MSC Synthesis Note (JULY 2024)

PERL's Contribution to

Improvements in Public Sector Accountability (Oversight & Delivery Mechanisms) in Nigeria at the National Level (2016 to date)

Preamble

Accountability lies at the core of democratic government, and **oversight mechanisms** play a pivotal role in upholding this fundamental principle. Since the country returned to civilian rule in 1999, the Executive arm of Government in Nigeria has exerted control and influence over many of the institutions established to hold it to account. Constitutional amendments seeking to establish the financial autonomy of the legislature, judiciary, local government and audit office were first proposed in 2008. While that of the National Assembly (NASS) was approved in 2010, others failed to scale through, even after repeated attempts in 2011/12 and 2014/15, partly due to limited public understanding of the process and purpose of these amendments, but also considerable political push back from sitting Governors and some NASS members.

On coming to power in 2015, President Buhari's administration prioritized the fight against corruption (waging an 'anti-graft war') on all fronts, through transparency and accountability in public financial management (PFM). In June 2016, he signed Nigeria up to Open Government Partnership (OGP) in a bid to reduce Nigeria's global reputation for corrupt government through disclosure of beneficial ownership, etc, opening the doors to civil society participation in governance and scrutiny of PFM processes (see *PERL's Contribution to National PFM Reforms*). However, he failed to approve a critical piece of legislation, the 2015 Audit Bill, passed by the outgoing NASS, granting administrative autonomy to the Office of the Auditor General of the Federation (OAuGF), the foremost statutory office of accountability in Nigeria and supreme audit institution, solely responsible for the Audit of Federal Public Accounts. Building on the efforts of its main predecessors, SAVI, SPARC and FEPAR, and invitations from the new administration, the PERL programme provided technical support to numerous state and non-state actors from 2016 and 2024 to progress such reforms, to strengthen the legislature to perform its statutory oversight function, as well as strengthening of oversight mechanisms within the Executive arm, to hold Ministries, Departments and Agencies (MDAs) to account, through reforming Federal Performance Management systems.

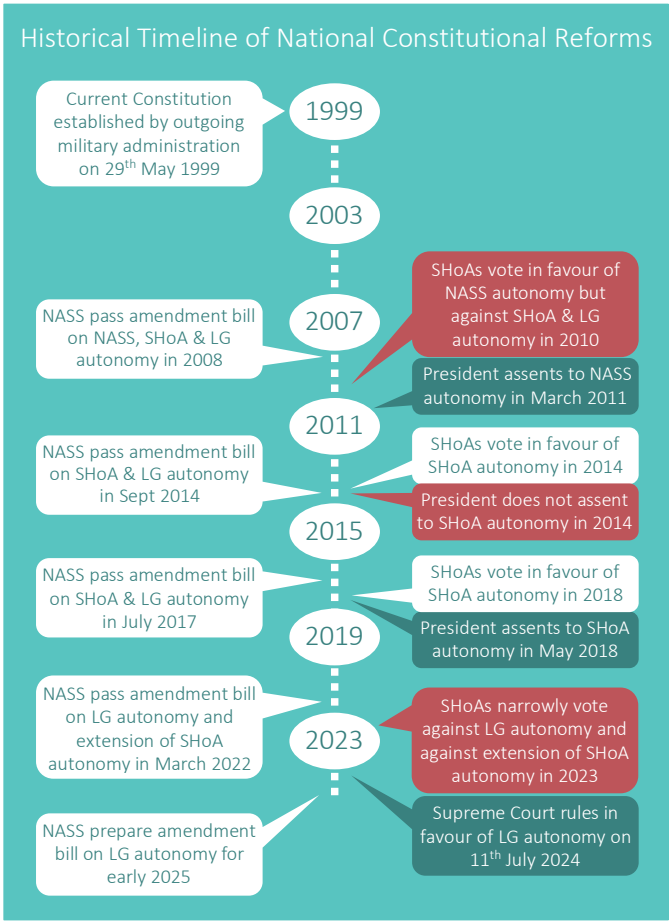
This note provides an overall synthesis of evidence on PERL's contribution to changes observed in three major areas of reform in public sector accountability at the national level over the eight years of the PERL programme. Each section begins with a summary of the most significant changes observed, then summarises evidence on how PERL contributed to these changes followed by a review of lessons learned on the effectiveness of PERL's approach. The concluding section provides an assessment of the likely sustainability of these reforms and recommendations for future programming.

