

Legislative Oversight in Nigeria: a Watchdog or a Hunting Dog?

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Abstract

This article investigates the activities of the legislature on its legislative oversight functions and the effectiveness of this organ in ensuring and sustaining good governance in Nigeria polity. Legislative oversight, a robust mechanism institutionalized to checkmate the excesses of the executive arm of government and government agencies to curb waste in governance, corruption and absolutism in the exercise of political power, has been under criticism as to its relevance in democracy. The study revealed that the legislative oversight, a critical aspect of the functions of the legislature other than law making, have been severally compromised and often misused as a hunting dog. The article harps on the fact that inasmuch 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 ministries under its supervision for selfish or personal aggrandizement. It is being recommended that constitutional and/or legal teeth be structured for effective and efficient legislative oversight, as a watchdog on the executive arm and its agencies, to bite culprits as deterrent.

Keywords: Legislative Oversight, Checks and Balances, Good Governance, Accountability.

Introduction

The principle of separation of power is the major ingredient of democracy which guarantees that the executive arm of government does not control the affairs of the legislature nor the judiciary. The doctrine of the separation of powers implies that there should be three separate organs of government with their separate sets of functions and powers. The presidential system of government being practiced in Nigeria makes provision for separation of powers, apportioning disparate powers and duties to the executive, legislative and judicial arms of government. Essentially, the legislature as a symbol of true democracy, makes laws which the executive is under obligation to implement. The judiciary is legally called upon in the determination of civil rights and obligations to interpret the laws. This system of government understands from the onset that powers may be abused and therefore introduced a system that guarantees checks and balances amongst the three arms of government. Therefore, through the power of interpretation, the courts can declare laws made by the legislature unconstitutional, null and void and of no effect whatsoever. On the other hand, the legislature has the power of oversight over the execution and administration of laws by the executive. The executive holds the powers of investigation, coercion and implementation of laws and can as well use these powers to call the legislature and judiciary to order (Onyekpere, 2012).

In other words, it implies that the three organs of government should be kept apart from each other in the interest of individual liberty and it is a perfect system created for the overall benefit of the citizens. The functions of the government should be differentiated and performed by different organs consisting of different bodies of persons so that each department be limited to its respective sphere of activity and not be able to encroach upon the independence and jurisdiction of another (Johari, 1989:280). The principal function of the executive is to execute laws, orders, rules, regulations, decrees, prevention of the breaches of law, rendering a host of social welfare services and meting punishment to the delinquents so as to maintain peace and good government. On the other hand, in spite of its primary function of legislating laws, amending or repealing existing laws, the legislature serves a number of overlapping objectives and purposes to improve the efficiency, economy, and effectiveness of governmental operations; evaluate programmes and performance; detect and prevent poor administration, waste, abuse, arbitrary and capricious behaviour, or illegal and unconstitutional conduct; protect civil liberties and constitutional rights; inform the general public and ensure that executive policies reflect the public interest; gather information to develop new legislative proposals or to amend existing statutes; ensure administrative compliance with legislative intent; and prevent executive encroachment on legislative authority and prerogatives encapsulates in oversight functions (http://en.wikipedia.org/wiki/Congressional_oversight). It also executes the functions of oversight over the actions or inactions and other activities of the executive and its agencies.

Legislative oversight encourages checks and balances, it enthrones fiscal discipline, good governance, accountability and transparency in public offices. It promotes accountability in government through enforcing efficiency and cost effectiveness in course of generating people-centred policies and programmes necessary to address the numerous challenges confronting governments at all levels. Congressional oversight takes place when the National Assembly (the Senate and the House of Representatives) continually review the effectiveness

of the executive arm in carrying out the congressional mandates through supervision, watchfulness, or review of executive actions and activities. This helps the National Assembly to establish issues and address problem areas in order to make the necessary improvements or changes to create an effective process. This legislative process brings to the knowledge of the public what the executive branch is doing, and it affords the electorates the opportunity to see what public office holders are actually doing, whether they are really serving their collective interest or not. Most often, the public is not aware of what the government is actually doing. This gives credence to Woodrow Wilson's (1885) classic study of the legislative branch as he observed that:

the informing function of Congress should be preferred even to its legislative function. Unless Congress have and use every means of acquainting itself with the acts and dispositions of the administrative agents of the government, the country must be helpless to learn of how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important it should understand and direct (<http://legislativeoversight-kdierking.blogspot.com>).

