

# SUSTAINABLE DEVELOPMENT GOALS 'SHADOW' REPORT 2017:

*Nigeria's progress review of Targets 16.4., 16.5. and 16.10*

Civil Society Legislative Advocacy Center (CISLAC)

No.16, House 3, P.O.W. Mafemi Crescent, Off Solomon Law way,  
Behind Chida Hotel near Daily Trust News

Utako District, Abuja, Nigeria

Website: [www.cislacnigeria.net](http://www.cislacnigeria.net), GSM: +234-(0)706 883 9863

National contacts: **Mr. Auwal Musa**, executive director, [rafsanjani@cislacnigeria.net](mailto:rafsanjani@cislacnigeria.net);  
**Ms. Chioma Kanu**, project officer, [chiomakanu.b@gmail.com](mailto:chiomakanu.b@gmail.com)  
**Mr. Vaclav Prusa**, policy advisor, [v.prusa@cislac.org](mailto:v.prusa@cislac.org).

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## Executive Summary and Major Findings

The Sustainable Development Goals (SDGs) ‘Shadow’ report offers an independent review of the government-led ‘National Voluntary Review’ (NVR) SDG process in Nigeria. To the occasion of the United Nations High-Level Political Forum (HLPF) meeting in New York in July 2017, this assessment attempts to provide an objective account of the progress made within the 2030 Agenda for Sustainable Development in Nigeria. The report focuses mainly on the anti-corruption agenda, in particular on SDG 16. More specifically, targets 16.4 (illicit financial and arms flows), 16.5 (reduce bribery and other forms of corruption) and 16.10 (access to information) are analysed in depth. This research is based on 175 indicators explicitly developed as part of the global Transparency International project. Secondary data has been collected from publicly available sources and compiled into a report by Civil Society Legislative Advocacy Centre (CISLAC), a leading Non-Governmental Organisation (NGO) in Nigeria and national contact for Transparency International Nigeria.

The Office of the Senior Special Assistant to the President (OSSAP) on the SDGs has to be credited for a compelling NVR, which documents a relatively high political commitment and ownership to the SDG agenda in Nigeria. OSSAP has involved a whole range of stakeholders, especially civil society and the private sector. The NVR outlines linkages between key governmental policies and the SDG agenda with a detailed break-down for the 17 SDGs. OSSAP has established formalised structures such as the inter-ministerial team, CSO advisory group and SDG desk offices in 36 states and the Federal Capital Territory. Importantly, the NVR categorically states that SDGs 16 and 4 are of special importance to Nigeria as insecurity, large-scale corruption and weak institutions threaten not only the progress under the 2030 agenda but also the very survival of the Nigerian territorial integrity and the social fabric of the society.

However, it is recommended that subsequent SDG reviews are more result focused, instead of descriptive recounts of the organisational and administrative processes. The SDG strategy must be accompanied by a detailed SDG action plan with evidence-based target setting, which is appropriately costed. Clear lines of responsibilities for the implementation of particular SDG targets should be set for ministries, departments and agencies. In spite of the acknowledgement of the importance of baseline data, values for many indicators are still missing to this date. The National Information System on SDGs should be expediently finalized with the National Bureau of Statistics covering all SDG indicators and sub-indicators, preferably disaggregated to the level of 36 states. All these measures will induce significant financial and human resources’ burden. It is thus imperative to advance efficient structures, which facilitates easy entry for development partners and the private sector under the ownership and leadership of the Government of Nigeria.

This report focuses on the SDG 16 as sustainable and inclusive governance is widely recognized as one of the greatest weaknesses in Nigeria since its independence. Since 1960, Nigeria lost an estimated 400 billion USD to unimaginable levels of corruption and embezzlement, mostly stemming from gas and oil revenues. The natural resource ‘curse’ will add to other vast leakages in public spending and revenue collection, which will cost around 37% of GDP by 2030 if rampant graft is not addressed. As a result of dysfunctional governance, at least 61% of Nigerians live below the poverty level, while five million people are in urgent need of food assistance due to the Boko Haram insurgency and ethnical conflicts throughout the country. Nigerians are perplexed by high levels of crime, ailing infrastructure and seemingly detached political establishment hiding behind impunity and absurd privileges. Conservative estimates suggest that 70 % of the nation’s revenue is spent on less than 20% of the Nigerian population that are public servants.

