

105TH CONGRESS
2D SESSION

S. 2102

To promote democracy and good governance in Nigeria, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20, 1998

Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To promote democracy and good governance in Nigeria, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nigerian Democracy
5 and Civil Society Empowerment Act”.

6 **SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) The continued rule of the Nigerian military
10 government, in power since a 1993 coup, harms the

1 lives of the people of Nigeria, undermines confidence
2 in the Nigerian economy, damages relations between
3 Nigeria and the United States, and threatens the
4 political and economic stability of West Africa.

5 (2) The transition plan announced by the Gov-
6 ernment of Nigeria on October 1, 1995, which in-
7 cludes a commitment to hold free and fair elections,
8 has precluded the development of an environment in
9 which such elections would be considered free and
10 fair, nor was the transition plan itself developed in
11 a free and open manner or with the participation of
12 the Nigerian people.

13 (3) The United States Government would con-
14 sider a free and fair election in Nigeria one that in-
15 volves a genuinely independent electoral commission
16 and an open and fair process for the registration of
17 political parties and the fielding of candidates and
18 an environment that allows the full unrestricted par-
19 ticipation by all sectors of the Nigerian population.

20 (4) In particular, the process of registering vot-
21 ers and political parties has been significantly flawed
22 and subject to such extreme pressure by the military
23 so as to guarantee the uncontested election of the in-
24 cumbent or his designee to the presidency.

1 (5) The tenure of the ruling military govern-
2 ment in Nigeria has been marked by egregious
3 human rights abuses, devastating economic decline,
4 and rampant corruption.

5 (6) Previous and current military regimes have
6 turned Nigeria into a haven for international drug
7 trafficking rings and other criminal organizations.

8 (7) On September 18, 1997, a social function in
9 honor of then-United States Ambassador Walter
10 Carrington was disrupted by Nigerian state security
11 forces. This culminated a campaign of political in-
12 timidation and personal harassment against Amba-
13 sador Carrington by the ruling regime.

14 (8) Since 1993, the United States and other
15 members of the international community have im-
16 posed limited sanctions against Nigeria in response
17 to human rights violations and political repression.

18 (9) According to international and Nigerian
19 human rights groups, at least several hundred de-
20 mocracy and human rights activists and journalists
21 have been arbitrarily detained or imprisoned, with-
22 out appropriate due process of law.

23 (10)(A) The widely recognized winner of the
24 annulled June 6, 1993, presidential election, Chief

1 Moshood K. O. Abiola, remains in detention on
2 charges of treason.

3 (B) General Olusegun Obasanjo (rt.), who is a
4 former head of state and the only military leader to
5 turn over power to a democratically elected civilian
6 government and who has played a prominent role on
7 the international stage as an advocate of peace and
8 reconciliation, remains in prison serving a life sen-
9 tence following a secret trial that failed to meet
10 international standards of due process over an al-
11 leged coup plot that has never been proven to exist.

12 (C) Internationally renowned writer, Ken Saro-
13 Wiwa, and 8 other Ogoni activists were arrested in
14 May 1994 and executed on November 10, 1995, de-
15 spite the pleas to spare their lives from around the
16 world.

17 (D) Frank O. Kokori, Secretary General of the
18 National Union of Petroleum and Natural Gas
19 Workers (NUPENG), who was arrested in August
20 1994, and has been held incommunicado since, Chief
21 Milton G. Dabibi, Secretary General of Staff Con-
22 sultative Association of Nigeria (SESCAN) and
23 former Secretary General of the Petroleum and Nat-
24 ural Gas Senior Staff Association (PENGASSAN),
25 who was arrested in January 1996, remains in de-

1 tention without charge, for leading demonstrations
2 against the canceled elections and against govern-
3 ment efforts to control the labor unions.

4 (E) Among those individuals who have been de-
5 tained under similar circumstances and who remain
6 in prison are Christine Anyanwu, Editor-in-Chief
7 and publisher of The Sunday Magazine (TSM),
8 Kunle Ajibade and George Mbah, editor and assist-
9 ant editor of the News, Ben Charles Obi, a journal-
10 ist who was tried, convicted, and jailed by the infa-
11 mous special military tribunal during the treason
12 trials over the alleged 1995 coup plot, the “Ogoni
13 21” who were arrested on the same charges used to
14 convict and execute the “Ogoni 9” and Dr. Beko
15 Ransome-Kuti, a respected human rights activist
16 and leader of the pro-democracy movement and
17 Shehu Sani, the Vice-Chairman of the Campaign for
18 Democracy.

