
Oversight Functions of the Legislature and The Roles of the Judiciary in Nigeria: The Challenges for The Rule of Law

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ABSTRACT: *The ultimate objective of the oversight function of the legislature is to promote accountability, transparency and responsiveness on the part of the executive and by extension checks and balance it public actions. On the other hand, the constitution vests the judiciary as the third organ inter alia with the powers to interpret and apply all laws in the country in relation to both criminal and civil matters and disputes between individuals, groups, and political authorities as well as between one state and the federal government in a federal system. It is against this backdrop that this article examined the oversight functions of the legislature and the roles of the judiciary in Nigeria and the challenge it may constitute to rule of law. This paper argued that the legislative oversight function constitutes an important source of suspicion and conflicts, particularly between the legislature and the executive. Therefore, the judiciary that is supposed to serve as an impartial arbiter is incapacitated to serve the interest of the executive in several instances. This paper adopts historical and analytical approaches through the use of primary and secondary documents as contained in published and unpublished materials. The paper concludes and recommends that rule of law and democracy can flourish effectively and efficiently only if the capacity of legislatures is strengthened to address critical issues relating to constitutionalism, corruption, poverty, check the excesses of the executive, and collaborate with the judiciary to avert the consequences of democracy by court order.*

KEYWORDS: democracy, legislature, judiciary, rule of law and checks , balance

INTRODUCTION

The problem of stable democratic tradition has for too long bedeviled virtually every country in Less Developed Countries (LDC) of the world. Nigeria which is a prominent actor in this group of countries has unfortunately had an epileptic experience vis-à-vis participatory democracy since she attained political independence on October 1, 1960.¹ The original thinking

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¹ Bello-Imam I. B. 'The legislature: Its role performance, problems and prospect in Nigeria', (2004), in Bello-Imam, I. B. & Obadan, M. I. (eds.). *Democratic "Governance and Development Management in Nigeria's Fourth Republic, 1999 – 2003* (Ibadan: Centre for Local Government and Rural Development Studies) p 407.

of the Greeks about democracy was direct democracy where every adult citizen was directly represented by himself in all meetings of the Greek City states. However, as a result of the complex objective conditions of contemporary societies, the idea of direct democracy was abandoned for representative democracy where the elected representatives now take decisions and implement same on behalf of the people against the backdrop of the mandate given them by the electorate.² Thus, the decision making functions of all political institutions in Nigeria have been divided into the executive, the legislative and the judiciary.

Section 4³ of the Constitution of the Federal Republic of Nigeria provides

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. (2) The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution. (3) The power of the National Assembly to make laws for the peace, order and good government of the Federation with respect to any matter included in the Exclusive Legislative List shall, save as otherwise provided in this Constitution, be to the exclusion of the Houses of Assembly of States. Section 5⁴ of the Constitution of the Federal Republic of Nigeria provides

5. (1) Subject to the provisions of this Constitution, the executive powers of the Federation: (a) shall be vested in the President and may subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President and Ministers of the Government of the Federation or officers in the public service of the Federation; and (b) shall extend to the execution and maintenance of this Constitution, all laws made by the National Assembly and to all matters with respect to which the National Assembly has, for the time being, power to make laws. (2) Subject to the provisions of this Constitution, the executive powers of a State: (a) shall be vested in the Governor of that State and may, subject as aforesaid and to the provisions of any Law made by a House of Assembly, be exercised by him either directly or through the Deputy Governor and Commissioners of the Government of that State or officers in the public service of the State; and (b) shall extend to the execution and maintenance of this Constitution, all laws made by the House of Assembly of the State and to all matters with respect to which the House of Assembly has for the time being power to make laws. (3) The executive powers vested in a State under subsection (2) of this section shall be so exercised as not to:- (a) impede or prejudice the exercise of the executive powers of the Federation; (b) endanger any asset or investment of the Government of the Federation in that State; or (c) endanger the continuance of a Federal Government in Nigeria. Section 6⁵ of the Constitution of the Federal Republic of Nigeria provides

6. (1) The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation. (2) The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this Constitution, for a State. (3) The courts to which this section relates, established by this

² Ibid

³ Constitution of the Federal Republic of Nigeria, 1999

⁴ Ibid

⁵ Ibid

Constitution for the Federation and for the States, specified in subsection (5) (a) to (1) of this section, shall be the only superior courts of record in Nigeria; and save as otherwise prescribed by the National Assembly or by the House of Assembly of a State, each court shall have all the powers of a superior court of record.

