



THE ELECTORAL HUB STATEMENT ON THE NATIONAL ELECTORAL OFFENCES COMMISSION (ESTABLISHMENT) BILL, 2021 (SB 220)

On 28th April, 2021 the Senate held a public hearing on the National Electoral Offences Commission (Establishment) Bill 2021. The Bill seeks to establish the National Electoral Offences Commission which would be responsible for investigating and prosecuting electoral offenders. It follows the recommendation of Justice Uwais-led Electoral Reform Committee (ERC) which was set up in 2008 to make recommendations for electoral reform.

The Electoral Hub commends the 9th National Assembly for this initiative to further strengthen and safeguard the integrity and credibility of our electoral system. The Electoral Hub focused on strengthening electoral governance and accountability in Nigeria on Wednesday, April 28, 2021 submitted its memorandum to the National Assembly highlighting key provisions of the Bill and making recommendations on the areas of improvement.

Firstly, clause 1(1) of the Bill establishes the National Electoral Offences Commission. Most notable is the fact the Bill provides for the independence of the Commission in the exercise of its functions. The express provision of the Bill stipulating the independence of the Commission is commendable and necessary in ensuring its impartiality. Furthermore, clause 2(3) of the Bill stipulates that the Chairman and the members of the Commission shall be appointed by the President and subject to confirmation by the Senate. We opine that the appointment of the Chairman and members of the Commission by the President to a large extent truncates the aim of establishing the Commission. We recommend that to ensure the full independence and impartiality of the Commission, the Clause be amended to provide for an independent body established by law saddled with the responsibility of nominating members of the Commission, which will then be subject to confirmation by the Senate.

Secondly, we commend the gender inclusion initiative in the composition of the members of the Commission stipulating the appointment of two women out of the six Nigerians as contained in the Bill. This provision represents about 33% guaranteed representation for women, thereby meeting the 30% threshold in the National Gender Policy. However, we recommend that the 30% threshold be extended to the appointment of representatives from INEC, the Ministry of Justice, the National Human Rights Commission, and other bodies stipulated in the Act.

Thirdly, the express mandate on the Commission to investigate electoral offences and prosecute offenders is highly important. Most significant is the power of the Commission to adopt measures to prevent, minimize and eradicate the commission of electoral offences therefore giving the Commission the powers to take positive actions to deter others from committing electoral offences. However, we submit that the mandate to maintain records of all persons investigated and prosecuted is not sufficient. In addition to maintaining records, the Commission should be required to publicize these records. We therefore recommend that clause 6(1)(e) be amended to give the commission the powers to publicize the records of all persons investigated and prosecuted.

Finally, we observe that the sanctions for some offences under the Bill conflict with the sanctions for the same offences stipulated under the Electoral Act 2010 (as amended). For instance, the sanction for the offence of knowingly making a false statement in application to be placed on the voters register conflicts with the sanction for the same offence under the Electoral Act 2010. These duplications and inconsistencies would lead to confusion as to which provision should apply. We therefore recommend that the National Assembly should seize this opportunity as it reviews the Electoral Act 2010 to harmonize the penalties for similar offences under both the Electoral Act and the National Electoral Offences Commission Bill. This is necessary to provide clarity in the imposition of penalties.

We are hopeful that this Bill, along with the recommendations put forward in our memorandum to the National Assembly, will contribute to safeguarding electoral integrity and credibility in Nigeria.

Signed

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