

## Legislative Oversight Functions and the Entrenchment of Democracy in Nigeria

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Democracy is widely acknowledged to be the best form of governance. This belief is deepened by the ray of hope that is embedded in the oversight functions of the legislature. In this study, the oversight functions of the legislative arm are brought to the front burner. The study carried out an examination of the legislative oversight functions of the legislature in Nigeria with a view to ascertaining the extent to which the hope of the nation's populace is rekindled in this form of governance. Data was gleaned from secondary materials including books, journals, periodicals, magazines, newspapers, and the internet. The Principal Agent theory (Pelizzo and Stapenhurst (n.d) was adopted as the theoretical frame work while adopting the technique of content analysis in its methodology, Results from the analyses revealed that the oversight functions performed by the Nigerian legislative arm has ensured a more even and near equitable distribution of democratic dividends to the extent where the citizens have begun to appreciate the beauty of this system of governance. The study therefore, recommended the sustenance of such legislative oversight functions.

**Keywords:**

Legislature,  
Oversight functions,  
Democracy,  
Dividends of  
democracy,  
Governance

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### **Background to the Study**

Democracy offers the widest platform for political participation among the citizens irrespective of their religions, ethnic, ideology, background and differences. Government's function in any society is primarily to secure all citizens for peaceful co-existence through good governance. As an essential institution within the democratic framework, the legislature functions mainly to regulate the conduct of government through the doctrine of separation of powers that has long recognized the legislature as one of the arms of government responsible for law making to guard against the abuse of powers and violations of human rights. This arm of government is the most important arsenal of any democracy from which government derives its laws and powers. In Nigeria, the legislature 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.

Globally, the doctrine of separation of powers as a democratic norm has remained the hallmark of presidentialism. Conscious of this presidentialism, some individuals are always crusading for the observance of democratic tenets and norms of separation of powers. These proponents are watch dogs of democracy in countries where presidentialism is entrenched. This is the justification for drafting the 1979 Constitution of Federal Republic of Nigeria (CFRN) as applicable in 1989 and 1999 respectively expressed fears that presidential process could easily be abused if the legislature is not vigilant and capable to function as a check. It is in this vein that Zimako (2009), observed that, "indeed a legislature that is composed of enlightened members should consciously be a check on the executive arm and not a mere rubber-stamp or stooge of the executive arm"

Many things are crying for attention and Nigerian citizens have complained of crises in virtually all aspects of the economy; perhaps the most recent dissatisfaction has been expressed by citizens over unsolicited messages from network communications service providers and the exploitation outrageous bills in the power sector. Obasanjo (1999), Adegoroye (2006) cited in Kwaghga (2012), observe that:

Our battered national economy is certainly one of them..... the grim conditions of many worsened by the deterioration of public service where access to pipe-borne water and affordable health care became a dream and the supply of electricity became epileptic and unreliable in an era in which globalization has made such services ubiquitous and cheap.

Today, Nigerians complain of wanton killings and destruction across the country by herdsmen with all the impunity they can muster. People accuse the government of not living up to its corporate responsibilities. Against the background of the principles of accountability, public officers especially the legislature are charged with the responsibility of using public resources (human and material) to obtain for good of the

public. In simple terms, the legislature should be compelled by public policy to explain how they manage state resources particularly where the people can feel, see or benefit from these services.

### **Statement of the Problem**

In a federal structure where democratic system of government is in place, there are fundamental principles that enthrone good governance. These principles are seen to operate at the three arms of government, the executive, the legislature and the judiciary. Based on the constitutional provisions, they include; autonomy, separation of powers, and checks and balances. To what extent has the legislature ensured the sustenance of these checks and balances? In other words, how has the legislature, through its oversight functions, enhanced the sustenance of democracy in Nigeria.?

### **Objectives of the Study**

The broad objective of this study is to ascertain the extent to which the oversight functions of the legislature has enhanced the sustenance of democracy in Nigeria. Specifically, the study seeks to:

1. Examine how much the oversight functions of the legislature have provided the expected check on the functions of the executive.
2. Determine the extent to which the legislative oversight functions have enhanced the confidence of the Nigerian electorate on the electoral process.

