

Security Sector Reform in Nigeria: Efforts of the 8th National Assembly, Current Challenges and Opportunities for Civil Society Contribution to 9th National Assembly Efforts

Introduction

This factsheet aims to review the performance of the 8th National Assembly towards Security Sector Reform/Governance (SSR/G) in Nigeria. It details outstanding issues that should be of immediate concern to the 9th Assembly, makes recommendations for legislative action and proffers methods of engagement by civil society with the 9th National Assembly.

Overview of Performance of the 8th National Assembly

Upon the 8th National Assembly's inauguration, the Senate and House of Representatives developed and adopted respective Legislative Agendas that prioritised taking legislative action in response to security challenges in the country. They resolved to address the worsening security crisis in the country by enacting laws aimed at protecting citizens, proposing legislation/amendments on security reforms and ensuring improved exercise of its oversight role in the monitoring of expenditure allocated for national security.

Specifically, the House of Representatives resolved to:

- "provide legislative backing to measures aimed at addressing National Security challenges including terrorism and insurgency in the North-East of the country, kidnapping, and crime generally"; and
- support the security services in tackling crime, terrorism and other National Security concerns ..."¹

The Senate on the other hand did not list specific items it would address, but made reference to enacting or amending existing laws to ensure "the security and welfare of every Nigerian on an equal basis and without discrimination on the basis of gender, region or religion." In addition, the Senate committed to taking legislative initiatives to address the problems of "unemployment, insecurity, absence of infrastructure and general economic decline."

PLAC tracked actions by the 8th National Assembly taken between June 2015 and March 2019 aimed at addressing security challenges in the country². In the period, a significant number of security sector reform related bills were introduced, however, less than 40 were considered or deliberated upon in the Senate and less than 30 considered in the House of Representatives³. Bill sponsors rarely followed through their bills, most of the bills introduced never made it to 2nd reading stage, and even fewer were committed to committees or discussed at plenary.

Motions and Resolutions⁴ seemed to be the most popular and frequently used legislative action with over 100 raised in the Senate and over 200 raised in the House. Unfortunately, many motions and bills referred to committees were not treated or reported out of the committees for discussion and adoption by plenary.

¹ See 8th House of Representatives Legislative Agenda on PLAC website: <https://bit.ly/2mmY4GZ>

² See compilation of 8th Senate Security Sector Reform related bills, motions and resolutions: <https://bit.ly/2n6YPUN>. For the 8th House of Representatives, go to: <https://bit.ly/2n6YPUN>

³ Consideration/deliberation in this context refers to discussions of the bill in the chamber from the 2nd reading stage up until passage

⁴ A motion is a proposal moved by a Member for the House to do something, to order something to be done, or to express an opinion with regard to some matter. A resolution is an expression of the will, wish, or direction of the Legislature. A resolution generally does not have the effect of law

In any case, resolutions which are a quicker way for the National Assembly to respond to issues do not have the force of law, meaning that the persons or agencies they are directed to are not compelled to obey them. NASS can however summon such agency or use its “power of the purse” to enforce compliance.

Oversight appears to be the weakest among the legislatures three main constitutional responsibilities of law making, representation and oversight. Unfortunately, this is the function that is most needed for security sector accountability. In the 8th Assembly, the number of oversight visits in both Chambers were low. Records revealed little to no evidence of physical evidence of oversight visits by committees. And in cases where this was done, the reports were not presented for consideration at plenary. Publicly available records show that only about 4 oversight visits reports were tabled in each chamber by security sector related committees within a four year period of 2015 – 2019. It is also unclear if recommendations in those reports were ever followed or enforced. This calls to question the commitment of the Legislature to improved security sector oversight towards addressing the security challenges they met upon their inauguration and afterwards⁵.

