



A Performance Assessment of the Nigerian Legislature in the Fourth Republic (1999-2015)

by

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Abstract

The role of the legislature as an institutional actor in Nigeria's democratic process was examined, with focus on the Fourth Republic (1999-2015). The study assumed that a docile or weak legislature as a democratic institution is a threat to democratic growth and sustenance in a polity. The objectives of the study were set to assess the performance of the Nigerian legislature since the return of democratic governance in 1999, to ascertain the extent to which the conduct of the Nigerian legislature has impacted on the Nigerian polity, to establish the impediments to effective role performance of the legislature in Nigeria and to offer remedial measures towards effective performance of the Nigerian legislature. The study adopted the descriptive and survey methods of investigation. The findings of the study revealed that the legislature as an important political institution is entrusted with the functions of representation, law-making, public participation and education as well as oversight which are vital to democracy. It was further noted that in Nigeria, the culture of meaningful representation is yet to evolve, while the functions of law-making, public participation and education have not been well entrenched in the political system. Moreover, it was revealed from the study that legislative oversight functions have failed in Nigeria due to corruption, reliance of some legislators on the chief executive for political advancement, underdeveloped nature of the legislature, lack of qualified support staff and uncooperative nature of the civil society groups. Consequently, it was recommended among others, that the legislators should be close to members of their constituencies by setting up of functional constituency offices, convening of town-hall meetings and briefing their constituents on regular basis as well as projecting the interest of the people above personal interest, even as they follow due

constitutional process in the exercise of their oversight functions, not unnecessarily pursue personal interests.

Keywords: Legislature, representation, political participation, political culture, public opinion

1. Introduction

Historically, the experience of Nigeria has been one of executive dominance. Indeed, as indicated in the Report of the Political Bureau (1987), a national newspaper in 1963 referred to the federal legislature as “an expensive irrelevant talking shop”. Thus, when the parliamentary system was to be replaced with a presidentialist regime in 1979, the major issue was how to strengthen the legislature so that it could function as an effective check on the executive as well as an active, vigorous partner in the making of public policy (Aiyede, 2006). As noted by Bassey (2006), the adoption of Presidentialism as a constitutive principle of government by the architects of 1979, 1989 and 1999 Constitutions was a conscious decision to address the specificity of our plural social system.

Specifically, therefore, the powers created under the 1999 Constitution of the Federal Republic of Nigeria (as amended) are distributed among the three arms of Government, namely: The Executive, Legislature and the Judiciary. While the Legislature is charged under the Constitution to make laws, the Executive is charged with the implementation or execution of such laws. The Judiciary on the other hand is to serve as an arbiter to interpret and declare what the law should be whenever there is a constitutional dispute between other two arms or when there is a dispute between the people and the government or between one tier of government and the other.

Nigeria’s return to democratic rule on May 29, 1999 was generally seen as a landmark in the country’s history, given the reluctance of the military to disengage from political governance. This unwillingness resulted in scheming and failure of most of the transition programmes of successive military governments. It is not surprising, therefore, that scholars and practitioners of politics in Nigeria are concerned about the sustenance of democracy in the country. One way of sustaining and deepening democracy is by strengthening relevant democratic institutions, of which the legislature is one.

In modern democratic systems, the legislature can be regarded as central to the operations and consolidation of democracy. In addition to its functions of representation and law making, the legislature is imbued with the constitutional power of oversight functions of other organs of government, especially the executive. Consequently, upon the enthronement of democratic rule in Nigeria and its gradual advancement, democratic values such as separation of powers in the functions of the various arms of government became the compass for measurement of government actions and inactions. These factors, in part, place the legislative arm of government at the heart of the operations of democracy.

It is against the above backdrop that this study seeks to assess the Nigerian legislature in theory and practice, between 1999 and 2011 as well as address some key issues that have arisen in the practice of democracy in Nigeria in relation to the legislature and proposes some suggestions. While in general, the study is concerned with the Nigerian legislature as a whole, analysis will draw on illustrations and concrete cases of some of the legislative chambers at the state and federal levels that are pertinent to our analysis.

1.1 Statement of the Problem

Globally, it has become a norm to practice democracy. Any form of government that is not democratic is seen as an anomaly. Nations where other systems of government such as monarchy is practiced, is given a semblance of democracy. Democracy gives room to the minority to have their say and the majority to have their way. The legislature represents or symbolizes true democracy. The legislature is the body empowered to make, amend or repeal laws for a nation or a unit thereof. In most democratic countries, the legislature usually consists of two chambers; one or both elected by popular suffrage. Aside making, amending or repealing laws, one basic function of the legislative arm of government that can make or mar democracy is the oversight function of that hallow chamber.

For the first time in Nigeria's history, the country has enjoyed sixteen (16) years of uninterrupted democratic government (1999 – 2015). And, any time the government comes under the binoculars of critics, the legislature has always been the yardstick used to measure the effectiveness or otherwise of it. The pertinent question and the major thrust of this study therefore is: How has the Nigerian Legislature fared in the performance of its functions since the return of democratic governance in 1999?

From this problem, it could further be asked:

- (i) To what extent has the performance of the Nigerian legislature impacted on the Nigerian polity?
- (ii) What are the impediments to effective role performance of the legislature in Nigeria?
- (iii) What possibilities are there for repositioning the legislature for effective role performance that is capable of elevating the democratic process in the country?

The above questions constitute the problem for this study.

