

THE NATIONAL ASSEMBLY AND ITS LEGISLATIVE PROCESS.

A CASE STUDY OF NATIONAL ASSEMBLY (NASS)

BY

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CERTIFICATION

This Project entitled “The National Assembly and its legislative process” A case study of National Assembly Nigeria (NASS) meets the regulations governing the award of Master’s Degree in Public Administration (MPA) of the School of Postgraduate Studies of Nasarawa State University, Keffi for its contribution to knowledge and literacy presentation.

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DECLARATION

I hereby declare that this project title “The National Assembly and its legislative process”. A case study of National Assembly of Nigeria (NASS) has been writing by me and it is a report of my research work. It has not been presented in any previous application for Master’s Degree in Public Administration (MPA). All quotation are indicate and sources of implication specifically acknowledged by means of reference.

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DEDICATION

The research work is dedicated to almighty God for his mercy, protection, guidance, love and care over my life throughout my course and to my amiable wonderful and beloved husband, Dr. Ezeamizie O.G and also my children for bearing with me in not meeting up as a mother during the course of this study. May God bless you. I love very much.

I also dedicated this research work to the chief medical doctor and his management team who counted me worthy to send me to go for this MPA programme, I cannot thank you enough may God bless you all.

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To my children, am so happy to be your mother, I love you all, thank you for bearing with me even when you needed me most.

To my course mate, I thank you all for the moments we shared together during the course work and may God bless and protect you all and grant your heart desires.

I thank and appreciate you all in Jesus name Amen.

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ABSTRACT

The geographical distribution of natural resources by creations and the understanding of the insatiability of human wants coupled with the desire to make equitable and fair resource allocation in order to effect societal cohesion and integration necessitated the need for an analytical design of a government system that will ensure this. The best system of government is now found in democracy which gives everyone equal rights and opportunity to co-exist and access the available resource in a symbiotic manner.

This project work is an analytical exposition of the journey so far as democracy - how we have fared and what we need to do to better the lots of the citizenry. The National Assembly is constitutionally empowered to make law for the well beings of the people.

By clear understanding of the tenets of democracy and legislature which is the focus of this research work, the world will fare better when the dividends of the system is ensured.

This project work boards on the evolution of legislature, what legislature is instituted to do and achieve for the people, the rules and regulations in legislative process, the structural and functional arrangement of the legislature and comparative analysis of the world legislature.

With this in place, it is hoped that good legislative process, which is sine qua non for good governance will have been put in place.

CHAPTER ONE

1.0 INTRODUCTION

1.1 Background of Study

The National Assembly is the legislative arm of government and one of the three arms of government in the Federal Republic of Nigeria. It is responsible for lawmaking and it is the highest lawmaking body in Nigeria. National Assembly has powers to make laws for the peace, order, and good governance of the nation.

The National Assembly is structurally organized in such a way that apart from political a functionary that is the legislations, there is also the administrative functionaries (career civil servants) who provide the services required to enable the legislators perform their jobs and also operate the facilities to ease the legislator's tasks.

These career civil servants include the clerk to the National Assembly who is the Accounting officer of the legislature and is responsibly to both Houses. He assisted by a deputy clerk who acts for him when absent. There are also other administrative staffs down the ladder as prescribed by the act of the National Assembly who ensure the smooth running of the legislature. The National

Assembly is a bicameral legislature made up of the Senate and the House of representatives vested with the legislative powers of the Federal Republic of Nigeria. Under the provisions of the 1999 constitution, the Senate consists of three senators from each State and one from the Federal Capital Territory, Abuja. It also provides for 360 members for the House of Representatives which spread across the 36 states of the Federation and the Federal Capital Territory. Besides lawmaking which is the primary function of the National Assembly, there are some other functions it also performs. It performs some judicial functions. For instance, decisions of the legislature on removal from office of its own member such as impeachment of the Senate President or the Speaker are final.

It also discharges some judicial functions, for example, appointments into important executive, judicial and ambassadorial offices remain tentative and provisional until the approval of the Senate is sought and obtained. Other functions /responsibilities of the National Assembly include serving as watch- dog to the executive and judiciary, initiating bills and performing oversight functions. Nevertheless, there are certain legislative processes, which the National Assembly adopts in the course of lawmaking. For example, before a bill is passed into law, it has to pass through the lower House (House of Representatives) to the Senate after which it is passed to the executive for the

President's assent. Other lawmaking processes observed by the legislature include those which ensure that bills pass through different stages such as the first and second reading, Committee stage, Report stage and the third reading stage.

However, performance of the functions of the National Assembly is not without some obstacles. One major obstacle against the National Assembly in the performance of its functions is executive interference. One form of executive interference is presidential visits or addresses to the National Assembly.

These occasional visits or addresses have a way of influencing the form and direction of legislative function and duties.

The power granted by the constitution to the Executive to make laws through the practice of delegated legislation is yet another form of Executive interferences. Instances of these reflect through the making of Bye-laws, regulations and subsidiary regulations by the Executive arm. This to a large extent undermines the effectiveness of legislative powers of the National Assembly.

Other problems the National Assembly faces in discharging its functions effectively include ignorance on the part of some members which prevents

them from making qualitative contributions to Parliamentary debates thereby making little or no impact in the House and on national development.

Lack of funds is “another problem /obstacles experienced by the National Assembly. This affects it in several ways, one of which is the fact that it slows down the activities of the legislature and consequently its effectiveness. These obstacles, among other go a long way in affecting the performance of the National Assembly.

In other to overcome these obstacles, there is the need for a stronger and more focused legislature. Legislature processes should be strictly observed while adequate funding should be always provided for the National Assembly to carry out its ‘functions effectively. Alternative source of fund could be provided for it to avoid being dependent on the Executive for fund.

These measures would long way free the National Assembly from Executive manipulation. These will also enhance the performance of its legislative functions to a large extent, such that Nigeria will have a more focused and efficient National Assembly that makes fair and unbiased law in the interest of all and sundry for national development.

1.2 Purpose Of Study

The purpose of this study is to X-ray and understand the functional attributes of the legislative arm of government in a democratic system. It helps us to follow and vividly see the value of power as the result necessary, to allocate other

resources in such a manner that ensures equity, fairness and justice within a democratic setting. This power is vested, by the constitution, in the National Assembly.

This study also shows the analytical and expository processes in law making. The dynamics of power management and resource allocation with a view to identifying the intrigues constraints and strength in ensuring good governance. It is also aimed at comparing different Assemblies as to allow one (legislator) quickly borrow a leaf from other advance Assemblies in order to improve upon the growing ones.

It allow for a vivid understanding of the Legislative aim of Federal Government through its organizational framework (Structure) and functions. It's also aimed cit analyzing the legislative process with a view to identify the constrains working against effective and efficient legislative process. The historical evolution of the Assemblies is meant for academic excellence of his study that allows students the freedom and opportunity to help themselves abreast of the prehistoric understanding of the mechanics of legislation and legislature.

1.3 Scope of Study

This study exclusively discusses the constituted legislature in democratic milieu mostly in Nigeria system of government the National Assembly is the Federal legislative arm of government, whose responsibility it is to fashion and design a workable democratic practice in Nigeria that will ensure people orientated good governance.

Nigeria National Assembly has suffered some orchestrated military incursion that has led to instable legislative practice in Nigeria. This has adversely affected democratic government in Nigeria and invariably a retarded sociopolitical and economic growth.

Democracy is a globally acclaimed most favourable system of government and its beauty and dynamics is a function of the legislative arm of government. Hence) the elaborate analysis of legislative in this project work that designs and implements the best practice in a comparative analysis Nigeria National Assembly in views.

1.4 Significance Of Study

This reach work has been carried out by the researcher with the hope that it will provide solution to governmental problems. As a research effort it will

sensitize (government especially the legislature to the factors working against the National Assembly in its bid at making unbiased laws for the nation and how these constraints can be tackled to bring about national development and the sustenance of our nascent democracy.

It is hoped that this study will make the Federal government (executive) appreciate more the importance of the National Assembly in the nations democracy, hence, the need to work together in harmony by developing a more cordial relationship with it as well as ensuring adequate funding for this legislative arm of government. It is hoped that this study will provide awareness into the structure and workings of the National Assembly as well as the processed involved in legislation. Furthermore it will make valuable contribution to the body of academic and political knowledge as well as serving as a source of relevant information for future research on similar topics.

1.5 Statement of Problem

The present National Assembly was constituted in 1999, after years of military rule in Nigeria, and it marked the beginning of a new republic on a determined not to make democracy thrive in the Country. In fact, National Assembly has been making lots of effort to see that the Country grows economically, politically and otherwise by making fair and unbiased laws.

However, the legislature had to contend with a number of constraints that have pitched itself against the realization of these objectives. One of such constraints is poor funding by the executive which is sometimes deliberate especially when the lawmaker fails to dance to its tune on matters of interest. For instance, the president in 1999 slashed the budget allocation for the legislature to N5 billion even after a Committee which contained a member of the executive branch had reduced it to N17.2 billion from the initial N28 billion. This action was prompted by earlier disagreements, one of which bordered on the supplementary appropriation bill presented to a joint session of the national assembly by the president.

Corruption, disagreements and various scandals also shook the National Assembly. Within 1999 -2003, the Senate produced 3 Presidents while the House of Representatives produced 2 Speakers, no thanks to the various disagreements and scandals which culminated in those impeachments. Unfortunately majority of the elected members of National Assembly were new and inexperienced in Legislative affairs.

This affected their knowledge and application of the legislative process.

1.6 Research Question:

- (i) What are the processes involved in legislation in Nigeria?

- (ii) Are the existing structures in the National Assembly favorable to lawmaking?
- (iii) What factors influence the legislative process in Nigeria?
- (iv) In what ways can the legislative process be enhanced?

1.7 Research Methodology

In this research, I had a review of related literature relevant to the study. The methodology used in carrying out this research was stated and the methods of data collections sampling procedure and techniques used in the method of procedural analysis were all discussed.

1.7.1 Method of data collection

In conducting this research, the methods employed in the course of collecting data for this project work were mainly the use of primary and secondary source of data. Mainly personal experience base on my encounter with legislative procedures was brought to bear. I used most of the seminar and workshop lectures delivered by legislative gurus. So as to achieve a credible result.

1.7.2 Study population

The study population of this project was limited to National Assembly members and senior legislatives staff only.

Consultation were made with those who were in the National Assembly during the period under the study (1999-2003) and seen as capable of making valuable contribution to this research work.

