

THE SCOPE AND LIMITATIONS OF LEGISLATIVE POWERS UNDER THE 1999 CONSTITUTION OF NIGERIA

*Ndubuisi J. Madubuikwe-Ekwe**

*Joseph N. Mbadugha***

Abstract

This paper reviews the power of the legislature under the 1999 Constitution of Nigeria. It discusses the scope of the legislative power and the composition of the National Assembly. It examines the specific functions of the Legislature under the Constitution as well as their limitations. The paper concludes with a recommendation that the 1999 Constitution should be amended to transfer some of the items under the exclusive legislative list to the concurrent legislative list to enable the State Houses of Assembly to legislate on those matters which affect their people directly instead of waiting for the National Assembly to do so.

Keywords: Legislature, Constitution, Democracy, Senate, Assembly, representatives

Introduction

Generally, there are three organs of government: the legislature, the executive and the judiciary. According to Montesquieu,¹ these three arms of government are separate and distinct and should function without any interference from the others.² Modern governmental practices however show the myth and artificiality of the separation of power theory. While contemporary practice has shown interrelationship and interdependence as imperative, every state has also developed its own degree of fusion or

*Ndubuisi J. Madubuikwe-Ekwe, SJD (GGU, San Francisco) LL.M (Ife), BL, LL.B (Hons.) (UNN), Senior Lecturer, Head of Department of Private and Property Law, Faculty of Law, Benson Idahosa University, Benin, Edo State, Nigeria. Email: jekwe@biu.edu.ng

** Joseph N. Mbadugha, BL.,LL.M, Principal, McCarthy Mbadugha & Co., Barristers and Solicitors, Nigeria, Arbitrator & Notary Public; visiting Professor Palacky University, Olomouc, Czech Republic and formerly at Vilnius University, Vilnius, Lithuania and at Nicolaus Copernicus University, Torun, Poland.

¹ Montesquieu, *Espirit des Loix* (The spirit of the Laws) 1748

² For further reading on the doctrine, see N.A. Inegbedion and J.O. Odion, *Constitutional Law in Nigeria*, 2ed. (Benin; Ambik Press; 2011) p. 49-70; Mowoe, K. M., *Constitutional Law in Nigeria*, (Lagos: Malthouse Press Limited; 2008)p. 23-33.

separation of power based on its constitutional framework cum political and administrative conveniences.³

In line with the doctrine of separation of powers, the Nigerian constitution divides the powers of the Federal government among the three arms of government in sections 4, 5, and 6 of the Constitution of the Federal Republic of Nigeria, 1999. The legislative power is exercised by a body known in Nigeria as the National Assembly at the Federal level or House of Assembly at the State level.⁴ Whilst the Houses of Assembly of the various states in Nigeria consist only of one House each (Unicameral system), the National Assembly consists of two Houses namely the Senate and the House of Representatives. This is commonly known as bicameral system of government, i.e. where the legislature consists of two houses, modelled after the British House of Lords and House of Commons, or the United States Senate and House of Representatives. In theory each House acts as a check on the other, prevents hasty or harsh legislations and enforces deliberation and sometimes reconsideration.⁵

The term '*legislative powers*' can be defined as the law making powers of a legislative body, whose functions include the power to make, alter, amend and repeal laws.⁶ Legislation means the formulation of law by the appropriate organ of the State, in such a manner that the actual words used are themselves part of the law: the words not only contain the law, but in a sense they constitute the law.⁷ In essence, the legislature has the power to make laws and such power is reposed exclusively in such body though it may delegate rule making and regulatory powers to departments in the executive branch. It may not however, delegate its law making powers.⁸ According to *Maxwell Gidado*, the legislature by its functions is the bulwark of modern day government.⁹ This is because the working of the other organs of government, i.e. the Judiciary and the executive and the activities of the other entities in the state are moderated and even controlled by the legislature. "It is the legislature that lays down the basic laws, which the judiciary has to

³ Maxwell M. Gidado, "The Constitutional Role of the Legislature Viewed from a Nigerian Prism," University of Jos Law Journal, vol. 10, no. 1, 2015, p. 249.

⁴ Section 4 of CFRN; see, Oforze D. Amucheazi and Francis Moneke, 'The Ambit of Legislative Powers under the 1999 Constitution of Nigeria', NJLPL vol. 1 No. 1 (2009) p.25.

⁵ Ibid, Oforze and Moneke.

⁶ Bryan Garner, *Blacks's Law Dictionary*, 9th ed. (New York: Thomson Reuters; 2014) p. 983

⁷ O. Hood Philips, *Constitutional & Administrative Law*, 7th ed. 1987, p. 9.

⁸ Mowoe, K. M., *Constitutional Law in Nigeria*, (Lagos: Malthouse Press Limited; 2008) p. 93.

⁹ Gidado, supra note 3, p. 251.

interpret and which the Executive has to apply in the implementation of policies and execution of laws.”¹⁰ That is why in a democratic setting the Legislature takes precedence over the other two arms of government, for it represents the sovereign will of the people, in other words it is the legislature alone that is competent to express the will of the people in form of legislations.¹¹ The above definitions are restrictive as they neither fully cover the essence, functions nor the powers of the legislature. An attempt at defining the legislature in terms of a part of its functions or powers is unsatisfactory and definitely does not suit current legislative research focus.¹²

More appropriately, legislature may be defined as ‘the collection of individuals who are elected as members of the formal parliamentary bodies prescribed by national and state constitutions.’¹³ According to Arishe, ‘this definition is more satisfactory as it fully describes the composition and legal character of the legislature (representation and prescription by the constitution) while leaving out such elements like the functions and powers of the legislature which formed the basis of some criticisms about the proper role of the legislature’.¹⁴ Therefore, it may be safe to restrict the definition of the legislature to an assembly which arose as an instrument of representative government; or, representative assembly of elected members from constituencies that makes a branch of government in the state.¹⁵

This paper is divided into five parts. Part I is the introduction and it reviews the power of the legislature under the 1999 Constitution of Nigeria.