### **Research Questions**

The study will provide answers to the following questions:

1. Have the legislative oversight functions provided the checks on the executive in Nigeria?
2. How have legislative oversight functions enhanced the confidence of the electorate in the electoral process?

### **Conceptual Clarification**

**Democracy:** The term which derives from the Greek word “demos” or “people”, may be viewed basically, as government in which the supreme power is vested in the people. In some forms, democracy can be exercised directly by the people; in large societies, it is by the people through their elected agents. Collier and Levitsky, (1997), point out that the most widely employed definitions of democracy focus on the procedures of governance. For instance, Dahl's writings (1971, 1989), provide a benchmark for defining the essential elements of democracy in Polyarchy, Dahl (1971), identified eight criteria in defining democracy: the right to vote, the right to be elected, the right of political leaders to compete for support and votes, elections that are free and fair, freedom of association, freedom of expression, alternative sources of information, and institutions that depend on votes and other expressions of preference.

According to Buhlman (et. al. 2008, p.5): “there is an abundant literature relating to democracy theory, with countless definitions of what democracy should be and what

democracy is". However in the views of Kekic (2007), "there is no consensus on how to measure democracy, definitions of democracy are contested and there is an ongoing lively debate on the subject, Some conceptual work of academic scholars explicitly reviews the conceptual diversity of theoretical framing attempts of democracy (e.g. Buhlman, et. al. (2008); Schmidt (2006). Sodaro (2004), for instance, defines democracy as,

The essential idea of democracy is that the people have the right to determine who governs them. In most cases, they elect the principal governing officials and hold them accountable for their actions. Democrats also impose legal limits on the government's authority by guaranteeing certain rights and freedoms to their citizens. For Rustow (1979), "democracy has to be preceded by national feeling or a feeling of national unity for people cannot decide until somebody decides who are the people,

**Legislature:** A legislature is a deliberate assembly with the authority to make laws for a political entity or city. Legislatures form important parts of most governments. In the model of separation of powers, legislatures are often contrasted with the executive and judicial branches of government. According to the doctrine on separation of powers, 'the legislature in a presidential system is considered an independent and coequal branch of government along with both the judiciary and the executive." Following the above account, the legislature may be rightly viewed as that organ of government which formulates laws. It is a very special and important organ of the state in a democratic dispensation.

**Legislative Oversight:** The guide to legislative oversight in the National Assembly PLAC (n.d.) defines the term as, "the review of monitoring and supervision of government and public agencies, including the implementation of policy and legislation" Legislative oversight involves keeping an eye on the activities of government agencies especially the executive branch on behalf of the Nigerian people. Scholars have proposed various definitions for oversight. Schick (1976) noted that, "it is not just supervision of what the executive branch of government has done, but also supervision of the executive's legislative proposals. By contrast, Olson and Merzy (1991) McCubbins and Schwatz (1984) suggest that, "oversight refers to the set of activities that a parliament performs to evaluate the implementation of policies.

Thus, the parliamentary oversight function is one of the cornerstones of democracy. Oversight is a means for holding the executive accountable for its actions and for ensuring that it implements policies in accordance with the laws and budget passed by the parliament. The robust monitoring of the executive by the parliament is an indicator of good governance. Besides, the parliament's legislative function, it is through oversight that the house can ensure a balance of power and assert its role as the defender of the people's interest.

**Executive:** In the context of political systems based on the principle of separation of powers, authority is distributed among several branches (executive, legislature, and

judiciary). This is in an attempt to prevent the concentration of powers in the hands of a few individuals or small group of people. In such a system, the executive does not pass a law (which is the role of the legislature). Rather, the executive enforces the law as written by the legislature while such laws are interpreted by the judiciary. "In a presidential system, the leader of the executive is both the head of state and head of government" (The white House, (2015)). "The parliamentary system has as a cabinet minister responsible to the legislature as the head of government while the head of the state is usually a largely ceremonial monarch or president" (Parliament of Canada, 2015). In the views of Garmer cited in Ghai (nid); "in a broad and collective sense, the executive organ embraces the aggregate or totality of all functionaries and agencies which are concerned with the execution of the will of the state as that will has been formulated and expressed in terms of law".

