



HEDA
RESOURCE CENTRE



EMPOWERING OUR NATION

Legislative Actions Against Corruption

**Policy Brief Series Two
Addressed to the National Assembly**

September 2023

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Legislative Actions Against Corruption

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(Addressed to the National Assembly)

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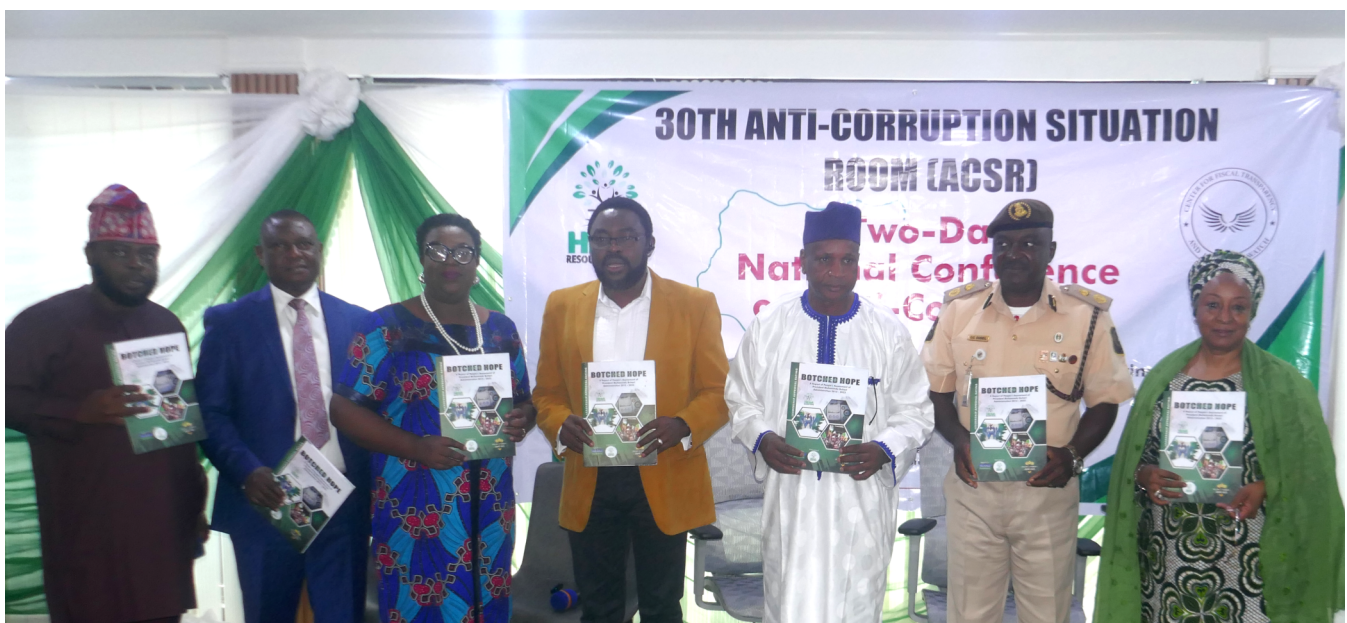
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#1

INTRODUCTION

Aim of this policy brief

This policy brief was informed by the discussions and recommendations from experts and stakeholders at the 30th Anti-Corruption Situation Room (ACSR), a two-day premier National Conference on Anti-Corruption which held on Tuesday 11 and Wednesday 12, July 2023 in Abuja, Nigeria's Capital, with the theme: "Nigeria and the Fight Against Corruption – Reviewing the Buhari Regime and Setting Agenda for the Tinubu Administration." Hence, drawing from the discussions and recommendations of the conference, this policy brief seeks to provide strategic recommendations to the National Assembly in relation to constructive engagement on the fight against corruption by the the new government.

