

The Legislature and the Challenge of Corruption in Africa: The Nigerian Case¹

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The paper investigated the power and roles of the legislature in resolving political corruption as one of the challenges facing democratization project in Nigeria. The paper revealed that contrary to the opinion that national legislatures are declining in terms of the roles they perform in democracies, the National Assembly in Nigeria is central to the resolution of the challenge posed by political corruption to Nigeria's democracy and development. The National Assembly through its exercise of investigative powers and establishment of some legal instruments was able to expose some corrupt practices between 1999 and 2008. Due to the identified limitations regarding its performance of this function, the paper argued that the effectiveness of the legislature in the resolution of democratic challenges hinges on the performance of its functions according to the rules and norms of democracy and the resolution of its internal crisis. The paper posited that democracy can flourish in Nigeria and Africa; if the capacity of legislatures at all levels could be strengthened to address critical issues relating to constitutionalism, corruption, poverty and the national question, check the excesses of the executive, and collaborate with the judiciary to avert the consequences of "democracy by court order", as well as empower and work with the civil society. By implication, a more pro-active National Assembly that is ready to set the priorities right as well as resolve its internal crisis democratically, is critically needed in Nigeria.

Key Words: Legislature, Democracy, National Assembly, development, political corruption, Nigeria

Introduction

Democratization project is facing a lot of challenges in Africa. Democratic reversal rather than democratic consolidation is imminent in most African states. With the coups in Guinea, Mauritania, Niger and Madagascar; flawed electoral processes in Nigeria, Kenya, and Zimbabwe, conflicts in Congo Democratic Republic, Sudan, Cote D'Ivoire as well as political repression and social dilemmas in Cameroon; the fluctuating fortunes of democracy in Africa cannot be doubted. However, the peaceful democratic transition via December 2008 and January 2009 elections in Ghana which is considered as a radical departure from existing norms broke the gremlin that African people are not capable of operating democracy.

Frequent electoral fraud is indicative of why democracy in some of the countries in Africa has continued to degenerate at an alarming rate (Mentan, 2009: 23). The prevalence of electoral corruption and electoral violence in these countries has been seen as a manifestation of a trapped democratic process (Pastor, 1999). It is not surprising that after two decades of embracing multi-partyism in most of the African countries, the democratization process has failed to bring about fundamental and lasting changes in domestic power structures. In addition, the democratization project, has not fundamentally led to a qualitative improvement in the living standards of the majority of the African population who continue to be mired in poverty, squalor, hunger and disease (see Abrahamsen, 2000, Edigheji, 2005). The recent revolts in the Arab countries in Africa Tunisia, Egypt, Libya and beyond Africa in Yemen and Syria are not unrelated to democratic governance deficit. Strictly speaking, poverty, corruption and a long time of dictatorial rule contributed to all these

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revolts. These violent revolts that reached their climax in early 2011 led to the exit of President Zine El Abidine Ben Ali of Tunisia and President Hosni Mubarak of Egypt. It is reported that “encouraged by recent protests in Tunisia and Egypt, protesters are demanding the end to corruption and the 30-year rule of President Ali Abdullah Saleh” (The Poch Times, 2011) of Yemen. The Economist Magazine (February, 2011: 22) points out:

Some 40% of Egyptians still live on less than \$2 a day. In recent years, even as Egypt's overall economy has grown apace and more consumer goods have filled even lower-income households, the poor have won little relief from relentlessly rising food prices and sharper competition for secure jobs.

Specifically, in Nigeria, a decade after a political transition to democracy, citizens continue to face enormous challenges. More than 60% still wallow in poverty, corruption is endemic, HIV/AIDS is spreading like wildfire, unemployment is growing, about 70 million are uninformed and life expectancy year is decreasing. Besides, there are crises of legitimacy, constitutionalism, security, national question, and dwindling international image. These attributes have contributed to the diminishing quality of human life in the country. Recently, over 70% of Nigerians are reported to be living below \$2 per day and the 2009 Global Corruption Barometer released by Transparency International listed Nigeria among the most politically corrupt nations in the world (see Nigerian Tribune, September 14, 2009).

Although, varied reasons have been adduced for the above scenarios, it is assumed in this paper that most of these challenges facing democratic experiment in Africa, particularly in Nigeria have their root in weak legislative institutions. The legislature as the engine of democratic governance is expected to make laws that would set the agenda

for the government and regulate the conduct of the people. Apart, its oversight and representational duties are critical to development which is considered as one of the ends of democracy. In essence, the paper investigates the power and roles of the legislature in resolving challenges facing democratization project in Nigeria. It is well established in the literature that the legislature is critical to democratization project. Nevertheless, the significance of this representative institution in addressing challenges of democratic governance is less pronounced in most of the studies on democratization in Africa. This is the fissure that this paper attempted to fill.

