

Executive- Legislative Relations: Explaining the Role of the Nigerian Political Environment on Performance of Legislative Oversight.

Dr Obi Emeka Anthony

Assoc. Professor Of Public Administration, Chukwuemeka Odumegwu Ojukwu University, Igbariam Campus.

Abstract: *The pivotal role of the legislature as the law making body in all democracies is further reinforced by its duty of legislative oversight on the other two arms of government. This important role which is meant to ensure that the implementation of the law reflects the legislative intent, usually pitch the legislature against the executive in even older and emerging democracies like Nigeria. The instrument of legislative oversight has been employed since the return to democratic rule in 1999 in Nigeria. Unfortunately, the Nigerian National Assembly has not been seen to have performed this role creditably because of the Nigerian political environment.. The key objective of this study therefore, is to assess the role of the political environment on the performance of legislative oversight role by the Nigerian National Assembly. Qualitative data for the study was obtained through secondary sources, which was analyzed using content analysis. Since the issue of oversight involves the actions, struggles, bargaining and negotiations between two arms, the Game theory was used as the theoretical framework for the study. The findings indicate that the party system, the nature of politics, legislative capacity, political capacity and the character of the state have all conspired to adversely affect the ability of the National Assembly to perform its role in this direction. In the light of the above, it is recommended that there is need for serious changes in the party system, the nature of politics and character of the state, while both the legislative and political capacity of the Nigerian National Assembly need to be highly enhanced for it to be able to perform its oversight functions well.*

Keywords: Legislative oversight, Democracy, National Assembly, Executive-Legislative relations and political environment.

1. INTRODUCTION

Most modern democracies are built on the twin principles of separation of powers and checks and balances. The essence of this is to ensure that those who hold power do not abuse such powers thereby resulting in tyranny since according to Lord Acton 'power tends to corrupt, and absolute power corrupts absolutely'. Hence the separation of the duties of government into three arms, and the operation of these arms in such manner as to act as a check on the activities of each other. Thus, while the legislature, makes the law, the judiciary interprets it, and the executive implements it.

It is however important to note that while these three arms are separate and therefore independent, there are functional overlap among them. This made Nnoli (2003), to posit that the executive often initiates legislation, the legislature affects the execution of laws and projects by the guidelines and procedures it lays down. By the way it interprets existing laws, the judiciary may greatly influence not only future decision-making but also the execution of policies. He further avers that the degree of separation among these three arms varies with the nature of the ruling class, its ideological leaning the prevailing political culture, the struggles within the ruling class and between it and the dominated classes and the values and ethos of the society.

This paper is divided into five sections including the introduction. The second section explicates on the theoretical framework, the third section looks at the

legislature and legislative oversight. The fourth section is an overview of the Nigerian political environment and the performance of legislative oversight, while the last section serves as the conclusion

2. THEORETICAL FRAMEWORK

The theoretical framework that is used in this paper is the Game theory. The theory was first developed in the 1920's by Emil Borel. It however, became popular after John von Neuman and Oskar Morgenstern published their work titled "Theory of Games and Economic Behaviour" in 1944. In terms of its adaptation and application to the field of Political Science, Duncan Luce and Raiffa (1957), Shubik (1964) and Rapoport (1965) get the credit. The theory has also been used extensively in International Relations due to the efforts of Kaplan, Riker and Shelling (1960), among others. The Game theory, according to Shubik (1967), is a mathematical method for the study of some aspects of conscious decision-making in situations involving the possibilities of conflict and or cooperation. It deals with processes in which the individual decision-unit has only partial control over the strategic factors affecting its environment. The decision unit may be an individual, a firm, a government or any formal or informal institution.

Chandra (1986), relying on Synder (1961), has drawn out the five important concepts of the game theory. The first is the concept of strategy, which is the core concept of the game theory. This means a skillful plan of the previously

decided set of moves to be taken as and when the anticipated moves of the opponent require them. The strategy can be pure or mixed depending on the number of calculated strategic steps. The aim of strategy is to play against anything which the opponent may do. Thus the theory assumes an opponent and this is the second concept of the theory. The third concept is payoff which refers to the anticipated gain or benefit or simply what the game is worth at the end. The fourth concept is rules that govern the game. These rules are governed by geographical, economic, sociological, biological and psychological factors. The fifth significant concept is information about the other party.