*In its broadest sense, the executive department consists of all government officials except those acting in legislative or judicial capacity . It includes all the agencies of government that are concerned with the execution of states will as expressed in terms of law (Gettel, cited in Ghai, nd).*

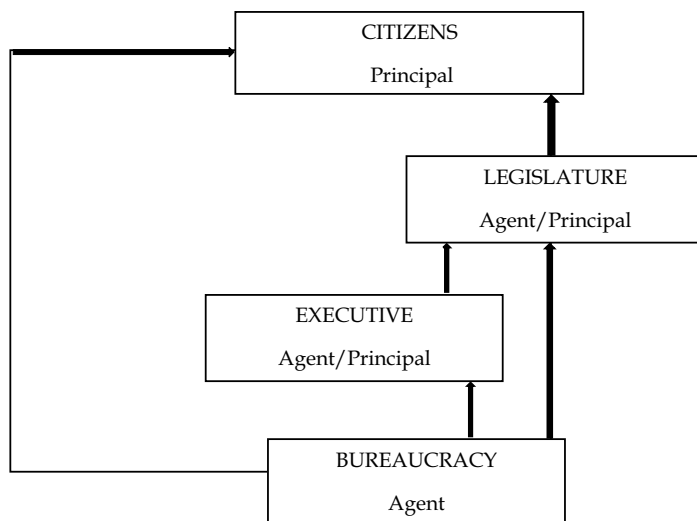
Some studies have been conducted on the effect of legislative oversight functions and the Nigerian democracy. Ikeji, Okpo, Joseph, Akpan(2013) to undertook a study of oversight functions of the legislature of Cross River State, Nigeria. The focus of the study was on public funds appropriation and usage. Stratified random sampling was used and a sample of 900 was adopted. The stratification which was done on the basis of geopolitical zones, political party affiliation (300 apiece) among three leading political parties in the general elections before 2013 were used as respondents for the purpose of the study. Two hypotheses were tested. Results showed that the political class themselves perceive the Cross River legislature as not carrying out its oversight functions over the state's Fund Appropriation and usage significantly.

Stapenhurst, Jacobs and Olaore (2016), conducted a study on legislative oversight in Nigeria. It was a review and assessment which built upon and extended the analyses of oversight in Nigeria earlier presented by Pelizzo and Stapenhurst (2014). Thus, based on an in-country document search and 45 personal interviews with politicians, parliamentary staff, civil society representatives and journalists, the article demonstrates that the Nigerian National Assembly possesses the tools and constitutional powers to undertake oversight; what it lacks so far is the political will of National Assembly representatives and senators to use these tools and powers effectively.

### **Theoretical Framework**

Principal-Agent Theory (Pelizzo and Stapenhurst, 2004). The principal-agent theory emphasizes the institutional mechanisms whereby principals can monitor and enforce compliance on their agents. This theory is particularly appropriate for explaining the accountability relationship between citizens (as principals) and the executive and legislature (acting as principal on behalf of citizens) and both the executive and the bureaucracy on the other hand. The diagram below (fig. I), applies the principal agent

theory to legislative oversight. The ultimate principals are citizens while the ultimate agents are civil servants (bureaucracy). The executive and the legislature are both principals and agents. The executive as agent, is accountable directly to citizens through the electoral process, and to the legislature which acts on behalf of citizens and exercises an oversight function over the executive.



**Fig. 1:** Accountability Relations as Agency

**Research Methodology**

This study adopts the methodology of content analysis whereby data gleaned from secondary materials are synthesized in the following sequence:

**Research Question one (1):** to what extent have the legislative oversight functions ensured the monitoring and supervision of the activities of the executive arm of government?