The above gap is based on the perceived declining role of this institution of politics. In fact most legislative studies, which focus on the national or central legislative bodies, have found that its role is declining (Ball, 1985: 158, Jewell, 1997: 172-178, Shivley, 1997: 294, Solt, 2004: 156). This paper does not assess the performance of the National Assembly nor state legislatures but attempts to document the significance of these political institutions in addressing the issue of political corruption, which is considered as the most challenging challenge of Nigeria's nascent democracy. Although the empirical illustrations throughout the paper are from Nigeria, it is assumed that the framework can also serve as a useful guidepost for analysis and comparison in sub-Saharan Africa. The major argument advanced in this paper is that the fortunes and misfortunes of democratic governance in Nigeria not unlike in other African countries are determined by the powers, functions and performance of established legislative institutions.

Theoretical Framework

Theoretically, this paper is rooted in the neo-liberal democratic theory as advanced by John D. May (1978), Bingham Powell (1992), Arend

Lijphart (1994), and Kola Owolabi (1999). The theory emphasizes increasing participation as the only antidote to 'system creep' toward despotism and the only independent check on governments, corporations, state apparatus, and other wielders of power. The neo-liberal democratic theory apart from being too legalistic and procedural in nature, it is significant in the analysis of the role of the legislature as the representative assembly that is expected to promote popular participation and to serve as an effective check on government.

To have a comprehensive understanding of the role of the legislature in the fight against corruption, the paper adopted the accountability thesis. This thesis has been advanced in the literature on democracy to explain the ingredients of good governance necessary for democratic sustenance. Although a comprehensive system of accountability comprises institutions of accountability of three forms - horizontal, vertical and external, the emphasis of the paper is on the horizontal accountability. The most basic institution of horizontal accountability is the law, which must prohibit all forms of bribery, nepotism, conflict of interest, and misuse of public funds.

Although comprehensive anti-corruption legislation is necessary, according to Diamond (2004: 227), it is not sufficient particularly in detecting improper enrichment of elected public officials. To him, declaration of assets by public officials which must be made publicly available for inspection especially on the internet is one of the effective ways of tackling corruption, while a comprehensive and coherent legal code that is well documented and accessible to the public, freedom of information, establishment of anti corruption bodies and ombudsman's office and parliamentary oversight committees (to monitor and legislate on particular areas of government policy, such as health, public works, or defence) are also essential. The accountability thesis is analytically significant,

as it provides the basis for understanding the relevance of law-making organ in democratic governance and the necessity to identify other sufficient conditions for effective resolution of challenges facing democratic governance, most especially, corruption.

Challenges of Democratic Governance in Nigeria

Democratic governance is defined as "the art of governing a community in participatory, deliberative, and collaborative ways" (see Leistner, 2008), most importantly to achieve developmental goals. The emerging conclusions from studies on democratic governance all over the world as well as experience from elsewhere with regard to the practice of democracy, show that it is replete with serious problems everywhere. Diamond observed aptly that "democracy is the most widely admired type of political system but also the most difficult to sustain" (Diamond, 2004:4). With regard to Africa, two of the most daunting challenges facing the continent today revolve around the institutionalization of democratic governance and the achievement of sustainable human development. Some of these challenges are interwoven and have become endemic in most of contemporary African societies. To Matlosa

¹ Horizontal Accountability is the means by which different agencies of government hold other governmental (and political) actors answerable to the law and the public interest. Vertical Accountability is the means by which citizens, from below, hold their government officials answerable for their conduct. External Accountability: is the means by which international actors use their influence and leverage to make states answerable for the quality of their governance and to press or induce them to adopt institutional reforms to improve governance which is sine qua non to development. (for detail on accountability thesis see Larry Diamond, "Building A System Of Comprehensive Accountability To Control Corruption", in *Nigeria's Struggle For Democracy And Good Governance: A Festschrift For Oyeleye Oyediran*, ed. Adigun Agbaje, Larry Diamond, Ebere Onwudiwe, (Ibadan: Ibadan University Press, 2004), 227.



(2003:87), instability is one “of the major challenges for democratic governance in developing societies in general and Southern Africa in particular.”