According to Ndoma-Egba (2012), legislative oversight refers to the power of the legislature to review, monitor and supervise government agencies, programmes, activities and policy implementation strategies of the executive arm of government. This is to ensure that the arm sustains the principles of good governance, remains responsive, transparent and accountable to the electorates. The committee structure of the National Assembly (House of Representatives and Senate) is being used to execute oversight functions through supervision, watchfulness, or curtail excesses, review of executive actions and activities. Oversight functions ensure that activities of the executive arm of government and its agencies are kept under constant surveillance and scrutiny by the legislature. A leading role for the legislature has always been adjudged an essential defense against executive tyranny. The legislature monitors, raises queries and (where necessary) censors executive activities, activities of government agencies (such as ministries, departments, parastatals, etc.) to ensure good governance and accountability (Onuoha, 2009). John Locke (quoted in Johari, 1989) 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. 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 (Johari, 1989:280).

Heywood (1997:318) observed that the legislative and representative roles of assemblies have declined in significance, greater emphasis has been placed on the ability of assemblies to constrain or check executive power. Assemblies have increasingly become scrutinizing bodies, the principal role of which is to deliver responsible or accountable government. He noted that assemblies are not always effective in calling executives to account. For example, in the National People's Congress in China, control by a monopolistic party, party loyalty has turned the assembly into a mere propaganda weapon, with government policy nearly always being approved by unanimous votes. This means that party discipline also constrains parliamentary scrutiny of the executive. In essence, the principal function of the assembly in this context is to uphold and support government actions and activities as majority of the members of parliament belong to the governing party. The ruling political party ideology and interest override national interest to retain, sustain and consolidate political power. The legislative oversight, a critical aspect of the functions of the legislature other than law making, have been severally compromised and often misused to serve personal interest. These lapses have given rise to query why the legislative oversight, a robust mechanism institutionalized to checkmate the excesses of the executive arm of government and its agencies to curb waste in governance, corruption, absolutism in the exercise of political power, has been compromised. The end of absolute executive power is affirmed by giving to the legislature, and to it alone, the right or power to make laws. In this context, arbitrary government is replaced by a formal procedure for law making. Therefore, if the painstaking process for passing bills into law is eloquent signal to demonstrate the degree of importance attached to government by rules rather than individual arbitrariness, why do law makers compromise the very ingredient for checks and balances in governance? Thus the criticism as to the relevance of legislative oversight in democracy. The primary objective of this article is to investigate the activities of the legislature on its legislative oversight functions and the effectiveness of this organ in ensuring accountability, responsiveness and sustainability of good governance in Nigeria polity.

The Legislative Oversight Functions in Nigeria

The oversight function of the legislature in Nigeria finds legislative importance in Section 88, Sub-sections 1(a)-(b) and 2(a)-(b) of the 1999 Constitution of the Federal Republic of Nigeria which provides that "each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed an investigation into (a) any matter or thing with respect to which it has power to make laws; and (b) the conduct of affairs of any person, authority, ministry or

government department charged, or intended to be charged, with the duty of or responsibility for (i) executing or administering laws enacted by the National Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly”. Sub-section 2(a)-(b) stipulates that “the powers conferred on the National Assembly under the provisions of the section are exercisable only for the purpose of enabling it to (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it”. Besides, Section 89 of the 1999 Constitution empowers the legislature to procure evidence, summon persons to give evidence and require such evidence to be given on oath through examination of witnesses. The National Assembly has the power to summon persons to procure additional document or oral evidence and (where necessary) issue a warrant to compel attendance by any person so required, on the pain of punishment if they fail to attend. The legislature has the constitutional responsibility to supervise and regulate the activities of the executive arm of government of the federation to eschew waste and ensure fiscal discipline, observance of the rule of law and strict compliance in implementing laws as passed by the legislature, and execution of development programmes and policies. If the National Assembly loses faith in an agency, the Congress can respond in a number of ways to put things in their proper perspectives. For example, Congress can pass a law to overrule agency decisions, and/or to narrow the agency’s jurisdiction. It can use its appropriations power to restrict the agency’s funding. It can also narrow the agency’s regulatory authority.