1.2 Objectives of the Study

The general objective of this study is to assess the performance of the Nigerian Legislature since the return of democratic governance in 1999. Other objectives are:

- (i) To ascertain the extent to which the conduct of the Nigerian legislature has impacted on the Nigerian polity.
- (ii) To establish the impediments to effective role performance of the legislature in Nigeria.
- (iii) To recommend the possibilities of improving the performance of the legislature in Nigeria.

1.3 Research Hypotheses

This study is guided by the understated hypotheses:

- (i) The higher the level in the performance of the legislative functions, the higher the relevance of the legislature to democratic process in Nigeria.
- (ii) The weaker the legislature as a democratic institution, the greater the level of its inability to exercise its oversight functions.
- (iii) The more the level of mass dissatisfaction with the performance of the legislature, the lesser the chances of democratic growth and sustenance in Nigeria.

2. Theoretical Framework

This study is cast into the framework of separation of powers for its theoretical base. The choice of this theory is justified by the fact that they permit an in-depth analysis of the management, functions, performance and structures of each of the three arms of government in the democratic process, and their impact on the polity. The traditional view with regard to the writing of the history of the theory of separation of powers is usually attributed to the English philosopher, John Locke in his book “Two Treatise of Civil Government” (1690, 1965) and the French aristocrat, Charles-Louis de Secondat Montesquieu in his work “Espirit des Lois” (The Spirit of the Law) published in 1748. However, the idea of checks and balances or compartmentalization of governmental powers into different persons or body of persons outdates this period as it was first mooted by an Italian philosopher, Niccolo Machiavelli, who argued for the need to have different body of persons to take over or be in charge of administration and legislation (Egbowole, 2006). There is however no gainsaying the fact that the idea was popularized and polished by Montesquieu and given “a contemporary twist” (Akpan, 2003).

According to Montesquieu (1748), there was need for separation of powers in order to avoid abuse and guarantee the liberty of the citizens. Hence, Montesquieu divided governmental powers into three to be shared between the executive, the legislature and the judiciary. Montesquieu argued that:

A political liberty is to be found only when there is no abuse of power. But constant experience shows us that every man invested with power is apt to abuse it.... To prevent this abuse, it is necessary from the nature of things that one power should be a check on another. When the legislative and executive powers are united in the same person or body, there can be no liberty If the power of judging were joined to the legislative power, the life and liberty of the subject would be exposed to arbitrary control ... if it were joined to the executive; the judge might behave as an oppressor. There would be an end of everything if the same person or body, whether of the nobles or of the people, were to exercise all three powers (Montesquieu, 1748).

The theory, therefore, holds that political liberty can only be ensured if the three organs of government are separated both in personnel and functions and each acts as a check on the excesses of the other even as it emphasized the need to follow the

constitution to the letter with a view to promoting good governance. Hence, the legislature is vested with powers to make laws, the judiciary to interpret the laws of the land and the executive to administer or implement the laws (Heywood, 2011; Asirvatham and Misra, 2012).

In applying this theory to analyze the role of the legislature as an institutional actor in Nigeria's democratic process within the period under study, it is a truism that the legislature, executive and the judiciary are independent of each other and the existence or continuity of one organ does not depend on the other. However, since by its nature, the executive function is inherently prone to arbitrary use, in order to entrench popular sovereignty and ensure leadership accountability, the constitution reposes in the legislature enormous powers to limit the executive capacity and scope of arbitrary and oppressive actions against the people, because as Nwabueze (1982) noted "most executive acts violating or interfering with private rights or interest require to be authorized by laws made by the legislature". These powers include the law making, judicial and investigatory powers, financial powers, oversight, confirmatory and impeachment powers.

Interestingly, within the democratic realm separation of powers guarantees citizens' liberties and freedom, it prevents the government from developing and using arbitrary powers. From the developmental angle, specialization and differentiation of structures and functions promote efficiency in performance and accountability of officers, all of which promote democratic stability. Thus, a strong and viable legislature is a sine-qua-non. This lends credence to the argument of Valenzuela (1992) that when political institutions are weak, the chances of democratic consolidations are weak; the chances of democratic consolidation are slim. In support of this argument Diamond (1999), places emphasis on the centrality of building or strengthening strong states institutions in the struggle to consolidate democracy. That is, to achieve democratic consolidation there is need to ensure that the various arms of government in general and the legislature in particular discharge its duties with maximum standard of efficiency. It is within this framework that this study assesses the performance of the legislature in Nigeria's democratic process in relation to the growth and sustenance of democracy in the country between 1999 and 2015.

3. Methodology

Data for this study were generated from primary and secondary sources and analyzed accordingly. The primary data were sourced through administration of structured questionnaire which took the fixed alternative format (Yes/No). Secondary data were culled from textbooks, journal articles, conference proceedings, internet and other published materials and statistics on the performance of the legislature for the period under investigation. Both qualitative and quantitative approaches were applied in the analysis of the data. Tables and simple percentages were used in analyzing the respondents' opinion to the items on the survey questionnaires.

3. The Nigerian Legislature in Historical Perspective

The history of Nigeria's Legislature predates the nation's political independence, by a century. Sequel to the annexation of the coastal city of Lagos in 1861, a ten man Legislative council was constituted and inaugurated by the British colonialists, on March 13, 1862. And following the annexation of the whole of Southern Nigeria in later years and its unification with the Lagos colony in 1906, the Legislative Council was empowered to make laws for the entire colony of Lagos and Southern part of what is presently known as the Nigerian nation (Babalobi, 2009).

