

A Festschrift for  
Emeritus Professor John A. A. Ayodele

# The Legislature and Governance in Nigeria

VOLUME I



Editors: Emmanuel O. Ojo  
Shola Omotola

# The Legislature and Governance in Nigeria

A Festschrift for Emeritus Professor John A. Ayoade

VOLUME I

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## CHAPTER 6

# Legislative (In)Effectiveness in Developing Democracies: The Nigerian Experience

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## INTRODUCTION

It is arguable that the legislature is the bulwark of democracy, because it occupies a central position in comparative understanding of democratic experience in developing countries. While there can be government without the legislature, there can never be a democracy without the legislature. The legislature epitomises the existence of democracy in a polity because it distinguishes a democratic government from an autocratic government; as both systems have the executive and judiciary arms. Hout's<sup>1</sup> position

1. See, Volden, C. and Wiseman, A. E., *"The Lawmakers"*, 2013, Available online at [http://polisci.emory.edu/home/cslpc/conference\\_2013/papers/Craig\\_Volden\\_Ch2\\_Ch4.pdf](http://polisci.emory.edu/home/cslpc/conference_2013/papers/Craig_Volden_Ch2_Ch4.pdf), Accessed on July 13, 2013; Carson, J.L., Koger, G., Lebo, M.J. and Young, E., "The Electoral Costs of Party Loyalty in Congress" *American Journal of Political Science*, Vol. 54, No. 3, July 2010, pp. 598-616; Davies, A.E., "Executive-Legislative Relations and Democratisation during the Transition Programme", in A. Gboyega (ed.) *Corruption and Democratisation in Nigeria*, Ibadan, Agbo Areo Publishers, 1996; Saliu, H.A and Mohammed, A.A., op. cit., 2010; Alabi, M.O.A. and Fashagba, J.K., "The Legislature and Anti-corruption Crusade under the Fourth Republic of Nigeria: Constitutional Imperatives and Practical Realities", *International Journal of Politics and Good Governance*, Vol. 1, No. 1&2 Quarter II, 2010; Mayhew, D.R., *Congress: The Electoral Connection*, New Haven, Yale University Press, 1996; Bello-Imam, I.B., "The Legislature: Its Role, Performance, Problems and Prospect in Nigeria", in I. B. Bello-Imam and Mike Obadan (eds.) *Democratic Governance and Development*

gives credence to this argument when he opines that the legislature is clearly the key institution in minimal and liberal democracies around the world. The legislature is seen as the engine of democratic governance, because laws made by it set the agenda for the government and regulate

*Management in Nigeria's 4th Republic, 1999-2003*, Ibadan, Centre for Local Government and Rural Development Studies, 2004; Hout, W., op. cit., 2006; Aiyede, E.R., "Legislative executive Relations in Nigeria's Democracy", in E.O. Ojo (eds.) *Challenges of Sustainable Democracy in Nigeria*, Ibadan, John Archers, 2006; Fenno, R.F., *Home Style: House Members in Their Districts*, Boston, Little Brown and Company, 1978; Zvirgin, J.S., "The Role of the Legislature in Democratic Governance: the Nigerian Experience", *Nigerian Journal of Legislative Affairs*, Vol. 1, No. 1, 2006; Okonkwo-Simbine, A.T., "Understanding the Role and Challenges of the Legislature in the Fourth Republic: the Case of Oyo State House of Assembly", *Nigerian Journal of Legislative Affairs*, Vol. 3, No. 1&2, 2006, pp. 1-27; Ijaiya, G., "Legislative Committees and Oversight Functions in Nigeria", *Nigerian Journal of Legislative Affairs* Vol. 3, No. 1&2, 2010, pp. 159-169; Egwu, S.G., "The Legislature in Nigeria's Fourth Republic" in A.T. Gana and Y.B.C. Omelle (ed.) *Democratic Rebirth in Nigeria 1999-2000*, New Jersey, Africa's Multimedia, 2005; Ojagbohunmi, G.A., "Committees of the Legislature", *Paper Presented at a Training Workshop for Clerks-at the Table and Committee Clerks of the National Assembly held at Shiroro Hotel, Ilorin, Niger State*, January 16-30, 2006; Solomon, A.B., "National Assembly: the Limit of Party Politics in Legislative Process", *Nigerian Journal of Legislative Affairs*, Vol. 3, No. 1&2, pp. 44-72; Lafenwa, S.A., op. cit., 2009; Fashagba, J.K., "The Roles of the Committee System in Enhancing Legislative Efficiency in Nigeria: The Case of Kwara State House of Assembly", *Journal of Sustainable Development in Africa*, Vol. 10, No. 4, 2009, pp. 426-444; Ishaya, S.H., "The Role and Challenges of Parliamentary Staff in a Nascent Democracy", *Nigerian Journal of Legislative Affairs*, Vol. 3, No. 1&2, 2010, pp. 170-180; Wiseman, A.E., and Wright, J.R., "The Legislative Median and Partisan Policy", *Journal of Theoretical Politics*, Vol. 20, No. 1, 2008, pp. 5-30; Weissert, C.S., "Issue Salience and State Legislative Effectiveness", *Legislative Studies Quarterly*, Vol. 16, No. 4, 1991, pp. 509-520; Miguel, G.P.I. and Snyder, J.M., "Legislative Effectiveness and Legislative Careers", *Legislative Studies Quarterly*, Vol. 31, No. 3, 2006, pp. 347-381; Bartels, L.M., "Constituency Opinion and Congressional Policy Making: The Reagan Defense Build Up", *The American Political Science Review*, Vol. 85, No. 2, 1991, pp. 457-474; Bartels, L.M., "Partisanship and Voting Behavior, 1952-1996", *American Journal of Political Science*, Vol. 44, 2000, pp. 35-50; Krehbiel, K., *Information and Legislative Organization*, Ann Arbor, University of Michigan Press, 1991; Anderson, W.D., Box-Steffensmeier, J.M. and Sinclair-Chapman, V., "The Keys to Legislative Success in the U.S. House of Representatives", *Legislative Studies Quarterly*, Vol. 28, No. 3, 2003, pp. 557-386.

the conduct of the people. Saliu and Muhammed<sup>2</sup> observe that it also serves as an arena for reconciling differences in opinions about policy within the state. In addition, its oversight and representational duties are critical to sustainable development, which is considered as one of the ends of democracy.<sup>3</sup> To this end, it is settled in the annals of scholarly literature that the legislature has important roles to play in a democracy.<sup>4</sup>

All governance that is undemocratic (dictatorship, monarchy, despotism, tyranny, absolutism, authoritarianism, totalitarianism) are widely commended as repugnant and obnoxious because they discountenance political participation and have high disdain for both opposition and dissident views. On the other hand, democracy tends to correct these anomalies through legislative politics which allow the entire citizenry to participate (through representation in parliament) and express or input minority or opposition view in governance. The significance of the legislature in this regard cannot be over-emphasised because it provides the forum for inclusive political dialogue and national debate; and as such can distil citizen preferences and provide a broad assessment of a country's needs with inputs from political parties and civil society.

