

IGERIAN LAW AND PRACTICE IN A GLOBALIZING WORLD

HAFSAT NASO SA'ADU ESQ.
Solicitor & Advocate

Edited by:

Mohammed L. Ahmadu (PhD)
(Professor of Commercial & ICT Law)

Mansur I. Said (PhD)
(Senior Lecturer)

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CHAPTER TWENTY THREE

COMPOSITION AND INTERNAL STRUCTURE OF LEGISLATURE

MRS HAFSAT IYABO SA'ADU

Introduction

This chapter examines the composition and internal regulatory structures of the legislature. It also looks at the various aspects of the laws and practice of legislative business. Democratic principles are so universally accepted that elective governments are the vogue of global politics today.

The composition of legislatures varies throughout history and it varies at any one time from one country to another. Legislatures represent their society and so they are made up of members who resemble their constituencies. In the United State Congress for example, legislature is composed of white, middle-class males who are lawyers by training, reside in the constituencies they represent; and belong to opposing political parties. But in Great Britain, members of parliament do not necessarily reside in their constituencies and in Nigeria certain social and political factors dictate the position. The members were from all walks of life. They were self-made men, lawyers, academics and so forth- all of them with varying shades of political opinions.

However, the primary function of legislature is law making under the Presidential Constitution in Nigeria like in the United State of America. Law-making or legislation appears to be the most important act of governance. These affect every facet of life of the society in term of social, economic, political, science and technology. It is a way of legitimatizing government decisions and policies. Government decision and policies directly affect the life of the societies and invariably the life of the citizens. Therefore, such decision must be critically screened before they become binding on all. Also, the people behind such decisions must be ascertained and their membership must be legal, having qualified and eligible for such position initially.

In order to build a virile democratic structure, the legislature must be properly composed with legally qualified and highly motivated membership in term of both academic and professional qualifications and with varying degree of experience in both private and public sectors of the polity in order to build a strong central government and a very strong Nation. In most parts of the world, most legislatures have the power to establish their rules to guide their conduct in running the affairs of the House. For instance, Article 1 of the American Constitution outlines the basic

structure of the Congress and authorized each House to establish rules and procedures for its operation.

Composition

The Legislature in Nigeria had always been bicameral. Under the parliamentary system of 1960 to 1966, there were the upper and the lower House i.e. the Senate and the House of Representatives. Until now there is no difference in that arrangement except in term of composition, membership, quality and functions. These differences are the consequences of change in the constitutional setting from parliamentary to presidential system, and also the increase in the size of the country coupled with the growing complexity of the polity arising from creation of States in 1976 while abolishing regionalism, and the successive creation of more States across the country by the successive administration.

In Nigeria, there had been agitation for equal representation in the polity. But what determines the legislature in Nigeria is the Constitution and certain social and political factors. Membership of the Senate is based on equal representation of the states of the federation, except for Abuja, the Federal Capital Territory. The 1999 Constitution provides as follows:

(a) The senate shall consist of three Senators from each state and one from the Federal Capital Territory.¹

(b) The House of Representative shall consist of three Hundred and sixty members representing constituencies of nearly equal population as possible, provided that no constituency shall fall within more than one state.²

By examining the foregoing provisions of the Constitution, it is observe-able that in the case of the Senate, there are three Senators from each state and one from the Federal Capital.³

The Constitution further provides that the Independent Electoral Commission⁴ shall divide each state of the federation into three senatorial districts for the purpose of election to the senate. In other words, membership of the Senate is based on equality of states.

¹ Section 48, see also section 44 and 46 of 1979 and 1989 Constitution respectively.

² Section 49 see also sections 45 and 47 of 1979 and 1989 Constitution respectively.

³ Section 71 (a).

⁴ Established by S. 153 of the 1999 Constitution and its powers, including those of delineation of senatorial districts and Federal Constituencies are provided under section 71 of the Constitution.

This principle of Senatorial equality of states is not peculiar to Nigeria. In the United States of America, the senate consists of two senators from each of the federating states, irrespective of size, or population. This has been said makes the senate in the United States "prospector of states' right."⁵ The Constitution of the U.S. provides in that the House of Representatives shall be composed of members chosen every second year by the people of several states.⁶

The composition of the Senate under the 1999 Constitution is a departure from the composition under the 1979 Constitution, which provides for five Senators from each of the 19 States of the Federation making a total of ninety-five Senators.⁷ The composition dropped to ninety-one under the 1989 Constitution,⁸ three Senators from each of the states of the Federation and one Senator for the Federal Capital.

The states have been increased to thirty from the previous nineteen. The Federal Capital Territory has been accorded constitutional recognition. The reduction in the size of senatorial representation of five to three from each states of the Federation could be a way of ensuring a small and manageable senate in terms of number and funding. After all, the effectiveness and efficacy or otherwise of senate do not depend on its quantitative but its qualitative membership.

By the year 2003, the United States has a total population of about 290,342,550 but with 100 Senators. India with its 1,049, 700, 100 in 2003 has a total of 245 Senators, France with a population of about 60,180,529 has 321 Senators while Canada with its small population of about 32,207,133 in 2003 has 104 Senators, South Africa with a population of 42,768,678 in 2003 has 90 Senators with about 19, 731,984 population.⁹

Comparing the above Senatorial representations on population basis will show that the United States has only 1 senator to about 2.9m of its large population, India has one senator to about 4.2m population, France has 1 senator to about .18m people, Canada with 1 senator to about .3m people, South Africa 1 senator to .47m people, Australia has ratio 1:1.6m while Nigeria in 1979 with about 80m people has 95 senators, i.e. ratio 1:8m by about population of 100m in 1999 with 109 senators, on ratio 1:1.1m it is important to note that an unwieldy Senate would not allow for effectiveness and efficiency in the management of the House.

