

Original Paper

The Legislature and the Challenges of Political Institutionalization in Nigeria's Fourth Republic

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Abstract

Towards the close of the 20th century, sensational political changes took place in Africa and in other Third World Countries (TWCs), which ignited widespread democratization in several nation-states previously under diverse forms of autocratic regimes. However, the zeal and enthusiasm with which these TWCs embraced democratization diminished as soon as elections were concluded, thus jeopardizing the sustainability of the emerging democracies. For instance, in African states, democratization has remained problematic. The dilemma is that there exists an articulated desire to democratize the polity but the spirit, commitment and political will to actualize this desire is to say the least, lacking. Indeed, elected and appointed political office holders at all tiers of government circumvent and subvert the democratization process through the deflation of the constitution and all known democratic norms and principles. Sadly, this allows the State to suffer, in most cases, from the personalization of state authority. Democratization as a process enthrones structures that were hitherto not in existence in the state. The strength or otherwise of any democratic governance is therefore a function of the extent to which actors are able to internalize democratic etiquettes and also foster political institutionalization. Invariably, political institutionalization can only be guaranteed when democratic regimes are sustained. This paper, therefore, examines the challenges of institutionalizing a very critical component and arm of Government in Africa (that is, the Legislature), but with particular emphasis on Nigeria since the return of democratic governance in 1999. The paper argues that within this period, the legislature faced numerous challenges which made it difficult for her to institutionalize itself within the power matrix of the presidential system, which the country's present democratic arrangement is anchored on. While identifying some of these challenges, the paper contends that except

political institutionalization is guaranteed, democratic regimes can hardly be sustained in Africa. The paper adopts a historical approach, employing descriptive, narrative and empirical tools in arriving at our conclusions.

Keywords

legislature, institution, institutionalization, democracy, democratization

1. Introduction

Towards the close of the 20th century, sensational political changes took place in Africa and in other Third World Countries (TWCs), which ignited widespread democratization in several nation-states previously under diverse forms of autocratic regimes and Nigeria was not left out. However, the zeal and enthusiasm with which these TWCs embraced democratization diminished as soon as elections were concluded. This was because most of the emerging “democrats” personified themselves over and above democratic institutions, thereby jeopardizing the sustainability of these emerging democracies. For instance, Nigeria switched from the British-type parliamentary system of government to the America-type presidential model in 1979, and adopted the same model in 1999, after about two decades of military incursion into the nation’s political space. A major high point of the return of democracy in 1999 was the re-introduction presidential system of government with its attendant theory of separation of powers and the concept of checks and balances. The reasons why the departing military officers adopted the presidential model over the parliamentary type has already been addressed elsewhere and so that should not detain us here (Note 1). Be that as it may, the preference of the military for the presidential system hinges on the fact that “the presidential model has clear lines of authority similar to military command structure and authoritarian logic (Note 2)”.

It should be noted that democracy generally is predicated on the establishment and existence of strong institutions—the executive, legislature, judiciary, police, press, anti-graft institutions and so forth—to drive the process. Invariably, democratization as a process enthrones structures that were hitherto not in existence in the state particularly during military rule. The strength or otherwise of any democratic governance is, therefore, a function of the extent to which actors are able to internalize democratic etiquettes and also foster political institutionalization. In this connection, political institutionalization can only be guaranteed when democratic regimes are sustained (Note 3). Unfortunately, much of Africa and Nigeria in particular has continued to face the challenge of strengthening democratic structures and institutions. For instance, the legislature is one of the most critical arms or institutions of government that was restored in 1999. The legislature is not just one of the critical tripods that constitute the trinity of democratic governance, it is also fundamentally saddled with the responsibility of lawmaking, representation, oversight and other quasi-judicial functions. Regrettably, by 1999 very little was known about this institution in Nigeria and this could be attributable to three reasons: “one, the ideological nature of its historical institutionalization, two, its institutional underdevelopment and bastardization by military praetorianism, and three, its peripherality in the political economy of resource control and

distribution (Note 4)". These factors among other salient ones have woven a complex tapestry to give shape and definition to the texture and tenor of the legislature in Nigeria.