1.7.3 Sampling and techniques

Purposive sampling technique was used in consulting the legislative administrators from which the research questions were answered. On the other hand, the secondary source of data used for this research works includes review of related literature available for this work, information obtained from textbooks, handbooks on the national assembly, workshop texts, magazines and other materials useful for this study.

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REFERENCES

Akintola A. Jmoh, Law Practice and Procedure of Legislature: Lagos Learned
Publishments Limited, (1999).

Chris N. D. Anyanwu, The Law Makers Federal Republic of Nigeria (2003 -
2007) Published by start craft international National Secretariat of Nigerian
Legislature, A Handbook on Legislative Practice and Procedure of the National
Assembly, (2004) Printed by Intec Printers Limited Ibadan Standing order of
the Senate, National Assembly Abuja (2003), Printed by National Assembly
Abuja.

Standing order of the House of Representative National Assembly Abuja
(2003), Printed by National Assembly.

Timothy Ibikunle Ojo, The Nigeria Legislature, its origin, organization.
Procedure and practices volume III

The constitution of the Federal Republic of Nigeria (1999) National Assembly
Press Abuja 1999.

CHAPTER TWO

2.0 REVIEW OF RELEVANT LITERATURE

2.1 The Evolution of Legislative Assemblies:

Effort towards constitutional government started gathering greater momentum during the seventeenth and eighteenth centuries when powerful middle class people emerged in Western Europe challenging the political absolutism of ruling aristocracies. The democratic nature of the revolutionary movements during this period put government under siege and succeeded in making the governing powers responsible for their acts.

In Great Britain, the parliament successfully rebelled against the political absolutism and arbitrary rule of the TUDOR kings, which eventually resulted in the 1688 English evolution. The British Systems owe much to the revolution. The principle of parliamentary sovereignty and supremacy of law, which from the cardinal basis of the British democratic tradition is a largely a product of the revolution.

The revolutionary events in England became a contagion on America and the rest of Europe. The walls of British imperialism and Monarchical Sovereignty in America were pulled down in 1776 by the American Revolutionary war which gave way for the emergence of the American

congress and planted the seed of democracy based on the American Constitution and the declaration of the right of man. France, perhaps, presents the most celebrated history of the democratic tradition feudal oppression and human right subjugations were perhaps more popular and entrenched in the French Order than other countries of Europe. The complacency of the ancient regime characterized by suppression and servitude was epitomized in' pronouncements of LOUIS XVI and his beautiful Austrian princess wife, Marie Antoinette who during the great march for freedom by the French people on the street of Versailles at the down of the revolution ordered for more to be baked, since the "people wanted bread".

Events of the early years of the French Revolution soon proved to the monarch that what the French people wanted was more than bread.

Amidst the Revolution which broke out in 1789, the French people constituted their National Legislative Assembly. On December 1792, a Criminal indictment was presented against the king before the French National Assembly. LOUIS XVI was charged with treason - plotting against the French nation, by using the national resources to pay troops raised by EMIGRES abroad and with attempting to overthrow the constitution. He was allowed legal representation by counsel and was daringly and eloquently defended. The

Assembly unanimously voted for his conviction, he was found guilty by a majority of one vote only; the capital penalty sentence was entered.

LOUIS XVI was publicly guillotined on January 21st, 1793 at what had formerly been the square of LOUIS XVI, now re-named the square of the republic. The revolution produced democratically elected National Legislative Assembly for France. Several constitutions were produced for various republics. That was the origin of French formidable democratic order.

The history of legislative governance and constitutionalism in Nigeria like most developing countries has been a chequered one.

Nigerian Legislature dates back to the Nigerian Council established by Lord Lugard. That was prompted by amalgamation of the Northern and Southern protectorates in 1914. There were 36 members in the council. Out of this member only 6 were Nigerians, including two Emirs from the North, the Alafin of Oyo, and one member each from Lagos, Calabar and Benin - Warn areas. The governor largely ruled Nigeria through proclamations. The council was unrepresentative of the interest of Nigerians. For instance, the six Nigerians were mainly traditional rulers. The role of the legislature was more or less advisory than law making process.

This incipient legislature was dissolved in 1922 and replaced with the Nigerian Legislative Council of forty-six members. Of this number ten were Nigerians four of whom for the first time, were elected to represent Lagos and Calabar. The remaining six were nominated by the Governor to represent areas of the Southern provinces not represented by the elected members including Oyo, Abeokuta, Warri-Benin, Rivers province and Africana Commercial interest was represented by the Niger African Traders. However, the North was not represented in the council. The rest of the twenty seven officials, and nine unofficial members who represented commercial interests were all whites. Subject to the Governor's reserved and veto powers, the council was empowered by the Clifford constitutions of 1922, to make laws for the colony and Southern protectorate, and serve the Northern protectorate only on financial matters. On all other matters, the Governor legislated for the Northern protectorate by proclamation.

The composition of the central legislative council changed in 1946 in favour of Nigeria. As against sixteen official's members, all white, twenty-eight unofficial members represented the three regions of the protectorates in the ratio of 9:6:5 for the North, West and East respectively. Four elected members from Lagos and Calabar, and four nominated members to represent special interest. The council was now empowered to legislate for the whole country.

In addition three regional assemblies were created to choose representatives of their regions into the Nigerian Legislative council. They were also to consider and advise the Governor on any matter he referred to them, and approve the regional estimates. The members of the Regional Assemblies were selected by the Native Authorities and the official members by the colonial administration. Memberships of the assemblies were twenty four unofficial and eighteen officials in the North, nineteen unofficial and thirteen officials in the East. The McPherson Constitution of 1951 did not only change the name of the central legislative council to House of Representatives but also expand its membership. It consisted of the Governor, six officials and one hundred and thirty six unofficial selected by the regional assemblies from the members. The North was represented by sixty-eight members, the West and East thirty four members each. The House was responsible for making laws for the whole country, with overriding powers over and above the regional assemblies, on other hand, the regional legislatures with the exception of the East, were bicameral in the North and West with the House of Assembly and House of chiefs. The regional legislatures were empowered to legislate only on a few subjects, including education, public health, local government and agriculture.

By 1954 the membership of the Federal House of Representatives further increased to 184 directly elected on the basis of single-member constituencies.

Out of this number the North had 92 members and the South 92 (including West 42, East 42, Southern Cameron's 6 and Lagos 2).

In summary, the British Colonial Government produced various constitutions for Nigeria in 1922, 1933, 1946, 1951, 1954 and 1960.

These constitutions like any colonial constitution were promulgated by British proclamations. Various legislative Houses were created at various times at different regions of the country. The legislatures were not law making institutions as the British intended them to be only deliberative Houses. They were mere window dressing and toothless institution which performed no legislative functions.

The country, Nigeria, had barely disengaged from the shackles of colonialism when the military ambitiously left their security post to the seat of governance. The rest has since been the stories of arrested democratic development and constitutional aberrations. The military has paddled the country through an expanded woeful agenda spanning military dictated constitution, military nominated assemblymen and representatives, abuse of human rights, annulment of election and looting of the national treasury. It is an elementary fact that Nigeria has incurred more expenses on elections and military self motivated aborted transition programs more than any other country in the

world. Aside from the colonial constitutions, which were destined to be short-lived, none of the Nigerian constitutions between 1960 and 1995 has enjoyed a practical life span of five years. The 1960 independence constitution gave way to the republican constitution in 1963. The 1963 constitution was rudely overthrown by the military in 1966.

Between 1966 and 1979 there was no constitution in place. The 1979, constitution was suspended and modified in 1983. Between 1983 till present the military has spent huge sums of money in producing about three different constitutions none of which has been allowed to be tested. Nigeria has not had the privilege of the British, American or French historical experience of democratic development.

2.2 The Legislative Process

The Meaning of Legislative Process

Unlike the other areas of public law, legislative law and procedure do not emanate predominantly from the provisions of statutes or the decisions of courts resort to fundamental texts and law reports may be of very little assistance. This marked distinction is based on the basic fundamental principle

of every democratic system, which unequivocally admits the inherent right of each legislature to regulate its own affairs.

Formal legislative process begins when a member of congress (Assembly) introduces a Bill, a proposal for a new law. In the House, members drop new bills in the “hopper”, a mahogany box near the rostrum where the speaker sits. Senators give their bills to one of the Senate clerks or introduce them on the floor. But before a bill can be introduced to solve a problem, one must perceive that a problem exists or that an issue needs to be resolved. In other words, the problem or issue somehow must find its way onto the congressional agenda.

The Format Of Bill

A Bill as the draft of a proposed law, consists of the Title, the enacting words, and the body divided into clauses.

It may sometimes contain schedules. No Bill can become a law or an Act until it received the approval of the legislature and the assent of the president of Federal Republic.

Procedures For Passage of Bills

Bills (Proposals) from the Executive and the Judiciary: The first stage is the receipt of the president’s proposal in form of a Bill, (forwarded under a

covering letter signed by the President of the Federal Republic or of the designated country to both the president of senate and the speaker of the House of Representatives).

A similar procedure applies in the case of Bills from the Judiciary except that such Bills are forwarded under-a covering letter signed by the chief Justice of the Federation, to the President of the Senate and Speaker of the House of Representatives.

A copy of the Bill is then sent by the Presiding Officer of each House to the rules and Procedure Committee/Rules and Business Committee. This Committee has the responsibility for preparing the agenda of business of each House.

Draft Bills (proposals) by members:

In the case or - member's Bill, in the Senate, it is forwarded by the Senator to the President of the Senate. The President of the Senate will, in turn sends it to the Rules and Procedure Committee for scheduling for first reading. In the same procedure applies and it is also the Rule and Business committee of the - Induce that schedules it for first and subsequent readings.

Notice regarding bills

Senate: Government Bills (Bills from the Executive and the Judiciary) as well as members Bills are expected to be published in the official Gazette.

In case of members' Bills, there must be publication in two successive issues of the official Gazette by the clerk. The Senate also has provision for Private Bills that is any Bill other than Executive or member's Bill.

a) House of Representatives:

All Bills from the Executive and the Judiciary must be published at least once in the official Gazette by the clerk, on receiving the draft from the speaker. All members' Bills must also be published in the official Gazette (or House Journal) by the clerk on receiving the bill from the speaker. The member shall accompany the Bill with a covering letter of his 'intention to introduce the Bill.

b) Stages of Bills:

Every Bill must receive three readings before its passage, namely, first reading, second reading and third reading. After the second reading, there are other stages the Bill has to pass through before the third reading, which is the final reading.