In Nigeria, prior to 1999, there were myriad problems facing democratization process, some of which were identified by her past leaders (see Soley, 2005:10). When the first civilian regime was toppled in 1966, Major Chukwuma Kaduna Nzeogwu said:

“Our enemies are the political profiteers, the swindlers, the men in high and low places that seeks bribes and demand ten percent... those that have corrupted our society and put the Nigerian political calendar back by their words and deed”

The maiden speech of General Muhammad Buhari after the sack of Alhaji Shehu Shagari led civilian administration reads in part:

It is true that there is a worldwide economic recession. However, in the case of Nigeria, its impact was aggravated by mismanagement.... The situation could have been avoided if the legislators were alive to their constitutional responsibilities. Instead, the legislators were preoccupied with determining their salary scales, fringe benefits and unnecessary foreign travels, et al, which took no account of the state of economy and the welfare of the people represented.

These challenges were identified by late General Muritala and General Ibrahim Babangida (both now retired) after the overthrow of General Gowon and General Buhari's Military government respectively. Bad governance, foreign and local debts, infrastructural deficiency, loss of societal values, bad foreign image, corruption, legitimacy crisis, protests and strikes are some of the credits of 29

years of military interregnum in Nigeria. It was pointed out in the USAID Report on Nigeria for 2007 that Nigeria has not yet overcome a legacy of military rule. The challenges now, according to the Report, are “to struggle to consolidate democratic institutions and the rule of law, reduce rampant corruption; and boost public confidence in the democratic transition.(see International Republican Institute, 2007)

The restoration of constitutional rule in May 1999 heralded the new democratic order in which the numerous challenges of democratic governance and development facing Nigeria were expected to be effectively addressed. These challenges which are peculiar to developing African countries include, according to Ibeanu and Egwu (2007:4),

strengthening the basic institutions of democracy and governance such as the legislature; the sanctity of separation of powers and the rule of law; reducing corruption in the public and political spheres; transparency in the electoral system and the conduct of free and credible elections

Even the late Head of State and Commander in Chief, President Umaru Yar'Adua confirmed the challenges of Nigeria's nascent democracy. To him:

As a nation, one of our greatest challenges has been the evolvement of a culture of disrespect for the rule of law... unbridled corruption, endemic crime, violence, infrastructural deficit and a general malaise in the polity. All these constituted a direct manifestation of disrespect for law and order.(see Aondoakaa, 2007: 143)

Without mincing words, it is glaring from the above testimonies that corruption is a huge recurring challenge in the management of the public space in Nigeria. Today, it has become a defining

characteristic of both military and civilian regimes and described as the core of the crisis of governance, the establishment of a stable democratic order, rule of law, development and the welfare of citizens. Indeed, it is the bane of democratic governance. To corroborate this, the UN office on Drugs and Crime Report of June 2005 shows that, "crime and corruption aggravate the sufferings of the African people, make the poor one more vulnerable, distort economic values, rob national budgets, damages the entrepreneurial spirit, discourage foreign investment, promote capital flight and perpetuate human suffering". (Ayoola, 2007: 136) In one of his speeches in 2005, former President Olusegun Obasanjo identified the negative consequences of corruption. To him, corruption:

... compromises national development, contaminates collective morality and values, distorts national planning, corrodes integrity and discipline, and destroys the foundations of creativity, innovation, and democratic structure and development (Obasanjo, 2005).

In Nigeria, of all forms of corruption, political corruption has continued to be a major hindrance to democratization project and national development. It is defined as an act expressed either in the form of stealing public resources on the basis of access to state power or through money politics to subvert the will of the people (Ibeanu and Egwu, 2007: 185). Diamond pointed out in his work on Nigeria's Perennial Struggle:

No problem, however, is more intractable and more threatening to the future of Nigerian democracy than political corruption. The oil boom has given dramatic boosts to corruption, ostentatious display, and sheer waste (Diamond, 1993).

It is not surprising that the 2009 Global Corruption Barometer listed Nigeria as one of the most politically corrupt nations in the world. That contemporary Nigeria's democratization experiment is facing a lot of challenges is incontrovertible. Wole Soyinka, Nobel laureate and social critic, in his analysis of President Obama's visit to Ghana in July 2009 established that Nigeria's nascent democracy is challenged by a "a plague of incontinent rulers in relay, some in military uniform, others in civilian clothing, but all clones of one another, united in a commitment to unabashed profligacy, mutually assisted corruption and, to add insult to injury, an obsessive hankering for self-perpetuation, necessitating the cultivation of outright disdain for the elementary right of their citizens to a voice in leadership choice" (Soyinka, 2009).