According to Varma (2004), there are several types of Game theory; suggesting different kinds of structures of available pay-offs. To him, broadly speaking, there could be:

- (1) Zero-sum two persons games;
- (2) Non-zero sum two persons games;
- (3) Zero-sum n person games: and,
- (4) Non zero- sum n person games.

In (1) there are only two players, and the gains of one are always equal to the loss of the other, the sum of outcomes for the two players being zero. In (2) and (3), involving two persons or more persons in the contest, the players may share the division of the awards in some way, and the gain of one need not be equal to the loss of the other, Such a structure will require that the pay-off is divisible and some principle of distribution is applied, In (4) where there are three or more players, the game situation develops a large number of new features, and it becomes possible for two or more of the players to cooperate against the others by pooling their resources and making collective decisions during the play. In the course of the play, a proto-coalition or coalition may be formed which may reduce the number of adversaries.

3. THE LEGISLATURE AND LEGISLATIVE OVERSIGHT

The legislature, which is regarded as the third Estate of the realm is defined as a body of persons in a country or a state vested with power to make, alter and repeal laws, and is the realm of representation and the site of sovereignty (Egwu, 2005). Onuoha (2009) believes the purpose of the legislature is to make, alter/ amend and repeal laws, while Appadorai (1975) argues that though legislatures in modern states, do not all perform identical functions, everywhere they pass laws, determine the ways of raising and spending public revenue, and discuss matters of public importance. He subsequently grouped the functions of the legislature under four heads: legislative, administration, finance and the ventilation of grievances.

More extensively, Obikeze and Obi (2004) list the functions of the legislature as; Controls Public Funds:- All funds of the state should be controlled by the legislature. Before the executive spends public funds or imposes taxes on the people, it must receive the approval of the legislature, it has power over the purse of the country, the legislature has the right to amend existing laws which it

feels are no longer serving the interest of the people. It ratifies the appointments of top public officials made by the executive, i.e. Ministers, commissioners and Ambassadors. Their nominations must pass through the legislature for scrutiny and approval. It helps in the education of the public as citizens are allowed to watch debates in the House. The legislature is a training ground for future leaders, it validates treaties and bilateral agreements between nations, it is made up of the representatives of the people and therefore a forum for voicing public opinion on national issues, the legislature acts as a watch-dog on the other organs of government to ensure that power is not abused or exceeded (pp.13-14).

The last of the functions of the legislature listed above, which is referred to as oversight, is quite contentious as it gives the legislature the power to probe into the activities of the executive arm of government. Legislative oversight, according to Onuoha (2009,) is the means by which the National Assembly monitors activities of ministries, departments and parastatals to ensure that the laws are being executed faithfully. It could be a forceful means of promoting accountability of public administrators; and legislatures are more likely to exercise careful oversight when crises develop than when operations seem to be running on a routine basis (Rosenbloom and Kravchuks, 2002).

In their own analysis, Bowman and Kearney (2002) believe that legislatures engage in three principal functions; policymaking, representation and oversight. The first, policy making, includes enacting laws and allocating funds. In the second, legislators are expected to represent their constituents - the people who live in their districts in two ways: they are expected to speak for their constituents and they are also expected to act as their constituents facilitators. The third which is oversight is one that legislatures have taken on recently.

The oversight function came about as a result of the concern by the legislature that the laws they passed and the funds they allocated frequently did not produce the intended effect, hence, lawmakers began to pay more attention to the performance of the state bureaucracy. Oversight roles take legislatures into the administrative realm and not surprising is little welcomed by other government agencies, although legislatures see it as a logical extension of their policy making role. This is because the duty of law making doesn't stop until the laws made are effectively implemented

In Nigeria, the 1999 Constitution granted the legislature the power of oversight functions. These are contained in section 88 of the 1999 Constitution. It states:-

Subject: to the provisions of this Constitution, each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed an investigation into:

