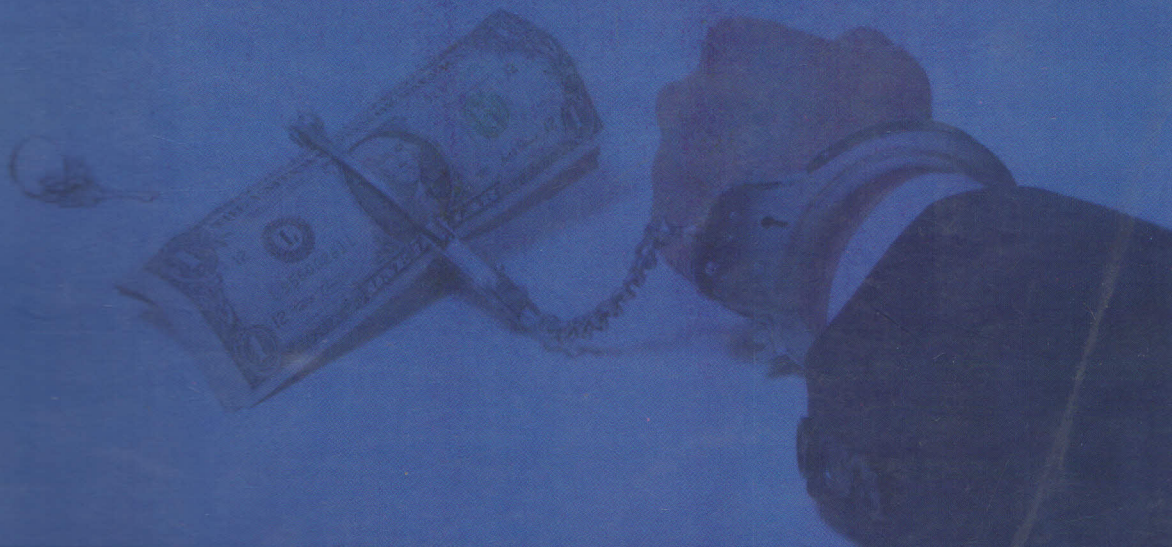


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CORRUPTION

&

THE CHALLENGE OF HUMAN DEVELOPMENT



Ayandiji D. Aina
Editor

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Part V

Government and the Civil Society in Corruption and the Challenges of
Human Development

Good Governance and Economic Development

IK.Muo

419

Corruption and Public Confidence in State

Leadership: A Study of Nigeria's

Fourth Republic

Mojeed Adekunle Animashaun

435

Corruption: Issues and Trends In

The Public Sector

John O. Egbuji

447

Evaluation of Gender and Corruption In

Nigeria under President Olusegun Obasanjo

F.O. Alalade, O.A. Bamisaye & M.O. Fagbadebo

461

Globalizing Voices: Ghanaian Women Respond

To Globalization

Josephine Dawuni

475

Political Corruption and Nigeria's Crises of Governance:

Perspectives of an Observer-Participant in the New Political Process

Niran Malaolu

491

Igbo Made: A Philosophical Phlegm in

The Nigerian Economy

Dada Adeboye Olalekan

499

Violent Television Programmes As A

Corruptive Socializing Agent

Simeon Dosunmu

515

Legislative Corruption and Democratic

Sustenance in Nigeria

Abdulrasheed A. Muhammad

521

Legislative Corruption and Democratic Sustenance in Nigeria

Abdulrasheed A. Muhammad

The issue of corruption no doubt occupies a front burner on issues of governance across the world. The universality of its affliction and the extent to which it punctures social, political and economic development demands that national and international initiatives be harnessed toward its eradication. At the national level, it requires appropriate law making bodies, such as the legislature, to put in place legislations that guarantee a corruption free society. This necessarily must be accompanied by the political will to ensure success. However, there may be a paradox in situations where the lawmaking bodies are caught up in the trap of corruption allegations. This is the Nigerian malady where the legislature has had cause to battle with one or the other allegations of corruption against it or its principal officers. Through analysis of some of this allegations vis-à-vis the role of the legislature in a democracy, this paper attempts to demonstrate how legislative corruption impacts on good governance and democratic sustenance in Nigeria. For now, it is held that legislative corruption is a major issue in executive-legislative wrangling and declining confidence of citizens in the legislative process among other consequences.