In 1914, the Southern protectorate was unified with the then northern protectorate. In spite of this, both political entities continued to be governed by separate Legislative bodies, until 1946 when the newly promulgated Richard's Constitution made provisions for a Central Nigeria Legislative Council – a sort of National Assembly. It also made provisions for the establishment of regional Legislative Councils, known as House of Assembly, with the principal function of presenting nominees for the Central Legislative bodies. Five years later, that is in 1951 a new Constitution; the Macpherson Constitution was promulgated, which gave the Regional Houses of Assemblies authority on certain matters. This was replaced in 1954 by the Lyttleton Constitution, which for the first time provided for the residual, exclusive and the concurrent lists, and defined spheres of powers between the Central and Regional Legislative houses (Ndoh, 1997). The Independence Constitution of 1960, made provisions for a bi-cameral Legislature at the Centre, made up of a 44 member Senate, and a 305 member House of Representatives. The Republican Constitution of 1963 increased the membership strength of these houses to 312 for the House of Representatives and 56 for the Senate.

The Legislature was one of the casualties of Nigeria's first military rule which spanned from January 17, 1966 to October 1, 1979. During this period, most democratic structures, prominent among was the Legislature were abolished, whilst the Military rulers operated a unitary system of government. The Second Republic was ushered in on October 1, 1979 through a groundwork prepared by the Constitution Drafting Committee and a Constituent Assembly. These two bodies functioned between 1978 and 1979 and produced the Constitution of the Federal Republic of Nigeria 1979 (Okibe, 2000). This Constitution provided for an Executive Presidential system of government, whose features include separation of powers among the three arms of government namely: the Executive, Legislature and Judiciary. The Second Republic Legislature was also bi-cameral. There was a Senate, with a membership strength of 95, (each of the then 19 states in the country produced five Senators), and a Federal House of Representatives with a membership strength of 450. The Second Republic was abruptly terminated by a Military coup on December 31, 1983.

The Third Republic took off via a transition programme in 1985 by the military President Ibrahim Babangida administration. The imposed transition programme resulted in the election of 91 Senators to the National Assembly in December 1992, with each of the then 30 states producing three Senators, and the Federal Capital Territory producing a seat. The Federal House of Representatives, however, had membership strength of 593;

the seats were filled on the basis of one Representative per each of the 593 Local Governments existing then in the country.

The annulment of the June 12, 1993 Presidential elections and the resulting political crisis thereof, led to the overthrow of the pseudo democratic government led then by Chief Earnest Shonekan on November 17, 1993. Nigeria did not witness democracy again until May 29, 1999, when the General Abdulsalami Abubakar military junta handed over to a democratically elected government under the leadership of President Olusegun Obasanjo. The Fourth Republic was anchored on the 1999 Constitution, whose features are not substantially different from the 1979 Constitution. It provides for a bi-cameral Legislature – the Senate and the Federal House of Representatives. The former is composed of 109 members, 3 each from the 36 states in the country, while the latter is composed of 360 members representing federal constituencies on an almost equal population basis.

Membership of the National Assembly is through direct election; any citizen can seek election into the Federal Legislative houses, as long as he/she meets the age and educational requirements. For the Senate, the age requirement is 35 years and the educational requirement is School Certificate. For the House of Representatives the minimum age is 30 years and the educational requirement is equivalent to that of the Senate. This educational requirement has been interpreted to mean First School Leaving Certificate.

The tenure of each of the two houses is four years, running concurrently. Members willing to retain their seat must seek re-election. The presiding officer of the Nigerian Senate is known as the Senate President, while that of the House of Representatives is the Speaker. At joint sessions of the National Assembly, the Senate President presides, and in his absence the Speaker. Other principal officers of the Senate include the Deputy Senate President, the Chief Whip, the Senate Leader, and the leaders of the political party's caucuses. These posts are replicated in the House of Representatives.

For efficient discharge of duties, the Legislative houses operate a Committee system. Members are appointed into several Committees, based on personal interests and professional competence. The committees assist the Legislature in performing its 'oversight' function over various agencies of government. In Nigeria, the Constitutional responsibilities of the Legislature include making laws for the peace, progress and good governance of the country. The two houses also influence government policies through motions and resolutions. Some responsibilities are, however, exclusive to the Senate. These include the screening and confirmation of both members of the Federal Executive (known as Ministers), and ambassadorial nominees. On the account of these exclusive responsibilities, the Senate is regarded as the Upper House of the National Assembly, while the House of Representatives is regarded as the Lower House. The Senate President is the Chairman of the National Assembly. Both houses are constitutionally mandated to seat for at least 181 days in a year.

3.1 The Roles of the Legislature

In specific terms, many functions can be identified with the legislature in a democracy. And, in detail, some of these functions may vary from one political system to another. Broadly, however, at least three major categories of legislative roles can be delineated in any democratic system. The three broad functions are the representative functions, the law making functions and the oversight functions. Sometimes grouped as the fourth distance broad function of the legislature are those of public participation and education. Each of these sets of functions is performed by the legislature in different democratic countries and the extent to which these functions are appropriately performed by the legislature is crucial to the determination of the vibrancy and entrenchment of democracy (Ihedioha, 2012).

The broad functions of the legislature are hereunder briefly explained:

The representative functions of the legislature derive from the fact that each member of the legislature is elected to represent and promote the interests of a defined constituency. Representation is made inevitable by the impracticability of direct democracy due to constraints engendered by the modern state. A member is, therefore, elected from a constituency as a representative of that constituency. This situation presupposes that:

- (i) The legislator, so elected by a constituency, should protect and promote the interest of that constituency.
- (ii) The views expressed, and positions taken, on issues by the legislator should reflect those of the generality of the constituents as far as possible. In this case, it is expected that the legislator should be able to differentiate his personal predilection or preference on issues from the dominant views and positions of the generality of the members of his/her constituency.
- (iii) The legislator should be in constant meaningful contact and consultation with members of his/her constituency. This is because the legislator can only reflect the views and positions of his/her constituency on issues by being in close contact with them.
- (iv) The legislator should be in close touch with his/her constituency in order to acquaint himself/herself with the problems and needs of his/her constituency. It is only when the legislator is knowledgeable about the needs of his/her constituency that he/she can rightly move to address them.

