

CHAPTER 9

09

: A LEGISLATIVE AGENDA FOR DEEPENING DEMOCRACY AND
: STRENGTHENING INSTITUTIONAL CAPACITY FOR ANTI-CORRUPTION

Elections with integrity are the foundation of democracy. In a true democracy, our elected leaders are simply the temporary custodians of political power; the power ultimately rests with the people. While elections are the foundation of democracy, they do not serve the cause of democracy if they are corrupt; in fact, they give democracy a bad name. By ensuring that elections are held with integrity, we can help fulfil the promise of the Declaration and its supporting international treaties: a world where governments are mindful of the inherent dignity and equality of every individual, and respect their right to have a voice in how they are governed... Strengthening the rule of law so that the rights of voters and candidates are protected.⁴



In this chapter, we shall explore the various legislative instruments that the 8th Assembly designed to further deepen the democratic process and democratic accountability. The ultimate goal being to ensure that good governance is achieved and the dividends of democracy become less illusive.

The following bills and relevant areas were targeted to strengthen anti-corruption, governance reform and deepening democracy.

- I. The Federal Audit Service Commission Bill 2017
- II. The Electoral Act (Amendment) Bill 2018
- III. Whistle-Blowers Protection Bill
- IV. Proceeds of Crime Bill
- V. National Financial Intelligence Unit Bill
- VI. Mutual Assistance in Criminal Matters Bill
- VII. Food Security Bill

⁴ Speech by Kofi Annan at the Global Commission report launch, September 2012

THE FEDERAL AUDIT SERVICE COMMISSION BILL

“Today is a landmark achievement in the fight against corruption. This is will bring accountability and probity in the finances of the government and the fight against corruption. This will go a long way in ensuring the independence of the office of the Auditor-General and will ensure that the Auditor-General has access to different parastatal agencies.”⁵

These words capture the true fundamental objective of the audit bill. There is no better time than now to see greater probity in the management of the Nigerian public financing architecture. For too long, the level of corruption and lack of accountability that has permeated the public sector has become widespread and unacceptable. The 8th National Assembly identified institutional weakness as one of the limitations to changing a culture of financial impunity in the public system. Therefore, it thought it wise that the only way to sustainably deal with the problem is to strengthen the Office of the Auditor General and provide a framework for the systematic auditing, review and independent observation of the accountability requirements on every office where public funds are expended.

Indeed, this is the most far reaching and robust audit framework the country has adopted in over 40 years. The Commission created under the bill will have the power to carry out audits of all revenues accruing to the federation, expenditures of the federation from all sources, donations, grants and loans accruable to the Federal Ministries, Departments and Agencies (MDAs) or other public entities. The Commission will also be empowered to carry out performance audit by ensuring that the business of federal government and its agencies is economically, efficiently and effectively performed. The Commission will have power to audit classified expenditure, international institutions to the extent of Nigeria’s contribution to such bodies, as well as all federal government and its agencies’ counterpart funded projects across the country.

THE ELECTORAL ACT 2010 AMENDMENT BILL

Aside the constitution, no other piece of legislation has the potential to deepen our democracy like the Electoral Act. The current law, the Electoral Act 2010 amended by the 2015, is the framework that guides the conduct, process, outcome and expectation of our electoral process.



⁵ The Senate President, Dr. Abubakar Bukola Saraki’s Remarks after the Senate passage of the Federal Audit Bill on the 30th of April 2018.

Therefore, the viability or otherwise of our electoral process is closely tied to the integrity and ability of the electoral law to midwife a genuine and fair elections. In the same vein, a credible electoral system holds the key to some of our overarching policy imperatives such as the anti-corruption war, good governance, dividends of democracy and sustainable democracy. Our current electoral law does not serve us optimally on these fronts.

It is for these reasons and the experience of the 2015 elections that, upon inception, the National Assembly made the amendment of the Electoral Act a cardinal policy objective. The leadership determined that

“We must not leave the stage without doing our bit to make it better for posterity and for our country’s democracy. For us at the National Assembly, this was a national duty beyond law-making, it was about saving our country and building the right blocks that would ensure the survival of our democracy far better than what we have now. The legislative agenda was simple; beyond politics, building a more robust, effective, fair and just electoral system that would form the foundation for a better Nigeria tomorrow.”⁶

The vision was an electoral system that is as far as practicable insulated from manipulation. An electoral system that would command the respect and confidence of our people. The idea was to have a system that would encourage the best among us to feel protected enough to vie to serve our nation and participate fully in

our electioneering process - with an underlying expectation that electoral outcomes will be the true representation of the people’s will. It was for this that the National Assembly prioritized the amendment of the Electoral Act 2010 to plug the loopholes that have helped to subvert the electoral process in the past.

The bill was the product of a very robust collaborative process of engagement between the National Assembly, the Independent National Electoral Commission (INEC), the Executive and other major stakeholders. A draft bill was produced and endorsed by most stakeholders. And at the public hearing on the bill, Nigerians from all over the country made contributions to the draft which was then passed by both Houses of the National Assembly after a rigorous debate in both chambers, and sent to the President for his assent. Certain minimum milestones were set out to be achieved and were indeed. These include:

Card Reader Authorization

It would be recalled that the Supreme Court had, in several recent cases, questioned the legitimacy of the use of card readers for accreditation since there is yet no law legitimizing its use in the electoral process. This bill was designed to fix this significant challenge in the light of our rather inglorious past with the manual electoral process.

