

Institutional Design and Public Accountability: Nigeria's National Assembly in Perspective

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Abstract

The legislature performs critical functions in representation, public education, policy-making and executive oversight in which it exercises legitimating and decision influence that make it stand out as one of the most significant agent of public accountability. Yet the role of the legislature in promoting public accountability is a neglected topic in the study of the democratisation process in Africa. This paper examines the role of Nigeria's National Assembly in public accountability in its presidential system. It explores the theoretical basis of the powers of parliament and the structure of that power within the accountability designs of limited government, separation of powers, checks and balances, and separation of origin and survival for some autonomous agencies. Thus, it examines the constitutional and institutional framework of horizontal and vertical accountability, within the wider context of clientelistic politics, the rentier state and weak and contested institutions in Nigeria. It argues that the Nigerian parliament has not been quite strong as an institution of political accountability. This owes not to weak legislative powers but to the

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character of politics, the underdevelopment of parliament due to prolonged military rule, executive dominance that renders Nigeria a de facto delegative democracy. Ultimately, the legislature has been able to guarantee its financial independence and asserted its oversight powers due to the elaborate constitutional provision guaranteeing its independence and competence. Yet constitutional provisions that ensure the powers and independence of parliament are not sufficient to ensure performance that can lead to improvement of public welfare. The values and ends of politics not only affect the way the powers of parliament are interpreted and used, they affect the very operations and effectiveness of the legislature.

Introduction

In Africa, as in many new democracies, political accountability presents a big challenge. Elections leave much to be desired and they do not happen frequently. When they happen, it is often not clear that electorates are able to effectively 'choose', given the volume of electoral malpractices and legal challenges to electoral outcomes. With reckless manipulation of electoral structures and processes, and the pervasiveness of the politics of brinkmanship, political accountability calls for serious intellectual engagement. Such an engagement must go beyond the problematic of elections because of the persistence of misgovernance even after a series of elections. However, accountability measures have received little attention in the literature on democratic development in Africa. This is largely because much of the engagement with accountability has been within the fight against corruption, within the context of governance reform often practiced as transfer of technology (Hecks 2007).

Transparency and accountability are usually discussed in a way that fail to recognise the centrality of accountability to democratic institutions and the peculiar challenge of the political contexts in which public institutions of accountability, especially the legislature, operate. Thus, although there are engagements with accountability, this usually takes the form of broader concerns about the development and performance of legislative institutions. Many of

these are not focused on Africa or the larger political and institutional context of the legislature in Africa (Barkan 2008). The role of legislature in holding the executive accountable is a neglected topic in the study of the democratisation process. This paper revisits the question of accountability, with particular attention to the role of the legislature and thereby contributes to the emerging literature on the legislature in Africa (see Barkan 2009, Lewis (2010) for the Nigerian case).

The legislature is one of the critical organs of accountability. This is because of its critical functions in representation, public education, policy-making and executive oversight. Thus, the legislature exercises legitimating and decision influence that make it stand out as one of the most significant agent of public accountability. This paper examines the role of Nigeria's National Assembly in public accountability in Nigeria's presidential system. It begins by outlining the powers of parliament and the structure of that power within the accountability designs of limited government, separation of powers, checks and balances, and separation of origin and survival for some autonomous agencies. It locates all of these within the general challenge of politics and accountability of which the legislature is a central actor in Nigeria. Thus, it examines the constitutional and institutional framework of horizontal accountability, within the wider context of the politics in Nigeria.

Furthermore, it explores the internal accountability of the legislature as teased out of the internal management, capacity and focus of in legislation, the procedures and practices for the exercise of the oversight powers over the executive and media images of the legislature. Following the common approach in the literature, it explores both internal and external variables in the legislative environment to assess the Nigerian national legislature's role in accountability.

It argues that the Nigerian National Assembly has not been quite strong as an institution of public accountability. However, it has improved over the years. Although there are cases of unparliamentarily behaviour that has eroded its social legitimacy, it evinces great oversight potential. In particular, the National Assembly has been able to guarantee its financial independence

and has asserted its oversight powers. This owes much to the elaborate constitutional provision guaranteeing its independence and competence. Yet constitutional provisions that ensure the powers and independence of parliament are not sufficient to ensure performance that can lead to improvement of public welfare. Hence, the paper calls for the strengthening of the infrastructure of parliament and the skills and competence of members of parliament to carry out performance and programme audit. Although, there are regular reports by ministerial, political and administrative heads to the National Assembly; this still needs a lot of strengthening so that it can become a tradition in public life.

Institutional Design and Public Accountability in Liberal Democracies: A Conceptual and Theoretical Discourse

Political accountability is hinged on the moral foundation of the democratic state. This foundation is defined by the sovereignty of the people, who elect their representatives in government such that the exercise of power is underlined by the good of society. Those who exercise political power must be answerable for the exercise of that power. Accountability is therefore central to the exercise of democratic power.