⁵ Philip Laundy, *Parliaments in Modern World* (Alder shot: Darmouth Pub. Co. Ltd. 1989 p. 5.

⁶ Article 1,2.

⁷ Section 44.

⁸ Section 46.

⁹ <http://www.Soc.Umn.ed/~sss mith/parliaments.html>.

The Constitution provides for the composition of the House of Representatives; it shall consist of three hundred and sixty members representing constituencies of nearly equal population. No one constituency shall fall within more than one state. In other words, each state shall be divided into one or more constituencies, depending on the population of the state.¹⁰ The Constitution provides further for the representation of the Federal Capital Territory, Abuja, it shall constitute one senatorial district and as many Federal constituencies as it is entitled to under section 49 of this Constitution.¹¹

In furtherance of the above, under the 1989 Constitution¹² the Federal Capital Territory was entitled to four constituencies, there is no specific number of representations for the Federal Capital Territory in the House of Representatives under the 1999 Constitution.

The Federal Capital Territory has the status of a state,¹³ hence there is no need to prescribe a specific number of representatives for it in the House of Representatives, but its representation shall be on the basis of its population as prescribed under section 49 of the constitution. Thus, it is now with two members in the House of Representatives¹⁴ out of the total three hundred and sixty members.¹⁴

The House of representative as presently composed is on ratio 1 to about 28m. in the United States, it is on ratio 1: 67m, India, 1:1.9m, France, 1:104m, Canada, 1:107m South Africa, 1:107m, and Australia has 148 elected members representing its 19,731,948 population which translates to ratio 1:133m.¹⁵

The comparative indication shows that of all the samples Nigeria has the second largest representation in the House of Representatives apart from India. A large representation does not account for a better legislative performance, and as earlier argued, the quality of legislature lies in the quality of its members.

The 1999 Constitution further provides for the Office of the Senate President, the Deputy Senate President, the Speaker and Deputy Speaker of the House of

¹⁰ Section 44, 1999 Constitution.

¹¹ Section 300, *Ibid.*

¹² Section 314.

¹³ Section 299, 1999 Constitution.

¹⁴ Anyanwu, Chris ND, *The Law Makers federal Republic of Nigeria (1999-2003)* (3rd ed) (place not stated, START CRAFT INTERNATIONAL, 1999) pp. 228-229.

¹⁵ <http://www.soc.umn.edu/~op.cit>.

Representatives, all of whom shall be elected from their respective members.¹⁶ This is in line with the practice in India, Great Britain and most of its dominions.¹⁷ The Constitution of the United States of America¹⁸ provides for those officers of the Congress, but does not specify that they shall be members of the congress.

However, the U S Constitution¹⁹ provides that the U.S Vice-President shall be the Senate President, but he shall have no vote unless a deciding one. The Senate shall choose a *pro tempore* President in the absence of the Vice President. It is important to note here that the provision of Article (3) of the Constitution is an indication that there is no absolute separation of powers, even in the United State. Also, looking at the wording of the relevant provisions, there is nothing to suggest that the *pro tempore* President of United States may come from outside the Senate.

Membership Qualifications

The Constitution²⁰ provides for the conditions that must be satisfied before any aspirant can contest election to the Senate or the House of the Representatives under the Nigerian Constitution. The qualifications are in two parts: subject to the provision of section 66 of this Constitution, a person shall be qualified for election as member of:

If he is a citizen of Nigeria and has attained the age of thirty-five years: and House of Representative, if he is a citizen of Nigeria and has attained the age of thirty years.

A person shall be qualified for election under sub- section (1) of this section if he has been educated up to at least school certificate level or it equivalent: and he is member of a political party and he is sponsored by that party.

Constitutionally, membership of the legislature is based on popular election and the qualification of the electorates is based on universal suffrage. The Constitution²¹ provides that every citizen of Nigeria, who has attained the age of eighteen years and who is residing in Nigeria at the time of registration of votes for the purposes of

¹⁶ Section 50; see also sections 46 and 48 of the 1979 and 1989 Constitution respectively.

¹⁷ Seervail, H.M., *Constitutional Law of India A critical commentary* 2nd Ed. (Bombay, N.M. Tripathic pr. Ltd, 1976) pp. 1152-1153.

¹⁸ Article 1 (3), see also Akande, J.O. *Introduction to the 1979 Nigerian Constitution* (London, sweet and Maxwell, 1982) pp.48.

¹⁹ Article 1(3).

²⁰ Section 65 of 1999 Constitution.

²¹ Section 77; and see also sections 109 and 75 of the 1970 and 1989 Constitutions the provisions of which are in *pari materia* with those of S. 77 of the 1999 Constitution.

election into the legislative house shall be entitled to be registered as a voter for that election. The electoral system as far as election to the National Assembly is concerned, is restrictive to eighteen years of age and residency at the time of registration of voters for that election.

The restriction to residency may be because only those who are resident in the country at the time of the registration of voters for the purposes of that election are in better position to have the knowledge of the personalities who are contesting the election. Also, their presence in the Senatorial district or Federal constituencies might avail them of the opportunity to have a critical assessment of the alternative contestants and then make a wise choice.

In most systems the minimum-voting age is 18. It is dazzling that in a developing nation like Nigeria where level of education is low, a person of eighteen years of age is called upon to decide who should perform the all important legislative functions of the nation. This is bearing in mind the fact that only very few people within that age bracket are conversant with or understand and appreciate the importance of the legislature to nation building. It will be of immense benefit to the country if the age prescribed for elections into the nation's National Assembly is the same with the age for voting. After all, there are some countries where such is being practiced²² this it is believed would enhance the quality of men and women who contest elections into the parliament.