Summary

This policy brief sets the tone by contextualising corruption and highlighting its implications in the Nigerian context, chief of which is the increasing millions of Nigerians who are extremely poor. It contends that the Nigerian National Assembly (NASS) plays a significant role in the fight against corruption in the country. It notes further that the role of the NASS which is saddled with the law-making function cannot be overstated, and its impact on eradicating corruption would be felt through the various legislative actions. The brief further recognises some of the challenges faced by NASS in the discharge of its law-making mandate that many of the lawmakers lack the expertise and understanding of complex financial transactions and corruption schemes, making it challenging to draft effective anti-corruption legislation and conduct oversight effectively amongst many other issues. The policy consequently recommends the need for anti-corruption champions in NASS, adherence to the constitutional roles of legislating Anti-corruption Strategy; curbing fiscal abuses; improved oversight and auditing; whistle-blower protection; provision of legislative requirements for admittance into international forums such as the Financial Action Task Force; review and abolition of resources for the implementation of constituency projects; improving implementation of Public Procurement Act as well as the Proceeds of Crimes Act, among others

#2

CONTEXT

The implications of grand corruption are devastating, far-reaching and cross-cutting. Corruption remains a major barrier to meeting the UN Sustainable Development Goals (SDGs); fighting climate change; promoting democracy and human rights; establishing international peace and security as well as securing a just society.

In Nigeria, corruption has remained the biggest problem that has inhibited the development and growth of the country since independence with pervasive and deep-rooted consequences. As a result, anti-corruption slogans and mantras are often exploited by political office seekers to garner votes from the citizens, who obviously are fed up with the festering state of corruption and impunity in the country.

Every year, Nigeria loses between \$15 billion and \$18 billion to Illicit Financial Flow (IFF), an amount far above what the country needs to address climate change annually. Diezani Madueke, former Petroleum Minister allegedly superintended over the stealing of \$20 billion; Sambo Dasuki, former National Security Adviser is standing trial for over \$2 billion; Former Attorney General, Muhammad Bello Adoke's OPL 245 supervised deal short-changed Nigeria by over \$1 billion; and it's doubtful if the country will ever finish recovering the Abacha loot . When all of these are added to the P&ID case which former President Buhari in 2019 referred to as an “international conspiracy to defraud Nigeria of over \$9.6billion,” then it is safe to conclude that there is danger ahead unless an aggressive action is taken.

According to Chatham House, between 1960, when Nigeria gained her independence, and 2014, up to \$582 billion has been stolen from the country. The HEDA report independently researched and published by HEDA Resource Centre in 2022, titled: “Impunity Galore: A chronicle of some unresolved high profile corruption cases in Nigeria, 1999 – 2022,” is not any less revealing. Shockingly, the report states that over \$825 billion and another N1.6 trillion are involved in the unresolved corruption cases within a 23-year period.

In yet another report, specifically the fifth Edition of “A Compendium of 100 High Profile Corruption Cases in Nigeria”, also released by HEDA Resource Centre, in May 2022, over 17 trillion Naira (about 35.4 billion US Dollars) is involved in pending (non-exhaustive) high profile corruption cases. This is the equivalent amount of Nigeria's 2022 budget. Nigeria's 2022 budget is 17.1 trillion Naira with a deficit of 6.4 trillion Naira.

The implication of this is that, the amount of money pending in some high profile corruption cases alone can conveniently finance Nigeria's budget without any deficit or loan. Hence, assuming the 100 cases captured in our publication is exhaustive, save for corruption, in 2022 alone, Nigeria can TWICE complete over 6,000 old projects and over 11,000 new projects cutting across water, health, education, road, power and electricity, etc.

Corruption undermines the effectiveness and efficiency of public institutions, including government agencies, ministries, and local authorities. Bureaucratic processes are often marred by corrupt practices, such as bribery, embezzlement and nepotism. This results in a lack of public trust in these institutions and a decline in their capacity to deliver essential services such as healthcare, education, and infrastructure development.

Correspondingly, corruption erodes the trust citizens have in their government and public officials. This is evidenced by another report released by HEDA Resource Centre in 2023, titled: “Botched hope: a report of people's assessment of President Muhammadu Buhari Administration 2015 – 2023,” where most of the respondents across all states of the federation gave a low rating to the Federal Government in key indices such as health and education.