Consequently, since the re-introduction of the legislature in 1999, it has faced the challenge of institutionalization not just from the public but essentially from the executive branch, a development that has continued to create needless frictions and conflicts between the legislature and the executive. This is largely explainable within the context of the consummation of legislative powers by the executive during the long years of colonial and military rule (Note 5). Since it became the tradition of military heads of state to enjoy overwhelming executive and legislative powers, the Obasanjo presidency from 1999-2007, tried to continue with this tradition through his persistent attempts to dominate the legislature by overtly involving himself in the politics of who leads both chambers of the legislature (Note 6). This led to serious contestations power between the executive and the legislature and which presented the latter as the weeping child in this contest. The activities of the Obasanjo presidency diminished the legislature and was also a serious infraction to the institutionalization of the activities of this critical arm of government. This paper is therefore set to examine the factors and forces responsible for the challenges of institutionalization confronting the legislature in nation's burgeoning democracy and also propose the way forward. To conveniently do this, this paper is divided into five sections. After the ongoing introduction, section two will examine conceptual and theoretical issues and perspectives, while section three will trace the historical underpinnings of the challenges of political institutionalization of the legislature. Section four will examine the specific challenges confronting the legislative institution in its bid to perform its statutory functions, while section five concludes the paper.

2. Theoretical Perspective

Political institutions are critical in attaining the ends of democracy. Democracy is certainly not an end in itself but the beginning of an end. That is why beyond democracy, some scholars are beginning to pay more emphasis on democratization. Whereas, democracy places emphasis on governments established on the basis of people's power (Note 7), democratization implies not just the introduction of new political institutions but also the empowerment of such institutions and structures to acquire autonomy and competence in the performance of their specified functions (Note 8). In this context, "democratization is a transitory, continuous and an on-going process of transformation from one system to another under a democratic arrangement (Note 9)". Ayo Akinbobola is very apt in his definition of democratization which emphasizes institution strengthening. To him:

Democratization as a universal dictum should be seen as a process of structural and cultural amelioration of the institutions of state, a means of transformation from institutional emasculation to a new lease on political life of structural differentiation and cultural secularization (Note 10).

Arising from the above explanation, this paper adopts the theoretical perspective which hinges on the fact that it is the strength and stability of political institutions that determines the health of any

democratic system. Proponents of this perspective, Daron Acemoglu and James Robinson (Note 11), have argued and also demonstrated substantially in their incisive book that nations have failed because of the nature and character of the institutions they have developed over time. According to them:

The political institutions of a society are key determinants of the outcome of this game. They are the rules that govern incentives in politics. They determine how the government is chosen and which part of the government has the right to do what. Political institutions determine who has power in the society and to what ends that power can be used. If the distribution of power is narrow and unconstrained, the political institutions are absolutist, as exemplified by the absolutist monarchies reigning throughout the world during much of history (Note 12).

The point being made here is that political and economic institutions can be *inclusive* and encourage political and economic development, or they can be *extractive* and become impediments to political and economic development. Nations fail when they develop extractive political and economic institutions that impede and even block economic growth and political development. Most nations in Africa today have failed because—on purpose—they have deliberately developed extractive and weak political institutions like the legislature at the detriment of inclusive institution that would serve as the spring board of development. The central argument here is that the choice of institution is central to our quest for understanding the reasons for the success or failure of nations.

3. Historical Perspective on the Development of a Weak Legislative Institution in Nigeria

One of the hallmarks of any democracy is the extent to which the institutions of government are freely able to exercise their statutory constitutional powers. Under the Presidential system of government adopted by Nigeria in the Second and Fourth Republics, the powers of each branch of government are separate and clearly defined, and each branch is expected to operate within its sphere. This strengthens institutions and also ensures effective functioning of government. History is however replete with a long period of emasculation of the legislature, which has posed series of challenges to this burgeoning institution in contemporary times.