Like few electoral democracies in Africa, Nigeria's electoral democracy has problems of corruption and rotten governance. It denies people their right to choose their own leader through the ballot box due to electoral corruption and violence it exhibits. The out-gone Chairman of the Independent National Electoral Commission (INEC), Professor Maurice Iwu, confirmed this after the 2007 general elections, when he stressed that the elections were the worst in Nigerian history and were indescribably flawed in ways that initially signaled some threats to democratic consolidation in Nigeria (Iwu, 2008: 11).

A credible conclusion about the nexus between political corruption and governance in Nigeria is that civilian and military regimes are not impervious to corrupt practices. Assessment of these regimes from 1960 has shown that cases of corruption in the Nigerian polity were diverse and numerous (See Ibeanu and Egwu, 2007: 185-187). As identified earlier, there are many challenges of democratic governance, because corruption constitutes one of the major ones, the paper is focused on it.



Tackling the Challenges of Democratic Governance: The Imperative of the National Assembly

It is much more settled in scholarly literature that the legislature has important roles to play in a democracy (Hout, 2006: 26, Bello-Imam, 2004: 408, Osaghae, 2004: 340, Agbaje, 2000: 2, Ake, 1992: 132). Specifically, Johnson and Nakamura (1999) pointed out that “effective legislatures contribute to effective governance by performing important functions necessary to sustain democracy in complex and diverse societies”.

Essentially, in a democracy, legislatures play three major roles: they express the will of the people, they pass laws, and they hold government, particularly the executive, to account (Lafenwa, 2006). They also control and administer national budgets. These are fundamental responsibilities (as demonstrated in the paper) that needed to be effectively carried out, if challenges of democratization are to be addressed effectively. Generally, it has been established that the robustness with which the legislature could carry out its functions is always a function of its ability to maintain a degree of internal coherence, relative autonomy vis-à-vis the executive arm, and proximity to the pulse of the electorate (Bello-Imam, 2004: 421). Also important is the extent to which the legislature is itself representative as an institution that captures the diversities of society. Since 1990s, in every African country, as democratic forms of politics were re-introduced on the back of the collapse of military and single party rule, there was a strong brogue placed, formally at least, on the role of the legislature in the building and consolidation of democracy. Inherent in this was the view, broadly shared, that the legislature is the embodiment of the sovereignty of the people. In this role, it was expected not only to make laws for the welfare of the generality of the populace but also to serve both as a democratically-empowered agency

of restraint on the executive arm of government and a forum for the mobilization of popular participation in the broad governmental process (Bello-Imam, 2004). In Nigeria, the story is not different, as legislative institutions were re-inaugurated at all levels of governance as part of democratization programme in 1999. This section examines the significance of the National Assembly in addressing corruption as one of the biggest challenges of democratic governance in Nigeria.

Diamond (2004: 238) posits that corruption can only be effectively controlled through the construction of a comprehensive system of accountability. Thus, for him, the existence of macro-political institutions of accountability, most importantly, the legislature becomes imperative for socio economic development. To Bello-Imam, “the access to state resources without institutions to exercise oversight responsibilities has always provided political and administrative functionaries, who do not have altruistic tendencies, with huge opportunities and incentives for missive corruption” (Ayoola, 2007: 137). This, points out the significance of the legislature, as one of the budgetary and public expenditure management systems and procedures that guarantee transparency.

In the United States of America, like in some other countries, the legislature is often used to change the rule of politics in order to obviate corruption. Specifically, it is pointed out that when corruption appears, the American response has typically been legalistic- to change the rules of politic and hand down extensive codes of ethics for those entrusted with public power (Johnson, 1993: 199). Karlsson has also stressed that Parliament can hold governments accountable through the establishment of legislative committees such as Public Accounts Committee, establishment of mechanisms to strengthen financial accountability, for example, in transparent budgeting and audit

systems; and establishment of centers of authority, such as ombudsman, auditors and comptrollers general. Thus, the legislature uses budget as an instrument of power and governance in a democracy.

Meanwhile, the success of anti corruption crusade rests on a number of structures. Referring to the accountability thesis earlier advanced, one would be the adequacy of the laws to effectively provide a comprehensive framework of offences relating to corruption, proper procedures and penalties. Most importantly, there must be overlapping agencies working on anti-corruption to ensure objectiveness and effectiveness. In many democracies, any legislative committee can investigate suspicions of waste, fraud, and abuse within the executive agencies under its jurisdiction. The legislature in the exercise of its oversight functions is expected to review from time to time the activities of the Anti-Corruption Bodies with a view to strengthening them.