The aim was to ensure the legitimization of the card reader system of accreditation, towards the eventual incorporation of electronic voting and seamless transmission of electoral result, through a process that is insulated from undue human interference. This was for the 8th Assembly a minimum requirement, something that was as important for the 2019 election as well as the electoral system going into the future.

Direct Transmission of Result

The bill was designed also to help guarantee that election results are free from manipulations, as they are transmitted directly by electronic means to a central database. It also has provisions for severe punishment for election officials who try to manipulate the process wilfully to announce fake and wrong results. This would have had the implication of cutting out one of the strongest routes to electoral fraud in our history; the manual collation and transmission of results from place to place.

Reducing the Fee Band for Nomination Forms

Other notable provisions have the potential to widen the electoral field by ensuring that elections do not mean that you must be very rich to participate and be voted for. This has been made possible by reducing the band of fees chargeable by the parties against candidates for elections, especially with regard to youths and women.

Anti-Corruption Implication

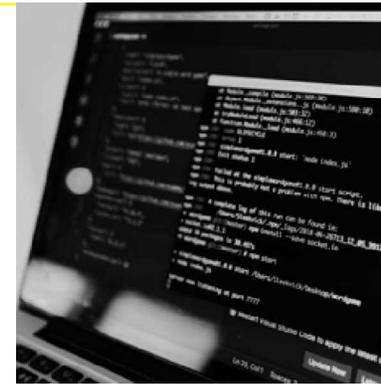
More importantly, if we are truly ready to deal with corruption, it must start with getting the integrity value of our elections back. The bill which has been sent to the President, and which has been denied assent, would have been a major

springboard for the anti-corruption fight, as people who go to seek elections will find that they can only rely on their integrity and the people’s goodwill to win. No longer would unscrupulous elements be able to use incidents forms and other such discretionary prone instruments to their advantage in the election process, as this bill would have made their use illegal and inapplicable. This is further noted as the bill has expanded the opportunity of the public to check the integrity of the process by asking for and being allowed to check the election materials including ballot papers, boxes etc. before the commencement of voting.

Apart from obviating the clear gap in the law relating to substituting dead candidates under Section 33 (which this amendment has been able to rectify), there are several other milestones under this bill that would have had only the effect of creating clarity, just and modern electoral process that all Nigerians would have been proud of, but which may - by this decision of the President - become a pipe dream and therefore go with the wind, unless the National Assembly decides to review this decision positively.

Fair Playing Field

Furthermore, this amendment provides a fair and more level playing ground for all contestants by



mandating INEC to publish all voter registers 30 days before the election. This will end the manipulation of voter registers. In the case of missing names on the voter register, voters have 30 days to complain to INEC. It also empowers INEC to utilize full biometric accreditation of voters with smart card readers and/or other technological devices as INEC may introduce for elections from time to time. This would have ensured that political parties can no longer impose arbitrary qualification criteria on candidates. It will also encourage younger voters to contest, promote competition in the process, and make elections more free and fair.

⁶ Remark by the President of Senate (Dr.) Abubakar Bukola Saraki (CON) on the consideration of the Electoral Act Amendment 2017.

The bill sets out a very robust process for the determination of candidates, as well as a dispute resolution mechanism that will allow those who are aggrieved to petition quickly and have their matters resolved timeously. It would have guaranteed the keeping of all election records and documents for all time, meaning that where such matters become important in the future, they can be retrieved and used by the public for just purposes.



01

WHISTLE-BLOWERS PROTECTION BILL

The bill seeks to encourage and facilitate the disclosures of improper conduct by public officers and public bodies, protect persons making those disclosures and others from reprisals, and provide for the matters disclosed to be properly investigated and dealt with.

02

PROCEEDS OF CRIMES BILL 2016

The bill seeks to provide for a legal and institutional framework for the recovery and management of the proceeds of crime or benefits derived from unlawful activities. It provides a robust regime for the confiscation/forfeiture of proceeds of crime by the courts; and establishes the Proceeds of Crime Recovery and Management Agency to administer and enforce the provisions of the bill.

03

MUTUAL ASSISTANCE IN CRIMINAL MATTERS BILL 2016

The bill seeks to facilitate the provision and obtaining by Nigeria of international assistance in criminal matters. It provides the framework for any agreement between Nigeria and foreign countries for the purpose of gathering and exchanging information in enforcing our criminal laws. This also includes assistance in the identification, tracing, freezing, restraining, recovery, forfeiture and confiscation of proceeds; property and other instrumentalities of crime.

04

WITNESS PROTECTION PROGRAMME BILL 2015

The bill seeks to provide for the establishment and operation of a programme to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions. It facilitates the protection of persons directly or indirectly providing assistance in law enforcement matters

05

STUDENTS FINANCIAL AID SCHEME (ESTABLISHMENT, ETC.) BILL 2015

The bill seeks to establish the National Student Financial Aid Scheme (NSFAS) to provide for the management, governance and administration of a scheme, to provide for the granting of loans and bursaries to eligible students at higher institutions and ensure the recovery of such loans.

Students who do not have the financial means to fund their studies and/or cannot access bank or other private funding will benefit from this scheme.

06

NATIONAL CENTRE FOR CANCER AND TREATMENT (EST., ETC.) BILL

The bill provides for the establishment of the National Centre for Cancer Research and Treatment, and to provide treatment to patients in Nigeria. It shall provide research on scientific improvements to cancer prevention, treatment and care; and make recommendations to the Government about cancer policy and priorities.