

A BILL

FOR

AN ACT TO ESTABLISH THE ELECTORAL OFFENCES TRIBUNAL FOR THE
PURPOSE OF TRYING ELECTORAL OFFENCES AND FOR RELATED MATTERS

Sponsored by Hon. Francis Charles Uduyok

[] Commencement

BE IT ENACTED by the National Assembly of the Federal
Republic of Nigeria as follows-

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PART I - ESTABLISHMENT AND OBJECTIVES

1. There is hereby established a tribunal to be known as the
electoral offences tribunal of Nigeria (in this Act known as the "Tribunal").

Establishment of
the Electoral
Offences Tribunal
of Nigeria

2. The objectives of this Act is to establish electoral offences
tribunal to-

Objectives

(a) Try electoral offences and thuggery committed by all persons,
be it political contestants, non political contestant, government officials or
any person;

(b) Ensure that persons suspected to have violated electoral laws or
persons who have caused other persons to violate the electoral laws are tried
and punished by the law;

(c) Ensure Persons involved in electoral thuggery and violence or
persons instigated to intimidate voters, electoral officers for the sole purpose
of disrupting electoral process;

(d) Ensure Persons linked with any form of payment to other
persons for the purpose of disrupting elections in any part of Nigeria.

PART II - LOCATIONS OF THE TRIBUNAL

3.-(1) Subject to the provision of this Act, the head quarters of the
tribunal shall be situated in the Federal Capital Territory of Abuja Nigeria
and the tribunal shall establish and maintain operational offices in other
parts of Nigeria; and

1 (2) The Tribunal shall-

2 (a) Have equal status with any High Court, it is therefore a superior
3 court of record;

4 (b) Except as may be otherwise provided by any enactment or law,
5 have all the powers of a High court.

6 (3) The composition of the tribunal shall consist of-

7 (a) A president and seventeen Judges;

8 (b) The president of the Tribunal shall be vested with the powers to
9 make overall administrative regulations to enhance the smooth sitting of the
10 tribunal for the purpose of attaining the goal for which this tribunal was
11 composed;

12 (c) The President of the Tribunal shall be appointed by the President,
13 on the recommendation of the National Judicial Council, subject to
14 confirmation by the Senate;

15 (d) The appointment of the seventeen judge of the tribunal shall be
16 made by the President upon recommendation from National Judicial
17 Commission.

Qualification
and eligibility of
Judges

18 4. The President of the Tribunal and the seventeen Judges must not be
19 above the age of 55 years at the time of appointment-

20 (a) The president and all seventeen judges must not be Persons of
21 questionable character in the eyes of the society and in the eyes of the law;

22 (b) A person shall not be eligible to hold office as the President or a
23 Judge of the tribunal, unless-

24 (i) the person is qualified to practice as a legal practitioner in the
25 Federal Republic of Nigeria;

26 (ii) and the person has been so qualified for a period of not less than
27 ten years:

28 (iii) and the person has vast knowledge on electoral matters.

Quorum

29 5. -(a) The tribunal shall sit in a quorum of two judges;

30 (b) Where the Tribunal is unable to form a quorum the court shall

1 stand adjourned from day to day until a quorum is formed by the judges;

2 (c) The National Assembly may by law confer on the tribunal such
3 additional powers as may be found necessary.

4 6. The president of the Tribunal shall take precedent over all
5 judges of the Tribunal in this Act and the appointed Seventeen Judges shall
6 take precedence after the President of the tribunal and the president of the
7 tribunal and shall rank equal with the Chief Judge of the Federal High Court
8 or of the High Court of Federal Capital Territory in Precedence and the other
9 Judges in this act shall in like manner rank with judges of the High Court.

Precedence

10 7. Subject to the provision of this Act-

Tenure of Office
of the President

11 (1) The president of the Tribunal in this Act can be removed from
12 office, subject to the provision in the constitution of the Federal Republic of
13 Nigeria for court of superior jurisdiction of its kind.