It is believed that the Federal legislature in Nigeria with its constitutional powers ought to be in the forefront in making good laws to engineer national development that is vital to democratic sustenance. Strictly speaking, legislative input is desirable to match the budget more closely with developmental needs. Thus, the effective performance of democratic functions of the legislature as earlier adduced is critical in addressing several challenges facing democratization project in the country. For instance, in performing its representational role, the National Assembly is expected to ensure accountability and transparency in governance to engender public trust. Also, the powers that the National Assembly have over public funds empower it, to a large extent, to curb waste and misappropriation of public resources, while the investigative powers are provided to enable it restrain public officials from abusing public offices for private gains. The

constitutional provision that "no money shall be withdrawn from the consolidated Revenue Fund or any other public fund of the Federation except in the manner prescribed by the National Assembly" (see Section 80 (3) of the 1999 Constitution of the Federal Republic of Nigeria) often provides it with the most direct route from legislative will to executive action. How both Houses of the National Assembly prescribe the manner in which federal spending is executed remains the responsibility of the Appropriation Committees. There is evidence in the 1999 Constitution with provisions in sections 58, 59(2), 59(3) and 59(4) that the Nigerian legislature particularly at the centre is constitutionally unconstrained in the scope and nature of amendments it can make to the budget.

However, for the National Assembly to play a significant role in addressing any democratic challenge, keeping the principle of legislative independence is essential. As Johnson pointed out; "a degree of legislative independence is a virtue in any system of representation, yet democratic politics inevitably keeps legislators and private interests in close contact" (Johnson, 1993: 201). Thus, striking a balance between legislators' independence and their responsiveness to such interests remains a critical task. Besides, a cordial relationship that has legal basis must exist between the National Assembly and other arms of government, most essentially between it and the executive. The critical moral dictum is the requirement that legislators place the public interest before their own private advantage. Specifically, members of House of Representatives and Senate are expected to demonstrate some level of seriousness by being more proactive on some of the sensitive national issues.

For the National Assembly to build political will, which is needed to combat political corruption, legislative system must foster personal integrity of legislators through codes of conduct for legislators-



disclosure of assets, conflict of interest, enacting legislation on campaign and political party finance; building transparency in wage levels and benefits; ensuring that legislative immunity is not abused; enacting legislation regarding the freedom of information; and protecting whistleblowers. It is important to bring about system adjustment in countries where these supporting mechanisms are absent. This may involve counterbalancing the power between the legislature and executive and in some cases between the state and civil society (Johnson, 1993:9).

The National Assembly and the Anti-Corruption Initiatives in Nigeria: The Journey So Far

In Nigeria, it is the functional duty of the state to fight corruption. Section 15(5) of the 1999 Constitution provides that “the state shall abolish all corrupt practices and abuse of power”. Although external factors affect the type and outcomes of most anticorruption policies in Nigeria, a virile and strong legislature at all level of government is a critical factor in the crusade against corruption.

Since 1999, various international bodies have shown interest in helping the country to promote democracy and development. External interventions from international financial institutions like World Bank, International Monetary Fund (IMF), international donors like USAID and United Nations Development Programme (UNDP), international civil society groups like Transparency International (TI), among others, always emphasize good governance characterized with accountability and transparency to promote a corrupt free society. Most of their programmes are geared towards the support of national anticorruption initiatives and the strengthening of political institutions that are needed to control the menace of corruption.

At the domestic level, as bedrock for the fight against corruption, the 1999 Constitution of the

Federal Republic of Nigeria created the office of the Code of Conduct Bureau and identifies its specific functions and powers (Section 153 and third schedule to the Constitution part 1). Specifically, section 153(3c) empowered the Bureau to receive complaints, investigate and where necessary refer same to the Code of Conduct Tribunal (Ayoola, 2007: 137). Section 8 of the fifth schedule defines the powers of the Tribunal to impose punishment for any violations of the provisions of the Code of Conduct for public officers. Regarding the powers of National Assembly with respect to anticorruption crusade, provisions in Sections 88 and 89 of the 1999 Constitution empower it to direct or cause to be directed an investigation into any matter with respect to which it has power to make laws. This could be an investigation into the affairs of any person; agency; authority; government, department or ministry; charged with the duty of either administering the laws made by it; executing them or disbursing or administering money appropriated by it. This function is being carried out in addition to others identified earlier.

