

Income Cap as a  
Potential Barrier

Guarantor System  
Reinforces Social  
Inequalities

Repayment of Loan  
May Pose difficulties

# ANALYSIS OF THE STUDENTS LOANS (ACCESS TO HIGHER EDUCATION) ACT, 2023



Corporate  
Accountability &  
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## INTRODUCTION

On June 12, 2023, President Bola Ahmed Tinubu signed into law the Student Loans Bill. The Bill, which was first introduced in 2016 and passed in May 2023, was sponsored by the outgoing speaker of the House of Representatives and Chief of Staff to the President, Femi Gbajabamila.

The purpose of the legislation as contained in its explanatory memorandum is "**to provide easy access to higher education for Nigerians through students' loans with a view to providing education for all Nigerians.**" This policy brief presents an analysis of the Act, highlighting observations and key concerns while proffering recommendations to inform Government's interventions in higher education in Nigeria.

## HIGHLIGHTS OF THE ACT

- 1. Repealment:** The Students Loans Act repeals the Nigerian Education Bank Act, 2004. Consequently, all assets, funds, and immovable properties vested in the repealed Act will be moved to the Students Education Loans Fund established under the Students Loans Act, 2023. **Section 21(1)(2).**
- 2. Scope:** The Act applies to all matters pertaining to the application and grant of loans to Nigerians seeking higher education in institutions of higher learning in Nigeria through the Nigerian Education Loan Fund.
- 3. Nigerian Education Loan Fund:** The Act establishes the Nigerian Education Loan Fund, which will be domiciled with, managed, and administered by the Central Bank of Nigeria through money deposit banks in Nigeria. **See Section 5(1), (2).**
- 4. Fund Sources:** The Fund's financial resources will be drawn from various sources such as education bonds, and endowment funds. In addition, the fund will receive 1% of all federal taxes, levies and duties collected by the Federal Inland Revenue Service (FIRS), Nigerian Immigration Service, and Nigerian Customs Service. The Fund will also acquire 1% of all profits from oil and other minerals. Donations, gifts, and any other potential revenue sources will also contribute to the Fund. **See Section 12.**
- 5. Equal Rights to Access the Loan:** It asserts that regardless of gender, religion, tribe, position, or disability, all students seeking higher education in any public institution in Nigeria will have equal rights to access a student loan. However, this condition is also subject to the provisions of any other enactment. **See Section 2.**

- 6. Loan Purpose:** The loan granted to students under this Act is specifically for the payment of tuition. **See Section 3.**
- 7. Special Committee:** The Governor of the Central Bank of Nigeria will set up a Special Committee to perform the functions of the Fund. Under this Act, the Committee is responsible for establishing regulations and guidelines for the management, administration, disbursement, and recoupment of student loans. **See Section 5(3), Section 6.**
- 8. Members of the Special Committee:** shall include the Governor of the Central Bank of Nigeria (as the Chairman), the Fund's Secretary, the Minister of Education, the Chairman of the National Universities Commission, a representative of the Vice Chancellor forum of all Nigerian Universities, a representative of the Rectors forum of Nigerian Polytechnics and Provosts forum of all Colleges of Education in Nigeria, the Minister of finance, the Auditor-General for the Federation, a representative of the Academic Staff Union of Universities, a representative of the Nigeria Labour Congress, and a representative of the Nigerian Bar Association. **See Section 7(2)**
- 9. President's Power:** The President has the power to alter the Committee's decisions as he deems fit if he is satisfied it is in the interest of the Committee or the public. **See Section 10.**
- 10. Loan Application Criteria:** To apply for a loan, a student must secure admission to a Nigerian government established-higher education institution, have an earning or family income less than N500,000 per annum, and provide at least two guarantors. The guarantors should be a civil servant (minimum level 12), a lawyer with at least 10 years post-call experience, a judicial officer, or a justice of peace. **See Section 14.**
- 11. Disqualification Conditions:** A student can be disqualified from receiving a loan if they have a history of defaulting on any previous loans, have been found guilty of academic dishonesty, have been convicted of a felony, a crime involving dishonesty or fraud, or drug offences. Additionally, if any of their parents have defaulted on a student loan or any other loan, the student will also be disqualified.
- 12. Loan Repayment:** Under this Act, recipients of the student loan will commence repayment two years after completing the National Youth Service Corps program. The repayment is structured as a 10% salary deduction at source made by a loan-beneficiary's employer and directly paid into the Fund. If a loan-recipient changes jobs, they're obligated to inform the Committee's Chairman within 30 days of resuming a new job while also providing details of the new job. If a beneficiary is self-employed, he shall remit 10% of his total monthly profit to the Fund. Self-employed persons must also submit comprehensive business information to the Committee within 60 days of becoming self-employed. Failure to comply

with these requirements or aiding a defaulter in such non-compliance can result in a penalty of N500,000 fine, a two-year imprisonment term, or both. **See Section 18.**