The history of the legislature in Nigeria is actually very chequered. From the onset when what appeared to be a semblance of a Legislative Council was introduced in 1862 in Lagos under the British Crown Colony administration, it was basically aimed at furthering, not the interest of the people it was introduced for but that of the crown colony administration (Note 13). The subsequent colonization of Nigeria and the establishment of various Legislative Councils from 1914 to 1960 appeared to be mere window dressing, as these councils were clothed with no legislative powers at all. From the Clifford to the Lytletton Constitutions, the legislature served essentially in advisory capacity. The Governor General was clothe with enormous power that the establishment of the Legislative Council was more or less a vent, to enable the few African representatives ventilate their grievances on a number of issues. Consistent with the colonial policy, the legislature, therefore, had very limited powers (Note 14). The

legislature during colonial rule was designed in such a way as to subordinate it to the executive branch. Martin Wight has strengthened this argument thus:

A crown colony government is built on two great principles of subordination, namely, the legislature is subordinate to the Executive Council and the colonial government is subordinate to the imperial government (Note 15).

For example, the Clifford Constitution circumscribed the powers of the Legislative Council with respect to powers of proposing ordinances and resolutions, instead the new constitution granted the power of initiating money resolution solely to the governor. Importantly, the legislators were denied the opportunity of voting collectively or individually against government's proposals. Most of these colonial constitutions stretched the powers of the governor beyond limits at the detriment of the legislature. The reason for this type of centralization of powers was not far-fetched: the colonial administration was certainly unprepared for devolution or separation of powers because such an action would have been at variance with some of their policies that required firm and effective control of their colonies (Note 16).

The story was not in any way different in subsequent years, particularly during military rule, as successive juntas further depleted the efficacy of the legislative institution. Prior to 1966, civilians who led the country respected the provisions of the constitution, especially by valuing the sanctity of the legislative institution. However, the military government that usurped power changed all that. In place of the constitution, the military ruled by decrees that contained extra-judicial clauses. In addition, through the Supreme Military Council (SMC), the military, led by the Head of State, appropriated the law-making power vested in the legislature. Consequently, the Supreme Military Council (SMC) emerged as the highest law and policy making body in the country. This contortion has remained one of the most painful features and legacies of military rule in Nigeria. The truncation of the activities of the legislature by the soldiers seriously contributed in weakening the legislative institution.

Between 1966, when the military took over power in Nigeria, and 1999, when the military dictators transformed themselves into civilian rulers, a total of 291 decrees were promulgated that contained ouster clauses (Note 17). The entrenched military culture of over centralization of powers and blatant disregard for the rule of law, was inherited by the civilian administrations of 1979 and 1999. This culture of impunity introduced into Nigerian politics by the military and imbibed by civilians can be said to be the source of the weak political institutions inherent in the country. Due to the military hang over, successive civilian presidents have tended to behave as if all powers—including legislative powers—belong to the executive and in the process over stepping their constitutional boundaries. Abdullahi Mahdi terms this executive recklessness a recurring phrase in Nigeria's political dictionary, which was first coined by Justice Kayode Eso, on account of the tendency for pervasive lawlessness beginning with the advent of military rule (Note 18).

The over centralization of power in the Head of State heralded by the suspension of the 1963 constitution reached its zenith under General Ibrahim Babangida. As the so-called military President,

he had a firm control over the commonwealth and resources of Nigeria, and with the support and loyalty of the Nigerian elites that could not survive outside of government patronage. He quickly emerged a tin god, awash with sycophants and praise singers (Note 19). Apart from the elite, a terrible culture in which everyone depended on the executive for patronage emerged.

From the foregoing, it can be argued in a certain historical sense that two essential factors account for the weak legislative institution in the Fourth Republic. First, is the administrative policy of the colonial government to prevent the emergence of any viable legislature before 1960; the second factor is the authoritarian nature of military rule that was highly intolerant of any form of opposition or checks. The excessive concentration of power in the hands of the executive, for many years during colonial rule and under the various military regimes, created a penchant for an executive that prefers to dominate the other branches and institutions of government.