INTRODUCTION

Corruption, which is generally conceived in terms of abuse power or trust for narrow self interests (Akanbi 2004a:153; 2004b:2; Sen 1999:275; Lipset and Lenz 2000:12) or deliberate perversion of standards of behaviour, legally, professionally and ethically either in private or public affairs (Usman 2001; Oyeboade 2002) have continued to remain topical on issues of governance and development. Although scholars have noted that corruption is not a modern day development by tracing its history (see, Wilson 1999; Usman 2001), it has however been established that it is a product of several social, political, economic and historical circumstances (Akanbi 2004; Mbeki 1999; Mogae 1999; Maathi 1999; Ogbonna 2004; Dike 2001; U.N. 1990) Indeed, the veracity and universality of its affliction is attested to by the cross cutting effect it has on the entire societal process - social, political and economic (see, U.N. 1990; Ndiulor 1999; Buyoya 1994; Cockfort 1994: 91-93). The crux of argument is that it undermines democratic values much as it threatens the very basis of societal existence because it engenders insecurity, poverty, economic stagnation and underdevelopment among others. This coupled with the fact that corruption is no respecter of geographical borders necessitates national and international efforts toward its reduction and possible eradication. Indeed, the spectra of efforts at the supranational level reflects in annual publication of Corruption Perception Index (CPI) of countries by the international watchdog, Transparency International (TI); activities of international NGOs such as Publish What You Pay and a number of international treaties and conventions. Such initiatives, no doubt, need to be domesticated for the war on corruption to have meaning. In this context, appropriate national institutions are saddled with responsibilities of fashioning out statutes that would not only help in sustaining the fight against corruption but lead to its eventual eradication. Needless to stress, the law making bodies (legislature) becomes paramount in this regard. However, a worrisome situation is when the legislature that is expected to rise to the challenge of combating corruption becomes engulfed in allegations of corrupt practices. This is the Nigerian paradox where the legislative house has been unable to live above troubled waters of corruption allegations since inception of the current democracy in May 1999. Indeed, hardly does a year pass without the legislature being engulfed in one problem or the other bothering on corruption charges against it as an institution or its principal officers. Against this background vis-à-vis role of the legislature in a democracy, this paper seeks to examine the issue of legislative corruption and the threat, which it constitutes to good governance and democratic sustenance in the country. The paper has five sections aside this introductory part. The first is a theoretical discourse on the role of the legislature in a democracy. The second gives a background on the context in which Nigeria's legislature emerged in the fourth republic and how this impacts on its work and conduct. The third is an overview of dimensions of legislative corruption while the fourth focuses on impacts of this on good governance and democratic processes. The fifth section concludes the work.

THE LEGISLATURE IN A DEMOCRACY: THEORETICAL INSIGHTS

Although the legislature is an essential constituent of any democratic government and a major factor in its growth and sustenance, its existence predates the advent of modern democracy. It has been noted that emergence of the legislature dates back to the twelve century and a product of medieval European civilization but transformed in the age of democracy to suit the needs of a great variety of contemporary political systems (Loewenberg 1995: 736). Commenting further on the growth of the legislature, Boynton (2001:279) notes that, 'before and after the second world war, as colonialism failed and nations grow in number, constitutions incorporating a national legislature replaced extant governing institutions throughout the world while their influence

continue to be on the rise as the twenty-first century approaches'. Thus he concluded: It is the century of the legislature.

But we must note that, popularity of the legislature cannot be divorced from the tidal wave of democratic growth sweeping across continents. Indeed, if democracy is a system anchored on the informed and active participation of the people, the legislature is a vehicle for wider representation. In other words, the existence of an independent legislative institution composed of representatives of the people is a distinguishing hallmark of democratic government from non-democratic ones. Nevertheless, the legislature differs in composition from one system of government to another as well as in mode of representation. For instance in a parliamentary system, members of the legislature are also members of the executive while in the presidential system, the legislature and executive are manned by different individuals. Equally, while they may be elected in some countries, in others they might be appointed. In spite of the differences in legislatures across the world however, they have a common structural character that distinguishes them from other arms of government in a democracy. That is, relations between members are not that of authority and subordination but, that of equality of members since they all derive their authority from being representatives of the people.

Although the legislature may exercise different functions from time to time and depending on the political system, two are central and common to all legislatures in a democracy without which democracy becomes messed up. These are the task of law making and acting as watchdog on behalf of the people. Conveying the sanctity of these roles deserves an extensive quote from Odinga (1994:123) who noted that:

If the constitution is the embodiment of the aspirations, ideals and collective will of the people, the parliament is the collective defender and watchdog of the aspiration, ideals and collective will of the people. If the constitution is the social contract between the people and their government, the parliament is the advocate for the people and the arbiter of the national interest. Indeed, if the constitution is (like the Bible, the Quran and other religious treatises) the covenant between the people and their leaders, the parliament is the repository and protector of the oracles of the political covenant and social contract between the people and their government.

