



Policy Brief

Role of the Legislature in **Implementing** the National Anti-Corruption Strategy

MacArthur
Foundation



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Preface

Accountability, like its notional stable-mate, governance, is one of those recurrent phrases in contemporary debates on public policy and administration. The mechanisms of accountability remain one of the core principles that enthrone good governance in a Federal structure like ours, where a democratic system of government is in place. The prominence of the discourse on accountability is tied in with the need to promote good governance which compels governments to observe openness and transparency, appropriate mechanisms of accountability, provisions to maximize governmental efficiency and the encouragement of public participation.

The institutional arrangement, as expressed in the distribution of governmental powers among the three arms of the Nigerian government- the executive, the legislature and the judiciary, are guided by autonomy, separation of powers and checks and balances. The common commitment to good governance is thus evaluated and determined by the performance and synergy of these three arms of government. The Legislative, through its constitutional instrument (The Public Accounts Committee), is the centre of accountability of the public sector and it is through the committees' accountability to the legislative that the public sector is ultimately accountable to the people.

With respect to Legislative Oversight, the House of Representatives, on adoption of the legislative agenda of the 8th House, committed to furthering legislative intervention as necessitated by the ineffective implementation of some of the National Assembly's legislative and executive programmes, policies and laws by the executive. The House expressed its political will and capacity to persist in the vigorous oversight of the executive to promote accountability and reduce the misuse of public resources and thus proposed the institution of an appropriate system to incorporate Civil Society Organizations, citizen monitoring groups and the media to this end, where necessary (Guardian, 2016).

CISLAC, with support from the MacArthur Foundation, prevails on its unreserved contributions to a healthier democracy through demands for improved accountability and by extension good governance, by initiating a project titled- Strengthening Legislative Accountability and Anti-Corruption Mechanisms (SLAAM). This policy brief is predicated on the SLAAM project and with recourse to the aforementioned legislative commitment of the House, as it summarily explores the Nigerian legislative landscape with respect to oversight functions on accountability in public sector operations. It apprises the citizenry on the importance of legislative oversight, the role of the legislative in oversight on accountability, inherent challenges in discharging those responsibilities and the need for the legislative to leverage on their constitutionally mandated powers to address those deficiencies. By so doing, we hope to establish a constructive legislature-executive-CSOs working relation to build citizens' confidence and promote transparency and accountability in government.

Auwal Musa Ibrahim

Executive Director, CISLAC

2018

The Role Of The Legislature In Implementing The National Anti-Corruption Strategy

Introduction:

Corruption is a grave concern to many governments because of its huge impact on the economy and quality of lives of citizens. The fact that it weakens institutions and diverts funds required for development into private pockets makes it imperative for governments to curb corruption. Nigeria has been negatively impacted by corruption which has been fingered as one of the reasons for underdevelopment in Nigeria.

In an attempt to curb corruption in the nation, several legislations have been enacted; institutions established; and policy initiatives adopted. However, despite the existence of these anti-corruption legislations, institutions and policy initiatives, corruption remains largely untamed and these efforts appear to have yielded little fruit as Nigeria has consistently been ranked poorly in the Corruption Perceptions Index. This has been a cause for concern for Nigerians and many have resolved that corruption must be tackled headlong and decisively in the nation. This will require the collective efforts of all Nigerians towards realizing this goal. Clearly there is need for a coordinated effort in the fight against corruption for better results to be attained. Thus the collaboration of all stakeholders, tackling the challenge in a coordinated manner is demanded for more effectiveness and optimal results. In line with international best practices, Nigeria NACS should be a blueprint for a realistic, comprehensive and integrated plan for reducing corruption¹ that will set out the vision, mission, objectives, approaches/strategies, responsibilities and expected outcomes in the fight.