The president of Nigeria Muhammadu Buhari was elected in 2015 on the promise to tackle corruption, which most Nigerians seemed to endorse enthusiastically. Indeed, the fight against corruption has gained traction in the past two years. A national anti-corruption strategy has been adopted in May 2017 focusing on better cooperation amongst the myriad of anti-corruption agencies. Under the target 16.4., new legislation has been passed to curb anti-money laundering and illicit financial flows. ‘Know Your Customer’ policy and rigorous control of the movement of financial flows has made it harder to siphon off cash out of Nigeria. Many high-ranking officials including the former Minister of Petroleum, the former National Security

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Advisor, senior judges and other high ranking officials have been charged with corruption-related crimes. Unfortunately, only a few cases have resulted in prison sentences up to date.

The political backing of beneficial ownership initiative has resulted in a number of legislative and executive actions. Despite some progress, delay in concluding review of the companies and Allied Matters Act (CAMA) to include beneficial ownership disclosure, lack of inter-agency cooperation and intelligence-sharing platforms and insufficient collaboration between the public and private sectors in the exchange of information have hindered the progress on the central registry of companies open to the public. The government has partially delivered on its promise to intensify recovery of stolen assets. Around 500 million USD was recovered in 2016 alone. However, in the context of Nigeria losing around 27 billion USD on tax evasion and illicit financial flows in 2013 alone, asset recovery needs to be expedited. Setting up of a special unit for asset recovery and intensified bilateral cooperation with foreign jurisdictions would further fast-track the return of stolen finances. A specialized Service Delivery Account under the Central Bank of Nigeria to place and manage recovered funds to prevent 're-looting' seems to be a necessity based on the precedence from the past.

More progress needs to be done to curb arms trafficking and organised crime. Despite the ratification of the Protocol against the Illicit Manufacturing and Trafficking in Firearms, Nigeria still receives around 70% of 500 million illicit weapons coming to Africa. Due to the secretive nature of the defence budgets and insufficient oversight of law enforcement agencies, the Nigerian police and military have a reputation of heavy-handedness and poor respect to the rule of law. Complete lack of transparency in the procurement of military equipment, overpricing, purchase of obsolete and dysfunctional weapons, etc. are symptoms of estimated loss of 15 billion USD in the defence budget between 2000 and 2015. An anti-corruption strategy for the defence sector and the police, effective civil and legislative oversight of defence spending and trust building between the public and the police and military would lead to the prevention of massive loss of life and property to terrorism and rampant crime.

The target 16.5. urges reduction of corruption and bribery in all forms. In 2015, 78% of Nigerians claimed that the government is doing badly in fighting corruption. There is a widespread sentiment amongst the public that corruption is a 'way of life' for Nigerians, especially concerning the political class and business elites. Politically exposed persons provide only little inspiration to the public to change the social attitudes towards corruption. 20% of the honourable Senators out of 109 face various corruption charges at the moment. Two important Bills are currently discussed in the National Assembly and Senate. Once passed, the definition of fraud, trading influence and abuse of functionality will be improved. However, there is a widespread pessimism that better legislative framework will alone lead to the reduction of grand corruption and wide-spread bribery.

Integrity and transparency of elected representatives and public officials needs to be significantly enhanced. A law regulating lobbying is being discussed. Central registry for lobbyists may expose the influence of private business on the legislative process, especially in vital parts of the Nigerian economy such as extractive industries and the defence sector. The movement of individuals between public office and the private sector shall be regulated by 'revolving door' policy, which may introduce 'cooling off' periods between retirement of senior public officials and subsequent employment in private sector. Legal provisions in regards to the asset disclosures need to be respected in full, including the revision of the legal framework so that sanctions are proportionate and dissuasive. Asset declarations for elected officials, senior public servants and judges need to be reclassified as public documents and be open to the scrutiny of the citizenry.

It is further imperative to induce a culture of openness and transparency in the budgeting process and fiscal matters at the national and state level. In 2016, only 8 states out of 36 sub-national entities had their budgets posted online. Despite some improvement in the transparency of the national budget, key provisions regulating the budgetary procedures and the citizen participation in the process are missing. Public contracting and procurement requires urgent attention. It is estimated that 70% of Nigerian companies pay graft to secure government contracts. Especially contracts between the government and extractive industries need to be disclosed in full and their commercial valuation scrutinised by external experts and the public.

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Most importantly, the electoral processes at the state- and sub-national level needs to be free of political profiteering and manipulation. The Independent National Electoral Commission (INEC) must possess the independence and capacity to sanction breaches to the National Electoral Act, 2010. The political parties’ financing is prone to undue influence of wealthy ‘godfathers’ who circumvent the rules put in place by the Electoral Law. A strict supervision and effective sanctioning is needed in conjunction with the pressure from the ‘grass-root’ for respectable candidates with high personal integrity and moral standing.