2.3 A Comparative Analysis of Legislative Process

It is implicit in the concept of democracy that initiation of Bills in the law making process should rest with an elected legislature. At the same time, it is widely recognized, both in practice and law, that this right of the legislature is shared with the executive. In the discharge of its functions, Government is perhaps better informed than anyone else on the needs of the country and because of the expanding complex nature of the diverse problems that, have to be solved, the Government may be technically better equipped than individual Members of the legislature to draft Bills which are acceptable from the legal stand point. Position and practice is more peculiar with the British System of constitutional power relation between the Executive or Government and the here the Government or Executive itself remains part of the parliament under a constitutionally recognized fusion of powers, a higher level of direct accessibility of Government initiative into legislative process becomes pertinent and indispensable.

In United States of America from where the Nigerian system is largely derived only member of congress have the right to introduce Bills. Even when the president or Governor either personally or through his executive officials, recommends a measure or Bill to the congress, it must be sponsored by a

member of congress. In practice though, this action of the member of congress amount only to the formal deposit of Bills as the president actually sends drafts of proposed legislation to congress. The drafts are enclosed in a message to the speaker of the House and the President of Senate. The message is reported in the journal of the congress and referred to the appropriate committee. Upon receipt of the message, the Chairman of the Committee to which the Speaker referred the President's message is expected to present the Bill to the legislature either as proposed by the President or subject to amendment. This practice is followed very largely in Nigeria. The fundamental principle is that Bills must in the final analysis be introduced to the floor of the legislature by Members. The implication is that Bills are introduced by Members of the legislature since such introduction is within their exclusive Constitutional preserve. Apart from Bills initiated by the executive and introduced by a Member, Members themselves are largely responsible for initiating and introducing measure and legislative proposals by way of Bills, which are eventually passed into law. The Federal Republic of Germany, Italy, Switzerland, and USSR, the regions or the federating states has the right to initiate a Bill intended to have binding effect on the entire country and not just for a particular Federating region or In Austria, Liechtenstein and Yugoslavia, the electorate also has the right to initiate legislation. In Bulgaria and the

Democratic Republic of Vietnam, the Supreme Court and Chief Public Prosecutor may initiate legislation. In most of these countries, various judicial, political, social and economic groups or bodies introduce legislation into parliament.

In Australia, Fiji, Ireland, New Zealand, South Africa and United Kingdom, private Bills, which make provisions for the particular interest or benefit of authorities, statutory corporations, private corporations and individual citizens' interest are allowed to be initiated into the parliament by way of petition uncommon in some countries for Committee of the House to be left to examine the constitutional validity or otherwise of a Bill initiation process. Use of the Committee system in this regard can be found in Czechoslovakia, India, Brazil and Kuwait.

2.4 Theoretical Framework

The theory or principle of separation of powers was derived from the book of the Frenchman, Montesquieu, 'The spirit of the law' written in 1748. In his book, Montesquieu argued that if liberty and freedom were to be maintained, the three branches of government must be separated and entrusted in different people. He believed that this system of governance would provide a guard against the concentration of too much power in a single authority.

Montesquieu admiration for the English contribution made him conclude (not quite accurately) that the British System of Government was based on the principle of separation of powers among the three arms of government the nature, the Executive and the Judiciary. This theory formed the basis of the American constitution and system of government.

This theory is a reflection of the 18th century motions of separation of powers and checks and balance as well, as the conviction that government, an evil thing should at best be weak, strictly limited in scope and able to act only with great difficulty. The parceling of powers among the three branches, which were differently selected, was viewed as a safeguard because of the unlikelihood that any single faction would be able to gain control of all three branches at a time. Deadlock was therefore preferred to action and the impotence of government equated with the liberty and welfare of the people.

The basis of modern democratic system of government thus derives from the theory of separation of powers as propounded by Montesquieu. In arguing tyranny resulted when all the three powers of government (Legislative, Executive and Judiciary) were accumulated in the same hands, he suggested that in order to preserve political liberty, the constitution should ensure that the whole of the powers of one department should not be exercised by the same

hands which possessed the whole of the powers of another department. that situation, he concluded, would be destructive to liberty. Thus the doctrine of “Separation of Powers” is today reflected in the V Constitutions of most countries and especially in Nigeria in the following provisions.

(i) 5. 4 (1) - The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the federation which shall consist of a Senate and a House of Representatives.

(ii) 5. 5 (1) - The Executive powers of the federation (a) shall be vested in the president.

(iii) 5. 6 (1) The Judicial powers of the federation shall be vested in the courts.

These three sections taken together constitute the principle or Doctrine of separation of Powers”. The totality of this doctrine is that the three arms of government are separate in functions and should operate independently of one another.

Alongside the principle of separation of powers is another parallel principle or concept. This is the concept of checks and balances. This concept is to the effect that the three arms must act as checks on one another so as to prevent one of them eroding the powers of the other. In short, the three arms must

counterbalance - one another. Concept of checks and balances ensures that even though within their mains, each of the three arms will appear to be all powerful, checks by the other arms are also entrenched in the same constitution that has located all legislative, executive and judicial powers to the three arms respectively. The Nigerian presidential constitution has aptly demonstrated the application of the principle and the concept.

The 1999 constitution clearly demarcates the jurisdictions of the three arms of government in the exercise of their constitutional powers. For instance, sections 4, 5 and 6 of the constitution vest the legislative the executive and the judicial powers of the Federal Republic of Nigeria. Furthermore, the institution contains incompatibility and ineligibility clauses, to the effect that three arms of government should comprise of distinct functionaries. Thus a senator or a Representative is disqualified from holding any other public office (in the judiciary or executive)

“It can therefore, clearly be seen that Checks and Balance” makes the principle separation of powers an effective instrument of constitutional government.

It does not contradict it. According to Professor Nwabueze in his book, “Presidentialism”.

The (checks and balances) system rests on an open recognition that particular functions belong primarily to a given organ while at the same time imposes a power of limited interference by another organ in order to re that the former does not exercise its acknowledged functions in an arbitrary and despotic manner. That is all the system seeks to do.

REFERENCE

Aintola A. Jimoh, Law Practice and Procedure of Legislature (1999). Lagos: Learned Publishments Limited.

Chris N.D ,4nyafIWu, The law makers Federal Republic of Nigeria, (2003 - 2007) published by start craft international.

Kenneth Janda, Jeffrey M. Banny and Jerry Goldman, The Challenge of democracy Government in America. Second Edition (1989).

Magrath, Cornwell and Goodman, The America bemocracy (1969) published by the Macmillan Co-Collier - Macmillan Ltd. London P. 408

professor Jadesola Akande, “Legislatures and the democratic process” paper livered at continuing legal education Association seminal at Gateway International Hotel Ota, Ogun — state, Nigeria (December 1992).

Constitution of the Federal Republic of Nigeria National Assembly Press ujo (1999).

University of Abuja, Nigeria Politics I, Abuja CbLCE University of Abuja.

CHAPTER THREE

3.0 LAW MAKING PROCESS

of the important pillars of any society is Law and order, for any society to without chaos it must fashion out rules and regulations by which the inhabitants of such society must abide to facilitate their peaceful co-existence are' the development of the society. no society can thrive or survive in the absence of law and order. This is the society is put in jeopardy anytime there is breakdown of law and, ever, the conduct of these affairs must be defined by certain rules which just be made by someone or some group, while the execution or enforcement is carried out by another group.

In a democratic environment, Power belongs to the people who in turn elect those who are to represent them in carrying out the task of law making. Additionally, lawmaking remains the exclusive preserve of the legislature. The lawmaking process is perhaps the most captivating of all the roles and duties performed by the legislature under a constitutional framework. Anyanwi (39) states that the lawmaking power of the legislature is exercised rough the passage of bills.

However, democratic practice in recent times has revealed that the lawmaking process is as attractive to other departments of government and private as it is to members of the national Assembly. Therefore Akintola (1999:79) is of the opinion that “the end result is that a lot of factors come to and a lot of influence outside the legislature penetrate their ways to determine by one means or the other what invariably is enacted as act of the legislature or parliament” while the power to make laws is granted by the constitution, the art of making laws is guided by the term legislative procedure: of which the standing orders is one of the sources. As mentioned previously. The constitution statutes, standing Rules/orders, conventions and presiding officers, Rulings. A Bill therefore, in its sometime tortuous Journey towards becoming a law (or an Act) is subject to a combination of the application of these-procedure

3.1 Bills

In the oxford Advance learners dictionary, the word “Bill” is defined as “the draft of a proposed law to be discussed by parliament” substituting the word legislature for parliament, then, it is the draft of a proposed law to be discussed by the National Assembly.

The National Assembly, under the constitution, is vested with the power to make laws for the peace, order, and good government of the Nation. Anyanwu

(2003) states further that ‘Both arms of the National Assembly can originate a bill. Each can also vote against a bill passed by another or add amendments which change its nature. In the event of disagreement, a compromise acceptable to both Houses must be worked out before a bill is sent to the president for his assent’.

Origin of Bills:

The principal origins of bill are the Executive, members of legislature, interest Groups/Association, and the Judiciary.

- (I) **The Executive:-**The Executive is the most prolific source of the legislative proposals, the formulation of the content of these proposals is the responsibility of Ministers, with the assistance and advice of civil servants. While ministers determine the scope and content of Bills, civil servants are responsible for-working out the details consultations take place during the formative stages of legislation. The draft bills are then deliberated upon at the cabinet and when approved, are

forwarded by the Chief Executive to the presiding officers of the Houses.

- (II) **Members of the legislature:** The primary concern of a law maker is the enactment of legislation. His ideas may originate from electoral promises made during political campaigns. Once elected, he may derive more ideas to promote legislation or to amend existing legislation. He may even change some to -most of his ideas and opinions as a result of the views of others at party caucuses or after consulting with leaders of his constituents, districts, communities. These experiences may result in promoting Bills to enact new laws, amend existing laws and replace obnoxious laws.
- (III) **Interest groups/Associations:** These consist of organizations and professional associations whose jobs are to protect the interest of their members, for example, Labour Unions, Teachers, unions, medical Associations and Chambers of commerce. Any of these bodies may present a proposal in form of a bill to a legislator, imploring him to sponsor the bill. The legislator may also be able to convince some of his colleagues to join him in sponsoring the Bill.
- (iv) **The Judiciary:** the Judiciary is another source from which Bills

originate, though; Bills from the Judiciary are often few and far between.

The format of Bills

A Bill as a draft of a proposed law consists of the title, the enacting words and the body divided into clauses. It may sometimes contain schedules. No Bill can become a law or an act until it has received the approval of the legislature as well as the assent of the President of the federal Republic.