The argument of Bello-Imam<sup>5</sup> depicts the centrality and significance of legislature in democratic governance.

The legislature is in-dissociable from liberal democracies as they are constructed around it or on the basis of it. Any attack against the organisation, composition or functioning of the parliament/assembly is seen as a blow against democracy. Parliament can do anything except change a man to a woman.

Aside from the basic roles of the legislature which are law-making, representation and oversight; it also performs other important constitutional

2. Bello-Imam, I.B., op. cit. 2004, p. 408.

3. Federal Republic of Nigeria, 1999 *Constitution of the Federal Republic of Nigeria*, Lagos, Federal Government Printer, 1999.

4. Ihedieha, E., "The Legislature: Roles, misconceptions and experience in democratic Nigeria". Paper presented at a public lecture organised by the Department of Political Science, University of Lagos, July 2012, p. 16.

5. *ibid*, p. 17.



functions which are intended to promote good governance and development. These include (with reference to Nigeria): *Investigative roles* given by s. 88 of the 1999 Constitution<sup>6</sup> as amended. It is constitutionally empowered to conduct investigations into any agency of government with a view to exposing corruption and correcting any lapses in the conduct of public policy. In carrying out its investigative roles, the National Assembly can summon any person in Nigeria "to give evidence at any place or produce any document or other thing in his possession or under his control, and examine him as a witness, subject to all just exceptions". It also has the constitutional mandate to receive and enquire into *Public Petitions and Complaints* brought to its attention, through its Committees on Public Petitions. Ihedioha<sup>7</sup> apprises us that since 1999, many of such petitions and complaints have been received and conclusively addressed by both chambers of the National Assembly. The National Assembly is empowered by the *Power of Appropriation* conferred on it by s. 81 of the Constitution as amended, which states that "no money shall be withdrawn from the Consolidated Revenue Fund or other public funds of the Federation without the authorisation of the National Assembly".

In the Nigerian context as elsewhere, the role of the legislature in promoting good governance and fostering national development has become a widely contested issue. Since 1999, the 'effectiveness' of the Nigerian National Assembly has become a subject of debate. While some have continued to pass unsatisfactory comments about its low level performance, others tend to appreciate the fact that it has been working assiduously to contribute positively to good governance despite the complicated hindrances facing it. It should be noted that the legislature itself is aware of the challenge. The deputy speaker of the House of

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6. Mayhew, D.R., op. cit.

7. Fenno, R.F., op. cit. p. 139.

Representatives, Ihedioha<sup>8</sup> argues that:

Our circumstance is not helped by the skepticism that has been the lot of the legislature, given many years of military domination of our polity. Some persons still see us as maddlesome; a burdensome institution and, in some cases, an overweight in the democratic project. Going forward, we should be assessed by the savings we make for the nation as the fear of our inquisition has now become the cure of executive recklessness.

It is against this background 'effectiveness arguments' that this chapter intends to assess the effectiveness of the legislators and the legislature as a whole; all within the overall framework of the role which the parliament can play in promoting democratic sustainability, good governance and development in the Nigerian context. The objectives are to critically assess the level of legislative effectiveness or otherwise in fostering national development and identify the factors responsible for the (in)effectiveness in the context of the given roles as enshrined in the Nigerian constitution.

#### LEGISLATIVE EFFECTIVENESS: ETYMOLOGY AND CONCEPTUAL CLARIFICATION

Scholarly work on the 'legislative effectiveness' has its origin in the United States and can be traced to the period around 1970s. In his classic

8. See; Cox G. and McCubbins, M., *Legislative Leviathan: Party Government in the House*, Berkeley, University of California Press, 1997; Wiseman and Wright, op. cit.; Weissert, op. cit.; Arnold, R. Douglas, *The Logic of Congressional Action*, New Haven, CT, Yale University Press, 1990; Canes-Wrone, B., Brady, D.W. and Cogan, J.F. 2002. Out of Step, Out of Office: Electoral Accountability and House Members' Voting. *American Political Science Review*, Vol. 96, March, 2002, pp. 127-140; Erikson, R. S. and Wright, G.C., "Voters, Candidates, and Issues in Congressional Elections", in L.C. Dodd and B.I. Copenheimer (eds.) *Congress Reconsidered* 7th ed. Washington, DC, CQ Press, 2001, pp. 67-96; Miquel and Snyder, op. cit.; Cox G. and McCubbins, M., *Setting the Agenda: Responsible Party Government in the US House of Representatives*, Cambridge, Cambridge University Press, 2005; Carson *et al*, op. cit.; Bartels, op. cit.; Krehbiel, op. cit.; Aldrich, J. H. and Rohde, D.W., "Balance of Power: Republican Party Leadership and the Committee System in the 104th House", *Paper presented at the annual meeting of the Midwest Political Science Association*, April 10-13, 1997, Chicago, Ill; among others.

work, Mayhew<sup>9</sup> attempts to identify the factors that can guarantee an incumbent parliamentarian of his/her seat in the next election. He examined the electoral connection in congress and discovered that incumbents Congressmen are extremely sensitive to the potential electoral implications of their votes, and as a result, behaves strategically when announcing a position on a roll-call vote. In essence, the electorate will only return a legislator if he/she is seen to be effective in congress; thus legislative performance is largely motivated by re-election.