What perhaps could be synthesized from discussions above is that for any democracy to have meaning or grow, the legislature not only make laws for the good ordering of the society (including appropriation laws) but must as well ensure that such laws and others are not flagrantly violated by other arms of government. This it ensures by acting as watch-dog over their actions and policies through its oversight function. Interestingly, most constitutions tend to document these two important functions of the legislature. But it must be added that for the legislature to accomplish these tasks requires it and its members to be of proven integrity and good character including eschewing temptations of falling into such issues which it has legislated against. It is by this that the legislature can be considered harbinger of good governance and democratic sustenance. The extent to which the Nigerian legislature has conformed to this pattern shall be our focus after a background on the current legislative house.

THE LEGISLATURE IN NIGERIA'S FOURTH REPUBLIC

A fourth Nigerian republic began earnestly on May 29, 1999 following the successful conduct of a general election in April of that year and swearing-in of an elected civilian government headed by Chief Olusegun Obasanjo. Much of the politics and precursors to the fourth republic have been documented by scholars (see, Momoh and Thovoethin 2001; Olurode 2004; Saliu 2004; Yaqub

2004). What is however important at this point is that Nigeria's current legislative house followed the successful transition from military dictatorship to a civilian government and its formal inauguration on 2 June 1999. Before then, Nigeria had its first legislative house between 1960 and 1966 and a second one between 1979 and 1983. A third one was never inaugurated as it went with the aborted third republic. The import of this is that, the current legislature like other democratic institutions in the country emerged against the background of a prolonged military rule. In other words, prolonged military rule in Nigeria created a learning vacuum in the art of law-making through democratic processes as those powers which ordinarily belonged to the legislature were usurped by the military. As would be revealed later, this long vacuum greatly impacted on the processes and institution of law-making in a democratic Nigeria. Also, like every other bicameral legislature, it comprises both the upper house (senate) made up of 109 elected members (3 representing each of the 36 states of the federation and one representing Abuja, Federal Capital Territory) and, a house of representatives (lower house) with 360 elected members. Like every other legislature as well, its powers and duties were derived from the 1999 constitution which stated in section 4(1) that: "The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a senate and a house of Representatives."

Accordingly therefore, "The National Assembly shall have power to make laws for the peace, order and good governance of the Federation or any part thereof with respect to any matter included in the exclusive legislative list. (FRN 1999, Section 4(2))."

Other powers of the legislature especially in relation to public fund and oversight functions are clearly explained in sections 80, 88 and 89 of the constitution. The essence of the above expositions is to give insight into the powers and fundamental duties of the Nigerian legislature, which, as in every other, are essential in engendering good governance and democratic growth.

DIMENSIONS OF LEGISLATIVE CORRUPTION

Under section 88 granting the legislature power of oversight over the executive arm or its agencies, the constitution reads in subsection 2(b) that such powers are exercisable for the purpose of enabling the National Assembly to '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'. A deeper reflection on this provision would reveal that the legislature is not only being empowered but has a challenging responsibility to uphold the highest standard of ethics, transparency and accountability, efficiency and essentially, leadership by example which would serve as spring board for a corruption-free and democratic society. However, observable trends within the legislature have revealed the contrary. While it is true that the Nigerian legislature have been involved in rule making through passage of several bills including two major anti-corruption laws (Independent Corrupt Practices and Related Offences Commission, ICPC, Act 2001 and Economic and Financial Crimes Commission, EFCC, Act 2002, amended 2004) as well as several oversight functions, its internal conduct and perennial allegations of corruption against its members is rather hapless. Perhaps, a highlight of some of these could help drive the point home.