1. National Constitutional Reforms

Results

At the third time of trying, citizens across Nigeria influenced the passage of national legislation securing financial autonomy for the country's 36 State Houses of Assembly (SHoAs) – effecting an amendment to the 1999 Constitution. Having signed the bill into law in May 2018, President Buhari then issued an Executive Order mandating the Accountant General of the Federation to deduct allocations for State Legislature and State Judiciary from source in states refusing to implement the law. This followed an advocacy visit to the Chairman of the Presidential Implementation Committee on Autonomy of State Legislature and Judiciary by the Conference of Speakers of State Assembly Legislators – a key body with which PERL partnered every step of the way. An implementation framework has since been developed, backed by a Presidential executive order in May 2020. Further 'consequential amendments' to the Constitution were signed into law in March 2023

stipulating the modalities for implementation, requiring the compliance of all 36 State Governors.



Currently, 30 of the 36 SHoAs in Nigeria have passed the State Legislative Funds Management Bill into law. Of these, 21 States have assented to the law. These State Assemblies are now at various stages of implementation of financial autonomy and accessing their funds directly or partially from the Consolidated Revenue Fund of their various states on first line charge, in line with provisions of the amended Constitution. Some states, like Edo, Adamawa and Benue, have also reviewed their House Service Commission Laws, granting them more autonomous powers to manage their staff and administrative systems, in line with the procedure of the National Assembly.

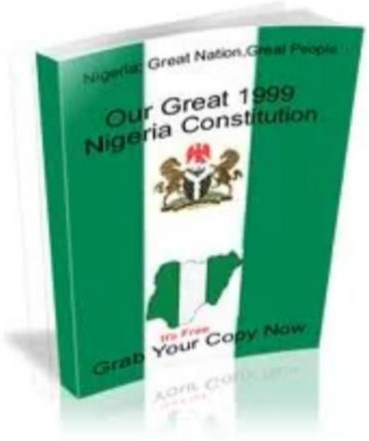
These developments have also increased the independence of the Judiciary. Though the 1999 Constitution provided financial autonomy for the Judiciary, the State Executives had refused to implement the law, despite court pronouncements directing them to do so. In March 2023, Presidential assent was given to the state judiciary autonomy bill. State Assemblies now have greater capacity to enforce compliance of State Executives with this new law. Many State Judiciaries are now leveraging on the frameworks, mechanisms and processes utilised by the SHoAs (with PERL's support) to activate their own judicial financial autonomy.

How did PERL contribute to these results?

From inception to date, PERL has worked closely with members of the National Assembly, State Houses of Assembly (SHoAs), the Conference of Speakers of States Legislature, Forum of Clerks of States Legislature of Nigeria (FOCON), Parliamentary Staff Unions (PASAN), citizens' constituencies, the media and a broad range of non-government and government stakeholders, at both national and sub-national levels, to support and champion advocacy for SHoA financial independence. Central to this has been the longstanding partnership with the Conference of Speakers, supporting them to overcome institutional disarray, mutual distrust, discontent and division, much of it sewn by Governors among the leadership of State Houses. Also, PERL supported learning on why previous attempts had failed, was factored in the design of the advocacy strategy in the third effort, leading to its eventual success. This time, partners unbundled the various amendment items in Constitutional Reviews into separate bills, rather them lumping them together into a single bill, as had been the case in the past.

In the absence of relevant state-specific legislative frameworks enabling full implementation of the Financial Autonomy Law, PERL provided technical support to the State Assemblies to develop a draft model State Legislative Funds Management Bill, General Regulations for SHoA Management of Funds, SHoA Service Commission Bill, and SHoA Internal Budget template to guide their preparation of annual budgets. These were adopted by all 36 SHoAs.

PERL's efforts then triggered the accelerated presentation, ratification and passage of these bills by several States Assemblies, and subsequent assent into law by several State Governors. To this end, PERL supported partners and key stakeholders across the country, including the National Union of Local Government Employees (NULGE), Nigerian Union of Teachers (NUT), Civil Society Organisations (CSOs) and the media, to facilitate public understanding, demand and advocacy for their passage and assent. Likewise, on further constitutional amendments in 2023 seeking financial and administrative autonomy for Nigeria's 744 Local Governments and National Discourse in 2024 linking this with the country's current security challenges.