According to Chabal (1998:298) 'political accountability is the mechanism by which the rulers are made to account to the ruled for their political actions'. Hence Keohane (2006:77) asserts that accountability means an "individual, group or other entity demands on an agent to report on his or her activities, and has the ability to impose costs on the agent". Accountability takes place within the context of principal-agent relationships. Similarly, Bovens (2007) describes accountability as a form of social relations. For him, accountability is "a relationship between an actor and a forum in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences" (p. 450). In democracy accountability means that the citizens are be able to punish those in public office when they fail to do their bidding. The

electorate has the right to withdraw the mandate they give to their representatives by not renewing it at election time. The major instrument for exercising control over those in elective public offices is election. Elections enable citizens to punish their representatives by refusing to renew their mandate to govern when they are not accountable enough. But in the interval between elections there is a possibility that politicians can shirk responsibility to the electorate. This is the case because when citizens elect their leaders they temporarily delegate the exclusive decision-making authority over policy-making to the holders of public office. This creates room for abuse of power between elections.

Secondly policy makers have access to much better information on the relative merits and precise consequences of alternative policies than the population at large. This creates room for potential abuse by public office holders (Persson et al 1997). Hence, elections are inadequate to hold public officers to account. Experience in many new democracies has shown that the reestablishment of elections as means of peaceful change of government has neither guaranteed decision-maker responsiveness to popular will nor unfettered political rights and civil liberties.

A second order accountability designs becomes necessary when the criteria of judgement of powerful political actors becomes controversial and it is difficult to monitor their performance. These take the form of mechanisms of horizontal accountability. They have been developed over the years to compliment the basic vertical accountability mechanism of election in several liberal democracies. These include the use of the principles of separation of powers and checks and balances, the use of autonomous agencies such as the office of the auditor general and anti-corruption organs to ensure public accountability. Vertical and horizontal accountability represent a complex system of power relations that help secure the sovereignty of the people and ensure that those who govern do so in the interest of citizens. Non-election mechanisms or horizontal mechanism of accountability takes particular significance and have proven to be particularly critical to democratic development and stability in many countries. In deed, leading scholars of democratic

transitions have argued that by creating a balance of power able to check executive abuses, more institutionalized legislatures are critical to achieving quality democracies (O'Donnell 1994, 1999). In the words of Solt (2004:156), better-institutionalized legislatures 'act to make governments more responsive and effective as well as are more likely to protect citizens' civil and political rights'.

The character of accountability institutions varies from presidential to parliamentary systems. In presidential systems several basic principles can be identified. These include the idea of limited government defined by the separation of origin and survival for some autonomous agencies, principles of separation of powers, and checks and balances.

The concept of limited government has its root in the American federal presidential system of government in which sub-national level government exercise sovereignty over some policy areas beyond the sphere of the central government. There also exist some independent agencies of government that restrain other agencies of government. In the first instance, the exercise of power is such that the national level government's powers are limited to areas in the exclusive list and has no power in certain matters which are defined as the sphere of the sub-national government and vice versa. In the second instance, certain agencies of government such as the office of Auditor General, Ombudsman, administrative appeals tribunals, commissions of inquiry and anti-corruption agencies are established to exercise some restraint over other critical branches and agencies of government. Sometimes, such agencies are filled by appointment but are independent because of the separation of their origin and survival. In other words, although elected agents of the electorate appoint them for relatively short term, those who appoint them cannot dismiss them. They are therefore not accountable to the politicians who appointed them. These agencies working with the courts can question the actions of the arms of government and act as a check on them. Although some of these bodies may report to the legislature, they are intended to operate independently. Evans (1999) argued that it is in the legislature that the political noise and

political heat that will enable their work to have effect is generated, including resistance to any dismantling of these accountability institutions. Thus, parliament is therefore important to the existence and effective functioning of these institutions.

Accountability is sometimes related to transparency. It is assumed that public access to information would help the process of accountability. In this regard governments are expected to make public their activities and performance by responding to citizens for information and documents which otherwise might not be accessible (Fox 2007.) This is the arguments behind the freedom of information laws. It is believed that information technology can help this process of letting the sunshine into government activities and that technology provide opportunities for innovation in accountability mechanisms (Schillemans, Twist and Vanhomerig 2013)

Beyond the accountability relationship among the three arms of government, there are networks, think tanks, credit rating and assessment agencies, and communities of accountability within civil society that are crucial to public accountability. Some of these bodies analyse and assess performance without authority or resources to sanction misconduct.

The idea of a government checking and balancing one another is made possible by the principle of separation of powers. Separation of power is itself a form of limited government in which the actions of government are organised in such way as to avoid arbitrary rule and tyranny. This doctrine, which was popularised by Montesquieu in his famous book "Esprit Des Lois", received an authoritative exposition in James Madison's *The Federalist*. According to Madison "The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny" (1992:52). Thus, separation of powers assumes that by dividing the powers of government between different persons or body of persons, the tendency towards tyranny, and thereby encroachment on individual liberty will be minimised. It also

assumes a foreclosure to the wielding of absolute power since by allocating different functions of government to different persons; no one can be a judge in his/her own case. While in theory the functions of government can be clearly separated, in practice they overlap, hence checks and balances are built into the relations and exchanges that exist among the various arms of government. The principle of checks and balances is therefore, a corollary of that of separation of powers and is meant to serve as a restraint on each set of governmental powers. They both constitute forms of institutional designs to limit the powers and ensure the accountability of public officials.