In 1999, barely had the National Assembly settled down for legislative business when the lower house was rent by allegation of certificate falsification by the then speaker, Alhaji Salisu Bukhari. The speaker according to *The News Magazine* faked certificate of the University of Toronto, Canada which the speaker claimed to attend and that he was below the age of 30 which he claimed and which qualified him to sit in the lower house (*The News*, June 6, 1999). Indeed, the report shocked the whole nation including the Presidency thereby casting shadows of doubt over viability of the nascent democracy. After much controversy that involved denials and counter accusations between the speaker and the magazine, the speaker finally resigned his speaker-ship and vacated

his seat in the house when the truth eventually became blown open. In addition, he was tried and convicted by the court for fraud and forgery and, sentenced to one-year imprisonment or a 'ridiculous' option of fine of 2000 Naira. Despite the fact that this judgment generated sharp reactions from the public, still, he was given state pardon by the President in 'the spirit of unity and national reconciliation' (see, *The Punch*, July 15, 1999: 1-2; July 22, 1999: 1-2; July 29, 1999: 1-2 and May 25, 2000: 1-2; Ogundolapo 1999:30).

The dust of the Bukhari saga had hardly settled when allegations bothering on perjury were levied against the Senate President, Evan(s) Ewerem by the *Tell* magazine. Among others, he was accused of being an ex-convict having being jailed abroad for stealing; document and age falsification and indictment for financial impropriety when he was on the board of the Nigerian Airports Authority in the second republic as well as when he was governor of Imo State between 1992 and 1993. He was also accused of discrepancy in his name which reads Evan in some of his documents and Evans in some others (see, *Tell*, August 9, 1999; *The Punch*, August 3, 1999: 1-2; *The Punch*, August 6, 1999: 1-2). He was eventually impeached on November 18, after the senate was convinced of the allegations. Although Ewerem lost his position as senate president, he remained a member of the Senate House until the end of the first phase of the fourth republic in 2003. To think all about allegations of corruption in the Nigerian Legislature was already heard is a mistaken conclusion. This is because, Chief Chuba Okadigbo who succeeded Ewerem as Senate President was himself removed, barely a year in office, for corrupt practices among other misdeeds. Among others, he was accused of financial impropriety including spending a whopping 75 million Naira to buy *Sallah* rams for some senators (see *The Punch*, May 1, 2000: 1 and 6; May 10, 2000: 1-2; July 25, 2000: 1 and 4). Going by the number of senators (109), the above amount implied spending over five hundred thousand Naira to purchase a ram. Indeed, the level of corruption at the top echelon of the National Assembly is legendary. In addition, there were other forms of allegations against the Senate in particular and the National Assembly as a whole. These included the controversial jumbo furniture allowance which legislators paid to themselves; allegations of contract inflation and awards without legal agreements and the National Assembly's unilateral inflation of its own budget in 2002 among others (see *The Punch*, August 9, 2000: 1 and 4; July 26, 2000: 1-2; July 29, 2000: 1-2, 16-17 and 25; July 27, 2000: 1-2; *The News*, August 21, 2000). Expectedly, these allegations have not gone without sharp reactions from members of the public and the executive arm with the latter setting up probe panels in some instances. It was in this rowdy and cloudy atmosphere that the first legislative term of the fourth republic was concluded in May 2003.

The beginning of another legislative term following the successful conduct of another general election in 2003 was thought by many to hold prospect for a robust legislative regime for two important reasons. First, during the elections, some members were re-elected while some were voted out by their constituency including both leaders of the lower house and the senate. This coupled with election of some new legislators was expected to reinvigorate the house towards a purposeful deliberation. Second, while the first legislative term could be said to be immature, being the first after about sixteen years of non-existence as a result of military rule, the new legislature was expected to build on the experiences of its predecessor. Thus, Nigerians were confounded when this era showed no significant departure from the previous in terms of corrupt practices and perversion of integrity. Hardly had the legislators settled down for business when in August 2003, allegations of sharp corrupt practices reared its head. First was the allegation levied against the deputy Senate President, Ibrahim Mantu and another principal officer, Dr. Jonathan Zwingina by former Director General of Bureau of Public Enterprises, Nasir El-Rufai that the two senators were demanding 54 million Naira from him to facilitate his clearance in the senate as a ministerial nominee. Sensitive and stunning as this issue was, it was dismissed by other senators for what they considered as 'lack of evidence' (see *Weekly Trust*, December 6, 2003; April 4, 2005:50). Then came the big bang. This was the allegation of bribery levied against the Senate President, Adolphus Wabara and other principal officers by the President in a nationwide broadcast. The president revealed that the Economic and Financial Crimes Commission (EFCC)

uncovered an act by the then Minister for education, Professor Fabian Osuji who raised the sum of 55 million Naira which was used to bribe the Senate President and some other members of the senate and house of representatives in order to influence the education ministry's financial appropriation in the 2005 budget (Obasanjo 2005). This no doubt stirred a controversy with the executive and the legislature raising accusation and counter-accusation while members of the public pitch tent with the former (see *The Punch*, April 7, 2005: 1-2; *The Guardian*, April 8, 2005: 1-2). But despite denials by all the alleged (with the exception of Senator Adhigije who later became government's lead witness) and, the investigation panels set up by both houses of the National Assembly which were neither emphatic in admitting nor denying the allegations, all the actors including the Senate President and education minister are currently under trial for the offence. In the main, the Senate President bowed to public pressure by resigning his post while the president equally dismissed the education minister. Yet, attacks on allegations of corruption against the National Assembly have not come from the executive or the general public alone.