Building on this, other scholars argue that the effectiveness of a legislator is largely seen from the standpoint of institutional power or good public policy. Legislators are expected to pass legislation to please their constituents and to advance their policy agenda in a manner that will make them better-off, being members of Congress. For example, Fenno<sup>10</sup> notes that legislators who want to be seen as effective "believe that their supporters want their representative to be influential in Congress, and that they take a certain pride in having an effective congressman – more so when he is effective on their behalf." These observations paved the way for scholars to embark on series of research related to the effectiveness of the parliament and the parliamentarians.<sup>11</sup>

What is central to the conceptualisation of the term by these scholars is that legislative effectiveness depends crucially on the ability of elected representatives to take the issues that are important to their constituents and to translate them into public policy. Precisely defined, Volden and Wiseman<sup>12</sup> argue that it is the varying abilities of the legislators to advance their legislative agendas, based on their personal aptitude and on their

9. Volden and Wiseman, op. cit. p. 6.

10. Volden, C. and Wiseman, A. E., "Legislative Effectiveness in Congress", 2009, Available on line at [https://my.vanderbilt.edu/alanwiseman/files/2011/08/LEP\\_webpage\\_090710.pdf](https://my.vanderbilt.edu/alanwiseman/files/2011/08/LEP_webpage_090710.pdf) (Accessed on 13 July, 2013).

11. The methodology used for the study is revalidated in Volden, C. and Wiseman, A. E., *The Lawmakers*, 2013, Available online at [http://polisci.emory.edu/ncmc/cslpe/conference\\_2013/papers/Craig\\_Volden\\_Ch2\\_Ch4.pdf](http://polisci.emory.edu/ncmc/cslpe/conference_2013/papers/Craig_Volden_Ch2_Ch4.pdf), Accessed on 13 July, 2013.

12. Olaniyi, J.O., *Foundations of Public Policy Analysis*, Ibadan: Sanad Publishers Ltd, 2003, p. 39.



institutional positions that determined their position in the legislative effectiveness ranking. From this analysis, we can see that the systematic differences across members in advancing agenda items can help us to understand the internal workings of the legislature and subsequently venture into the inquiry on why some legislators are more 'effective' than others.

Having popularised the term in the global political analysis (by the above mentioned scholarship efforts), the consequence was the contested issue of focus on whether legislative effectiveness can be determined through assessment of the individual legislators or the parliament as a whole; which as earlier noted led to the proliferation of indicators and benchmarks such as the Commonwealth Parliamentary Association's (CPA) *Recommended Benchmarks for Democratic Legislatures*; the National Democratic Institute for International Affairs' (NDI) *Minimum Standards Assessment Survey*; the Inter-parliamentary Union's (IPU) *Self-Assessment Toolkit for Parliaments*; the Parliamentary Centre's *Parliamentary Report Cards*; the International IDEA's *State of Democracy Assessment Methodology* among others for measuring parliaments' effective and those for measuring individual legislators effectiveness include: *PRS Legislative Research Service*, developed in India; *Pakistan Institute of Legislative Development and Transparency (PILDAT)*, developed in Pakistan; *Africa Leadership Institute- AFLI Parliamentary Scorecard*, developed in Uganda; *Legislative Effectiveness Score (LES)* developed in the United States by Craig Volden and Allan Wiseman, among others. Despite the effort of the World Bank Institute and the Griffith University through the organisation of a workshop on 21-24 September, 2008 in Brisbane, Australia with the theme: Workshop on Legislative Benchmark and Indicators; where participants shared approaches, methodologies and results, and discuss whether a new holistic framework to measure legislature's capacity or performance could (or should) be established, no breakthrough was achieved on a unified benchmark and indicator owing to the fact that there is no unified resemblance of the status, function, institutional framework, membership constitution of the legislature and most importantly the system of government in all democracies. Consequently, there emerged the case studies difficulties in

developing appropriate indicators that can fit into all case studies.

Be that as it may, one of the most prominent and ground breaking analysis of legislative effectiveness is the research work done by Volden and Wiseman<sup>13,14</sup> where they assessed the concept in the 93rd–110th United States' Congress and concisely defined it as "the proven ability to advance a member's agenda items through the legislative process and into law". They inferred that this definition has four key components. First, it discusses the "proven ability" of members on the ground that while many lawmakers may have great potential to bring about policy change, unless they use that potential to actually advance agenda items, they are not considered to be effective. Second, it emphasises on "advancing" legislation in view of the ability of a lawmaker to bring about positive change even in the face of daunting obstacles from proposals blockage by others. However, they recognised that placing obstacles in an opponent's path is also an important aspect of legislative policymaking; such could not be seen as a hallmark of effectiveness. In my opinion, this assertion could be premised on the fact that not all critics can actually perform better if up to the one being criticised. Third, the definition focuses on the "member's agenda items"; rather than the agenda items of the political party, the president, or even the member's constituents. They argue that lawmakers have a great deal of choice and flexibility in deciding which issues to act upon and which to set aside, and that it is these choices that form the basis for evaluation of a member's effectiveness. Fourth, and finally, it focuses on movement "through the legislative process and into law." They argue that effectiveness can be demonstrated at multiple stages of the lawmaking process, not simply in the passage of new laws. While such laws may be the ultimate goal, members may be effective at moving their proposed legislation through key committees and to the floor of the House. Yet, even if they fail to gain passage of

13. See, Davies, op. cit. 1990; Bello-Imam, op.cit. 2004; Aiyede, op. cit. 2006; and Zwingina, op. cit. 2006.

14. See, Okeosi-Simbine, op. cit. 2010; Ijaiya, op. cit. 2010; Egwu, op. cit. 2005; and Ojagbohunmi, op. cit. 2001.

their bills on the floor, such members have demonstrated a level of effectiveness. Though, members whose bills are eventually signed into law are regarded to be more effective.