Comparatively, there are similarities in the qualifications for membership of the National Assembly and those of members of parliaments and congresses in other countries of the world. In the United States, a person shall only be qualified for membership of the Senate if he is thirty years of age, twenty-one years of age for the House of Representatives. Such person must be a citizen of the United States and must be an inhabitant of the Senatorial district or the Federal Constituency.²³

In Britain, for the House of Commons, it is citizenship, and attainment of twenty-one years of age until changed in 1969 to eighteen years of age for both the Commons and the Lords.²⁴ In India, the age qualification is thirty years of age for the Council of State (Upper House) and twenty - five years of age for the House of people (Representatives)²⁵; it would appear that Indian Constitution does not provide for

²² Laundry, *op. cit.* pp 4-15.

²³ Article 1(2) (3) of the of the U.S. Constitution.

²⁴ De-Smith, S.A. *Constitutional and Administrative Law* (3rd Ed) N.Y., Densu Books Ltd. (1978) pp. 241-243.

²⁵ Articles 84 of Indian Constitution.

citizenship qualification as in Nigeria, United States and Britain. However, Article 84 of the Constitution provides for the possession of other qualifications as may be prescribed by or under any Law made by the parliaments.²⁶

Apparently, we would observe that age qualification is common to Nigeria, United States, Britain and India, even though there are differences as to limits. Also, while citizenship qualification is constitutionally prescribed in Nigeria, United States and Britain, it is not so in India. Except in the United States, none of the other constitution requires "inhabitation" as a qualification for election into the parliaments. It may be argued in favour of the requirement that it allows those who are resident and conversant with the problems of the particular area to represent the people in either the Senate or the House of Representatives. This is a different situation where the moneybags would sponsor a "foreigner" to the House.

Furthermore, apart from Nigeria, none of those other countries has any requirement for educational qualification. It would appear that only Nigeria of this group has membership of and sponsorship by a political party as requirement for election into the parliament.

It is however observed that the differences and similarities in the qualifications are consequent upon constitutional experience and the political environments of individual nations. For instance, Britain and the United States may not have reasons for including educational qualification because of their high-level of education and vast experience in parliamentary democracy.

In Nigeria, it may not matter how a person acquires citizenship, but when he acquires it he is a citizen. In the case of citizenship by registration and naturalization, a person may acquire qualification today and contest the election the next day. The problem is that this is not too good for our legislative system especially when money politics is in vogue in the country. It allows a person who has never for a day passed a night in Nigeria or even in his ward, district and constituency to contest election into the National Assembly having maneuvered to secure his citizenship by Registration or Naturalization. When compared with what is obtainable in the United States, it would be appreciated that the approach in the United States is a better option.²⁷

²⁶ An Act of the Indian parliament is likely to have prescribed such qualification, none can be laid hand upon at the time of this work but indeed there must have been such. Citizenship qualification is very important in parliamentary membership qualification requirement that no nation would want to leave its parliamentary functions in the hands of foreigners or aliens whose loyalty and allegiance to the nation cannot be guaranteed.

²⁷ See Article 1 (2) Kenneth Bradshaw, et al. *Parliament and Congress* (London: Quartet Books, (1981) pp. 87.

Today, the trend in parliamentary representation, especially in the Lower House (1979-1983) and (1999-2003) has shown that most of the members of the House do not have enough experience either in the private or public sector of the nation that would enhance their legislative performance, though they may be better off academically or professionally.

The age limit prescribed by the 1999 Constitution (thirty five years for the Senate and thirty years for the Representatives) seems to be in order, if we take into consideration the restrictive age qualifications in other jurisdiction it must be put in mind that the situation in Nigeria may be different from what is obtainable in other countries where there are opportunities to acquire various experience over the years such that would enhance their performance in legislative functions. While commenting on the age requirements under the 1999 Nigerian Constitution, Anyanwu observes:

... Perhaps in recognition of the complexity of a Presidential legislature and of the weaknesses manifested in the second and third Republics Legislatures, two major amendments have been made: one raises the minimum age for a member of House of Representatives from 21 years in 1979 to 25 years in 1989 and to 30 years in 1999.²⁸

However, talking about age requirements in the America Constitution the Federalist stated that:

The propriety of these distinctions is explained by the nature of senatorial trust which requiring greater extent of information and stability of character, requires at the same time that the Senator should have reached a period of life most likely to supply these advantages, and which, participating immediately in transactions with foreign nations, ought to be exercised by none who are not thoroughly weaned from the possession and habits incidental to foreign birth and disposition.²⁹

The reality on ground now in the House of Representatives is that the thirty years age requirement is no longer attractive and proper. According to Anyanwu,³⁰ about 46.5% of the members are between the ages of thirty and forty years. This compared with the position in 1993 when those between the same age bracket constituted about 52.4%

²⁸ Anyanwu, *op. cit.* pp. 31.

²⁹ Quoted by Bradsshaw, et al., *op. cit.* p. 87.

³⁰ Anyanwu, *op. cit.*, pp. 51.

will show that between 1993 and 1999 the participation of those between these age bracket has dropped by 5.9%. This is an indication that between 1993 and 1999, the age distribution of those aspiring to the House of Representatives is on the increase. In 1993, those members about the age of forty years constituted only 47.6% it increased to 53.5% in 1999. The position in 1979 was different in that majority of those who constituted the House of Representatives were between the ages of thirty-five and forty-five years of age. The reason for the sharp difference between the age compositions in 1979, 1993 and 1999 (a period of about 20 years) has been summarized thus:

The House of Representatives continued to hold attraction to the young, upwardly mobile, a trend, which become quite significant following Babangida's inducement to the 'yuppies' to get involved and change the direction of the Nation.³¹

The above observation is a correct assessment of the event leading to the upsurge in the number of 'yuppies' in the House of Representatives in 1993. It would be observed that some of those 'yuppies' in the House in 1993 were fresh school (including tertiary institutions) leavers who have no credentials to actually qualify them for parliamentary jobs. It is a fact that those who aspire to lead their fellowmen must be people of sound knowledge and wisdom, which may be lacking in fresh school leavers; experience is acquired over a period of time.