It is clear from the above that, section 4 of the Constitution⁶ vests the legislative powers of the Federal Republic of Nigeria in the Legislature (the National Assembly), a bicameral legislature, consisting of the Senate and the House of Representatives at the Federal level. It also vests the legislative powers of a State of the Federation in the House of Assembly of the State, a unicameral legislature.

Section 5,⁷ on the other hand, vests the executive powers of the Federation in the President at the Federal level and the executive powers in a State in the Governor of the State. Section 6,⁸ however, vests the judicial powers of the Federation and a State therein in the Judiciary, consisting of the Courts established for the Federation and the States by virtue of the provisions of the Constitution.

Constitution vests the governmental powers on the three separate arms of government, the division of powers is not created to institutionalize isolation of any arm of government.⁹ Therefore, the definition of powers to each arm only ensures an interlocking system of checks and balances rather than an absolute separation of powers, which is impracticable. It is against this backdrop that this paper examines the oversight functions of the legislature and the roles of the judicial arm of government in Nigeria and the challenge for the rule of law.

History of the Legislature in Nigeria

The legislature is a group of people who have the power to make and change laws for any given complex organization. The legislature is one of the three principal organs of government in a state. The other two are the Executive and the Judiciary. In any democratic setting, its symbolism is the Parliament or Assembly. Thus, the Parliament is that collegial body through which the collective will of the people or part of the population is expressed and consummated. Consequently, the Legislature is indissociable from liberal democracies as they are constructed around it. Any attack against the organization, composition or functioning of the Parliament is seen as a blow against democracy.¹⁰

Clearly, legislative houses had existed in one form or the other in Nigeria before 1999. The history of Nigerian legislatures began with the formation of the Nigerian Council in 1914 by Sir Lord Lugard.¹¹ Though the institution started as a deliberative organ of the colonial government, it has developed to become a full-fledged legislative institution capable of making laws, representing the people and overseeing and controlling other organs after several years of suspension by successive military regimes in Nigeria.

⁶ Ibid

⁷ Ibid

⁸ Ibid

⁹ Ibid, sections 4,5,6

¹⁰ Meny Y. & Andrew, K. *Government and politics in Western Europe: Britain, France, Italy and Germany* (New Delhi: Oxford University Press 1999) p 186

¹¹ Isiaq A.A *Nigeria Government and Politics* (Lago: Royal Gate Publisher, 2007). p 22

Despite the powers, functions and privileges provided for the legislature in most Nigerian constitutions after independence, comments and observations have shown that this organ has not lived up to expectation. The First Republic legislature survived for only 6 years when it was disbanded by the first military coup makers in 1966. The federal legislature did not return until the second republic in 1979. The Second Republic legislature was going into fifth year when General Muhammadu Buhari terminated the democratic administration of President Shehu Shagari in 1983. It took nearly ten years before military president Ibrahim Babangida established another federal legislature with partially restored functions. The third republic legislature lasted only a few months before it was brought to an abrupt end by General Sani Abacha who shoved aside the interim government headed by Chief Ernest Shonekan.¹²

With the brief history stated above, it can be deduced that legislatures in Nigeria's past republic has been riddled with disruption, re-establishment and reforms, all of which left it without strong deeply engrained legislative traditions, norms, practices and procedures. Each time it has sprung back into life, the processes of setting down roots have had to begin afresh. This has contributed in a large way to why the legislature of the past republics are been regarded as ineffective and underperforming. The Report of Political Bureau in 1987 is more revealing. According to the Report¹³:

It is a well-known fact that up until 1979, legislatures were the weakest link in the making of public policies in Nigeria. Between the establishment of the Nigerian Council by Lugard soon after the amalgamation of the Southern and Northern Protectorates of Nigeria in 1914 and the end of the first thirteen years of military rule, public policy making was dominated by the executive. Indeed, a national daily newspaper in 1963 referred to the Federal Legislature as an expensive and irrelevant talking shop.

The legislature of the second and aborted third Republics did not improve significantly in terms of their performance. The legislature finally returned in 1999 with the emergence of the fourth republic led by the Military Head of State, General Abdulsalam Abubakar. The Fourth Republic National Assembly was inaugurated on June 5, 1999 amidst great expectation of the dividends of democracy by most Nigerians.