From this conceptual analysis, one can infer that the definition of legislative effectiveness excludes various legislative activities and behaviours, especially those that extend well beyond an ability to advance legislation. For instance, one could speak of their "fundraising effectiveness" with campaign contributors, their "electoral effectiveness" with their constituents, or their "administrative effectiveness" in managing a large legislative staff. It also excludes any exploration of whether the laws proposed by these members are themselves effective and beneficial to the people, since important work in the field of public policy analysis is done on a daily basis to assess the impact of policies in line with the argument that a good public policy must always be in the public interest.<sup>15</sup>

#### LEGISLATIVE EFFECTIVENESS IN THE NIGERIAN CONTEXT

Scholarship efforts on the study of the Nigerian legislature are highly appreciable without reservations. This is premised on the fact that before the emergence of the Fourth Republic, it is difficult to make any meaningful analysis of the law-making institution, because that the history of Nigeria's legislature was characterised by disruptions, re-establishments and reforms, all of which left it without a strong, deeply engrained legislative tradition, norms, practices and procedures. The experience is that, the process of setting down roots has had to begin afresh. However, for the first time in independent Nigeria, the National Assembly has witnessed fourteen years of uninterrupted legislative activities from 1999 to 2003 (4th assembly), 2003 to 2007 (5th assembly), 2007 to 2011 (6th assembly) and the current 7th assembly of 2011 till date. This has undoubtedly prepared the ground on which to base performance

15. See, Salifu and Muhammed, *op. cit.* 2010; Alabi and Fashagba, *op. cit.* 2010; Solomon, *op. cit.* 2010; Laferwa, *op. cit.* 2009; Fashagba, *op. cit.* 2009; and Ishaya, *op. cit.* 2010.



assessment. Therefore, it is not out of context to measure the progression of the legislative branch of Nigeria's evolving democratic government.

As a result, scholars have since been exploring the institutional workings of the National Assembly towards identifying the factors responsible for its efficiency or otherwise. While some based their analyses on the symmetric and asymmetric relations with the executive arm of government,<sup>16</sup> others tend to see it from the invaluable role it is playing in the democratic governance.<sup>17</sup> In a different perspective, some other scholars explore it as an institution of governance analysing its workings and pointing out the challenges hindering its effectiveness.<sup>18</sup> Despite these applauding efforts, little or no attention (as far as I know) is made to scientifically measure the effectiveness of the National Assembly as it is the case in most democracies.<sup>19</sup>

16. In response to this, my PhD research centres on the attempt to scientifically measure legislative effectiveness in Nigeria using a combination of carefully selected indicators and benchmarks (in a multivariate way) that can be domesticated bearing the nature of Nigerian parliament in mind. The study will satisfy the need for adequate evaluation of the Nigerian legislature as well as test the validity of these benchmarks; and at the same time come up with a number of theoretical frameworks that can be applied to all developing democracies. The study will break ground in the studies of legislature in Africa as the method will later be extended for studying other African legislature. This will set the stage for a comparative analysis of these legislatures making the task easier for other researchers that wish to adopt my methodology.
17. Notably Professor. Stephen Fish and Matthew Kronig, both of University of California).
18. See, Adcock, R. and Collier, D., "Measurement Validity: A Shared Standard for Qualitative and Quantitative Research", *American Political Science Review*, Vol. 95, No. 3, 2001, pp. 529-546; Volden and Wiseman, op. cit. 2013; Cox, G. W. and William C. T., "Legislative Productivity in the 93rd-105th Congresses", *Legislative Studies Quarterly*, Vol. 33, No. 4, 2008, pp. 603-618; Wiseman and Wright, op. cit. 2008.
19. World Bank Institute, *Summary report of the workshop on legislative benchmarks and indicators*. Organized by WBI and Griffith University on September 21-24, 2008 at Brisbane, Australia, available online at <http://www.agora-parl.org/sites/default/files/WBIBrisbaneworkshoponlegislativebenchmarksandindicators-summaryreport.pdf>. Accessed 14 July, 2013.

From the foregoing, this task (literature review) has been able to identify the contradiction amongst scholars as to how and what method is the most appropriate and efficient in measuring legislative effectiveness. It also found out that there is no uniformity of purpose as to whether to assess individual legislators or the parliament as a whole in the attempt to determine the legislative effectiveness. In the Nigerian context, the study observed the gap that exists in the lack of scientific assessment of the National Assembly anchoring on the use of indicators and benchmarks that will be generally acceptable. This paper will therefore attempt to bridge these gaps and contradictions, thus serve as the focus of the research's literature review.

#### GLOBALISING LEGISLATIVE EFFECTIVENESS BENCHMARKS

##### The Problematic

It is no more news to emphasise the inevitability of the legislature in democratic governance, neither can one dispute the centrality of the legislature in the quest for good governance and national development. The fundamental issue needed to be addressed is how well the institution of legislature is fairing in the performance of its responsibilities. In view of this, there is a serious disagreement among scholars on the most efficient method to be adopted in assessing legislative performance and the effectiveness of legislative strengthening programmes.

It should be noted that all scholars and practitioners have realised the need to develop a universally accepted benchmarks and indicators for measuring legislative effectiveness. The problem of whom and what to measure becomes another daunting task facing the scholarship of legislative studies. While some believe that the legislature should be assessed as a whole,<sup>20</sup> others believe we can get the effectiveness of the whole parliament by examining the effectiveness of individual legislators.<sup>21</sup> This has become

20. *ibid.* p. 8.

21. Adeock and Collier, *op. cit.* p. 534.

a serious challenge militating against the development of a “one-size-fits-all” framework for legislative assessment across board over the years.

Recognising this challenge, the World Bank Institute and the Griffith University organised a workshop<sup>22</sup> with the theme: Workshop on Legislative Benchmark and Indicators; where participant shared approaches, methodologies and results, and discuss whether a new holistic framework to measure legislature’s capacity or performance could (or should) be established. However, no breakthrough was achieved on a unified benchmark and indicator. It was discovered that there is case studies difficulties in developing appropriate indicators premised on the fact that certain standards obtainable in some studies may not fit well with others. Above all, a number of parliaments may have specific powers outlined in the assessments without necessarily using them in practice.<sup>23</sup>

Be that as it may, for any benchmark or indicator to be valid in the face of the difficulty in measuring intangible concept like legislative effectiveness, Adcock and Collier<sup>24</sup> espouses that such benchmark and indicator must be in tandem or satisfy the following “measurement development and validation mechanism”:

- (i) Scholars must offer an explicit definition of the concept they seek to measure.
- (ii) We must identify indicators of the defined concept.
- (iii) We must combine the indicators into a set of scores that concisely capture the defined concept; and
- (iv) Finally, such a score or measure should be assessed based on a variety of validation criteria.

