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E-mail: ifejournalofpolitics@yahoo.com

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## The Limit of Public Interest as a Determinant of the Action and Performance of Legislators in Nigeria

Laja Odukoya,  
Department of Political Science,  
University of Lagos.

### Abstract

*The paper interrogates the centrality of the legislature in Nigeria's democracy. It queries the extent to which the Nigerian legislature is the edification of the reality and concreteness of the 'social contract' between the Nigerian state and Nigerians? The central problematic of the paper is to find out the extent to which the demand for public interest legislative actions conforms to reality in Nigeria? This paper thus examines how politics, accumulation and other exogenous factors condition the demand of public-interest based law-making functions of the legislature in Nigeria.*

### Introduction

Whichever way a state is conceptualized, irrespective of the class that controls the state, and no matter the interest the state advances, every state ultimately is a law and order mechanism whether for the protection of private property or the advancement of general welfare. In consequence therefore, the substance of government and the essence of the state flow from the existence of law. It is for this reason that law and law-making, given their primacy, constitute the basis of the organic character of the state as it finds expression in government. No government can operate without the necessary appropriation of public funds through the budget. The budget, which allows for the expenditure of state wealth for development, public good and welfare, is law embellished with financial attributes. It is only the legislature that is constitutionally empowered to appropriate public resources for the use of the different organs of the state. Without the instrumentalities of the law, the government as well as the state



loses its attraction and becomes exposed in its ordinary superficialities like all other social associations in the society. It is for this reason that the legislative organ of the state is considered to be the first of the three organs of the state, the others being the executive and the judiciary. As Egwu (2005) notes, the legislature is the executive and judiciary rolled into one.

The legislature is that arm of the state charged with the onerous task of making laws for the order, welfare and good governance of the society. Legislations, either by the monarch or the modern parliament, approximate the very essence and justification for the state. Laws must be made before they can be implemented by the executive and/or interpreted by the judiciary. Without the legislators carrying out their law-making duties, the executive and judiciary are technically jobless, and the state rudderless. Being the most diverse and representative institution of the state, the legislature approximates the totality and plurality of social existence exemplifying the practical exigencies of the theoretical current of the legislature as the popular sovereign. The legislature under a democracy is the edification of the reality and concreteness of the 'social contract' between the citizens and the state.

While all states deal with the challenges of law-making in one form or another, law-making within the context of a democratic order poses a number of challenges, hence the need for qualifications. Quite unlike under oligarchies, where laws are top-down phenomenon, the orientation of law-making in a democratic context is oriented towards bottom-up law-making that is, laws derived from the people based on the codification of their desires as given expression to by their elected representatives who are accountable to them through the security of their political tenureship.

It is in this context that the legislature and the issue of legislative practices in a democracy become relevant. This speaks to the difference and divergence between legislating in an autocracy and a democracy, as well as the associated norms and forces that guide and condition such legislative actions and performances. Against the foregoing, legislative actions are expected to be a function of public interests as against the parochial interests of legislators in the advancement of their politics. To what extent does the demand for public interest legislative actions conforms to reality?

This paper seeks to examine how politics and other exogenous factors condition the demand of public-interest based law-making functions by legislators in Nigeria. The rest of the paper is organized into five sections: the democracy and legislative interface; the historiography and the legal framework of the Nigerian

Legislature; followed by the politics of legislative actions and performances, after which we have the suggestions and conclusion.

### Democracy-Legislative Interface

Democracy is perhaps the most promiscuous of social science concepts. Some democratic typologies found in the literature are, individual-liberal democracy, republican-liberal democracy, consociational democracy, multi-cultural democracy, ethnic democracy (Smootha, 2002), market democracy, social democracy and popular democracy. Contextualizing the unsettled disputations as to what constitutes democracy, Odukoya (2007) notes that "Democracy means different things to different people: a method, a process, a system, an ideology, a Platform for power contestation and not the least a class struggle".

However, the defining characteristic of any democracy so called, is the degree of people-centeredness. In this regard Mattes and Bratton (2007) notes that, democracy entails open competition for powers by people within society. The competition is underscored by freedom and equality in the election of representatives who are democratically empowered to determine the probabilities and possibilities of outcomes in society. No democracy is worthy of the name, outside the context of the involvement of the people who as equals and in the exercise of their political freedom put those in control of the state in government, determine the tenure of political incumbents, decide on the content of public policies, seat in judgment on the performance of the executives, and exercise power over the purse and the declaration of war through their elected representatives, chosen by them at periodic elections.

