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An Overview of Legislative Oversight Function and Separation of Powers in a Democratic System: The Nigerian Experience

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Abstract

The study assessed the oversight function of the legislature in Nigerian democratic setting. The main objective of the study is to find out the contribution of oversight function of the legislature in Nigeria. There have been reported cases of legislature using their oversight function to witch-hunt political opponents rather than using such power to strengthen Nigeria fragile democracy. The study relied on secondary source of data and adopted content analysis of data. The study concluded that the oversight function of the legislative arm of government is not effective especially as it relates to supervision of project where some members of the National Assembly now use as an avenue to witch hunt their political opponent. The study recommended among other things that the management of the National Assembly should consider providing the legislators with adequate capacity training and reorienting them toward effective performance as opposed to the ceremonial trainings that were provided to them at the start of the first session and which hardly provided them with sufficient knowledge about bill processing, budget scrutiny, oversight function among other legislative duties.

Keywords: Separation of powers, legislative arm, oversight function, law making, Nigeria

Introduction

The concept of separation of powers is very fundamental in the modern day democracy and it promotes democratic principles. The fundamental tenet of the division of powers revolves upon the premise that total power corrupts utterly. Therefore, it will prevent totalitarian inclinations when the authority that exists in a democratic setting is shared among several arms. According to Montesquieu, the idea of the separation of powers serves as a check on the abuse of authority. He emphasized that preventing power misuse is the most important strategy to maintain political liberty (Montesquieu, 1735).

Regardless of its Greek origins, the idea of the separation of powers became widely accepted throughout the Roman Republic. By using this arrangement, all three governmental branches are guaranteed an equal share of political power and are guarded against one branch taking control of all other branches (Ogoloma, 2012). Lucky (2019) noted that the constitution actually gives the legislative branch more authority, despite the fact that the executive branch actually controls both the judiciary and the legislature and believes that one branch of government has more authority than the other. Maduekwe, Ojukwu, and Agbata (2016) asserted that no branch of government is more important than another but they ought to be independent. In their words, "no government organ is more government than the others," thus the three organs must cooperate for the benefit of the state. In order to provide checks and balances and maintain democracy, they also emphasized how important it is to have the division of powers in place. It is believed that if all three functions were vested in one body of government, they would have unrestricted authority and when they use such vast power, they might breach the law (Lucky, 2019; Ogoloma 2012). Therefore, there won't be justice if the same branch of government that makes laws also carries them out and acts as the judiciary.

The authority of several organs is expressly stated in the constitution's numerous sections. The term "horizontal separation of powers" was used by Maduekwe et al. (2016) to describe this style of constitutional power-sharing system. The House of Representatives and the Senate make up the bicameral Nigerian National Assembly. A Senate and a House of Representatives must make up the National Assembly of the Federation, according to Section 47. The executive must make requests for policy and financing to the legislative in accordance with the constitution in order to carry out plans and initiatives. These checks and balances are the final line of defense against the legislative taking power or the executive misusing their powers (Muheeb & Aiyede, 2018). This also applies at the state level. For instance, in order to encourage inter-institutional synergy of governmental actions, the governor participates in the legislative process to the extent that his legislative proposals serve as the main source of the agenda for the House of Assembly. In addition, he must sign a bill for it to become law, according to Section 100 (1-4) of the Constitution. The Constitution gives the Governor the power to veto unfavorable legislation in order to prevent a state's House of Assembly from misusing its legislative powers; nevertheless, as stated explicitly in Section 100 (5), the veto may be overridden by a two-thirds majority vote of the House of Assembly. The principle of the division of powers and checks and balances is included in the constitution in order to ease communication between the legislative and executive branches of government and prevent one arm from dominating the other portions of government in a democratic society. Given these facts, Section 188 of the Constitution clearly gave state legislatures the power to, as a last resort; impeach a governor or deputy governor who acts contrary to the provision of the constitution. The requirements for a functioning representative

legislature were defined by the 1999 Constitution (Muheeb & Aiyede, 2018).