This report further states that some progress has been done under the Target 16.10. in ensuring public access to information and protection of fundamental freedoms. The Freedom of Information Act, 2011 recognises fundamental access to information. A whistle-blower policy has been recently adopted and has yielded some results in disclosing proceeds from corruption and embezzlement. A new Whistleblower Protection Law is discussed in the Parliament and, once enacted, it shall enhance personal protection to whistleblowers. An establishment of the office of a Federal Information Minister or the like and greater promotion of public awareness of the Freedom of Information Act, 2011, is needed. Such measures would champion much needed culture of data and information openness in the public and private domain in Nigeria.

This independent review shows that the progress under the SDG 16 has been achieved largely on the legislative level. Recently enacted legal provisions pave avenue to curbing illicit financial flows, recovering of stolen assets, disclosing beneficial ownership, trafficking of arms, etc. New policies in the anti-corruption domain attempt to coordinate the anti-corruption crusade in urging better cross-ministerial and agency cooperation. However, it remains to be seen if the improved legal and policy framework enables prosecution of corrupt political and business elite and others. The extent of implementation of these measures will determine if financial loopholes at the national and state-level are reduced and greater transparency into the governmental business is induced. Unless tangible achievements are presented to the public, the general atmosphere of resignation and hostility towards the governance structure is likely to persist amongst the public. In this context, the progress under SDG 16 can be made only if the legislative and policy framework in place is rigorously implemented at the national and sub-national level.

## List of Recommendations

### National Voluntary Report

1. Develop a costed Implementation Action Plan for all SDGs at the national and sub-national levels;
2. Develop strategy to harmonise State Development Plans with the SDG implementation;
3. Strengthen existing National Information Management System for data collection in collaboration with the National Bureau of Statistics and state SDG counterparts covering all sub-indicators, preferably disaggregated to the national and sub-national levels whenever appropriate.
4. Apply evidence based approach to realistic values for SDG targets

### **Target 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime**

#### Anti-money laundering

5. Expediently approve two anticorruption bills, the Money Laundering Prevention and Prohibition Bill 2016 and the Mutual Legal Assistance in Criminal Matters 2016 by the legislature and sign them into Law;
6. The new Money Laundering Bill shall expressly prohibit retaliation by employers against whistleblowers in the event that they are discharged or discriminated against by their employers;
7. Intensify cooperation among the financial institutions and watchdogs in Nigeria and internationally, especially in regards to money laundering crimes including theft, corruption and tax evasion in the oil industry and other revenue generating industries;
8. Strengthen Anti Money Laundering/ Combating Financial Terrorism supervision of banks focused on the risks of laundering of the proceeds of corruption and in particular oil theft;
9. Enhance transparency of assets owned by senior officials and politically exposed persons as required by the Code of Conduct Act
10. Sign the OECD Competent Authority Multinational Agreement on automatic exchange of financial account information as required by Financial Action Task Force.

#### Beneficial ownership transparency

11. Urgently establish companies' registry within Nigeria's Corporate Affairs Commission and make it public;
12. Strengthen the enforcement of The companies and Allied Matters Act (CAMA) and to review sanctions for non-compliance;
13. Name and shame Politically Exposed Persons and their relatives behind private companies' ownership including revealing of their assets in line with the Code of Conduct Law;
14. Improve data availability on freely searchable public and private companies' ownership. Disclose fully company's ownership structures, licencing, names of directors and management, public accounts and shareholder structures.

#### Recovery of stolen assets

15. Intensify bilateral and multilateral agreements with the aim to prevent, detect and deter the international transfer of proceeds of crime and funds of illicit origin;
16. Establish a dedicated, independent unit, tasked with the sole responsibility to recover and return assets. The Unit shall be tasked to identify, trace, seize, recover and return the proceeds of crime and funds of illicit origin including enhanced due diligence on financial flows from identified high risk jurisdictions;
17. Promote transparency and the involvement of Civil Society and citizen participation in the application and use of returned assets;
18. Establish a Specialized Service Delivery Account under the Central Bank of Nigeria to place and manage recovered assets to prevent 're-looting' of funds.

#### Fight against organized crime

19. Review the 1999 Constitution as Amended to allow civil oversight, which includes legislative oversight and citizens' participation of the police and military budgets;

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20. Abolish secretive relics within the military budgets such as 'security votes'; Enhance monitoring of the implementation of the Anti- Terrorism Act, the Anti-Piracy Act and the Money Laundering and Terrorism Financing Act;
21. Provide capacity building to internal auditors within the military, the police and the legislators to prevent and detect organised crime incursions, especially corruption practices.
22. The Public Procurement Act should be extended to provide a legal framework for defence procurement and asset disposals or alternative legal provisions should be drawn up to regulate defence procurement and asset disposals.