More importantly, it is to the people that incumbents are accountable in any democracy. This political accountability of incumbents to the people finds expression in pre-election, election and post-election people-centeredness in a democracy. In terms of pre-election and election concerns, those in authority in a democracy achieved procedural legitimacy through free and fair elections, in conformity with the Schumpeterian minimalist conceptualization of democracy (Schumpeter, 1942). Post-election accountability to the people is achieved through policy outputs geared to the improvement of the quality of life of the people and their popular empowerment thus accords office holders output legitimacy. Without the presence of these two legitimacies, no incumbent in a properly constituted democracy can survive beyond the next poll. However, the people through their elected legislators may not wait till the next poll in order to remove incumbent executives that have fallen short of the expectations of the people in terms of the quality of policy outputs. Similarly, by exercising their



Constitutional right of recall, the people can deny a non-performing legislator the delegated power as representative of the people.

Democracy therefore constraints the power of political office-holders, subjecting them to the wishes of the people. In this regard, the power exercised by the powerful is at the pleasure of the ordinary people in society. While economic power remains concentrated, democracy at least theoretically, ensures the diffusion of political power. In this way, social alienation and exclusion occasioned by the market, is compensated for by inclusiveness in the political sphere. This instrumental basis of democracy finds expression in African conception of democracy as a basis of economic empowerment (Ake, 1996). Thus, ownership of political power in a democracy belongs to the people just as the success of any democracy is measured in terms of the ability of the state to meet the needs of the people and, the involvement of the people in running the affairs of the state and its institutions.

The challenge of the democratic enterprise has been how the people can be the desideratum of political actions? Since the complexity of modern society has made it impossible for all people to be directly involved in day-to-day governance, representation has come to characterize modern democracy. In a representative democracy, the people as the popular sovereign, rule by default through their elected representatives. Representative democracy as contemporarily practiced is government by delegated authority from the people to elected representatives with political mandate to act on their behalf for constitutionally specific terms. While political officials in executive and legislative arms are directly elected by the people through electoral contest, the judicial officials are professionals appointed indirectly by the people through their elected representatives in the executive and subject to confirmation by the legislature. Of the three arms of government, the legislature has the most demography preponderance; it is the most pluralistic and diverse hence its well-earned description as the peoples' commons. The legislature is the assembly of the people constitutionally constituted by their representatives empowered to speak to their concerns and advance their welfare. The legislature thus exemplifies the people's power as it serves as the fulcrum of their participation in the affairs of the state. Baldwin (2004: 295-296) categorized legislature in terms of power over public policies into four, namely: (a) the active legislature with power to amend, reject and add to executive bills and policy proposals; (b) the reactive legislature only with power of influence over executive bills. While the reactive parliament can amend or reject bills or policies introduced by the executive, it is not within their competencies to add or replace such bills or policies with measures of their own given the limited autonomy of such legislatures; (c) the minimal or marginal legislature as the name implies exercise

limited effects on executive measures; (d) the legislature with no real policy effect is executive subordinated legislature existing in condition of political impotence and as rubber-stamp merely carrying out executive biddings. The Nigerian legislature can be said to be dominantly a policy-making legislature, though under certain conditions could exhibit the characteristics of the other three categories. The ways in which the legislature as an institution chose to perform cannot but have implications for democracy.

The categorization in terms of their policy efficacy often premised on legislative capacity in contrast with executive power has been criticised as unreflective and unrepresentative of the political relevance and power of the modern legislature. Arter (2006:245) in this context opines that, "There has also been a propensity to conflate 'legislative capacity' and legislative performance' and to reach conclusions about strength and weakness in legislatures from an assessment of a legislature's capacity its potential policy power rather than analysing the nature of its policy output". Right as this may be, a legislature that has the capacity to influence policies and initiate policies given its closeness to the people would no doubt add value and currency to democracy.

Fukuyama, (2005, cited in Mates and Bratton, 2007), argues that the viability of the democracy and its sustainability and consolidation is highly dependent on the capacity of its institutions. The foremost institution of any democracy is the legislature hence the performance of the legislature is indispensable for democratic consolidation. The legislature is the core of the idea of deliberative democracy, seen as an orientation for public market of conflicting ideas amongst co-equals exercising and exhibiting their political freedom, which results in a willing compromise and acceptance of opposing ideas through a reasoned and logical submission to superior argument and/or majoritarian choice. Thus, negotiation, cooperation and compromises which define the core of democratic tradition are the foundation upon which the legislature is rooted. Key to this process is the norm of citizenship, popular participation in public affairs and above all people's liberties to dialogue and ultimately come to agreement on the effectuation of their pressing desires.