14 Any of the Seventeen judges in this Act, may be removed from office for
15 want of professionalism or gross misconduct upon recommendation by the
16 National Judicial Commission-

17 (2) (a) The President may nominate the most senior judge after him
18 to temporally preside over administrative procedure whenever he is to go on
19 leave or be temporally absent;

20 (b) The president of the tribunal may apply to the National Judicial
21 Council given the name of a temporal president to replace him amongst the
22 seventeen Judges when proceeding on leave;

23 (c) The application to the National Judicial Council for the
24 replacement of the president of the Tribunal shall be done at least six weeks
25 before proceeding on leave ;

26 (d) If at the end of three months the president of the tribunal is still
27 absent without a cogent reason and a letter to the National Judicial Council
28 explaining reason for a longer stay out of office, the National Judicial
29 Council may recommend a new President for the Tribunal;

30 (e) The President and any of the Seventeen Judges may vacate

1 office upon an allegation of misconduct and upon the investigation by the
2 National Judicial Council and upon the recommendation by the National
3 Judicial Council;

4 (f) The President or any of the Seventeen Judges may voluntarily
5 vacate office;

6 (g) The President and the seventeen Judges shall vacate the office
7 upon attaining the age of 65 years of age.

8 (3) Notwithstanding the provisions of this Act in this section, the
9 President and the seventeen Judges shall not be precluded from investigation
10 by other government investigating agencies upon allegation of misconduct.

Emolument

11 8.-(1) Subject to the provisions of this Act there shall be payment of
12 Salaries and allowances to-

13 (a) the President of the tribunal shall be paid salary as the Chief Judge
14 of the Federal High Court or as the Chief Judge of the Federal Capital Territory
15 Abuja and;

16 (b) seventeen Judges in this Act, shall be paid such salaries and
17 allowances as are payable to the Federal High Court judge and the judges of the
18 High Court of the Federal Capital Territory Abuja

19 (2) All Emoluments to Judges of the Tribunal shall be in accordance
20 with the Constitution of the Federal Republic of Nigeria for Court of superior
21 records and shall therefore be charged and payable out of the Consolidated
22 Revenue Fund of the Federal Republic of Nigeria in Accordance with section
23 81(3)(C) of the 1999 Constitution of the Federal Republic of Nigeria as
24 amended.

The Court
Seal

25 9.-(1) There shall be a seal bearing the inscription "Electoral Offences
26 Tribunal".

27 (2) The court seal shall be approved by the President of the Tribunal
28 and shall have duplicates copies which shall be kept by each of the other Judges
29 of the Court and may be entrusted to officers of the Court who demonstrate
30 utmost integrity.

1 (3) The Court Seal shall be used for the purposes which may be
2 enacted by the Rules governing the Tribunal.

3 PART III - JURISTIC POWERS OF THE COURT

4 **10.** Subject to the provisions of this Act, the tribunal shall to the
5 exclusion of any other court-

6 (1) try all electoral offences listed in this Act and electoral offences
7 listed in Part VIII of the Electoral Act 2010 which may be committed by any
8 person with the intension of disrupting electoral process or any election
9 held in Nigeria;

10 (2) Try Persons who are suspected to have contravened any new
11 electoral rules or law made by the National Assembly with the view to have
12 a credible and successful election;

13 (3) Offences committed during and after voter's registration
14 whether carried out electronically or manually;

15 (4) Offences listed bellow constitute electoral offence and crime
16 in this Act-

17 (1) Impersonating during voting;

18 (2) Voting when not qualified;

19 (3) Bribery with intention to disrupt election;

20 (4) Threatening electoral officers;

21 (5) Threatening voters;

22 (6) Ballot box stuffing;

23 (7) Ballot box snatching;

24 (8) Destruction of campaign bill boards;

25 (9) Destruction of campaign posters;

26 (10) Removes, defaces, mutilates, or alters figures already counted
27 and written in electoral documents without the knowledge of all other party
28 agents;

29 (11) harass electoral officials at the time of election in any of the
30 voting units or;

1 (12) Any behavior that will lead to cancellation of election in any
2 voting centre

3 (13) Any behavior that will lead to disruption or delay of any election
4 or voting centers;

5 (14) Any unauthorized shooting of guns during elections.

6 (3) Nothing in this act shall preclude any person from being tried and
7 punished by virtue of contravention of all other offences prescribed by section
8 117, Part VIII of the Electoral Act 2010 as (amended).

9 (4) Nothing in this act shall preclude any other offences that may be
10 prescribed by the Independent National Electoral Commission (INEC).