The legislature's accountability role in presidential systems can be viewed in two ways. The first arises from the fact that members of legislature are usually elected. The elective origin of the legislature means that the legislature is accountable to the electorate. In other words, members of legislature are accountable to those who can refuse to renew their mandates. The second has to do with the function of parliament. There are formal constitutional provisions describing the role of parliament in government. These functions are usually located within a framework that is conceptualised as the structures of horizontal accountability. O' Donnell (1999:38) defines horizontal accountability as "the existence of state agencies that are legally enabled and empowered and factually willing and able to take actions that span from routine oversight to minimal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful". Horizontal accountability takes a number of forms depending on whether it's a parliamentary or presidential system. But in all cases it has to do with constitutional design. Such constitutional designs constitute the agencies or branches of government in such a way that they have nested hierarchies or countervailing ambitions, with separation of powers they check and balance one another while carrying out their overlapping tasks.

Schedler (1999:13) who declares that accountability 'expresses the continuing concern for checks, and oversight, for

surveillance and institutional constraints on the exercise of power, sees accountability as a two-dimensional concept. According to him, accountability involves answerability and enforcement. Answerability emphasises the right to receive information and the corresponding obligation to release all necessary details by relevant political actors. This involves elements of monitoring and oversight. It means that those who exercise power must be willing to inform and explain their decisions to those who have a right to ask. In this sense accountability is a discursive activity.

The second dimension of accountability relates to rewarding good behaviour and punishing bad behaviour. Exercises of accountability that exposes misdeeds but fail to punish misdeeds are mere acts of window dressing. Violation of rules do not only need to be detected they must be punished for institutions to become strong. In this regard, Nigeria's experience in the Second Republic has been largely blamed for the disillusionment with democracy that eventually provided grounds for the military coup of December 1983 (Schedler 1999:16). Have lessons been learnt under the current fourth republic?

Schedler (1999) puts a great premium on enforcement, emphasising two primary sanctions of publicity and dismissal as appropriate sanctions for a wide range of bad behaviour, adding however, that when actors violate the law they should be visited with appropriate legal sanctions. In the latter case, he argues, publicity and dismissal would be inadequate. He concludes that "unless there is some punishment for demonstrated abuses of authority, there is no rule of law and no accountability (p.17)."

Similarly, O'Donnell (1999) argues that these accountability designs presume that republican and liberal dimensions of citizens are in place. Liberal dimension implies that some rights are guaranteed and safeguarded for every citizen and even the state cannot encroach on them. The republican dimension implies that public officials act in the public interest and that they are even willing to sacrifice their private interest for public good. The question is what happens to accountability in context of predatory politics, in which self-aggrandisement and primitive accumulation are the ends of politics? Or what happens in rentier states where

politicians do not depend on taxes paid by citizens to run the government. Weak institutions often account for the widespread corruption, performance failures, the Dutch disease and other pathologies that characterise such polities.

In unsettled states characterised by weak or contested institutions, accountability processes are immersed in politics, they are affected by exceptional, unexpected and undesired events such as scandals, accidents and performance crisis. Thus, accountability processes are complex and dynamic. Less is known about the interaction between multiple claims of accountability in such unsettled politics as is known in settled polities of advanced democracies (Olsen 2013: 467).

Accountability roles by the legislature are affected by both internal and external factors. Internal factors relate to the powers of parliament, the policy capacity of parliaments and the internal procedures and organisation of parliamentary work and the internal politics of the legislature. This is drawn from Polsby's (1968) three dimensions of institutionalization, namely: *autonomy* (differentiation from the environment), *internal complexity* (intra-legislature rules and modus operandi) and *universalism* (application of global best practices in the conduct of internal affairs) as a useful organizational framework for assessing how parliament has developed and positioned for effective accountability. The external factors relate to the nature of electoral and party system, executive–legislature relations, constitutional structure of government and the general character of politics in a country as well as international actors. From these perspectives, parliaments can be categorized as marginal, rubber stamp, transitional or fragmented or as experiencing varying levels of institutionalization (Shugart and Carey 1992, Beer 2001, Santiso 2004, Wang 2005, Kapur and Mehta 2006, Greenstein and Polsby 1975).

The Nigerian National Assembly and its Constitutional Powers of Public Accountability

The 1999 constitution established a presidential system of government characterised by the principles of separation of

powers and checks and balances. It also provides a very elaborate description of the functions of the legislature and its horizontal accountability powers and functions.

