC Zamfara state office, unrecorded interview/informal interactions.
10. Mr. Gbenga Otun, INEC Kogi state office, unrecorded interview/ informal interactions.

\* The questions raised in the course of the interview probed the general experiences of respondents in the election administration process.

**Appendix 2: Participants and theme of the focused group decision**

The focused group discussions held in the September 2010 and June 2011. Participants include: 39 members of staff of INEC; drawn from INEC offices across Nigeria. The participants happened to be on a course on election administration at the researcher's institution at the time of this study.

The general theme of the focused group discussion was "Election Administration in Nigeria 1999-2011". Participants were encouraged to share their experiences in the general elections conducted by INEC from 1999-2011.