It should be noted that in the fight against corruption in Nigeria, the National Assembly, as the law making organ of government, has considered and passed laws to ensure accountability and transparency in every government sphere. Since May 29 1999, the federal legislature has made some attempts to fight against corruption. The first step in this direction was the enactment of the Corrupt Practices and Other Related Offences Act 2000 by the then National Assembly which was signed into law by Ex- President Olusegun Obasanjo on 13th June 2000. The Act established the Independent Corrupt Practices and other Related Offences Commission (ICPC). Section 2 of this Act defines corruption to include bribery, fraud and other related offences. This is followed by the establishment of Economic and Financial Crime Commission (EFCC) in 2003 through the enactment of EFCC Act

2002, which was reenacted in 2004. The Commission was created to enforce certain laws pertaining to economic and financial crimes. EFCC, like the ICPC was vested with investigative and prosecutorial powers for the efficient discharge of its statutory mandate. A Fiscal Responsibility Law was passed in 2007 to allow for a peer review mechanism, to bring executive heads of government together to exchange views on how well counterparts are performing, strengthening budget laws to define the role of stakeholders: the executive, the legislature and civil society so that clear benchmarks can be established.

Moreover, corruption was confronted frontally with several programmes initiated and institutions established and approved by the National Assembly to ensure accountability, probity and transparency in governance. Between 2000 and 2001, the Budget Office was created out of the Ministry of Finance; and the Budget Monitoring Unit and Price Intelligence Unit (BMPIU) popularly referred to as the Due Process Unit. The *raison d'être* was to bring sanity and prudence into public expenditure, budgeting and public procurement in Nigeria which before now were lucrative avenues for corrupt public officials to loot the treasury. To get public officers involved in the Anti-Corruption crusade, the presidency approved the recommendation that anti-corruption and transparency monitoring units in all government departments. The National Assembly, in compliance with the directive from the then Head of Service of the Federation vide a circular referenced OHCSF/MS/192/94, dated 2nd October 2001, accepted an Anti-Corruption and Transparency Monitoring Unit (ACTU) operating within its sphere of activity. In addition, the Federal Executive with the approval of the National Assembly created the Extractive Industries Transparency Initiative (ETTI) aimed at monitoring the extractive industry to know exactly what is being extracted and the revenue accruing there from. This

step has encouraged transparency and accountability in the extractive industries as resource extracted and revenue paid by the companies and received by government and the sum declared are expected to be published by government (see Ayoola, 2007: 138-139). Although these anti-corruption initiatives came on board during the eight years rule of President Obasanjo; the present civilian administration under the leadership of President Umaru Yar'Adua has adopted and retained these programmes and institutions with some minor changes.

The anticorruption efforts of the National Assembly had yielded some positive results. The Senate Committee on Public Accounts in 2001 investigated the Nigerian National Petroleum Corporation (NNPC), Central Bank of Nigeria (CBN), and National Electric Power Authority (NEPA) now Power Holding Company of Nigeria (PHCN) and raised a lot of controversies on the activities of the administrative bodies. The National Assembly also waded into the Petroleum Trust Development Fund (PTDF) saga in 2007, resulted into the indictment of the Vice President, Atiku Abubakar, and the Presidency and the recommendation that they face the Code of Conduct

³ One of the most notable investigations of administrative bodies was, the controversy surrounding the ₦2.3 billion NEPA Fund, that could not be properly accounted for by the then National Electric Power Authority (NEPA) Officials. Similarly, the former Minister of Aviation, Dr.(Mrs.) Kema Chikwe, and the Director-General of the Bureau for Public Enterprise (BPE) were summoned to appear before the committee of the National Assembly on the privatization of the Nigerian Airways Limited (NAL), and the establishment of a new national Airline. The secret deals of the Ministry were exposed and the plans to purchase the assets of NAL under shrouded circumstances were scuttled. Although there have been accusations against members of the legislative committees for using this avenue to procure contracts from these administrative bodies, however, the power of investigation was employed by the National Assembly to summon most of the Ministers and the personnel of their ministries to appear before it to furnish them with explanations on certain major governmental policies and activities.

tribunal for breach of trust and abuse of office. It was concluded by the Senate Review Committee Report on the PTDF, Chaired by Senator Umaru Tsauni, that the duo President Olusegun Obasanjo and Vice President Atiku Abubakar were guilty of breaching the laws setting up the Fund and misapplying its ample funds. It therefore recommended and expectedly, too, that both of them be disciplined by the Code of Conduct Tribunal (Oyewo, 2007: 14-15).