As Ndegwa (2001) notes, "Democracy therefore allows, in ways authoritarianism never could, for a discourse and a negation of new citizenship norms and a continual reconfiguration of relations between state-society and within society". No other organ of the state provides the platform for the realization of these better than the legislature. In a democratic parliament, which is transparency, accessible, accountable and effective (IPU, 2006), vertical and horizontal accountability of rulers to the ruled is engendered (Barkan, 2009).



Hence, the basis of political action generally, and legislative action in particular should be the interest of the people defined as public interest. It is for this reason that Ibrahim (2004:7) counsels that, "In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, legislators should make choices based on merit. They should be as open as possible about all decisions and actions and restrict information only to the wider public interest demands".

#### **Historiography and Legal framework of the legislature in Nigeria**

The legislature in Nigeria dates back to the colonial order in the country. The Nigerian Legislative Council, with two elected representatives from Lagos and one representative from Calabar, though lacking constitutional legislative power and also based on limited franchise, was the progenitor of modern legislature and legislative practices in Nigeria. While the basis of the franchise was expanded and representation broadened beyond Lagos and Calabar as colonial administration progressed, the composition, nature and character of the Nigerian Legislative Council all through the colonial period was anything but representative, given the over-lordship of the executive organ of the state superintending on behalf of the colonial authority. The historical supremacy of the executive over the legislature which runs to the present derives for this colonial ancestry laying the foundation for the thesis of the legislature as a weeping child of the executive in Nigeria (Egwu, 2005).

The experience with parliamentary democracy during the First Republic, under the constitutional architecture of a parliamentary legislative protocol oriented to fusion of power overtly gave prominence to executive authority at the expense of legislative supremacy. With the advent of the military in politics from January 15<sup>th</sup> 1966, democratic legislative practices whatever its limitations in Nigeria was decreed out of the nation's political life. Hence, the challenge of civil politics in Second Republic from 1979-1983, was how a legislature in infancy and lacking constitutional nurturing was to operate as effective constitutional check and balance on an executive arm under a presidential system with overwhelming awesome power to do both good and evil. The failure of Nigeria's Second Republic to a large extent owed much to legislative acquiescence to executive lawlessness, bureaucratic inefficiency, and generalized corruption and rent-seeking in the polity and the legislature.

The historical circumstances which occasioned legislative underdevelopment in no small measure negatively impacted on the quality of legislative practices and output during the Second Republic. The submission of power over the economy to the president by the National Assembly through the two hour

passage of the Economic Stabilization (Temporary Provisions) Act of 1982 exemplifies the negation of legislative power (Akinsanya, 2002).

Notwithstanding these problems, contemporary legislative practices in the context of a presidential system in Nigeria owe its development to this period. The legislature during the Second Republic was not without its positive side. Some measure of legislative vibrancy, alliances, cooperation and collaboration was noticeable given that the ruling party lacked majority in the National Assembly, and the robust organization and leadership which political party like the Unity Party of Nigeria (UPN) afforded its federal legislators. Like the present situation, such legislative vibrancy was not common at the State level.

Historically, it has been easier to enforce executive and party control over the legislature in State Assemblies in Nigeria given the single party dominance in most States, except in rare cases like in Kaduna state during the Second Republic, when the Peoples Redemption Party (PRP) and the National Party of Nigeria (NPN) controlled the executive and legislative organs of the state respectively. The impeachment of Alhaji Balarabe Musa of the Peoples Redemption Party (PRP) as Governor of Kaduna State, by the National Party of Nigeria (NPN) dominated State Assembly, was an unedifying legislative practice that promoted partisan considerations over the interests of the people of the State in a morbid exhibition of the tyranny of the majority. Under contemporary legislative politics in Nigeria, this condition has been reinvented in the manipulations of the legislature by incumbent executives and political godfathers.

From January 1<sup>st</sup> 1984 when the civilian administration of President Shagari was overthrown till May 29<sup>th</sup> 1999, Nigeria experienced legislative reversal, with the legislature subsumed under the ambit of the executive-oriented military command structure. The legislature convoked under both Generals Ibrahim Babangida and Sanni Abacha, deviated profoundly from constitutionally sanctioned legislative practices, deriving their existence and owing their loyalty not to the people but the military powers.

Unlike the traditional legislature as an open market place of ideas, military law-making was both secret and oligarchic in operation. This however was not without precedence as historically, parliaments, even within democracies, struggle to perform their functions faced with an over-bearing executive (Ibrahim, 2004). The struggle for democracy by the civil society amongst other things was to bring openness to governance and ensure that the people are the



ultimate source of political power in the state. The struggle for democratization against military authoritarianism witnessed many political reversals and human casualties before its eventual triumph in the inauguration of a civil administration on May 29<sup>th</sup> 1999.