4. Specific Challenges Confronting the Legislature in the Fourth Republic

Arising from its weak foundation, the legislature, like many other institutions of state, has been confronted with several challenges since its re-introduction in 1999. These weaknesses have posed and are still posing serious challenges towards the attainment of inclusive political institutions that would translate to sustainable political development of the country. Some of these challenges are examined hereunder:

In the first place, the legislature has been confronted with the challenge of independence. Since its re-introduction in 1999, the executive has overtly and consistently been interested in who leads both chambers of the National Assembly and state Assemblies. The executive contemplated the need to control the parliament early in the day by imposing their surrogates in the leadership. Such attempts created supremacy battles between the executive and the legislature and weakened the former's cohesion. Isawa Elaigwu was more forthcoming on this issue:

At the federal and state levels, the executive branch goes beyond mere interest, to impose pliant leadership on the legislature. At all tiers of government, pliant candidates were sponsored by the executive branch ... in order to control the legislature (Note 20).

There are several examples at the federal and state level to buttress this argument. For example, in 1999, the Obasanjo presidency worked assiduously, albeit successfully to impose the first senate president, Evans Enwerem and speaker of the House of Representatives, Salisu Buhari, to the chagrin of some legislators. This imposition created serious conflicts between the executive and the legislature. Sadly, this took place at a time that the nation would have been nurturing its democratic institutions after several years of military rule. As should be expected, these leaderships did not last neither did the subsequent ones. From 1999 to 2003, the senate produced three senate presidents, while the House of Representatives produced two speakers, albeit serious crises (Note 21). At the state level, newspapers were inundated with headlines, stories and editorials of state governors that had played invincible roles in the impeachment of their respective speakers using state resources and apparatus (Note 22).

Another major setback to the challenge of the institutionalization of the legislature is the complexity in the nature and character of the legislative bureaucracy. Thirteen years after the return of democratic governance in Nigeria, most legislative bureaucracies in the country are still tied to the apron-strings of the executive branch and this has distorted the growth of this institution and trampled on the principle of separation of powers, which the 1999 Nigerian Constitution as amended is anchored on. For instance, sections 51 and 96 of the 1999 Constitution as amended provide that the National Assembly and each state in the federation should establish an Assembly Service Commission. Unfortunately, only NASS and a very few states have been able to achieve this feat. In some states where this bill has been passed into law, such Commissions are yet to be established by the executive (Note 23).

The establishment of state Assemblies Service Commission is very fundamental since the independence of the legislature cannot be discussed outside the framework of having an effective Assembly Service Commission. The Assembly Service Commission guarantees security of tenure for staff of the legislature and insulates them from the unwarranted postings of trained work force from the legislature to the executive, where the skills already acquired are not required. This practice has made it practically impossible for staff in the legislature to be fully professionalized and make a career within the legislative Bureaucracy. The vexed issue of the independence of the legislative bureaucracy has been a course of concern to the legislature. The continued appendage of the legislature to the executive arm of government in most states is a bane to the institutionalization of the legislative bureaucracy; it is also a decimal in our democratization process (Note 24).

There is also the challenge of funding, or put differently, the financial autonomy of the legislature. The financial autonomy of the legislature requires that the funding of this branch of government should be placed on first line charge, to enable the legislature carry out its activities without let or hindrance. In this connection, the legislature would not have to depend on the executive arm for funding as has been the case in most states. The situation where the legislature depends entirely on the executive branch for the execution of its own programmes is not healthy for political institutionalization of this arm of government (Note 25). Attempts to amend the 1999 Constitution by the 6th Assembly to place State Assemblies on first-line charge was unsuccessful because the thirty six States Assemblies were unable to meet the two-third majority required to effect that amendment. The financial autonomy of the legislature is very critical because the quantity and quality of training of legislators and parliamentary staff can only be improved when the legislature is financially strengthened.

In addition, the legislature in Nigeria is seriously facing perception challenges. Most members of the public are still yet to come to terms with the relevance of this arm of government. This negative perception arises from the credibility deficits that the federal and state legislators have continued to face. For instance, the legislature was constantly and frequently enmeshed in clannish, primordial and partisan interests. Their proclivity towards themselves, implicit in their greed, personal aggrandizement and self-centeredness has contributed to this negative public perception. There were also instances where the legislature engaged the executive in needless controversies. Unfortunately, most of its actions

were often reactive rather than proactive. The legislature, more often than not, failed to take the issue of its internal democracy and general constitutional responsibilities seriously, by putting itself on a moral high ground through the advancement of the ideas of transparency and accountability in the conduct of its activities. As it has been noted elsewhere:

In the end, the public perception of the legislature was quite negative, as it saw this institution more as a liability or democratic deficit than an institution of government, constitutionally created to serve its interest. Granted that on some few occasions it took far reaching decisions that touched the lives of the people, but on a general note, it performed dismally (Note 26).