When citizens perceive that those in power are corrupt, they become disillusioned and cynical about the state's ability to serve their interests. This erosion of trust can lead to social unrest, political instability, and a loss of confidence in democratic processes.

The negative impact of corruption is often felt most acutely by the vulnerable populations – women, young people and Persons With Disabilities (PWDs). Resources intended for poverty alleviation programs, healthcare, education, and social welfare are siphoned through corrupt practices. This diversion of funds exacerbates poverty and inequality, as it prevents these resources from reaching those who need them the most. It is therefore not surprising that in 2018, Nigeria took over from India to become the poverty capital of the world with over 80million extremely poor people despite its globally acknowledged oil fortunes spanning decades.



#3

LEGISLATIVE ACTIONS AGAINST CORRUPTION: WINDOWS OF OPPORTUNITY?

Corruption has been a longstanding challenge in Nigeria, and the legislative organ, comprising the Senate and the House of Representatives, called the Nigerian National Assembly (NASS), plays a crucial part in addressing this issue. The role of the NASS which is saddled with the law-making function cannot be overstated, and its impact in eradicating corruption would be felt through the various legislative actions.

The NASS is responsible for enacting laws and regulations that define corruption, prescribing penalties for corrupt practices, and establishing the framework for anti-corruption agencies like the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices (And Other Related Offences) Commission (ICPC).

The NASS conducts oversight functions over government agencies and departments, including anti-corruption agencies, to ensure they are effectively and efficiently combating corruption. The said function is primarily reviewing their budgets, activities, and policies. The NASS has enormous powers to amend existing anti-corruption laws to make them more effective or address new forms of corrupt practices.

Senators confirm the appointments of key government officials, including the heads of anti-corruption agencies. This oversight role ensures that qualified and competent individuals are appointed to lead these agencies. The NASS has the power to conduct public hearings and investigations into allegations of corruption in government and public institutions. These inquiries can expose corrupt practices and lead to reforms.

The NASS also has powers to review and scrutinize government contracts and procurement processes to prevent corrupt practices in public procurement. In short, the legislative powers of the NASS is extensive.

Practically, everyone taking any actions against corruption derive their powers through legislative actions. The Presidency, Judiciary, Anti-Corruption Agencies (ACAs), Law Enforcement Agencies (LEAs) and even non-state actors, all derive their powers, authorities, rights and responsibilities through the laws enacted by the NASS. This is not just because the NASS make laws, but also because it is the authorised representative of the people to do so. Therefore, the role of NASS in the fight against corruption cannot be overemphasised.

To this extent, this new dispensation presents yet another opportunity for NASS to shape the fight against corruption and redefine the campaigns beyond being business as usual. The international community plays a significant role in supporting anti-corruption efforts. The Presidency, through diplomatic channels, can foster partnerships with other nations and international organizations to share best practices, access technical assistance, and repatriate stolen assets. No doubt, the Ministry of Justice remains the key factor in navigating the legal aspects of these partnerships, bilateral and multilateral agreements and instruments.

#4

CHALLENGES OF THE FIGHT AGAINST CORRUPTION: NASS IN CONTEXT

While the fight against corruption is itself daunting, the complexity of the NASS and its diversity presents yet a whole other dimension to the challenges it may face in its attempt to combat corruption. One of the biggest challenges to the fight against corruption by NASS is that many of the lawmakers often lack the expertise and understanding of complex financial transactions and corruption schemes, making it challenging to thoroughly engage anti-corruption bills and conduct oversight effectively. For instance, the 10th National Assembly comprises 280 new members out of a total of 360. Regardless of the background of each of them, navigating a new terrain may not be so easy especially in the context of a sophisticated network of corrupt schemes and individuals.

Corruption often involves powerful political figures. Lawmakers are usually faced with pressure or interference from political elites when attempting to investigate or prosecute corruption cases involving influential individuals. This explains why many probes are endless and committee reports are not acted upon.

