

Modern Legislature: Nigerian Perspective

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Abstract: *The substance of representative democracy is denounced by the resonance of modern legislative process. Hence, an elective legislature is critical for the advancement and sustenance of liberal democracy. In this regard, this paper analyzed the fundamentals of modern legislature from Nigerian perspective and realities. In a qualitative research design of data collection and analysis, the discourse applied Almond's theory of structural-functionalism to underscore the criticality of structure and function in modern legislating. From the index of structure and function, the Nigeria legislative institution and process is assessed to illuminate myriad of challenges constraining efforts towards democratic development. Furthermore, the paper opined for democratic enlightenment of the voters in the election of law-makers, citizen's enthusiasm against docility as among the plausible measures for functional legislative process in deference to expectations of the constituents and priorities of national development.*

Keywords: *Legislature, Democracy, Democratic Governance and Democratic Development.*

Introduction

The structure of modern governments reflects in the institutionalized process of the legislative, executive and judicial organs of power. And, the democratization process of governance crystallized in the structure, composition and responsibilities of structures of modern legislature. Today, public expectations on governance across regions and countries have shifted attention of scholars and practitioners from the executive organ to what the legislature does in government and state. This is because it provides platform for articulation and expression of interests critical for the promotion of public social welfare. To this end, modern parliament or legislature is expedient for the survival of liberal democracies.

Invariably, the process of democratic governance is enormously driven by the legislative responsibilities in government. In this vein, it is indicated that legislature serves as essential constituent for any democratic government and major factor in its sustenance, and, its existence predates the advent of modern democracy. It has been noted that the emergence of the legislature dates back to the twelve century and a product of medieval European civilization transformed in the age of democracy to suit the needs of contemporary political systems (Loewenberg 1995 cited in Ewuim, *e tal*, 2014). Similarly, Ojo and Omotola (2014) stated that the legislatures or parliaments are at the heart of governance and the national integrity system that citizens entrust with the great task of making sure that states which practice democracy and are aided by the constitution fulfill their functions in the interests of the citizens. Although there can be government without the legislature, but there cannot be democracy without the legislature. Accordingly, Popoola (2016), noted that the role of the legislators in policy making is primarily to collate the views, interests, demands and problems of their constituents, harmonize and translate them to policy proposal for legislature. Such proposals are subject to the entire legislative processes after which it is presented to the president for assent (cited in Nwogwugwu and Ishola, 2019:94). In other words, legislating is critical in upholding values of democracy.

To this extent, there is a correlation between democratic governance and modern legislature as averred by scholars (Madubuegwu, *e tal*, 2020; Ozor, 2006; Zwingina, 2010; Ebyitoye 2011; Bankole 2010; and Awah, 2013). Notably, the legislature remained the hallmark of democratic state, government and governance as illustrated in two explicit indications. First, its structure represents an assembly of popular expectations which does not exist in authoritarian regimes except in democracies. Secondly, its roles underscored the imperatives of laws, representation and oversights in deference to the "will of the state"

However, citizens in most democracies have mixed and often heated opinions about their national legislatures. That is probably inevitable, given the contradictory pressures and expectations that these institutions are subject to. They are burdened with the responsibility to make collective decisions, and yet their membership mirrors divisions in society that often seem impossible to resolve. We want legislators to respond to the preferences of citizens in each district or state, but we also want them to act on the basis of all the pertinent scientific information available, even information that ordinary citizens cannot understand. We want them to help the chief executive make good public policy, but we also expect the legislature to obstruct executives who abuse their power (Ethridge and Handelman, 2012: 168). These realities are in credence to the earlier remarks which indicated the rapidity of legislative significance in priorities of modern governance and expectations of the people.

This paper therefore examines the modern legislature with reference to Nigeria legislative system as regards its structure, constitutional responsibilities and challenges. The paper is thematically streamlined in five sections: this introduction, conceptual explication, theoretical framework, challenges of Nigeria legislature, conclusion and recommendations.