## KEY CONCERNS IN THE STUDENT LOANS ACT, 2023

1. **Income Cap as a Potential Barrier:** This Act, under Section 14 (b), sets an income eligibility cap for accessing the student loan (applicant's income or family income must be less than N500,000 per annum which also amounts to N42,000 or less per month). While this may have been intended to target assistance towards lower-income households, this flat-rate provision neglects the economic realities in Nigeria and may unintentionally exclude public sector employees and lower-middle-income families who still struggle to afford higher education despite earning just slightly above the income threshold in the Act.

For instance, by virtue of the Minimum Wage Act, 2019, Nigeria's lowest-earning workers take home nothing less than N30,000 per month. Under this scenario, a single-parent family or an independent applicant meets the income cap stipulated in the Act. However, the Act also refers to "**family income**" which may include the combined earnings of both parents or guardians of an applicant. In a two-parent minimum-wage-earning household, the combined income would likely exceed N60,000 monthly which surpasses the Act's income cap but does not necessarily mean that such a family can comfortably afford higher education expenses. This is true given the fact that prevailing inflation rates in Nigeria are notably high and complicate the fixed income threshold effectiveness over time. According to a report, most households in Nigeria spend at least 85% of their monthly income on food consumption.<sup>1</sup> Ultimately, this provision may inadvertently exclude families experiencing economic hardship yet don't meet the exact criteria for student loans.

Moreover, this provision doesn't consider multiple children from the same family requiring higher education loans. Families might be deemed ineligible based on combined income, even though this income must support multiple students. To address these challenges, the Act could adopt a more nuanced approach, like an income scale or gradient system. Such a system would tie loan amounts to varying income levels and individual situations, ensuring fairer and broader access to educational opportunities.

2. **Loan Established to Cater for Tuition Only:** Section 13 of the Act established the aims and objectives of the Fund to be the "mobilization of funds to provide interest-free loans to students of institutions of higher learning in Nigeria for the payment of tuition fees". There are two related problems that this provision brings up. First, Nigeria operates a tuition-free higher education policy. By the provision of this Act, it suggests that the government is switching from a tuition-free education policy to the

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<sup>1</sup> <https://www.thisdaylive.com/index.php/2022/09/04/most-nigerians-spend-85-of-their-income-on-food-says-report>



introduction of tuition fees in public higher education institutions. This means that the cost of education may significantly rise for other students who do not qualify for a student loan with varied consequences depending on the socioeconomic status of such students.

Secondly, despite the tuition-free policy, students of government-owned higher institutions pay series of charges and levies generically called “school fees” which runs into tens of thousands in most cases. This may include admission fee, examination fee, ICT levy, development fees, library fees, department fee, faculty fee, matriculation fee, convocation fee, hostel charges etc. In addition to living costs, many students are often compelled by the inadequacy of school hostels to rent private accommodations in host communities. In some cases, these private hostels run into thousands of naira. If the Students Loan Act is meant to cater for tuition fees alone, how does an indigent student find money to cater for the other fee regime not covered by the loan? To avoid a situation where beneficiaries of the loan are put in a situation where they have to obtain additional loans outside of the student's loan to cater for school fees, the government needs to review the Student Loans Act with a view to mainstreaming other pre-existing fees into it so that beneficiaries can receive sufficient funding that caters for all cost associated with their education.

- 3. Guarantor System Reinforces Social Inequalities:** The Guarantor requirements obtained under Section 14 (c), of the Act not only imply a considerable socioeconomic bias but also overlook the country's socioeconomic diversity. The assumption that an indigent student or applicant has access to outlined professional contacts such as a civil servant (minimum Level 12), a lawyer with 10years+ experience, a judicial officer or a justice of peace is overly optimistic, considering the significant class and regional disparities in Nigeria. In particular, rural, and disadvantaged urban populations may find it challenging to meet these requirements, especially as the Act also requires guarantors to support a student's application for a loan with particulars showing their employment and banking details, a copy of CAC registration if they are self-employed and a letter stating they "accept liability in the event of default". This situation will most likely lead to a systematic exclusion of the Nigerian society's proletariat with no social connections from accessing the loans.
- 4. Disqualifying Conditions Raises an Issue of Social Justice:** Section 15 (a) of the Act with its range of disqualifying conditions, raises concerns from a social justice perspective. By linking a student's disqualification from accessing the loan to an incidence of them or their parents "having defaulted in respect of any previous loan granted by an organization", the Act runs the risk of deepening the socioeconomic divide in Nigeria or even disregarding certain contextual circumstances that may have led to a loan default. In particular, this provision contradicts the aim of the Act which is to pull the downtrodden up by utilizing education to propel social mobility.