Moreover, Article 5 of the United Nations Convention against Corruption (UNCAC) requires that state parties develop and implement, or maintain effective, coordinated anti-corruption policies that promote participation of society and reflect the principles of law, proper management of public affairs and public property, integrity, transparency and accountability. Promotion of effective practices aimed at prevention

1. UNODC, National Anti-Corruption Strategies: A Practical Guide for Development and Implementation. Online @ https://www.unodc.org/documents/corruption/Publications/2015/National_Anti-Corruption_Strategies_-_A_Practical_Guide_for_Development_and_Implementation_E.pdf accessed on January 20, 2019

and the periodic evaluation of legal instruments and administrative measures to determine adequacy is also demanded. Although the adoption of a formal written national anti-corruption strategy is not required to meet this obligation, yet publishing a national anti-corruption strategy can be an effective way for States parties to ensure they meet their obligations under article 5.²

On 5th July 2017, the National Anti-Corruption Strategy (NACS) 2017 – 2021, was approved by the Federal Executive Council. The NACS seeks to guide all sectors and stakeholders in the fight against corruption and help to generate and maintain the necessary leadership and broad support required to effectively curb corruption.³ It aims to mainstream the principles of transparency; beneficial ownership; asset recovery and management as well as strengthening the capacities and reducing vulnerabilities of anti-corruption and law enforcement institutions engaged in the fight against corruption. The Strategy also encourages the promotion of ethical standards in the private sector and society through ethical orientation and enforcement of existing ethical standards towards improved personal ethics and ethical conduct in nation building.⁴ To ensure its full implementation, the Attorney General of the Federation inaugurated a 17-member Monitoring and Evaluation Committee.

The Nigerian legislature is a major stakeholder in the fight against corruption although the NACS appears silent regarding the role the legislature should play towards its implementation. However this policy brief outlines how the law making, oversight; and representative roles of the legislature can aid in the realisation of the objectives and implementation plans of the NACS.

OBJECTIVES OF THE NACS

The overarching policy objective of the strategy is to reduce corruption and encourage citizens to both acknowledge the damaging nature of corruption and appreciate the benefit of integrity. The policy objectives of the strategy seek for social, private and public interests to be properly aligned and incentivized towards the fight against corruption, through public recognition of persons and institutions who act against

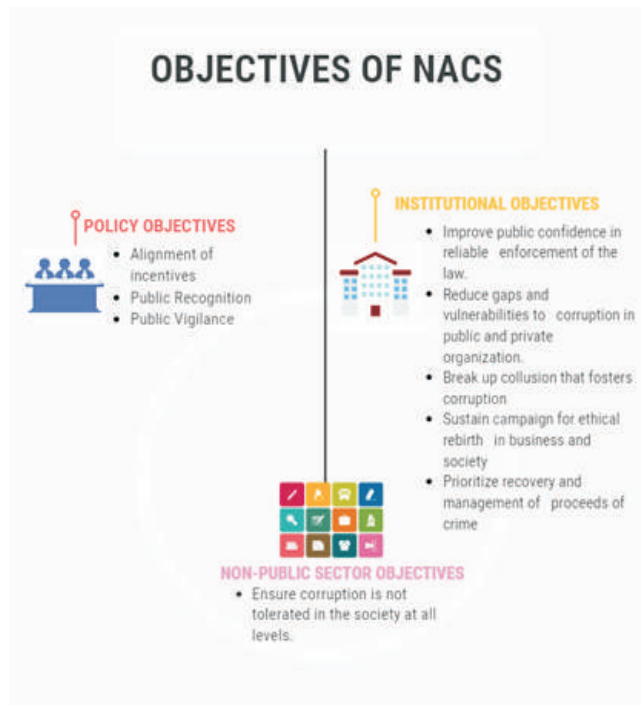
2. *ibid*

3. *ibid*

4. The Federal Republic of Nigeria, National Anti-Corruption Strategy (NACS) 2017-2021

corruption as well as review of the current system of national honours to include integrity and specific efforts in the fight against corruption. Accordingly, the selection process for public recognition would involve public vigilance enabled by transparent and credible systems that make it easy to identify compliance, detect fraud and report abuse alongside an independent feedback mechanism.