CONCEPTUAL EXPLICATION

The legislature or parliament is the output structure of the political system entrusted with the role of legislation or the enactment of laws. It is the most democratic organ of government with reference to its structure, composition and roles in modern state (Madubuegwu and Nkwede, 2016:68). As the legislative arm of democratic government, it is made up of persons elected by the electorate to serve as the law-makers and representatives of the state. In this vein, the members of the legislature swore an oath of allegiance to represent varied demands underlying divisive interests and cleavages in the polity. The essence of this representative role invariably affects the structural organization of modern parliaments across countries and political systems of the world. Hence, certain national parliaments are structured in unicameral or bicameral legislative process to lend credence to the functionality of structure and numerical strength in identifying with societal stream of interests.

In explicit sense, the adoption of unicameral legislature is often influenced by territoriality, social character, legal framework, prevailing opinion, and colonial legacies of a country (Anifowose, 1999:183). In Nigeria federal democracy, bicameralism is reflective at the national level of legislative governance while unicameral structure and process defines the legislative essence at sub-national tiers of government. Beside the structure, modern parliament is primarily entrusted with the fundamental roles of enactment of laws, representation and legislative oversight functions. Hence, the distinctive constitutional roles of modern legislature irrespective of system of government, political structure of the state, political ideology and socio-economic system begins with law-making, oversight function to other ancillary responsibilities. The Nigeria constitution of 1999 provides that the National Assembly is entrusted with the power to make laws for good governance, political stability and development of the country. In this regard, section 58 of the constitution provides in its subsections as follows:

Subsection 1: The power of the National Assembly to make laws shall be exercised by bills passed by both the Senate and the House of Representatives and, except as otherwise provided by subsection (5) of this section, assented to by the President.

Subsection 2: A bill may originate in either the Senate or the House of Representatives and shall not become law unless it has been passed and, except as otherwise provided by this section and section 59 of this Constitution, assented to in accordance with the provisions of this section.

Subsection 3: Where a bill has been passed by the House in which it originated, it shall be sent to the other House, and it shall be presented to the President for assent when it has been passed by that other House and agreement has been reached between the two Houses on any amendment made on it.

Subsection 4: Where a bill is presented to the President for assent, he shall within thirty days thereof signify that he assents or that he withholds assent.

Subsection 5: Where the President withholds his assent and the bill is again passed by each House by two-thirds majority, the bill shall become law and the assent of the President shall not be required.

In a broad sense, Ethridge and Handelman (2012) argued that most fundamental function of government is rule-making that is making what is normally called laws or order or even constitution. These rules defines what is legal and illegal, what actions are required, and the rights and responsibilities of citizens. In United States, Congress (with participation by the president and sometimes the bureaucracy and the Supreme Court) performs this function, in China, the Peoples Congress officially makes rules (although most legislative decisions are really made by top Communist Party Leaders).

Basically, laws are enacted to ensure good governance in response to the needs and plights of the masses. Also, laws are designed to legitimize the actions of the government. Similarly, Okanya (2011), documents that the making of appropriate legislations for law, order and good governance is a key constitutional responsibility of the legislature. The power to exercise this function which can be broadly defined as finding major and marginal compromises to ideas advanced for legislations is usually explicitly granted and in Nigeria's, instance is provided under section of the constitution of the Federal Republic of 1999. While the constitution determined the law-making role of parliament, the standing orders layout the internal process within the parliament. Law making institution does not in practical terms mean that the function is discharged by the legislature to the exclusion of other arms or organs of government. Apart from the Head of the Executive who must sign a bill into law, the expansion of government services and functions in democratically advanced system has given rise to endless procession of ideas for laws. Furthermore, Igbokwe-Ibeto and Anazodo (2015), stressed that the legislature and the executive collaborate in law making despite the fact that the Constitution assigned such powers to the legislature. By virtue of Presidential or Governorship assent to bills or by-laws by Chairmen, such powers are being shared by the two organs. If such collaboration does not exist, the legislature would simply do all the readings on a bill, passes it and say it has become a law. But after passing a bill, the legislature must send it to the President, Governor or Chairman who is the head of the executive for his assent before it becomes law or by-law. In this context, lawmaking is not strictly the business of the legislature.