Poverty presupposes not only a lack of material means but also financial bankruptcy which more often than not leads to indebtedness. It is not logical to, on one hand, acknowledge the prevalence of poverty as a major obstacle for many to progress in their educational goals thereby necessitating the floating of a loan scheme and on the other hand, use indebtedness to disqualify potential beneficiaries. For instance, while it is true that loan repayment is an obligation that must be upheld, Nigeria's precarious economic environment makes it difficult for even the most diligent borrowers from settling their debts on time. Nigeria is currently grappling with a cost-of-living crisis driven by soaring inflation, declining household incomes, and escalating prices of essential commodities like fuel, electricity, food, and water. This economic strain has ensnared many Nigerians in a vicious cycle of debt.

The notion of denying students access to loans due to previous loan default is also contentious, especially in the context of the burgeoning identity theft problem in Nigeria. A rising number of Nigerians are becoming victims of identity theft, where fraudsters illicitly access their personal information, commandeer their financial accounts and even secure loans under false identities. Consequently, victims of identity theft find themselves obliged to repay loans they never requested or face public humiliation and bear inappropriate tags of loan defaulters.

Finally, the condition of disqualification due to felony convictions raises questions about the principle of second chances and the role of education as a tool for social rehabilitation. It also overlooks the systemic issues in Nigeria's criminal justice system, where marginalized groups are disproportionately and often arbitrarily convicted. Education is more than an avenue for acquiring knowledge; it serves as a powerful tool for social rehabilitation, capable of equipping individuals with the skills and knowledge necessary for social reintegration. By denying, in particular, repentant convicts, access to student loans, the Nigerian government will effectively shut them out from a transformative opportunity and chance to redeem themselves. This situation might inadvertently perpetuate a cycle of disadvantage, affecting those who are already struggling with societal prejudice and economic hardships.

- 5. Uncertainty in Loan Disbursement:** Section 16 (4) of the Act stipulates that the disbursement of loans shall be on the availability of funds. This provision introduces an element of unpredictability into the process of acquiring a student loan. If funds are not available at a needed time, applicants may suffer unhealthy situations. For instance, indigent students who require loans to facilitate their admission or an academic process may lose their admission status or suffer setbacks in their academics when they cannot readily access funds.
- 6. Sexist Undertone in Legislative Drafting:** The male pronoun is used to refer to students and loan beneficiaries throughout the Act! This biased pronoun common to archaic legislative drafting styles reinforces

discriminatory gender biases. A glaring example is Section 15 of the Act, which reads as follows: **"A student is disqualified from accessing the loan if — (a) he is proven to have defaulted in respect of any previous loan granted by any organisation; (b) he has been found guilty of exam malpractice by any school authority; (c) he is convicted of a felony or any offence involving dishonesty or fraud; (d) he has been convicted of drug offences"**. In a society where enormous divide exists between male and female enrolment and retention in schools, and in the context of Nigeria as a signatory to many international agreements and programmes to promote the education of the girl-child, such male-centric language construction is not only disapproving but also disappointing as it could unconsciously promote the sexist beliefs that contribute to the marginalization of women. Much as this practice is commonly defended on the basis of traditional claims that "he" generically refers to both male and female genders, it is however progressive to use more gender-neutral qualifiers such as "they", "a person", or simply be explicitly inclusive by specifically using "he/she".

- 7. Repayment of the Loan May Pose Difficulties Given Prevalent Economic Conditions:** Section 18 (1-6) mandates the repayment of loans taken two years after the beneficiary's completion of the National Youth Service Corps (NYSC) programme, with measures in place to enforce it. Despite its well-intentioned design, this provision could pose significant challenges as it disregards whether a beneficiary has the means to repay the loan within the specified timeframe, making it mandatory to begin repayment. Within the socioeconomic context of Nigeria's high unemployment rate (projected to increase by 43% in 2023<sup>2</sup>), where graduates often struggle to secure gainful employment years after completing their education and NYSC, it becomes clear why this provision undermines the interest-free advantage of the loan scheme.