It can be seen from the foregoing that the representative functions of the legislature, often neglected in the discourse and study of the legislature, are quite important if democracy is to make an important meaning to the electorate (Heywood, 2011).

The second category of functions is the law making function of the legislature. These functions relate to the initiation, discussion and passing of bills as well as amendment of existing laws. The law making functions of the legislature appear to be more obvious in most democracies.

The third category is the oversight function of the legislature which covers several areas. These include, but are not limited to, questioning government's functionaries over their activities, scrutiny and approval of budgets, monitoring and review of budget

execution by the executive arm of government, and maintaining general oversight on the activities of various governmental bodies. It also refers to the power to review, monitor and supervise agencies, programmes, activities and policy implementation of the executive arm of government by the legislature.

The fourth broad functions of the legislature relate to public participation and education. These functions arise from the conduct of public hearings on proposed laws. Members of the public may be required to submit memoranda on different issues. They can also be educated on the law making processes. All the broad functions of the legislature are designed to promote accountability, good governance, responsive and responsible government. When properly discharged, the functions give a feeling of participation on the part of the generality of people and give vent to democracy (Obiyan, 2007).

3.2 The Nigerian Legislature in the Fourth Republic: A Performance Assessment

The attempt made here is to evaluate the conduct of the Nigerian legislature so far. Even though this study draws on some illustrations and cases to attempt some generalizations, it is well understood that there are variations in the specific performances of each legislative chamber in the country. Our emphasis here is on some general trends and specific cases that have the potential of adversely affecting the political system.

The assessment shall be done under the different functional categories (that is, the four broad functions) already identified. It should be noted here, however, that less emphasis is laid on the evaluation of the law making functions of the legislature in this assessment. The reasons for primarily focusing on the emphasized areas relate to the need to address relatively neglected areas and also deal with the areas that appear to have had more negative impact on the democratic polity. This does not imply that the law making functions are not important.

Representative Functions

In seeking to establish the performance of the legislature with respect to representation, relevant questions were drawn up in questionnaire form and administered to selected respondents for responses. Two Local Government Areas were purposively selected from the three senatorial districts of Akwa Ibom State (Eket, Ikot Ekpene and Uyo) on ground of proximity. A total of six (6) Local Government Areas were used for the study. Consequently, 300 copies of the questionnaire were distributed to the respondents comprising qualified voters, party members, political analysts and eminent scholars from the selected Local Government Areas. Fifty copies of the questionnaire were administered to the respondents in each of the local government areas selected from the three senatorial districts of Akwa Ibom States. The copies of the questionnaire were closely administered and so an appreciable rate of responses was achieved as shown in the frequency of responses in table 1:

Table 1: Distribution and retrieval of questionnaires

Senatorial Districts	LGAs	No. Administered	No. Retrieved	Rate of Return
Eket	Eket	50	48	96%
	Oron	50	46	92%
Ikot Ekpene	Ikot Ekpene	50	48	96%
	Abak	50	46	92%
Uyo	Uyo	50	48	96%
	Ibesikpo/Asutan	50	47	94%
Total		300	283	93.33%

The table1 shows that out of 300 copies of questionnaires distributed to the respondents, 283 were properly filled and returned. Thus, the analysis of this study was based on the responses of the 283 respondents. The rate of return was generally high across the selected local governments in the senatorial districts. The main reason for this situation was because the questionnaires were closely monitored.

The analysis of the respondents' opinions reveals some information, such as:

- the non-availability of functional constituency offices;
- general perception that representatives (legislators) tend to project their personal interest rather than the interest of their constituencies;
- a general distrust and suspicion of the legislators; and
- a wide "representational gap" between the constituents and their representatives.

For instance, out of those that responded to the question, for example, *whether they knew the location of the constituency offices of their representatives in the House of Assembly, House of Representatives or Senate*, an overwhelming majority responded in the negative. Specifically, a total number of 262 out of the 283 respondents, representing 92.58 percent, gave a negative response while 21 representing 7.42 percent gave a positive response. Their comments generally indicated a doubt as to the existence of such offices. The implication is that either the offices did not generally exist or they were non-functional and out of the public glare. The cross analysis of data in the different local governments and senatorial districts reflected the general trend.

In the same vein, a preponderant number of respondents expressed distrust towards their representatives. While 82.69 percent of the total respondents saw their representatives as essentially serving their own personal interest, 89.40 percent expressed dissatisfaction with the conduct and performance of their representatives. There seemed to be a general perception that money and other material considerations were vital in the choices made by many representatives. Some of the respondents cited instances where they considered material gains to have informed the choices of their representatives. This trend of response permeated the different senatorial districts and no significant differences were observed in the comparisons.

Again to the question “do your representatives often hold town hall meetings or consultations with the people in your constituency”, most respondents representing 95.05 percent, expressed disappointment over the fact that there were hardly forums where consultations occurred. Some of the respondents who offered comments stated that their representatives only probably interacted with a few individuals in their constituencies. The general view of respondents is that their representatives were only visible during election periods to plan their electoral victory. The analysis of data thus shows a wide “representational gap” between the constituents and their representatives. In other words, there is a gulf between the representatives and their constituents as no meaningful interactions seem to occur between the two sides. This development, in a sense, engenders a feeling of alienation and lack of meaningful participation in the political process on the part of the constituents, thereby limiting democracy.