The technical objective focuses on the effectiveness and efficiency of interventions and systems with emphasis on legal, administrative and institutional arrangements used by government at the federal, state and local levels in combatting corruption, with the active engagement and participation of the public in the mechanisms and systems. The non-sector objective is aimed at ensuring that corruption is not tolerated at any level in the society.



THE IMPLEMENTATION OF THE NAC

The strategy is proposed for implementation at three levels in five concurrent pillars which are mutually enforceable namely: Prevention; Public Engagement; Ethical Reorientation; Enforcement and Sanctions and Recovery of Proceeds of Corruption. The three levels of implementation include: Strengthening the legal and institutional framework designed to prevent and combat corruption; Mainstreaming Anti-Corruption Principles into Governance and Service Delivery at National Level through Ministries, Departments and Agencies (MDAs) and Mainstreaming Anti-Corruption Principles into sub-national public administration and the Society as a whole.

The overall responsibility for implementation of the Strategy rests on the President who shall establish a Ministerial Committee headed by the Attorney General of the Federation as the coordinating authority who may from time to time issue policy directives on the implementation of the Strategy. At the State level, the responsibility for implementation of the Strategy rests on the Executive Governor of the State who

shall establish a Ministerial Committee headed by the Attorney General of the State charged with the responsibility for implementing the National Anti-Corruption Strategy (NACS). At the Local Government level, the Chairmen of Council shall be responsible for implementation of the Strategy under the supervision of the Executive Governor of the State. Each Anti-Corruption, Law Enforcement and Regulatory Agency shall develop or update its strategic plan to align with NACS. Also, each Anti-Corruption, Law Enforcement and Regulatory Agency is required to develop an Implementation Plan that clearly defines key activities, expected deliverables and time lines for all its operating units.



Notwithstanding the above, the legislature also has key roles to play in the effective implementation of the NACS.

THE ROLE OF THE LEGISLATURE IN THE IMPLEMENTATION OF THE NACS

LEVEL 1- STRENGTHENING THE LEGAL AND INSTITUTIONAL FRAMEWORK DESIGNED TO PREVENT AND COMBAT CORRUPTION.

One of the key weapons in the fight against corruption is the legal and institutional framework in place to successfully engage in the fight. The first level of the implementation of the NACS is strengthening the legal and institutional framework designed to prevent and combat corruption. The implementation effort is to focus on anti-corruption, law enforcement and regulatory agencies with a view to enhance efficiency, effectiveness and synergy of the institutions, laws, policies, and other measures in place to prevent and combat corruption as well as handling the issue of overlapping of functions through encouraging prioritization, specialization, coordination and collaboration.

The questions that beg for answers then are: Is the legal and institutional framework designed to prevent and combat corruption adequate? If so, how might it be strengthened? If not, what laws can be enacted to bring it up to speed? In assessing whether the legal and institutional framework on preventing corruption is adequate,

there is need to look at what laws and institutions are available in order to determine gaps and how the legislature may intervene to ensure the successful implementation of the NACS.

Some of the Laws in place to prevent and combat corruption in Nigeria include: The Constitution of the Federal Republic of Nigeria, 1999 (as amended); Economic and Financial Crimes Commission Establishment Act, 2004; Independent Corrupt Practices & Other Related Offences Act, 2000; Advance Fee Fraud and Other Related Offences Act, 2006; Money Laundering (Prohibition) Act 2011 (as amended); Code of Conduct Bureau and Tribunal Act, CAP C15, Laws of the Federation; Freedom of Information Act 2011, among others.