Most concerning is that Section 6 (q) authorizes the Fund to do anything necessary to be done to facilitate the performance of its functions, which includes recovering the loans given. This provision is not only vague but open to interpretations that might subject young beneficiaries to immense pressure to repay a loan they simply cannot afford. This situation can lead to distress, depression, and, in extreme cases, even suicide.

Additionally, the Act states that the loan will be repaid through a monthly 10% direct deduction from the salary of grantees who are employed, while those who are self-employed shall remit 10% of their total profit monthly to the fund. Seeing as the loan scheme does not come with guaranteed employment and income for its beneficiaries given Nigeria's rising unemployment rates, it raises the question of what provisions the Fund has in place for beneficiaries who, unfortunately, are unable to find a job or establish self-employment within two years of graduation or realize an income above the current minimum wage which is grossly inadequate.

<sup>2</sup> <https://www.channelstv.com/2023/04/11/nigerias-unemployment-rate-to-rise-to-41-in-2023-kpmg/#:~:text=The%20report%20also%20revealed%20in,of%20political%20transition%20in%20Nigeria.>

Furthermore, the enforcement of direct deductions from salaries in an economy marked by informality and job instability could create implementation difficulties. The requirement for self-employed beneficiaries to remit 10% of their total monthly profit is problematic due to income irregularities and potential difficulties in accurately tracking and documenting income. Penalties for non-compliance, such as a fine of N500,000, a two-year imprisonment term, or both can further complicate the lives of young Nigerians and families struggling to keep their heads above water.

A policy of this nature should offer robust protection to beneficiaries. Accordingly, it is crucial not only to tie the repayment plan to evidence of employment but also, considering Nigeria's neocolonial status with prevalent casual labour and low wages, to establish an income threshold at which loan beneficiaries are expected to begin repayment. This is the norm in other countries, especially in the United States and Europe where students' loan schemes are operational. There is often a moratorium before the repayment clause is actuated. The premise for this is that given the long-term repayment plan implicit in the students' loan scheme, government recognizes that loan beneficiaries also must survive, eat, cloth, secure shelter and even start a family while they simultaneously pay back a share of their income on a regular basis to the Fund. Without these measures, the loan scheme will become a burden for beneficiaries, trapping young Nigerians in a life of indebtedness that prevents them from pursuing their life goals.

- 8. Governance Concerns:** As already indicated in the highlight above, Section 5 of the Students Loans Act establishes the Nigerian Education Loan Fund, which will be “domiciled with, managed, and administered by the Central Bank of Nigeria through money deposit banks in Nigeria”. Additionally, in accordance with Section 7, a Special Committee is to be created and chaired by the CBN governor and shall be responsible for “establishing regulations and guidelines for the management, administration, disbursement, and recoupment of students' loans”.

This committee is to report directly to the President who, in accordance with Section 10, shall have the powers to alter the Committee's decisions “as he deems fit if he is satisfied it is in the interest of the Committee or the public”. Also, according to Section 11, members of the Committee shall be paid “such allowances and expenses as may be determined by the Governor of the Central Bank of Nigeria”.

This formulation of the governance structure of the Fund which confers extraordinary powers on the CBN governor, and the President raises crucial concerns about the independence of the Special Committee as well as fears of political interference affecting the operation of the Fund. There is nowhere in the Act where any role is created for the National Assembly through its education committees to oversee the operation of the Fund. For instance, Section 21 of the Act says the Committee shall, not



later than four months after the end of the year, “submit to the President a report of the activities of the Fund and its administration during the immediate period of the preceding year”. The National Assembly has the constitutional responsibility to oversee and check the Executive arm of government.

To this extent, there is a need to amend the Students Loan Act to ensure that the Special Committee reports not only to the President but also to the National Assembly to ensure more effective monitoring of the Funds' operation and activities. It is also vital to ensure that the loan scheme does not go the way of similar intervention funds in history including Scholarships and bursaries which were hijacked by politicians who transformed them into slush funds to loot, settle political supporters and buy patronage.

There are many other lapses in the Loan Act. The document is surprisingly linear without consideration of multiple scenarios and unforeseen circumstances that can affect the discharge of its aims and objectives. For instance, the Act says nothing about what happens if a loan beneficiary fails to graduate within their stipulated academic calendar. What happens if the reason for their failure to graduate is due to their poor academic performance would definitely be different if their inability to graduate at a set time is due to circumstances beyond their control, including sickness or actions that force schools to close or them to be out of school. What happens if loan beneficiaries die before the completion of their education? With regards to repayment, the Act says nothing about what happens in the event a loan beneficiary suddenly loses their jobs or their self-employment collapses or goes bankrupt.