Subsequently, the members or parliamentarians of the legislature are elected to serve as the representatives of the masses. Therefore, law-makers advocate in the interest of the state by approving bills and adopting motions that affect social wellbeing of the constituents. Similarly, Ojogwu (2011) opined that legislatures are the institutional mechanism through which societies realize representative governance on a day-to-day basis. Regardless of the type of electoral system by which the members of the legislature gain seats, the main purpose of individual legislators and the body to which they belong is to represent that is to say to represent the varied and conflicting interests extant in a society as whole. In the same vein, the legislature is the arena where the representatives of competing interest articulate and strives to advance their respective objectives in the policy-making process. To this end, it can be rightly pointed out that though legislature can legislate and conduct oversight functions but without effective mechanism of representations, they cannot be democratic and are not likely to act in the interest of the society as a whole. Representation is a fundamental function of a democratic legislature (Okanya 2011:15). From this indication, representation as one of the primary function of modern legislature entrench virtues of accountability and transparency between the government and masses. Hence, representation promotes accountable governance and facilitate citizen's active involvement or participation in decision making process of the state. This is because, it provides channel for the promotion of popular interests and views in the government and enhance partisan awareness and consciousness among citizens in the state.

Again as regards to oversight responsibilities, the law-makers assess, evaluate and endorse executive appointments and state budget as periodically presented by the Chief Executive. In addition, the legislature not only approves executive appointment but also judicial appointment. It is observed that the approval function of the parliament facilitate process of checks and balance which provides avenue for assessment and evaluation of Executive competence and efficiency. In this regard, it is remarked that oversight function is a major component of the activities of modern legislature irrespective of the form of government in practice (Nnamani and Eberinwa, 2014:194). Similarly, Saliu and Muhammad (2010) argued that legislative body takes active role in understanding and monitoring the performance of the executive arm and its agencies. It is described as surveillance on the activities of the executive arm. The legislature oversees government affairs and holds the person responsible for any actions and omissions. Accordingly, Cosmeus (2016), asserted that primary role of the legislature in public policy process is that they are responsible for holding governments accountable in their decisions and they scrutinize the government in their actions. Thus, Saiegh (2014), remarked that the oversight function or role of the legislatures means monitoring, reviewing and investigating programmes and activities of government to ensure that the actions taken are transparent, accountable and consistent according to the original intent as allowed by the constitution. In illustrative sense, the oversight functions also involve watching and controlling the activities of government through general debates, questioning of ministers, agencies and other public officials. The legislators can also conduct investigation of committees and where necessary impeach officers they find opposed to democratic performance in their activities (Agba, *e tal*, 2014: 45). In this vein, the importance of oversight responsibility is underscored. Hence, the law-makers are entrusted with the constitutional role to check against Executive excesses and abuse of power in sustaining public confidence in governance and strengthening network of public accountability. This process is practically obvious in summon of the principal members of the Executive arm of government.

Invariably, impeachment is also an authoritative avenue for legislative checks of Executive excesses. It has been the constitutional role of the parliament to impeach erring Head of Executive or Chief Executive from the office. In Nigeria presidential system of government, the section of 157 of Federal Republic Constitution of 1999 entrust power in the two-third majority members of the Nigeria National Assembly to remove or impeach the president from office if he violates the provisions of the constitution or unable to discharge duties of his office. It is designed to enhance public confidence in governance and promotes accountability in public office. In a similar sense, Johari (2005), document that the America Congress took up impeachment proceedings against President Andrew Johnson in 1868 who survived by a single vote, the process was initiated against President Nixon also in 1774 who could save himself by tendering his resignation. The exit of English Prince Minister Attlee in 1949, Eden in 1956 and Macmillan in 1963 confirm the fact of the authority of the parliament.