19 (11) Numerous decrees issued by the military
20 government in Nigeria suspend the constitutional
21 protection of fundamental human rights, allow in-
22 definite detention without charge, revoke the juris-
23 diction of civilian courts, and criminalize peaceful
24 criticism of the transition program.

1 (12) As a party to the International Covenant
2 on Civil and Political Rights (ICCPR) and the Afri-
3 can Charter on Human and Peoples' Rights, and a
4 signatory to the Harare Commonwealth Declaration,
5 Nigeria is obligated to grant its citizens the right to
6 fairly conduct elections that guarantee the free ex-
7 pression of the will of the electors.

8 (13) Nigeria has played a major role in restor-
9 ing elected, civilian governments in Liberia and Si-
10 erra Leone as the leading military force within the
11 Economic Community of West African States
12 (ECOWAS) peacekeeping force, yet the military re-
13 gime has refused to allow the unfettered return of
14 elected, civilian government in Nigeria.

15 (14) Despite organizing and managing the June
16 12, 1993, elections, successive Nigerian military re-
17 gimes nullified that election, imprisoned the winner
18 a year later, and continue to fail to provide a coher-
19 ent explanation for their actions.

20 (15) Nigeria has used its military and economic
21 strength to threaten the land and maritime borders
22 and sovereignty of neighboring countries, which is
23 contrary to numerous international treaties to which
24 it is a signatory.

1 (b) DECLARATION OF POLICY.—Congress declares
2 that the United States should encourage political, eco-
3 nomic, and legal reforms necessary to ensure rule of law
4 and respect for human rights in Nigeria and support a
5 timely and effective transition to democratic, civilian gov-
6 ernment in Nigeria.

7 **SEC. 3. SENSE OF CONGRESS.**

8 (a) INTERNATIONAL COOPERATION.—It is the sense
9 of Congress that the President should actively seek the
10 cooperation of other countries as part of the United States
11 policy of isolating the military government of Nigeria.

12 (b) UNITED NATIONS HUMAN RIGHTS COMMIS-
13 SION.—It is the sense of Congress that the President
14 should instruct the United States Representative to the
15 United Nations Commission on Human Rights (UNCHR)
16 to use the voice and vote of the United States at the an-
17 nual meeting of the Commission—

18 (1) to condemn human rights abuses in Nigeria;

19 and

20 (2) to press for the continued renewal of the
21 mandate of, and continued access to Nigeria for, the
22 special rapporteur on Nigeria, as called for in Com-
23 mission Resolution 1997/53.

24 (c) SPECIAL ENVOY FOR NIGERIA.—It is the sense
25 of Congress that, because the United States Ambassador

1 to Nigeria, a resident of both Lagos and Abuja, Nigeria,
2 is the President's representative to the Government of Ni-
3 geria, serves at the pleasure of the President, and was ap-
4 pointed by and with the advice and consent of the Senate,
5 the President should not send any other envoy to Nigeria
6 without prior notification of Congress and should not des-
7 ignate a special envoy to Nigeria without consulting Con-
8 gress.

9 **SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL**
10 **SOCIETY IN NIGERIA.**

11 (a) DEVELOPMENT ASSISTANCE.—

12 (1) IN GENERAL.—Of the amounts made avail-
13 able for fiscal years 1999, 2000, and 2001 to carry
14 out chapter 1 of part I of the Foreign Assistance
15 Act of 1961 (22 U.S.C. 2151 et seq.), not less than
16 \$10,000,000 for fiscal year 1999, not less than
17 \$12,000,000 for fiscal year 2000, and not less than
18 \$15,000,000 for fiscal year 2001 should be available
19 for assistance described in paragraph (2) for Nige-
20 ria.

21 (2) ASSISTANCE DESCRIBED.—

22 (A) IN GENERAL.—The assistance de-
23 scribed in this paragraph is assistance provided
24 to nongovernmental organizations for the pur-

1 pose of promoting democracy, good governance,
2 and the rule of law in Nigeria.