The Obasanjo government in 2005 continued its economic reform efforts under the new regime of anti-corruption laws and won the praise from international creditors for attempt to fight corruption. The Paris Club announced in the same year that it was impressed by Nigeria's economic reform programmes and cancelled \$18 billion in debt. Some stolen public funds were also recovered. It was reported that in 2006, nearly \$460million found in Swiss Bank account linked to former military head of state, late General Sani Abacha was recovered by EFCC. Also, high profile corruption cases have been exposed and some persons involved were made to refund looted public funds⁴. In May 2006, during the debate on the report of National Political Reform Conference, the Senate effectively

⁴Mr. Tafa Balogun, former inspector General of Police, Chief Diepreye Alamaiyesehia, former Governor of Balyesa state, Joshua Dariye, former governor of Plateau state and 3 ministers were removed over allegation of political corruption between 2005 and 2006. They were arrested and charged with graft and money laundering. As at November 2006, 14 governors were under EFCC investigation. Two presidents of the House of Senate were removed over allegations of contract awards and bribes. Another case was the sacked of Patricia Etteh, the first female Speaker of the House of representatives due to inflation of contract awards and bribe, Halliburton scandal involving high profile politicians both former and serving public functionaries. Former Senate President Adolphous Wabara was forced to resign and charged with corruption he was accused of taking more than \$400,000 in bribes, and REducation Minister, Fabian Osuji was fired for allegedly bribing

rejected the legislation that supposed to remove the two-term limitation and allowed third term presidency. Between 2005 and 2006 a sum of \$505.5 million was repatriated and according to study by the World Bank, a significant percentage of those funds were used by the Nigerian government toward meeting the country's Millennium Development Goals (MDGs) (World Bank, 2006).

According to the 2008 Ibrahim Index's comprehensive measures of governance performance, Nigeria improved across all five categories, with the greatest improvement in Rule of Law, Transparency and Corruption in which its score rose by 3.7 points. See the table below for the ranking.

Table 1: Nigeria's 2007 and 2008 Governance Performance Index

INDEX	Category 2007 Score (out of 100)	2008 Score (out of 100)	2008 Ranking (out of 48)
Safety and Security	62.8	63.7	39
Rule of Law, Transparency and Corruption	44.5	48.2	30
Participation and Human Rights	42.9	44.1	34
Sustainable Economic Opportunity	40.4	40.7	23 (joint)
Human Development	45.7	45.9	32

Source: MO Ibrahim African Governance Index 2008

The improvement in the score sheet is not unconnected with the various anticorruption reforms.

On budget review, which is generally regarded as the crucial test of surveillance, though the legislature makes its presence felt on occasions,

, however, it seldom gets high marks. Though, the National Assembly's handling of the budgets especially in 2000 and 2001 fell far below the mark, it has improved in the last six years. It can be said that subsequent budgetary appropriation witnessed an improved oversight of the National Assembly, especially, the Committee Hearings and the defence of the Heads of expenditure by the Ministries and Departments of the Government. However, the attempts of the legislature to control just how and when the appropriated money were to be actually spent did not meet with any obvious success, until the impeachment big stick was employed to soften the President (Oyewo, 2007: 18).

As part of the strategy to curb electoral corruption, the National Assembly passed the Electoral Act 2001, which became effective in 2002 and later after some amendments, re-enacted in 2006. Also the EFCC in February 2007, circulate a list of those standing for political office that it considered to have been involved in corrupt practices, and who were considered "unfit to hold elected office". The former vice president, Atiku Abubakar was one of the 135 candidates on the list. The list includes; 53 People Democratic Party (PDP) candidates, 27 from Action Congress (AC), 39 from All Nigeria People's Party (ANPP) and 19

Wabara and six other lawmakers ; Senator John Azuta Mbata, Chairman, Senate Appropriation Committee; Senator Ibrahim Abdulazez, Chairman Senate Committee on Education; Senator (Dr) Adighije, Senator Badamosi Maccido, Senator Emmanuel Okpede, a member of the federal House of Representatives, Honourable (Dr) Shehu Matazu who is the Chairman of the House Committee on Education to smooth passage his annual budget. After discovering that top officials were to have been among the beneficiaries, Obasanjo fired his Housing Minister- Mrs. Alice Mobolaji Osomo for allegedly trying to sell off more 200 government houses at cut-rate prices. Senator Iyabo Obasanjo-Bello as Chairperson, Senate Committee on Health was sometimes in 2008 alleged to be bribed by the Former Minister of Health, Mrs. Grange from the unspent budget allocation.

others.