- a. any matter or thing with respect to which it has power to make laws; and
- b. the conduct of affairs of any person; authority, Ministry or government department

charged, or intended to be charged, with the duty of or responsibility for:

- (i) Executing or administering laws enacted by the National Assembly
- (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

The powers conferred on the National Assembly under the provision of this section are exercisable only for the purpose of enabling it to:

- a. make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and
- b. expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

Though, the above section seems to have clearly spelt out the role of the legislature in oversight functions; some people still question it, insisting like Aguda (2008) that "the manner in which the so-called oversight functions of the legislature is carried out is unconstitutional. There is no constitutional basis for these oversight functions"(p.2). However in apparent answer to these doubts, the proponents of legislative oversight insist that the principle behind it:

is to ensure that public policy is administered in accordance with the legislative intent. According to this principle, the legislative action does not cease with the passage of a bill. In this regard, it is by monitoring the implementation process of any law enacted that members of the legislature can uncover any defects there and acts to correct misinterpretation or maladministration of such laws. Therefore, the concept of oversight exists as an essential corollary to the law making process (PARP, 2006.p.1).

It is the perceived utility of legislative oversight that has led to the curiosity about its use in virtually all administrations in Nigeria in the present democratic dispensation. Modern democratic systems are built on the doctrine of separation of powers, which is complemented by the theory of Checks and Balances. The essence of this is to make sure that while the same set of persons or actors does not control the three arms of government, these arms also act as a check on the excesses of the others. It is also in line with this notion of Checks and Balances that the concept of legislative oversight becomes much more meaningful. According to Oyewo (2007:10), "oversight simply means the exercise of constitutional powers by the legislature to check or control the exercise of constitutional powers of the other arms of government and more specifically to check or control the exercise of executive powers or to make the executive

According to Egwu (2005), the performance of the legislature as an institution of policy making, had to factor in

the overall political environment and context which may impact positively or negatively on its performance. Thus, the factors we looked at are the party system, the nature of politics, legislative capacity, political participation and the character of the state. It is our belief that a review of these factors would help in a great measure in understanding the inability of the National Assembly to perform its oversight functions effectively since the introduction of democratic rule in 1999.

In his analysis of the impact of party systems on legislative oversight, Heywood (2002) argues that legislatures that are controlled by monopolistic parties usually end up a propaganda weapon, with government policy nearly always being approved by unanimous votes, while party discipline also constrains parliamentary security. In the Nigerian situation, Egwu (2005:) describes some political parties of this Republic as being far from being political organizations of people sharing common visions and values regarding the political community. They are rather:

amalgams of strange bed fellows, united more by the exigency of capturing political power. The consequences of this are that they are: bedeviled by lack of internal democracy as they are hijacked by few financiers and powers. Not even the ruling party (PDP) can be said to be free from these weaknesses including lack of party discipline(P.26).

This rise of God-fathers, which Ibeanu (2007) likens to machine politics, has resulted in a situation where "The machine puts the official government in power based on a pre-election written or gentlemen's undertaking made by the candidate to the effect that the incoming government will be in hock to the machine"(p.9). Ibeanu avers that in this type of system, problems arise whenever the official government attempts to assert itself. He however believes that "the more insidious aspect of it is when the ruling classes, the highest echelons of government and the political parties officially sanction it"(p.10). This is what PDP did in the Anambra State saga involving Governor Chris Ngige and his Godfather Chief Chris Uba.

Ihonvbere (2003) blames the 1999 Constitution whose party registration guidelines restrict the formation and operation of parties to the wealthy. He believes that the "Cumbersome, expensive and intrusive federal government requirement for party formation and registration is a direct way of encouraging corruption, elite-dominated politics, and the continuing marginalization of persons without connections with the wealthy in the political process"(p.205). The result is that according to Balarabe Musa, (quoted in Akhaine, 1999)," during the last election we saw a situation whereby only people who had money and who could buy votes were able to contest and win elections".

The implication of the above on the nation's party system is

that;

Political parties in Nigeria have always insisted on having absolute control of the conduct of their members in parliament. The parties persuade their elected members in the legislature to establish party caucuses in the parliament and make input in setting up the leadership of the party in each House of the National Assembly. Their activities are always controlled and monitored by the party externally (Ihonvbere 2003,p.205).