Stages of Bills:

Every Bill must receive three Readings before its passage, namely, first reading, second Reading and third Reading. After the second reading, there are some other stages the Bill has to pass through before the third Reading which is the final Reading.

(i) First Reading:

This is a formal stage only. On the day scheduled for the first Reading of the Bill, the Clerk of the House will be called upon by the Presiding officer to read the short Title of the Bill. This constitutes the first reading, after which a convenient date is given by the Rules and Procedure Committee or Rules and Business Committee for second reading to give members sufficient time to study and digest the contents of the bill. Meanwhile, the Bills Office examines

the Bill to see that it complies with the Rules of the House.

(ii) Second reading:

While the first Reading is a purely formal stage serving as notification to members of the existence of the Bill requiring their Consideration the second reading is for them to commence consideration of the bills general principles and its imports, and to decide whether to give or withhold provisional approval. The member in charge of the Bill, on the appointed day, moves a motion (seconder required), “that the Bill be now read a second time”. And he highlights the objectives of the bill.

In the ensuing debate, if a member objects to the Bill, he may oppose the question by moving an amendment, that the Bill be read a second time upon this day six months” (this is a polite way of asking that the Bill be rejected). If the amendment is carried, the Bill is killed and cannot be reintroduced in the same session. He could equally move a “reasoned amendment’ by giving reasons why the Bill should not receive a second reading If such an amendment is agreed to, the Bill is likewise rejected. But if the amendment is rejected or if the motion for second Reading is agreed to after exhaustive debate on that motion (which may take days or weeks), the Bill is declared by the Presiding officer to have been read a second time.

(iii) **The Committee stage (Referral to standing Committees):**

The second reading is followed by the Committee stage it is committed to an appropriate standing Committee. Referring Bill to a standing Committee is the prerogative of the Presiding Officer. It may happen that a Bill touches on the Jurisdiction of two or more committees; in that event, it is committed jointly to the Committees (Joint Referral).

After the Bill has been considered by the relevant standing Committees it is placed on the House calendar for consideration.

(iv) **Committee of the whole House:**

(a) Consideration by committee of the whole House after second reading:

Rule 81 (1) of the standing Rules of the Senate 2003 and Order Xli Rule 5 (1) of the standing orders of the House of Representatives, 2003 state: “when a bill has been read the second time it shall stand committee, to a standing committee, unless the House on motion may commit it to the Committee of the whole House. Such motion, shall not require notice, but must be made immediately after the bill is read a second time and must be” proposed by the leader of the House.

(b) Direct Committal after second Reading

When a bill is committed directly to the whole House it must be taken forth with or on a future date as may be determined by the committee on Rules and Procedure’ (of the Senate) or Rules and Business (of the House) The Chairman of the Committee of the whole House used to devolve on the President of the Senate and the Speaker of the House of Representatives in their respective Houses. Presently however, the Deputy Presiding officer of either House is the Chairman of the committee of the whole house, except when the House goes into Committee of the whole for supply and ways and means.

The Presiding officer leaves his seat, goes over to the Clerks chair who in turn

occupier one of his Assistants' Chairs. The mace is moved down and placed under the table resting on brackets.

When a bill is non- controversial, the committee of the whole may take it up immediately, but for a contentious or controversial Bill, where members have prepared a spite of amendments, the Rules and procedure Committee on Rules and Business Committee, as the case may be, scheduler fixed dates for the sittings of the Committee of the whole.

(c) Procedure after the report of standing or special Committee

The Chairman of the standing! Special Committee, after conclusion of his committees work requests the rules and procedure committee or rules and business committee to assign a date for the presentation of the Committee's Report. The Report is presented on a fixed date by the Chairman of the committee and about five days are allowed for members to study the Report and prepare their own amendments where they do not agree with the amendments of the Committee.

The Rules and Procedure or Rules and Business Committee then fixes a date for the consideration of the Committee's Report on the Bill with proposed amendments in the Committee of the whole House.

Final Stages

(a) **The Report Stage:** At the conclusion of the proceedings, the:

Chairman shall put the question, “that I do report the Bill (or the Bill as amended) to the House”, which question shall be decided without amendment or debate. The Chairman then leaves the Chair, returns to the presiding officer’s seat if he is the chairman of the whole or to his seat if not. The mace is brought up from the lower brackets and placed back on the higher brackets on the table and the Presiding Officer or whoever was the Chairman instead of the Presiding Officer now reports the Bill as amended (or without amendment) to the House.

The leader of the House will then move that the Report of the Committee of the whole be adopted; the Bill is ready for third reading.

(b) **Third Reading:** when a Bill has been reported from a committee of the whole house, it shall be ordered to be read the third Time forthright, or upon such day as the Rules and Procedure or Rules and Business Committee may appoint, except a motion for re-committal is carried. At the third Reading stage, although amendments may still be proposed, these are hardly major amendments, and invariably the Bill passes the third Reading.

(c) **Clean Bill:** when a Bill originating from either of the House has been read the-third time, a copy of it (incorporating all amendments) called the “ clean copy”, signed by the Clerk and endorsed by the Presiding officer, shall be forwarded by the Clerk of the House to the Clerk of the Senate, and vice-versa with a message desiring the concurrence of the Senate or the House, as the case may be. Where amendments proposed by one are acceptable to the other through all the required stages in the other House, the Clerk of the house to which the BIB has been sent, retains the Bill and sends a message to the originating House “That the Senate / House of Representation has agreed to the Bill without amendment”.

Where however the Bill passed by one House is not agreed to by the other House, or is agreed to with amendments to which this other House j, turn seeks the concurrence of the originating House, but the originating House does not concur to the other Houses I amendments, a conference of both Houses is then requested by the originating House.

3.2 LEGISLATIVE DRAFTING

Virtually all aspects of human life is regulated by law whether written laws in statute books or what could be regarded as common law. The duty of the legislature is to constantly review the role and position of law in a constantly changing society with a view to passing legislations which would bring existing laws in conformity with development of time. According to Akintola (1999:123) legislations are passed not only to regulate the conduct of man in every endeavour of life, legislations also cover the realm of relationship between man and every matter as well as the environment including airspace, water ways, mineral resources.” Nature in its entirety and as a whole is based on the over- powering and intricate nature of legislation. Throughout the world, serious care are taken to keep the legislature well informed and updated on the importance and lasting implications of the legislations they’ pass. Just as other legal drafting, legislative drafting is an institutionalized means of communication. However, unlike other forms of legal drafting which may be altered or changed easily, legislative drafting is more of a permanent enactment which stands on its own and speaks for itself without any form of assistance, explanation or elucidation from the draftsman. Legislations are made to govern and regulate human conduct within a society. Legislation might cost members of the public on whom the legislation is

administered long years of long years of battles and litigations with attendant huge cost if it is drafted in clumsy and ambiguous language or phrases. Therefore, it is highly important that a great deal of care and diligence be exercised in drafting enactments to reduce probable confusion and difficulties that may befall future administration and interpretation of enactments, as much as possible.

A legislature draftsman must take time to understand and analyses instructions. He must spot potential danger and try to resolve them; He must be able to design very appropriately his draft before going ahead to compose the draft. He must revise his draft and seek the assistance of his colleagues to scrutinize his draft before presenting them to the legislature.

Whoever is familiar with the legal jargons and technicalities with which legislations are robed would know that the professional lawmaking process or in other words, legislative drafting is beyond the ordinary deliberative and voting process to which the legislature is accustomed. It is a job that falls within the ambit of the duties of the legislative draftsman. In the words of Granville (1947) and cited in Akintola (1999:126) “ To use a metaphor which I have often used before, an act of parliament must be forged on the anvil of the legislative draftsman table, The draftsman holds the tongs

wields the shaping hammer while the administrators and the politicians swing their heavier sledges. Even when a Bill is transferred from that anvil to be tempered or perhaps destroyed, in the fires of parliament, The draftsman must still continue to hold the tong and use his shaping hammer as and when he can.”

It is the duty of the draftsman to employ appropriate language to convey and put down the legislative intent of the legislator in concise legislative draft. legal draftsmanship require a specialized training which only lawyers are qualified to perform. A draftsman properly speaking is a lawyer that specializes in legal drafting.

The primary assignment of the legislative draftsman is for help his client put in concise legal form the substance of what his client wants. The draftsman receives detailed instructions from his clients and conducts further interviews and consultations to enable him have proper picture of what type of legislation his client has in mind to construct.

There is no doubt that the draftsman enjoys wide latitude in the choice of language and drafting format or technique he uses. A draftsman is nonetheless a professional whose training, practice and etiquette must prevent him from

substituting his own whims and idiosyncrasies for the intention of the legislature or his client.

It is the duty of the draftsman to probe into the intended but not too clearly expressed intention of his client and to make his drafting reflect nothing but those intentions.

Attributes of a Good draftsman

1. To qualify as a legal draftsman, the draftsman must be a lawyer. He must have basic knowledge of law having been trained and enrolled as a barrister and solicitor of the Supreme Court. He must have practiced as a lawyer with special interest in drafting.
2. To be a good draftsman, a lawyer must be patient, meticulous and analytically minded.
3. A draftsman must have good practical knowledge of the working of the legal system and must be ready to carry out researches. He must know where and how to find the law.
4. A draftsman must have a good command of English language he must have a graphic control of language so as to make concise and accurate constructions.

5. A draftsman must be familiar with interrelationship of the various departments of government. He must have a deep knowledge of the political and economic system.
6. A draftsman must be a very simple and humble person with a good spirit of team workmanship. He must be very committed and devoted to his work as a legal draftsman.

Although, there are no strict rules of practice that are followed in determining and preparing the form and contents of legislations or in taking instructions to prepare legislations, nevertheless, there identified rules which are generally and commonly adopted in the process of legislative drafting. .Some of the rules includes the following:

- (a) Sufficient background information must be obtained from the client or appropriate department to acquaint the draftsman with all facts and pre-existing legal positions relating to the legislative proposal or Bill.
- (b) The intents and purposes of the legislative proposal or Bill must be presented in full detail to the draftsman.
- (c) Details of inter-departmental consultations as well as consultations with interest groups must be available to the draftsman.
- (d) Draftsman must be acquainted with relevant laws, court decisions,

memoranda and reports of various inquiries and commission relating to the legislative proposal and those ancillary thereto.

(e)The draftsman must ascertain the administrative structure that will implement the legislation when passed.