Section 5 (1) vests executive powers on the president and the powers extend to the execution and maintenance of the Constitution as well as all laws made by the National Assembly. Section 4 (1&2) of the 1999 Constitution confers the National Assembly with the power to “make laws for peace, order and good government of the Federation, or any matter included in the exclusive legislative list of the Constitution.” Nigeria has an elective bi-cameral legislature. The constitution provided two houses at the national level: The Senate and the House of Representatives. The senate is composed of 109 senators elected from the 36 states of the federation (three from each state) and the Federal Capital Territory, Abuja. The House of Representatives is composed of 360 members. While the distribution of membership of the Senate is based on equal number per state, membership of the House of Representatives is based on the population of each state of the federation.

In each case, a single member district formula is adopted for election, as stated by Section 77 of the Constitution; every Senatorial district or Federal constituency “shall return one member who shall be directly elected to the Senate or the House of Representative”. Thus, members of both chambers are elected directly by their constituencies. For this purpose constituency demarcation is to be done at intervals of not less than ten years. (Section 73). Elections into the legislature are not less than sixty days before or not later than the date on which the House stands dissolved. Electoral mandates are renewable four-year terms.

Section 6 of the Constitution provides that the judicial powers are vested in the courts. This section empowers the courts to determine the legality and constitutionality of the other two organs of government. Section 315 (3) specifically, in conjunction with Section 6 (d) confer on the courts or any tribunal established by law, power to declare invalid any provisions of any existing law on grounds of inconsistency with the Constitution or Act of the

National Assembly. By virtue of section 4 (8) of the Constitution, the National Assembly is forbidden from passing laws that oust the jurisdiction of the court. Thus, the combined effect of Sections 4 (8), 6(6), 251 and 315 (3) of the Constitution is to make acts of the National Assembly and the President subject to judicial review.

The functions and powers of the parliament in Nigeria, therefore, are typical of all presidential systems where there is separation of powers and where the principles of checks and balances operate. For the purpose of law making, a bill may originate from the Senate or the House but the president has to give assent to a bill for it to become law. The president is however to signify that he assents or will not assent within thirty days.

The National Assembly is empowered to override the presidential veto regarding a bill. This can be achieved when two-thirds majority of members of both houses in a joint sitting passes the bill. Also, the National Assembly has powers to impeach the president if he or she is involved in 'gross misconduct' which means 'a grave violation of the Constitution' or 'a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct. The process of impeachment involves the Chief Justice of Nigeria who is to appoint 'a panel of seven persons who in his opinion are of unquestionable integrity, and not politicians who would then investigate the allegations. The seven wise men are required to sit for three months. The president is allowed to defend himself in person and be represented by his own lawyers. Then, if the panel finds the president guilty, the National Assembly is to adopt the panel's report within 14 days. Adoption of the report is not subject to appeal in a court of law. A second ground of impeachment as provided in section 144 is 'permanent incapacity' (sections 143(1-11) and 144 (1) of the 1999 Constitution).

The constitution particularly empowers the legislature over the budget and taxes while the responsibility for budget proposals is given to the executive. Public spending shall be done only as stipulated by the constitution or through the appropriation Act or any other Act of the National Assembly. Such spending must be in a manner prescribed by the National Assembly. The oversight

powers of the National Assembly are clearly elaborated in this regard. For this purpose, section 88 and 89 grants the assembly power to conduct investigation as well as the powers to take evidence and summon any person in Nigeria to give evidence. It can also issue a warrant to compel the attendance of any person, and failure to comply with such summon may lead to his/her compulsion. It also has power to order such a person to pay the "cost" of such compulsion or imposed fine for such failure or neglect. But these investigative powers are limited to what it needs to make laws or to expose corruption, inefficiency or waste in the execution of administration of laws within its legislative competence. The Senate has power to approve the appointment of persons by the president to such positions as ministers, ambassadors and the like.

An important provision of the Constitution establishes the position of the officer of parliament in the Auditor General of the Federation (AGF). The AGF is appointed by the President on the recommendation of the National Civil Service Commission, subject to the confirmation of the Senate. This position lasts for six months. The AGF is to audit public accounts of all offices and courts of the federation and report to the legislature. As an important accountability agent of the legislature, the constitution empowers the AGF to access all the books, records returns and other documents relating to those accounts. He or she is to provide a list of auditors qualified to be appointed by the parastatals as external auditors, as well as issue guidelines on fees to be paid. He is also to comment on their annual reports. He has power to conduct periodic checks of all government parastatals. He is to submit his report within ninety days of receipt of the Accountant General's report to each house of the National Assembly.

The constitution also makes elaborate provision of the smooth running of the National Assembly. Each house enjoys independence in determining its internal regulations and procedures, including procedures for summoning and recess of the house. To secure this independence in its internal politics and administration, the constitution states that the presence or

participation of persons not entitled to be present or participate in the proceedings will not invalidate those proceedings. Parliament may also act regardless of any vacancy in its membership. The legislature shall each seat for a period of not less than 181 days in a year. To ensure that members are active in the legislature the constitution provides that a seat be declared vacant if the member who occupies that seat is absent for a period amounting in aggregate to more than one thirds of the total number of days (61 days) during which the house meets in a year. Each house exists for four years and stands dissolved afterwards, except in a situation where the federation is at war or it is not feasible to conduct elections. In the latter circumstances, the period may be extended for six months at any one time by a resolution of the National Assembly. The president however issues the proclamation or dissolution of the National Assembly. Anyone who is not a member of a house cannot vote. The National Assembly elects its own leadership. It recruits its own staff and disciplines it.