As a result, it becomes inevitable for scholars of legislative studies to rise up to tackle headlong the challenges of designing an acceptable benchmark

22. NPC, 2006 Population & Housing Census Report, available on line at <http://www.population.gov.ng/>, accessed on 20 July, 2015.

23. Iledioha, op. cit. 2013, p. 17.

24. Institute for Development Research, “*The Final Report of the Nigeria Survey and Corruption Survey Study*”, Zaria, Institute for Development Research, Ahmadu Bello University, June 2003.



that is verifiable to assess the effectiveness of the legislature; in their rôle to promote good governance and foster national development.

#### THE EFFECTIVENESS OF THE NIGERIAN LEGISLATURE IN PROMOTING GOOD GOVERNANCE: AN ASSESSMENT

This section will attempt to assess the level of performance of the Nigerian National Assembly in its basic rôles of law making, representation, oversight, investigative, appropriation and the public petitions and complaints enquiry; toward promoting good governance and fostering national development. These rôles can be grouped into three broad categories for logical and rational assessment to be made. They are:

- (i) **Democratic Conformism:** How well does the composition of the parliament comply with the democratic tenet of true representativeness?
- (ii) **Combating Corruption:** How effective is the parliament in fighting the menace of corruption, checking abuse of office and avoiding resources wastages through its oversight, appropriation and investigative powers.
- (iii) **Legislation:** How effective and efficient are the legislators in the lawmaking process? And whether the laws proposed by these members are themselves effective and beneficial to the people.

It is pertinent to note that there are some factors (independent variables) that determine the level at which a legislator is effective in performing these rôles. These include innate ability, educational qualification, seniority considerations, previous legislative experience, party influence, legislative leadership, committee influence, ideological considerations, natural coalition partners, and electoral connection, among other factors/independent variables.

#### DEMOCRATIC CONFORMISM

The fact that democratic governance tends to correct the shortcomings of

repugnant and obnoxious un-representativeness of 'monocratic' regimes through the parliament makes it inevitable to inquire into the nature of how the parliament is constituted in terms of membership from each region. If the distribution of membership of a parliament does not truly reflect the population distribution, the consequent is the illegitimacy or unpopularity of the decision made by such legislative body since it will never portray the decision of the entire citizenry. First and foremost, one should begin the assessment of Nigerian parliament on the premise of whether their membership distributions truly reflect the heterogeneous nature of the country. The table below clearly shows the legislative seats allocated to each of the thirty-six states and the Federal Capital Territory (FCT) in the country.

A close perusal of the table shows some deficiencies and lopsidedness in the distribution of legislative seats in the House of Representatives. One may not be out of context to question the rationality in giving nine (9) seats to Ogun State with a population of 3,751,140 while its contemporaries like Akwa Ibom and Sokoto in terms of population size with 3,902,051 and 3,702,376 respectively have eleven (11) seats each. One will also wonder if the people of Zamfara are not legally entitled to equal representation in the lower chamber. The state with the population might of 3,278,873 is allocated seven (7) seats while those with lower population such as Enugu with 3,267,837 people and Kebbi with 3,256,541 inhabitants are given eight (8) seats each and above all, Edo state with 3,233,366 residents has nine (9) seats. The injustice meted to Ogun and Zamfara, among others like Anambra, Bornu and Delta, can also be seen in the allocation of ten (10) seats to Niger and Imo with 3,954,772 and 3,927,563 people respectively as against the same allocation to Anambra, Bornu and Delta states with a whopping one million people higher. Is the FCT not also short-changed with two (2) seats compare to five (5) given to Nasarawa and Bayelsa considering their population range?

However, there is no doubt that aside from the few cases noted above, the parliament relatively conforms to the tenet of democratic representativeness. This is because there is never perfection in humanity

Table 1. Numerical and Percentage Distribution of Legislative Seats in the National Assembly by States' Population

S/N	State	Population	% of Total Population	Senatorial Seats	% of Total Senate Seats	House of Representative Seats	% of Total House of Representative Seats
1	Kano	9,401,288	6.69	3	2.75	24	6.67
2	Lagos	9,113,605	6.49	3	2.75	24	6.67
3	Kaduna	6,113,503	4.35	3	2.75	16	4.44
4	Katsina	5,801,584	4.13	3	2.75	15	4.17
5	Oyo	5,580,894	3.97	3	2.75	14	3.89
6	Rivers	5,198,716	3.70	3	2.75	13	3.62
7	Bauchi	4,653,066	3.31	3	2.75	12	3.33
8	Jigawa	4,361,002	3.11	3	2.75	11	3.06
9	Benue	4,253,641	3.03	3	2.75	11	3.06
10	Anambra	4,177,828	2.97	3	2.75	10	2.78
11	Borno	4,171,104	2.97	3	2.75	10	2.78
12	Delta	4,112,445	2.93	3	2.75	10	2.78
13	Niger	3,954,772	2.82	3	2.75	10	2.78
14	Imo	3,927,563	2.80	3	2.75	10	2.78
15	Akwai	3,902,051	2.78	3	2.75	11	3.06
16	Ogun	3,751,140	2.67	3	2.75	9	2.50
17	Sokoto	3,702,676	2.64	3	2.75	11	3.06
18	Ondo	3,460,877	2.46	3	2.75	9	2.50
19	Osun	3,416,959	2.43	3	2.75	9	2.50
20	Kogi	3,314,043	2.36	3	2.75	9	2.50
21	Zamfara	3,278,873	2.33	3	2.75	7	1.94
22	Enugu	3,267,837	2.33	3	2.75	8	2.22
23	Keabi	3,256,541	2.32	3	2.75	8	2.22
24	Edo	3,233,366	2.31	3	2.75	9	2.50
25	Plateau	3,206,531	2.28	3	2.75	8	2.22
26	Adamawa	3,178,950	2.26	3	2.75	8	2.22