List of key SSR bills passed by 8th Assembly

Bills passed by the House of Representatives:

- Prevention of Crimes Act (Amendment) Bill (now Act), 2016
- Nigerian Police Trust Fund Bill (now Act), 2019
- Explosives Act (Amendment) Bill, 2016
- Vigilante Group of Nigeria Bill, 2017
- Defence Space Administration Bill, 2016
- National Security Agencies Protection of Officers Identity Bill, 2016
- Compulsory Treatment and Care of Victims of Gunshot Bill (now Act), 2017

⁵ The main goals of legislative oversight are to prevent waste, fraud, and abuse, especially over funds appropriated by NASS, and also to protect citizens rights. For more on this topic, See PLAC's Guide to Legislative Oversight at: <https://bit.ly/2IHONJq>.

In some other jurisdictions, comprehensive oversight plans for committees are adopted for improved effectiveness. For instance, see oversight plan of US House of Representatives at: <https://www.congress.gov/116/crpt/hrpt40/CRPT-116hrpt40.pdf>

Bills passed by the Senate:

- Firearms Act (Amendment) Bill, 2017
- Air Force Institute of Technology of Nigeria Bill (now Act), 2017
- Defence Space Agency Bill (now Act), 2016
- Abduction, Wrongful restraints and Wrongful Confinement for Ransom Bill, 2017
- Defence Research and Development Bureau (Establishment) Bill, 2018
- Nigeria Peace Corps (Establishment) Bill, 2015
- Prisons and Correctional Services Bill (now Act), 2019
- Anti-Jungle Justice and Other Related Offences Bill, 2015
- North East Development Commission Bill (now Act), 2018

Outstanding Issues from 8th Assembly

A number of security bills and issues were left un-concluded in the 8th National Assembly. These include:

- **Police Bill:** The Police Bill was introduced in May 2018 and was passed by the Senate in April 2019. The Bill was however negated by the House of Representatives at second reading. The Bill sought to repeal and re-enact the Police Act of 1943, to bring the police in line with modern policing practices.
- **Amendment of the Terrorism Act:** The Terrorism Act was enacted in 2011 and substantially amended in 2013. The Terrorism (Prevention) Bill, 2018 sought to harmonise the two Acts and make additional contributions to ensure compliance with obligations under International Law. The Bill was only passed in the House of Representatives.
- **Restriction on use of Armed Forces in Internal Operations:** Questions had been raised on to the role of Armed Forces in internal security operations, especially in view of various operations around the country that has led to the problems of excessive use of force and extrajudicial killings. A Bill on Restriction on the Use of the Armed Forces in Internal Security Operations sought to clarify the role the Armed Forces should play in internal security operations and the process for activating protocols for its use. The Bill got to the second reading, but did not go beyond the committee stage.

Matters Arising in Nigeria's Defence and Security Sector:

- i. Current structure that enables enormous and unregulated executive powers in the security and defence sector. Under such conditions, it is challenging for the National Assembly and other institutions to effectively discharge their oversight responsibilities.
- ii. Ascendancy of non-state security actors in the country's security sector. These groups do not have officially designed guidance documents in the form of standard operating procedures, code of conduct or rules of engagement that regulate them in terms of their operations and relations with the formal security actors. This has partly accounted for ambiguity in their operations and excesses in their conduct, which makes oversight and accountability a major challenge in the context of security sector governance.
- iii. Lack of capacity and technical competences by some oversight bodies as it relates to oversight of the security and defence sector. In the case of the National Assembly, lack of capacity and technical competences among members of the National Assembly caused by low retention rates, does not give room for the building of capacities and institutional memories by legislators.
- iv. Corruption and lack of accountability within the defence and security sector, as well as within oversight institutions represents a major obstacle to the effective governance of the sector.
- v. Gender based discrimination due to structural and institutional imbalances that are linked to policies around recruitment and other policies that falls short of the key benchmarks for gender mainstreaming as contained in the United Nations Security Council - UNSCR 1325, National Action Plan adopted by Nigeria.
- vi. Issues of secrecy and lack of trust between civil society groups and the security and defence sector, which makes advocacy and work around accountability challenging. Shrinking space for civil society is also a challenge.