Ezeani (2010) noted that in spite of the importance of legislative oversight in contemporary democratic governance, it has been controversial in all ramifications in the political scene, and has remained the major source of executive and legislative conflict in Nigeria. A former Attorney-General of the Federation and Minister of Justice, Honourable Justice Oluwadare Aguda had once argued that oversight functions as was carried out by the legislature was often unconstitutional and violates the principle of separation of powers which is basic to democratic government. He observed that “the legislature in Nigeria is systematically usurping the functions of both the executive and the judiciary”, warning that “this could hamper political stability and socio-economic development” (<http://www.thenationonline.net/2011/index.php/politics/48492-national-assembly.html>). Therefore, the central thesis of the criticisms of legislative oversight is its integrity which has been subjected to questions by critics who contend that oversight has become a political tool for the harassment and blackmail of members of the executive branch and perceived political enemies or rivals. It is argued that this scenario gave credence to former President Olusegun Obasanjo’s stance on different occasions on oversight functions, whereby it is alleged that he directed some of his Ministers to ignore National Assembly summons because he considered such political aberrations as undue interference, illegal acts and ungodly avenues for corruption and extortions of resources from the Ministers. Notwithstanding, the legislature with its robust legal instruments, is the symbolic arm of government that determines the effectiveness or otherwise of democratic governance.

The power of legislative oversight is not without limitations as was rightly captured by Chief Justice Warren as he succinctly observed that:

the power of congress to conduct investigation is inherent in the legislative process. The power is broad; it encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defect in our social, economic or political system for the purpose of enabling congress to remedy them. It comprehends probes into department of the Federal Government to expose corruption, inefficiency and waste. But broad as this power of inquiry, it is not unlimited. There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the congress nor is the congress a law enforcement or trial agency. There are functions of the executive and judicial departments of government. No enquiry is an end in itself; it must be related to, and in furtherance of the legislative task of the congress. Investigation conducted solely for the personal aggrandizement of the investigators or to “punish” those investigated is indefensible (<http://www.nationalnetworkonline.com/vol.9n16/html>).

It is expressly explicit from the above jurist’s assertion that the primary objective of legislative power is, generally speaking, to lie down, be they decision rules or conduct rules and to carry out oversight and investigative function. It must be recognized that the legislature’s power to investigate is not absolute as it has some legal impediments. This was made known by the court in *Tony Momoh Vs. Senate of the National Assembly* (1982) NCLR 105. In that case, the Court of Appeal clearly held that section 82 of the 1979 Constitution (akin to section 88 of the 1999 Constitution) is not designed to enable the legislature usurp the general investigating functions of the executive nor the adjudicative functions of the judiciary. Any invitations by the legislature to any person outside the purpose defined in section 82(2) that is now 88(2) of the 1999

Constitution is invalid. The prosecution of the persons guilty of corrupt practices or gross inadequacies or misconduct in the discharge of the public office is left to the executive. This only reinstates the doctrine of separation of power between the various arms of government. Invariably, the oversight functions of the legislature end up with identifying corruption, misconduct of public officers, resource waste or inefficiency in service, review of government actions and activities for good governance, etc, and findings thereof are referred to the appropriate arm of government for further necessary actions in order to address the issues raised therein in appropriate and acceptable procedures (<http://www.nationalnetworkonline.com/vol.9n16/html>).