Oversight functions consist essentially among others, the examination of the activities of government agency or department in its entirety to ascertain whether it has achieved the goals set so far. That is, the examination of the effectiveness, efficiency and adequacy of the administration of the department or agency. It also seeks to study the process within such an organization to ascertain whether due process of law has been followed.

There exist in Nigeria, Oversight functions which attempt to make the executive behave and function to the political order. The 1999 constitutions diffuse and entrenches these oversight functions in the legislative role of law making, watch-dog of public finance, investigative functions and even constituency responsibilities and so on

**a) Law making:** The law making powers and procedures of the national assembly as contained in section 4, 58 and 59 of the 1999 constitution and section 100 for state houses of

houses of Assemblies can be used steadily to control the administration and its units, especially as executive policies and programmes must have legislative backing before they are implemented. The constitutional and legislative procedures employed by the national assembly and the state houses of assembly which involves several readings, public hearings, legislative committees and sub-committees, deliberations and publicity, principles of limitations and checks, enhance transparency and accountability in the exercise of governmental powers that accord with constitutionalism and promote nation building

**b) Watchdog of Public Finance:** By virtue of sections 80 and 81 of the constitution, it's the national assemble that gives authorization to the president for all expenditure from the consolidated revenue fund, thus affording the representative body an opportunity to rigorously debate and rationalize the budget.

**c)** The power of the national assemble also extends to auditing of public accounts by the auditor general as well as the conduct of investigations into the expenditure pattern of the government. Section 85 of the constitution provides for the appointment of the Auditor-General of the federation for the purpose of auditing the public accounts of the federation and all offices and courts of the federation. The Audit report is meant to be submitted to the National Assembly. For instance, on January 10, 2003, the Audit Report, 2001 was submitted to the National Assembly and the revealing information contained therein, about the expenditure pattern of the executive administration, demonstrated the usefulness of the Audit Report as an effective instrument for legislative oversight over the executive's dealings with public finance.

**d) The Power to Conduct Investigations:** Section 88 of the Constitution empowers each house of the National assembly to conduct investigations into the affairs of governments. It was on the basis of such powers that the Senate intervened and discovered that some public officials had kept funds in undisclosed bank accounts. It is on record that the then chairman of the Senate Committee on media and communications, Senator Ayogu Eze, had after the defense of the 2008 Appropriation Bill by Ministries and heads of parastatals at the National Assembly, disclosed that several ministries, parastatals and agencies had kept between 200bn and 300bn naira in such illegal accounts in the past years.

In situations such as above, each House of the National Assembly is empowered under section 67 of the Constitution to summon and question the Minister in charge or whose Ministry has responsibility for the government agency concerned. This was the case in which the then Minister of Aviation, Dr. (Mrs). Kema Chikwe and the then Director General of the Bureau of Public Enterprise (BPE), were summoned to appear before the Committee of the National Assembly on privatization of the Nigeria Airways (NAL) and the establishment of new national Airlines. The secret deals of the ministry were exposed and the plans to purchase the assets of NAL under shrouded circumstances were scuttled.

In 2007, House Committee on National Drug Law Enforcement Agency (NDLEA) and the Economic and Financial Crimes Commission (EFCC) summoned the authorities of the two agencies to tender their accounts and budgets in the last four years. The report of the Nigerian Tribune revealed that the essence of the probe of the two agencies was to ensure proper accountability as the agencies had been receiving foreign grants and allocation from the Federal Government.

In another development, a committee of the House of Representatives on an inspection visit to Kwara state in November 2006, ordered the Federal Ministry of works to carry out work on erosion in four local government areas of the State. Similarly, on January 23, 2008, the House of Representatives passed a resolution authorizing its committee on Marine Transport to conduct a thorough investigation into the degree of underutilization of the facilities at Koko Port in Sapele. However, the most notorious exercise of the investigative powers of the National Assembly was the investigation into the Petroleum Development Trust Fund (PDTF) saga. The senate Review Committee Reports on the PDTF concluded that both President Obasanjo and Vice President Atiku Abubakar were guilty of breaching the laws setting up the fund and misapplying its ample funds. It then recommended that the duo be disciplined by the Code of Conduct Tribunal for breach of trust and abuse of office.