What did PERL Learn?

In 2015, more than a third of State Assemblies voted against their own independence. It took a lot of encouragement and persuasion from PERL, combined with public pressure, for State Assemblies to go against the wishes of the State Governors, for more than two thirds to vote for their own financial autonomy in 2018. 35 out of 36 States Assemblies voted in favour of the State Legislature and Judiciary Autonomy Bill in 2023 without having to be convinced or persuaded, despite stiff resistance from the Nigerian Governors Forum who in the past had overwhelming influence over the States Legislatures and were the sole determinants of their voting pattern. The leadership and members of many of the country's SHoAs are becoming more confident in the performance of their legislative duties, including their oversight function.

Similarly, there has been a notable change in behaviour among the national Labour Unions following PERL's intervention. Having previously argued against LG autonomy, they joined forces with each other, the media and civil society to advocate for the passage of the LG Autonomy Bill in 2023. Although only 18 States (including Kano and Kaduna) voted in favour of the bill on this occasion, these actions demonstrated improved confidence, organisation and desire to promote accountability and improve governance for better delivery of public goods and services at the state and LG levels. In 2024, partners escalated national discourse on LG Autonomy, inspiring the Federal Government to file a lawsuit in the Nigerian Supreme Court against all 36 State Governors for contravening the constitution by tampering with LG finances and political appointments of LG councils and chairs. On 11th July 2024, the Supreme Court ruled in favour of the Federal Government, granting full financial and political autonomy to Nigeria's third tier of government, liberating the nation's 774 Local Government Authorities.

2. National Audit Reforms

Results

In line with the Buhari Administration's prioritization of the fight against corruption in Nigeria, in October 2018 the National Assembly (NASS) passed a Federal Audit Service Bill. This was transmitted to the President in January 2019 but was not assented. This would have further strengthened the overarching legal framework for effective and efficient auditing of public funds and scrutiny of government reports by guaranteeing the independence of the Office of the Auditor-General of the Federation (OAuGF); enhancing professionalism among its staff; promoting effective oversight by the NASS; and increasing transparency and accountability in public financial management at the federal level. Again, in March 2023, the NASS passed a Federal Audit Service Bill, but again, this was not assented by the President before leaving office. It was reintroduced in 2024, following the change in government, passed by the House of Representatives, and is now before the Senate for concurrence and passage.

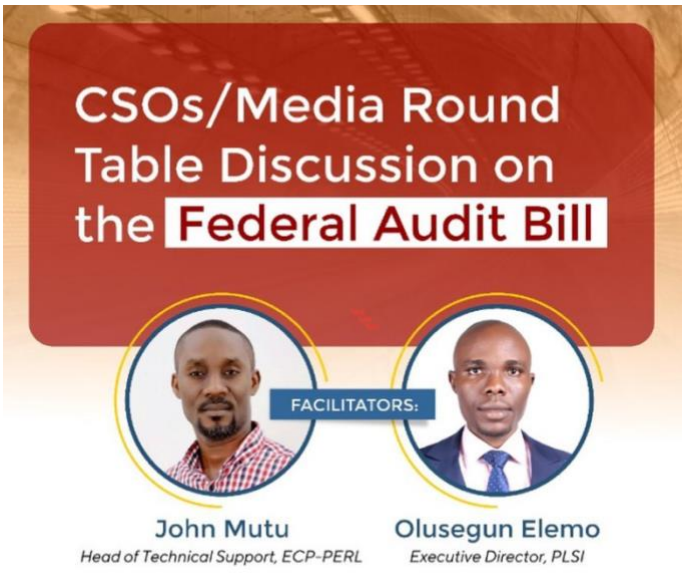
Meanwhile, this period has witnessed sustained improvement in audit reporting and scrutiny at the Federal level, building on the continuous support of PERL and predecessor programmes and increased pressure from citizens advocacy. The staff of NASS Public Accounts Committees (PACs) have demonstrated improved capacity to undertake audit analysis since the upgrade of their Secretariats to full-fledged departments. The PACs have been relentless in scrutinizing the activities of revenue generating Ministries, Departments, and Agencies (MDAs) of the Federal Government, investigated the non-rendition of audited accounts by Federal MDAs to the Auditor-General for the Federation, exposing instances of corruption and abuse, taking legal action to recover funds, and improving probity in their management of public resources.