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27	Cross River	2,892,931	2.06	3	2.75	8	2.22
28	Abia	2,845,331	2.03	3	2.75	8	2.22
29	Ekiti	2,398,957	1.71	3	2.75	6	1.67
30	Kwara	2,365,357	1.68	3	2.75	6	1.67
31	Gombe	2,365,040	1.68	3	2.75	6	1.67
32	Yobe	2,321,339	1.65	3	2.75	6	1.67
33	Taraba	2,294,800	1.63	3	2.75	6	1.67
34	Ebonyi	2,176,947	1.55	3	2.75	6	1.67
35	Nasarawa	1,869,377	1.33	3	2.75	5	1.39
36	Bayelsa	1,704,511	1.21	3	2.75	5	1.39
37	FCT	1,406,239	1.00	1	1.00	2	0.56
	TOTAL	140,431,721	100	109	100	360	100

Source: Population figure from National Population Commission,<sup>25</sup> 2006; number of legislative seats and percentages calculated by Author.

and the seat distribution reflects average distribution according to population range. On the other hand, the equal distribution of senatorial seats regardless of population, economic viability, social advancement, political consciousness and geographical size do make up for the little deficiencies. It also satisfies moral justification to check the possible excesses of the highly populated states and regions in becoming dictatorial in the conduct of legislative businesses. To this end, legislative decisions in the National Assembly do reflect the wish of the entire citizenry; *ceteris paribus* (all thing being equal). Perhaps that is why there is little or no agitation for the creation of more federal constituencies on the basis of marginalisation.

### COMBATING CORRUPTION

In order to combat corruption and check abuse of office, the National Assembly is saddled with the power of appropriation as stated in s. 81 of the constitution as amended. Here, the constitution provides that "no

25. Alabi and Fashagba, op. cit. 2010, pp. 37-39.

money shall be withdrawn from the Consolidated Revenue Fund or other public funds of the Federation without the authorisation of the National Assembly". Much of the influence which the legislature enjoys in the polity is derived essentially from its power of appropriation which it has been effectively deployed with regard to its oversight functions.

However, the achievement of the legislature in this regard has been shrouded by the high profile corrupt cases committed by the legislators themselves. The institution empowered to combat corruption has since being wallowing in the mud of corruption which makes it difficult for an average Nigerian to agree with the argument of the deputy speaker of the House of Representatives, Ihedioha<sup>26</sup> that the legislature has made some savings for the nation as the fear of its requisition has now become the cure of executive recklessness.

As at 2003, the legislature is seen to be the third most corrupt institution in Nigeria: after the Nigerian Police and the political parties.<sup>27</sup> The numerous cases of corruption as captured in the table below gives credence to this claim.

But the legislature should not be solely crucified for the problem of corruption in the polity. The Executive is also a major culprit as the lack of political will to pursue the above cases led to its inconclusive end. The few ones that were concluded are seen to be selective cases that have to do with those that in one way or the way have fallen out of political favour of the Executive.

Be it as it may, from the political situation in the country since 1999, the legislature despite its constitutional and institutional power to fight corruption appeared to lack the will to tackle it headlong. This is evident in the nature of anticorruption bills in the parliament and the low attention given to those bills. For instance, out of the five bills on anti-corruption over which the lower chamber deliberated upon between 1999 and 2003, the Executive initiated three, while the remaining two originated from

26. *ibid*, pp. 22-23.

27. Ihedioha, *op. cit.* 2012, p. 21.

Table 2. Reported Cases of Corruption in the National Assembly (Fourth Republic)

S/N	Names of Culprits	Status/Designation	Chambers	Year	Nature of Allegations	Outcomes
1	Salisu Buhari	Speaker	House of Reps (HoRs)	1999	Falsify academic claim	Forced to resign and arraigned Received presidential pardon
2	Evans Enwerem	Senate President	Senate	1999	Falsified age, names and academic qualification	Forced resignation
3	Pius Chuba Okadigbo	Senate President	Senate	2000	Awarded contract to cronies at inflated price	Impeached
4	Haruna Abubakar	Deputy Senate President	Senate	2000	Embezzled N16.9m as Xmas and <i>Sallah</i> gift	Impeached
5	Unnamed members	Members, HoRs	HoRs	2002	Took money from the Executive to impeach the Speaker	Allegation not proved
6	Maurice Ibekwe	Member	HoRs	2004	Defrauded a German businessman of \$350,000 and \$75,000	Died in prison while still under trial
7	Ibrahim Mantu led committee for screening of political nominees	Deputy Senate President	Senate	2003	Nasir el-Rufai alleged that the committee requested N54m as a condition for confirming his nomination	Case swept under the carpet



Table 2 (cont'd)

8	Adolphus Wabara	Senate President	Senate	2005	Connived with chairmen Senate and House committees on education to take bribe of N55m (\$458,333) from education ministry As above	Resigned, arraigned but prosecution inconclusive
9	John Mbata, Abubakar Maccido, Emmanuel Chris Adighijie and AbdulAzeez Ibrahim	Leaders and members, Senate committee on education	Senate	2005	As above	Chairman and Vice lost the committee's leadership positions, arraigned, but prosecution inconclusive As above
10	Garba S. Matazu, Osita Izunnao and Gabriel Suswam	Leader and members, House committee on education	HoRs	2005	As above	
11	Ad-hoc committee that investigated PTDF case	Members	Senate	2006	Alleged to have taken bribe from Vice President to cover the truth on PTDF stolen fund	Report rejected and new committee set up
12	Patricia Etch	Speaker	HoRs	2007	Award contract at inflated price of N628m (\$233,333)	Forced resignation

Table 2 (cont'd)

13	Iyabo Obasanjo	Chairman, Senate committee on health	Senate	2008	Collected N10m (\$83,333) as share of senate committee from unspent budget of 2007	Arrested and arraigned
14	Iyabo Obasanjo	Chairman, Senate committee on health	Senate	2008	Alleged to have taken contract worth N3.5b for power generation alongside an Australian firm, but failed to execute the contract after taken certain amount	The crime was committed while Obasanjo; her father was the president
15	Leaders and members of the HoRs	Chairman and members of various House committees	HoRs	2005	Alleged to have collected money from ministries, departments and agencies of government (MDA) before approving their budget	Mr. Haruna Yerima accused his colleagues in the House of extorting money from MDA before passing their budget.