There is no much difference in the situation of composition in the Senate where about 26% of the 109 members fall between the minimum age requirement of thirty five years and forty five years, 49% between the age of forty six and fifty five while 25% are fifty six years and above.³²

Therefore, going by the nature and importance of the Senate one cannot but agree that the situation in the Senate where those members above the age of forty-six years are in the majority is a good thing to happen to Nigerian nascent democracy. This clearly shows that the Senate holds attraction to only those who are matured, who are likely to have proved their worth in other facets of our national life and who have brought to the senate their wealth of experience whether in public or private sectors of the Nigerian nation.³³

³¹ Ibid.

³² Ibid, pp. 51-52.

³³ See also PP. 53-54. 33 See fn 62. 34 section 63 (2).

On educational qualification, the requirement is at least school certificate equivalent.³⁴ This is peculiar to Nigeria³⁵ because most of the World democracies do not have a similar requirement.³⁶

It is observed that the levels of literacy in those countries are already high and may justify for absence of educational qualification as a requirement for entry into the Legislature. This is in contrast with Nigeria where the level of literacy is still low. The experience of the 1979-83 National Assembly also informed the need for such a requirement. According to the Chairman of the Constituent Assembly, Aniagolu, though without dealing with the philosophy of the requirement:

Even at the teeth of opposition by some members, the House felt that it was necessary to uplift standards in our Houses of Assembly and the National Assembly and inserted educational qualification of a minimum of school certificate for entry.³⁷

Going by the above quotation, it is clear that the only obvious reason for the inclusion of the clause on educational qualifications is primarily to up-lift the standard in the Houses of assembly and National Assembly. This is to say that in the past Assemblies there may have been a standard, but apparently not satisfactory. In the 1979-83 House of Representatives was composed of 450 members out of which personal data were available for 336 members.³⁸ Of this, about 228 (67.9%) members had a minimum of school certificate or its equivalent.

Also, about 98 of the 336 members, had experience either in the public or private sector of the Nigerian economy.³⁹ What accounts for this scenario is our level of economic development or our status as a developing nation.

The position was almost the same in the 1979 Senate. Of the 95 members, personal data were available for 68 members.⁴⁰ A total of 63 (71.6%) members had a minimum

³⁴ See fn. 62 post.

³⁵ Section 63 (2).

³⁶ See generally Art I (2) and (3) of U.S Constitution, Art 84 of Indian Constitution, and De-Sa *op. cit.* pp. 241-243.

³⁷ Aniagolu, A.N., *The Making of the 1989 Constitution of Nigeria* (Ibadan: Spectrum Books Ltd 1993) pp. 150.

³⁸ Federal Department of Information, (1983) "Nigeria who is who in the Legislature" (House of Representatives) 1979-1983.

³⁹ See Appendix A for detail analysis on state by states basis.

⁴⁰ Federal Department of information (1983) "who is who in the Senate."

of school certificate and the remaining 25 (28.4%) members had qualifications above the school certificate level. Worst still, only about 25 (28.4%) of them had either public or private sector working experience at managerial level prior to becoming Senators.

Occupational and professional distribution was not better; about 9 members belong to the legal profession, 1 in the Accountancy, 3 medical practitioners, 2 in the Engineering and 3 in the Academia while 2 to the other occupational and professional callings.⁴¹

The quality in the composition of the 2 Houses of the legislature in 1999 shows a tremendous improvement over that of 1979. Though there is still need for greater improvement if Nigeria must rank among the best parliaments in the World. Anyanwu has painted a better picture of the 1999 National Assembly when he says:

There is something that happens when one views this National Assembly as a whole... In numbers, it is smaller than the third Republic Assembly but in aura, it is larger. It exudes the air of renewed confidence that at last, Nigeria has got it right, that this is "the real thing". The National Assembly continues to be among the largest in the developing World but it also inspires hope in the continued upward trend in the quality of its membership. From the first to the second and the third and now the fourth Republic, the face of the Nigerian Law makers has changed. It is a change that equally, mirrors the steady transformation of the nation state and its people. No longer dominated by rustic, unschooled peasant farmers.⁴²

The last requirement for election into either the Houses of the National Assembly is membership of and sponsorship by a particular political party.⁴³ This requirement was not provided for under both the 1979 and 1989 Constitutions, respectively. This means that under both 1979 and 1989 Constitutions, there was room for independent candidature. But, it was doubtful if any one got to the National Assembly without having been a member of any of the political parties.

This may serve as a reason or one of the reasons for excluding independent candidates from contesting elections into the National Assembly. Under the United States

⁴¹ See Appendix B for detail analysis on state-by state basis.

⁴² Anyanwu, *op. cit.* pp. 50.

⁴³ See section 65 (2) (b) of the 1999 Constitution.

Constitution,⁴⁴ membership of a political party is not required to contest election into the Houses of the Congress. Although it may be difficult to see any member of the Congress who was not a party member before his election into the Congress, this may be only a convention. Thus is *Powell v McCormack*.⁴⁵ The Supreme Court held that even though the Congress is constitutionally empowered "to be the judge of the Elections, Returns and Qualifications of its own members, the Congress cannot prescribe any other qualifications outside provision of the Article (1) and (3) of the Constitution. The fact is that the qualification provided in the U.S. Constitution is not elaborate enough and that does not mean that the legislature can go outside the Constitution to enlarge the constitutional requirements. It would not matter that "... House shall be the judge of the Elections, Returns and Qualifications of its own members..."⁴⁶

By implication therefore, provisions of Art 1(4) (5) would not avail the Congress in making extra-constitutional requirements.