However, it has been observed that Nigeria has enacted a plethora of legislations, adopted several policies/strategies and institutional frameworks/mechanisms to deal with various forms of corruption but some of these legislations require amendments to enhance their effectiveness.⁵ In the same vein, while speaking at the commissioning of the New Headquarters of the Economic and Financial Crimes Commission (EFCC) in Abuja, President Mohammed Buhari stated that the legislature can assist the government in fighting corruption by reviewing obsolete laws and enacting fresh legislation.⁶ Therefore, the legislature is required to facilitate the enactment of relevant legislation towards the effective implementation of the NACS such as The Whistle blowers legislation; Proceeds of Crime Act and the Witness Protection Act. Some key Legislations which may require legislative intervention include

1. The Code of Conduct Bureau and Tribunal Act

Notwithstanding this constitutional provision, the National Assembly is yet to prescribe the terms and conditions by which citizens can be allowed to inspect declarations of assets in Nigeria. It is important that the legislature takes necessary steps to fill this gap in order to strengthen the legal and institutional framework of the Code of Conduct Bureau towards the implementation of the NACS.

2. The ICPC Act and EFCC Act.

There is the need for the ICPC and EFCC to be strengthened to act independently without political interference. This will require an amendment of their enabling

5. See, Report of Scoping Survey of Anti-Corruption Initiatives in Nigeria

6. AIT, Buhari Challenges Legislature on the Anti-Corruption War” online @ http://www.aitonline.tv/post-buhari_challenges_the_legislature_on_anti_corruption_fight accessed on January 22, 2019

laws to guarantee certainty of term for their key officers. A clear example is the EFCC Act where the chairman of the EFCC can be dismissed by the President of the Federation without recourse to the Senate as is the case with the ICPC. Accordingly, it is recommended that the legislature take necessary steps to grant the anti-corruption agencies the requisite independence they require to perform their responsibilities and resolve the issue of overlapping of functions of the anti-corruption agencies to encourage prioritization, specialization, coordination and collaboration.

LEVEL 2 - MAINSTREAMING ANTI-CORRUPTION PRINCIPLES INTO GOVERNANCE AND SERVICE DELIVERY AT NATIONAL LEVEL THROUGH THE MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)

This is aimed at safeguarding accountability, transparency and integrity in the discharge of public duty, management of public property and public affairs. This is with a view to reducing the negative impact of corruption in governance and government service delivery in general. So the NACS seeks to focus on how Ministries, Departments and Agencies (MDAs) administer public property, manage public affairs and deliver services.⁷

The powers conferred on the National Assembly under the provisions of Section 88 of the Constitution, are exercisable only for the purpose of enabling it to make laws with respect to any matter within its legislative competence. In addition to this, it also has the power to correct any defects in existing laws, expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and to the disbursement or administration of funds appropriated by it.

In carrying out its oversight functions, section 89 of the Constitution also empowers the Senate or the House of Representatives or a committee appointed in accordance with section 62 of the Constitution. These powers should be used to guard against corruption and be deployed to supervise government business. Hence, the National Assembly clearly possesses the power to expose corruption.⁸ Accordingly, there is the need to align these powers towards this level of implementation of the NACS because

7. The Federal Republic of Nigeria, National Anti-Corruption Strategy (NACS) 2017-2021

8. Ikpeze N. Fusion of Anti-Corruption Agencies in Nigeria: A Critical Analysis, *Journal of Sustainable Development Policy and Law* Vol. 1 Iss. 1(2013) pp. 148 -167

the effective performance of their oversight function will have direct impact on governance in the nation and safeguarding accountability, transparency and integrity in the management of public property and public affairs.

LEVEL 3 - MAINSTREAMING ANTI-CORRUPTION PRINCIPLES INTO SUB-NATIONAL PUBLIC ADMINISTRATION AND THE SOCIETY AS A WHOLE.