Finally, the salaries and allowances of the legislature are to be determined by the Revenue Mobilisation, Allocation and Fiscal Commission, a constitutionally independent and federation body.

Beyond the need for mandate renewals by members of the legislature, Nigeria also strengthens vertical accountability by the provision for recall. A member of the national assembly can be recalled by a petition signed by one-half of the persons registered to vote in the member's constituency and presented to the Independent National Electoral Commission (INEC) alleging their loss of confidence in that member. The petition must be subject to a referendum to be conducted within 90 days of receipt of the petition by INEC. The petition becomes effective if it is approved by a simple majority of the votes of the persons registered to vote in that member's constituency.

Legislators are also compelled by law to declare their assets and liabilities before they are sworn in. They are subject to fourteen provisions under the code of conduct guiding every public officer including legislators. Paragraph Six forbids any public officers from accepting property or benefits of any kind whatsoever on account of anything done in the discharge of his

duty. More so, they are not allowed to receive any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the government. Paragraph three prescribes that no public officer shall maintain or operate a bank account in any country outside Nigeria.

The Partisan Political Context of Parliamentary Accountability in Nigeria

The first eight years of democratic politics in Nigeria's Fourth Republic under President Olusegun Obasanjo (1999-2007) can be defined as a delegative democracy (see Tualem 2015). This is the case because of the relative underdevelopment of the legislature vis-à-vis the executive and the judiciary. While the later existed under prolonged military rule, parliament was usually abolished by military governments. Under the military, executive and legislative function was fused. Over the years the executive function became overdeveloped, especially in its authoritarian elements, in relation to the legislative function (see Aiyede 2005).

Basic infrastructures for the functioning of parliament were not in place at inception in 1999. General Abdusalami's transition to democratic rule in 1999 failed to make adequate provision of infrastructure and other resources required for the effective functioning of the legislature at the national level. The legislators assumed office only to find to their dismay that they lacked office space, communication equipment and library for their work. The 1999 budget did not involve a provision for the National Assembly also. Their situation was further aggravated by the absence of legislative tradition, the last effective national parliament being the one sacked in 1983 by the General Muhammadu Buhari military regime. The legislature was therefore in its infancy in terms of structures, functions and rules of conduct. It was not until two years into the four-year term that the administration arm of the legislature, the National Assembly Commission, was established (Aiyede 2005).

As the sixth National Assembly was being inaugurated the rules of both House of Representatives and the Senate were being

contested. Hence, the assembly leadership groped for many years to take hold of its own operational environment as an important arm of government. This was because the effort could not enjoy the benefit of established legislative tradition. Hence, parliament put many wrong foot forward, providing opportunity for the president to undermine its credibility and social legitimacy. In the celebrated demand for “furniture allowance palaver” the president put the issue before the public, arguing that the legislators’ demand was a ploy to self-enrichment. Before the controversy over furniture allowance was laid to rest the legislature became embroiled in another conflict with the president over the changes made by parliament in the 2000-appropriation bill. Sensing that the Executive was not committed to strengthening the parliament, the legislators tried to use powers of appropriation to enhance the financial and infrastructural situation of the National Assembly. But the president resisted the move, leading to another distracting conflict.

Given the above context, the extensive powers of oversight and independence that was granted to the National Assembly were more *de jure* than *de facto*. President Olusegun Obasanjo was a strong ruler who was able to combine his experience as a former military head of state (1976-1979), his experience as an internationally recognised democracy activist with presidential patronage resources and plebiscitary powers to cow the legislature, albeit with some resistance from parliament. Key actors in the series of internal conflicts in the legislature have attributed the conflicts to an effort of the executive (under Obasanjo) to weaken the legislature or to cause a change of leadership in the effort to make the legislature pliant and beholding to the President. The initial leaders of both houses of parliament were believed to have ascended the office with the help of the executive in place of more popular candidates from the then ruling Peoples Democratic Party (PDP). Although parliament struggled to resist the executive assertion of dominance and overcome its internal division and instability, it came at high costs that manifest in the high turnover in the leadership and

membership of parliament (Aiyede 2005).

The fifth Senate had three senate presidents in four years. The first Senate president, Evan Enwerem, was impeached and replaced by Chuba Okadigbo after four months over his failure to clear himself of allegations of perjury and forgery levied against him by *Tell* magazine. Chugba Okadigbo was also impeached eight months after over issues of fraud in the award of contracts. His successor, Pius Ayim suffered several threats of impeachment. The sixth senate faced a similar change of leadership. Adolphus Wabara, the initial Senate President was forced to resign in the throes of a bribe for budget scandal and was succeeded by Ken Nnamani. The seventh senate has so far enjoyed leadership stability, as David Mark survived a challenge to his election after the appeal court upturned an unfavourable verdict by an election tribunal (Aiyede and Njoku 2014).