Owing to the fact that a number of people must agree and vote in support of a position before they are carried, it is sometimes difficult to move fast in engaging anti-corruption issues. There are always competing interests and forces. This may also explain why transparency, accountability and anticorruption bills often span years, sometimes decades. For instance, it took over a decade of consistent civil society advocacy to enact the Freedom of Information Act.

Given that corruption is deep-rooted in the Nigerian system, lawmakers are found competing for executive roles. This explains why we today have what is called constituency projects. This involvement in the executive roles has led to situations where the hands of many lawmakers are soiled. The ethical issues among some lawmakers who themselves have been implicated in corrupt activities often create conflict of interest when they are expected to engage anti corruption issues either through laws or oversight.

The social capital of the lawmakers also create a challenging atmosphere for their effective engagement of the fight against corruption. An average Nigerian sees an average politician as corrupt. Sometimes, the lawmakers are seen as earning huge allowances without doing much. This perception is an image problem. The low public trust in NASS can hinder the effectiveness of anti-corruption efforts, as citizens may believe that lawmakers are not committed to fighting corruption.

The disconnection between members of the NASS and their constituency poses a huge challenge to the citizen engagement aspect of their work, a core of the work they are elected to do. Such gaps in the very basic element legitimacy threatens the success of any meaning engagement particularly in the critical matter of anti corruption.

Lastly, the practice of political patronage, where political favours are exchanged for loyalty, can undermine anti-corruption efforts within NASS. Therefore, addressing these challenges requires a commitment to strengthening legislative capacity, ensuring independence, and promoting transparency and accountability within the NASS.

#5

ACTION POINTS

Need for Anti-Corruption Champions

This policy brief puts a clarion call to members of the National Assembly to be individually responsible for their integrity. Members individually and collectively must be firm in asserting their powers in checkmating the excesses of the executive. Legislators at the National Assembly, particularly the young and fresh members must serve as change agents considering the need for fresh anti-corruption agenda to be supported by the National Assembly

Adherence to the Constitutional Roles of Legislating

The new NASS should set a different example by adhering to Section 4 of the of the Constitution of the Federal Republic of Nigeria which provides that the National Assembly shall make laws and Section 5 which provides that the President and the Executive shall execute projects; thereby making it unconstitutional and illegal for the National Assembly to execute constituency projects.

Anti-Corruption Strategy

The need for anti-corruption strategy for the 10th National Assembly to highlight specific focal areas that would guide the committee in its law making and oversight activities is extremely important. The NASS should review the National Anti-Corruption Strategy (NACS) with a view to extracting its own commitments and ensuring that it provides legislative leadership towards expanding the frontiers of the fight against corruption.

Curbing Fiscal Abuses

Curtailing fiscal abuses should become a crucial action point for NASS to fight corruption and promote financial transparency. NASS should enhance its oversight functions to ensure that government agencies and ministries adhere to proper financial procedures and budgetary allocations. This involves in-depth and regular scrutiny of budget implementation, financial statements and audit reports. Also, as an action point, when brought before it, NASS should review and scrutinize the national budget thoroughly to identify any potential irregularities, hidden allocations, or inflated expenditures. They should ensure that the budget is transparent and aligns with the country's development priorities.

Improved Oversight and Auditing: A Case of the FOI Act

The FOI Act mandates the Attorney General of the Federation (AGF) to publish annual report of implementation and submit to the National Assembly. This report has been consistently submitted to NASS for over a decade and there has never been an action from NASS to either sanction those institutions that were reported as non-compliant with the FOI Act or at least summon them for questioning or even encourage them to comply in any manner. NASS should support and empower the relevant audit and oversight bodies, such as the Office of the Auditor-General for the Federation and the AGF, to conduct thorough and timely audits of government finances. Investigate allegations of fiscal abuses promptly and should strengthen the implementation of the Fiscal Responsibility Act.