11 **11.** Subject to the provision of this Act-

12 (1) The Tribunal may receive complaints from the Nigerian Police or
13 any of the Security Agencies to try;

14 (2) Any person or people who have been caught disrupting elections
15 and caught with ballot boxes, caught with ballot papers Or offenders engaged
16 in any behavior that may disrupt election or cause anxiety to the extent of
17 delaying elections in any voting center and have contravened any related
18 offences this Act or in the Electoral Act 2010 as amended under electoral
19 offences section 117 Part VII.

Punitive Powers

20 **12.**-(1) The Tribunal shall have the power to impose punishment
21 resulting from its ruling, where a suspect is found guilty of contravening any of
22 the offences stipulated in this Act or in the Electoral Act-

23 (a) The Tribunal shall impose punishment so proscribed by the
24 Electoral Act;

25 (b) The Tribunal having listened to complains and being satisfied by
26 all allegations and evidence before it may have mercy on such suspect provided
27 that the tribunal shall give cogent reasons for such mercy,

Enforcement of
Judgment

28 (2) The tribunal shall have the powers to enforce its judgment and
29 accordingly may commit for contempt any person or suspect who commits any
30 act which in the opinion of the Tribunal constitutes contempt.

1 13.-(a) the Tribunal shall have the powers to summon any person in
2 Nigeria to attend court session, whether to give evidence or produce any
3 document or other things in his possession;

Power to
Summon

4 (b) whether or not he is a political contestant or a member of any
5 political party, whether or not engaged by The Independent National
6 Electoral Commission (INEC) as a full time Staff or Part Time;

7 (c) Nothing in this Act and nothing in the Rules of Court made
8 under or applied by this Act shall affect the mode of giving evidence in
9 accordance with the provisions of the Evidence Act and other rules of
10 evidence.

11 14.-(1) Subject to the provision of this Act the president of the
12 tribunal may issue warrant to search-

Power to issue
warrant

13 (a) after being satisfied that there is a reasonable grounds for which
14 the application was made;

15 (b) after being satisfied that electoral materials may be found in a
16 place where it ought not to be; or

17 (c) after being satisfied that the security agents must present a
18 search and arrest warrant if non authorized persons are in possession of such
19 electoral materials which must be tendered in evidence.

20 (2) The president of the tribunal may issue warrant to a police
21 officer or to any other member of a security agency to seize any vehicle place
22 perceived to be used to store electoral materials illegally.

23 (3) The president may order a building or a place or any part thereof
24 be sealed and seized and for the removal of any which was illegally placed in
25 an unauthorized place, area or building and which is suspected to be a
26 material relevant and connected to the use of an election;

27 Provided that nothing in this section shall-

28 (1) Contradict the operation of the Evidence Act or the means by
29 which particular facts may be proved or disproved and the mode in which
30 evidence thereof may be given.

PART IV

Sittings

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Absolute
Jurisdiction

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Judgment

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15. Subject to the rules of the court and to any provisions pertaining to vacations as may be prescribed by the president of the court, the court shall open throughout the year for prosecution of offenders during any form of election conducted by the Independent National Electoral Commission both at the national or state level.

Subject to the power of transfer contained in this Act the place for the trial of offences shall be as follows-

(a) The tribunal shall sit for hearing a matter for any of the offences specified in this Act in the area or place where the offence was committed; or

(b) when a person is accused of the commission of any of the offences specified by this Act by reason of anything which has been omitted to be done, and of any consequence for which it was committed in several other states before it was discovered, such offence may be tried by any of the Electoral Offence Tribunal exercising jurisdiction in those area or as directed by the President of the Tribunal.

16. The jurisdiction conferred to the tribunal on issues of electoral offences is absolute and to this extent no High Court, be it that of a State or of the Federal Capital Territory or any other court below shall try these offences.

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4 President of the Tribunal.

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6 offences is absolute and to this extent no High Court, be it that of a State or of
7 the Federal Capital Territory or any other court below shall try these
8 offences.