The initial Speaker of the House of Representatives in the fifth parliament, Salisu Buhari, resigned after he was accused of perjury and certificate forgery. He was replaced by Ghali Umar Na'bbba. The sixth House of representative was however stable in this regard. Although Bello Masari faced impeachment threats, he survived. The seventh House of Representative has had to change leadership after its first female speaker, Patricia Etteh, was impeached for breaking the House rules in awarding contracts worth \$5-million to renovate two official houses and buy 10 cars (Fashagba 2014).

The President's access to patronage was deployed to control the party, influence the chances of re-election of several incumbent members of parliament at the party primaries. The president's extensive powers, including control over the anti-corruption bodies) were also used to undermine the powers and influence of state governors in defiance of Nigeria devolutionary federalism. There was a contest between parliament and the president on the one hand, and between the president and state governors on the other. The governors organised themselves into a Nigerian Governors' forum, and several regional forums. Today The Nigerian Governors' Forum has become a major force, especially under the weak presidency of Yar Adua. The effort to cut the governors' Forum to

size and reassert presidential decisiveness in party decision making by President Goodluck Jonathan exploded into a schism. Within the national assembly, it resulted in the failed effort by parliament to make its members automatic members at the party delegates' congress and massive party switching. This has further prevented the development of programmatic political parties with platforms of good governance.

Furthermore, the process of institutionalisation and consolidation were adversely affected by the rotation formula that undergirds political representation in Nigeria. This formula largely accounted for the high rate of turn over that characterise both houses of the National Assembly. In the 2003 elections about 30% of senators got their mandate renewed, which means that 70% of the senators in the 6th parliament were new comers. About 35% of members of the House of Representatives had their mandate renewed. This implies that 65 % of members were new comers. The overall picture for the National Assembly has not changed significantly in the seventh parliament. For instance 23 % of members of the Senate had their mandate renewed in the 2007 election. The Senate is therefore composed of 77% newcomers. Fifty parties participated in the 2007 elections with 12 parties winning at least one seat in parliament (Anyawu 2003, 2007, 2011). This is yet to change.

Furthermore, politics in Nigeria has always been characterised by clientelistic relations leading to a huge accountability deficit. Politicians have been largely unaccountable. Elections have been problematic because of the strangle hold that the president has over the Independent National Electoral Commission (INEC) using his power to appoint then chairman and its national commissioners. Elections have been riddled with malpractices, reaching its nadir in 2007. Things only began to change with the 2011 elections. The 2015 elections witnessed Nigeria's first alternation elections (Aiyede 2015, Ibrahim and Garba 2010).

Despite the leadership crisis and internal upheavals that characterized the fifth and sixth National Assembly, both houses

were able to pass a significant number of bills relative to the National Assemblies of the first and second republics which were described as a mere “talking shop”. In the fifth parliament, a total of 258 bills were moved on the floor of the Senate, the Executive sponsored 74 while 178 came as Private Members’ Bills. Out of the total introduced on the floor, the Senate passed 65. In addition, while the President withheld assent to 10 of the bills passed by the two houses, the national parliament used its powers to override 4 cases of presidential veto. During the sixth parliament, 392 bills were submitted in the Senate. One hundred and five of the bills were passed. These include 66 executive bills, 30 private members bills and seven House of Representative bills (Nnamani 2007:4).

Table 1. No of Bills Passed in the Fifth and Sixth Parliaments

	5 th Senate (1999-2003)	5 th House of Representatives (1999-2003)	6 th Senate (2003-2007)	6 th House of Representatives (2003-2007)
Items	No	No	No	No
Bills presented	258	314	392	322
Private members bill	178	228	237	166
Citizen bills	8	None	None	
Bills by executive branch	74	65	129	146
Resolutions	310	161	n/a	
Bills passed	65	105	132	166
Bills signed by President		45	N/A	N/A
Bills by 2/3 majority of both houses to upturn president's veto		4	-	

Source: *Compiled from Anyanwu 2003:40, Nnamani 2007:4 and Masari 2007:5.*

The Nigerian National Assembly has not been a robber stamp in spite of the many efforts by the executive to make it so. The Legislature has been able to check the excess of the executive arm whose functions had become over developed due to military rule.

But this has led to several gridlocks in executive-Legislature relations. The National Assembly had consistently significantly adjusted executive appropriation bills before they were passed even though these had generated conflicts (Aiyede and Isumonah 2002). It regularly received auditor general's report which covers all public accounts of the federal government. The senate screened ministerial nominees and confirmed appointments made by the President. The National Assembly was also instrumental in the treaty making process of the country as it nullified the Nigeria-US non-extradition pact amidst other conventions and treaties ratified. The Legislative arm when and where it deemed necessary adjusted the provision in the bills presented by the Executive to meet the needs of their constituencies.

