



*International Journal of Humanities & Social Science Studies (IJHSSS)*  
*A Peer-Reviewed Bi-monthly Bi-lingual Research Journal*  
*ISSN: 2349-6959 (Online), ISSN: 2349-6711 (Print)*  
*Volume-III, Issue-III, November 2016, Page No. 226-235*  
*Published by Scholar Publications, Karimganj, Assam, India, 788711*  
*Website: <http://www.ijhsss.com>*

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## **Legislature and Democratic Sustainability in Nigeria**

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### **Abstract**

*The function of government in any society is mainly to secure all citizens for peaceful co-existence through good governance. The legislature is an essential institution in any democracy. It functions majorly to regulate the conduct of government through the doctrine of separation of powers that has long recognised the legislature as one of the arms of government responsible for law making to guide against abuse of powers and violations of human rights. Also, it offers the wildest platform for political participation among the citizens irrespective of their religions, ethnic, ideology, background and differences. Legislature is the most important arsenal of any democracy from which government derives its law and powers. Legislature in Nigeria has been severally criticized for being a puppet of the executive, compromised and often misused as a hunting dog against individuals or groups that are not on the same page with the government. The study relies on secondary source of data collection by consulting textbooks, journal articles, internet and newspapers while the technique of data analysis will be qualitative and historical. The study historically put Nigerian legislature in perspective; it investigates the functions of legislature in Nigeria democracy; it examines the challenges of legislature in sustaining Nigerian democracy. This work therefore submits that, democratic sustainability in Nigeria is predicated on autonomous, enlightened, efficient and effective legislature.*

***Keywords: Nigeria, democracy, democratic sustainability, legislature and government***

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**Background to the study:** After her fourth attempt at democratic system of government, Nigeria is currently at its fifth democratic transition from one democratically elected government to another. The present republic is the longest in all the four witnessed republics in the country. Democracy, constitution making and democratic sustainability are challenges confronting most emerging democratic societies in the world. In Nigeria democratic project had been aborted and abandoned three times through coups by the overbearing military institution. All these do not happen without the existence of the law that against military taking a leading role in political activities. The irony is always that each time a democratic process is aborted; the legislature is dissolved and constitution suspended and replaced with decree that will empower the military to act contrary to the country's constitution.

While it is true that there have been apparent political setbacks in Nigeria facilitated by a complex interaction of military in politics and economy, the fourth republic has witnessed intricate internal political dynamics and struggle to engender political culture, institutionalize political elites, national development and democratic governance in Nigeria. This paper attempt to conceptualize democracy and legislature; identify roles of legislature in democratic sustainability; examine the challenges of democracy and legislature in Nigeria and discuss ways legislature can sustain democracy in Nigeria.

**Statement of the problem:** Democracy is a system of government that gives people the opportunity for self-actualization through propelled political proficiency, economic development and social stability of the polity. It implies rule by the people where each individual participates in their society's administration. The above stated cannot be achieved without a vibrant and independent legislative organ of government that is prepared to discharge its constitutional responsibility in the interest of the electorate that reposed confidence in them through their votes.

Legislature in Nigeria has failed to justify its role in democratic sustainability in law-making, oversight functions and representational function. Assembly members are individuals drawn from different constituency to defend the interest of their constituency and the corporate existence of the country, but because of lack of understanding of their roles, influence of godfathers in their emergence and greed, law-making has become a money making venture. The oversight function of the legislature is such that will make the political office holders and others in position of authority render their stewardship any time called upon for such. Contrary to this, the oversight functions of the legislature are selectively performed on targeted individuals that are not in their good record of either the legislatures or the executive that have the overbearing power to control the legislature. The legislative members are at best representing and protecting their personal interest as against the interest of the people in their constituency.

**Conceptualization of Democracy and Legislature:** Democracy as a system of government in the contemporary world is the best and acceptable form of government. It is the most appropriate institution through which any society that wants to guarantee peaceful co-existence of her citizens should be governed. Democracy is a system of government that gives people the opportunity for self-actualization by propelling political proficiency, economic development and socio-political stability. It is also a political process that ensures popular participation and control of the process of government by the majority of the people; it as well encourages and allows rights and duties to be entrusted to the elected few known as legislators and executive, since all the people cannot participate and individually control government at the same time. This however, suggests an environment that can sustain a democratic system. Dye and Zeigler (2003:4-5) opine that democracy means individual participation in the decisions that affect one's life. He further submits that traditional democratic theory has valued popular participation as an opportunity for individual self-development: responsibility for governing one's conduct, develops one's character, self-reliance, intelligence and moral judgment – in short, one's dignity. These

must be what Abraham Lincoln former president of the United States of America observed when he defined democracy as the government of the people, by the people and for the people. This simply implies that democracy is people oriented government.