Most Nigerians celebrated the democratic rebirth of May 1999 for various reasons. First, they were tired of the almost twenty continuous years of totalitarian rule of the Military with all its opaqueness. Secondly, Nigerians heaved a sigh of relief as they expected to commence the enjoyment of their basic fundamental freedoms which they had been hitherto denied under the military. Thirdly, Nigeria's return to democratic governance was expected to transform her from a pariah state to a dignified nation-state among the comity of nations. Above all, Nigerians expected to start to witness good democratic governance as from mid-1999 and by extension start to enjoy all the good things of life from thence.¹⁴

¹² Ibid

¹³ Political Bureau Report (1987) <<https://www.scribd.com/doc/304330190/Report-of-the-Polical-Bureau-1987>> accessed 15 March 2022

¹⁴ Bello-Imam (n. 1)

However, from recent analyses, the new democratic dispensation ushered in on May 29, 1999 has not significantly changed the situation. Ibeanu and Egwu¹⁵ while analysing democratic rule in Nigeria, vividly demonstrated that:

*Basic institutions of democratic governance especially the legislature and the judiciary remain weak and vulnerable to executive manipulation under conditions of enormous concentration of power and resources in the executive presidency.*¹⁶

Judiciary and the Rule of Law

This is the third arm of the government charged with the responsibility of interpreting the laws of the state as enacted by the legislature. In order to ensure fairness in the discharge of its functions, members of the judiciary ought to be impartial, independent; competent and honest. Ogunna¹⁷ opined that the judiciary as a system of courts, or a body of judges specifically created to interpret the law of the state, thereby providing justice in a polity. To him, the three fundamental characteristics of the judiciary are: justice, impartiality and law.

Nigeria came to independence with a well-established legal system that included a court system and a thriving legal profession in the British tradition. The federal and state courts are integrated into a single system of trial and appeal courts. Thus, the 1999 constitution provides a Supreme Court,¹⁸ a court of Appeal,¹⁹ and state and federal High Courts²⁰ with original and appellate jurisdictions. Traditional authorities maintain their greatest influence in their judicial powers, for states are explicitly allowed to constitute customary and Shari'ah courts, both original and appellate. Ten northern states maintain Shari'ah courts, a point of contention between Muslim authorities and those who see such official recognition as divisive.²¹

It is clear that all organised societies need laws which can be enforced by the state. It is only liberal democracies, however, which lay claim to the principle of the 'rule of law'. In a very general sense, this principle simply refers to systems where government always operates within the laws rather than in an arbitrary fashion, which was the custom of medieval absolute monarchs. In 1885, A. V. Dicey²² set out a full and precise definition by which all democracies can be judge. His definition has four parts:

- i. *All are equal before the law. No one, including government, is above the law and no one should be at a special disadvantage when being dealt with in law.*
- ii. *Citizens may be punished only through the proper application of law. In other words, the law enforcement agencies must abide by legal procedures.*
- iii. *Only laws passed by Parliament or under authority granted by Parliament (in other states this would be applied to whatever constituted the sovereign body) can be enforced.*

¹⁵Ibeanu O. & Egwu, S. *Popular perceptions of democracy and political governance in Nigeria*(Abuja: Centre for Democracy and Development 2007)p67

¹⁶ Ibid

¹⁷ Ogunna A. E. C. *Dynamics of military and politics in Nigeria* (Owerri: Whyte & Whyte Publishers 2003) p26

¹⁸ Constitution of the Federal Republic of Nigeria, 1999 as amended s230

¹⁹ Ibid, s237

²⁰ Ibid, ss249 and 270

²¹ Mundt A. et al, 'Politics in Nigeria' (2011), in Gabriel A. et al. (eds.). *Comparative Politics Today* (India: India Dorling Kindersley PVT. Ltd) p 683

²²Dicey A.V *Introduction To The Study Of The Law Of The Constitution* (Oxford: 1885)

iv. *Laws should be just and respect the rights of citizens.*²³

The rule of law is fundamental constitutional principle in liberal democracies. It asserts the supremacy of the law as an instrument that governs both the actions of individual citizens in their relationships with each other and also controls the conduct of the state towards them. In fact, the rule of law suggests that citizens can only be punished by the state using formalised procedures when they have transgressed the law and that all citizens will be treated in the same way they commit wrong doings. Nobody is above the law, and the punishments meted out for similar crimes should be the same regardless of who has committed them. This suggests that the law is applied dispassionately and is not subject to the biases and prejudices of those who enforce it. Additionally, all citizens should be aware of the contents of the law. The rule of law, therefore, provides a powerful safeguard to the citizen against arbitrary actions committed by the state and its officials, and is best guaranteed by a judiciary which is independent of the other branches of government.²⁴

The concept of the Rule of Law is anchored on the idea that rule of law is preferable to that of any individual.²⁵ Bingham²⁶ while analysing the core of the idea of the Rule of Law as noted that:

... all persons and authorities within the state whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered by courts.