The net effect of this on legislative oversight is that:

The situation is more unpleasant when one party controls both the Legislature and the Executive branches of government. Consequently the members of the majority party in parliament are directed by their party leadership to support government programmes and actions. In a situation like this, no meaningful inquiry, investigation or oversight can be held on the administrative errors of the government formed by the party (Umezeoke 2007,p.7).

The nature of politics in our society is indeed frightening because as Ake (1996) says, "we are a polity of takers rather than givers. What we dearly love to take is state power, and being strangers to one another and adversaries, we necessarily take it as private property"(p.8). Going further, he asserts that "we have always preferred the reputation of being democrats to the notorious inconveniences of practicing democracy"(p.8). Because people are simply interested in capturing state power to be able to enrich ourselves the nature of politics is such that it is:

not a lawful competition to select those to manage our common concerns but a fight to capture and privatize an enormous power resource. There is no public realm, strictly speaking, no state. There is only a contested terrain, where interest groups and communities go to fight for appropriation. There is no space which incarnated a collective identity; there is only a battlefield where the act of doing battle constitutes us as a purely negative unity. (Ake 1996,p.8).

This type of politics which is seen as warfare results in heavily manipulated elections. Thus, while the mal-practices recorded in the 1999 elections could be seen as tolerable at least in the light of the nation's electoral history that of 2003 was clearly unprecedented (Oddih & Obi 2006). Going further Oddih and Obi believe that the brazen and massive rigging of the 2003 elections which resulted in the stealing of the peoples mandates (their voices) make our States Houses and parliament to be

inhabited mainly by people with stolen mandates

Based on the above therefore they believe that:

It is not surprising that the so called elected representatives of the people have been carrying themselves as demigods, while treating the people with utter disdain.... Since most of them are sure they did not derive their mandates from the people, they do not owe them any explanations, and neither do they feel obliged to consult them on issues that would clearly affect their lives. While the executive has been too authoritarian, the legislature has remained docile. It has simply refused to live up to its responsibility of checking the executive.

Perhaps, one should not have expected much from these people who found themselves in the National Assembly, because, according to Ake (1996), with the long years of military rule and the attempt by the military to discredit politicians so as to justify their stay in power, they finally succeeded in "discrediting politics, aggressing and humiliating politicians, virtually everyone is discouraged from politics except those who have a neurotic attachment to power or no other means of livelihood or no self-esteem-the pathetic lot who peopled our National Assembly"(p.15).

In concurrence with Ake's assertion, Egwu (2005) states that:

Many of the 'elected and 'selected' law makers are persons who played visible roles in the past military regimes and were involved in the campaigns for the extension of military rule. This is in addition to presence of retired generals many of who held command and political position others were openly accused of being involved in criminal activities such as Advanced fee fraud (419) and drug trafficking(p.26).

In summation, Oddih and Obi (2006) assert that instead of making people oriented laws and checkmating executive excesses (through oversight) the National Assembly spent considerable time and energy debating about their welfare. They ended up awarding to themselves five and three million naira each as furniture allowances for members of the Senate and House of Representatives respectively.

The structural - functional Analysis as applied in political analysis by Gabriel Almond and James Coleman (The Politics of Developing Areas; 1960) insist-that different structures in the political system play different roles. Thus, a developed political system is characterized by differentiation of structures for the performance of specific functions (Gaub, 2004:97). Thus, the legislature remains relevant in any system if it is able to perform its assigned role. Oversight is clearly one of the key functions of the legislature. To be able to perform this function, Etuk (2005) insists requires high degree of management expertise to guarantee efficiency and effectiveness to which the understanding of the technics and dynamics of management is a *sin-qua-non*.

Unfortunately in most developing countries, Nigeria inclusive, parliaments lack the institutional capacity to perform their roles effectively. The UNBCA (2005:201-202) studies by Burnell (2002) and Rahman (2005) found out the problem affecting parliaments in developing countries often revolve around the fact that parliamentary rules and procedures may be poorly developed, parliamentary committees may be weak or nonexistent; and there may be more basic infrastructural problems. These problems may include inadequate or non-existent accommodation, a lack of access to information, information technology and library facilities, lack of parliamentary staff to assist in the administration of parliamentary affairs and in particular carrying out the research which is needed for parliaments to hold the executive to account.