Tom and Attai (2014:65) submit that in English political history, the legislature appeared in the 13<sup>th</sup> century as an assembly of Knights and Burgesses summoned irregularly by the monarch for consultation on taxation. By the end of the seventeenth century, the bourgeoisie had successfully used parliament to secure its political aims. Thus, parliament become instrument by which newly powerful group in society could advance their interest and introduce innovations into and modernize the society. The parliament was used to bring development to the English society and has ever since continued to be used for this purpose. In the opinion of Olufemi (2010:45), legislature is the embodiment of the sovereignty of the people in any democratic setting. He further opine that, it constitutionally makes laws for the welfare of the generality of the populace, serves as a democratically empowered agency of restraint on the executive arm of government and forum for the mobilization of popular participation in the broad governmental process.

Appadorai (1975: 105) classified the functions of legislature as legislation, administration, financial appropriation and ventilation of grievances. In a study conducted by the Economic Commission for Africa (ECA in 2002) titled "Role of Legislature in Promoting Good Governance is capture thus: "the parliament or legislature plays an important role in the life of a nation." The following three roles were attributed to it: (a) make new laws, change existing laws and repeal laws which are no longer needed; (b) represent and articulate the views and wishes of the citizens in decision making process and (c) oversee the activities of the executive so that the government is accountable to the people. It is on this ground that he further argues that, achieving good governance requires the existence of a strong, effective and efficient parliament.

**History of Legislature in Nigeria:** Legislative activities pre-date the Nigerian independence. This can be trace back to 1861 when the colonial government officially occupies Lagos and the Colonial Governor established a Legislative Council to oversee the affairs of the Colony. The appointed members were ten, only two of them were Nigerians. The Legislative Council only served as an advisory body to the Colonial Governor without performing any law-making function. The function of law-making was then the responsibility of the Colonial governor. In 1900, the British Government established the protectorates of Northern and Southern Nigeria in replacement of the administration of the Royal Niger Company and the Niger Coast. In 1906, the colony of Lagos was annexed to the Southern protectorate by the proclamation of the colony Governor. The Northern and Southern protectorates were amalgamated to form the colony and protectorate of Nigeria in 1914. After the amalgamation, Nigeria Council was established as a new legislative body, thirty-six members were appointed by the colonial government to represent business and other interests. As an improvement to Nigeria representation in Legislative Council, six members of the Nigeria Council were Nigerians. The Council can only perform the role assigned to it by the colonial government that appoints its members. Hence, it lacks

legislative powers and performs no legislative functions. As an improvement to the composition and functions of the legislature, the 1922 Clifford Constitution made provisions for elections of four Nigerians out of the total Council of forty-six members, while the remaining forty-two were either appointed, selected or nominated by the Colonial Governor to represent business and private interest in the colonial administration.

The subsequent Nigeria constitution, that is, 1946 Richard Constitution and 1951 Macpherson Constitution retained the provision for legislature and improve on it by increasing the number of elective Nigerians into the Legislative Council. At the Nigerian independence in 1960, the Western Parliamentary system of government with bi-cameral legislature was adopted. At the federal level there were, Senate and House of Representatives respectively, so that there can be proper scrutiny of bills before passing to laws. At the regional levels, the House of Chiefs and House of Assembly exist concurrently. The first republic Senate was made up of 44 members while the House of Representatives was made up of 312 members that were elected nation-wide to serve in the first republic National Assembly. The second and aborted third republic retained bi-cameral mode of legislation at the federal level but was renamed as the National Assembly. At the state level, the bi-cameral practiced in the first republic was replaced with unicameral legislature known as House of Assembly. In the second republic elections were conducted in nineteen states of the federation to both Senate and House of Representatives. The House of Representative members in the second republic were 450 while the Senate was made up of 96 members. This was made up of one member from each of the territorial constituencies which the nineteen states were divided. The reason for this was to allow for equal representation in line with the principle of federalism and practice of federal character.

