

## Legal Framework & Operationalization

### Financial Autonomy Not Operational

There is no evidence the financial autonomy clauses to ensure fiscal independence of the Office of the Auditor-General for Borno State is being implemented as the State Audit Office did not respond to the Subnational Audit Efficacy Index 2023 assessment. However, the principal<sup>39</sup> audit law and amendment<sup>40</sup> signed by Governor Babagana Zulum on 25th March 2021 and 23rd June 2021 respectively provides in S.15(1) that “the salary, gratuity, and benefits of the Auditor-General shall be as may be recommended by the Revenue Mobilization Allocation and Fiscal Commission and shall be charged upon the Consolidated Revenue Fund of the state as first line charges”.

Also, S.14(1)(c)(iii) of the audit law states that “the Auditor-General shall prepare and submit to the House of Assembly at least 90 days before the beginning of each year the estimates of revenues and expenditure for inclusion in the State Budget”. Furthermore, S.14(1)(g) indicates that “any sum appropriated by the State House of Assembly in each financial year shall be charged on the consolidated revenue of the State”.

Supreme Audit Institutions are independent entities and should not rely on their auditee (the Executive arm) for financing their operations. Financial autonomy will ensure that the foremost accountability institution in Borno State is able to implement freely and without interference its audit plans and programs.

### Administrative Independence Not Activated

There is no indication the Audit Service Commission for Borno State has been inaugurated since assenting to the audit law in 2021. However, S.24 (1) and (2) of the audit law for Borno State established the Commission with functions to determine the administrative structure of the Offices of the Auditor-General(s) of the State and Local Government on the recommendation of the Auditor-General(s) and dealing with other matters relating to broad issues of policy and administration of the Commission. Other functions involve handling all matters of recruitment, promotion, dismissal, and exercise of disciplinary control over staff of the Commission and the Office

of the Auditors-General.

Activating the Audit Service Commission should be one of the positive impacts of the enacted audit law to strengthen the Office of the Auditor-General in Borno State administratively by ensuring that human resource issues are addressed through the Audit Service Commission rather than through the Civil Service Commission.

To enable administrative autonomy for the Office of the Auditor-General for Borno State, it is expected that the Audit Service Commission would be inaugurated to limit reliance on the Civil Service Commission of the State for human resource matters relating to recruitment, discipline, promotion, and remuneration for staff of the Office of the Auditor-General.

### Appointment Procedure for the State Auditor-General is Transparent

The process for appointing the Auditor-General in Borno State as provided for in the legal framework is transparent and competitive. S.5(2)(a-c) provides that “six months to the expiration of the tenure of the substantive Auditor-General, the Borno State Civil Service Commission shall advertise the vacancy for interested and qualified personnel to apply; schedule examinations and interviews for the applicants and recommend the three top-rated candidates to the Executive Governor and the Governor shall appoint one of the recommended candidates and forward his/her name to the House of Assembly for confirmation”.

### Tenure of Office for the Auditor-General is Secured

The tenure of the Auditor-General as provided for in the legal framework is secured. The Law sets the retirement age for the Auditor-General and clarifies the maximum term and number of years an Auditor-General can spend in office.

S.10(a) of the amended audit law provides that “The Auditor-General shall be appointed and remain in office until he reaches the retirement age of 65 years, provided that the Auditor-General to be appointed must not be more than 61 years at the date of his appointment”. (b) states that “he serves for a term of 4 years and is deemed to be reappointed for another term of 4 years if he has

39 <https://pfm.bo.gov.ng/wp-content/uploads/2021/08/Law-Establishing-Office-of-the-State-Auditor-General-and-Audit-Service-Commission.pdf>

40 <https://pfm.bo.gov.ng/wp-content/uploads/2021/06/A-LAW-TO-AMEND-THE-BORNO-STATE-AUDITOR-GENERAL-AND-AUDIT-COM.-LAW-2021.pdf>

not reached the age of retirement (65 years)".

Term of office for Auditor-General must be well defined, consistent, and predictable to guarantee their independence. This will further ensure that an Auditor-General, whether appointed from within the Civil Service or Private Sector, is not subjected to the direction or control of any person or authority on the account of tenure instability.

### **Legal Mandate to Publish Audit Reports Online is Subjective**

The Borno State audit law subjectively provided the legal basis to publish reports of the Auditor-General electronically and on a dedicated website. S.20(6) of the principal audit law provides that "the annual audit report of the Auditor-General shall become a public document as soon as it is submitted to the State House of Assembly and may be placed on the Office website; displayed in the Office library or other government archives among others".