Incidents of Legislative Oversight Abuse in Nigeria

The oversight functions of the legislature or its investigative power has attracted some degree of criticisms against its apparent abuse of this parliamentary mechanism since the inception of 1999 democratic dispensation. The National Assembly's perception of legislative oversight function as a short-cut to richness is generally worrisome because it negates the principle of good governance. Any legislative investigation means a sure way of enriching the legislators involved in the exercise, and it earns them political relevance in the system as they seem to assume quasi-judicial demigods to those public officers being investigated. This is why members of the National Assembly lobby for juicy committees either in the Senate or in the House of Representatives. Legislators often apply ungodly strategies or undue influence on the leadership of the National Assembly to obtain the chairmanship ticket of one juicy committee or the other, and as well be appointed as members to many other legislative committees. As soon as they secure the chairmanship of these committees, the next item on their political agenda is oversight functions, which results in the preliminary investigation trips to parastatals and government departments under their supervision, and subsequent public sittings (a parliamentary simulation exercise for public entertainment). Most often, the orchestrated committees abandon the substance at issue to chase the shadow with a view to humiliating and intimidating their prey to bow to pressure and accept to negotiate for unholy settlement. The legislature often enmesh its integrity in inordinate crave for materialism as against service to humanity. It is unfortunate that majority of members of parliament have lost their senses of decency and dignity. They are in the National Assembly to feather their selfish gluttonous nest at the expense of their constituencies. Some are so kleptomaniac to the extent that legislative functions are secondary to them and they would prefer not to attend House sessions that would not involve loot disbursements. This is an act of misrepresentation of the people, whose mandate the legislature is exercising. Akomolede and Bosede (2012) espoused this observation thus:

The legislature is truly not independent of the executive and therefore, is often incapacitated from acting as the watchdog of executive activities. Thus, the inordinate ambition of members and leadership of the legislative houses often sees them hob-nobbing with the executive such that valuable time for law-making is lost in the process of lobbying for juicy leadership positions and committees in the legislative houses. It is common knowledge that a good number of members of the legislative houses pursue pure selfish interests that often inhibit them from combating the challenges of law-making. Members pursue contracts from the leadership of the houses and even from the executive such that they easily compromise when it comes to contributing meaningfully to debates on the floor of the house. At times, some members resort to absenteeism from the floor of the house and do not participate at all in the proceedings. Again, many of the legislators have ambitions to contest for leadership positions in the house or membership and chairman of juicy committees. A lot of valuable legislative time is wasted while pursuing these ambitions.

To buttress the inordinate ambitions and dishonourable activities of some members of the legislature, an inference may be drawn from this scenario where in a public hearing conducted by a committee of the House of Representatives during which specific charges of corruption were preferred by Ms Aruma Oteh, the Director-General of the Securities and Exchange Commission (SEC) against the Chairman of the House Committee (Mr. Herman Hembe) which raised fundamental questions about Nigeria's system of government. The report revealed that "as part of its statutory oversight functions, the House [of Representatives] Committee on Capital Market and Institutions probed the manifest cause of the near collapse of the capital market" for two years running. Application of intimidatory strategy was adopted to compel and bring the Director-General of the Securities and Exchange Commission to her knees. It was alleged that the House Committee Chairman resorted to unguarded utterances on the accused thus: "you are not fit to regulate the sector". The Committee Chairman allegedly accused Ms Oteh of profligacy, asserting that she had "been spending money as if it was going out of fashion since assuming office one year ago. You stayed in a hotel for eight months and spent over N30 million. In one day you spent N85,000 on food at the hotel. The other day you spent N850,000 on food. These are the things we should look at to see how you will regulate a market that is collapsing (The Nation Newspaper, March 21, 2012,

p.2).