One of the benefits of democratization was the convocation of the National Assembly as the legislative assembly for Nigeria by the President, Chief Olusegun Obasanjo on June 2, 1999 as stipulated in the 1999 Constitution. Like the American Constitution, the legislature in Nigeria is the first organ of government coming in Chapter I, Part II of the 1999 Constitution only after Part I which provides for the supremacy of the Constitution, the federal nature of the country, and demographic constituents of the federation.

Part II, section 4 (1) of the 1999 Constitution provides that, "The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for which shall consist of a Senate and a House of Representatives". The National Assembly is constitutionally empowered 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 of this Constitution" (Part II, Sec. 4 (2)).

Clearly detailed in the Constitution are the membership composition, leadership structure, powers and operations of these legislative Houses. The Inter-Parliamentary Union (IPU) identifies the functions of the Legislature to include: Law-making; Approval of taxation and expenditure; Oversight of executive actions, policy and personnel; Ratification of treaties and monitoring of treaties; Debating issues of national and international moments; Hearing and redressing grievances; Approving constitutional change" (IPU, 2006).

For Rosental, (1999), the constitutional functions of the legislature can be analytically delimited into three; balancing power, representing constituents and making laws. However, as can be seen in Table 1 below, the functions of the legislature both formal and informal can be categorized into six distinct categories. These divisions of legislative power are neither water-tight nor cast in stone as there are overlaps in the classificatory schemes as they followed individual preferences. As an institutional mechanism for the prevention of tyranny and the absolutism of power to which the executives are prone, the legislature achieve constitutional power balance through approval of taxation and budget, legislative oversight, approval of top-level executive appointments, impeachment proceedings, etc.

The legislator's representative functions are discharged through bringing local issues to national attention, initiation of legislations that would ensure better conditions of lives for constituents, giving voice to constituency position as regard policy preference, and hearing and redressing grievances. As a representative assembly the legislature provides the platform of system-wide interest articulation and aggregation (Huneus, Berrios and Cordero, 2006).

The primary function of the legislature is to make laws for the good government and order of the state. In discharging its law-making functions the legislators are indispensable actors in all the stages of the policy circle. As a policy initiator, the legislator performs a foresight function; that is projecting into the future and envisaging the future needs of the people through anticipatory legislations. Though in Nigeria, the oversight function, given its possibility as a platform for accumulation, has been over-emphasized to the neglect of the foresight function of legislators, despite the latter's developmental prospect.

However whether the legislature is an active, reactive, minimal/marginal or a rubber-stamp legislature is a function of the political sociology in which the legislature operates. In this regard, the lack of institutional memories which make the Nigerian legislature literally a political orphan robs it of a socio-political pathology that informs its action based on historical tensions, contestations, challenges, failures and victories in the process of its development.

Furthermore, no change in the constitutional order of the state is possible without the approval of the legislature. Even the legislative function of treaty ratification is part and parcel of the law-making functions, as no treaty entered into by the country can validly have the force of law and thus come into operation without the approval of the National Assembly. In this context, the legislature is an important state institution in international relations. As argued by McGee (2007), the legislature ensures the quality assurance of legislation through the determination of the form of presentation, delay, debate, public inputs, reflection and amenability.

TABLE 1  
FUNCTIONS OF A LEGISLATURE

*Representation, Redress and Express*  
On behalf of constituents  
On behalf of interests  
On behalf of causes



## On behalf of party

### Legitimisation

Latent - through meeting regularly and uninterruptedly

Manifest - the formal stamps of approval

'Safety Valve' - as an outlet for tensions and an arena for resolving disputes

### Recruitment, Socialisation and Training

Recruitment - of individuals into the political system

Socialisation - of individuals into the norms of political behaviour

Training - of individuals in political skills

### Education and Informing

Educating - to teach the nation what it does not know

Informing - to bring matters to the forefront through discussion and deliberation

### Legislative

The scrutiny of legislation

The revision of legislation

The passage of legislation

### Scrutiny

Of the actions (and inactions) of the executive'

Of the activity of the executive

Source. Derived from Bagehot (1867), Packenham (1970), Norton (1990)" and Forman and Baldwin (1999) cited in Baldwin, N. D. J. (2004), "Concluding Observations: Legislative Weakness, Scrutinising Strength?" *The Journal of Legislative Studies*, Vol. 10, No. 2/3, Summer/Autumn, pp. 295-302.

From the forgoing, the constitutional scope of legislative powers and the public expectations of legislators are quite enormous. As Asobie (2004), notes:

Essentially, the legislator in a liberal democracy is four persons in one: a representative, a law-maker, a policy-maker and an overseer of the executive arm. All other roles are complementary to these four. The four functions are very crucial for the effectiveness of the democratic process, as a strategy for the positive transformation of the material life of a people. On the excellent fulfilment of these roles, far more than on the powers and functions of the executive arm, hang the success or failure of the democratic political system.