Similar to the importance attached to a legislative chamber where members of the legislative douse debate and pass Bills, the office of the legislative draftsman is also of great importance. The office of the legal draftsman must be separate and distinct arid must be adequately equipped with the required facilities. Needless to the talk about the importance of the infrastructures, because law of legislation constitutes the hub of the nation. These must be put in place to create the enabling environment to facilitate the draftsman's efficient performance of their work.

Beside the provision of adequate facilities and very good working conditions for the draftsman, a good drafting office must meet a number of conditions, and these include:

1. A Good Office: This will allow some degree of privacy for each draftsman. The furniture must be very standard and the cooling system must be very adequate and efficient.

2. Information Technology: A drafting office must be equipped with modern technological facilities. Each draftsman must be computer literate. He must have a computer in his office and the office should be automated with modern telecommunication facilities such as digital telephone and Internet, E-mail facilities, photocopy machines, and others.

3. Well Trained supporting staff: This should include secretaries, Clerks, shorthand writers, Interpreters, Attendants, and so on.

4. Library facilities: the drafting office must have a well stocked library. A large collection of precedent books from other jurisdictions should be provided on the shelves. The draftsman must have direct access to all laws of the country whether Federal or State laws. The library must have

law reports, law journals, periodicals and standard legal and legislative dictionaries.

The libraries should be fully computerized so that the draftsmen can access the library through their computers, even in their offices.

5. Conference Room: Drafting offices normally consist of a reasonably large team of usually not less than 20 lawyers. It is normal, therefore, to have a conferences room where the draftsmen can hold conferences, seminars and meeting, which are sometimes necessary in the efficient performance of their job.
6. Except a standard and independent legislative office is created for each legislative House, the draftsmen who would be open to usual civil service work

Schedule may be transferred to work in different departments from time to time. And the effect would be to lose a good crop of draftsmen who may be mobilized or transferred to work in other departments within the Justice ministry or the Attorney General's Office.

3.3 Nature of legislative process

or a lawmaking body such as the National Assembly, that accommodates opposing elements, warring parties and competing individuals, it is important to have laid down procedure to facilitate the smooth conduct of proceedings. I

The operation of the House is governed by various rules and conventions that are normally adopted to conduct the business of the House by the presiding officers and other officers in the chair, According to the book “Legislative practice and Procedure of National Assembly (2004:36) “most procedures are derived from the admitted rights of each House to regulate its own procedure as encompassed mainly in their respective standing Rules/Orders.” This standing Rules/Orders are diverse in nature and also from various sources like the practice and conventions, Ad-Hoc Orders and resolutions which have stabilized, Rulings from the Chair, the constitution itself and occasionally from statutes.

The elements together from the procedural authority are exercised by the presiding Officer. sources of the four major procedural authority include the constitutional and statutory Authority, standing Rules/Orders, Traditional/Customary practices, and Rulings from the Chair.

These are discussed below:

The constitutional and statutory Authority —

A number of detailed provisions dealing with the actual operation of the house are contained in the constitution.

Among these are:

The requirement to the House before preceding any other business must choose a member to be the presiding Officer, and who may be removed from office by a two-third majority vote or may resign.

This provision was applied in the year 2000 when both the Senate and the House of Representative were rock various scandals Both the then Senate resident, Evan(s) Enwerem, and the then speaker, Salisu Buhari were accused of offences ranging from certificate forgery to Age falsification.

- The Senate resident resigned while the House Speaker was impeached at last

The provision that at least one- third of the membership is necessary for the purpose of a quorum.

- The provision that question arising shall be determined by a simple majority of voters. Statutes can also be passed from time to time to supplement the Rules until they stabilize and are later embodied in the Rules.

Standing Rules/Orders –

The House acting under the power conferred by section 60 of 1999 constitution, have adopted comprehensive rules/orders to govern the conduct of their business and also govern related matters such as, the operation of committees

The standing Rules/Orders do the following:

- i. Reflection Tradition legislative practices in the conduct of the business of the House.
- ii. Reflect and complement constitutional provisions, such as, in the detailed rules laid down for the consideration of “money bills”

C. Traditional or customary practices

A number of practices and conventions are observed in the National Assembly which are neither derived from the constitution nor from the Standing Rules / Orders, but which are traditional or customary parliamentary rules and

generally common to parliaments. Some examples of such conventions are the ‘subjudice rule’ and the procedure for closing a parliamentary session.

Rulings from the Chair:

Several modern practices are based on Rulings by the presiding Officer or other occupants of the Chair. Such Rulings are important especially in achieving consistent interpretation and application of the standing Rules/Orders.

The customary conventions of the House, if not based on, are at Least sustained and continued by the Presiding Officers’ rulings.

Ryle and Griffith cited in the book *Legislative Practice and Procedure of National Assembly* (2004) that this inter-relationship between formal decisions of the House as encompassed in the standing Rules! Orders and their application by the Presiding to different circumstances, is typical of the way many procedures have evolved and become established.

Rulings from the chair can also originate as a result of novel development for which no provision has been made in Rules. Such Rulings eventually become permanent feature of the standing Rules! Orders if not abrogated.

The standing Rules/order:

Reflect traditional legislative practices in the conduct of the business of the House:

Reflect and complement constitutional provisions, for example, in the detailed rules laid down for the consideration of 'money bills.

D. Traditional or Customary practices:

There are a number of practices and conventions that are observed in the legislature which are neither derived from the constitution nor the standing Rules/orders, but which are traditional or customary parliamentary rules, and generally common to parliaments.

Some examples of such conventions are the subjudice rule and the process for closing a parliamentary session.

e. Rulings from the Chair:

Several practices of modern days are based on Rulings by the presiding Officer or other occupants of the Chair.

Rulings of these nature are important particularly in achieving consistent interpretation and application of the standing Rules! orders.

The Presiding officers rulings, at least sustains and continues the customary conventions of the House, if not based on.

Ryle and Griffith cited in National Secretariat of Nigeria Legislature (2004:37) that “this inter-relationship between formal decisions of the House as encompassed in the standing Rules/order and their application by the presiding Officer to different circumstances, is typical of the way many procedures! Processes have evolved and become established.

They further stated that rulings from the Chair also originate as a result of novel development for which no provision has been made in the Rules. Such Rulings eventually become permanent features of the standing Rules/orders, if not abrogated.

Framework of legislative process

The House works within three dimensional frames which comprise (Assembly) sessions, minimum sittings per-sessions and daily sittings, The first two sessions are imposed by the constitution which stipulates that the life of a parliament is 4 years (in parliamentary practice, this is four sessions and a session must last for not less than 181 days). But daily sifting of the House are controlled by that House and embodied in its standing Rules/or

orders.

FORMS OF LEGISLATIVE PROCESS

i. Debate: The proceedings between a member moving a motion and the ascertainment of the decision of the House by the Chair a debate. The House performs one of its important /vital roles by debate. Browning cited in “National Secretariat of Nigeria Legislature” (2004:38) emphasizes: “Without speech, the various forms and institution of the parliamentary machinery are destitute of importance and meaning, speech unites them into an organize whole and gives to parliamentary action self-consciousness and purpose. By speech and reply, expression and reality are given to all the individualities and political forces brought by popular election into the representative assembly. Speaking alone can interpreter and bring out the constitutional arms of which the activity of parliament is set in motion. It is the dash of speech upon speech that national aspiration and public opinion influence these arms; reinforce or counter act their strength” There process of debate (motion made, question proposed, debate arising, question put and agreed to (or negative, resolved or ordered) is common to most of the main businesses of the House and too much of its Committee work. As enstrimed by basic Procedure, the process of debate is the main process used for most of the business of the House.

The process essentially includes:

A motion made (that this House do approve):

- a. Question is proposed by the Chair in the form: debate arises;

The question is put;

It is agreed to or negative:

If agreed to, a Resolution (expression an opinion) or an order (requiring action) results.

Amendments may be moved on which a question is proposed again and each amendment must be disposed of separately, before the main question is put, There may be amendments, to amendments. The standing Rules/orders may refuse amendments, may apply the Guillotine, or may order Closure, Motions and amendments may be withdrawn by leave of the House. Only one motion can be considered at a time. At the end of the debater, motions (and — amendments) will either be agreed to, negative, or withdrawn. This process ensures that decisions are taken singly and sequentially.

(ii) Motions

Subject to the provisions of the standing Rules! Orders, Members may give notices of motions or any subject before the House is able to express any

opinion on the matter. However, the motion must be Couched in proper parliamentary language and is not in some other Way' a proper subject for debate.” a notice for motion may not be allowed if the subject is subjudice. However, such matters are ultimately decided by the presiding Officer who has the power to disallow motions which infringe the Rules. Motions on matters that riot infringe the Rules and are not ruled out of order by the presiding officer can be tabled by members, but whether they may have a chance to move these motions and have them debated, will depend on the House calendar.

iii. **Amendments**

Amendments are moved subject to procedural restrictions. They may only be moved for the following reasons:

- They must be relevant to the motions they seek to amend;
- They must not have the effect of rendering the motion, it amended, unintelligible, or self - contradictory;
- They must be consistent with other amendments already agreed;
- They must not, in effect, negative the motion itself without explanation. For instance, an amendment to the motion (that this douse approves...” which was simply to leave out the word “approves” and insert “does not approve” would be out of order.

Notice Given

Apart from certain procedural motions which can be moved by custom or standing Rules/orders without notice, formal notice, given at least one day previously, (depending on the Rules of each House) is required for all substantive motions before they appear on the order paper. This notice (sometimes a longer period is occasionally required by the standing Rules /orders) is to enable other members to table amendments or give them opportunity to contribute meaningfully to the motion. Members give notice by handing in the text of the motion, including its title to the Table office. Notice is usually, but not necessarily, given for amendments.

Motions made and Questions proposed:

Whenever motions are moved and seconded, the Chair proposed the Question in the same terms, as stipulated in the standing- Rules/orders. Hence, the debate is now open.

A member may propose an amendment to the question, the Chair will then again propose the question on the motion as amended, If the motion as amended is carried, the chair will then put the Question on the new motion reflecting the amendment.

If at the end of the day, the motion as amended is carried, it becomes a resolution of the House.

Divisions

many motions are agreed to without division, but divisions are sometimes d.

The process is as follows:

The presiding Officer or Chairman orders “Division” when the voice seems to be indecisive and a ‘member call for a Division.

the Ayes” will move to be the right and “nayes” to the left of presiding officer -ere their names are recorded by Clerks- at the

- Table and the tellers who have been appointed by the Chair on the nomination of the whips. For each Division, the Tellers are a supporter and an opponent of the question at issue. When everyone has voted, the tellers submit the figures to the Clerk of the House who in turn passes it on to the chair who announces the results.