Oversight Functions of the Legislature: An Overview

According to Cosmeus (2016), the legislature's main duties while creating public policy are to hold the executive and judiciary branches accountable for their activities and carry out thorough investigations into them. In order to preserve an honest and accountable government, the role of the legislature as a check and balance on the executive branch has grown more crucial in recent years. Shafritz, Russell, and Borick (2016) claimed that the most typical form of oversight when ministries and agencies are required to defend their actions before Congress is annual legislative hearings on agency financial requests. The constitution mandates congressional oversight to ensure that public projects are completed successfully and to keep the executive branch accountable. According to Saiegh (2014), oversight function is about making sure that orders, policies, and executive decisions are carried out successfully. By carefully reading, analyzing, and researching government actions, you can make sure they are transparent, responsible, and in line with the core ideals of the constitution. The legislative arm of government in contemporary democracies represents the interests of the populace and has the power to hold the executive branch of government responsible for its actions and inaction (Frolick, 2016).

According to Ojo and Omotola (2014), the legislative branch of the government is in charge of holding the executive and judicial branches of the government accountable for their deeds. They have the authority to hold the executive accountable in addition to having the authority to confirm or reject candidates for executive and judicial offices. Examples of such roles include the Chief Justice of the Federation, representatives on federal commissions and councils, justices of the Supreme Court, and the Chief Judge of the Federal High Court. By utilizing their oversight responsibility to make sure that monies allocated to public institutions are used effectively, legislators make optimal use of the tax paid by the people (cited in Nwogwugwu & Ishola, 2019). According to Posner and Park (2007), the capacity of legislators to spend taxpayer funds has acted as a mechanism for enforcing accountability. The legislature was able to decide how money was distributed among competing objectives because it had fundamental control over how much was spent. The various legislative demands on budgets are reflected in the political systems around the world (Heywood, 2007).

According to Pelizzo & Stapenhurst (2004), the checks and balances system functions under presidential regimes as a tool to restrain the excesses of other branches of government during a period of democracy. In a parliamentary system, it is difficult politically for a committee to investigate ministers who are also members of parliament. In these situations, the executive branch frequently has the option to persuade the legislature to adopt a particular course of action or set of policies. The duty of lawmakers to independently supervise their work, according to Ewuim, Nnamani, and Eberinwa (2014), is a crucial component of modern legislation. Saliu and Muhammad (2010) as cited by Ewuim, et al.,

(2014) to support their claim that the legislative body routinely observes and actively participates in comprehending the functioning of the executive branch and its agencies. This legal requirement will ensure that laws are applied in a way that considers the requirements of the society. As part of their oversight duties, ministers and other public officials are expected to closely monitor and oversee government actions. They also possess the authority to establish committees that will investigate any elected officials who have disregarded democratic principles and, if necessary, recommend their impeachment. The constitution of Nigeria states that each house of the National Assembly has the authority to request or demand an investigation into any problem or matter over which it has legislative authority, as well as into the actions of any official, ministry, or other government body charged or intended to be charged with carrying out or overseeing laws passed by the National Assembly. This is done to investigate any government-sponsored projects for waste, fraud, or corruption (Agba, Chukwurah & Achimugu, 2014).

According to Malapane (2016), the legislative organs have a responsibility to monitor the activity of government to ensure that it is acting in the interests of all citizens and that popular preferences are taken into consideration when developing governmental policy. Malapane (2016) observed that the duties of legislative oversight include spotting and stopping instances of abuse of power, preventing waste, investigating illegal activity, defending constitutional rights and civil liberties, improving government efficiency, assessing programs and performance, and finally informing the public and ensuring that executive orders are carried out. Legislative authority extends to all matters, including tactics, materials, safety, the acquisition of defense armaments, investigations into armed forces behavior, and unforeseen military mobilization. However, the political, judicial, and constitutional framework place limitations on the legislative branch's capacity to create and carry out policies. In order to safeguard the public, legislators can exert influence over the executive branch (Kotia, 2011). According to Nwagwu (2014), legislators are currently very concerned about the numerous instances of them abusing their oversight responsibilities, particularly in Nigeria. Given that lawmakers appear to be putting greater emphasis on this task than on making laws, it would appear that the oversight role is more significant to the legislative branch than legislation. Instead of limiting the executive branch's excesses to end corruption and wasteful spending, members of the legislative arm now use their oversight role to punish and intimidate political opponents.