Questions need to be posed as to the factors and forces that shape legislative actions and performance? In other words, are legislative actions informed strictly by public interest orientation?

## The Politics of Legislative Actions

Flowing from the constitutional provisions as contained in Part II Sections 4 (1) and (2) of the 1999 Constitution there is no doubt that the legislature in Nigeria is a sovereign legislature with unlimited power to make laws for the progress and good governance of Nigeria. Paradoxically, such claims cannot be made for the legislators who as products of the contestations of power and struggles for resources between/ amongst individuals and vested interests in a highly segmented and multi-ethnic society must be calculative and responsive to these tensions and tendencies in their legislative actions in order to remain relevant and in power.

In consequence, the exercise of the legislative powers of legislators within the over-arching constitutional stipulated parameters of public interests is not unproblematic. This disconnect between the constitutional requirement of public interest informed legislative behaviour and the reality of the political ecology within which the legislators, who are first and foremost politicians with partisan interests, alliances, loyalty and orientations, function, creates some functional tensions for the legislators in the discharge of their constitutional duties. Even in the context of non-segmented and non-multi-ethnic states, Barkin (2009) notes that there is often a clash between the discharge of the constituency function given its particularistic orientation, and the function of representation, which is universalistic.

A similar tension is implicated between the legislating function, general in orientation, and the constituency function, which is limited and narrow. Legislators in highly multi-ethnic and segmented states like Nigeria with low political and democratic culture face more challenges in the discharge of their constitutional duties objectively and with the best interest of the nation as the desideratum of legislative actions. In this wise, legislative performance and actions cannot be taken for granted. The legislators' actions are continuously informed by factors over and above public interests considerations.

These functional tensions, require critical judgment and the need for role balancing by the legislators, as their political fortunes at the next polls as well as the viability for future national political positions may be affected one way or the other if these tensions are not delicately balanced. The identification and



elaboration of these factors that inform legislative actions and performance are our next focus. These can be classified into factors internal and external to the legislature.

### Factors Internal to the Legislature

The law-making power of the legislature is derived from the constitution of the country. Being a product of human efforts, especially, a compromised outcome of the contestations and struggles between varying interests, values, groups and classes, constitutions are necessarily imperfect and in most cases ambiguous. The language limitation in capturing the actual intention of the constitutional framers in words often poses interpretative problems for law-makers who are not part of the formative laws with which they are to operate.

This textuality problem also gets compounded with the divergence between the intentions of the framers of the constitution in contrast with the expectations of those who ratify the constitutions. Expectedly, both of these have implications for the understanding of the legislators. With most of the legislators not being legally literate and no rich legislative tradition, culture, bureaucracy and research institutions to resort to, the individual legislator is left to chart his/her course with his performance limited by self-imposed legislative horizon. Thus, when legislators' interpretation and understanding of their constitutional role are flawed, legislative actions and performances cannot be any better.

The rules of legislative actions, as defined in terms of boundary rules, content rules, temporal rules, and informational rules (Goetz and Zubek, 2007), as well as the facilitating factors, defined as capacity and institutionalism (Rosenthal, 1999), have implications for legislative practices and its ability to discharge its democratic mandate. The boundary rules clarify authority over the legislative process through the specification of people with legislative mandate. The power and limitations of legislative mandates constitute the subject-matter of the content rules. Temporal rules deal with the "timing, speed, sequence and duration of the legislative process" (Goetz and Zubek, 2007). The information rules underscore the centrality and availability of adequate, quality and timely information on government policies and pending legislations to legislators in the discharge of their constitutional duties. The combinations of these four legislative rules as well as the specific interpretations by the legislature shape legislative practices with implications for democracy. It is in this context that the negative effect of military rule on legislative practices in Nigeria is profound. Military authoritarianism precluded the development of a robust legislative tradition in Nigeria, given that legislative practices go beyond the enactments in

constitutions, and having cultural specificities and accumulating in the daily procedural context of legislative activities (Ayodele, 2002).

The legislature is constitutionally empowered to determine the rules, orders and procedures that guide its activities, as well as associated privileges. The initiation of legislation through the first reading, amendment of proposed bill through the committee system and second reading, and the finalization of legislation, through the third reading are done in clear observance of the aforementioned rules which define legislative practices.

The mere observance of extant rules by the legislature does not ensure quality legislative practices than would ensure that the legislature deliver on its mandate. The facilitating factors for efficiency and effectiveness of the legislature are capacity and institutionalism. Capacity refers to the wherewithal of the materials required for performing legislative work efficiently and effectively within the legislative environment.