NACS outlines that the focus of this level of implementation is on decentralizing the anti-corruption effort. It is a move away from the effort being driven solely by the Anti-corruption, Law Enforcement and Regulatory Agencies at the federal level towards being driven by governments and MDAs at sub-national levels, in particular, State and Local Governments. It will be about scaling up the good practices and lessons emerging from Levels 1 and 2 to the sub-national levels. At the same time, this component will focus on the large-scale involvement of non-state actors, in particular, the private sector and civil society, with a view to ensuring ownership of the anti-corruption effort by the people.

The legislature plays a representative role for members of their constituency, so they are expected to reach out to their constituencies as the necessary bridge between the government and the people. As elected representatives of the people, they cannot afford to distance themselves from the people they represent, and should be in a position to educate and inform the electorate about the activities of government. It is a known fact that for organizational growth and development, every organization requires a continuous and effective channel of communication and feedback among members of the organization and the leaders. This implies that the bedrock of any governmental institution, body or arm is a good flow of communication between the headquarters and the territorial units (in this case between the government and the governed). However, it has been noted that the legislative arm, in most cases, fails to deliver effectively because there is a lacuna in their communication with their electorate.⁹

9. Onwe S. O, Ibeogu A. S, Nkwede J. O, Imperatives of Legislative Oversight Functions in Nigerian Democratic System, Research on Humanities and Social Science, Vol. 5, No 4, 2015. Online at file:///C:/Users/Multispace/Downloads/19841-22555-1-PB.pdf accessed on January 23, 2019

It must be noted that the implementation of the strategy, should be targeted towards the realisation of the technical objectives of the NACS which represents the pillars of prevention, public engagement; ethical orientation; enforcement and sanctions and recovery and management of proceeds of crime.



About CISLAC

Civil Society Legislative Advocacy Centre (CISLAC) is a non-governmental, non-profit legislative advocacy, information sharing and research organization, arising from the felt need to address defects in the legislative advocacy work of civil society and open the window through which legislators can also access civil society groups. It aims to strengthen the work of Civil Society on Legislative Advocacy and bridge the gap between legislators and the Civil Society.

The formation of CISLAC arose from the context of the fact that the return to civilian rule in Nigeria was achieved largely by the struggles of the organizations of Civil Society especially the Human Rights and pro-democracy groups. Many activists lost their lives in the demonstrations, and sometimes, violent eruptions which characterized agitation for democracy and the opening of the democratic space in the context of authoritarian military rule and dictatorship.

Civil Society Legislative Advocacy Centre (CISLAC) is currently one of the major civil society organizations in Nigeria with a primary focus on legislation and legislative processes. CISLAC is also engaged in policy/legislative advocacy, civil society capacity building and media engagement. CISLAC works to train and enlighten civil society on policymaking, the responsibilities of the legislature, and the existing policies and legislations affecting Nigerian citizens. It also aims to ensure that the legislature at local, state and federal levels are aware of their relationships with other government bodies and have a responsibility of acting as a voice for the people.

CISLAC was integrated as a corporate body (CAC/IT/NO22738) with the Nigeria's Corporate Affairs Commission (CAC) on the 28th December 2006. Prior to this incorporation, however, CISLAC had actively been engaged in legislative advocacy work since 2005. The organisation is also compliant with the Anti-Money Laundering Act 2007.

The Organisation reports to SCUML, any transaction that is above One thousand dollars, detailing the payee, purpose and the other KYC (Know Your Customer) requirements. This is done on a weekly or monthly basis depending on the volume of transactions and to ensure appropriate compliance with anti-money laundering laws.

CISLAC is also registered organisation under the National Planning Commission. In recognition of its broad perspective, CISLAC was granted an ECOSOC status by the United Nations in 2011 giving it the mandate and the instrumentality of the United Nations. CISLAC is duly registered in accordance with the provisions of Section 5(1) (a) of the Money Laundering (Prohibition) Act, 2011 of the Economic and Financial Crime Commission (EFCC). It is the national contact of Transparency International (TI).