The numbers and names of those voting in Divisions are recorded in the vote’s and proceedings, as well as the official Reports of proceedings. Casting Vote of the Chair the numbers in a division are equal, the presiding officer or Chairman of a committee (who does not vote normally) would have to give a casting vote. Rules Governing speeches ere are rules of debate for speeches. These rules states that speeches must:

- Be addressed to the chair
- Not be read in normal circumstances
- Be relevant to the question
- Not be guilty of “ tedious repetition”

The order in which members are called is entirely a matter for the chair. Members can speak freely subject to compliance with the Rules of the House. However, as the standing Rules! orders dictate, certain words or statements could be declared as “unparliamentarily” by the presiding officer. Such words would include a wide range of abusive terms. In addition, abusive words which are likely to create disorder may be ruled out of order, The guiding principle is not to make charges that tend to question member honesty or integrity, but in the words of Erskine (1997) cited in “Legislative Practice and Procedure of the National Assembly” (2004-42) “Good temper and moderation are the characteristics of parliamentary language.”

Powers of the chair to control debates

In the conduct of debates, much depends on the power of the chair to control debates and enforce orders. The presiding officers, their deputies and the chairmen of committee are therefore given disciplinary powers, which they

- can exercise on their own initiative or at their own discretion. It is only when the directives of the chair are disregarded or his wishes not respected, that the

chair Would need to resort to formal disciplinary procedure contained in the standing Rules/orders.

Other processes for controlling Debates

There are other processes for controlling or curtailing debates in which the initiative does not lie with the chair, apart from the wide range of powers, the chair exercises in controlling debates. Though, in some cases, he exercises some discretion in applying these procedures.

a. Dilatory Motions

The wildest form of control relates to motions for the adjournment of debates, or of proceedings on a bill. Once a question is proposed, debate ensues. A member who has not yet contributed to that debate may rise and move that debate be now adjourned or if in committee of the whole House, the Chairman do report progress.

The effects of these motions which are termed Dilatory motions are to delay - decision being taken on the matter by the House. In view of the usually negative effect of these dilatory motions, the standing Rules/orders of the Houses do not allow the presiding officer to entertain them.

b. Closure:

The next most vigorous restriction of debate is the closure motion. The closure notion is however, restricted to various conditions to prevent abuses Rule

58 of the Senate as well as order ix Rule of the House of Representatives provide that after a question has been Proposed, any member may claim to move “that the question be now put” (so that the debate could end); and “unless it shall appear to the chair that such a motion is an abuse of the Rules of the House,” the closure motion is put forthwith. No debates or even points of order are allowed on the chair’s acceptance (or refusal) of the closure.

c. Guillotine:

The most drastic method of curtailing debate is the allocation of order or “guillotine”. This involves a detailed and sophisticated set of procedures or processes whereby the House, on a motion, imposes a time table on the further proceeding on bills.

3.4 Constraints Against legislative process

The National Assembly is vested with the power to make laws, alter legislations, and the right to monitor the implementation of such legislations by the Executive.

It also enjoys powers, privileges and immunities that are meant to enable it make laws with ease and convenience.

That notwithstanding, the legislature still experiences some constraints in its effort at making good laws in the interest of Nigeria and Nigerians.

This research work shall examine those constraints or factors that militated against efficient lawmaking process in the National Assembly within the period under study.

One of the constraints faced by the legislature even at the commencement of the current democratic government in 1999 was lack of requisite knowledge of the National Assembly itself which would have enabled of the legislators begin their lawmaking responsibility with ease and clear understanding of the terrain. Many factors were responsible for this problem but the main factor was the lack of continuity of the Nigerian legislation, due to incessant incursion of the military into government. It is common knowledge that the military intruded in to government severally in 1966-79, 1983- 85, 1985-92 and 1993- may 29, 1999. Each time the military intervened, the legislative arm of government was forced to remain in abeyance for as long as the military held sway or remained in government. And since military governments are run by Decrees, it only require the approval of the supreme military council or Armed forces Ruling council to pass any decree.

The Executive, represented by the various military regimes, I continued to function while the judiciary remained intact and apolitical in its services.

Interests swayed votes in favours of Evan Enwere which did not go down well with Senator Okadigbo. The late accused the executive branch of undue influence peddling and interference with its internal affairs of the Senate. From then on, leadership problems became the National Assembly's nightmare. In the House of Representatives, Speaker Salisu Buhari, was forced to resign for falsifying his age and presenting false academic certificates. He was later prosecuted for perjury. His exit led to the election of Umar Ghali N'Abba as Speaker. These problems caused constraints against the legislative process in the National Assembly.

Misunderstanding between the legislature and the executive branch also constituted a constraint against the legislative process in the National Assembly. The first Assembly of the Fourth Republic had frequent crises with the Executive Branch. For instance, the first constitutional face-off between the legislature and the Executive branch surfaced in July, 1999 after the president repealed Decree 25 of 1994 establishing the Petroleum Trust (special) fund (PTF). The Petroleum Trust Fund was an octopus' infrastructural development institution whose activities encompassed the sphere of many ministries and parastatals. Anyanwu (2003) described the situation thus, "the announcement would trigger a swift, sharp reaction from the Senate bringing about the first official disagreement between the Federal Executive and the legislature."

The Senate nullified the action of the president on July 2, 1999, describing it as a “unilateral” and effectively a usurpation of the function of the legislature. However, by citing section 315 (a) and (c) of the constitution the Executive defended its action, claim the constitution gives the President power to review any bad law and repeal any law that is not in conformity with the constitution. This crisis dragged on for long and it marked the beginning of sour relationship between the legislature and the executive it equally affected the legislative process in the National Assembly because the frequent crisis often caused distraction from lawmaking business of the Assembly members. Lack of funds also constituted another constraint against the legislative process. The National Assembly was denied of adequate funds for its activities. This may be due to the soured relationship between the two arms of government for example;—the 2000 budget allocation for the legislature- was reduced to N17.2 billion from initial N28 billion to which it was raised. This was done by a Committee of three led by Senator Iya Abubakar representing national Assembly and Dr. Patrick Dele-Cole from the Executive Branch. However, the President disregarded the recommendation of the Committee and pegged the budget at N5 billion only. This development had a far reaching implication on the legislative activities of the National Assembly, thereby affecting the legislative process.

There are also inadequate offices for members of legislatures in the 1999-2003 tenure; this also proved a lot of constraint in reaching the members in order to carry out their legislative duties.

REFERENCES

Akintola A. Jimoh, Law Practice and Procedure of Legislature,
(1999)

Lagos Learned Publishment Limited.

E. L. Piesse, Elements of Drafting, sixth edited by J. K.

Aitken, PP 13 -16.

Emmanuel Okon and Aquaowo Essien: Law Making process in Nigeria
at the National and state House of Assembly (2005).

National Secretariat of Nigeria Legislature. A handbook on
legislative practice and procedure of National Assembly (2004).

Printed by Intec Printers limited Ibadan.

Professor M. O. Yakubu, Director Institute of Administration
Ahmadu Bello University, Zaria, Paper Presented at a seminar
for the legislative in Daily sunrays of November 11, 1993.

See generally the Legal Draft man P.6.

CHAPTER FOUR

4.0 LEGISLATURE AND GOVERNANCE

Constitutional governments all over the world recognize three basic departments of government, the Legislature, the Executive and the Judiciary. As postulated by Montesquieu, ideally the three departments are separate and distinct and constitutionalism presupposes that each department functions on its own until without I interference from the others. Modern governmental practices, however show the mythology and artificiality of the separation of power theory. While contemporary practice has shown interrelationship and interdependence as imperative, every state has also developed its own degree of fusion or separation of power based on its constitution framework arm political and administrative conveniences.

While some countries following the British Westminster parliamentary democracy here achieved greater fusion of power between virtually the three departments of government, some others following the American tradition have seen more reason why the furrow of separation should be maintained if only to practice the constitution with the intended mechanical efficacy where the rights and liberties of the individual will not be sacrificed at the altar of power absolutism.

Little doubt exist on the validity of the preposition that modern government whether of the British, continental European or American pattern appears a partnership phenomenon. The exercise of pseudo-legislative powers by the executive through the practice of delegated legislation has meant more co-operation or collaboration than separation the reality of this can be seen through the making of Bye-laws, Regulations, Rules of Procedures, Subsidiary legislatives as well as the creation of provisional instruments and the expending Regulatory Roles of the Executive arm.

The 1979 constitution of the Federal Republic of Nigeria creates the Legislatives. The Executive, and the Judiciary. The constitution made considerable effort to recognize the principle of separation of power by dividing the powers of the Federal Republic of Nigeria among the three departments. Which were respectively vested with respective powers under the provisions of sections 4,5 and 6 on the constitutions. While the legislative power of the Federation is vested in the National Assembly under section 4, Executive power of the Federal is vested in the Executive President under section 5. The Judicial powers are vested in the counts established under the constitution by virtue of section 6. The same arrangement of sections was followed under the 1995 draft constitution.

As earlier observed, separation of powers does not mean complete isolated existence of the three branches of government the constitution also has a way of ensuring continuous power relations the President, as of right, visit the National Assembly to deliver addresses on National Pressing matters such as budget, foreign affairs, national security and soon. Similar practice exist between the Government of a state and the state House of Assembly.

The president or Governor as the case may be is not empowered by the constitution to take part in legislative law making or the voting process, but little do not exists on the fact that the President's or Governor's visit and address to the legislature influence a great deal the form and directions of legislative functions and duties performed by the legislature.

The Nigeria Federation operates essentially a written constitution and great efforts are usually made under various constitutional making processes to recognize the strength of each department of government and the need to prevent overlapping power sharing formula. The constitution therefore plays pivotal rule in whether democracy is intended to be achieved under the Nigeria Federal system, albeit the military has been operating a' garrison commend military type of government as against supposed Federalism.

As an emerging democracy, the constitution will play paramount role in shaping the future of the country. Through the three department of government would continue to play their constitutional duties as efficient as they can, since the entire constitutional practice is still in its infancy, the legislature must be prepared to assure greater challengers under new dispensations. The legislature like any other department will not only play its constitutional roles, it must in addition be ready to nature the constitution self.

For an emerging democracy like Nigeria, the constitutional engineering process a continuous one and it is only the legislature that can assure responsibility that direction. It is on this ground that the pressing endeavor is principally reacted as enhancing the level of legislative practice as a basis for a stainable legal and constitutional order.