The Director-General was completely taken aback as she could not put up a defense immediately. Rather, she questioned the credibility of the Chairman to preside over the probe, alleging that the Committee Chairman (Mr. Hembe) collected a cheque to travel to the Dominican Republic to attend a conference. He did not attend the conference nor did he return the money. She accused him of undermining his capacity to carry out his duties as Chairman of House Committee by asking the Securities and Exchange Commission to contribute N39 million for the public hearing, and demanded N5 million for himself to avert justice. The Director-General of the Securities and Exchange Commission (SEC) queried why the Chairman received information from the SEC and passed judgment based on its face value without reference to the Commission to verify the veracities of the issues raised therein. The “Honourable” Chairman probably bursted out due to his apparent failure in the illicit bid for gratifications. Aguda (2012) noted that while bribery and corruption could seriously undermine any system of government, they are not as fundamental in the damage they can do to a system of government as the breach of the principle of separation of powers or as a disregard for fair hearing as illustrated above. Hence, he made reference to the time-honoured procedure for the conduct of judicial or quasi-judicial proceedings which has long been well established by the courts in all the common law countries, including Nigeria. The procedure requires that any person against whom any allegation is made, or whose interest may be adversely affected by such allegation, or by any statement made, must be clearly and fully informed of such allegations or statements in advance of any trial or investigation involving the accused (<http://www.thenationonlineng.net/2011/index/php/politics/48492-national-assembly.html>). Therefore, the principles of legal procedure demands thus:

before any accused person is required to make his or her defense or counter any statements adversely affecting him or his interest, the following requirements must be complied with. First, the accused must be given the details of all allegations or statements made against him; then he must be afforded reasonable time and opportunity to prepare his defense effectively to all the matters at issue; he must be able to confront and challenge his accuser or accusers at his trial or during any investigation. These requirements apply in all situations and to all proceedings involving any form of trial or investigation no matter who conducts the trial or carries out the investigation and for whatever purpose (The Nation Newspaper, March 21, 2012, p.2).

Aguda (2012) observed that in carrying out the statutory legislative oversight function, had the Committee Chairman followed the requisite judicial requirement to give the accused prior notice of the charges she was going to face at the trial, he would have found out, as the accused subsequent defense might have indicated, that she had plausible explanations for the allegations the House Committee Chairman was making against her. However, the most important point at issue here is not whether the House Committee Chairman’s allegations against the SEC Director-General were true or whether the truth lies on the domain of the accused. The fundamental issues are that the Legislative Committee breached the principle of separation of powers by conducting judicial or quasi-judicial proceedings and in doing so, seriously violated the most fundamental rule of fair hearing. For example, The Investigation Committee purportedly obtained information from the SEC without giving the Commission or Ms Oteh (the Director-General of the Commission) the opportunity of knowing in advance the charge or charges she was to meet during the committee’s investigation or giving her the chance of commenting on the allegations before using it to arrive at judgment nor told the source or sources of the allegations preferred against her. It was obviously clear from the media reports that the House Committee Chairman was both the accuser, the prosecutor and the judge during the probe (Aguda, 2012). The obvious prejudice emerged as a brave fight to cover illegalities in the entire processes.

A situation where legislators abandon their constitutional functions on oversight and assume sitting contractors does not only worsen the Nigeria problems but result in conflict of interest between public interest and private concern. In cases where ministries, parastatals, agencies and other organizations that are supposed to be under the ‘supervision’ of the legislature end up sponsoring the wellbeing of these law-makers and their nuclear families, prepaying for their oversea trips and other emoluments of the legislature, oversight functions in such scenario automatically assumes fiddle roles in aiding and abetting crimes in public offices. The legislative oversight process in Nigeria signals that the legislature has not lived up to the expectation of Nigerians in terms of making laws that will guarantee good governance for the benefit of all and sundry. The legislators have not demonstrated enough patriotism in support of Nigeria’s fledgling democracy. Majority of the parliamentary members are driven more by selfish desires of wealth accumulation than the patriotic desire of leaving enduring legislative legacies for posterity to print their names in the sand of history (Akomoledé and Bosede, 2012; Kadir, n.d.).