Law-Making, Public Participation and Education Functions

An important factor that marks out a democratic government is the vibrancy of policy making as reflected in the quality of debate in the legislature, the extent of meaningful participation of the public in the policy making process, and the quality of the policy outcome. While it is important to enact laws to address existing or anticipated problems as quickly as possible, perhaps, the more fundamental indices for assessing the law making functions of the legislature will be the robustness or vibrancy of debate, the transparency of the processes, the extent of participation by the public, and the quality of the outcome. After all, as has been rightly argued, “bad laws are not laws and they should not be recognized by the people” (Eghagha, 1993).

Using these criteria of assessment, it will appear that the functions of law making, public participation and education in Nigeria are yet to be firmly rooted in the country. One major issue that partly brought this to the fore is the botched constitutional amendments by the National Assembly in 2006. While a semblance of participation was given the exercise through public hearings, they were largely organized to achieve a particular objective; to give the impression that issues like “third term” clause, five-year-single tenure, and local government autonomy were popular and provide easy passage for the amendment bill.

The requisite vibrancy of the law making process (and, indeed, any policy making process), and public participation involve fairness and transparency of the processes and lack of attempt at stifling any particular point of view. While the issue of constitutional amendment may be insufficient to engage in broad generalization, it throws up salient and pertinent problems, given the importance of constitutional amendments. The constitutional amendment was preceded by an unusual kind of public hearings. The hearings were conducted in six different locations across the country’s six geo-political zones. This differed from the normal pattern of conducting public hearings within the premises of the National Assembly. Ordinarily, the zonal arrangement could offer an opportunity to more people to participate in the process. In actual practice, however, there were reports that individuals and groups whose views were at variance with those of the

presidency and the representatives were disallowed from official presentation (Anonymous, 2004; Ushigiale, 2004).

Similarly, the National Assembly Special Committee, then headed by Senator Ibrahim Mantu, which was to harmonize all the views across the different zones, was plagued by controversies that tended to undermine its credibility. The general impression was that the Mantu Committee worked towards the attainment of a particular predetermined position. It was even generally believed that the Mantu Report on the “third term” clause (that is, extending the term of President Olusegun Obasanjo to three terms) was the exact opposite of the views canvassed by an overwhelming majority of Nigerians. Clearly, the processes appeared greatly flawed and did not elevate the law making powers of the National Assembly. Reprieve only came when the Amendment Bill failed to sail through the second reading in the Senate.

For the Nigerian legislature to give meaning to democracy, it must genuinely ensure robust debates of issues and meaningful public participation as well as guarantee fairness and transparency.

Oversight Functions

It is interesting to note that one of the major areas provoking political tension in the country has to do with the oversight role of the legislature, including its relationship with the executive. The oversight function of the legislature in Nigeria finds legislative importance in Chapter I, Part II, that is Section 4(1) – (9) and Chapter 5, Part I, that is Sections 80(1)-(4) and 88(1) – (2)(b) of the Constitution of the Federal Republic of Nigeria 1999 (as amended). Section (4) of the Constitution vests the legislative powers of the Federal Republic of Nigeria in the National Assembly consisting of the Senate and the House of Representatives and the power extends to making laws for the peace, order and good government of the federation or any part thereof with respect to any matter included in the exclusive legislative list set out in Part I of the Second Schedule to the Constitution. This Section also vests all implied powers of law making, including power of oversight in the National Assembly. If however there was any doubt regarding this, the doubt is vitiated by Section 88 of the Constitution which provides:

- (i) “subject to the provisions of this Constitution, each House of National Assembly shall have power by resolution published in its journal or in the official Gazette of the Government of the Federation to direct or cause to be directed investigation into;
 - (a) any matter or thing with respect to which it has power to make laws; and
 - (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for:
 - (i) executing or administering laws enacted by the National Assembly;
 - (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

Section 88(2) of the Constitution provides that the powers conferred on the National Assembly under Section 88 are exercisable only for the purpose of enabling it to;

- (a) make laws with respect to any matter within its legislative competence and correct any defect in existing laws; and
- (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

Hence, the power of the National Assembly or the legislature to conduct investigation is inherent in the legislative process. The power is broad; it encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defect in our social, economic or political system for the purpose of enabling the legislature to remedy them. It comprehends probes into department of the Federal Government to expose corruption, inefficiency and waste. In the exercise of this, it has the powers to issue warrants to compel attendance and the warrant can be executed by any member of the Nigerian Police Force or any person authorize in that behalf by the President of the Senate or the Speaker of the House of Representatives. Besides its powers over the budget, the National Assembly in the 1999 Constitution is vested with approving authority of all decisions of Government. The policies and general directions of government are laid down by the National Assembly and the Executive Arm of government and the Judiciary to some extent implements and enforce such decisions. For instance, Local Government created by the State Houses of Assembly can only become legitimate Local Governments when the National Assembly approves them (Section 8); State creation and adjustments of State boundaries can only be done by the National Assembly; treaties and external agreements need to be legitimized by the legislature (Section 12). As a matter of fact, bodies that are independent are independent only to the extent that they report to the National Assembly.