A landmark Bill towards establishing a Public Accounts Implementation Tribunal was also introduced and passed first reading in the House of Representatives in 2024. This seeks to enable the enforcement of the resolutions of the NASS PACs regarding public accounts of MDAs and other public entities. The Bill vests power on the Tribunal to examine the reports and recommendations of the PACs and recover misappropriated public funds or government property from government officials, contractors, or companies.

How did PERL contribute to these results?

PERL played a key role in brokering mutually reinforcing partnership and engagement between the leadership of the NASS, OAuGF and Presidency to drive the passage of these Federal Audit Bills. The programme collaborated with DFID's Policy Development Facility (PDF-II), the Policy & Legal Advocacy Centre (PLAC) and other critical stakeholders to run advocacy campaigns, dialogues, and consultative sessions to raise awareness on the Bills and to remove blockages that might hinder their passage. Though the Federal Audit Bills were the initial focus, PERL and its partners have shifted their attention to advocacy for the passage of the Constitutional Amendment Bill to

provide financial autonomy to the OAuGF and its state-level counterparts. To this end, PERL set up a Partnership Fund to support far-reaching advocacy to facilitate the passage of both Bills by the NASS, ratification by the SHoAs and assent by the President, and played a coordination role among stakeholders to agree a common engagement strategy.



Since 2021, PERL has continued to partner with relevant actors, now including the Civil Society Coalition on Audit in Nigeria (CSCAN), to leverage on the established reform momentum and commitments to see these Bills enacted. PERL facilitated a joint meeting of the Senior Special Assistant to the President on NASS affairs in the Senate and his team, Acting Auditor-General for the Federation and his team, Clerk of the House of Representatives Committee on Public Accounts, and the legal department of the NASS including the Senior Assistant to the Clerk of the NASS, to review the Federal Audit Bill and prepare report ready for assent by the outgoing President Buhari in early 2023. Under the new Administration of President Tinubu, PERL supported the process of harmonisation and transition of the Federal Audit Commission Bill to the new President for assent, as well as advocacy for re-introduction of the Federal Audit Bill by the NASS, after the time elapsed for the incoming President to sign it into law. PERL also contributed to a technical review of the Public Accounts Implementation Tribunal Bill and held a series of advocacy consultations on the Bill with critical stakeholders in the NASS.

What did PERL Learn?

Despite the absence of a Federal Audit Law, there are positive signs of some improved capacity and changes in behaviour in Federal Audit processes, leading to some reduction in losses through waste and corruption. The House of Representatives PAC is now investigating non-rendition of audited accounts to the Auditor-General for the Federation by Federal MDAs, and annually submitting its findings on the scrutiny of the Auditor-General's report for the Federation. Technical support from PERL to build PAC staff capacity, restructure the PAC secretariat, and broker effective partnership with civil society – increasing citizens access to PAC hearings and providing PACs with independent sources of information – has contributed to a better working relationship between the NASS PACs and the OAuGF.

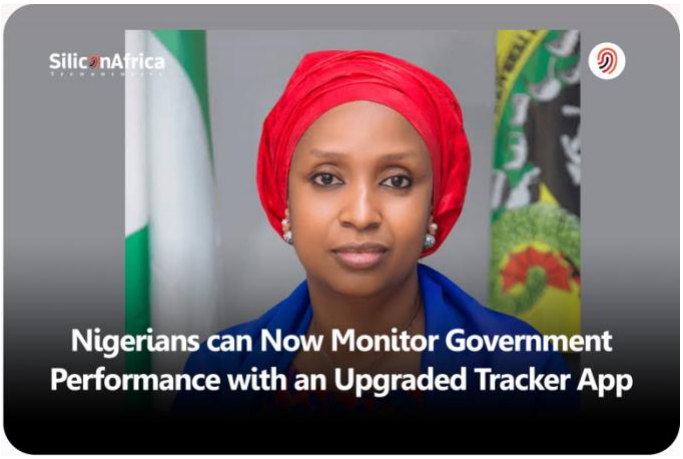
This has both leveraged on and reinforced advocacy for the passage of Federal Audit Bills. However, there is now a trend of failing to gain presidential assent on these bills on four successive occasions. What does this indicate: that such bills will never be approved? or that approval is just around the corner, as the momentum approaches a 'tipping point'? The need to enact an Audit law in Nigeria has now gained prominence amongst governance actors who are increasingly prioritising it as a solution to the endemic culture of mismanagement and misuse of public funds in the country. The current narrative is a marked shift from the initial experience when this reform was met with suspicion and not taken seriously by political actors.