**e) Approval of Executive Appointees:** Added to the oversight functions of the legislative arm of government as enumerated above, senate also has powers to screen certain appointees of the president such as judges, ministers, ambassadors, chairmen and members of certain bodies listed in section 153 of the constitution for confirmation as provided by section 154. State Houses of Assembly also enjoy such powers with respect to the confirmation of certain appointments made by state Governors.

**f) Power of Removal of Chief Executive:** The legislature is empowered to remove the President, Vice President, Governor or Deputy Governor through the process of impeachment. The provisions for the removal provided by the 1999 Constitution for gross misconduct are arguably meant to be used sparingly by the National Assembly or State House of Assembly. The flagrant use of powers of impeachment by the state legislatures to settle political scores against chief executive, has been severally subjected to judicial review by courts.

Empirical evidence in support of the existence of oversight functions by the legislative arm of the government abound. Ikeji, et.al (2013) in their study of oversight functions mechanism of the legislature of Cross River State, Nigeria, observed that, "the political class itself perceive Cross River legislature as not carrying out its oversight function over the states Fund Appropriation and usage significantly as earlier indicated. However, Staphenurst, Kerry and Oladeji (2016), rising from an empirical review and assessment of legislative oversight in Nigeria, presented more nuanced findings. Based on an in-country document search and 45 personal interviews with politicians, parliamentary staff, civil society representatives and journalists, the articles demonstrated that, "the



Nigeria National Assembly possesses the tools and constitutional powers to undertake oversight; what it lacks is the political will of National Assembly representatives and senators to use the tools and powers effectively. In a similar development, Ehigiamusoe and Aminu (2013), in their study of “legislative Oversight and Budget performance in Nigeria: Issues and Policy Options found that, “Oversight activities have increased tremendously in Nigeria since 1999, but they have not been very effective in reducing corruption and accelerating budget performance of MDAS. Finally, the paper recommended policy options on how to utilize legislative oversight activities as instruments for promoting targeted budget outcomes.

**Research Question Two (2):** How have legislative oversight functions enhanced the confidence of the electorate in democracy as a system of governance?

It is surprising that:

*After 51 years of political independence, the country (Nigeria) is yet to imbibe proper democratic ethos, which is the precursor to good governance and development in a society. One of the main reasons for this state of affairs is that election outcomes that suppose to be a means of enthroning political leaders in a democracy have suffered from the problem of credibility on the part of the citizens (King, 1999; McCormick, 2004; Akinsaya, 2005).*

Asia (2000), Ferrina (2009), observes that, “due to the nature of political contests, which to a great extent, is based on malpractices of elections, the votes of the people no longer count in Nigeria” Infact, sometimes the outcomes of the elections are known before they are held.

*It was in this vein that the president of the Federal Republic of Nigeria, Dr. Goodluck Jonathan assured Nigerians just before the April 2011 General Elections that there was no going back in his administrations Commitment to “one man, one vote’ in Nigeria (Feyisipo, 2010).*

The perception and mindset of the people that votes at elections do not count in Nigeria's democratic process has resulted in a political apathy in terms of people's non-participation in the electoral process. According to Justice Mohammed Uwais' Report on Electoral Reforms (2008), one of the major reasons attributed to this development is the weakness of democratic institutions in the country.

The institutions of democracy are mechanisms for the facilitation of the democratic process for the election of public office holders in any democratic society. Democratic societies thrive on citizens' participation at choosing their representatives at elections conducted at regular intervals as specified by the law. Hence, in the views of Obayori (2009), “all democracies in modern time must be participatory”. The implication is that, democracy without popular participation of the people could not be referred to as democracy in the real sense of the concept.