3 (B) ADDITIONAL REQUIREMENT.—In pro-
4 viding assistance under this subsection, the Ad-
5 ministrators of the United States Agency for
6 International Development shall ensure that
7 nongovernmental organizations receiving such
8 assistance represent a broad cross-section of so-
9 ciety in Nigeria and seek to promote democ-
10 racy, human rights, and accountable govern-
11 ment.

12 (3) GRANTS FOR PROMOTION OF HUMAN
13 RIGHTS.—Of the amounts made available for fiscal
14 years 1999, 2000, and 2001 under paragraph (1),
15 not less than \$500,000 for each such fiscal year
16 should be available to the United States Agency for
17 International Development for the purpose of provid-
18 ing grants of not more than \$25,000 each to sup-
19 port individuals or nongovernmental organizations
20 that seek to promote, directly or indirectly, the ad-
21 vancement of human rights in Nigeria.

22 (b) USIA INFORMATION ASSISTANCE.—Of the
23 amounts made available for fiscal years 1999, 2000, and
24 2001 under subsection (a)(1), not less than \$1,000,000
25 for fiscal year 1999, \$1,500,000 for fiscal year 2000, and

1 \$2,000,000 for fiscal year 2001 should be made available
2 to the United States Information Agency for the purpose
3 of supporting its activities in Nigeria, including the pro-
4 motion of greater awareness among Nigerians of constitu-
5 tional democracy, the rule of law, and respect for human
6 rights.

7 (c) STAFF LEVELS AND ASSIGNMENTS OF UNITED
8 STATES PERSONNEL IN NIGERIA.—

9 (1) FINDING.—Congress finds that staff levels
10 at the office of the United States Agency for Inter-
11 national Development in Lagos, Nigeria, are inad-
12 equate.

13 (2) SENSE OF CONGRESS.—It is the sense of
14 Congress that the Administrator of the United
15 States Agency for International Development
16 should—

17 (A) increase the number of United States
18 personnel at such Agency's office in Lagos, Ni-
19 geria, from within the current, overall staff re-
20 sources of such Agency in order for such office
21 to be sufficiently staffed to carry out subsection
22 (a); and

23 (B) consider placement of personnel else-
24 where in Nigeria.

1 **SEC. 5. PROHIBITION ON ECONOMIC ASSISTANCE TO THE**
2 **GOVERNMENT OF NIGERIA; PROHIBITION ON**
3 **MILITARY ASSISTANCE FOR NIGERIA; RE-**
4 **QUIREMENT TO OPPOSE MULTILATERAL AS-**
5 **SISTANCE FOR NIGERIA.**

6 (a) PROHIBITION ON ECONOMIC ASSISTANCE.—

7 (1) IN GENERAL.—Economic assistance (includ-
8 ing funds previously appropriated for economic as-
9 sistance) shall not be provided to the Government of
10 Nigeria.

11 (2) ECONOMIC ASSISTANCE DEFINED.—As used
12 in this subsection, the term “economic assistance”—

13 (A) means—

14 (i) any assistance under part I of the
15 Foreign Assistance Act of 1961 (22 U.S.C.
16 2151 et seq.) and any assistance under
17 chapter 4 of part II of such Act (22 U.S.C.
18 2346 et seq.) (relating to economic support
19 fund); and

20 (ii) any financing by the Export-Im-
21 port Bank of the United States, financing
22 and assistance by the Overseas Private In-
23 vestment Corporation, and assistance by
24 the Trade and Development Agency; and

25 (B) does not include disaster relief assist-
26 ance, refugee assistance, or narcotics control as-

1 sistance under chapter 8 of part I of the For-
2 eign Assistance Act of 1961 (22 U.S.C. 2291 et
3 seq.).

4 (b) PROHIBITION ON MILITARY ASSISTANCE OR
5 ARMS TRANSFERS.—

6 (1) IN GENERAL.—Military assistance (includ-
7 ing funds previously appropriated for military assist-
8 ance) or arms transfers shall not be provided to Ni-
9 geria.

