



**MEMORANDA TO INEC ON REVIEW OF THE 2023 GENERAL
ELECTION**

25TH JULY, 2023



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**MEMORANDUM TO THE INDEPENDENT NATIONAL ELECTORAL
COMMISSION**

TO: THE INDEPENDENT NATIONAL ELECTORAL COMMISSION

FROM: Youth Party

DATE: 25th July, 2023

**Re: INVITATION TO 2023 ELECTION REVIEW MEETING WITH POLITICAL
PARTIES(QUARTERLY MEETING)**

Pursuant to the invitation of your esteemed Commission, via a letter dated 10th July, 2023 and referenced INEC/DEPM/CP/123/V, seeking opinion from our Party for consideration as part of the review of the electoral process, we the members of the Youth Party, we hereby seek the consideration of our opinion contained herein.

We have reviewed the Invitation and we state the following as our observation of the 2023 general election:

1. VOTERS APATHY AND CRISIS of PUBLIC CONFIDENCE IN THE ELECTORAL PROCESS

There is currently a crisis of confidence against INEC despite a lot of commendable initiatives and successes in the 2023 General Election. However, we note the current abysmal state of voters participation. It is increasingly and alarmingly becoming lower every electoral cycle.

For example, out of the total 93.47 million registered voters, only 24.9 million persons voted in the 2023 presidential and National Assembly elections. This represents a meagre 26.72 percent voter turnout, the lowest since the return to democracy in 1999.

Compared to the voter turnout of 34.74 percent in the 2019 general election, the turnout in the just concluded election declined by about 8.03 per cent.

Why the declining interest? One reason is the lack of confidence in government. Voters are disillusioned. They see no relationship between their participation and an improved standard of living.

Secondly, and most importantly, the voters have lost considerable confidence in the electoral process. They don't believe their votes counts. They do not trust INEC. They believe they should not waste their time. There is a lack of confidence.

2. PUBLIC CONFIDENCE

“You can never do anything wrong, if public perception is in your favour; and you can never do any right if public perception is against you”

Most voters interaction with INEC from voters registration, to relocating polling units to electoral parties management have not been pleasant. Our experience at Youth Party for the 2023 General Election is a case in point. Similarly, all the tiers of the judiciary were scathing in their opinion of INEC.

For example, INEC lost a lot of goodwill and trust amongst our members and the 2023 General Election due to the manner our Party was treated unfairly and illegally excluded by the commission. INEC disregarded the principle of *lis pendis* and respect for the rule of law. All the judgements stated that the purported deregistration of our Party was illegal, null and void.

For context, On October 12, 2020, a Federal High Court restrained INEC from excluding the Youth Party from participating in any election across the country. It declared INEC’s attempt to de-register the party as illegal, null and void.

The comments of Justice I.E. Ekwo of the Federal High Court in his judgement in Suit No.FHC/ABJ/CS/10/2020 <https://youthpartyng.com/youth-party-judgement-by-the-federal-high-court-of-nigeria/> between Youth Party v INEC is worth pondering over:

“The Defendant is not above the law. No person or parties to an action is allowed to resort to self-help when an action is pending in Court. The claim that the Defendant has power pursuant to S,225A(b) & (c) of the 1999 Constitution (as amended) to de-register a political party does not justify the action of the Defendant while this action is pending. The Defendant must understand that the constitution is not an author of confusion. I condemn the action of the Defendant as a wrong exercise of might. Therefore, the de-registration of the Plaintiff during the tendency of this action by the Defendant is illegal, null and void, and liable to be set aside. Consequently, I hereby make an order setting aside the de-registration of the Plaintiff”

Unfortunately, INEC appealed the decision of the High Court, and without a stay of execution, excluded Youth Party from participating in all the elections happening in the Country.

Furthermore, on May 11, 2021, the Court of Appeal in a unanimous judgement delivered by Justice T.Y. Hassan, dismissed the appeal of INEC and upheld the decision of the Lower Court. The court in its judgement reaffirmed that the purported de-registration of the Youth Party is illegal, null and void. The Court of Appeal in its judgement in Appeal No.CA/ABJ/CV/980/2020 <https://youthpartyng.com/youth-party-court-judgement-by-the-court-of-appeal-3/>

Between INEC v Youth Party was equally unhappy with INEC in its unanimous judgement delivered by Justice T.Y. Hassan, J.C.A., when it held that:

"This Court will not hesitate to sustain the decision of the Lower Court which pulled down and dismantled the edifice that the Appellant built on self-help when it deregistered the Respondent not only during the tendency of the Suit but when it had been served with and had reacted to the motion for interlocutory injunction seeking to restrain the Appellant from the very act it helped itself to actualize extra judicially. To say the least, we find the Appellant action very reprehensible, the Lower Court as any court of law would have done, acted correctly by setting aside the deregistration of the Respondent. We have no reason to interfere with the order made by the Lower Court and same be sustained"

Surprisingly, INEC appealed the Appeal Court decision and excluded the Youth Party from all the process leading to the 2023 general elections. We followed the Commission's guidelines published in the dailies but we were treated as a deregistered Party. We were not listed on INEC's website as a Party creating a credibility crisis for us and discouraging our members from participating in the electoral process. All our letters were returned undelivered. The instructions at the gate was not to receive any communication from us. We were ostracized despite the judgements declaring our purported deregistration illegal. All entreaties were disregarded. Consequently, the injuries affected our ability to sustain the Party financially but we survived through membership dues and pledges.