Absolute
Jurisdiction

9 **19.** The following shall be the way and manner judgement shall be
10 carried out in this tribunal-

Judgment

11 (a) for the purpose of delivering Judgment or Ruling in any matter
12 the Tribunal shall be deemed duly constituted with at least one Judge;

13 (b) every decision of this Tribunal upon sitting, shall be in writing;

14 (c) nothing in this act shall preclude two judges or more from
15 sitting for the purpose of delivering Judgment in any matter as specified in
16 this Act;

17 (d) The Tribunal may sit in any of its Judicial Division as the
18 President of the Court may direct;

19 (e) the President of the Tribunal may assign Judicial function to any
20 of the Seventeen Judges or assign Judicial function to any of the judges in
21 respect of a particular matter if it is transferred due to conflict in a particular
22 area or for the purpose of a peaceful trial.

23 **20.** For the Purpose of conducting peaceful hearing in a peaceful
24 atmosphere, the judges sitting on any matter before final judgment, either
25 with or without application from the suspect or the prosecuting officers
26 transfer such matter to a more peaceful Division of the Tribunal.

Power of Transfer

27 **21.-(1)** 1. Subject to the Constitution of the Federal republic of
28 Nigeria, 1999, No appeal shall lie from the decision of the Tribunal to the
29 Court of Appeal or any other Court except as may be prescribed by this Act
30 or any other Act of the National Assembly.

Appeal

1 (2) An appeal shall lie as of right from the Tribunal to the Court of
2 Appeal on question of Law and on question of fundamental Human right.

3 PART V - MISCELLANEOUS

The appointment
of members of
Staff

4 **22.** Subject to the provisions of this act. The status and tenure of
5 members of staff in this Tribunal shall be the same as any other Court in the
6 Federal Republic of Nigeria-

7 (a) The power to appoint or make application for the recruitment of
8 staff of the court shall be vested on the President of the Tribunal who shall make
9 such request by application to the Federal Judicial Service Commission;

10 (b) Emolument and salaries of staff shall be same as any other court in
11 the Federal Republic of Nigeria; or

12 (c) The power to discipline staff of the tribunal shall be vested on the
13 President of the Tribunal or whoever the duty is delegated by the President.

14 **23.-(1)** Subject to the provisions of this Act-

15 (a) The Federal Judicial Service Commission may, from time to time,
16 appoint the Chief Registrar of the Tribunal, who shall perform such
17 administrative duties assigned to the office of the chief registrar, in the
18 execution of the powers and authorities of the Tribunal as may, from time to
19 time, be assigned to him by the guiding Rules of Tribunal and, subject thereto,
20 by any special order of the President of the Tribunal;

21 (b) Such a person to be appointed as the Chief Registrar of the
22 Tribunal must be a Person of good repute and;

23 (c) must be of un questionable character and;

24 (d) must not be found wanting.

25 (2) The Federal Judicial Service Commission may, from time to time,
26 appoint other registrars, deputy registrars and such other officers as may be
27 deemed necessary who shall perform all such duties with respect to business
28 before the Tribunal as may be directed by Rules guiding the Tribunal and upon
29 the order of the President.

30 (3) The Chief Registrar, registrars and deputy registrars shall have

1 power to administer oaths and perform such other duties with respect to any
2 proceedings in the Court as may be prescribed by the rules or by any special
3 order of the President of the Tribunal.

4 **24.** In this act unless the context so requires-

Interpretation

5 "Tribunal" and "court" means the electoral offences tribunal established
6 under section 2 of this act and charged with the responsibility to try
7 offenders;

8 "Offences" the electoral act 2010 as amended in 2014 or any of the offences
9 listed in this Act;

10 "President" Means president of the federal republic of Nigeria;

11 "President of the tribunal" Means the most senior judge of the court vested
12 with the right to preside over other judges and administratively lead the
13 tribunal;

14 "Electoral Act" means the electoral Act of the federal republic of Nigeria as
15 amended (the electoral act 2010 as amended in 2014);

16 "Constitution" means the Constitution of the Federal Republic of Nigeria.

17 **25.** This Bill may be cited as the Electoral Offences Tribunal of
18 Nigeria Bill, 2016.

Short Title

EXPLANATORY MEMORANDUM

This Bill seeks to establish a Tribunal dedicated to the speedy trial of electoral offenders and for them to be punished accordingly, in order to achieve a peaceful and credible election in our Nation.