3. Federal Performance Management

Results

Since 2019, processes for enhancing transparency and accountability in service delivery by the FGN have been strengthened through embedding a performance management framework and establishing a Central Delivery Coordination Unit (CDCU) in the Office of the Secretary to the Government of the Federation (OSGF). Also, through better coordination of policy, programs and projects by OSGF's Cabinet Affairs Office (CAO) and deployment of a Results Framework to track ministerial performance. This ensures all Federal Ministries, Department and Agencies (MDAs) are held accountable for delivery of interventions by the FGN to improve security, reduce poverty and enhance economic growth.

Through these processes, there was accelerated delivery of the government's nine priorities under President Buhari. They significantly improved the linkage between policies and budgets, constraining Federal MDAs to prioritize funding of deliverables, which led to improvements in delivery of some public goods and services by the Federal Ministries of Health and Education in 2022, compared to the period before the reform. Citizens were also formally included in the process through deployment of a Presidential Delivery Tracker (PDT) – a mobile app which allows citizens to track and report in real-time on the performance of Federal projects in their locality – in conjunction with a CDCU website and citizens portal. The PDT was refreshed, rebranded and relaunched in April 2024 as the Citizens Delivery Tracker (CDT) under President Tinibu, and this is now providing citizens feedback on the performance of Ministers.



In October 2022, President Buhari signed Executive Order No.13 on Improving Performance Management, Coordination, and Implementation of Presidential Priorities of the FGN. This, among other things, institutionalised the performance management process and situated the CDCU firmly within the Federal Civil Service architecture by establishing it as a Unit within the OSGF's CAO, ensuring their sustainability beyond the Buhari administration. President Tinibu's administration has shown commitment to implement Executive Order 13, starting with the appointment of a new head of the CDCU. 2023 saw further improvements in the alignment of ministerial deliverables to budgets, deployment of a collaborative results framework, and mandating of regular citizen engagement sessions across all ministries. The success of the federal delivery system has also inspired interest from state governments, positioning it as a model of effective governance extending beyond the national level.

How did PERL contribute to these results?

From 2019 to 2022, PERL provided direct technical support to the OSGF on two levels: (1) assisting the OSGF to fulfil its responsibility of measuring the performance of ministerial mandates, and to design and implement a system for tracking and reporting performance in the government's nine priority areas; and (2) supporting the CAO to fulfil its mandate of coordinating policy, programs, and projects for service delivery. This included support to their coordination of bilateral sessions with Ministers and Permanent Secretaries, and collaborative development and deployment of the Results Framework and templates for Ministries to report results and status of policies, as well as engagement of sector experts to analyse and validate submissions and produce ministerial and priority scorecards. Without this, the Ministries would not have had the level of focus required to deliver the results they did by the end of 2022. Since then, the FGN has worked closely with development partners like PERL to refine the framework and initiated a permanent dialogue mechanism between government and citizens towards the delivery of the government's stated priorities.

PERL also supported the initial design of the PDT and facilitated citizens participation in the design process, pooled from the six geo-political zones through the Open Alliance Platform working with the OGP National Secretariat and SERVICOM. PERL facilitated a session with citizen groups to showcase the Tracker before its launch in August 2022, encouraging CDCU to undertake a public awareness campaign on the nine priority areas and the PDT thereafter. PERL also indirectly supported its relaunch in 2024 through OGP collaboration with CDCU.

In March 2022, PERL facilitated a learning visit to Kenya and Rwanda for the CDCU, supported by the Tony Blair Institute for Global Change which had assisted the Kenyan government in setting up its own Presidential Delivery Unit. Soon after this, PERL developed a first draft of Executive Order No.13, before it was reviewed and finalized by the Attorney General's Office and signing by the President. PERL also followed up to make sure the necessary actions were then taken by the Federal civil service. The development of this Executive Order was a direct application of the lessons learnt from the Kenya and Rwanda learning visit. Now in 2024, as the new administration prepares for its first quarterly performance review, PERL has been selected as the sole partner for this, underscoring the FGN's confidence in the programme.