### Arms trafficking

23. Establish an anti-corruption unit within the Nigerian military under the Inspector General of Armed Forces with the mandate to investigate suspicious weapon sales from military stock piles;
24. Make military and police assets' sales transparent and open to public scrutiny;
25. Improve military, police and customs weaponry stockpile management;
26. Introduce anti-corruption policy to the Nigerian Immigration Service and Nigerian Customs Service.

### Target 16.5: Substantially reduce corruption and bribery in all their forms

#### Anti-Corruption Framework and Institutions

27. Include in the Money Laundering Prevention and Prohibition Bill the bribery of foreign public officials and officials of public international organizations, and consider establishing the passive version of the offence;
28. Criminalize trading in influence with an improved legal definition;
29. Close loopholes in legal definitions related to criminalizing bribery between private sector actors;
30. Eliminate legislative loopholes that enable obstruction of justice in bribery charges;
31. Review the scope of persons covered by criminal immunities to ensure the possibility of effectively investigating and prosecuting politically exposed persons;
32. Ensure full independence from political interference to anti-corruption agencies
33. Eliminate duplication of mandate between EFCC and ICPC for more effective implementation of anti-corruption policy;
34. Ensure that coherent statistics on prosecutions and investigations, including forfeited and confiscated assets are produced and updated regularly;

#### Transparency and integrity in public administration, Revolving door

35. Asset declaration forms should be treated as public documents within the meaning of section 109 of the Evidence Act. The asset declarations of top government functionaries should be posted on the website of the Code of Conduct;
36. The Code of Conduct Act shall be amended to insert a 'cooling-off' provision for senior public servants and politicians stipulating a period of time between retirement and private business employment;
37. Introduce a 'revolving door' policy regulating and investigating conflict of interest's cases and undue linkages between the private and public sectors.

#### Private Sector corruption

38. Expedite the passage of the Bill For An Act To Provide For The Establishment Of The Nigerian Trade And Competition Commission And For Other Matters Connected Therewith;
39. Open the bidding processes to the public, especially in the extractive industries;
40. Disclose contracts between oil & gas companies and the Government without any preconditions and retrospectively.

#### Lobbying transparency

41. Speed up enacting the Bill for an Act for the Regulation and Registration of Lobbyists;
42. Establish a central register of lobbyists and lobbying entities;

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43. An independent body and the civil society shall monitor the Act for the Regulation and Registration of Lobbyists once enacted.

### Whistle-blowing

44. Expedite the enactment of the Whistle Blowers Protection Bill;
45. Government and civil society shall highlight positive stories of whistle blowing leading to exposing corruption and assets' recovery, etc.

### Party and Campaign finance transparency

46. Ensure full political independence of the Independent National Electoral Commission and fully expose political interference in the electoral process at the national and state level;
47. Strictly apply the Electoral Act 2010, especially the structure of donations and expenditures of individual and party candidates;
48. Ensure the accuracy and disclosure of party and individuals donations and expenditures;
49. Ban individuals breaching the Electoral Act 2010 from the public life;
50. Expose beneficial ownership of corporations donating financial resources to parties and individuals.

### Fiscal transparency

51. Nigeria needs a fiscal transparency code or a budget law specifying roles for ministries and other stakeholders in the drafting of the budget. Existing laws and regulations include provisions that are contradictory and ambiguous;
52. An amended legal framework should provide for public participation in the budget process;
53. Available budget information shall be comprehensive on actual spending by government. Fiscal data should be open to the public and be coherent and adequate;
54. Off-budget funds should be open to public audit unless justified otherwise.

### Public procurement and government contracting

55. The Public Procurement Act 2007 shall be amended to require the publication of public contract awards;
56. The Public Procurement Act 2007 shall be amended to require the bidders to disclose their beneficial owners;
57. CSOs need to step up their capacity to oversee procurement planning, bidding, tendering and evaluation.

## **Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements**

### Access to information

58. Improve knowledge management and pro-active information disclosure within MDAs,
59. Review classification of secrecy to information whose disclosure could lead to harming national and security interests;
60. Establish an office of a Federal Information Minister or Ombudsman mandated with the request of pro-active information disclosure of MDAs to the public;
61. Promote public awareness on the existing Freedom of Information Act 2011 amongst the public and the public servants;
62. Champion the culture of data and information openness within the public and private sector.

### Open Government Data

63. 'De-politicize' data gathering and analysis, conduct National Household Census as soon as possible and free of political interference;
64. Issue minimum standards of data openness for the MDAs at the national and state level.