CISLAC through its engagement of the governance processes in Nigeria has contributed towards the passage of several primary legislation such as the Fiscal Responsibility Act, Violence against Persons Prohibition Act, National Tobacco Control Act, National Health Act, Public Procurement Act, and Nigeria Extractive Industry Transparency Initiative Act which promotes transparency and accountability in governance as well as the domestication of international conventions at the Federal and state levels in Nigeria through advocacies, presentation of memoranda and public enlightenment programmes and media engagement.

CISLAC along with other civil society organizations campaigned and advocated for passage of the Freedom of Information Act. CISLAC is among the movement advocating for the passage of such pieces of legislation as Disability Bill, Gender and Equal Opportunity Bill, Whistleblower Protection Bill, Prison Reform Bill, etc.

CISLAC has created civil society awareness through publication and dissemination of monthly newsletter—Legislative Digest which have been in circulation for both public and legislative consumption since October 2006. It has been a central medium of accountability, as it provides

citizens a platform to monitor the performance of their Legislators, and a channel for Civil Society Organizations advocacy on critical issues that require legislative intervention. Also, CISLAC has a wide range of publications such as Textbooks and Policy Briefs, which examines policies requiring amendment and providing recommendations.

As a renowned CSO in Legislative advocacy in the region, CISLAC has on several occasions shared its experience on best practices for legislative advocacy on invitation from its international partners such as the World Bank Parliamentary Forum and the United Nations Millennium Campaign/Sustainable Development Goals in African countries such as Kenya and Zimbabwe. Similarly, Ghana, Kenya, and Democratic Republic of Congo have also requested support from CISLAC for replication of its work in Legislative advocacy. In many West African countries such as Liberia, Sierra Leone, Ghana, Cameroon, Niger, Togo and Benin Republic, CISLAC has carried out experience sharing and advocacy exercises on the Extractive Industry Transparency Initiative processes through supporting the passage of extractive industry initiative laws in these countries. CISLAC also undertakes capacity building for legislators, CSOs and Media on policy engagements in the above countries.

CISLAC's sub-granting experience includes grants to national organisations. With skilled, committed, experienced and proactive leadership and employees, particularly in the areas of coalition building, tenacious advocacy, community mobilization and the clout needed to engage lawmakers at all levels, the organization has proven capacity to attract international solidarity, engage policy makers and mobilize local civil society groups and communities into action.

GOAL:

To make government accessible, responsive and accountable to citizens.

VISION:

A Nigeria where legislators and policy makers are safeguarding citizens' rights and welfare while citizens effectively demand accountability

MISSION:

To engage state and non-state actors for improved policy and legislative frameworks, transparency and accountability in governance for people oriented development.

ADVOCACY VISITS

CISLAC has successfully engaged key members of the National Assembly in order to wield their influence in ensuring that civil society positions are accommodated. In 2006, for instance, CISLAC targeted key players and created public awareness on draft legislation and questionable provisions incorporated by the National Assembly. Such efforts improved the levels of discipline, transparency, and accountability in the management and openness of fiscal responsibility, public procurement, and the nation's extractive Industry sector in Nigeria.

Through such efforts, CISLAC has empowered communities mostly affected by the extractive industry sector, improved the levels of information dissemination, and ensure due process and transparency in the payments made by extractive industry companies to the Federal Government and its agencies. It has also educated State and Federal legislators, their advisory staff, CSOs, the media, and key stakeholders on their oversight roles in legislation and has reviewed their commitment in implementation.

PUBLICATION OF MONTHLY NEWSLETTERS

CISLAC has strengthened Civil Society intervention by the publication of a monthly newsletter - **Legislative Digest**, which has been in circulation for both public and legislative consumption since October 2006. It has been a central medium of accountability, as it monitors the performance of Legislators, and a channel for advocacy on critical issues that need legislation. Also, CISLAC has a wide range of publications such as Textbooks and Policy Briefs.



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