It has on several occasions overturned the presidential veto in the Independent Corruption and Other related Offences Law and the Niger Delta Development law. The highest point of parliamentary triumph was the attempt to change the constitution to provide for a third term for the president governors at both the national and state level respectively. The bill was short down at the Senate in spite of the extensive lobbying of the national assembly, including claims of huge bribes. The national assembly was also able to resolve the constitutional logjam that arose when President Umaru Yar'Adua failed to observe appropriate constitutional provisions regarding the handing over of power to the Vice President while on a protracted sick leave. The Senate invoked what it called a doctrine of necessity to pronounce Vice President Goodluck Jonathan Acting President. It later amended the relevant sections of the constitution to prevent future occurrence.

Code of Parliamentary Conduct and internal Operation of Parliament

Both houses of the National Assembly have codes of ethics for members to guide their operations as provided for by section 60 of the 1999 Constitution stating that "...the Senate or the House of Representatives shall have power to regulate its own procedure..."

These codes specify some acts as 'Breaches of privileges and contempt', which must not be committed on the floor of the House. Among these acts are conspiring to deceive the house or its committee, abstraction or alteration of documents presented to a chamber and presentation of forged, falsified or fabricated documents to the house or its committees (see Senate Hand Book 2002: 32-34). These codes did not however prove usefully sufficient to ensure the observance of standard behaviour by the leadership and members.

By far the greatest challenge to the legislature is the allegations of corruption that continue to trail its activities. Members routinely breach both the constitutional code and the legislative code. For instance, Dr. Haruna Yerima, a legislator from southern Borno in the House also reported that MTN, one of the GSM telecommunication networks in Nigeria, gives each member of the House of Representatives recharge cards worth 7,500 naira monthly without their rendering any service. He declared that some committees in the house collect bribes from ministries and parastatals to induce members into taking favourable decision. This declaration earned him a suspension for a month for using "unparliamentary language" and bringing the house into disrepute. Senator Bode Olowoporoku from Ekiti state confirmed that some Senators received the sum of 50 million-naira bribes each to support the passage of the failed constitution amendment bill of which the third term clause was of priority. (Adelaja 2005, Oluokun 2013).

While the legislators have not denied these and similar allegations, many of them have defended their actions as part of the legislative lobbying process. Senator Jonathan Zwingina for instance argues that what has been crudely described as bribery and corruption in our society today are acts of lobbying from groups and individuals currying legislative support in pursuit of their agenda. In his view, Presidential invitation to dinner, Presidential trips overseas, incentives and contribution towards the campaign funds of parliamentarians are neither acts of crime nor corrupt practices but regarded as lobbying and are significant

part of a presidential system of government where checks and balances exist.

Whatever difficulties may exist in drawing the lines between lobbying and corruption, leadership of both houses of parliament have been changed on different occasion on the ground of falsification of certificates. Senate President, Evans Enwerem and Speaker of the House of Representatives, Salisu Buhari was impeached over allegations of forgery and perjury. The Senate and the House have also been involved in bribery scandals in the execution of legislative contracts. Senator Chuba Okadigbo was impeached in 2000 over controversies surrounding the award of contracts, while Speaker Patricia Etteh was impeached because she failed to observe rules on the award of contracts worth \$5-million to renovate two official houses and buy 10 cars. The Minister for Health, Professor Adenike Grange, was sacked by the Yar Adua government in early 2008 for disobeying the directive of the president that unspent budgetary allocation for the 2007 fiscal year be returned to government treasury. Ten million naira of the stolen funds was allegedly paid to the Chair of the Senate committee on Health, Senator Iyabo Obasanjo-Bello (see Agbo 20012, Fashagba 2014).

Also related to corruption are the generous allowances that the national Assembly continues to award itself. The fifth parliament was marked by the controversy over furniture allowances and the power of parliament to set its own remuneration without regard to the Revenue Mobilisation Allocation and Fiscal Commission (RMAFC) as specified by the Constitution. The sum of N856 million granted to the senators as car loans at the beginning of the seventh National Assembly in 2007 was a subject of exchanges between the Senate and the RMAFC. A document published by the RMAFC in July 2008, proposes that the senate president will earn N16 million naira while his deputy takes home N15 million naira respectively per month. Each senator and House member is to earn around N10 million monthly. Apart from this, they will also get between 15 to 20 million naira quarterly as multi-purpose allowances. The

House Speaker and his deputy, in the same vein are to receive 12 million and 10 million naira respectively. In addition, the senate president, his deputy and the speaker as well as the deputy speaker will have eight official cars in their pool. This proposal has become one in the series of controversies concerning the role of the national parliament with the Nigerian Labour Congress (NLC) threatening to mobilize the public to stop the awards and RMAFC officials claiming that they were under pressure by the legislators to increase their pay. Thus, the general media image of the legislature is that they are self-serving and corrupt.

The National Assembly operates a committee system in fulfilling their responsibilities. The committees could be classified into four: the special committees, standing committees, ad hoc committees and committee of the whole house. There are also joint sittings of both arms of the national parliament. The special committees and the standing committees are the live wires of the parliament. The number and leadership of these committees have generated a lot of controversy both within parliament and among the larger Nigerian population. The choice of leadership for these committees is usually identified as a major source of conflict within the National Assembly. Leadership of a committee is a major means of legislative patronage.