Similarly, another ancillary function of modern legislature is legislative regulation and control over public finance and expenditure. Hence, the modern legislature review and approve the appropriation bill and stipulate regulative conditions for the disbursement of public fund in the implementation of government program. In this sense, Anifowose (1999) asserted that in every modern democratic system, the legislature holds the basic official financial power. It determines the nature and amount of taxes and public money may be spent only as a result of legislative appropriation. However, there are issues that always trail legislation of finance in Nigeria legislative process. In this vein, Igbokwe-ibeto and Anazodo (2015), opined that since the emergence of the Fourth Republic, there has been executive and legislative feud over the National and States budgets. In the cause of such disagreements, the legislature has always been painted as specialized in mutilating the budget after the executive has 'painstakingly' prepared it. But the underlying issue however, is that the budget belongs to the people. So, in as much as the executive sees itself as being in charge of the details of the financial outlook and structure of the economy, it is the duty of the legislature, as the representatives of the people, to ensure that the budget reflect the feelings and desires of the various constituencies in the country. After all, the constitution says that

President, Governor or Council Chairman shall lay an estimate before the National or State Assembly. This is to prevent the abuse of power. This presupposes that the parliament is in charge of the public fund while the executive is in charge of the approved budget. For example, Section 80 Subsections 3 of the 1999 Constitution as amended clearly states that “No money shall be withdrawn from any public fund of the Federation, other than the Consolidated Fund of the Federation, unless the issue of that money has been authorized by an Act of the National Assembly”. Same power is also conferred on the State Legislature and local government councilors in Section 120. The Constitution also provides that “No money shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the fund by this Constitution or where the issue of those moneys had been authorized by an Appropriation Act, Supplementary Appropriation Act, an Act passed in pursuant to Section 81 of this Constitution”. The legislative function in respect to the control of public funds is hinged on the fact that the executive prepares the spending pattern and will also disburse the money. The legislature, therefore, by such power, can give conditions and place limitations on spending and how funds are to be used.

These constitutional roles of modern parliament as embellished are designed to uphold and promote democratic tents of openness, inclusiveness and accountability in governance affairs and political development of the state. To this end, it is pertinent to re-examine the concept of democracy and its fundamentals in contextual explication of legislative process and essence.

Democracy as a concept is replete with myriad of definitions which does not diminish its value but illuminate the popularity of its practice amid varieties and challenges cross countries and regions. Review of scholarly submissions on its meaning and process revealed two critical variables, the people and popular consent. In etymological sense, Ugwuozor (2018) remarked that the word democracy is differential in meaning and significance in period of antiquity, Greece where it was regarded as the government of the people in which aliens, women, the children and slaves were not part of, and Lincoln’s modern definition which underlines as government of the people, by the people and for the people that implied that government is for the welfare of the people where the following attributes reflect:

- a. That all should govern in the sense that all should be involved in legislating in deciding on general policy, in applying laws and in government administration.
- b. That there is need for people’s participation in crucial decision-making, that is to say, in deciding general laws and matters of general policy.
- c. That the rulers should be accountable to the ruled; they should in other words be obliged to justify their actions to the ruled and be removed by the ruled.
- d. That the rulers should be chosen by the ruled.
- e. That the rulers should act in the interested of the ruled (Arora, 2014, as cited in Ugwuozor, 2018: 99).

As earlier noted, parliament is the most democratic organ of modern government. This is because, it upholds ideals fundamental to the democratization of governance and political process of a sovereign state.

THEORETICAL FRAMEWORK

The theoretic analysis of legislative governance is accentuated in the assumptions of behavioural theory of structural-functionalism as expounded by G.B Almond in the study of role and process of the political system. In this regard, Gauba (2003), recalled that structural-functionalism originated in the sphere of social anthropology in the writings of Radcliffe-Brown and B, Malinowski. Then, it was developed in the field of sociology by Talcott Parsons, Robert Merton and Marion Levy. Gabriel Almond and his associates developed it into a tool of political analysis. Gabriel Almond and J.S Coleman in *Politics of the Developing Areas* (1960) identified four characteristics of political system:

- a. all political system have political structures.
- b. the same functions are performed in all political system with different frequencies and by different kinds of structures.
- c. all political structures are multi-functional.
- d. all political systems are mixed systems in the cultural sense, i.e they are based in a culture which is always a mixture of the modern and the traditional. This approach was further developed by Gabriel Almond and G.B Powell in *Comparative Politics: A Developmental Approach*, (1966). Almond and his associates argued that all political systems, regardless of their type, must perform a specific set of tasks if they are to remain in existence as systems in working order, or equilibrium, i.e as ‘ongoing systems’. These are functional requirements of the system. With this assumptions, they sought to modify David Easton’s model of the political system, suggesting that ‘inputs and outputs’ recognized by Easton can be best understood as ‘functions’ or ‘functional requirements’ of the political system. They sought to redefine these ‘inputs and outputs’ with deeper understanding of the political process and proceed to identify various structures corresponding to these functions, in order to evolve a structural-functional framework.