In a clear term, Bingham²⁷ identified eight principles as central to the Rule of Law:

- i. *The law must be accessible and, so far as possible, be intelligible, clear and predictable;*
- ii. *Questions of legal right and liability should ordinarily be resolved by application of the law and not by the exercise of discretion;*
- iii. *The law should apply equally to all, except to the extent that objective differences justify differentiation;*
- iv. *The law must afford adequate protection of human rights;*
- v. *Means must be provided for resolving, without prohibitive cost or inordinate delay, bonafide civil disputes which the parties themselves are unable to resolve;*
- vi. *Minister and public officers at all levels must exercise the powers conferred on them reasonably, in good faith, for the purpose for which powers were conferred, and without exceeding the limits of such powers;*
- vii. *Judicial and other adjudicative procedures must be fair and independent; and*
- viii. *There must be compliance by the state with its international law obligations.*

Several scholars contend that the rule of law should be underpinned by an independent court system and a predictable legal framework that helps to ensure settlement of conflicts between the state and individuals on the one hand and among individual or groups on the other.²⁸

²³ Mc Naughton, N. *Success in politics* (London: John Murray Publishers Ltd, 2001). p 48

²⁴ Joyce P. *Teach yourself politics*. (United States: The McGraw-Hill Companies, Inc 2006). p 10

²⁵ Jowett B. *The politic of Aristotle* (Oxford: Clarendon Press 1885) p 102

²⁶ Bingham T. 'The rule of law' (2007) 67(69) *Cambridge Law Journal* p 1

²⁷ Ibid

²⁸ Adamolekun O. 'Governance context and reorientation of government', (1999)., in Adamolekun, O. (ed.). *Public Administration in Africa* (Boulder, Co: Westview Press) p 12

In a democracy that is predicated upon a foundation of the Rule of Law, issues such as respect for and obedience to court orders or judgments, respect for human rights, fairness and equality before the law are fundamental. Perhaps, it is in view of this that Diamond²⁹ argued that democracy will not be valued by the people unless it deals with social and economic problems and achieves a modicum of order and justice.

Undeniably, judiciary is the guardian of the rule of law and the upholder of justice, fair play and equity. This is the reason why in Nigeria constitutions enjoy the greatest measure of independence from both the executive and legislative arms of government, except during the military interregnum.³⁰ Though, in some cases, executives and legislature still undermine the independence of the judicial through patronage appointments. The judicial and court system are characterized by weak enforcement capacity due to a shortage of professional staff, poor physical infrastructure, and inadequate funds.³¹

It is well established that the Rule of Law is a cornerstone of democracy and fundamental to the operation of a free and just society.³² The rule of law is a key feature of liberal democracy, distinguishing it from various forms of dictatorial rule, the rule of law includes the principle that all individuals are equal before and under the law, regardless of their wealth, social status, or political position. The judiciary as a political institution plays a greater role in policy formation in any democratic system. The court, notably the Supreme Court, in Nigeria, has often greatly affected the context of public policy through the exercise of the powers of judicial review of legislation. Judicial review is the power of the courts to determine the constitutionality of actions of the legislative and executive and declare them null and void if such actions do not conform to the constitutional provisions. The judiciary in any political system, participates in the policymaking process. The courts are approached to interpret and decide the meaning of legislative provisions that are often regularly stated and contain conflicting interpretations. Any judge confronted with a choice between two or more interpretations and applications of a legislative act, executive order, or constitutional provision must choose from among them, because the decision has to be given or the controversy must be ended.

Ikelegbe³³ observes that the judiciary has an important influence on the policy process. It is the actor that ensures sanity, propriety, fairness, legality, constitutionality, justice and moderation in the policy process. Therefore, governance is said to be good when rule of law is respected, democratic pluralism realised, free and fair election is conducted, human and property rights are guaranteed, powers of three branches of government are separated, freedom of associations and press are enforced and legal frameworks is properly worked.