The media has often presented the committees as major instruments of legislative patronage, since they are the organs of legislative oversight and control specific budgets. Thus, the proliferation of committees is often attributed to the desire to expand the budget of the National Assembly and spread resources as much as possible among legislators. It is common for committees to embark on foreign study tours and site visits as part of their oversight work. In several instances, committees have been accused of demanding bribes and other perks in performing their routine functions.

The fifth Senate had 39 standing committees and six special committees, bringing the total number of committees to 45. The Sixth Senate had 63 committees. The Fifth House of Representatives had five special committees and 40 standing

committees, the total number of committees being 45. The sixth House of Representative had 71 committees. The president of the sixth Senate justified the proliferation of committees on the need to respond to the “demands of an expanded executive arm which had 49 ministries and scores of special agencies” (Ayim 2003. 17).

Parliamentary Oversight and its challenges

The oversight powers of the legislature are very critical to public accountability. Oversight refers to the crucial role of legislatures in monitoring and reviewing the actions of the executive organs of government. Oversight seeks to ensure that the executive complies with the will of the parliament (and by extension the people), maintain ethical behaviour in the civil service, ensure efficiency and cost effectiveness in the use of public funds by government, guarantee sound internal financial means of operation and reduce opportunities for corrupt practices, and impose sanction for waste, neglect and arbitrariness. There are a variety of tools that the fifth, sixth and seventh National Assemblies have used in the exercise of oversight powers. These include policy review, public hearing, language, resolutions, reporting, site visits, constituency enquiries, impeachment and investigations. In early March 2018, a bill was passed, to strengthen audit services. The bill separates the Auditor General’s office from the Ministry of Finance; it expands the powers of the office and guarantees access to the books of agencies and parastatals (Jimoh and Opara 2018:1-6).

A critical review of the executive-legislative conflicts suggests a particular interpretation of oversight powers that need to be reconsidered. The first revolve around the question of the difference between supervision and oversight especially in relation to legislator’s role in responding to the need of their constitutions. Most conflicts between the legislature and the executive had arisen from the distribution and execution of capital projects (relating to constituency projects) contained in budget proposal. This is due largely to the disagreement between the Legislators’ need to be identified with specific contribution to their constituencies concerning the dividends of democracy they had

promised during campaign and the Executive's call for rationalism, national balance and realism in the distribution of such projects. The executive of present the case as the question of "self-interest" versus "national interest" in oversight functions, arguing that each adjustment made to the appropriation bill presented to the legislature had always contained elements of benefit to the Legislature. The executive argues that the legislature is going beyond its powers under the guise of oversight, insisting that there is a difference between the constitutional powers of appropriation of the legislature and the power of allocation, which it has assumed. These issues resurfaced in 2000 -2008 budgets.

The above experiences from their relations with the executive has provided the catalyst for skill development and demonstrated the need for competence in oversight among legislators. Committees were reorganised several times for this purpose. The legislature had to use the impeachment clause in very creative ways to earn the respect of the executive. When the National Assembly sought to invoke the power of impeachment in removing President Olusegun Obasanjo from power in the last quarter of 2002, they made a strong case of constitutional breaches and "gross misconduct" against the President, even though the first threat to impeach the President occurred in June 2000 when Senator Arthur Nzeribe, a PDP Senator, circulated a litany of impeachable offences purportedly committed by the President in the Senate. It took the intervention of Shehu Shagari and Yakubu Gowon, former heads of state, to douse the tension. Today, there are regular reports by ministerial, political and administrative heads to the National Assembly.

Conclusion

There are several issues and challenges that arise from the above engagement with the National Assembly in Nigeria. One of the challenges to the effectiveness of the legislature in political accountability has been the legacy of executive dominance. This is why the Assembly had to struggling to establish a framework for its operations, while at the same time having to contend with an

executive that is over developed and who expected the legislature to be beholding to the executive. These simultaneous challenges proved to be consequential given the limited experience and skills of the leadership of the National Assembly. The more the parliament tried to assert itself, the more the executive pressured to influence its leadership, leading to a great deal of instability in the fifth National Assembly.

In spite of these the national assembly has shown great potential to exercise independence. This has been displayed in their commitment to ensuring that the executive activities reflect budget provisions, and in the final collapse of the effort to elongate the tenure of office of the executive under the leadership of Senator Ken Nnamani. In general, the National Assembly cannot be viewed as strong as an institution of political accountability even though it enjoys elaborate constitutional provisions guaranteeing its independence and providing room for it to foster its competence. This is partly because its internal operations and organisation of the committee system are permeated by the general clientelistic and predatory orientation of politics. Thus, shoring up the accountability capacity of the National Assembly will require measures that revisit the political and electoral process and how they affect the general ethical behaviour of elected political officials.

There is certainly a need for the strengthening of the infrastructure of the national Assembly, and the skills and competence of members of parliament to carry out performance and programme audit. These should be support by a reform of the values that underline the organisation of the committee system, setting up of a minimum requirement for accountability and creating a mandatory and authoritative framework for oversight activities by committee members.

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