Therefore, there is nothing in the US Constitution excluding independent candidate from election into the Congress. To this extent, candidates for elections into the Congress emerge from three sources, some are sponsored by political parties (especially in the states where there is strong party organization), some by interest groups, and some were self-sponsored.⁴⁷

The position in Britain is similar to that of the United States. It has been observed that selection of candidates for British parliament is far more strongly under the control of the political parties.⁴⁸ However, some candidates were yet sponsored by interest groups especially the unions.⁴⁹ In Germany, membership of political party is legally required, yet interest groups play substantial roles in the selection exercise.⁵⁰ The position in India is not clear. The constitution is short of membership of political parties to qualify for election into the parliament, but it empowers the parliament to make extra-constitutional qualification for election into the parliament.⁵¹

⁴⁴ Article 1 (2) (3). It should be noted that the Constitution Art 1 (4) allows each state to make electoral law for the Purpose of election in respect thereof.

⁴⁵ 1969, 395 U.S. 486, 89 S. ct.

⁴⁶ Article 1 (5).

⁴⁷ Gerhard Loewengberg, et al., *Comparing Legislatures*, (Boston, 1979) pp. 86-89.

⁴⁸ Gerhard, *op. cit.* pp. 89.

⁴⁹ *Ibid*, pp. 90.

⁵⁰ *Ibid*, pp. 91-94.

⁵¹ See Art 84 of the Constitution.

So far what one is able to deduce from the above is that whether or not party membership and sponsorship is constitutionally required for election as a legislator, political parties play vital roles in the selection of candidates. Apparently, membership of and sponsored by political parties as conditions precedent for election into the legislature has little or no impact on the quality of the legislature. At best, it makes the legislature a stooge of some unseen powerful individual political power brokers whose interest may be at variance with the collective interest of the nation.

Quorum

The Nigerian 1999 Constitution⁵² provides for the Senate or the House of Representatives to be one-third of all members of the Legislative Houses. It provides further that a joint sitting of both the Senate and House of Representatives shall be one-third of all the members of both Houses. If the number of members present is less than one-third then the person presiding shall adjourn the House.

The American Constitution also provides that a majority of members of each House shall constitute a quorum, the minimum number of members required to be present for the conduct of business; that each House shall keep a public record of its proceedings; and at the request of one-fifth of the members present, the vote of each members must be recorded. Except for these requirements, the Constitution authorizes each House to determine its own rules of procedure.⁵³

Disqualification

The 1999 Constitution provides for a volume of disqualifications part of which could have been better part of qualifications for election into the National Assembly. One of such disqualifications is renunciation of Nigeria citizenship. This would appear as a surplus age because the operative phrase of that section reads:

No person shall be qualified for election to the Senate or the House of Representatives if...

The import of this phrase is that any person who renounces the citizenship of Nigeria cannot contest election into the National Assembly: an un-discharged or adjudged bankrupt, a lunatic or a person of unsound mind, a person under sentence of death or a person who has been convicted for any offence involving fraud or dishonesty or found guilty of contravening the code of conduct (all without pending appeal before a court or tribunal of competent jurisdiction) stands disqualified from contesting election int

⁵² Section 54 (1) and (2).

⁵³ Schick, Pfister, *American Government Continuity and Change* (U.S.A 1975) pp. 146.

the National Assembly. Also, a serving public servant or a member of any society is disqualified as well.⁵⁴

However, matters for disqualifications should deal with those events, situations conditions that would make elected member lose his seat in the Assembly after he has been sworn-in as such a member of the Senate or the House of Representatives. In the American Constitution, it is the inability of a candidate to meet the qualification requirements of the Constitution that disqualifies such candidates from contesting election into the Houses. The same applies to Britain and the United States of America.

The tenure of the National Assembly is four years commencing from the date of its first sitting.⁵⁶ The Constitution provides for such events, situations or conditions that would make a member vacate his seat in either of the Houses of Assembly. Interestingly, part of the provisions stands enough disqualification in all angles. It says:

A member of the Senate or of the House of Representatives shall vacate his seat in the House of which he is a member or any other circumstances arise that, if he were not a member of the Senate or the House of Representatives, would cause him to be disqualified for election as a member.⁵⁸

Imperatively, rather than "disqualification" dealing with conditions precedents to election into the National assembly, they should deal purely with circumstances which would make a member lose or vacate his seat in the Assembly after he has been sworn-in and has taken his seat.

In the United States of America, all representatives are elected on the same day whereas the Senate system of staggered six year terms in a given November election only one-third of the Senate seats are contested. This means that the term of office of Senators and Representatives elected for a full term from 3 January of the year following their election. Congress is required to meet at 12 noon on that date, unless they appoint another day by law. Term of office expires with the Congress on the same date two years later.⁵⁹ Every fourth year, therefore, the President, the Vice

⁵⁴ Section 66 (1) (a) - (b).

⁵⁵ These include the age, citizenship and residency requirements as earlier discussed.

⁵⁶ Section 64.

⁵⁷ Section 68.

⁵⁸ Section 68 (1) (b).