In 2004, a sitting senator, Uche Chukwumerije alleged that his colleague in the house, Senator Arthur Nzeribe, gathered some other colleagues at his official residence on 14 January with an offer of 5 million Naira for each to mobilize and support the declaration of an emergency rule in Plateau State. However, not convinced that the allegation is worth a hearing, other senators waved it off and ask senator Chukwumerije to apologize to the house (see *The News* April 4, 2005: 50). Also worth mentioning is the declaration by a member of the lower house, Honourable Haruna Yerima at a public gathering that some committees in the house go about collecting bribe from ministries and parastatals to induce members into taking favourable decision. He alleged further that the Chairman, House committee on communications does facilitate distribution of MTN¹ recharge cards to honourable members. In his words:

Whoever tells you there is no corruption in the house is in fact corrupt. Ministers and Heads of parastatals are often asked to bring money so that their budgets can be passed. MTN bribes us every month. It brings recharge cards worth 7,500 Naira monthly to each member (see *The News*, April 4, 2005: 52).

Ironically, rather than investigate the substance of the allegation, he was suspended for a month for using what the house termed 'unparliamentary language' and bringing the house into disrepute. All that has been done in this section is to review the trend and dimensions of corruption in the Nigeria legislative arm. Indeed, the trend is pervasive both at the level of leadership and the generality of members that hardly would a year pass by in the last seven years of democracy that the legislature would not be engulfed in one major controversy or the other bordering on corruption. The next section tries to advance some explanations for this trend and its implications for democracy in the country.

EXPLAINING LEGISLATIVE CORRUPTION AND ITS IMPACT

From observable trends in the country's political process in general and particularly legislative processes, three plausible arguments could be advanced for the pervasiveness of legislative corruption in the country. First is the legislature's institutional history. It is indeed not an understatement to say the legislature in Nigeria is underdeveloped. If anything, it is the most affected of all arms of government as a result of prolonged military regime in the country. This is because, while other arms (executive and Judiciary) under the military still maintain their existence, the powers of the legislature is usually usurped by leaders of the military regimes. Against this background, the legislature remains underdeveloped in terms of legislative practices and processes. Given the nature of this underdevelopment coupled with the fact that the fourth republic legislature

is composed of many new comers into politics, one cannot expect them to have quickly imbibed the doctrines of virile legislative practice and processes and, to appreciate the cruciality of legislative integrity towards democratic sustenance. Equally, the recklessness and pervasiveness of corrupt practices under the various military regimes may have affected the psyche of many Nigeria politicians who tend to see things as business as usual even under democratic practice. In this context, the use of official positions for personal aggrandizement becomes an attractive option for the average politician.

Second is the organizational character of the legislature. As mentioned earlier, the legislature is a peculiar arm of government in which relationship between members is not that of authority and subordination but one of equal partners. Even where leaders are appointed among members, such leaders are only *primus inter pares*. This is because each member of the legislature derives its authority from being representative of a constituency or section of the populace. The implication of this is that it makes internal control of each member problematic. At best, legislative rules can only permit suspension of an erring member for a limited period of time. Even at this, the reality of the Nigerian situation is that members of the constituency or representative area from which such legislator come often perceive such disciplinary action as an affront against them.

The third plausible explanation for legislative corruption as is currently being witnessed in Nigeria cannot be divorced from the pathological conception of politics that permeates the entire Nigeria's political landscape. In general, there is the tendency for politicians to conceive of politics in terms of end-means relationship. Politics is seen as a means to achieve some predetermined ends. That is, politics becomes monetized while the average politician sees what he/she has spent in the process as an investment that must be recouped (with interest). Thus the best bet to recoup the investment is to engage in corruption. This perspective was underscored by former Senate President, Adolphus Waraba, when he pointedly argued that:

Most of us came into the National Assembly with high expectations. It is an investment really to come to the National Assembly. When we go about campaigning and asking for votes, we don't get these votes free. You spend some money. Most of us even sold houses. You come in through legitimate means but you can't recoup what you spent (quoted in *The News*, April 4, 2005:50).