²⁹ Diamond L. 'Three paradoxes of democracy' (1993), in Diamond, L. & Plattner, M. F. (eds.). *The Global Resurgence of Democracy*. (Baltimore, London: The John Hopkins University Press). p 90

³⁰ Ojo E. O. 'The judiciary, phenomenon of corruption and sustenance of democratic values in Nigeria: A prognosis'. (2000). Being a paper presented to the Faculty of Business and Social Sciences Seminar Series for 1998/1999 Academic Session, University of Ilorin. February, Monograph. p 9

³¹ Handelman, H. *The challenge of third world development* (New Jersey: Upper Saddle River, Prentice-Hall 2009) p 14

³² Mc Corquodale R. *The rule of law in international comparative context* (Britain: MPG Books Group 2010) p 90

³³ Ikelegbe A.O. *Public Policy making and analysis. Benin, Nigeria* (Uri Publishing Ltd(1994). p 89

Legislature and Judiciary: Challenges for the Rule of Law

On May 29, 1999, when a new civilian administration was finally inaugurated, a Presidential Constitution bequeathed by the General Abdulsalaam Abubakar led military regime became the groundnorm to regulate the system of government in Nigeria.³⁴

The restoration of constitutional rule heralded the new democratic order in which the numerous challenges of democratic governance and development facing Nigeria were expected to be effectively addressed. These challenges which are peculiar to developing African countries include, according to Ibeanu and Egwu³⁵

Strengthening the basic institutions of democracy and governance such as the legislature; the sanctity of separation of powers and the rule of law; reducing corruption in the public and political spheres; transparency in the electoral system and the conduct of free and credible elections.

It is much more settled in scholarly literature that the legislature has important roles to play in a democracy. It is argued first and foremost that Parliaments occupy a central position in comparative understanding of democratic experience in developing countries because it is clearly the key institution in minimal and liberal democracies around the world. Bello-Imam³⁶ opined that the legislature is indissociable from liberal democracies as they are constructed around it or on the basis of it. Any attack against the organization, composition or functioning of the parliament/ assembly is seen as a blow against democracy. Parliament can do anything except change a man to a woman.³⁷

Similarly, it is adduced that a powerful legislature is needed to engender a democracy in which people have some real decision making power over and above the formal consent of electoral choice. In their own analysis, Johnson and Nakamura³⁸ opined that effective legislatures contribute to effective governance by performing important functions necessary to sustain democracy in complex and diverse societies. To them:

*Democratic societies need the arena for the airing of societal differences provided by representative assemblies with vital ties to the populace. They need institutions that are capable of writing good laws in both the political sense of getting agreement from participants, and in the technical sense of achieving the intended purposes.*³⁹

In a democracy, legislatures play three major roles: they express the will of the people, they pass laws, and they hold government, particularly the executive, to account. They also control and administer national budgets. Put differently, legislative institutions perform rule making, representational and oversight functions, which have serious implications for national

³⁴ Ajayi R. 'Constitution and constitutionalism', (2013). in Akinsanya, A. A. & Ayoade, J. A (eds.). *An Introduction to Political Science in Nigeria* (United Kingdom: University Press of America Inc). p 44

³⁵ Ibeanu & Egwu (n. 14)

³⁶ Bello-Imam (n. 13)

³⁷ Isiaq A.A *Contemporary Advanced Government and Politics* (Lagos: Royal Gate Publishers, 2007) p22

³⁸ Johnson, J.K. and Nakamura, R. T., , 'A Concept Paper on Legislatures and Good Governance', (1999) *UNDP Paper New York* p 117

³⁹ *ibid*

development. These are fundamental responsibilities that needed to be effectively carried out, if challenges of democratisation are to be addressed effectively. For example, the ultimate objective of the oversight function of the legislature is to promote accountability, transparency and responsiveness on the part of the executive and by extension check and balance it public actions.

Generally, the robustness with which the legislature could carry out its functions is always a function of its ability to maintain a degree of internal coherence, relative autonomy vis-a-vis the executive arm, and proximity to the pulse of the electorate. Also important is the extent to which the legislature is itself representative as an institution that captures the diversities of society.