## CONCLUSION

Corporate Accountability and Public Participation Africa (CAPPA) lauds the efforts of the sponsor of the Act, Senator Femi Gbajabiamila, to expand access to higher education for Nigerian students. However, the current income cap, stringent and restrictive guarantor requirements, and uncertainty and vague suggestions around loan disbursement are areas of concern that could potentially undermine the legislation's objective of increasing access to higher education in Nigeria. These concerning provisions of the Act risk marginalizing certain groups, particularly those from lower socio-economic backgrounds, thus perpetuating existing inequalities in access to higher education.

Moreover, issues such as subpar educational infrastructure and learning

facilities, lack of research amenities, and inadequate staff remuneration have historically plagued public universities in the country. These underlying issues must be prioritized and addressed, otherwise, they could render the loan scheme ineffective and ultimately pointless.

Above all, CAPPA firmly believes that funding public education is a social responsibility of the government as such, we reject any attempt and call to privatize education in Nigeria. We are concerned that this loan scheme may inadvertently lead to increased tuition costs, encouraging the growth of for-profit schools in the country and thereby undermining access to affordable and quality education. In light of the above, CAPPA recommends as follows:

- A repeal of the Students Loans (Access to Higher Education) Act, 2023 and the conversion of the education bank into a special intervention vehicle for dispensing education grants and bursaries to indigent yet high-performing students in public tertiary institutions. These grants can also be devoted to supporting prospective undergraduates applying to study in fields where the country faces a noticeable shortage of professionals. These areas may include medicine, the sciences, information, and communication technology (ICT), and engineering among others. By doing this, we would be investing in the future growth and development of these critical sectors. Additionally, the restructured education bank should focus on revitalizing the country's colleges of education. Over the years, these institutions have experienced a sharp decline in admission applications, largely due to insufficient funding directed towards teacher training. By providing adequate financial support to students aspiring to enter the teaching profession, we can counter this trend and reinforce our educational foundations.

To ensure the success of a restructured education bank and its objectives, the development of its operational framework and guidelines must incorporate global best practices observed in the successful implementation of bursary and grant programs. It must also integrate useful insights from stakeholders in the education sector, civil society, and experts with proven experience in the subject matter.

- The Federal government should utilize funds drawn from various sources to increase budgetary allocation to education and ensure greater accountability and efficient utilization of the Tertiary Education Trust Fund (TETFUND) and other interventionist programmes in the education sector.
- Policymakers and stakeholders need to bolster girl-child education through targeted funding and awareness campaigns designed to dismantle harmful cultural norms. It's also crucial to ensure that all public institutions are well-equipped with necessary amenities, including clean toilets, running water, and dispensaries for female students. Moreover,

cultivating an atmosphere free from sexism, including the elimination of sexist language in policymaking, is essential for boosting the enrollment and retention rates of girls in schools.

- The government should embark on an intensive revitalization programme aimed at improving teaching infrastructures in public higher learning institutions. This specifically involves enhancing classrooms, laboratories, libraries, and ICT facilities to ensure the delivery of quality education.
- The Federal government should initiate constructive dialogues with staff unions within the education sector to address ongoing grievances and ensure industrial harmony. To preempt new crises, the government, via the Ministries of Labour and Education, should establish an Early Warning System. This mechanism would identify, address, and resolve wage and policy disputes before they escalate and disrupt the academic calendar.

- The Federal government, subnational governments, and the private sector should collaborate on a job creation drive to ensure that graduates from tertiary institutions secure gainful employment.

- Finally, we recommend that the Federal Ministry of Education organizes an annual multi-stakeholder summit. This summit would provide a platform for continuous dialogue with stakeholders regarding the government's vision for the education sector in Nigeria. It would also function as a feedback mechanism, enabling the government to measure the effectiveness of its policies and identify areas requiring improvement.



**Lagos Office:** 1A Adekunle Owobi Close,  
Off Oladele Kadiri Close, Ogba, Lagos State.  
**Tel:** +2348029301614

**Abuja Office:** House 4, Cowries Estate, Off  
Emmanuel Mbaka Boulevard, by VON,  
Lugbe, Abuja, Nigeria.  
**Tel:** +2347085915879

**Email:** [info@cappaafrica.org](mailto:info@cappaafrica.org)

**Website:** [www.cappaafrica.org](http://www.cappaafrica.org)