Enactment of the Whistle-Blower Protection Law

The enactment of a comprehensive Whistle-blower Protection Law by NASS is a critical action point in the fight against corruption. Such a law would provide legal safeguards for individuals who report corrupt practices or misconduct within government, public institutions, or private sector organizations. It is important to note that, a well-crafted Whistle-blower Protection Law would encourage individuals with knowledge of corrupt activities to come forward and report them without fear of retaliation. This can lead to the discovery and prosecution of corrupt practices that might otherwise go unnoticed. Also, knowing that there are legal protections in place for whistle-blowers can act as a deterrent to potential wrongdoers. The fear of exposure and legal consequences can discourage individuals from engaging in corrupt activities. Additionally, whistle-blowers play a crucial role in promoting transparency and accountability within government agencies and private organizations, and their reports can lead to investigations, prosecutions, and reforms that enhance the integrity of public and private sectors.

Provision of Legislative Requirements for Admittance into International Forums such as the Financial Action Task Force

The provision of legislative requirements for admittance into international forums like the Financial Action Task Force (FATF) is a critical action point for NASS to demonstrate the country's commitment to global efforts against money laundering and terrorist financing. To achieve this, NASS can consider reviewing and amending existing anti-money laundering (AML) and counter-terrorist financing (CTF) legislation to align with international standards set by organizations like FATF. NASS must ensure that these laws encompass all aspects of AML and CTF measures, including customer due diligence, reporting requirements, and asset forfeiture. Additionally, NASS should provide statutory backing to the relevant regulatory authorities responsible for implementing AML and CTF measures, such as the Nigerian Financial Intelligence Unit (NFIU) and the Central Bank of Nigeria (CBN) with a view to reinforcing and showing commitment to international standards and cooperation in the fight against money laundering and terrorist financing, ultimately contributing to the country's admittance and active participation in international forums like FATF.

Review and Abolition of Resources for the Implementation of Constituency Projects

The abolition of resources allocated for the implementation of constituency projects by NASS might be seen as a complex issue with many advantages to the country in its fight against corruption. First, constituency projects have been plagued by corruption, with funds sometimes being misappropriated or diverted for personal gain. Abolishing these projects could reduce the opportunities for corrupt practices. Second, the abolishment would allow NASS to redirect its attention and resources towards its primary legislative functions, such as law-making, oversight, and representation. This could lead to more effective governance. Third, without the need to allocate and manage funds for constituency projects, NASS may be able to allocate resources more efficiently to critical national priorities. Fourth, constituency projects often require a significant portion of the national budget, therefore, by abolishing them, NASS could potentially save money, which could be allocated to more pressing needs. Lastly, removing the responsibility of implementing projects at the constituency level by members of NASS could lead to a more streamlined and efficient government structure and indeed such actions removes the tag of corruption from members of NASS and presents them in better light.

Commitment to the Implementation of the Public Procurement Act

NASS's commitment to the implementation of the Public Procurement Act is a crucial action point in the fight against corruption and the promotion of transparency, accountability, and good governance. NASS should actively oversee the implementation of the Public Procurement law by government agencies and institutions. Regular hearings, investigations, and reviews of procurement processes can help identify and address any irregularities or corruption in procurement. Lastly, NASS should support more effective implementation of open contracting, e-procurement and the Nigeria Open Contracting Portal (NOCOPO).

Improvements to the Budget Passage Process

As a new NASS, the parliaments should ensure that budget presentation adhere strictly to relevant provisions of the constitution and extant practice whereby the President is required to prepare and make presentation of budget to the National Assembly without any other public officials apart from the Minister of Finance having to appear to defend budgetary allocations to MDAs before the National Assembly. This will help curb unnecessary interference and undue influence on members of the NASS.

Proceeds of Crimes Act

The power of investigation, prosecution and management of looted assets currently being exercised by the agencies needs to be reassessed with a view to secure the confidence and trust of Nigerians and the global community in the fight against corruption. NASS should invest efforts in ensuring that the law it passed so that the Proceeds of Crimes Act are allowed to serve desired purposes. Hence the current NASS should review the current practice and engage the presidency appropriately on this.