The legislature has reduced this all important constitutional responsibility to mere alarm mechanism being used

to blackmail or witch-hunt political opponents, extortion of money from the parastatals, departments and ministries under its supervision for selfish or personal aggrandizement. For instance, “Honourable” Farouk Lawan, Chairman, House of Representatives Ad Hoc Committee on the Monitoring of Fuel Subsidy is alleged to have been enmeshed in a US\$620,000 bribery scandal. It was alleged that in course of executing the statutory legislative oversight function on the N1.3 trillion fuel subsidy probe, the “honourable” House Committee Chairman was alleged to have received US\$500,000 bribe from Zenon Oil and Gas Chairman, Mr Femi Otedola to facilitate the removal of Zenon Oil and Gas company’s name from the list of oil marketers who bought foreign exchange from the Central Bank of Nigeria (CBN) without importing petroleum products. Security operatives report is alleged to have revealed that initially the accused denied collecting any bribe from the accuser, later he claimed that he collected the bribe to use it as exhibit against Mr Femi Otedola. The oil magnate alleged that the House Ad Hoc Committee Chairman demanded US\$3 million but collected \$500,000 bribe as first installment for the purpose disclosed above. Subsequently, the “honourable member” was suspended from the House of Representatives while legislative probe into the matter is still on course. The Clerk of the Ad Hoc Committee on the Monitoring of Fuel Subsidy, Mr Boniface Emenalo who was also implicated in the bribery scandal had as well been suspended from the House. “Honourable” Emenalo allegedly collected a bribe sum of US\$120,000 from Adetola, making the total bribery sum to \$620,000 (<http://thisday-staging.portal.dmflex.net/articles/icpc-on-standby>). These incidents are incredibly terrible, shameful, disgraceful and egregious legislative oversight outings of the 21st century in a developing country.

The Speaker of the House of Representatives, Honourable Aminu Waziri Tambuwal, in a swift and subtle reaction to the unfortunate and quite embarrassing development, reprimanded his fellow parliamentarians (*a tactful caveat*) thus:

when we elected to pursue the entrenchment of probity, accountability and transparency in the conduct of government business as a cardinal legislative agenda, we advised ourselves never to expect that it will be an easy task. Accordingly, I have had cause to occasionally sound a note of warning and reminder that our constitutional task is inescapably hazardous requiring total commitment, diligence, transparency, determination and sacrifice ... we shall not hesitate to sanction anyone who in the course of these investigations overreached himself or uses the process to intimidate anyone or engages in corruption. Legislators must continue to adhere to their legislative agenda and remain not only sensitive to the yearnings and aspirations of Nigerians but also proactive on all matters of urgent national importance (<http://thisday-staging.portal.dmflex.net/articles/icpc-on-standby>).

Meanwhile, President Goodluck Jonathan was reported to have directed that the police investigation report on the matter be forwarded to the Economic and Financial Crimes Commission (EFCC) for further action in demonstration of the commitment of his administration to get to the root of the pervasive fraud that has blighted the management of the fuel subsidy scheme. The bribery allegation was in its entirety a negation of the legislative oversight function, particularly on its resolve to ensure probity, accountability and transparency in the conduct of its business.

The precarious situation in Nigeria polity has made most Nigerians to lose faith in the supposedly good intentions of the government. Jaja (2012) noted that as Nigerians seek an end to the scourge of corruption in public sector, the expectations are that the legislators would be more proactive rather than reactionary in the discharge of their oversight functions. They are expected to do this by detecting and preventing waste, inefficiency and corruption before they take place. Unfortunately, this has not been the case as series of public hearings and probes of agencies have been conducted without official reports on some of these investigations at all levels of government since the inception of the new political dispensation. The legislature is a principal arm of government through which governments are held accountable for their actions and inactions. The public is hapless when legislators compromise the very ingredient that protects democracy and good governance. As Schlesinger and Roger (1975) (quoted in Jaja, 2012) succinctly corroborated this view thus:

The principle behind legislative oversight of the executive activity is to ensure that public policy is administered in accordance with the legislation ... the legislative function does not cease with the passage of the bill. It is, therefore, only by monitoring the implementation process that members of the legislature uncover any defects and act to correct misappropriation and maladministration. In this sense the concept of oversight exists as an essential corollary to the law making process.