Lending credence to the inability of democratic institutions to live up to their constitutional obligations, the study by Gberevbie (2014), on "Democracy, Democratic institutions and Good Governance in Nigeria, identified lack of proper democratic institutions as one problem that has militated against the sustainability of democratic institutions. In its conclusion, the paper underscored the need for government to introduce measures to strengthen the institutions of democracy and intensify political education amongst politicians and citizens as precursor to good governance and development if democracy as a system must achieve its goals. In a related development, the study by Ejikeme (2014) made an interesting revelation in his finding to the effect that,

in as much as the essence of legislative oversight in a democratic dispensation needs not be overemphasized, the legislature has reduced this all important function to mere alarm mechanism being used to blackmail or witch-hunt political opponents, extortion of money from the parastatals and ministers under supervision for selfish or personal aggrandizement.

The institution has not succeeded in shoring up the confidence of the citizens as a result

## **Findings**

The analyses of data obtained in the study reveals the following:

1. There are constitutional provisions (1999) for legislative oversight functions in Nigeria which aim at making the executive behave and conform to political order.
2. The 1999 constitution diffuses and entrenches these oversight functions in the legislative role of law making, watch-dog of public finance, investigative functions and even constituency responsibilities.
3. Section 85 of the constitution provides for the appointment of the Auditor General of the federation for the purpose of auditing the public accounts of the federation.
4. Section 88 of the constitution empowers each House of the National Assembly to conduct investigations into the affairs of government. It was on the basis of such powers that Senator Ayogu Eze, in his capacity as the Chairman, Committee on Media and Communication, investigated and discovered that several ministries and parastatals had kept between 200bn and 300bn in illegal accounts.
5. Oversight function of the legislature also extends to the power to appoint, impeach and fire any public officer (in the public service).
6. It is also revealed that though oversight activities of the legislature has increased tremendous, they have not been effective in reducing corruption and accelerating budget performance of MDAs.
7. Due to the nature of political contests which to a great extent, is based on malpractices of elections, the votes of the people no longer count in Nigeria. Sometimes, the outcomes of the elections are known before they are held.
8. On the basis of (7) above, the confidence of the electorate is eroded.
9. Democratic institutions in the country are weak
10. It is also revealed that, in as much as the essence of legislative oversight in a democratic dispensation needs not be overemphasized, the Nigerian Legislature

has reduced this all-important function to mere alarm mechanism used to blackmail or witch-hunt political opponents, extortion of money from the parastatals and ministries under supervision for selfish or personal aggrandizement.

### **Conclusion**

The beauty of the democratic system of governance lies in the mechanism for checks and balances which are provided for in the constitution as is the case in Nigeria. At the center of this constitutional provision is the legislature which has been empowered to perform oversight functions to ensure that power is not concentrated on a few privileged persons or groups. This fact is adequately captured by John Locke in Johari (1989) who noted that:

*it may be too great a temptation to human frailty, apt to grasp at power for the same persons who have the power of making laws to have also in their hands, the power to execute them, whereby they may exempt themselves from obedience to the laws they make.*

Finally, Johari (1989), observes that;

*When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty because apprehension may arise, lest the same monarch or senate should enact tyrannical laws, and execute them in a tyrannical manner.*

The legislature has not succeeded in ensuring the confidence of citizenry (electorate) in the democratic process through its oversight activities neither has institution come near the attainment of optimality in the area of the provision of checks and balances in the system in Nigeria.

### **Suggestions**

Based on the findings above, the following have been suggested:

1. Government has to introduce a number of reforms to reposition the institution of the legislature for optimal performance. This is the only way to ensure checks and balances which constitute the beauty of the system.
2. All persons vying/contesting for legislative positions in the country must be screened to make sure they are not corrupt.
3. Government should mount enlightenment campaigns for both its citizens and the political class to re-orientate them to the extent of realizing that politics is not a do-or-die affair. This is the only way to reduce electoral malpractices.
4. The power of the legislature to impeach or sack any member of the executive and indeed any public servant must be reviewed in the constitution to ensure abuse.
5. Independence of all democratic institutions must be made a reality rather than lip service (on paper)

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