10 (2) MILITARY ASSISTANCE OR ARMS TRANS-
11 FERS.—The term “military assistance or arms
12 transfers” means—

13 (A) assistance under chapter 2 of part II
14 of the Foreign Assistance Act of 1961 (22
15 U.S.C. 2311 et seq.) (relating to military assist-
16 ance), including the transfer of excess defense
17 articles under section 516 of that Act (22
18 U.S.C. 2321j);

19 (B) assistance under chapter 5 of part II
20 of the Foreign Assistance Act of 1961 (22
21 U.S.C. 2347 et seq.) (relating to international
22 military education and training);

23 (C) assistance under the “Foreign Military
24 Financing Program” under section 23 of the
25 Arms Export Control Act (22 U.S.C. 2763); or

1 (D) the transfer of defense articles, de-
2 fense services, or design and construction serv-
3 ices under the Arms Export Control Act (22
4 U.S.C. 2751 et seq.), including defense articles
5 and defense services licensed or approved for
6 export under section 38 of that Act (22 U.S.C.
7 2778).

8 (c) REQUIREMENT TO OPPOSE MULTILATERAL AS-
9 SISTANCE.—

10 (1) IN GENERAL.—The Secretary of the Treas-
11 ury shall instruct the United States executive direc-
12 tor to each of the international financial institutions
13 described in paragraph (2) to use the voice and vote
14 of the United States to oppose any assistance to the
15 Government of Nigeria.

16 (2) INTERNATIONAL FINANCIAL INSTITUTIONS
17 DESCRIBED.—The international financial institutions
18 described in this paragraph are the African Develop-
19 ment Bank, the International Bank for Reconstruc-
20 tion and Development, the International Develop-
21 ment Association, the International Finance Cor-
22 poration, the Multilateral Investment Guaranty
23 Agency, and the International Monetary Fund.

1 **SEC. 6. EXCLUSION FROM ADMISSION INTO THE UNITED**
2 **STATES OF CERTAIN NIGERIAN NATIONALS.**

3 Notwithstanding any other provision of law, the Sec-
4 retary of State shall deny a visa to, and the Attorney Gen-
5 eral shall exclude from the United States, any alien who
6 is—

7 (1) a current member of the Provisional Ruling
8 Council of Nigeria;

9 (2) a current civilian minister of Nigeria not on
10 the Provisional Ruling Council;

11 (3) a military officer currently in the armed
12 forces of Nigeria;

13 (4) a person in the Foreign Ministry of Nigeria
14 who holds Ambassadorial rank, whether in Nigeria
15 or abroad;

16 (5) a current civilian head of any agency of the
17 Nigerian government with a rank comparable to the
18 Senior Executive Service in the United States;

19 (6) a current civilian advisor or financial backer
20 of the head of state of Nigeria;

21 (7) a high-ranking member of the inner circle
22 of the Babangida regime of Nigeria on June 12,
23 1993;

24 (8) a high-ranking member of the inner circle
25 of the Shonekan interim national government of Ni-
26 geria;

1 (9) a civilian who there is reason to believe is
2 traveling to the United States for the purpose of
3 promoting the policies of the military government of
4 Nigeria;

5 (10) a current head of a parastatal organization
6 in Nigeria; or

7 (11) a spouse or minor child of any person de-
8 scribed in any of the paragraphs (1) through (10).

9 **SEC. 7. ADDITIONAL MEASURES.**

10 (a) IN GENERAL.—Unless the President determines
11 and certifies to the appropriate congressional committees
12 by December 31, 1998, that a free and fair presidential
13 election has occurred in Nigeria during 1998 and so cer-
14 tifies to the appropriate committees of Congress, the
15 President, effective January 1, 1999—

16 (1) shall exercise his authority under section
17 203 of the International Emergency Economic Pow-
18 ers Act (50 U.S.C. 1702) to prohibit any financial
19 transaction involving the participation by a Nigerian
20 national as a representative of the Federal Republic
21 of Nigeria in a sporting event in the United States;

22 (2) shall expand the restrictions in section 6 to
23 include a prohibition on entry into the United States
24 of any employee or military officer of the Nigerian
25 government and their immediate families;

1 (A) is not harassing or imprisoning human
2 rights and democracy advocates and individuals
3 who criticize the government's transition pro-
4 gram;