Corrupt legislative oversight has been institutionalized as the foundation of governance at all levels of government in Nigeria. Institutions’ decay is unprecedented as available meagre resources is siphoned and

opportunities for good governance is derailed and debased. This undermines accountability and responsible government as due process is subverted and subsisting laws, rules and regulations are compromised for selfish aggrandizement. These shortcomings have not only inhibited the effective performance of the legislature but have served as catalyst for corruption in a drifting nation. In most cases, the legislature performs ultra vires legislative oversight functions, wielding investigative powers outside their legislative jurisdiction, thereby usurping the constitutional functions of the executive and the judiciary arms of government.

Ultra Vires Legislative Oversight Functions

The defects in the legislative oversight functions in Nigeria's present system of government have emerged explicitly in the instant executive and legislative conflicts of interests. Its manifestation raises the question whether the National Assembly [the Senate or the House of Representatives] have the constitutional power to conduct the kind of investigation into the Securities and Exchange Commission which the House of Representatives Committee embarked upon in the manner it exhibited flagrant abuse of power. Assuming the House has such constitutional competence in its schedule, did it adhere to the constitutional procedure as laid down? The response is obviously in the negative. Ironically, the legislature claims and exercises such unbridled powers. For example, in 2007 the Senate President was alleged to have informed the upper house that "it is our responsibility to review the circumstances of the recent list of indicted persons by the EFCC to ensure that the power exercised by the Agency was not contrary to the provisions of the EFCC Act. We need to inquire why some persons whom EFCC had charged to court for corrupt practices were not disqualified from elective offices while persons [members of the Senate] not yet charged are now faced with disqualification" (The Nation, February 21, 2007, p.47). The Senate President, with his genuine intention to correct what he perceived as anomaly, erred in his function because, following the demarcation in the borders of separation of power, it lies in the functions of the judiciary to determine whether or not the EFCC has acted outside the law that created it, definitely not that of the Senate (Aguda, 2012).

The legislature has enjoyed unbridled latitude in its oversight functions and has continually extended its exercise of this constitutional power into all areas of governance without regard to functions of other arms of government. For instance, the House [of Representatives] Committee on Aviation, under the chairmanship of the Deputy Speaker of the House, allegedly imposed fines on some foreign airlines accused of charging Nigerian travelers discriminatory air fares. The Committee on Aviation conducted a public hearing where British Airways, Virgin Atlantic, Air France, Emirate and eight other foreign airlines were allegedly found culpable in the payment demand by the House Committee on Aviation that investigated the matter. Apart from the alleged tax evasion, the airlines were also accused of arbitrary fixing of fares and colluding with dubious aviation officials to shortchange Nigerian air travelers. The Investigative Committee was said to have arbitrarily ordered the airlines to refund N230 billion to the Nigerian Civil Aviation Authority (NCAA) and mandated the airlines to make the refund or risk necessary sanction. Besides, the committee directed NCAA to review the British Airways Service Agreement (BASA) with British Airways. It was insinuated that the committee was very angry with the foreign airlines and might summon them for another round of talks in the near future. The House of Representatives here again usurped the function of the judiciary in its oversight function. The legislature derives its power under the Constitution "to direct or cause to be directed" an investigation by the Executive arm of government into the alleged mismanagement of public funds or any such or other cases. Inasmuch as the oversight function is apt in governance, on completion of its investigation, the Committee supposed to have passed on the report with its findings and recommendations to the parent body [House of Representatives], urging the House for a judicial panel to be constituted by the executive arm of the government to conduct full-fledged inquiries on the issues raised therein. It is the constitutional responsibility of the executive arm of government [not the legislature] to set up a judicial panel of inquiry into the matter. It is outside the legislative function and jurisdiction to dispense justice and impose or threaten to impose penalties. The legislature would have as well passed jail sentence on those indicted or found culpable of the offences, or ordered that the air-crews be detained in prison custody for further hearing of the case in a future date. This is not the proper function of a legislative house in a democracy where obedience of the rule of law is being respected, protected and observed (<http://www.thenationonlineng.net/2011/index.php/politics/48492-national-assembly>). Until the principle of separation of power is respected and strictly adhered to, and the doctrine of fair hearing is properly adopted in clear terms in all sorts of legislative investigations, this area will remain for a long time the major source of executive and legislative conflict in governance. Any departure from this legal and constitutional procedure in the act of governance would be a perversion of justice. Most often, it is observed that such perversion of justice in our system has been the outcome of the so-called "oversight functions" being carried out unregulated by the legislative arm of government (Aguda, 2012).