Indeed, current happenings in the legislative house are a vindication of the above arguments – a situation which portends serious threat for the legislature itself and the democratic process.

One major consequence of legislative corruption in Nigeria is its erosion of citizens' confidence in the institution. There is no denying the fact that there is a declining confidence of citizens in Nigeria's democratic institutions - executive, legislature and judiciary. But the legislature has been worse off to the extent that Nigerians are more often suspicious of moves by the legislature. In a governance and corruption survey in Nigeria conducted in 2001, close to 60% of the respondents were skeptical of the legislature in helping to combat corruption. The trend of opinion indicates that the legislature in Nigeria is not helpful in combating corruption (see Nigeria Governance and corruption survey 2003:13) - a trend which cannot be divorced from rampant cases of legislative corruption in the country. Important however is that, nothing seems to suggest a change of opinion even till date. Thus, one must not expect democracy to grow in a situation where there is negative correlation between citizens' perception and expectation and, legislative practices.

In terms of legislative-executive relations, it is obvious that most of the strains and stresses between the two institutions emanates from allegations of corrupt practices. This include controversies over jumbo furniture allowance of the legislators in which they allege executive blackmail (see *Inside Politics* August 14, 1999: 15-16); row over budget inflation by the national Assembly and; the legislative-executive logjam when the latter exposed corruption activities involving the Senate President, Adolphus Wabara. In fact, the acrimony generated by the Wabara-Osuji corruption saga was a major factor in the delay of passage of the National budget for 2005.

The bottom line is that such acrimonious relation, if prolonged, is not only capable of crippling the economy but may as well result in democratic regression.

Perhaps another implication of legislative corruption for democratic growth may be seen in its impact on legislative processes. On the one hand, Nigeria's legislature has been spending much time on managing one crises or another emanating from corruption tendencies. For instance, barely a month after the Buhari Saga in 1999, the Ewerem issue crept up, followed in less than a year by Dr. Chuba Okadigbo saga and several others. Indeed, precious times wasted on these could have been more utilized in improving the quality of deliberations. On the other hand, legislative corruption affects the quality of legislative oversight. Oversight function is a constitutionally enshrined duty of the legislature to enhance the quality of service delivery to the citizenry by other arms of government. Needless to stress that, a compromised legislature is unfit to perform creditably in this regard. This is the paradox of the Nigerian legislature and flip side of threat to democracy and good governance. Related to this is that, the legislative institution may for long remain underdeveloped. This is as a result of instability of leadership. It is disheartening to note that between May 1999 to date - a period of about 7 years - the Nigerian legislature has had a total number of five senate Presidents. This apparently is not a healthy development for continuity sake and consistency in governance. Worst still, the rate of internal bickering within the legislature which at times degenerate into a 'slapping spree' (see The News, April 4, 2005:50) is a pointer to more troubles within the legislative arm.

CONCLUSIONS

Our endeavour in this work has been to analyse the dimensions of legislative corruption in Nigeria and its impact on good governance and democratic sustenance. Findings reveal that the legislature is a veritable institution necessary for the advancement of democracy and good governance. This all important role is further strengthened by various constitutional provisions which conferred wide powers on the legislature. However, observable trends have revealed that the extent of legislative corruption in Nigeria is nothing but pervasive as it cuts across the rank and file of both legislative houses. Three arguments were advanced to possibly explain this: The institutional history of the legislature; its organizational character and; the general tendency of politicians to see politics as an investment of some sort. Above all, as demonstrated in the essay, legislative corruption harbours some threats for the future of democracy in Nigeria. Against the background of these submissions, it is suggested that current anti-corruption strategies must be strengthened to ensure total cleansing of the social malady among the mighty and the low. This must be accompanied by the political will to ensure success. Second, there is need for deliberate re-orientation of the legislators on the one hand and on the other hand, the entire political class to eschew monetization of politics and as well appreciate cruciality of the legislative institution to the success of any democratic project. Lastly, there is the need for the citizens and civil society groups to be more alive in serving as watch dog for elected public office holders particularly, the legislature. It is expected that where these are achieved, it holds better prospect for the attainment of good governance and democratic growth in Nigeria.

NOTES

1. The MTN is a licensed mobile telecommunication company in Nigeria

Legislative Corruption and Democratic Sustenance in Nigeria

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