Though the 1999 Constitution (as amended) sought to circumscribe or limit the powers to subsections (2) (a) and (b) the powers conferred by those subsections (2) (a) and (b) remain very wide and extensive. These powers are further reinforced by the powers conferred on each of the Houses (Senate or House of Representatives) or any of its Committees established under Section 62 of the Constitution exercising its powers of investigation pursuant to Section 88 to procure evidence, written or oral, direct or circumstantial as it may think necessary or desirable and examine all persons as witnesses whose evidence may be material or relevant to the subject matter; required such evidence to be on oath; summon any person in Nigeria to give evidence at any place or produce any document or thing in his possession or under his control; issue a warrant to compel attendance; order payment of costs occasioned by his failure, refusal or neglect to obey the summons and impose fines for such failure, refusal or neglect. Any fine so imposed is recoverable in the same manner as a fine imposed by court of law. These are quasi-judicial powers and have inevitably guarantees the growth of public institutions and facilitates public accountability and transparency.

In Nigeria since 1999, this investigative power has attracted some level of abuse. These law-makers especially at the National level see this function as a way of enriching themselves and/or becoming politically relevant or vocal to showcase their grammatical or advocacy prowess. Hence, members of the National Assembly lobby, sometimes, ungodly or unduly to become chairmen of “juicy” committees of the House or Senate. The moment they get this chairmanship positions, their next port of call is “oversight function”; committee’s public sitting. Most of the committees leave the obvious to pursue shadows just to intimidate their prey to bow to pressure and then look for a way out through unholy “settlement”. The case between the Chairman House of Representatives Committee on Capital Markets, Hon. Herman Hembe and the Director General of the Securities and Exchange Commission (SEC), Ms Arunma Oteh in 2012 is a typical example in point. Ms Oteh accused the Chairman and Members of the Committee investigating the Commission’s performance of requesting for bribe while the probe went on. (*Vanguard*, March 17, 2012; *The Nation*, November 21, 2012). For instance, the SEC Director General also accused the Chairman of the Committee of collecting estacode and other travelling allowances from SEC to travel to Dominican Republic on a capacity enhancement conference for capital market regulators but he neither go nor return the money. The Committee was further accused of asking the SEC to contribute ₦39 million and another ₦5 million for its public hearing (*Vanguard*, March17, 2012).

In recent times, Nigerian has witnessed many such investigations and in the end, nothing really comes out for the benefit of the people. The whole investigation sometime becomes a conduit pipe for financial waste at the detriment of the people. Behind the scene too many waters pass under the Bridge and the investigators go home smiling and congratulating themselves for fooling unsuspecting Nigerians on electronic and print media. Some committee members now parade around facilities in the various departments and parastatals under their committee only to attract patronage, recognition and to acquire meal or flight tickets to choice countries of the world for personal or family pleasure, get scholarships and job opportunities for their family members and cronies. For instance, Farouk Lawan, Chairman, House of Representatives Ad Hoc Committee on the Monitoring of Fuel Subsidy was alleged to have been enmeshed in a US\$620,000 bribery scandal. It was alleged that in the course of executing the statutory legislative oversight function on the ₦1.3 trillion fuel subsidy probe, the House Committee Chairman was alleged to have received US\$500,000 bribe from Zenon Oil and Gas Chairman, Mr Femi Otedola to facilitate the removal of Zenon Oil and Gas company’s name from the list of oil marketers who got foreign exchange from the Central Bank of Nigeria (CBN) without importing petroleum products. Security operatives report revealed that initially the accused denied collecting any bribe from the accuser, later he claimed that he collected the bribe to use it as exhibit against Mr Femi Otedola. The oil magnate alleged that the House Ad Hoc Committee Chairman demanded US\$3 million but collected \$500,000 bribe as first installment for the purpose disclosed above. The Clerk of the Ad Hoc Committee on the Monitoring of Fuel Subsidy, Mr Boniface Emenalo was also implicated

in the bribery scandal. Mr Emenalo allegedly collected a bribe sum of US\$120,000 from Adetola, making the total bribery sum to \$620,000 (Nwagwu, 2014).

As observed by Agbo (2012), it is almost certain that a majority of Nigerians feel both Houses of the National Assembly leverage on the oversight functions to enrich individual members instead of monitoring governance. Some ministers, directors general of departments and agencies and chief executives of companies whose establishments had come under public scrutiny allege intimidation and extortion from the lawmakers. Between 1999 and 2012, at least 35 major probes were carried out by the National Assembly in the exercise of their oversight function. Out of this, only about seven were done between 1999 and 2007. However, from 2008 it became a bazaar and probes appeared to have been commercialized by the lawmakers, as about 30 probes were carried out between 2008 and 2012.

As the number of probes increased, so did the quality of reports decrease considerably as the lawmakers turned probes and public hearings into comedies and marketing assets. Every committee struggles to conduct at least one probe. Lawmakers struggle to be in “lucrative” committees with potential for probes, public hearings and oversight visits. The number of committees was fragmented to have enough to accommodate powerful interests in both houses of the National Assembly (*Nigerian Muse*, October 17, 2007). A Senate president or speaker who ignores this in the composition of the committees will likely not last long as a principal officer. Patricia Etteh learnt her lesson the hard way when as speaker of House of Representatives she failed to play the politics of committee appointments very well. The rise of the Integrity Group as an advocacy group in the House was alleged to be a protest against not getting lucrative committees’ chairmanships (*Newswatch*, September 10, 2007).