Table 2 (cont'd)

16	Dimeji Bankole	Speaker	HoRs	2008	Alleged to have over-invoiced the bill for the purchase of vehicles for oversight functions at the rate of ₦2.4b	Cleared of allegation in a controversial way. Note: Allowances for vehicle, housing and furniture among others are already monetised for public servants in Nigeria
17	Ndedi Elumelu, Paulinus Igwe and Mohammed Jibo	Chairman and Deputy Chair of committee on power; Chairman House committee on Rural development respectively	HoRs	2009	Alleged complicity in ₦5.2b power contract	Arrested by EFCC on May 11, 2009 and arraigned in court on May 13, 2009. Remanded in Kuje prison between May 18 and June 4, 2009.
18	Nicolas Yalaya Uglani	Chairman, Senate committee on power	Senate	2009	As above	As above
19	Farouk Layan	Chairman, Ad Hoc committee on fuel subsidy scam	HoRs	2011	Allegedly accepted \$500,000 from Femi Otedola, as part of a \$3 million bribe he had solicited from Otedola to remove Zenon Oil from list of implicated company	Arrested by the EFCC, charged to court, remanded in prison and later granted bail. Trial is still ongoing.



Table 2 (cont'd)

20	Herman Hembe	Chairman House Committee on Capital Market	HoRs	2012	Alleged to have collected undisclosed amount from SEC in 2011 to attend Conference in Dominican Republic which he neither did nor refunded the money; also demanded N44m to vindicate Arunma Oteh in the probe of the Capital Market scandal	Allegations denied, case swept under the carpet.
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Source: Alabi and Fashagba;<sup>28</sup> updated by the author

the lower chamber. One of the two private members initiatives was a proposed amendment to the Corrupt Practices and Other Related Offences Bill 2000. The private member bills could not achieve their aims as they were not passed by the house. Furthermore, between 2003 and 2007, there were eleven bills on anti-corruption that the lower chamber received, out of which the executive was responsible for nine. One of the nine bills was a United Nations convention against crime. Eight of the Executive bills were passed while one was killed. The remaining two bills which originated from the house did not pass. The same trend is noticed in the Senate as out of the ten bills relating to anti-corruption received between 2003 and 2007, the Executive accounted for about eight, out of which

28. National Assembly, 2009, *National Assembly Statistical Information Vol. 3*, Abuja, Library, Research and Statistics Department, 2009, p. 85.

five were passed. The two private member bills, one of which sought to amend an Executive bill on money laundering, failed. All these bills were just on three areas viz. ICPC, EFCC and money laundering.<sup>29</sup>

#### LEGISLATION

The importance of the legislature with regard to its lawmaking role can be seen in the fact that the constitution recognised it first before the Executive and the judiciary. The underlying rationale is premise on the significance of the law in the running of the country's affairs. It is often said that "where there is no law, there is no state"; in which case the state of anarchy abound. Section 4(2) of the 1999 constitution provides that "the National Assembly shall have power to make laws for the peace, order and good government of the federation". In addition, S. 9(2) of the Constitution confers on the legislature at federal and state levels the powers to alter the Constitution. However, the powers conferred on the legislature to amend the Constitution can better be exercised with popular participation and support in order for it to win legitimacy.

In view of this, the legislature, for the first time in Nigeria's history, achieved a broad amendment of multiple sections of the 1999 Constitution in 2010. The amendments addressed popular agitations and pressures from Nigerians for the reform of the electoral process. These amendments helped achieve the improved elections conducted by INEC in 2011.<sup>30</sup> With the inauguration of the 7th National Assembly, there have been pressures for even wider and more ground-breaking amendments of the Constitution to reflect demands for greater fiscal responsibility, devolution of powers, fiscal federalism, citizenship rights, and land use reform. The Legislature has since responded to this call and has started the process of amending the Constitution. On the other hand, legislative activities is not only confined to constitutional amendment; rather a more concerted effort is being carried out on the making of new laws where and when necessary.

29. This will be done in my ongoing Ph.D research, as earlier mentioned.

30. This hypothetical assumption is been subjected to verification and validation in my Ph.D. research work on legislative effectiveness in Nigerian National Assembly

Such activities are given below for a specific period in the legislative life of the Nigerian parliament within the fourth republic.

Table 3. Comparative analysis of numerical and percentage of bills received and passed in the two chambers in the 1st and 2nd sessions in the Sixth Assembly

Chambers	Sponsor(s)	1st Session			2nd Session			Total (1st & 2nd session)		
		Bills Received	Bills Passed	%over Received	Bills Received	Bills Passed	%over Received	Bills Received	Bills Passed	%over Received
Senate	Executive	8	5	3.94	46	7	3.50	54	12	3.67
	Minister	113	3	2.37	142	5	2.50	255	8	2.45
	Bills transmitted from House to the Senate for concurrence	6	-	-	12	-	-	18	-	-
	Total	127	8	6.30	200	12	6.00	327	20	6.12
	Executive	18	6	5.26	38	13	9.95	235	34	8.14
House	Minister	94	5	4.30	141	19	10.50	56	34	8.14
	Bills transmitted from Senate to the House for concurrence	2	-	-	2	4	2.21	4	4	1.36
	Total	114	11	9.65	181	41	22.65	295	42	17.64
	Executive	18	6	5.26	38	13	9.95	235	34	8.14

Source: National Assembly, 2009<sup>31</sup>

31. National Assembly. 2009. *National Assembly Statistical Information Vol. 3*, Abuja, Library, Research and Statistics Department, 2009, p. 85.



From the above table, one can see the pace of legislative performance of its lawmaking role. During the first session, senators were able to initiate 113 bills but only 3, representing 2.37 percent were passed while 5 out of the 8 sponsored by the executive were passed. The second session witnessed increased achievement owing to the fact that legislative activities on some of the bills were rolled over from the first session. Though, there is increment in the number of bills initiated by the senators chiefly premised on the legislative experiences gained by members (especially those in their freshman term). This trend continues till the expiration of the 6th assembly tenure. At the end of the second session, out of the total 327 bills introduced, only 20 representing 6.12 percent were passed. The breakdown indicates that 8 (6.30%) and 12 (6.0%) were passed in 1st and 2nd session respectively with averages gestation periods of 246.6 and 195.67 days respectively.