A Brief Overview of Legislative Arm in Nigeria

In countries with presidential systems like Nigeria, oversight function is typically carried out through specialized parliamentary committees. As part of their oversight responsibilities, legislators must make sure that government organizations are successfully carrying out public policy, as well as ensure that everyone who is in charge of executing the law is doing so fairly and appropriately throughout the state. They also involve locating waste and inefficiencies in the government, such as extravagant spending,

fraud, and misappropriation of taxpayers' money, and rerouting, redistributing, and/or reorganizing them. In order to help legislators carry out their constitutionally mandated duty to create public policy, Saiegh (2014) provided a number of criteria. Some of these considerations include the scope of the legislatures' power under a democratic, presidential, or parliamentary system, their interaction with constituents, how well they carry out their legislative and oversight duties, how well they work with other branches of government, and the capacity provided by the system.

According to Eniayejuni and Evcan (2015), Nigeria's executive branch shut off fuel subsidies in 2012, increasing gas prices at the pump. The executive branch's decision to hike gas prices led to an economic collapse and a statewide strike that closed down government facilities. As soon as possible, the National Assembly convened a meeting to debate the executive branch's decision to change that policy with all parties involved, including people and government organizations (Nwogwugwu & Ishola, 2019). According to Agba, Chukwurah, and Achimugu (2014), when it comes to constitutionally mandated tasks and functions in public policies, Nigerian legislators generally perform poorer than regional and international standard of practice. Implementation issues with public policy are to blame for Nigeria's inability to address some of its social issues, including poverty, unemployment, insecurity, executive disobedience to the rule of law, injustice, deteriorating infrastructure, community tensions, and other societal obstacles. The National Assembly has experienced numerous difficulties between 1999 and 2019, including doubts about its leadership, claims of corruption, and other issues. According to Makinde (2005), enacting a policy is insufficient in and of itself; the success and outcomes of the policy depend on how well it is implemented. Countless meticulously crafted policy that are either not implemented at all or are handled wrongly, as well as numerous failed projects, have occurred in Nigeria. One of the reasons cited is that lawmakers have vested personal interests (Popoola, 2016; Ewuim, Nnamani, and Eberinwa, 2014), in addition to the fact that no one is involved in the process of making public policy (Eneanya, 2014; Yagboyaju, Ojukwu, Salawu, and Oni, 2016).

Challenges Militating against the Legislatures in Performing their Oversight Functions in Nigeria

For numerous reasons, the Nigerian National Assembly has fallen short of expectations. These problems have a negative impact on the nation's capacity to provide exceptional governance through the enactment of substantial and potent laws to advance the country. One obvious obstacle is the legislative branch's apparent enslavement by the executive. The legislative branch was seen by the government as an extension of the executive branch from 1999 to 2019. After more than 20 years of democratic administration, it's likely that this is a legacy from the military regime that remained in power (Alabi & Fasagba 2009). Even if the legislative branch can establish laws that serve the needs of the people and effectively check

the executive branch, it is implied that it cannot act on behalf of the president.

Effective legislation in Nigeria continues to be severely hampered by commercialization of the legislative process and activities. Legislators' judgments are influenced by monetary considerations and personal benefit. A large segment of the population frequently opposes the legislature. The executive frequently uses this strategy to intimidate lawmakers. Although this pressure appears to be brought on by the lack of a strong and successful lobbying infrastructure, the government is sometimes pressured to give in to the demands of influential people trying to influence how legislation is written. It appears that some politicians use their positions of power to push their local and personal interests over the interests of the country (Lafenwa, 2009). In the face of significant public interest issues, constituency activity, parliamentary probes, and fiscal legislation are regularly disregarded (Umeagbalasi 2015). The Nigerian National Assembly remains one of the world's most opulent and expensive legislatures (Sanusi 2010; Oni 2013).

More people were living in poverty in Nigeria prior to the country's restoration to democracy in 1999, and the cost of sustaining the National Assembly has increased. During the 11-year democratic rule of Nigeria, the National Assembly is in charge of collecting N684.6 billion from the national treasuries between 1999 and 2010 (Ajani et al., 2010). According to Okigbo and Oyeka (2012), the typical annual expenditure (salary and benefits) for a Senator and a member of the House of Representatives is around N240 million ($1.6 million) and N204 million ($1.36 million) respectively. Despite the fact that 61.2% of Nigerians whose interests they pretend to represent live on less than $1 per day, Sanusi (2010) estimates that the overhead costs of the National Assembly account for around 25.4% of the total national budget (Oni et al., 2019). Their high salary has little impact on their productivity.