The fourth republic witnessed a change and improvement in the National Assembly representation. Each of the thirty-six states in the country was divided into three geographical zones i.e North, Central and South. It is mandated for each of the zones to elect a senator to the Senate and one senator representing the Federal Capital Territory (FCT) to have equal representation, notwithstanding the inequality in the numerical strength of the zones. The bi-cameral legislature in the fourth republic composed of 360 members of House of Representatives and 109 members of the Senate. Membership of House of Representatives from each state are based on the numeric strength of each state, representation were not base on equal number from the states like in the Senate.

The Nigeria Legislature can be classified into colonial and post-colonial. The colonial legislature covers the legislative institution in place between 1861 and 1959, while the post-colonial legislature is the legislative institution established since the political independence in the country in 1960 till present (2015). The period under post-colonial legislature can be categorized into first republic (1960-1966 parliamentary system) the system was characterized with fusion of powers between the executive and legislature. Second republic (1979-1983 presidential system) the major feature of government in this republic was the introduction of separation of power among the three organs of government. The third republic legislature was under the military regime (1992-1993) and the last which is the

fourth republic legislature is the current democratic regime which started in 1999 and is still ongoing. It is interesting to note that the fifth Assembly of the fourth republic and the eight Assembly of the legislative institution in the country has just been inaugurated early June 2015. This has been without military interruption since 1999 unlike the previous republics. A point worth noting here is that none of the legislature in the colonial era had legislative power. They were merely symbolic for formality purpose in order to give the impression that the Nigerians were represented in the colonial government decision making-process. Owing to the above observation one can as well submit that legislature in the colonial era was instituted to serve colonial agenda.

The Richard Constitution of 1946 made changes in the country's political system, this include the emergence of three regional legislative structures. The 1951 Constitution increased the number of the elected members in the central legislature, the name which was later changed to House of Representatives. As a further improvement in the process, the 1954 Constitution allows for the majority of both the House of Representatives and Regional Assembly members to be elected and subsequently have Speaker for the first time.

**Assessing legislature and democratic stability:** It is important to note that the function of the legislative organ of government cannot be over emphasized in a modern democracy. A virile legislature will promote political stability and economic development, while a weak legislature might either promote political instability, underdevelopment or corrupt, autocratic and oppressive government. Evidence of the latter types of legislature is abounding in most of the third world countries. However, the three main functions of a legislature in ensuring democratic stability are: law-making, oversight function and representation.

**Law-Making:** The primary function of the legislative arm of government is law-making. Law-making is an interesting process which involves passing of motions into resolutions and bills into laws with main aim of contributing to national development and defending the sovereignty of the country. Although the extent of legislative involvement in law-making vary from weak under parliamentary democracy to strong under the presidential system, but the executive in both systems submit its proposal to the assembly for deliberation (Davies 2004 quoted by Fashagba, Davies and Oshewolo 2014:104). In a modern democracy the legislature should be the strongest assembly to regulate other arms of government and for democratic stability. The Nigeria legislature has not measure up to expectation compare with the legislature in the developed democracy. Most of the bills pass to law emanated from the executives, bills are hurriedly passed by the legislators when demands are met on such bills, for example, out of the four hundred and eighty seven (487) bills the Senate received between June 2003 and May 2007, 129 (26.49%) were executive bills, 237 (48.67%) originated with the Senate and 26 (5.34%) were sponsored by members of House of Representatives. Out of the 487 bill, 132 were passed by the Senate out of which 83 (62%) of the passed bills were executive bills and 49 (37.12%) were members' bills (National Assembly Statistical Information, 2008 quoted by Fashagba, Davies and Oshewolo 2014:105) They are the highest paid in the world without justification in terms of

performing their functions to sustain democracy, rather they are mainly preoccupied with resource accumulation. The kind of life they live before becoming a legislator, life as a legislator and life after leaving office as a senator is a testimony to huge amount of money the country is investing on their maintenance.