There is an astronomical growth in the performance of the house in the 2nd session. 94 bills were introduced and 5 (4.39%) were passed; while 141 bills were introduced in the 2nd session with 19 (10.50%) passed with averages gestation periods of 73.45 and 227.49 days respectively. At the end of the 2nd session, out of the 295 bills received, 52 bills (representing 17.61%) were passed: a performance that is far above that of the Senate.

From the comparative analysis of the two chambers, one would notice that the Senate is only effective in introducing bills but the House of Representatives, despite its large membership is more effective in advancing legislative agenda. This is commendable because it is the latter part of legislative activities that is more difficult in law-making. The consequence is the fact that the house passed more bills than the Senate. It is pertinent to note that there are other factors that may have contributed to the variation in the chambers' performances. For instance, the Senate is more preoccupied with screening and confirmation of Executive nominees which more often than not take much of the time it could have invested in passing legislation. It should be noted that we cannot make a factual judgment on whether the National Assembly is effective or otherwise premised on the above performance. This is because there is need for us

to design a benchmark which will determine the level of its effectiveness.<sup>32</sup>

There is no gainsaying the fact that the laws proposed by these members are themselves not effective and beneficial to the people. On a number of grounds, the legislature has been able to make laws that have saved the country from the path of peril. Such occasions are too numerous to mention but a case in point is the Doctrine of Necessity clause that enabled the Vice President Goodluck Jonathan to become acting president when President Umar Musa Yar'Adua was incapacitated. This has become a law applicable to the three tiers of government even if the principal did not hand over properly. In addition, the legislature also has the added responsibility of conflict mediation and resolution. The legislature has established an enviable record of performance in this regard. For instance, since 1999 the legislature has positively intervened and settled several government-labour disputes, be it over minimum wage or maltreatment of worker(s), the fuel subsidy crisis, and more recently the ASUU and ASUP demands for better conditions of service in the universities and polytechnics respectively.

#### FACTORS UNDERMINING LEGISLATIVE EFFECTIVENESS IN DEVELOPING DEMOCRACIES

Legislative ineffectiveness can be attributed to a number of factors. First, the dearth of experienced legislators is militating against the institutionalisation of professionalism in the parliament of most developing democracies. Many people in these developing democracies (Nigeria inclusive) share the notion that once a legislator serves two terms, such should retire for another person to take charge. Since experience is an individual innate property that cannot be transferred, the new legislator will have to start afresh by learning legislative terminologies and procedures. This might take him/her the entire four years. If lucky to be returned for sophomore term, he/she would start establishing authority and settle down for effective legislative activities based on the acquired

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32. This will be done in my ongoing Ph.D research, as earlier mentioned.

experience. After four years, same notion applies and the cycle continues. This negates what is obtainable in the developed democracies where there are many career legislators who have spent decades in the parliament and have become professionals. This poses threat to legislative effectiveness as it is arguable that there is significant correlation between the (in)effectiveness of a legislator in his/her freshmen term to sophomore terms.<sup>33</sup>

Second, the lack of sincerity of purpose on the part of the legislators to fight corruption is also militating against their effectiveness. Most corruption investigative committees of the legislature are deficient in performing the checks they were meant for. In some cases, the investigating committees have been caught arm twisting the suspected public officers into giving them money in order to twist the case by vindicating the suspects (*see cases in Table 2*). On many occasions, it has been alleged that government ministries and agencies do connive and bribe the legislators to increase their budgetary allocation even above what the president submitted for legislative approval.

The public misconception of the legislature is another factor that is contributing to legislative ineffectiveness. Many people confuse the roles of the legislature to that of the executive thereby setting higher expectation for the legislators. In Nigeria, the constituency residents expect their legislators to provide roads, hospitals, electricity, water, schools, employment and even empowerment programmes, all of which falls within the purview of the Executive. The failure of the legislators to provide these amenities makes people to see them as ineffective. To avoid this, the legislators are bound to go the extra mile running after ministers for contract and attempting to influence government agencies to provide these amenities. These always come with a price of compromise. The question is: How do legislators investigate and scrutinise the minister whom they begged to provide infrastructural facilities for their constituencies? In addition, the public also misconceived the running costs of the legislators. People are just interested in the sum total of the

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33. This hypothetical assumption is been subjected to verification and validation in my Ph.D research work on legislative effectiveness in Nigerian National Assembly.

money accrued to a legislator but discountenance the fact that such funds are meant to pay the salaries of legislative aides, constituency office staff, and research consultants as well as travel allowances, among others. This makes people to have negative perception of the legislative image thereby seeing them as going to the assembly to do nothing other than to share money.

Another factor contributing to legislative ineffectiveness is the nature of Nigerian politics. Election has become a highly capital intensive to the extent that the huge amount required to stand for election has more often than not made contestants to sell their properties, obtain bank loans and solicit for godfather sponsorship with the view that they are making investment. On getting into office, such legislators are bound to compromise and cut corners to recoup the money spent and pay back the godfathers in a profitable ratio. In this case, how does one expect such legislators to sincerely legislate to combat corruption in which they are also culprits?

#### CONCLUDING REMARKS

As evident in this paper, the fact that the legislature occupies the centre stage in democratic project is uncontested; so the fact that effective discharge of legislative duties cannot be compromised for attainment of good governance, democratic consolidation and sustainability in developing democracies. However, measuring legislative effectiveness has become problematic not only in developing democracies but also in developed ones. The lack of a universally accepted benchmark is contributing in no small measure to this daunting challenge. This does not totally make an assessment of legislative effectiveness an impossible feat. In view of this, one would agree that this work have been able to assess legislative performance in developing democracies and highlighted the factors contributing to the ineffectiveness of the legislature with reference to the Nigerian case. Though, the paper does not claim to capture the complexity of the exercise; rather there is no doubt that it has successfully provides some snapshots based on the prevailing trajectories and shed light on the challenges ahead for further research consideration.