A discernible pattern exists in the life cycle of a typical committee oversight activity of the National Assembly. When a target institution is discovered, a motion of “urgent national importance” is raised during plenary to draw attention to the problem in the sector. The preliminary debate is thrown open and if the sponsors do their homework well, it is referred to the appropriate committee to investigate. The committee orders a public hearing. As Agbo (2012) puts it during the hearing, the process goes through the assault stage where the invitees are pummeled to submission if they are not confident enough or make them amenable to settlement; then comes the agreement stage and possible apologies; then the report is released with enough loopholes for the accused person to escape with most of his loot. The consequence is that the so-called “distinguished” senators and “honourable” members lose the moral authority to get the offending parties to conform to the provisions of the Constitution. In effect, oversight fails as the following cases reveals:

Case No. I:

Within the period under study (1999-2015), particularly, 2010-2013, Attahiru Jega, Chairman of Independent National Electoral Commission (INEC), in abuse of the federal character principles operated the commission with predominantly northern officers. Out

of 15 top positions in the organization northerners occupy 12, while only three were from the three geo-political zones in the South. The 12 include Jega himself, the commission's secretary, Jigawa; director, logistics and transport, Kebbi; director, human resources, Sokoto; director, finance/accounts, Niger; internal auditor, Niger; director, ICT, Benue; director, voter education (North-east) and deputy director, legal, Plateau. Others are director, monitoring and evaluation/performance, Benue; head, commission secretariat, Kogi; and director, civil societies, Benue. This is only possible because of the failure of oversight functions of the National Assembly. The committees of both houses could not call Jega to order and so much impunity reigned in INEC. If they claim to be unaware of the administrative infractions, then they had indeed failed in their supervisory roles (*The Nation*, April 11, 2013).

Case No. II:

The Central Bank of Nigeria (CBN) is another example. There is no evidence that the National Assembly is exercising any effective oversight on the apex bank. Lamido Sanusi, the former CBN Governor, rode roughshod over several laws without the necessary committees calling him to order. This weakness was emphasized when an Abuja Federal High Court declared his pet project, Islamic Banking, illegal and unconstitutional. The case was taken to Federal High Court by one Godwin Sunday Ogboji (*Guardian*, August 18, 2012; *Nigerian Voice*, June 16, 2012).

Case No. III:

The Niger Delta Development Commission (NDDC) is a darling of the lawmakers. The committee on NDDC is one of the lucrative committees that members scramble for. For years, the committees on NDDC have forged a relationship that works with the board and management of the intervention agency. Insiders in NDDC alleged that for you to get “anything” in the commission, you have to get “a note from Abuja”. In a rub-my-back-I-rub-your-back gentleman's agreement, some lawmakers get juicy estacodes, nominate contractors and even have employment slots; on their own part, they conveniently forget their oversight duties and become lobbyists for the commission in the chambers. As a result, while some agencies like ICPC were getting their budgets trimmed down or redirected out of relevance, NDDC was getting theirs increased by the National Assembly. In 2008, the commission got ₦41 billion, which increased to ₦51 billion in 2009, but went down to ₦45 billion in 2010 before climbing up to ₦56 billion in 2011. It was alleged that National Assembly committee members “interfaced” well for them (Agbo, 2012).

Another important issue that has arisen in Nigeria's democratic experience in the Fourth Republic is the seeming aversion of the executive to legislative oversight. Sadly, some members of the executive are known to have ignored invitations of the Senate and the House of Representatives to answer questions relating to their departments. In some cases, the two legislative chambers have had to threaten the issuance of arrest warrant on the affected government officials. This conduct of some members of the executive is most unfortunate in a democracy. For instance, House of Representatives in July, 2014

threatened to issue warrant of arrest against the Minister of Health, Onyebuchi Chukwu for shunning a rescheduled meeting with the lawmakers to end doctor's strike (*Daily Trust*, July 18, 2014). The parliament, comprising the representatives of the people, carries the people's mandate. An invitation by the Senate or the House of Representatives is an invitation by Nigerians, notwithstanding the flaws in the electoral process that led to their constitution. Besides, public officers can be constitutionally made accountable to the people through their representatives. Dishonouring invitations of the Senate and the House of Representatives, therefore, is antithetical to democratic norms and practice. It is important that public officials demonstrate respect for democratic institutions if the process of deepening the democratic culture is to be facilitated. (*Daily Trust*, July 18, 2014).

A cursory examination of the policy making process at the state level in Nigeria revealed that one of the weaknesses in the operations under the current democratic dispensation during the period covered by the study is the inability of the legislature to appropriately serve as a countervailing force on the executive as a result of weak lawmaking institution (Obiyan, 2005). In some of the states, the legislature appears to be an extension of the executive, thereby making it virtually impossible for the legislature to provide the necessary checks and balances (Obiyan, 2005). In a situation where the legislature is weak, governance in a democratic polity closely approximates governance in a military/dictatorial polity. Thus, a docile legislature is of no useful value to democracy. Indeed, it can be argued that a docile legislature is a threat to democratic governance. The allegations of non-performance and corruption leveled against some members of the executive at the various tiers of government, with no corresponding productive prying eyes from the legislature, do not enhance the position of the legislature in the democratic process (Okpongete *et al.* 2005; Nwabueze, 2005; Nwabueze, 2006).

3.3 Causes of Weakness/Challenges of Nigerian Legislature

Several factors have been identified for the relative weaknesses of the Nigerian legislature. Among these are:

- (i) Lack of financial independence and the reliance of some legislators on the chief executive for political advancement. To the extent that governance is perceived as a means of wealth acquisition, it has been difficult for the legislature to be itself and discharge its functions creditably. This does not necessarily imply that the executive-legislature relationship has been friction-free. On the contrary, there have been many cases of disagreement and even serious crisis. At the federal level, for instance, the period of the National Assembly under Dr. Chuba Okadigbo (Senate President) and Alhaji Umar Ghali N'abba (Speaker, House of Representatives) characterized by friction with the executive, particularly the presidency. Similar cases of conflict have also been recorded at the lower levels of government in the country (Odunuga *et al.*, 2002; FGN, 2002; Yakoob, 2005).
- (ii) The legislature has remained the most underdeveloped arm of the government. This is for obvious reasons. Notably, for the greater part of our nationhood, the military

has held the political centre-stage. And for the cumulative period of 29 years that the military controlled power in Nigeria, the legislature was the greatest casualty, as it was always the first democratic structure to be dissolved, and its powers appropriated and exercised by the military juntas. This limited experience on the part of the legislature, compared to the other arms of government may have accounted for the series of crises that the National Assembly has witnessed particularly at the inception of the Fourth Republic.