Succinctly, Verma (1975) assert that three things clearly emerge from Almond’s definition of political system:

1. That a political system is a concrete whole influencing; and in turn influenced by the environments, the presence of legitimate force holding it together.

2. Interaction take place not between individuals but between roles adopted by them and
3. The political system is an open system engaged in continuous communication with entities and system beyond its own boundaries.

From this indication, logics and methodological imperatives of structural-functionalism illuminates. Hence, the theoretical framework underscored the importance of structures and functions across political systems irrespective of its peculiarities. In this sense, Almond has used a 'seven-variables' list of functional categories. Four of these are input functions:

1. Political socialization and recruitment
2. Interest articulation
3. Interest aggregation
4. Political communication
5. Rule-making
6. Rule-application
7. Rule-adjudication.

The input functions are performed by non-governmental sub-systems (or non-governmental structures), by the society and the general environment while the output functions are performed by governmental ones (governmental structures) in the political system (Verma, 1975: 213). However, structural-functional analysis has been criticized on various grounds. Firstly, it is alleged that this form of analysis is primarily concerned with 'systems survival' hence it is ideologically inclined towards conservatism. Secondly, it is not suited to analysis of power relations in society. And, it projects Western-type liberal-democratic systems as standard for institution-building in developing societies rather than encouraging them to build their institutions according to their own genius and specific requirements (Gaub, 2003: 98). In addition, Verma (1975) also argued that structural functionalism as adopted by Almond, suffers from difficulties from which an analysis picked up from one discipline and applied to another is likely to suffer. Concepts applied at one level of abstraction in one discipline and in particular context are likely to get distorted if they are transplanted to another.

However, beyond these limitations, the theoretical imperatives of structural-functional framework embellished in the fact the Nigeria legislature (National Assembly, State Assembly and Council at federal, state and local government levels) is a structure of Nigerian political system entrusted with the primary role of *rule-making* which represents the out-put function. In this vein, performance and viability of the Nigeria legislature at every level of social contract and engagement is measured by the democratic index of its structures and functions. Hence, it is therefore stressed that democratic index of legislative structure is the extent its institutional drive and membership expresses democratic values of equity and rule of law in its obligation to the state. And, the functional index is the extent that its roles are in credence to popular views, consideration of minority expectations and streamlining national interest in representation and legislation. These indexes are critical to legislative process and democratic governance.

CHALLENGES OF NIGERIAN LEGISLATURE

Nigeria is a democratizing state. The values, institutions and processes of Nigerian democracy are bedeviled with daunting unconventionalities and irregularities that have over the decades and years constrained efforts towards democratic development. These anti-democratic practices are obvious in intolerance of alternative views and platforms, flagrant violation of law and precedence, poor accountability and transparency mechanisms in state administration, weak justice system to thuggery of the political process and election irregularities which continue to breed and entrench chaos in the state.

Sadly, these bad spots of Nigeria's democracy have inextricably over the years eroded value and significance of Nigerian legislature at the level of local, state and national government respectively. In this sense, Ewuim, *e tal* (2014), admitted that the legislature has gone through thick and thin since the beginning of the present democratic governance with the aim of evolving an enduring legislative culture, it cannot be said confidently that all is well with Nigeria legislative institution. Frequent changes of leadership of the two houses are one of the reasons for the general lethargy in most of the Legislative Houses is a clog in the wheels of good governance. It has largely been observed that the first four years were spent resolving its internal squabbles and changing leadership. The passage of bills through the Houses is hectic and burdensome. It takes years for bills to move through the houses before they are passed and this trend is largely responsible for the frightening number of bills that are still pending before the two houses of the National Assembly. The financial recklessness of the houses and lack of decorum in which the activities are conducted have smeared the image of the legislature such that one begins to wonder whether or not its roles is supportive for good governance.