Relevant here is resources, in terms of availability of qualified and trained human capital, facilities, technology and structure. The quality of the legislators themselves cannot be over emphasized as the primary human capital in the legislative context. A factor that cannot be under-estimated in relation to structure is the nature and character of the state, the operations of the political system, especially as these condition the party system and the electoral processes. For instance, what degree of control do political parties have over the legislators? What are the consequences of deviation from party positions, especially when this runs contrary to constituency preferences and/or legislators' conscience and best judgment? How does election rigging by legislators affect their sense of democratic responsibilities to their constituents?

"Institutional capacity is the instruments that give the parliament the potentials to exert influence and perform their main responsibilities of law-making, oversight and representation" (Nijzink, Mozaffar and Azevedo, (2006:314-315). This is seen in terms of the relative power and level of autonomy of the legislature, and in terms of the available infrastructure, financial and human resources that the legislature has at its disposal with which to perform (Nijzink, Mozaffar and Azevedo, 2006:315). Institutionalism defines the sense of pride of the legislators through the development of a feeling of "we-ness", sense of pride and identification with the legislature which gives the legislators a sense of community and continuity. As Rosenthal (1999) notes, community as a factor in legislative practices and effectiveness promotes the culture and norms of legislative collegiality, through informal socializing, negotiation, cooperation



and collaboration.

For continuity, Rosenthal (1999) argues that the need and the availability of acquired and accumulated legislative knowledge and skills commend some measure of continuity amongst legislators and legislative bureaucracy. Institutional value is also enhanced as a consequence of continuity, engendering support for the survival of the legislature by the legislators' overtime. For instance, mastery of existing laws as a basis of improving or introducing new laws cannot be taken lightly. This is also important for the prevention of double legislation with the negative implications this may have on the credibility of the legislature and legislators. There is no gainsaying that there exist high attrition and mortality in legislative returns to the hallow Chambers. The decimation of the legislature and the introduction of new members after new elections have significant implications for the effective and efficient discharge of legislative functions.

Added to the above is the nature and type of infrastructure available for the legislature to work with. The performance by law-makers is highly dependent on the availability of requisite tools. When the Nigerian National Assembly was inaugurated on May 29<sup>th</sup> 1999 basic infrastructure for the performance of legislative duties was not available. The leadership of the National Assembly had to start from the scratch such that quality time that would otherwise have been invested into the onerous task of law-making was squandered on building the structure and providing the infrastructure that would enhance the law making functions of the legislature.

Another missing link at the inception of the present civil administration was the legislative bureaucracy. Given the underdevelopment of the legislative arm of government under the military regime, there was no institutional arrangement dedicated to the management and support of legislative performance when the National Assembly was inaugurated on June 2<sup>nd</sup> 1999. Even many of the legislators had no offices from which to function. The legislature had to chart its own course almost alone, and sometimes with the assistance of civil service bureaucrats who, though possess experience with regard to executive activities, lacked the requisite knowledge and experience to be of help to a legislature just constituted after many years of military authoritarian rule. This had grave implications for the functioning of the legislature.

As Gboyega (2001:10) notes:

Evidently, trying to make a policy without assembling and analysing  
The relevant data is like target-shooting whilst wearing a blindfold. A

legislature seeking to challenge executive viewpoints on policy matters, therefore, faces uphill task to formulate credible alternative policies. The National Assembly did not inherit administrative machinery with the awesome resources available to the civil service and can never create a research arm that can match the vast scope of what the civil service provides to the executive.

Another factor which affect legislative actions and performances is the internal politics of the legislature. This politics manifest in different shapes and forms some of which are, leadership squabbles, majority versus minority status as a consequence of split party control, legislative bargaining especially in terms of committee chairmanship and membership of juicy committees used by the leadership of the legislature as bargaining chip and a patronage mechanism for control of members of the legislature. Also relevant as part of the internal factors which determine legislative actions and performances is the inherent personality conditioning of the individual legislators exemplified in education, socio-political orientation and ideological position, health, ethnic and religious factors, attendance at legislative sitting, business interests, amongst other intervening variables.

#### Factors External to the Legislature

The legislature is part of the society and an important state institution; hence it cannot be unaffected by the society and other factors from the political system. First, as a conditioning factor from the external environment that impact on the legislature in the performance of its duties, is the nature of intergovernmental organization. For instance, whether there is a strong or weak executive. Or better still, in terms of the disposition of the executive to constitutionalism and the rule of law. The dominance or otherwise of the party to which the executive belong in the legislature is also a factor in legislative performance as the synergy between the two arms of government would go a long way in aiding and enhancing the effectiveness of legislators that belong to the dominant parties, as there exist the possibilities of political exchanges outside the legislature.