Giving the enormous constitutional responsibilities vested on the legislature by the 1999 constitutions as amended, the general public expectation as regards how this arm of government should discharge this onerous responsibility is often very high. Apart from acting as checks on the executive branch, the legislature is expected to enact legislations and also educate the government on various government policies but this has hardly been the case. However, for the legislature to be able to rejig itself, it must evolve and develop a viable legislative culture and practice, especially on how to engage the executive branch without necessarily overheating the polity. Also there is need for debates in the legislature to transcend sectional and primordial interests (Note 27). The legislature must also learn how to advance the principles of transparency and accountability in the conduct of its affairs. Only then can it act as watchdogs to the executive, for it is imperative that those who go to equity should do so with clean hands.

Further still, the legislature still faces the challenges of political institutionalization because of its inability to connect with the electorates. Since the return of democracy, most legislators disappear from their constituencies as soon as they are inaugurated. Most of them do not have constituency offices let alone organize constituency briefings to inform their constituents' on proposed government policies, programmes and legislations (Note 28). Such meetings engender interactions between the legislators and his constituents and also provides an opportunity for the former to get feedbacks from the latter. Entrenched democracies consider legislator-constituency relations critical in institutionalizing the activities of parliament and also building public trust and confidence in their representatives. In the absence of such meetings, interactions and interface, the legislator and the legislative institution is perceived as a needless institution, established to waste tax payer's resources.

5. Conclusion: Towards Institutionalizing Parliaments in Nigeria

The nature and character of political or economic institutions established in a country would ultimately determine the success or failure of that country. History is replete with several countries that failed because they established extractive political and economic institutions instead of inclusive ones. What this means is that the nature and quality of institutions, or perhaps, the politics of institutions are key to our understanding of the successes or failure of states. Since the return of democracy in Nigeria, the

country has been unable to develop solid, viable, strong and independent institutions that would drive the development process. Democracy does not necessarily translate to democratization and institution building. Whereas there is democracy in Nigeria, the institutions to drive the democratization process such as the legislature are weak and more or less extractive. This paper has shown that the Nigerian legislature faces fundamental challenges which has continued to hinder the successful institutionalization and sustenance of the democratic process. This is largely attributed to the nature and character of the type of institutions (especially the legislature) bequeathed to the country by the colonial administration and by successive regimes in the post-military era. Some of the challenges confronting the legislature which the paper dwelt extensively on are unnecessary interference in its activities by the executive branch, weak institutional capacity, lack of independence/autonomy (especially in the area funding), and the negative public perception of the institution, which has been created by the actors in the institution.

For the legislature to become a more viable institution in the political and democratic process in Nigeria, it must necessarily have to rejig itself. First, it is important for legislators to recognize the powers vested in the by the 1999 constitution as amended and guard same jealously; second; it must develop and evolve a viable legislative culture and practice, especially on how to engage the executive branch with necessarily overheating the polity. In this connection, the legislature should learn to be more proactive (rather than being reactive) with the executive branch; thirdly, for the legislature to institutionalize itself and change the negative public perception, it would need to be more answerable to the people who elected them by inculcating the values of probity and accountability in the discharge of its duties; and lastly, legislators must regularly connect with their constituencies—such legislator/constituency relations would strengthen the bond between the former and the latter and would also go a long way in institutionalizing the legislature.

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Notes

Note 1. For more details of this factors, read P. I. Ukase, *A History of Executive-Legislative Relations in Nigeria, 1914-2007* (Ibadan: University Press), 2014 and P. I. Ukase, "Presidential System and Executive Recklessness in Post-Military Nigerian Politics: Implications for Inter-Branch Relationship". In W. Bokelmann, O. Akinwumi, U. M. Nwankwo, & A. O. Agwuele (Eds.), *African Leadership Challenges and other Issues* (Belin-Germany: Mediateam IT Educational Publishers, 2012).