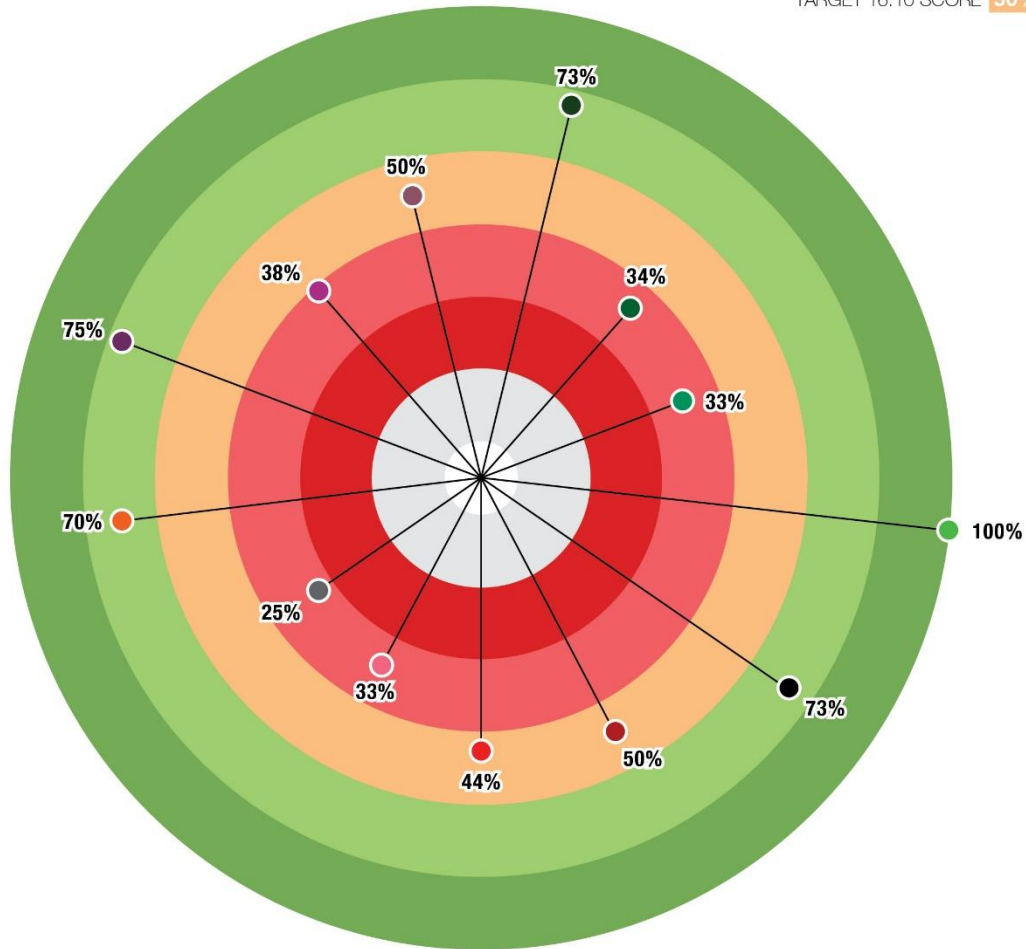
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## COUNTRY

# NIGERIA

## SDG AGGREGATE VALUE

TARGET 16.4 SCORE	57%
TARGET 16.5 SCORE	52%
TARGET 16.10 SCORE	50%



## VALUES

81% – 100%
61% – 80%
41% – 60%
21% – 40%
0% – 20%
0%

## POLICY AREA (clockwise)

- Anti-Money Laundering
- Beneficial Ownership
- Asset Recovery
- Arms Trafficking
- Anti-Corruption Framework and Institutions
- Private Sector
- Transparency and Integrity in Public Administration
- Transparency in Lobbying
- Whistleblowing
- Transparency in Party & Election Campaign Finance
- Fiscal Transparency
- Integrity in Public Procurement
- Access to Information

## KEY MESSAGES

Nigeria has lost around 400 billion USD to corruption since independence in 1960. Since 2015, the anti-corruption agenda has gained traction. A new anti-corruption strategy has been launched in 2017, the Senate and the National Assembly passed or are debating important legislation on money laundering, illicit financial flows, asset recovery and whistleblowing. However, asset declarations of politically exposed persons are either ignored or inaccurate while political elites enjoy impunity. The secretive nature of the armed forces and law enforcement drives corruption and large embezzlement, seriously hindering the fight against terrorism and organised crime. Access to information and open data policy needs to be improved. Governmental procurement and beneficial ownership requires decisive steps towards public transparency. Anti-corruption agencies must operate in an environment free of political interference. Unless these policy areas are tackled, the targets under SDG 16 will not be met.