The use of the word "may" as against "shall" or "must" leaves publishing annual audit reports on a dedicated website to the discretion of the Auditor-General which is not healthy for public accountability.

It is important that the legal framework for audit functions at subnational level provide legal basis for audit reports to be published online without any ambiguity or discretion to enable citizens freely access such information and use it to demand accountability when and where required.

### **Annual Activity Report For 2022 Not Published**

There is no evidence the annual activity report for 2022 was submitted to the House of Assembly as the Office of the Auditor-General refused to provide information to the research team despite repeated engagements. The Borno State audit law mandates the Auditor-General to submit an annual activity report to the House of Assembly and make the same available to the public. S.12(b) of the amended audit law provides that "the Auditor-General shall submit an annual activity report to the State House of Assembly which shall include all effort and initiative to improve the capacity and competence of his staff and the report shall be

made available to the public".

An activity report for the Audit Office/Institution should include the specific initiatives and activities undertaken during the previous/outgoing calendar year to strengthen the office and improve its performance as well as any impacts (financial and non-financial) that were achieved through audit.

### **Audit Report for 2022 Published Online**

The Auditor-General for Borno State published the 2022<sup>41</sup> audit report on the accounts of Borno State Government. The published report showed that all the queries were satisfactorily answered, resolved and cleared. That as at the time the audit report was written (August 2023), following reminders and deliberate follow-up, no query was outstanding against the affected Ministries, Departments and Agencies (MDAs). The Borno State Ministries, Departments and Agencies (MDAs) are hereby commended for the positive response shown to audit queries raised. Making the audit report freely accessible to citizens enhances civic advocacy and investigative journalism using audit information.

### **Implementation Report of Audit Recommendations for 2021 Not Available**

Although S.12(c) of the amended law states that "the Auditor-General shall submit an annual follow-up report on the implementation of audit recommendations and the implementation of recommendations made by the State House to the State House of Assembly", there is no evidence the stated annual follow-up report on the implementation of audit recommendations for 2021 financial year was submitted to the State House of Assembly by the Auditor-General for Borno State.

### **No Evidence of Performance Audit for 2022**

The Office of the Auditor-General for Borno State did not show any proof it conducted performance audit on government programs, projects, or policies for the 2022 financial year.

41 <https://pfm.bo.gov.ng/wp-content/uploads/2023/08/AUDIT-REPORT-2022.pdf>

Performance audit refers to an independent examination of a program, function, operation or the management systems and procedures of a governmental entity to assess whether the entity is achieving economy, efficiency, and effectiveness in the employment of available resources.

### Citizens' Accountability Report for 2022 Not Published Online

The Borno State Government did not publish the Citizens' Accountability Report for 2022.

A Citizens' Accountability Report (CAR) is a series of graphic and tabular illustrations of the contents of the Audited Financial Statements prepared by a government agency on behalf of the government to the citizens to ensure accountability of public funds. This report details the government's performance in carrying out the duties assigned to it and the utilization of funds in the coffers of the government.

### PAC Review of 2022 Audit Report Not Started

There is no evidence the Public Accounts Committee of Borno State House of Assembly has reviewed the 2022 report of the Auditor-General. The PAC refused to participate in the SAE Index assessment despite repeated engagements.

The PAC is encouraged to improve its effectiveness and ensure reports of the Auditor-General for 2022 and other pending audit reports are given expeditious consideration. The PAC should also involve civic society and media actors when reviewing all outstanding audit reports and ensure its resolutions reflect the experiences and feedback from citizen groups particularly those who are victims of audit findings and other public accountability gaps.

### CS/Media Actors Not Involved in the Audit Process

There is no proof civil society and media actors are involved in the audit process of Borno State particularly because the public do not have access to the report of the Auditor-General on the account of Borno State Government for 2022.

There is also no evidence suggesting that civil society and media actors are participating in the audit report review process by the Public Accounts Committee. It is important that civic groups who are mostly affected by audit issues and public finance management gaps can engage with the Office of the Auditor-General and Public Accounts Committee to ensure their opinions and experiences reflect in planning and executing audit functions as well as the oversight role of the State's Parliament.

SAI Budgets and Releases (NGN'm) (2019 - 2023)