⁵⁹ Amendment xx, 1 and 2.

the House of Representatives and one-third of the Senate is elected, the other two-thirds of the Senate being unaffected. Every second year the Whole of the House and a different third of the Senate go to it, while the President and the other two thirds of the Senate look on.⁶⁰

This careful spacing foremost in the minds of the founding fathers of the Constitution was the need to afford as little opportunity as possible to tumult any disorder at election time.⁶¹ National elections in Britain are less frequent than in the U.S. The whole of the House of Commons include the Prime Minister as Chief Executive and his Cabinet colleagues in the Commons have to be renewed, which means that the Majority of the House, and so the identity of the next Government, is in question. The House of Lords, though exempt from popular election in the political colour of the Ministers appointed on the advice of the incoming Prime Ministers to lead it and in the seating arrangement for its memberships.⁶² The Statutory life of a Parliament is limited to five years.⁶³ It is dissolved automatically. In practice, the royal proclamation dissolving a parliament appoints a day for the meeting of its successors, thus implicitly recognizing the need for continuity. But before the term is reached, it may be dissolved by an exercise of the royal prerogative. In Britain, a new Parliament meets on a day appointed by the Sovereign in the royal proclamation dissolving the previous parliament. It is important to note that continuity rule is recognized in both American and British Constitutions but this is not so with Nigeria. The Nigerian Constitution is silent on this.

Section 64 (1) the 1999 Constitution provides for the dissolution and issuance of proclamation by the President to dissolve the Senate and the House of Representatives at the expiration of a period of four years commencing from the same date of the first sitting of the House. It further provides that if the Federation is at war in which the territory of Nigeria is physically involved and the President considered that it is not practicable to hold elections, the National Assembly may extend the period of four years from time to time but not beyond a period of six months at any one time. The President is empowered under subsection (3) of the above section to issue a proclamation for the holding of the first session of the National Assembly after its being sworn in.

The internal structure and organization of the legislatures are often regulated by the Constitution, statutes or rules of the House and these vary from country to country.

⁶⁰ Bradshaw, et al., *op. cit.* pp. 79.

⁶¹ See for example *The Federalist* (1788), No. Lxviii.

⁶² Bradshaw, et al, *op. cit.* pp.80.

⁶³ *Ibid.*

Chambers

The Nigerian National Assembly is a bicameral body, consisting of the Senate and the House of Representatives. The Senate has 109 members while the House of Representatives has 360 members. The two Houses of the Nigerian Legislature rank equally whether by means of legislation, resolution or otherwise of the functions conferred on the National Assembly by the Constitution.⁶⁴

As far as a power exercisable by resolution is concerned a motion has to be proposed and passed in each House. A resolution on a matter by one House alone does not make it a decision of the National Assembly, unless and until the other House adopts it. If a motion passed in one House is lost or held up in the other, the matter lapses.

As for legislation, a bill on any matter within the legislative competence of the National Assembly may originate in either House and subject to the procedure for resolving disagreements over a money bill; the passage requires the separate concurrent of both. Neither can override the other in any matter.

Therefore, a bill passed by one House but not the other lapses completely likewise an amendment proposed by one must be agreed by other or it lapses in its entirety. The implication is that in a conflict in which each House is unwilling to yield to the other, the bill is killed completely. The only exception is the case of money bill and the reason is the imperative need to ensure that money is appropriated for carrying on the administration of government and its services.

The American Constitution provides for a two- House Congress of bicameral legislature; that is, a law making body composed of two Houses- the Senate and the House of Representatives. The Senate has only 100 members and the House has 435. This plan of organization stems from the great compromise between the small and the large states at the constitutional convention of 1787.⁶⁵

The Senate and the House of Representatives are separate. They have no common leader but generally have equal constitutional status like Nigeria National Assembly. The two Houses must pass a bill in identical form if a bill is to become law, this duplication of process gives the opportunities for double deliberation on legislative proposals.

⁶⁴ Ademola O. Popoola, "The Place of the Legislature in the Nation's Political Process" being a paper commissioned for presentation at the National Workshop on the Nature and Scope of the Legislative Process under the 1999 Constitution, organized by Capital Research Consulting Limited and Itse Sagay & Co. (Law Firm) 15-17 September, 2003 at pp. 4-5.

⁶⁵ Schick, *op cit*, pp. 145.

Article 1 states that Revenue Bill must originate in the House and appropriation of spending measures are also initiated in the House. Therefore, the House has augmented powers and responsibility with respect to fiscal matters. On the other hand, the Constitution gives the Senate the exclusive power of advice and consent in the matters of treaties with Foreign Countries in which case a two-third vote is required for approval; and of presidential nomination of Federal Judges, Ambassadors and top Administrative Officials in which case a simple majority vote is required. This gives the Senate extra influence with respect to the conduct of American foreign policy and judiciary. There are several other differences between the two chambers. The House of Representatives is obviously a much larger body than the Senate. The House is more centralized and evenly distributed than the Senate.

The United Kingdom is a unitary system, but it has a bicameral parliament. The British parliament consists of a popularly elected House of Commons of 635 members and a House of Lords of indeterminate size composed of all hereditary peers of the realm and appointed members designated as "life peers". Although more than a thousand persons are qualified to sit in the House of Lords in practice only about 300 Lords are regular participants in its sessions.⁶⁶ The legislative power of the House is virtually excluded from considering financial legislation, and it can only delay enactment of other kinds of bills for one year. Nevertheless, the House of Lords has played a constructive legislative role in deliberating on, revising and perfecting bills passed by the House of Commons without altering their policy objectives. A high proportion of Lord's amendments had been accepted by the Commons. Debate on bills in the House of Commons is often curtailed by the congested state of business but the Lords perform a revising function, with the exception of financial legislation. The house of Lords is also a debating chamber but it is less a scene of drama than the Commons because the ultimate sanction is lacking: the government stands or falls by what happens in the Commons, not in the Lords. This doctrine- that the government stands to fall by its majority in the House of Commons alone- made that House politically and constitutionally the dominant partner.⁶⁷ Like the United States and Nigeria, West Germany is a federal system. Its bicameral parliament includes a popularly elected House of 518 Representatives, 469 of whom are elected directed by the voters in its states and 22 of whom are selected by the City Council of West Berlin.