In the presidential system of government, the principle of separation of powers is the most fundamental element, particularly in a true democratic government. In the 1999 Constitution of the Federal Republic of Nigeria, the legislature is not given the power to execute what the legislators now brand "oversight functions" which most often involves the execution of the judiciary and executive functions. Section 88 of the Constitution

gives the National Assembly only the power “to direct or cause to be directed” that such investigation should be carried out into matters perceived to be anomalous in nature. The various matters enumerated in subsection (1) of section 88 and that they “are exercisable only for the purpose of enabling” the legislature (a) to make laws with respect to certain specified matters; and (b) to expose corruption, inefficiency and waste. The power is required to be exercised “by resolution published in its journal or in the Official Gazette of the Government of the Federation. The legislature does not seem to be observing the boundaries between it and other arms of government in its oversight functions. There is need for committed coordination and streamlining of government functions to harness the dividend of democracy and good governance.

Conclusion

Legislative oversight function is the eyes of the people in government that watch and monitor the activities of the executive arm and its agencies in the implementation of laws, programmes and policies meant to serve the collective interest of the electorates. It dictates waste, inefficiency, ineffectiveness, corruption, mismanagement of public resources, etc. Its relevance in a democratic governance need not be overemphasized. Oversight function is essentially valuable in ensuring that the intent of the legislature in legislating laws that will improve the living standard of the poor is reflected in the performance of the executive functions. As important as its role in government, it must endeavour to conduct its oversight functions within the confine of the law that established the National Assembly. It is important to respect and observe the principle of separation of power as provided in the 1999 Constitution of the Federation. Usurpation of functions and unguided encroachment into the constitutional functions of the executive and the judiciary arms is unnecessary and should therefore be guarded against in the performance of its oversight functions. Good governance is seriously undermined by the legislature’s usurpation of both executive and judicial functions. The damaging effect of the legislature’s totalitarian approach to governance is made worse by the very high level of corruption prevailing in the country, precisely located at the echelon of government hierarchy where state looting, ungodly manipulations and low budget implementations are taking place.

The legislature should live above the board in all its public and private functions. The interest and unity of the country should override personal and collective interests of the legislative members. Congressional assignments are not and will not serve as sources of exploitation to enrich oneself. Dignity, integrity, fair play, accountability and transparency in the act of governance must always be the watch word of the legislature. The legislature should see their membership in the National Assembly as a call to national duty which demands sacrifice, commitment to duty, sincerity of purpose in all aspects of governance and a demonstration of the true representatives of the people. Fraudulent enrichment is abhorred because it is a total aberration from our social value, against ethics of good governance, a disservice to expectations and aspirations of those who mortgaged their political power into your hands to represent their interest in government. Remember, these same people you will definitely meet again on your way to the village. Which face and eyes will you use to look at them? Orderliness, patience, perseverance, diligence and patriotism provide the answer for “service to mankind”. For as long as the above fraudulent incidents persist and invariably contribute further in undermining the system of government in this country, attainment of political stability and socio-economic development is certainly elusive in the near future.

The functions of the legislative oversight should advance beyond mere investigation and recommendation. There is need for constitutional and/or legal teeth to be structured for effective and efficient legislative oversight, as a watchdog on the executive arm and its agencies, to bite culprits or cause the persons found culpable to be sanctioned to serve as deterrent. The legislature should have legal power to compel the executive arm of government to take appropriate action to institute judicial panel of inquiry on matters that have been completely investigated by the legislature and the reports on such cases have been duly passed on to the executive to take logical conclusive action. The legislature should have legal power to ensure that the executive would actually be cause to take such conclusive action on the matters referred to it by the law-makers. The era where cases are buried for fear of exposing powerful elements in government ought to be a thing of the past.

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