- vii. Passive and inadequately informed citizens unable to mobilise around issues, sustain advocacy efforts or put pressure on government to take concrete actions towards improvement of security.
- viii. Continued opacity and secrecy in spite of extant laws that require sharing of public information such as the Freedom of Information Act, 2011.

Issues Observed with Some Proposed Security Sector Reform Related Bills in the 8th Assembly

- Minimal nexus to a broad security sector reform framework;
- Adoption of a traditional non-responsive focus on state security, not human security;
- Proposals with a risk of arbitrariness in enforcement and rights violations;
- Non-transformative provisions;
- Inadequate and non-inclusive oversight mechanisms;
- Emphasis on punitive measures in response to security sector challenges;
- General replication and overlap of functions of existing security apparatus.

Recommendations for 9th National Assembly

- Review of the 1943 Police Act - Significant traction was made on the Police Bill in the 8th Assembly, with CSOs coming together to push for its passage and the exhibition of political will by legislators, especially the Senate.
- Work with the executive to clearly articulate a cohesive National Security Strategy/ Policy.
- Work with the Executive for improved synergy and relations.
- Perform impartial and unbiased oversight of Police and Armed Forces Procurement, particularly funds earmarked to purchase equipment to counter insurgency.
- Follow up on recommendations from Security Summits organised by the 8th National Assembly/ past administrations to address security challenges in the country.
- Address welfare concerns of security operatives.

- Tackle issues of bias and nepotism in recruitment exercises by the Security Agencies.
- Adopt a human rights and inclusive approach to security sector reform and oversight of the security sector.
- Adopt deliberate policies to genderise recruitment into armed services.
- Carry out gender audit of policies and guidelines for women.
- Review extant laws on gender mainstreaming.
- Deliberate policies that strengthen participation; and
- Increase awareness on the fact that security has no gender and everyone must participate at every level.

Steps the 9th National Assembly needs to take towards adopting good security sector related laws

- Bills should effectively respond to security challenges and comply with progressively good SSR/SSG standards;
- Political will should be harnessed to ensure that public welfare and security remains the primary objective of SSR, promoting community-centred security services that adhere to the principles of participation, responsiveness and accountability;
- Bills should be situated within the greater context of democratic rule through an increased understanding of SSR/SSG;
- Public hearings and consultations should be utilised to strengthen accountability, encourage citizens' participation and entrench implementation and monitoring;
- Focus should be on strengthening the peace infrastructure, creation of multi stakeholder dialogues and solutions that prevent conflict and promote social inclusion;
- Existing security infrastructure should be strengthened as opposed to creating or replicating existing functions in new security apparatus.

How Civil Society Organisations (CSOs) can engage the 9th National Assembly

To ensure that the government is held accountable on security sector reform and to support the adoption of the above recommendations, CSOs can use the following methods:

- **Research and Information:** CSOs act as an independent source of research and information by producing knowledge products such as reports and legislative briefs. These documents could propose ideas and make recommendations for improving security policy and practice.
- **Awareness Creation:** CSOs can educate citizens about their rights vis-a-vis the security sector and on how an accountable and responsive security sector ought to work.
- **Monitoring:** CSOs can contribute to accountability and good governance of the security sector by observing and monitoring the activities of security agencies, oversight bodies such as the National Assembly and other public institutions responsible for providing security.
- **Budget Analysis:** CSOs can analyse financial data on funds allocated to the security sector and monitor their utilisation. Further, CSOs can support and develop the legislature's capacity to deal with defence budgeting and its technical terminologies.
- **Capacity Building:** CSOs can provide trainings on key concepts of security sector, monitoring and oversight of the sector.
- **Technical Assistance:** This could take the form of drafting legislation or legislative amendments for legislators. CSOs could also draft alternative white papers on security policies.



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