Its second chamber is called the *Bundestag*, or Federal Council unlike the American States; the forty-one voting members of the *Bundestag* are selected by the state governments, three to five from each state according to the states population. The

⁶⁶ Gerhard, *op. cit.* pp. 123.

⁶⁷ Bradshaw, *et al. op. cit.*, pp. 204.

members must be state government officials and each state delegation must vote in the *Bundestag* as a bloc.⁶⁸

The *Bundestag* is more than merely a co-equal of the lower House because it has a distinctive constitutional role to play a Federal House. It may introduce bills in the *Bundestag*, although it does not frequently do so. It can exercise an absolute veto over bills enacted by the *Bundestag* that affect the rights and interest of the states in executing or administering federal laws. However, ordinary legislation not affecting the administration of laws by the state may be enacted by the popularly elected House despite the objection of the *Bondservant* represents the state more directly than the United States Senate.

Parties

Since independence to date, Nigeria has no stable political structure. Unlike America and Britain, Nigeria has been operating a multiparty system. No thanks to incessant military coups and counter-coups. It is not a two party state like American. Nigeria has practiced both parliamentary and presidential system of government- and this is its Fourth Republic. In the last general election⁶⁹ that ushered in the present administration 30 political parties contested but these four dominant parties emerged. They are the Alliance for Democracy (AD), All Nigeria Peoples Party (ANPP), All Progressive Grand Alliance (APGA) and the Peoples Democratic Party (PDP).

The PDP as a political party present the presents Federal Government led administration we have in the Country today. Therefore, the Nigerian National Assembly is practically controlled by the party with the majority members in the House and that is the PDP. After the inauguration of the House, the Speaker of the House of Representatives and the Senate President normally emerged from the party with the majority members though the majority and minority leaders are appointed as well. But the minority leaders always come from among the other political parties. In a multiparty system the other political parties may find it difficult to form an opposition group.

The caucus of the controlling party finds it easy to influence the decision of the House because the party has the majority members of the House, they can put any motion in vote and they will emerge the majority. Already they have more than two-third majority of the House members.

⁶⁸ Gerhard, *op. cit.*, pp. 122.

⁶⁹ April, 2003.

Finally, in a multiparty system where one party has won majority of the legislative seats all of the ministers may come from one party.

The United States has a two party legislature. The Democratic party and the Republican party. In essence, both the United States and Britain have been described as having 'two party system' because in both countries only two parties have been serious contenders for national political power.

In both countries the political parties contain a broad spectrum of political opinions and any party wishing to become a majority coalition must be tolerant of different views without it.

The presiding officer of the United States House, the Speaker, is a partisan leader, the leader of the majority party. The complement of party leadership includes majority and minority leaders, assistant leaders, whips and deputy whips. Party caucuses (called "conferences" in the Senate and by House Republicans) play a moderately important role, which has been growing in recent years particularly in the House. They meet at least monthly; each elects its chairman; each has a policy committee, as well as a committee or committees which assigns its party's congressmen to the committees of the House. The principal powers of the caucuses are organizational the majority caucus in effect selects the presiding officer of the house and the committee chairmen; both caucuses appoint their party's member to committees.

The party organization of the British House of Commons assumes that parliament is composed of two parties, a governing party and an Opposition party. Parliament in Britain consists of Conservative and the Labour Parties. The leaders of the majority party make up the cabinets, the executive branch of British government, and the cabinet thus has considerable control over the Parliament. The effective leader of the House of Commons is a Cabinet minister. The presiding officer of the House, the Speaker, is an impartial Chairman charged mainly with procedural responsibilities.

In the Conservative Party, influence is relatively centralized in the party leader, who is elected by the Conservative members of the House of Commons. He /she becomes Prime minister when the party is in the majority, appoints a shadow cabinet in opposition, and chooses the chief Party whip. Conservative party organization includes a committee of all conservative MPS, called the "1922 Committee" after its year of creation, which meets regularly to discuss parliamentary issues.⁷⁰ The Labour Party of the House of Commons also elects a party leader as well as a deputy leader, a

⁷⁰ Gerhard, *op. cit.* pp. 132.

caucus chairman, a chief party whip, and a twelve-member parliamentary committee. This committee acts as a shadow cabinet in opposition.

In both parties, caucuses are held weekly, and specialized subject committees meet regularly with cabinet ministers or shadow cabinet members (depending on which party has formed the government).

Finally, the German parliament stands between Congress and the House of Commons so far as the relative importance of party and committee organization is concerned. Neither of the two largest parties in the German parliament, the Christian Democratic Union (CDU/CSU) and the Social Democrats (SPD), normally commands a majority of seats. Each is accustomed to government in coalition with another party, usually the small liberal party, the Free Democrats (FDP).

The parties are highly organized and disciplined within the Parliament. They hold weekly caucuses, and each caucus, called a *fraction*, elects its leader, deputy leader, and an executive committee. Furthermore, each has a set of specialized committees called working groups, which deal with the major fields of legislation. The SPD and the CDU/CSU have six such groups, several of them further divided into subcommittees; the smaller FDP has five working groups.

The working groups, which are in effect committees of each of the parliamentary caucuses specialized by subjects of legislation, are closely linked to the regular standing committees of the *Bundestag*. The chairman of each working group is usually the party's spokesman in the standing committee dealing with the same subject.