4.1 Constitution and Legislative Powers.

One basis feature of Federalism is the division of power among the various tiers of government. Power is divided among the federal, state and local governments. Usually, division of power is made not only among the tiers of government but also among the various arms or departments of government as the various levels. The legislature, has its power segmented between the

Federal and state legislatures on the one hand and between the state and the Local Government on the other hand.

Unlike the British parliamentary system, under the Nigerian or American system, the constitution and not the legislature is supreme.

The implication of this is that Legislative powers conferred on legislative houses, no matter how plenary in character, must be exercised in strict compliance with the provisions of the constitution. Provisions regarding fundamental principles such as state objectives and Fundamental Human Right must be strictly observed. Any legislation enacted by the legislature whether state or Federal, even if within the prescribed legislative competence would be declared ultra-vires null and void where same contravenes constitutional provisions. This was clearly demonstrated in the case of Attorney General or Bendel State v. Attorney General of the Federation and 22 others, where the supreme court declared an act of the National Assembly ultra-vires and unconstitutional, it is very important that in carrying on its lawmaking functions, the legislature must adhere to the provisions as well as the spirit of the constitutions.

The role of the constitution in the allocation of legislative powers cannot be over emphasized the constitution divides and allocates legislative powers and

as the same time, it establishes the formula for inter-legislative power relations between the various levels or tiers of government most importantly, considering the various heterogeneous factors that come to play in a Federation, which manifest in perennial conflict over legislative powers is almost constitutions to maintain strict compartments in the devolution of legislative powers.

The 1979 constitution devised a power devolution mechanism for the legislative organ of the Nigerian Federation using three major legislative power sharing formula:

- (I) Exclusive legislative powers:
- (II) Concurrent legislative powers; and
- (III) Residual legislative power;

REFERENCES

Hon. Justice P. Nnnaemeka Agu J.S.C, “Freedom of the law in a Democracy as compared with Military Rule”, Paper delivered at continuing legal Education Association Seminar at Gateway Hotel Ota, Ogun State, Nigeria (1992).

Professor Jadesola Akande, “Legislature and the Democratic Process” Paper delivered at continuing legal Education Association Seminar at Gateway International Hotel Ota, Ogun state, Nigeria (December 1992)

CHAPTER FIVE

5.0 STRUCTURE OF THE LEGISLATIVE ASSEMBLY

The structure in relation to the national Assembly as a law making institution are those elements that must be capable of assisting the legislature to achieve its objectives structure in the context of this review encompasses the organization, facilities and services put in place to enable the National Assembly achieve its objectives. In other words, it entails the visible or physical form as well as arrangements made to facilitate the work of members that is its political and administrative framework.

The physical structure:

Externally, the National Assembly complex occupies a wide area of land at the centre of which stands a concrete structure which consist of a dome that easily distinguishes it- from the structures of the other two arms of government the presidency (Aso Rock) and the supreme Court, The three structure literally make up what is known as three Arms zone.

There is also the central portion of the concrete complex (a three storey structure) housing the two Chambers - the senate and the House of representatives Chamber on the north and south flank respectively. It also includes the offices of the presiding officers, Clerk to the national Assembly, to the senate and Clerk to the House of Representative.

The central portion is bounded in the North and South by two five storey structures which consist of offices for other principal political functionaries, Committee Chairman and some senior officials directly involved in legislative work. There are also Committee rooms in each of the twin storey structures.

Organizational set-up

Organizational set-up has to do with how the National assembly structure is organized to facilitate law making. That is, the arrangement made to ensure that the principal objectives of the legislature are realizable. The structure is organized in such a way that side by side with the political functionaries are legislative officers (Public servants) who provide the services needed by the lawmakers. Hence there are two types of functionaries in the national Assembly.

- i. The political. Heads and other principal, political functionaries.
 - iii. Legislative and demonstrative functionaries who provide the services required to enable political functionaries perform, their duties as legislators, and also, to operate the facilities that ease the legislators' tasks.
 - iii. Both of these are reviewed under the political and Administrative set-up.

The political and administrative set-up The National Assembly is made up of two Houses - the Senate and House of representatives, each headed by a Presiding officer and his deputy who are the Political heads. Responsibly to the two House is the Clerk to the National Assembly who is the chief administrative and accounting officer of the Assembly. He is assisted by the Deputy Clerk to the national Assembly who also acts for the Clerk in his absence. According to “Salim (2004)” the basic arrangement is derived from the constitution (vide SS 7 to 51, 90 to 93 of the 1999 constitution).

Built upon this constitutional arrangement are provision made for other political functionaries in the standing Rules! orders of each of the legislative Houses. These functionaries include House leaders, party leaders, whips and committee chairman. The Clerk of Senate and House of Representatives head the legislative services of these House and are responsible to the Clerk to the National Assembly. Each House has a legislative Department Composed of officers who carry out the legislative work of their respective Houses and — implement their Houses political decisions.

In addition to the basic political arrangement, and apart from performing their - law- making roles in their Chambers, members are assigned to Committees and sub-Committees. This arrangement as noted by Salim (2004)” greatly eases the

making of laws through division of labour. With the contribution in committee, Salim (2004) notes that “members play more significant role in the formulation and consideration of public policy in Committees than they do in an open debate on the floor of the House”.

For further realization of the objective of the law- making bodies of both Houses, a number of departments are established, generally called the common, services department. These departments which provide specialized services include the following:

Administrative / personnel management department; finance and supplies department; legislative Budget and planning department; Information and publication department: legal service departments; Estate and works department: These seven departments complement the two legislative departments. Senate and House of Representatives.

In addition to the above are four other principal units - the national secretariat of Nigeria legislature, the medical service unit, the Internal Audit unit and the sergeant At- Arms unit, these are under the direct control and supervision of the Clerk to the national Assembly.

Facilities:

Facilities, generally speaking are equipments which make it possible or easier

for members to do their work. The various functions of members dictate the type of facilities that should be made available to them. These facilities should of necessity include:

- Well constructed and acoustically tested deliberating chambers.
- Adequate numbers of committee rooms.
- Well equipped offices for the political functionaries the president of the senate and the speaker of the House of Representatives as well as their deputies: the House and party leaders, the whips and chairmen of Committees: and all other members of the National Assembly.

A well-equipped library coupled with up- to date reference and research materials.

A printing Department with excellent and modern machinery.

A Suitable and equipped members and staff restaurants.

Computer services within easy reach of members and staff.

Telephone and postal services and Internet facilities.

Photocopiers and adequate supply of stationary items-and accessories.

Vehicles.

Services. -

For the legislature to be able to perform satisfactorily its traditional role of being functional, accountable, informed, independent and representative, legislative ales and other support services are sine-qua-non.

The principal providers of these service are permanent staff, headed by the Clerk to the National Assembly (CNA),

He coordinates the legislature functions of both Houses as well as being the chief Administrative and Accounting officer. He also performs other multi famous functions among which is the enrolment of laws passed by the National Assembly and forwarding them to the president of the Federal Republic of Nigeria for his assent, and also, conveying to the president Joint Resolutions of the National Assembly through the secretary to the Government of the Federation.

The C.N.A also advices the two presiding officers on matters of purely administrative nature in respect of each or both Houses Jointly in his Capacity as the chief Administrative officer of the Assembly. He is continuously assisted by the Deputy Clerk to the National Assembly, to whom he also delegates specific duties particularly as regards the Common services Departments. The Clerk of the senate and House of Representatives perform legislative functions as heads of Department of their respective house and report back to the Clerk to the National Assembly (CNA) as occasion warrants. They are also the CNA's delegates in regard to administering the affairs of their respective Houses.

Under them are other legislative staff from the Deputy Clerk of the Senate and House down the ladder. They service the Chambers (as Clerk- at the - tables) and the various Committees (as Committee Clerk or secretaries) and reform other administrative. Services for members both collectively and individually.

common services Department perform services as their title imply to aid

members individually and collectively towards easing their Jobs of law-making.

Legislative aides:

In addition to the permanent staff, members also have the assistance of legislative Aides who are non-permanent staff, Although paid by the National Assembly.

members are given the privilege of appointing a fixed number of legislative Aide to assist them in diverse ways, particularly in carrying out their research work and in discharging their constituency responsibilities.

Special aides on consultancy basis

provisions are made to enable Committees, in particular, hire consultancy services on ad-hoc basis. These consultants perform specific services for which they are paid.

finally, the up- dating of facilities and services normally is a continuous process especially with the level of technological developments globally, and also, with hard to legislatures world — wide. Hence, the Notional Assembly of Nigeria cannot afford to be left out or remain stagnant.

5.1 Functions of Legislature

The primary responsibility of the legislature is to make laws. A legislature is a persons in a Country or State that are vested with the right or power to make, alter or repeal laws it may consist of one or two chambers with similar or differing powers.

legislative right as defined by Salim (2004) combinations of authority or claims to which members are Justly entitled, arising from the mandate given to them people to discharge legislative functions”

The definition above reveals that the power or responsibility for law- making legislature affairs belongs to the legislature which in Nigeria is the National Assembly. It consist of people who have been duly elected by people in their various constituencies, furthermore, it is provided for in chapter one, part II section, 4 (1) of the 1999 Constitution which states that “ the legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a senate and House of Representatives” with this it is Clear that the National Assembly has the mandate to discharge legislative functions on the behalf of the people for the country

The national assembly among others perform the following functions.

- Deliberative: to debate matters of general or particular interest.
- Legislative: to make laws
- Financial: to debate, amend (where necessary) and enact government proposals for the use of government money Other functions performed by the legislature include: airage in the same line checking the Executives (oversight)
- Providing Political education for the public
- Providing representation for several kinds of clientele, Judicial functions and leadership selection.

Deliberative functions:

Under deliberative functions, there are motions leading to debate and questions which do not necessarily lead to debates.

motions are filed by members of the legislatures and the chances for their consideration depend on the work load of the legislature and the time available for the conduct of legislative business. Debate on motions consist of:

- i. Motion for an address in reply to the speech of the Chief Executive: this is speech delivered by the chief executive of the nation to the National Assembly either while presenting the Budget or during the Nations address or some other specific occasion. This debate on this motion is the widest of the session covering as it does every aspect of the life of

the country both as to what government intends to do and what it does not.