The high member turnover rate that is seen with each new assembly is a major cause for concern. Institutional memory is reduced as a result of how frequently incumbent politicians are reelected (Omoweh 2006). They are unable to take part in institution operations since it takes time for new members to become familiar with the legislative process and procedures. A number of federal legislators in Nigeria are also the target of persistent allegations of corruption. Joshua and Oni (2014) contend that the legislature has a duty to protect the public purse, uphold the strictest regulations regarding accountability, transparency, and effectiveness, and set a positive example for a free from corruption democracy. Due to the activities of a few of its corrupt members, Nigeria's legislature at all levels of government-federal, state, and local-has been unable to successfully accomplish the difficult task of safeguarding public cash and other resources (Alabi & Fasagba 2009; Oni 2014). Some members are more concerned with the material and financial rewards they can obtain from abusing their power than they are with promoting accountability through executive supervision (Oni and Joshua 2014).

One of the main reasons for the Assembly's poor performance, in the opinion

of many political analysts, is the frequent interruptions and adjournments. The federal assembly of the 7th Assembly was unable to hold enough sessions to fulfill the requirements of the constitution. The National Assembly is required by the 1999 constitution, as amended, to convene 724 legislative sessions during the course of its four-year term, with each chamber convening for at least 181 days each year. This objective could not be accomplished due to several adjournments (Ugwuanyi 2015). Instead of utilising this time for legislative business, the 6th and 8th National Assemblies took far too many breaks (Oni et al., 2019).

Conclusion and Recommendations

The study concluded that the oversight function of the legislative arm of government is not effective especially at it relates to supervision of project where some members of the National Assembly now use as an avenue to witch hunt their political opponent which is a major reason why the National Assembly has been accused of corruption and abuse of power. The major reason why the function has not been effective is because of the fact that the legislative arm has been commercialized and also politicized. Legislatures end up taking money from contractors and write good reports about the project supervised or in some cases they used the supervisory function as an avenue to witch-hunt their political opponents. The implication of this on Nigerian democracy is that citizens will tend to lose confidence in the legislative arm which has reflected in the number of people that participated in voting. Collaboration between the legislative and executive branches is especially important, but not in an autocratic manner.

This collaboration increases the effectiveness of policymaking because it benefits both parties. The administration should use every resource at its disposal to promote good governance while respecting the legislature's right to exercise oversight. The legislature being in charge of undertaking a thorough assessment of how the government operates to make sure the goals of the constitution are realized. Effective government can be promoted if the two organs of government cooperate to carry out their constitutional obligations. If structural, economic, legal, educational, administrative, and other bureaucratic obstacles are not removed; effective government in Nigeria may continue to be elusive. On this note, the following recommendations are suggested:

i. The National Assembly's authority and management should seriously consider providing the legislators with adequate capacity training toward effective performance as opposed to the ceremonial trainings that were provided to them at the start of the first session and which hardly provided them with sufficient knowledge about bill processing and budget scrutiny, oversight function among other legislative duties.

ii. To ensure good relationship between the legislative and executive arms of government, it is also recommended that frequent communication should take place

between the legislative and the executive branch through the Presidential Advisers on National Assembly. Additionally, this will give the National Assembly advance knowledge of the executive branch's stance on the topics under discussion and the consideration of relevant information in accordance with the mutual inclusiveness (without undermining the independence) of the government's arms and institutions. If the executive is carried along and given consideration for its policy direction, the executive will be more motivated to implement legislative motions and decisions that have not yet been made enforceable by law. As a result, Nigerian legislative output would increase and solidly build excellent governance. It will also lessen the president's tendency to refuse to sign laws into force.

iii. The public's image of the National Assembly's power, duties, and responsibilities needs to be drastically and repeatedly altered. Nigerians are not generally aware of the advantages and disadvantages of the constitutionally mandated jurisdiction of the National Assembly. Perhaps this is the reason why some individuals believe that participating in the review and creation of legislation equates to excessive politicking and fruitless dispute with the government. Additionally, it would lower public expectations for legislators to provide infrastructure facilities, which are the primary purview of the executive branch but the legislature has oversight function to perform to ensure that projects are for the best interest of the masses.

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