What did PERL Learn?

Prior to these reforms, the Federal Ministers were not required to account for their spending. They had carte blanche on how they used public resources. Now, MDAs are required to track and report performance and budget (allocated, released, and utilised) against deliverables, and compelled to prioritize funding for deliverables. This was not the case previously. These new performance management processes are also compelling some MDAs to work together to achieve deliverables. Participation of citizens in the performance management process was previously ad-hoc. Now it is more structured and integrated. Transparency and accountability are gradually becoming enshrined in the Federal civil service and civil servants are becoming more comfortable with reporting progress in the delivery of key programmes and projects.

Sustainability and Recommendations for Future Support

PERL assesses that the National Constitutional Reforms and Federal Performance Management improvements have both reached a high level of sustainability, while that of National Audit Reforms is currently moderate to high. A strong coalition has emerged between the Office of the President, Conference of Speakers, NASS, National Labour Unions, Democracy Vanguard and leading Media Houses driving action on further constitutional reforms. Despite political transition, the new Administration of President Tinubu has sustained the FGN Delivery System as the mechanism for measuring and managing the performance of Federal Ministers and the scorecards it used are now done through an online platform rather than manual computation. Consensus and political acceptability of National Audit Reforms between the Presidency, Office of the Auditor-General for the Federation, and NASS, as well as national and state level citizen groups, has ensured successive governments also continue to prioritise this critical reform.

To consolidate and expand these national and federal level reforms, and maintain this positive trend of improving oversight mechanisms, PERL strongly recommends:

- For National Constitutional Reform on SHoA Autonomy: provide technical support to the leadership of State Legislatures through the Conference of Speakers to actualise their full financial and administrative autonomy:
  - To implement their State Legislative Fund Management Law (starting with the 21 that currently have the Law in place).
  - To ensure State Houses of Assembly constitute Fund Disbursement Committees to enhance legislative functions.
  - To gain gubernatorial assent of the State Legislative Fund Management Bill they have passed, into law (12 more SHoAs are currently in need of this).
  - For the remaining 3 SHoAs to pass their State Legislative Fund Management Bill.
  - To ensure State Houses of Assembly adapt the Harmonised Standing Order to further enhance legislative systems and processes.

- For National Constitutional Reform on LG Autonomy: in support the recent Supreme Court ruling, for its effective implementation:
  - Conduct a viability analysis to determine the Local Governments' ability to fund basic education and primary healthcare workers' salaries without federal or state government assistance, following the grant of full financial autonomy.
  - Establish a technical reform committee comprising representatives of ALGON, NULGE, NUT, Democracy Vanguard, media, civil society and other key stakeholders to drive forward Local Government reform.
  - Review the revenue allocation formula, which has remained unchanged since 1992, and prioritize increased resource allocation to Local Governments.
  - Support stakeholders to leverage the ongoing constitutional amendment process by the 10th NASS to submit memoranda addressing additional issues not covered by financial autonomy.

- For National Audit Reform: to sustain the political prominence and prioritisation of this reform amongst governance actors, as a necessary solution to the endemic culture of misuse and mismanagement of public funds in the country:
  - Sustain engagement and consultations with relevant stakeholders in the Senate as well as the Executive to ensure the accelerated passage of the Audit Bill.
  - Improve citizens' voice and advocacy for the passage and assent of the Audit Bill, as well as the Public Accounts Implementation Tribunal Bills.
  - Sustain citizens' participation in the budget process to improve voice and influence for effective scrutiny of budget implementation for better service delivery.
  - Support relevant NASS committees to improve their oversight capabilities.

- For Federal Performance Management/Delivery System: to ensure this reform impacts on service delivery, from the existing CDCU and new MDA delivery units:
  - Continue to support to process to become fully embedded within the current administration through the independent assessment carried out by sector experts which guarantees the credibility of the process.

Contact Details:
info@perlnigeria.net
www.perlnigeria.net
10 Bobo Street, Maitama, Abuja, Nigeria