Committees

Committee structure of the Nigerian National Assembly involved some British influence on the one hand and largely the United States' influence on the other hand. This is but an accident of the development of parliamentary practice in Nigeria from the Westminster to the present Presidential system. The growth of parliamentary committee system, as usual cannot be different with the general pattern of the growth of its parliamentary democracy. However, with the presidential system and its peculiarities there may have been some changes.

The committee system of the National Assembly was introduced, in its present outlook, by the 1979 Constitution⁷¹ and subsequently adopted in the 1999

⁷¹ Section 58.

Constitution.⁷² The same provisions are now entrenched in 1999 Constitution. It provides:

- (1) The Senate or the House of Representatives may appoint a committee of its members for such special or general purpose as in its opinion would be better regulated and managed by means of such a committee and may appoint by resolution, regulation or otherwise, as it thinks fit, delegate any functions exercisable by it to any such committee.
- (2) The number of members of a committee appointed under this section, their terms of office and quorum shall be fixed by the House appointing it.
- (3) The Senate and the House of Representatives shall appoint a joint committee on finance consisting of an equal number of persons appointed by each House and may appoint any other joint committee under the provisions of this section.

Nothing in this section shall be construed as authorizing such House to delegate to a committee the power to decide whether a bill shall be passed into law or to determine any matter which it is empowered to determine by resolution under the provisions of this Constitution, but the committee may be authorized to make recommendation to the House on any such matter.⁷³

The committee system has over the years been an instrument for a well-organized legislature for effective and efficient legislative performance. This is sine-qua-non- to socio-economic and political development of the nation. This is because government policies are initiated by the executive in the form of legislative bills, which are forwarded to the parliament for passage into laws. Most of the processes undergone by these bills before they finally become laws were undertaken at the committee level. The Committees thus work as mini legislature in which legislative proposals are first screened and researched before being forwarded to and for the expeditious consideration of the House or the Senate.

The growth of committee system had also necessitated the use of sub-committees, which more often perform the preliminary aspect of a committee's assignment. These sub-committees may be of temporary or permanent nature depending on the subject matter of the main committee.

⁷² Section 60.

⁷³ Section 62.

The development of committee system in the U.S. Congress cannot be entirely divorced from the influence of the British system. By 1802, there were about five standing committees, and then the Congress felt that such committees should be autonomous in their individual legislative assignments. The committees were about thirty-five at the close of the 19th Century and by 20th Century their member had risen to about fifty-eight. The Senate, in contrast with the development in the House of Representatives did not make use of committee system and 1816, and by the 20th Century the Senate had more than fifty-eight. However, by the Legislative Reorganization Act of 1946 the House of Representatives has 19 standing committees, and the Senate with 15 standing committees. Note that this position has changed by 1977 when the House of Representatives had twenty one standing committees and the Senate with twenty one.⁷⁴

The Standing Committees of Congress are firmly established by formal rules. Their number and jurisdiction correspond to the major departments of the executive branch. Each is subdivided into a large number of semiautonomous subcommittees. These subcommittees now conduct a major portion of legislative business in the House and the Senate. About one-third of House members chair a committee or subcommittee. These subcommittees now conduct a major portion of legislative business in the House and Senate. About one-third of House members chair a committee or subcommittee.

As early as the 16th century, the British House of Commons had made use of about five committees. These committees were better equipped to consider matters of details than the House of Commons, that by 17th century they played important role in the legislative business of the House.⁷⁵ As time went on and importance of committees system was being felt, select committees with between three and fifteen members began to emerge and they were used for matters including consideration of bills. Another factor, which paved the way for the emergence of committee system was the urge to reduce the influence of the king in the House of Commons. This development ensured that members of the Commons were more in number on the Committees than the Crown. It was also moved that when the Speaker is absent, bills should be committed to the committee of the whole House. This is to say that the absence of the Speaker could no longer be a cog in the wheel of parliamentary progress. However, up till now the resolutions of the committee of the whole House is in form of opinion even where a committee makes an amendment to a bill it is only a proposal.⁷⁶

⁷⁴ Olson, D.J et al., *Governing The United States*, 2nd Ed. (N.Y., Mc Graw Hill, 1978) pp. 306-307.

⁷⁵ Bradshaw, et al, *op. cit.* pp. 208.

⁷⁶ *Ibid.*, pp. 209-210.

In spite of the extensiveness of the party organization, the standing Committees of the *Bundestag* also occupy an important place in the German parliamentary organization. They have considerable amount of autonomy. These committees reflect the substantial degree of division of labour and expertise which has developed in the *Bundestag*. There are nineteen *Bundestag* Committees ranging in size from thirteen to thirty-three. Membership on the Committees depends significantly upon special expertise of the members of the *Bundestag* themselves; party ratio are established for each Committee reflecting alignment in the House. Committee chairmanships are also distributed among the parties in proportion to their strength in the *Bundestag*. Each party designates among its members a foreman to serve as the head of the party's delegation on the Committee.

Conclusion

One thing which stands out clearly is that the quality of legislative performance depends very much on the quality of the parliamentarians and to a very large extent depends on the individual experience in life. These would include; their educational background, experience whether in private and public sectors and previous positions held.

The chapter has further made a chronicle of the composition of both Houses- *vis-à-vis* membership qualifications in terms of age, citizenship, level of education and party membership-Nigeria and other jurisdictions respectively. The chapter has also clearly shown that the differences and similarities in the qualifications are consequent upon constitutional experience and the political environments of individual nation.

Lastly, the internal structures of legislatures are mirrored in line with individual nation's chamber, party and committee system. The chapter has extensively discussed how the internal organizations of legislatures are regulated by the provisions of the Constitution, Statutes and even Rules of the House in various jurisdictions. The above structural arrangement has paved the way for a well-organized legislative performance, which is *sine-qua-non* to socio economic and political development of all nations.