According to Oyewo (2007) "the period of military interregnums necessarily meant that legislative experience became the exception and not the rule"(p.22). Thus, he believes that the presence of amateur legislators in great number and the shortage of staff aides due to lack of continuity in legislative membership, account for the lapses of the legislature in the discharge of its functions.

Egwu (2005:27) observes that one of the problems affecting the performance of the legislature is infrastructural underdevelopment, which he sees as a legacy of long years of military rule. According to him, the inadequacy of facilities such as computers, fax machines and accommodation, no doubt constrained legislators' performance. He says that "as many of the legislators themselves have admitted, this made their legislative task a major problem"(p.27).

Umezeoke (2006), also identified "Poor staffing and lack of professionals as another factor, responsible for the inactivity of the legislature over its duties"(p.66). He says that though there is now a National Assembly Service Commission charged with the responsibility of recruiting efficient and experienced workers for the legislature, this body is bogged down by political considerations.

As a result of this:

Experience, ability and requisite qualifications are readily sacrificed on the altar of political expediency. Therefore, qualified staff is not available to aid the legislator in his onerous task of gathering facts and other information from unwilling agencies of government. With the exception of the legal profession, professionals in highly technical fields are either inadequate in number or are not available at all, to advice on issues relating to petroleum, banking, manufacturing industries, construction engineering, civil aviation national defense and security, budget and federal capital development and planning (Umezeoke, 2006,p.66).

In explaining the importance of high legislative capacity; Momoh (206:84), emphasized that:"Every legislature requires knowledge, a powerful and specialized team of people researching and investigating key issues and with that oversight needs to be carried out in a methodical and scientific way"(p.84). In further emphasizing on the issue of "quality of parliamentary oversight" he says in line with Saghal (2007) that: a parliament could be interested in judicial aspect of governance, however, if there are no independent audit institutions and groups willing to provide the information needed, in the end, the time of the parliament could have been wasted.

Democracy entails majority rule. In its earliest forms, all citizens participate directly in the management of public affairs, law making and law implementation. However, since the direct democracy of the ancient times is no longer feasible, representative democracy has taken its place. Nevertheless, the people still participate in this form of democracy but mainly through their duly elected representatives and also by making inputs in the system through a variety of ways (Oddih and Obi, 2006). This leads to the concept of political participation. Political participation according to Gauba (2003), denotes the active involvement of individuals and groups in the governmental processes affecting their lives. He asserts that when citizens themselves play an active role in the process of formulation and implementation of public policies and decisions, their activity is called political participation.

In Nigeria, political participation has been greatly hindered by mass poverty. According to Ake (1996), it is entirely appropriate of course that everyone should be able to vote. All the same democracy is not significantly advanced by giving the vote to the poor while remaining indifferent to the crippling constrain of poverty. Poverty disempowers the poor and subverts democracy(p.10).

He further argues that for the poor "the very process by which they participate reinforces their disempowerment".

Beyond the issue of poverty, Oyewo (2007) has also argued that the electorate having observed a lot of "irregularities in the electioneering processes respond with disenchantment, apathy and lethargy towards the whole political process". The consequences have been that the elected officials do not hold themselves accountable to the electorate"(p.24).

The major effect of poverty on democracy, is that majority of the people are so bogged down with the problem of struggling to eke out a precarious living to be bothered with the issue of political participation. When they do participate, in most cases, it is as thugs or bribed voters, working for their pay masters. They do not understand what democracy is. The democracy they seem to understand is that of the stomach. Their basic interest remains where the next meal would come from (Oddih and Obi, 2006).

Okoye and Nnabugwu (2008:187) in their study on "Legislators Behaviour in Nigeria's Post Military Era" found out among others that the increasing

subservient political culture is one of the key causes of the apparent failure in legislator-behaviour. They relied on Chinsman's (in Okoye,2006) observation to draw their conclusion. According to Chinsman:

The seeming perpetual subservience of the Nigeria population, their incapacity to empower themselves and put themselves on the driver's seat of the vehicle for development, their powerlessness to engineer political, social and economic change and transformation have collectively created poor conditions (cited in Okoye, 2006,p.6).