**Oversight Function:** The oversight function of the legislature is to ensure maximum compliance with due process by the public office holders. This however, involves scrutiny and monitoring of duties of public office holders in ministries, departments, government agencies and parastatals. These duties involve conducting investigation on the activities of public office holders to ensure there is compliance with their rule of engagement. Despite the oversight functions of the National Assembly, it has severally been accused and found guilty of scandal. Most of these scandals were committed while performing the said oversight function because the exercise is perceived as a money making venture, an opportunity for self-enrichment by members of the committee saddled with the responsibility to perform such assignment. Examples of this include, the Ad-hoc committee set up by the House of Representatives to investigate fuel subsidy abuse between 2009 and 2011. The committee investigating the fuel subsidy abuse engaged in bribery scandal of \$650.00. The two reasons for engaging in this act were for financial enrichment of committee members and the second was to exonerate the accused individual oil marketers. Also, the president and vice president (Chief Olusegun Obasanjo and Alhaji Abubakar Atiku) were respectively investigated by the National Assembly for unconstitutional withdrawal and misappropriations of public funds from the account of the Petroleum Trust Development Fund (PTDF). The report of the investigation indicted the vice president of financial misconduct with public fund. Under the administration of President Goodluck Jonathan, his minister of Finance, minister of Interior and minister of Aviation were respectively scrutinized and found guilty of abuse of office by the National Assembly.

As part of the oversight function of the parliament, it also scrutinize individuals nominated for appointment by the executive to represent the interest of government as either Minister, Ambassador, chairman of parastatal or board, head of security units among others. This is to ensure appointments are done to reflect the principle of federal character as entrenched in the constitution, and to ensure that competent and capable individuals who can deliver the responsibilities of the office appointed to serve. The National Assembly has been performing this responsibility since the inception of the forth republic as part of its functions to ensure stability of the polity and even representation. For example, there have been occasions where individuals nominated for appointments by the executive were turned down by the parliament for one reason or the other. The oversight function in modern democracy is to regulate the conduct of other organs of government and that of the public office holders. This function will no doubt strengthened democracy, reduce corruption and accelerate national development.

**Representational Function:** Another important function of the Legislature is representation. For the whole country to be adequately represented in governance, the country was divided into three hundred and sixty (360) constituencies. The representation in

the House of Representative is based on constituency, i.e one member representing each constituency. These constituencies are divided according to population. Population plays a very important significant role in the delimitation of the constituencies. For instance Lagos and Kano with huge population have a total 24 members each in the House of Representatives, while a state like have only six members. Contrary to the method of constituency representation in the House of Representatives, each of the thirty six states in the country was divided into three zones each not minding the unequal population of the states. Each state is represented by three senators, this implies that a senator is representing each of the zone and one representing the Federal Capital Territory. This therefore brings the total number of the Senate members to one hundred and nine (109). In this arrangement, both the members of Senate and House of Representatives representing their constituency are constitutionally required to present and defend the interest and concerns of their constituencies during policy-making in their various Assemblies.

Also, members of the parliament perform their representational function through financial support, distribution of food, provision of employment, training of youth in vocations, provision of facilities for small scale business for those that have been trained in one vocation or the other. Provision of the above mentioned services and others are just a clever way of justifying the huge amount the Legislatures collect as members of the National Assembly for constituency allowance every quarter. However, as part of their oversight functions, they are to ensure provision of enabling environment for self-actualization of the citizens they are representing through making of relevant laws.

In as much as conflict remains part of the society, the National Assembly is not immune against conflict. Therefore, disagreement over any bill is resolved by the Conference Committee of the National Assembly. This Committee is a conflict resolution Committee that comprises members drawn from both Senate and House of Representatives saddled with the responsibility to reconcile any conflict, dispute or differences in any bill to be pass by the parliament. It is important to mention here that members of the Committee often adopt negotiation as their instrument of conflict resolution on issues that involve the National Assembly.

**Challenges of legislature in Democratic Sustainability:** Nigeria is relatively new among the countries practicing modern democracy in the world. The legislative institution was established in 1861 following the appointment of ten members by the Colonial Governor to oversee the affairs of Lagos Colony and serve as advisory body without power to perform law-making function. Between independence in 1960 and 2015, Nigeria has witnessed four republics as a result of frequent intervention of military in the political process of the country. This development often resulted into the suspension of all democratic institutions including the legislature. In the current fourth republic, unlike the previous three republics, the legislature is enjoying its longest period of uninterrupted existence.