ABOUT HEDA RESOURCE CENTRE

The Human and Environmental Development Agenda (HEDA Resource Centre) is a prominent Nigerian organization committed to promoting good governance, combating corruption, and advocating for environmental justice. Founded in 2001 and officially incorporated as a non-governmental organization in 2004, HEDA conducts research, policy advocacy, training, and citizens' awareness campaigns in various areas such as anti-corruption, food security, climate change, human rights, public sector accountability, and electoral reform.

VISION & MISSION

HEDA's vision is an Africa where all persons regardless of locations and situation have the freedom and ability to enjoy the benefits of good governance, and respect for human dignity in a sustainable environment. Its mission is serve as a policy and campaign centre for research, training and advocacy on the environment, good governance, and human rights.

PARTNERSHIPS AND RECOGNITION

HEDA is a member of the United Nations Convention Against Corruption (UNCAC) Coalition, a global network of over 350 CSOs and 100 individual members in more than 100 countries. HEDA has observer status with the UN Economic and Social Council (ECOSOC), the UN Framework Convention on Climate Change (UNFCCC), and the Green Climate Fund.

CONTRIBUTION TO TRANSPARENCY AND ACCOUNTABILITY

HEDA has made significant contributions to transparency and accountability in Nigeria through extensive research and advocacy efforts.

The organisation's "A Compendium of 100 High Profile Corruption Cases in Nigeria" has garnered attention from local and international partners, including the UK's National Crimes Agency (NCA). This publication has served as a basis for investigations on illicit asset tracing and recovery.

HEDA's transparency and anti-corruption campaigns, along with its media engagement, have exposed scandals such as the Malabu Oil Deal (OPL245), leading to the suspension of the mining lease. The Organization also published: "Corrupt Practices in Nigeria's Oil Industry: OPL245 Case Study" and this has attracted a refund of \$85 million to Nigeria from the United Kingdom. The organisation and its partners blew the whistle on a private jet belonging to former Petroleum Minister, Dan Etete, believed to be a proceed of the OPL245 deal and the Nigerian Government had it seized when it was moved out of Dubai to Canada.

In a continual effort to promote transparency and accountability, also published a collection of corruption cases not investigated by the EFCC, ICPC, Senate and House Committees of the Nigerian law-making body- The National assembly between year 1999 till 2022 in a published article titled; 'Impunity Galore: A Chronicle of Some Unresolved High Profile Corruption Cases in Nigeria (1999-2022)'. HEDA's activism in the judiciary also earned it recognition, as it became part of the National Judicial Council's Committee on the Monitoring of Trials of Financial Crimes and Corruption Cases in Nigeria.

LEADERSHIP AND COLLABORATION

HEDA has played leadership roles in various civil society collaborations, both locally and internationally. It hosts the secretariat of the Civil Society Network Against Corruption (CSNAC), a network of over 150 anti-corruption organizations and individuals in Nigeria. HEDA is also an active member of the Procurement Monitoring Working Group (PPMWG) and the Anti-corruption thematic working group of the Open Government Partnership (OGP) Nigeria. The organization continues to collaborate with critical stakeholders, such as Integrity International Institute (III), to advocate for the establishment of an International Anti-Corruption Court (IACC).

WHISTLE-BLOWERS AND ANTI-CORRUPTION TOLL FREE LINE

HEDA has a whistle-blowers toll free line: 08004332277, which has received hundreds of phone calls from members of the public on sundry issues of corruption, human rights abuses, transparency and accountability. Some of the cases have been taken forward through petitions, Freedom of Information (FOI) requests and public interest litigation.

ABOUT CEFTIW

The Centre for Fiscal Transparency and Integrity Watch (CEFTIW) is an NGO established in 2016 with the aim of promoting accountability, transparency within the public sector, and ensuring good governance at all levels. While it promotes open governance at national and sub-national levels, it also serves as a credible hub for resources related to criminal justice such as crime, compliance, asset recovery and illicit financial flows.

The Center has over time worked with both government and CSOs to implement programs and interventions aimed at strengthening democracy and improving governance in Nigeria.





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