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Note 4. Ukase, P. I. (2010). *Performance Evaluation of the Benue State Legislature, 1999-2007* (Makurdi: Aboki Publishers), p. xviii.

Note 5. See Ukase, P. I. (2010). *The Nigerian Legislature in Historical Perspective: Challenges and Prospects, 1960-2010*. In O. Akinwumi, M. M. Adamu, & P. Ukase (Eds.), *Nigeria at 50: The Challenges of Nation Building* (Zaria: ABU Press), A Publication of the Historical Society of Nigeria, 2012.

Note 6. See Adejumbi, S. "The Relevance of the Presidential System of Government to Nigeria's Quest for Democracy", p. 50 and P. I. Ukase, *A History of Executive-Legislative Relations in Nigeria...* p. 50.

Note 7. For more details on democracy read P. I. Ukase, "Followership Deficit and Its Implications for Democratic Governance in Nigeria's Fourth Republic". In C. C. Osakwe (Ed.), *Leadership and Complex Military Operations* (Kaduna: Nigerian Defence Academy), 2016, pp. 39-40.

Note 8. P. I. Ukase, "The Role of the Military in Nigeria's Democratization Process in the Fourth Republic", *Benue Valley Journal of Humanities*, Vol. 7, No. 2, 2007, p. 32.

Note 9. Also see P. I. Ukase, "The Role of the Military in Nigeria's Democratization Process", p. 32.

Note 10. A. Akinbobola, "Trends of Democratization in Africa...", p. 3.

Note 11. For more elaborate details on this perspective see D. Acemoglu and J. A. Robinson, *Why Nations Fail: The Origins of Power, Prosperity and Poverty* (Great Britain: Profile Books Ltd), 2013.

Note 12. D. Acemoglu and J.A. Robinson, *Why Nations Fail...*, pp. 79-80.

Note 13. P. I. Ukase, "The Nigerian Legislature in Historical Perspective...", p. 35.

Note 14. See M. Wight, *British Colonial Administrations* (Oxford University Press), 1952, p. 17.

Note 15. M. Wight, *British Colonial Administrations*.

Note 16. R. Uwechue (Ed.), *Africa Today* (London), 1999, p. 1457.

Note 17. P. I. Ukase, *A History of Executive-Legislative Relations in Nigeria...*, p. 107.

Note 18. A. Mahdi, "We Can Actualize Our Dreams as a Nation", 6th Annual Public Lecture of the Ahmadu Bello University Alumni Association, Rivers State Branch, held on the 10th December, 2004, p. 21.

Note 19. A. Mahdi, "We Can Actualize Our Dreams as a Nation," p. 21.

Note 20. See J. I. Elaigwu, "Democratic Governance and Political Instability in Nigeria," *Benue State University Convocation Lecture*, 2004, p. 127.

Note 21. For more details on these conflicts read P. I. Ukase, *A History of Executive-Legislative Relations in Nigeria...*

Note 22. Details of these conflicts can be read in P. I. Ukase, "Performance Appraisal of Margaret Icheen's Leadership of the Benue State Legislature, 1999-2002", *Veritas Journal of Gender and Women Studies*, Vol. 1, No. 1, 2014.

Note 23. P. I. Ukase, "Parliaments and the Challenges of Bureaucratic Institutionalization in Nigeria's Fourth Republic", Paper delivered at the National Delegate Conference of the Parliamentary Staff Association of Nigeria (PASAN) held at Empire Suits, Makurdi on 25th April, 2012, pp. 5-7.

Note 24. P. I. Ukase, "Parliaments and the Challenges of Bureaucratic Institutionalization....," p. 6.

Note 25. P. I. Ukase, "Parliaments and the Challenges of Bureaucratic Institutionalization....," p. 11.

Note 26. P. I. Ukase, Performance Evaluation of the Benue State Legislature, 1999-2007, p. 79.

Note 27. P. I. Ukase, Performance Evaluation of the Benue State Legislature, 1999-2007, p. 80.

Note 28. P. I. Ukase, Performance Evaluation of the Benue State Legislature, 1999-2007, p. 80-81.