The fourth republic legislature was inaugurated in June 1999 and members have been leaning on the job despite the many challenges that have been confronting the country's

nascent democracy which are capable of truncating democracy unlike in the previous republics. When the fourth republic legislature was inaugurated in 1999, less than ten per cent of the National Assembly members had previous experience in legislative matters. The consequence is poor legislative performance among the legislative members and inefficient in legislative duties. In addition to this inexperience has been debarring a lot of members to either participate in legislative business or to just be supporting the motion without being able to initiate bills for discussion on the floor or the House.

Low institutional development has in no small measure contributed to poor performance of the legislature. The frequent intervention of the military in political process has majorly affected the legislature without too serious implications on the other organs of government. At any time the military occupied the leadership of the country, legislature is always dissolved and legislative activities suspended. The epileptic operations of the legislature has not allowed for the entrenchment of democratic culture among the legislative members, because most of legislative members are always greenhorns each time a new House is inaugurated. However, it takes the new members a long period of time to lean, understand and practice the procedure and workings of the House. In some cases, few members remain bench worms throughout their membership of legislature for lack of mental magnitude and understanding of the operations of the House.

Autonomy is another major challenge to the legislature. The executive is still having overbearing influence on the finance, appointment and workings of the legislature in one hand, and on the other hand the executive in most cases determines the members of the Assemblies. The executive controls all the process that leads to the election that eventually produces the legislatures. In the process of electioneering, the preferred candidates of the executives are only allowed to contest elections. This gives the executive opportunity to influence the activities of the legislature to advantage.

Godfatherism is another factor militating against sustainable democracy and national development. Godfathers are guiding angel that mentors their disciples to success in any choosing all areas of life. Godfathers in the Nigeria context are mostly individuals that enforce their will on that of general interest. In the recent inaugurated Nigeria's eight Assembly, contrary to the wishes of the ruling party's godfathers directive, that some individuals in both Senate and House of Representatives should be unanimously nominated as the sole candidate for the Senate President and House of Representative Speaker other interested members contested for those positions respectively and defeated preferred candidates of the godfathers. In situations where the preferred candidate of godfathers emerges as winner in elections or appointed of offices, they only pay allegiance to their godfathers as against their constituencies and the country as a whole.

The mode of composition and qualification for members remain a challenge, in that criteria to qualify individual to contest election into the parliament allows individuals without sound mind for legislative business to emerge as long as they have the money to prosecute their electioneering process. "Money is politics and politics is money in Nigeria"

without money individuals will be restricted at the level of their political participation, but with money one can rise and participate in politics at any level.

Public misconception of the legislative role is contributing to legislative ineffectiveness. In Nigeria the legislators are expected to provide roads, schools, water, electricity, hospitals, employment among others for their constituencies. Whereas, the legislature is to only perform its oversight function in ensuring that the executive provides the above listed and many others for the citizens. Constituency projects as is being called in Nigeria, is just an unnecessary diversion or the legislators from serious business of legislation.

**Recommendation and Concluding remarks:** The legislature should be insulated from the influence of executive (Tom and Attai, 2014:10). This influence, which in most cases are for the selfish interest of the executive and are counter-productive as it is meant to sway the minds of the legislators from the serious business of law-making. The law-makers should be more responsible and responsive to their responsibilities. As a way of checking the truancy of the legislators, salaries and allowances payable to them should vary directly with the number of times they participate in the proceedings on the floor of the house. Membership of the legislature must comprise of individuals with moral and enlightened who possesses of social responsibility, experience in administration of human beings and commitment to public duties.

There is no amount of constitutional framework that would guarantee sustainable democracy that will translate to national development, without first making the process a “commonwealth” where everybody will be involve in its defense. Democracy as a system of government where there is separation of power among three organs of government and the citizens enjoys adequate representation through the legislature. Legislature is central to democratic stability, in that as it regulates executive and judiciary from being autocratic in discharging their responsibilities. Also, the formulate laws and enforced implementation of policies that will guarantee the fundamental rights of the citizens and equally state the powers of the government. However, the success of any democracy will be determined by culture of the people, past experience, conduct of the three organs of government and the attitude of the political elite.

The business of law-making to ensure good governance requires paying attention to details and obtaining as much information as possible on the subject matter of bills before they are passed to law. Before democracy can truly be government of the people legislature must enjoy its full autonomy to perform its constitutional responsibility that will be devoid of financial and material inducement by the members of the public.

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