5 (B) has established a new transition proc-
6 ess developed in consultation with the pro-de-
7 mocracy forces, including the establishment of a
8 genuinely independent electoral commission and
9 the development of an open and fair process for
10 registration of political parties, candidates, and
11 voters;

12 (C) is providing increased protection for
13 freedom of speech, assembly, and the media, in-
14 cluding cessation of harassment of journalists;

15 (D) has released individuals who have been
16 imprisoned without due process or for political
17 reasons;

18 (E) is providing access for independent
19 international human rights monitors;

20 (F) has repealed all decrees and laws
21 that—

22 (i) grant undue powers to the mili-
23 tary;

24 (ii) suspend the constitutional protec-
25 tion of fundamental human rights;

1 (iii) allow indefinite detention without
2 charge, including the State of Security
3 (Detention of Persons) Decree No. 2 of
4 1984; or

5 (iv) suspend the right of the courts to
6 rule on the lawfulness of executive action;
7 and

8 (G) has unconditionally withdrawn the Riv-
9 ers State internal security task force and other
10 paramilitary units with police functions from
11 regions in which the Ogoni ethnic group lives
12 and from other oil-producing areas where vio-
13 lence has been excessive; or

14 (2) it is in the national interests of the United
15 States to waive the prohibition in section 5, 6, or 7,
16 as the case may be.

17 (c) CONGRESSIONAL NOTIFICATION.—Notification
18 under this subsection is written notification of the deter-
19 mination of the President under subsection (b) provided
20 to the appropriate congressional committees not less than
21 15 days in advance of any waiver of any prohibition in
22 section 5, 6, or 7, subject to the procedures applicable to
23 reprogramming notifications under section 634A of the
24 Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

1 **SEC. 9. PROHIBITION ON UNITED STATES ASSISTANCE OR**
2 **CONTRIBUTIONS TO SUPPORT OR INFLU-**
3 **ENCE ELECTION ACTIVITIES IN NIGERIA.**

4 (a) PROHIBITION.—

5 (1) IN GENERAL.—No department, agency, or
6 other entity of the United States Government shall
7 provide any assistance or other contribution to any
8 political party, group, organization, or person if the
9 assistance or contribution would have the purpose or
10 effect of supporting or influencing any election or
11 campaign for election in Nigeria.

12 (2) PERSON DEFINED.—As used in paragraph
13 (1), the term “person” means any natural person,
14 any corporation, partnership, or other juridical en-
15 tity.

16 (b) WAIVER.—The President may waive the prohibi-
17 tion contained in subsection (a) if the President—

18 (1) determines that—

19 (A) the climate exists in Nigeria for a free
20 and fair democratic election that will lead to ci-
21 vilian rule; or

22 (B) it is in the national interests of the
23 United States to do so; and

24 (2) notifies the appropriate congressional com-
25 mittees not less than 15 days in advance of the de-
26 termination under paragraph (1), subject to the pro-

1 cedures applicable to reprogramming notifications
2 under section 634A of the Foreign Assistance Act of
3 1961 (22 U.S.C. 2394–1).

4 **SEC. 10. REPORT ON CORRUPTION IN NIGERIA.**

5 Not later than 3 months after the date of the enact-
6 ment of this Act, and annually for the next 5 years there-
7 after, the Secretary of State shall prepare and submit to
8 the appropriate congressional committees, and make avail-
9 able to the public, a report on governmental corruption
10 in Nigeria. This report shall include—

11 (1) evidence of corruption by government offi-
12 cials in Nigeria;

13 (2) the impact of corruption on the delivery of
14 government services in Nigeria;

15 (3) the impact of corruption on United States
16 business interests in Nigeria;

17 (4) the impact of advance fee fraud, and other
18 fraudulent business schemes originating in Nigeria,
19 on United States citizens; and

20 (5) the impact of corruption on Nigeria’s for-
21 eign policy.

22 **SEC. 11. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
23 **FINED.**

24 Except as provided in section 6, in this Act, the term
25 “appropriate congressional committees” means—

1 (1) the Committee on International Relations of
2 the House of Representatives;

3 (2) the Committee on Foreign Relations of the
4 Senate; and

5 (3) the Committees on Appropriations of the
6 House of Representatives and the Senate.

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