Subsequently, Ejere, (2004) also stressed that corruption and nepotism have been the bane of public life in Nigeria. It is often rumored that bills hardly sail through the legislature until members have had their hands greased. The implication of this, therefore, is that debates on such bills either at the plenary or committee levels cannot be subjected to thorough scrutiny in the best interest of Nigerians who are the objects of such bills eventually when they become laws. Similarly, Oyewo, (2007), opined that it is a common knowledge that a good number of members of the legislative houses at both federal and state levels

pursue pure selfish interests that often inhibit them from combating the challenges of law-making. Members pursue contracts from the leadership of the houses and even from the executive such that they easily compromise when it comes to contributing meaningfully to debates on the floor of the house. At times, some members resort to absenteeism from the floor of the house and do not participate at all in the proceedings. Again, many of the legislators have ambitions to contest for leadership positions in the house or membership and chairman of juicy committees. A lot of valuable legislative time is wasted while pursuing these ambitions. That Nigerian's democracy is at its infancy cannot be contested when one considers much more advanced democracies that have existed for hundreds of years. Again, non-independence of the legislature often manifests in unholy relationships between the leadership of the two arms of government aimed at helping one or the other to be perpetuated in power. Invariably, Egwu, (2005) and Ewuim, *e tal* (2014), noted that the legislature today is truly not independent of the Executive and therefore, is often incapacitated from acting as the watchdog of executive activities. Thus, the inordinate ambition of members and leadership of the legislative houses often sees them hob-nobbing with the executive such that valuable time for law-making is lost in the process of lobbying for juicy leadership positions and committees in the legislative houses.

These realities have continued unabatedly to erode value and significance of Nigeria legislature and militate against process towards democratic consolidation. Today, there is widening gap between the priorities of the law-makers and expectations of millions of Nigerians across the thirty-six states and FCT. This is because, the Nigeria legislature is not functioning optimally in deference to expectations of Nigerians and democratic tenets. Although inspite of these challenges, the National Assembly has under successive governments (from 2007 to 2022) provided proactive checks on arbitrary practices of the Executive and identified with plights of millions of Nigerians. However, federating legislatures at state and local levels of governance have remained redundant and failed abysmally to provide functional representation within their respective localities.

CONCLUSION AND RECOMMENDATIONS

The structure and functional process of Nigerian legislature at every level of governance is defective and dysfunctional in response to exigencies of democratic development. And, the challenges of Nigeria legislature stem from the irregularities of a democracy that is fractured in values and constrained with institutional failures. In conclusive sense, the first section of this paper begins with introduction which evinces the thrust and scope of the discourse. The second and third sections explored the conceptual essence of modern legislature and democratic development and imperatives of behavioural theory of structural-functionalism while the fourth section illuminate the travails that fraught the crises of Nigeria democracy and legislative processes. And, the fifth and last section of the discourse concludes and makes recommendations.

From the findings illuminating challenges bedeviling structure and process of Nigeria legislature, it is stressed that orientation and action of Nigerians as individuals and collectives should be informed by democratic values. Hence, democratically informed Nigerians elect right candidates as representatives at national, state and local levels of governance. Thus, democratic enlightenment is therefore expedient in the election of candidates to serve as representatives in national, state and local legislatures.

The enthusiasm of the masses to demand responsibility and accountability from National Assembly and federating state house of assemblies will certainly spur members to be alert with statutory and constitutional obligations. Also, the anti-graft agencies (EFCC and ICPC) should not relent in its checks against fraudulent activities and corrupt practices of members which undermine the reputation of the legislature.

The leadership of the Nigeria legislature at national, state and local should make concerted efforts to safeguard constitutional mandate and democratic prestige of the institution in government and state. This lofty ideal can be realized by the leadership role in ensuring compliance to constitutional provisions and precedents in individual and institutional contact with constituents, members of the public and agencies of the Executive organ of the Government.

Finally, Nigerians should realize that legislature and legislative process are very critical in governance and democratization process. This realization will stimulate public consciousness and interest on what the law-makers does for the purpose of responsive representation and legislation in deference to the expectations of their constituents and priorities of national development.

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