The overbearing nature of the executive as expressed in the interference of President Obasanjo in the leadership issue of the National Assembly resulted in the change of leaders especially at the Senate severally during Obasanjo's presidency. The conflict between the executive and the legislature under Obasanjo and the Speakership of Alhaji Ghali Na'aba negatively affected legislative performances. The Plateau, Oyo and Ekiti states' legislatures were all arm-twisted by the federal government and the Economic and Finance Crimes Commission to impeach their governors. Similarly, the impeachment of the Balyesa state Deputy Governor was not an independent action of the state



Assembly but done with the promptings of the state Governor.

The nature of party dynamics and the degree of party control and influence on legislators is another important factor in the determinant of actions of legislators. Being the political platforms through which legislators got elected and an important mechanism for their re-election, political party often plays important role in the directions of legislative preferences. In the minimum, legislators are expected to toe party lines and abide by party manifestoes on major national issues which come before them. In the life of the Obasanjo administration, especially during crisis between the executive and the legislature, the ruling party had had to wield the big stick and point to the direction the party members in the legislature must go. The influence of the party as a determinant of legislative actions has been very pronounced in budget consideration and approval as well as the approval of nominations put forward by the executive.

Furthermore legislators are politicians, hence partisan considerations cannot be ruled out as a determinant of their actions and performances. This has become more pronounced in the context of the prevalence of the godfather phenomenon in which case the elections and re-elections of incumbent legislators are dependent on the whips and caprices of their godfathers. The actions of the Anambra State House of Assembly during the Chris Uba and Governor Chris Ngige saga, as well as the impeachment of Governor Rasheed Ladoja of Oyo state by legislators loyal to Alhaji Lamidi Adedibu are cases in point of the role of godfathers in shaping legislative actions. The former governor of Lagos state, Asiwaju Bola Ahmed Tinubu has been implicated in the ongoing crisis between the state House of Assembly and Governor Raji Fashola.

Aligned to all of the above as a determinant of legislative action, is the struggle for accumulation and the use of legislative position as a platform for primitive capital accumulation. It is for this reason that the National Assembly since its inception on June 2, 1999 has become synonymous with corruption. As Okojie and Momoh (2007a:107) argue, "The National Assembly is notoriously a focal point for corrupt practice, since it has the power to award its own contracts". The preoccupation with a task that ordinarily is within the purview of the executive could be understood given the business and profiteering political orientations of the Members of the Nigerian highest legislature to politics. The orientation of Nigerian legislators to elective offices as confessed by Chief Adolphus Wabara, former President of the Senate is primarily business-like.

According to Chief Wabara, "membership of the National Assembly is an investment because most of us sold our houses to get to the Senate. The maturity is there but it is the ability to recoup whatever you spent legitimately that is the problem" (2004, The Punch, June 5). In the eight years of Obasanjo administration, the Upper Chamber of the Nigerian legislature, the Senate, had four presidents, the first three fell on account of corruption-related cases.

The fact that there was no repeat of the same development in the House of Representatives during this period was more of a function of group conspiracy as the leadership of the House under Alhaji Ghali Na'aba engaged Obasanjo in an epic battle purportedly for the protection of the independence of the legislature. However, the executive-legislators struggle was due to the desire of the legislators to fleece the nation of scarce resources through awarding of contracts, constituency allowances, inflated budgets, and other allowances.

The peace in the House of Representatives under Alhaji Ghali Na'aba was due to his democratization of accumulation by members. Following the threat to impeach Speaker Na'aba by members based on the management of the funds appropriated for the House, the issue was resolved with each Member of the House Representatives directly credited with percentage of the funds appropriated quarterly to the House for both capital and recurrent expenditure, in order of hierarchy. The Speaker got the highest, followed by the principal officers of the House, with the balance shared to the Members.

Apart from the disagreement over the award of contracts by the executive on behalf of the legislators, a task the legislators wanted and succeeded in hijacking from the executive arm, other devices used by the legislators for accumulation includes the appropriation of fat salaries and allowances for themselves, abuse of appropriation for Constituency projects, as well as the passage of bills for pecuniary purposes. For many legislators, the primary duty of legislation is set-aside, while efforts are concentrated on exploiting their over-sight functions over government ministries and agencies for accumulation through soliciting for contracts and other pecuniary benefits.