- (iii) Understaffing of the legislature with the right calibre of support staff to enhance its functions as well as lack of facilities such as office space has greatly affected the quality of the Nigerian legislature. The legislators are entitled to five staff and this has inhibited their ability to carry out their responsibility efficiently. Moreover a number of legislators do not recruit the approved number of aides and those they recruit are said to be underpaid or in some cases, unqualified.
- (iv) The civil society groups, which should have helped the National Assembly, are still transiting from their criticism role, to participatory role, advocating and motivating legislators to expand democratic space. They are yet to see themselves fully as partners with the legislature.

4. Conclusion

In a democracy, the legislature is designed to be an important political institution that can give increased meaning to the system. It is entrusted with key responsibilities that are vital to democracy. These responsibilities include representation, law making, public participation and education, and oversight functions. It is important that these functions are well discharged by the legislature in order to elevate the democratic process. The study of the Nigerian legislature in the Fourth Republic, so far, reveals some severe limitations in the performance of legislative functions. The culture of meaningful representation is yet to evolve; indeed, the study shows that there is a wide representational gap between the legislators and their constituencies.

With respect to the functions of law making, public participation and education, the study shows that the robustness of debates, vibrancy of the policy making process, and active diverse participation, which are the hallmarks of a democracy, and which, in large measure, set democracy apart from dictatorship, have not been well entrenched in the system. The study argues for the strengthening of these values with a view to elevating the democratic process. On the legislative oversight functions, the study noted that this area constitutes an important source of suspicion and conflicts, particularly between the legislature and the executive. Some of the problems in this area were highlighted. Among other things is the argument that a docile legislature is a threat to democracy.

The study further contended that in spite of the problems that have been associated with the power of impeachment in the country, it will not be in the interest of democracy and good governance to expunge it from the constitution. The reasons were partly anchored on the fact that the power of impeachment is an important aspect of the checks and balances that are associated with separation of powers in the presidential system of

government that Nigeria operates. Even though checks and balances could create some inconveniences, increase the time required to execute a policy, creates the need for greater caution and wider consultation, it should be noted that these checks are some of the features that distinguish democracy from dictatorship where decisions are unilaterally taken. Creating an all-powerful executive and a “noise-making” but powerless legislature will simply amount to instituting a democratically elected dictatorship.

Presidentialism, to which Nigeria subscribes, and upon which our political arrangements are based, is not designed to ensure quick and hasty decisions. The executive need not see the legislature as a threat to its existence. It should be understood that the existence of checks and balances in the system is absolutely necessary in order to guarantee individual liberty and promote good governance. What is required on the part of the operators of democratic institutions is a proper understanding of the system and a willingness to run it in strict compliance with the rules of the game.

5. Recommendations

On the basis of the identified problems and challenges to the performance of the legislature as an institutional actor in Nigeria’s democratic process, the following recommendations are proffered:

- i. The establishment of constituency offices by legislators at the National and State levels should be encouraged and enforced. Such offices should be made open and remain functional all year round. This would help bring the legislators as representatives closer to their constituencies and the constituents.
- ii. There is need for the legislature to enhance its capacity. Those elected as legislators need to know the laws of the land, or educate themselves on the law, as they affect their constituencies. Activities to enhance capacity building includes, training, workshops, seminars, field visits and parliamentary exchanges, human resources development and the dissemination of best practices and lessons learned.
- iii. The civil society groups are an important link in the chain between the legislature and the people. The civil society groups should encourage the legislature to disseminate information of its activities among vocal members of the society through tools of Information and Communication Technology (ICT) such as live video and audio streams, chat rooms, discussion boards and e-mails as well as hold regular town hall constituency consultations with members of the constituency for proper representation.
- iv. The electorate should know that the contact between them and the elected must be continuous and that every society gets the legislature it wants to have. Though the legislature may be able to change the society, the people can make the representatives responsible by invoking the constitutional provision of recall on any non-performing and irresponsible legislator.
- v. Members of the legislative houses as the representatives of the people should see their position as a call to duty for the people as against an opportunity for self or

- personal aggrandizement. The interest of the electorate should take precedent over any personal interest of the legislators.
- vi. For the legislature to retain and maintain the public trust in its oversight functions, it must, like Caesar's wife, be above board. It must, as an institution, and its membership stand up to the harshest public scrutiny. The Legislators should give reasons for their decisions and actions and restrict information only when the greater public interest so demands. They must act with integrity with consistency in actions, values, methods, measures, principles, expectations, outcome and character. Moreover, they should be honest and truthful regarding the motivations for their actions.
 - viii. The work of the legislature is an arduous one that requires the involvement of experts and high caliber of staff. There is need, therefore, to improve upon the quality of support staff and aides in the legislature. This is necessary because the quality of every legislature is dependent on the quality of its support staff and aides, who conduct research, write memos, conduct opinion polls, keep in touch with constituents and help direct the legislators.
 - ix. There is need to improve the funding to the legislature and also for the funds available to be applied in a manner that greater good would be achieved.

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