In their own summation, they insist that the near absolute lack of will on the part of the people to assert themselves is thus a major factor that has helped to create and sustain the prevailing legislator behaviour in Nigeria. In the same vein Ake (1996:15-16) shares the view that leaders behave the way they do because those they lead do not hold them accountable, hence they are at liberty to behave irresponsibly. To him:

We ourselves are a problem for democratization too. The greater problem for that matter. We are submissive to those who have power over us as we are oppressive of those who are weaker than we are. We corrupt those who are stronger by allowing them every indulgence, including the liberty to abuse us. We have no will to resist power, our inclination is to worship it. We think nothing of submitting to all manner of indignity to get those in power to notice us or throw us some crumbs. Even without the crumbs we still ache with desire to please them(pp15-16).

When we talk about the character of the state, we refer to the nature of the state, its powers, autonomy and its composition. According to Ake (1996), the character of the Nigerian state is such that it lacks autonomy, the immensity of its power is prone to abuse and the lack of immunity against it. It rules out a politics of moderation and mandates a politics of lawlessness and extension. This arises because the nature of the state makes the capture of state power, irresistibly attractive.

Based on this what we see is that: The winners in the competition for power win everything, the losers, lose everything. Nothing can be worse than losing, nothing better than winning. Thus everyone seeks power by evoy means, legal or otherwise and those who already control state power try to keep it by every means. What emerges from this is a politics that does not know legitimacy or legality only expediency (Ake, 1996,p.7).

It is the same character of the state that has made it to be captured and privatized by a tiny fraction of the elite that use it to terrorize, abuse human rights, loot public funds and mortgage the future of the citizenry (Ihonvbere, 2003).

The consequence of this is that people now perceive it as a wicked, aloof, insensitive, corrupt and distant force, which they relate with as an enemy that must if possible be subverted, avoided, cheated, dismantled and destroyed if the interests of the citizens are to be protected.

4. CONCLUSION

The legislature in any true democracy, Nigeria inclusive. Incidentally everything about oversight is simply geared towards making sure that budgetary provisions are adhered to. Thus, Oota (2011) has argued that oversight functions of the various standing committees of the National Assembly as well as State Assemblies are basically for the purpose of constant engagement of the heads of ministries and other relevant agencies of the government with a view to ensure that monies appropriated for ministries and agencies are applied judiciously and to the satisfaction of the appropriation laws by the legislature every year.

It is however unfortunate that the Nigerian political environment has impacted negatively on the ability of the National and State Assemblies to perform this important role. Based on this therefore, the paper recommends there is need change both the party system and the nature of politics in Nigeria. The present party system allows the President as the party leader to manipulate the party is bad enough, while the issue of seeing any disagreement with him by a party member as an affront on the party which must be punished does not improve our democracy and should therefore be discarded. The nature of politics in Nigeria is warfare because of fact that the pecks of office is simply too high. As at today, Nigerian law makers are seen as the highest paid in the world, despite the fact that the country is also the poverty capital of the world where over eighty million people live below the poverty line. The easiest way to reduce the warfare/violence in our politics is to drastically reduce the pecks and privileges attached to public offices so as to make it service to humanity and not a means to self-enrichment.

Part of the reasons for poor legislative oversight in Nigeria is low legislative capacity. This can be improved upon through intensive capacity building workshops and international internship programmes for legislators, legislative officials and aids. Also with the passage of time, these group of people would gain considerable experience that would equip them to perform their duties creditably.

Finally, the character of the Nigerian state which lacks autonomy and is part of the class struggle is apparently a constraining factor to effective legislative oversight. The state and its officials are simply not interested in the wellbeing of the people and no amount of pleading would change this situation .The time has come therefore for the people to take their destinies in their hands and decide on changing the system themselves for no oppressor would free the oppressed based on pleading and sympathy. It can only happen, when the oppressed decide to free themselves by making the environment no longer conducive for their

oppression.

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