The current sixth session of the House of Representatives has not been as impressive as the preceding sessions in terms of avoidance of corruption related scandals at the leadership level. The first Speaker under the sixth legislative session, who coincidentally was the first female Speaker of the House of Representatives, Hon. Paricia Olubunmi Etteh fell to what has come to be known as Ettegate, even before she effectively settled down in office. Hon. Etteh, the Speaker and her deputy, Hon. Babangida Nguroje, faced with imminent impeachment resigned their positions after being implicated in a



N628 million contract renovation scam of their official residences, as well as expenditure on twelve exotic cars.

Similarly, the incumbent Speaker, Honourable Dimeji Bankole, struggled to stabilize his tenure when confronted with allegations of the inflation of the cost of cars purchased by the House of Representatives from the Peugeot Automobile Nigeria (PAN), Kaduna. In the N2.3 billion car scandal which was blown open by Lagos lawyer and activist, Mr. Festus Keyamo, the House of Representatives' leadership was said to have inflated the 308 Peugeot 407 cars meant for the use of Members of the House 82 Committees for their oversight duties.

According to the petition by Mr. Keyamo, the cost of the cars were said to have been inflated to the tune of N1.1 million each. Another N333.5 million was also said to have been spent on the purchase of bullet-proof cars and other high-profile vehicles by the House leadership. The payment of Value Added Tax (VAT) on the cars was also said to have been manipulated to enrich privileged Members of the House.

Despite the documents supplied by Mr. Keyamo to buttress his allegation, the House Ethics Committee charged with the investigation of the scandal cleared the House leadership of the corruption charges. The Committee was more concerned about how Mr. Keyamo got the classified documents which formed the basis of the corruption petition without the authority of the management of the National Assembly.

According to Ita Enang, the House Chairman on Ethics, the House is prudent in the management of public funds. Backing his claim on the financial prudence of the House of Representatives, Hon. Enang gave the example of the purchase of bullet proof vehicles for the Speaker and the deputy Speaker which was purchased for N52.8 million as against the quoted price of N82 million and N105 million respectively. A saving of N25 million, Enang argued, was made for the public treasury by the legislators in the purchase of these bullet-proof cars (<http://www.my-nigeria.com>). Beyond the mathematics of the amount saved from the purchases, the concern is on the propriety of the purchase of the bullet-proof cars in the first place. In whose interest were those bullet-proof cars purchased when the average Nigerian lives daily in fear of insecurity of life and property amidst the heightened threat of armed robbery and kidnappers. These bullet-proof cars, given past experiences, are likely to be taken away as "parting souvenirs" by both the Speaker and his deputy on completion of their tenure, or

sold to them at ridiculous prices.

It is quite informative that the report of the Mrs. Farida Waziri led EFCC on the car scam, which had since been completed, is yet to see the light of the day. Furthermore, despite the clean bill by the House Committee on Ethics to the leadership of the House on the car issue, there are serious issues left unanswered.

First, was the purchase of the 380 cars not a violation of the monetization policy introduced by the Obasanjo administration? Second, was the car purchased for members of the House of Representatives not contrary to the position of the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC), that except for the President of the Senate and his deputy, as well as the Speaker and his deputy in the House of Representatives, no other Member of the National Assembly is entitled to official cars? Third, does the purchase of the controversial cars, for all the 360 Members of the House of Representatives, not using government money to feather their own nest and a sort of double payment, having been paid N1.49 million annually for car and transportation allowances in their monetized packages?

The point at issue is that the legislators get compromised as a consequence of their involvement in different primitive accumulation scam to fleece the Nigerian people.

The final factor that should ideally shape legislative actions is the constituency influence. Paradoxically, this ranks very low in the consideration of Nigerian legislators as a determinant of their actions. This cannot be separated from the reality that votes do not count hence the electorate has little or no control on the tenureship of legislators.

### Suggestions and Conclusion

The legislature is central to the democratic tradition. Apart from its other functions, it is a recruitment ground for future political leaders of the nation. As the peoples' parliament, promoting vertical and horizontal accountability between the rulers and the ruled, as well as the different organs and institutions of the state, a strong legislature has been seen as correlated with a strong democracy (Fish, cited in Barkan, 2009). Since legislative practices are not anywhere cast in stone, but an accumulation of daily experience by the legislators as individuals and as a collective, dedication, commitment, studiousness, and a sense of community are indispensable requirements of every legislator worthy of its name. In this regard, a good legislator, imbued in the best traditions of legislative practices, must be truly HONOURABLE.



Furthermore, deliberate systemic action is required to engender democratic citizenry that would hold political leadership accountable and answerable to the people. This cannot be achieved except political power holders derive their power from the people and the peoples vote begin to count. This makes electoral reforms a categorical imperative and a desideratum for national reengineering and development. It is only when this is done, and rightly done that we shall start having public interest as the basis of legislative actions as against the present system in which extraneous factors unrelated to the people serve as the motivation for legislative actions.

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