Importantly too, the judiciary is important in the governing process. Not only do courts administer justice by applying laws and penalizing those who break the law, but also they are essential in interpreting the law and the constitution. As the third organ or branch of government, the constitution vests it *inter alia* with the powers to interpret and apply all laws in the country in relation to both criminal and civil matters and disputes between individuals and groups, between individuals and political authorities as well as between one state and the federal government in a federal system.⁴⁰

The judiciary is a cardinal institution and serves as the third arm of government. Of course, this is not unconnected with the fact that constitutional government must in part be judicial government.⁴¹ In fact, an important principle of liberal democracy is that of judicial independence. To ensure that all people receive a fair trial, the courts are expected to be independent of government and its agencies, legislative bodies, and other influences. Without an independent judicial system, governments, police and security services could use their power to intimidate individuals with impunity. The independence of the judiciary thus serves as an important tool in helping to protect the rule of law.

Therefore, the basic feature of the Nigerian political system is the rule of law, the principle that individuals should be subject only to known, predictable, and impartial rules rather than to the arbitrary orders of those in governing positions. This does not mean only that we are expected to abide by the many thousands of laws that control our behaviour and our relationships with others. Crucially, it also means that those people with authority, including those responsible for making, implementing, and enforcing laws, are expected to act in keeping with the law, including the legal and constitutional procedures for passing and changing laws.

Rule of law protects the people against arbitrary actions by government and those empowered to act for the state, including policy and security services. For instance, between June 1999 and June 2003, the Legislature made significant positive impact vis-à-vis its legislative functions in Nigeria. Within the period, the National Assembly passed a total of 36 bills to the President for assent. Out of this number, 25 were assented to by the President. Out of the outstanding ten

⁴⁰ Awa E. (1996). Democracy in Nigeria: A political scientist view, in Oyediran, O. (ed.). *Governance and Development in Nigeria: Essays in honour of Prof. B. J. Dudley*. Ibadan: A publication of Oyediran Consult International p78

⁴¹ Hague R. Harop, M. & Breslin, S. *Comparative government and politics* (London: Macmillan 1993) p 23

bills with the president, four was vetoed by the National Assembly in line with Section 58(5) of the 1999 Constitution. The four vetoed were enrolled in the Supreme Court in line with practice of the 252 bills, 74 were Executive bills while the other 178 were member's bills. On the other hand, the House of Representatives on its part passed a total of 60 bills some of which are part of the total 36 bills which both Houses of the National Assembly passed and sent to the President for assent. The Senate on its part sent a total of 65 bills to the House of Representatives for concurrence.⁴²

In Nigeria, the Constitution vested in the National Assembly the powers to make laws for the peace, order and good governance of the federation.⁴³ It also give powers to perform oversight functions on the executive branch and its officials and agencies. According to the 1999 Constitution, the Senate or the Upper Chamber of the legislature have the exclusive power to scrutinize and approve appointments by the President. There is no agreement among political watchers and analysts as to whether the National Assembly has perform these functions creditably well or whether it has failed woefully in performing these functions. In the judgment of the National Assembly, it was believed that they were able to perform these functions effectively. Whereas, the verdict of their judgment negates with public perception on the performance and integrity of the 8th Assembly. For instance, the Senate issued a long list of 200 bills which it passed into law since 2015.

In the same vein, the House of Representatives in June 2018 disclosed that it passed a total of 222 bills since June 2015. However, the strong opinion in many quarters is that the National Assembly has failed in performing its three primary functions of representation, law making and oversight. It has failed to meet the expectations of Nigerians on issues of importance such as electoral reform, constitutional amendment, budget oversight, the economy, national security and anti-corruption,⁴⁴ There is the belief that members of the federal legislators are selfish and will only do things that favour them instead of the common people.⁴⁵

However, many analysts have criticized the padding of the 2016 budget as well as the introduction of a bill in the House of Representatives which will pardon people who engaged in corruption through looting of public funds. There is also the belief that members of the Senate intentionally refused to approve the name of Ibrahim Magu as Chairman of Economic and Financial Crimes Commission (EFCC) because many of them have corruption cases with EFCC and were afraid of the actions of the agency, At the level of representation, there are some allegations that many of the law makers do not visit the people of their constituencies regularly to know their problems and challenges of the constituencies. All these have made National Assembly to be unpopular among the Nigerian citizens.⁴⁶

⁴² Bello-Imam I. B. 'The legislature: Its role performance, problems and prospect in Nigeria', (2004), in Bello-Imam I. B. & Obadan, M. I. (eds.). *Democratic "Governance and Development Management in Nigeria's Fourth Republic, 1999 – 2003* (Ibadan: Centre for Local Government and Rural Development Studies) p 224

⁴³ Constitution of the Federal Republic of Nigeria, 1999 as amended s4.