But on 3rd December 2022, the supreme court, the highest judicial authority in the land, affirmed the decisions of the lower courts, marking a significant victory for the Youth Party. In the leading judgement <https://youthpartyng.com/youth-party-judgement-by-the-supreme-court/> delivered by His Lordship, Honourable Justice Garba Lawal (JSC) was scathing in his opinion of INEC's conduct when he held that(page 45-47):

"Now, it is a basic principle of the rule of law which has been settled, stated and re-stated by the courts in battalions of decisions that once parties have submitted their dispute as to the existence and entitlement to legal civil rights and obligations for determination to a court of competent jurisdiction, they have the unqualified statutory obligation and duty to submit totally to the judicial powers and authority of the court in the determination and resolution of the dispute. None of the parties has the valid power to, either by deliberate omission or actions, interfere with or in the court's jurisdiction to conclusively, effectively and finally determine and resolve the dispute between them in accordance with the relevant law/statutes. In specific terms, none of the parties to a suit before a court of law is permitted or allowed by the principle or doctrine of the rule of law, to, while the case is pending before the court, take the law in to his hands and do anything or take any deliberate action which directly touches on the subject of the dispute submitted to the court for resolution in order to render the final resolution by the court of no practical legal value or effect or completely useless with no derivable utilitarian value, worth or benefits. Actions or omissions which are intended or meant by parties to make a mockery of the judicial processes of a court of law during the tendency of cases before the court by foisting a fait accompli upon it in the case, are a frontal and direct assault and attack on the principle and doctrine of the rule of law, especially in constitutional democracy such as we operate and practice in Nigeria. The situation is more serious when such deliberate action or omission was by or from a public body, institution, department, establishment or agency of government created or established by the constitution itself for the purpose of enthrone democracy - where the rule of law should be the basic foundation or premise of and for all governmental actions, as stated earlier. If parties in a case before a

superior court of law and record established by the Constitution to exercise the judicial powers of the Federation vested in it under Section 6 of the Constitution were to be free and at liberty to, with impunity, disrespect, dishonour and disparage the judicial processes of the court, then the rule of anarchy and lawlessness, rather than the rule of law, would result. A situation where parties to a case before a court of competent jurisdiction would resort to self-help over the subject matter of a dispute which they have submitted to it for adjudication and resolution would not only result in to chaos, but also destroy the foundation upon which the constitution of a Nation is premised. It is a basic principle of the rule of law that no matter or however clear, well founded or justifiable a party to a case before court of competent jurisdiction may consider his legal right, obligation, power or authority to be or might be, it will be disrespectful and contemptuous of the judicial processes of the court for him to take the law in to his hands by resorting to self-help over the subject matter of a dispute between the parties which the court has legally taken cognizance and commenced trial of. Resort to self-help by parties during the tendency of an action before a competent court of law constitutes not only a subversion against the constitutional judicial powers of the court but also a direct affront to the Constitution which the court has the inherent power and authority to stop and penalize.”

Whilst we are happy and looking forward to a better relationship with INEC, the reckless manner in which it's abridged the rights of our members and systemically disregarded the decisions of the Court is self destructing and contributes to the current crisis of confidence it's currently having with the public. We will like to work with INEC to address the systemic issue in the spirit of national development and interest.

We recommend the following in rebuilding public confidence in the electoral process:

1. A voters survey be carried out to gauge public perception of INEC and their exception
2. A town hall engagements of voters in the grass roots to ascertain their concerns and perception of the electoral process
3. Set up an independent and respected body of Nigerians to review its conduct at the elections
4. Publish the report of the independent body
5. Have a direct public engagement forum to disclose improvements and for complaints
6. Follow the rule of law even when it's not convenient. Breach of rule of law erodes public confidence in the electoral process
7. Do not prohibit engagement by the public by restricting letters that the Commission accepts. It's the most civilized form of engagement and should not be discouraged
8. Parties should be given at least 1-2 electoral cycles for organic growth and capacity development before the commission invokes Section 225(A) of the Constitution (as Amended)



Dr. Umar Muhammad

Acting National Chair