In spite of the above, there are several reported cases of corrupt practices that have not been tracked. In addition, electoral malfeasance and other manifestations of political corruption have neither been investigated nor persons involved reprimanded (Ibeanu and Egwu, 2007: 189). Ibeanu and Egwu confirmed that "the efforts of EFCC that initially appeared to have brought corruption into the open and under check appears to have been compromised by the seeming selective enforcement and partisanship of the EFCC, and its use by the executive as a tool of political brinkmanship". From all indications, anti corruption agencies established by different Acts of the National Assembly appear to be more accountable to the executive rather than to the National Assembly and citizens.

There are various factors militating against the effectiveness of the National Assembly in its fight against corruption. The character of the Nigerian state and weak institutional capacity of the legislature, as the agenda setter and as the representative assembly of the people, constitute one of the factors. According to the Report of the Economic Intelligence Unit, the National Assembly was plagued with allegations of corruption and the resultant compromise of their independence (The Economic Intelligence Unit, 2007: 7-9). Recently some House of Representatives members were alleged to have misappropriated public fund in their custody (see Ossai, 2009: 10 for details).

Political corruption in the legislature is considered a recurrent issue in Nigeria's democratic experiment. To Ibeanu and Egwu, it ranges from

¹A law was swiftly passed sacking the Commission and staff while creating a commission with reduced powers. An action was filed against the National Assembly in the federal high court Abuja. The purported Act of the National Assembly was faulted and nullified by the court (See E.O. Ayoola, *Op. cit.*, 139)



from blackmailing the executive with threat of impeachment as a strategy of attracting financial inducement to misappropriation of constituency votes (Ibeanu and Egwu, 2007: 191).

Despite House rules and ethical codes, conflict of interest remains a serious problem, in Nigeria's legislative politics. For instance, in 2003, when the ICPC attempted to investigate certain allegations of a petition against the leadership of the National Assembly, the Assembly rose drastically against the Commission. Constitutional anomalies constitute another critical factor affecting the role of the National Assembly in using its oversight power to control corruption in government. For instance, the 1999 Constitution charges the President with tabling a draft budget before the financial year to which it applies; the constitution does not prescribe exactly when the budget has to be tabled. This omission has generated a lot of controversies between the National Assembly and the executive with respect to budgeting. The National Assembly has also observed instances where expenditures were undertaken for new items never approved by the legislature. Issues such as; excessive 'virement' involving the transfer of resources among different programmes or heads of expenditure within the same vote during the financial year and under-spending need to be addressed by forcing greater compliance with financial regulations ((Wehner, 2002: 219). More fundamental is the fact that most of the investigations that uncovered corrupt practices in Nigeria in the past one decade were initiated by the executive, particularly during the regime of former President Obasanjo. More daunting aspect of these investigations is that some National Assembly members were indicted and found guilty of corrupt practices.

Conclusion

It has been demonstrated in the paper that the National Assembly is central to the resolution of the

challenge posed by corruption to Nigeria's democracy and development. The National Assembly through its exercise of investigative powers and establishment of some legal instruments was able to expose some corrupt practices between 1999 and 2008. It is not surprising that Nigeria is one of the countries that have the highest proportion of people rating their government's anti-corruption efforts as effective (See 2009 Global Corruption Barometer). In fact, the performance of the legislature of the Fourth Republic in Nigeria gives a glimmer of hope for sustainable democracy in the country.

Nevertheless, the role of the legislature in tackling corruption as one of the major challenges of democratic governance was affected in the period of investigation by the character of the Nigerian state, weak institutional capacity of the legislature, constitutional deficiencies, and lack of integrity by members of the legislature who have been indicted one time or the other; undue executive interference among others. In Nigeria, therefore, the effectiveness of the legislature in the resolution of democratic challenges hinges on the performance of its functions according to the rules and norms of democracy and the resolution of its internal crisis.

To be more effective in tackling political corruption as one of the challenging challenges of democratic governance, the paper supports deep institutionalization of the legislature as against its de-institutionalization, since legislative institutions are expected to be governed by laws and not by men. From the foregoing discussion, it is evident that democracy can flourish in Nigeria and in Africa; if the capacity of legislatures- federal, state and local could be further strengthened to address critical issues relating to constitutionalism, corruption, poverty and national question, check the excesses of the executive, and collaborate with the judiciary to avert the consequences of "democracy by court order", as well as empower and work with the civil

society. In Nigeria, *stricto sensus*, a more pro-active National Assembly that is ready to set the priorities right as well as resolve its internal crisis democratically, is critically needed.

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