- ii. Motion relating to specific matter:- these motions may be on matters which the National Assembly is competent to discuss. They may be submitted by any member of the Assembly to obtain support for a proposed policy or by members of the government party to test opinion before government frames a policy. Members may also submit motions on subjects ranging from matters of high policy to matters concerning their constituencies such motions may vary from criticism of government departments to suggestions for administrative or legislative action.
- iii. Motion for adjournment of the House: the standing Rules/orders provide a motion for adjournment of the House to be moved at different times for different purposes i.e. to enable a debate to take place on an agreed subject without forcing the House to take a decision thereon. A motion for adjournment may also be moved to bring the sitting of the House to conclusion when the business set down for consideration has been concluded but the hour appointed for termination of sittings has not been reached. Any member may take advantage of that motion to raise any matter of administration for which the government is

responsible. It is not proper to raise a matter, the remedy- of which would require legislation during the debate on motion for adjournment. Legislative questions, as remarked by Akintola (1999) are “means of obtaining information as to the progress made on the activities of government matter whether Federal or State.

Legislative function

Legislative functions are carried out in the debate of Bills and delegated or subordinate legislations. The primary function of the legislature is to make laws but the expansion of government services and functions has contributed to an endless procession of ideas for laws.

Although the Constitution vests the law-making function of the nation in the National Assembly, this does not mean that legislature alone initiate ideas for legislation.

In almost all democratic systems, the legislature depend upon ‘outsiders’ such as the executive administrative agencies, political interest groups, non-government organizations (NGO’s) e.t.c. to initiate ideas for legislation. However, the most of these agencies is the chief executive. He provides regularly the major items on the legislative agenda while the legislature brings into law making, the power to represent the people and authority to make social decisions.

Ratification of Treaties

In addition to the law-making of the legislature, the constitution of some countries operating the presidential system (Nigeria inclusive) invest the legislature, though the senate, with the power to approve treaties. Although the initiative for making foreign policy rest with the executive, the constitution confers the responsibility of ratifying treaties and other international agreements on the Senate.

The significant increase in the number of treaties and international agreement in recent years, and the consequent requirement for enabling legislation to make them become effective have greatly augmented the responsibilities of the National Assembly in the field of foreign policy. Moreover, globalization of domestic policies in most nations have further emphasized the influence of the legislature on foreign policy.

Amendment to Constitution

The second category of law-making constitutional origin is the power to adopt constitutional amendments and thereby alter the fundamental laws. It is a law-making function of not only the National Assembly but also the State Legislatures. The process for formulation and adoption of Constitutional amendments includes two main stages-proposal and ratification. The procedure for proposing and adopting constitutional amendments differ from one country

to another. In Nigeria, the procedure for amending the constitution is clearly stated in section 9 of the 1999 Constitution.

Oversight Function

The complexities of modern government on the initiative and vigor in law-making supplied by the Executive in most systems having rendered executive leadership inevitable in an increasingly complex and technological and scientifically advanced world. Scarce resources including time and power require prudent handlings.

Therefore, many countries have come to see legislative oversight of executive as a means of increasing legislative effectiveness.

Legislative oversight serve as an instrument whereby the National Assembly can resist executive dominance and strengthen its overall position in the constitutional system- efficient government requires careful attention by the legislature to the administration of laws. This is because even a thoughtful and well drafted law offers no guarantee that policy intention of legislation will be implemented. The legislature has several devices for reviewing, influencing and directing administration. The process of law-making itself is an obvious technique of supervision. New Laws can be enacted and old ones reviewed with a view to influencing administrative behavior.

The most powerful and possible effective weapon of legislative oversight is the “power of the purse” i.e the power to appropriate funds for the conduct of government. The power can be employed effectively to disrupt agencies and undermine programs. This “power of the purse” can be potent in the hands of an assertive legislature because the direction of scope of government activities is determined by the amounts funds available to it.

Another instrument is the constitutional requirement of legislative participation in the appointment process, this requirement is an opportunity for the legislature to Check an influence the administration, though, the chief executive is conferred with the authority by the constitution to appoint key functionaries of the executive, such appointments remain tentative and provisional until ratified by the Senate. The principle of “senatorial/constituency courtesy” may come into play if the president ignores the wishes of senators and submit objectionable names of confirmation. Another method by which the National Assembly Checks the Executive is Committee hearings and investigation.

The invective device may however be characterized sometimes by a doubtful combination of surveillance and publicity aspirations of the Committee Chairman.

Hearing and investigations constitute instruments of struggle between the executive and legislative branches, and thus, serve as deterrents to administrative waywardness and carelessness.

Financial functions:

The constitution of most countries vests the power over Public funds in the representatives of the people. Executive officials conscious of the power of the National Assembly over the purse strings are attuned to the nuances of legislative language in hearings; floor debates, Committee and conference reports if for instance, Executive agencies consider legislative directives unwise they are likely to seek informal consultation with members and Committee staff than to seek new laws or resolutions.

Executive officials are in regular contact with members and staff of Committees, such informal contact enable Committee to exercise policy influence in areas where statutory methods might be inappropriate or irrelevant.

Lastly, in compliance with constitutional provisions the annual “ritual of preparing and placing before the National Assembly” the Appropriation Bill every financial year provides opportunity not only for discussing the sums required to be voted, but for criticizing generally the whole administration and its programs.

legislators time and may result in neglect of legislative matters. Legislators prefer to do little service for a lot of people on a lot of little subjects as a hedge against the future than to try to engage in trying to do a big service out there in the void.

Apart from catering for the interests of constituents,- the legislators are also expected to be guardian of his constituency in the Capital. In this regard, legislators expend much energy trying to secure Federal projects for their constituencies.

Judicial function:

In addition to the functions highlighted above, the National Assembly also perform Judicial function such as resolving disputes concerning individual through its ethics Committee and to propose appropriate laws relevant to their cases. Examples of these include:

flushing and expelling members for contempt, disorderly behaviour, or impeaching and removing from office, members of the executive and judicial branches. The above is the most important judicial function which the constitution confers on the National Assembly.

Although, the array of functions conferred on the National Assembly by the constitution and or convention appear over whelming and wholesome the

exercise of these functions depend on whether the legislature is informed functional, independent representative and accountable.

REFERENCES

Mrs. R. A. Ahmadu, “An overview of the structure and workings of the legislature” Paper delivered at induction course for newly recruited Senior Legislative Officers of the National Assembly Abuja (2005).

Mrs. R. A. Ahmadu “Functions of A Legislati.irc” Paper delivered at the induction course for newly recruited Senior Principle Officers of the National Assembly Abuja. (2005).

National Secretariat of Nigeria Legislature, A handbook on Legislature Practice and procedure of the National Assembly (2004) printed by Intec printers Limited Ibadan.

CHAPTER SIX

6.0 SUMMARY, CONCLUSION AND RECOMMENDATION

6.1 Summary

The colonial structure aimed at being representative of the Nigeria people to ensure a form of government metamorphosed into what we have today as the legislature.

The legislature has been identified as a veritable tool for good governance in a democratic dispensation. This project work has been able to X-ray the evolutionary trends of the legislature, the legislative process as the comparative analysis of legislative process in various countries of the world. The project also was able to develop a theoretical framework for legislature. There is a proper analysis of legislature and governance, constitution and legislative powers, and the structure of legislative Assembly and functions. It is a full embodiment of a standard lawmaking practices and procedures.

6.2 Recommendation

By function, the National Assembly is the first arm of government because it initiates, defines, designs and explains the best way or method to attract or command mutual followership.

This way the National Assembly ensures adequate mobilization of resources to accommodate the citizenry.

Having observed the vital role the National Assembly plays in human governance, it is expedient to ensure:

- The full separation of powers checks and balances.
- Adequate funding of legislative works
- Inter parliamentary interactions
- Improved legislative practices
- Grassroots legislation
- Interactive relationship between the legislators and the people.

With the above recommendations, I hope the legislature will always take its bold position in the equitable distribution of resources in a fair and justified manner

6.3 Conclusion

In conclusion of this project, government should fund more research in the legislative practices in order to achieve fairness, equity and justice in the polity, through a well-grounded democratic governance. The National Assembly should stand up to its constitutional role in defending our democracy and making available to the people what is their rights and privileges. This will ensure societal cohesion and development.

Members of the National Assembly should be men and women of integrity, whose intellectual prowess and transparent disposition has made a landmark. Legislative should be carried in an unbiased and selfless manner by members of the National Assembly, on whom the onus of responsibility lies to secure and keep democracy.

BIBLIOGRAPHY

- Akintola A. iimoh (1999) Law Practice and procedure of legislature
Lagos learned publishments limited.
- Chris N. b. Anyanwu The lawmakers Federal Republic of
(2003 - 2007) Nigeria (published by star craft international)
- Emmanuel Okon and Aquaowo Essieri (2005) Law making process in Nigeria
at the National and State of Assembly
- E.L. Piesse Elements of Drafting, Sixth Edited by J. K.
Aitkeri PP 13 -16
- Hon. Justice P. Nnaemeka Agu J.S.C (1992) Freedom of law in a Democracy
as compared with Military Rule, Paper
Delivered at continuity Legal Education
Association Seminar at Gateway Hotel Ota,
Ogun State, Nigeria.
- Kenneth Janda, TaffreyM. Banny The Challenge of Democracy
and Jerry Goldman (1989) Government in America, Second
Edition.
- Magrath Cornwell arid Goodman The America Democracy Published (1969)
by the Macmillan Co-collier Macmillan
limited, London p. 408

- Mrs P. A Ahmadu (2005) An Overview of the Structure and workings of the Legislature, Paper Delivered at Induction Course for newly recruited Senior Legislative Officers of National Assembly Abuja.
- Mrs. P. A. Ahmadu (2005) Functions of Legislature, Paper Delivered at the Induction Course for Newly Recruited Senior Principle Officers of National Assembly Abuja.
- National Secretariat of Nigeria A hand book on legislative practice and procedure of the National Legislature (2004) Assembly (printed by inter printers limited Ibadan).
- National Assembly Abuja (1999) The Constitution of Federal Republic of Nigeria. Publish by National Assembly Press Abuja
- National Assembly Abuja (2003) Standing Rules/order of The senate printed by National Assembly Abuja
- National Assembly Abuja (2003) Standing Rules/order of the House of Representative. Printed by National Assembly Abuja.
- Professor M.O. Yakubu (1993) Director Institute of Administration Ahmadu Bello University, Zaria, Paper

presented at a Seminar for the legislative in
daily sunrises

Professor Jadesola Akcinde (1992) Legislature and the democratic process.

paper delivered at continuity Legal

Education Association Seminar at Gateway

Intentional Hotel Ota, Ogun State, Nigeria.

Timothy Ibikunle Ojo,

The Nigeria Legislature Its origin,

organization procedure and practice

volume III

University of Abuja,

Nigeria Politics I Abuja CDLCE

University of Abuja.