⁴⁴ Sagay I. 'The Status and Role of the Legislature in a Democratic Society' (2010) *Paper delivered at the Birthday Anniversary of Hon. Yemi Bamidele*.

⁴⁵ Abati R. 'Dino Melaye: The making of a brand' (2017). *Thisday Newspaper*, Thursday, April 4

⁴⁶ Muhammad A. The legislature and national development. *Political Science Review*, (2014) 6(2) pp 11-23.

Regarding the powers of National Assembly with respect to anti-corruption crusade, provisions in Sections 88 and 89 of the 1999 Constitution empower it to direct or cause to be directed an investigation into any matter with respect to which it has power to make laws. This could be an investigation into the affairs of any person; agency; authority; government, department or ministry; charged with the duty of either administering the laws made by it; executing them or disbursing or administering money appropriated by it. This is because in Nigeria, of all forms of corruption, political corruption has continued to be the major hindrances to democratisation project and national development. It is defined as an act expressed either in the form of stealing public resources on the basis of access to state power or through money politics to subvert the will of the people. Corruption in this sense, involves the use of state power to advance private gains at the expense of public interest. It is not surprising that the 2009 Global Corruption Barometer listed Nigeria as one of the most politically corrupt nations in the world. That contemporary Nigeria's democratization experiment is facing a lot of challenges is incontrovertible.

CONCLUSION

Legislatures under democratic rule are designed to be an important political institution that can give meaning to the system. The legislatures are entrusted with key responsibilities that are vital to democracy, which include presentation, lawmaking, public participation and education, and oversight functions. It is important that these functions are well discharged by the legislature in order to elevate democratic process. The study of Nigerian legislature in the fourth republic, so far, reveals some limitations in the performance legislative functions. With respect to the lawmaking function, public participation and education, the study shows that the robustness of debates, vibrancy of policy making process, and active diverse participation, which are the hallmarks of a democracy, and which, in a large extent, set democracy apart from dictatorship, have not been well entrenched in the system.

On the legislative oversight function, it constitutes an important source of suspicion and conflicts, particularly between the legislature and the executive. And, of course, the judiciary that supposed to serve as an impartial arbiter is incapacitated to serve the interest of the executive in several instances. Regarding the fight against corruption, the legislature has failed in providing serious commitment to anti-corruption crusade of government, because individuals' personal motive appears to contrast with the service and responsibility which the office demanded and the public expected. The absence of institutional and functional support from an important institution like the legislature cannot but weaken the attainment of a corrupt free society. This serves as a serious impediment for the judiciary to dispense justice or punish the offenders as at when necessary.

No doubt, the performance of the legislature and the judiciary of the Fourth Republic in Nigeria give a glimmer of hope for sustainable democracy in the country. Nevertheless, the role of the legislature in tackling corruption as one of the major challenges of democratic governance was affected in the period of investigation by the character of the Nigerian state, weak institutional capacity of the legislature, constitutional deficiencies, and lack of integrity by members of the legislature as well as members of the bench who have been indicted at one time or the other; as a result of undue executive interference and manipulation, among others.

In Nigeria, therefore, the effectiveness of the legislature in the resolution of democratic challenges hinges on the performance of its functions according to the rules and norms of democracy and the resolution of the judiciary to serve as the hope of a common man.

It is therefore recommended that to be more effective in tackling political corruption as one of the challenges of democratic governance, this article proposes a deep institutionalization of the legislature and judiciary as against its de-institutionalization, since legislative institutions are expected to be governed by laws and not by men.

It is further recommended that the rule of law and democracy can flourish effectively and efficiently only if the capacity of legislatures is strengthened to address critical issues relating to constitutionalism, corruption, poverty, check the excesses of the executive, and collaborate with the judiciary to avert the consequences of democracy by court order.

Lastly, it is also recommended that the legislature in respect of lawmaking function should adopt a well entrenched system that will include public participation and education, robust debate, vibrancy of policy making process, and active diverse participation. This will no doubt reduce the level of dictatorship.