¹⁰ Ibid; Ojo, T.I., “The Nigerian Legislature: A Historical Survey”, Vol. 1 (ASCON) 1997.

¹¹ Ibrahim, J.I. “The Legislative Arm of Government: Power, Duties and Responsibilities” in Mato, K. (Ed.) *Legislating for Democracy Proceedings of the Retreat of House of Representatives 2004*; p.6.

¹² Gabriel O. Arishe, *Developing Effective Legislature: The Country Specific Approach to Assessing Legislative Power*, (Benin; Paclerd Press Limited: 2017) p.13; See also Editorial Notes, “The Meaning of “Legislature” in the Federal Constitution”, *Harvard Law Review* 24, no.3 (1911): 220-221.

¹³ Malcom Jewell and Samuel Patterson, *The Legislative Process in the United States*, 3rd ed. (New York; Random House, 1977) p. 3. Law making is an essential aspect of the powers/functions of a legislature though. According to Lowenberg, legislatures are “assemblies of elected representatives from geographically defined constituencies, with lawmaking functions in the governmental processes”. See Gerhard Loewenberg, “*Legislatures and Parliaments*”, in *The Encyclopedia of Democracy* vol. 3 ed. Seymore Martin Lipset (London: Rutledge, 1995) p. 736. See also Arishe, *Developing Effective Legislature*, p. 14.

¹⁴ Ibid, Arishe.

¹⁵ Ibid.

Part II discusses the scope of the legislative power and the composition of the National Assembly. Part III examines the specific functions of the Legislature under the Constitution and Part IV highlights the various constitutional limitations of the Legislature. Part V concludes the paper with a recommendation that the 1999 constitution should be amended to transfer some of the items under the exclusive legislative list to the concurrent legislative list to enable the State Houses of Assembly to legislate on those matters which affect their people directly instead of waiting for the National Assembly to do so.

II. The Scope of Legislative powers under the 1999 Constitution

The legislative powers of the Federal republic of Nigeria is vested in the National Assembly, which consists of the Senate and House of Representatives,¹⁶ while the legislative powers of a state of the federation is vested in the House of Assembly of the State. The constitution provides that the National assembly shall have power to make laws for peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in part 1 of the Second Schedule to this constitution.¹⁷ These matters includes accounts of the government of the Federation; Arms; ammunition and explosives; aviation including airports, safety of aircraft and carriage of passengers and good by air; Banks, banking, bills of exchange and Promissory notes, customs and excise Duties, diplomatic, consular and Trade representation, Exchange control, external affairs, Insurance, Maritime, shipping and Navigation, Patents, trademarks, Railways Stamp duties and any matter incidental or supplementary to any matter mentioned in the list. The State House of Assembly cannot legislate on any matter contained in the Exclusive legislative list, if it does, the law will be declared null and void and of no effect whatsoever.¹⁸ The Constitution clearly reserves the Exclusive Legislative list to the National Assembly.¹⁹

The National Assembly is also empowered to legislate on matters contained in the Concurrent Legislative list set out in the 1st column of Part II of the 2nd Schedule to the Constitution to the extent prescribed in the 2nd column opposite thereto, or any other matter with respect to which it is empowered to make laws in accordance with the provisions of the constitution.²⁰ The Concurrent legislative list contains a list of thirty items

¹⁶ S. 47 of the 1999 Constitution. See Ese Malemi, *The Nigerian Constitutional Law*, (Lagos; Princeton Publishing company: 2015) p. 150

¹⁷ Section 4(2) of the 1999 Constitution

¹⁸ Amucheazi and Moneke, *supra* note 4, p. 26

¹⁹ Section 4(3) of the 1999 CFRN

²⁰ Section 4 (4) (a) and (b) of the CFRN.

stating the extent of Federal and State legislative powers. The items covered under the concurrent list include Allocation and Revenue, antiquities and monuments; archives; Electric power; exhibition of cinematography film, statistics and trigonometrical, cadastral and topographical surveys. Generally, the State Houses of Assembly must not make any law that is inconsistent with any law that has been validly made by the National Assembly, otherwise such State law shall to the extent of the inconsistency be void, and the law made by the National Assembly shall prevail.²¹

The Constitution provides that the House of Assembly of a State House of Assembly shall have power to make laws for the peace, order and good government of the state or any part thereof with respect to any matter outside the exclusive legislative list and any matter included in the concurrent legislative list.²² It also has power to legislate on matters in the Residual list or any matter with respect to which it is empowered to make law in accordance with the provisions of the Constitution.²³ Similarly, a local government council has power to make bye-laws for a local government area, in respect of the functions assigned to it by the Nigerian Constitution, or any other law²⁴.

Therefore, in the exercise of its law making powers, the National Assembly is limited by the constitution to matters over which it is expressly or impliedly empowered to make laws²⁵ and the procedure that has been laid down by the constitution.²⁶ In other words, the Legislature can by the provision of Section 4 (1) of the CFRN not only exercise powers specifically conferred on it by the constitution, but, like the United States,²⁷ it impliedly includes all means of exercising the power to the best advantage,²⁸ and all

²¹ Section 4 (5) of the CFRN.

²² Section 4 (7) (a), (b) and (c) of CFRN.

²³ Ibid.

²⁴ Section 7(5) and the Fourth Schedule to the CFRN: Functions of a Local Government Council; *Akingbade v Lagos Town Council* (1955) 21 NLR 90; *Ekpo v Calabar LGC* (1993) 3 NWLR (pt. 281) p. 324 CA; *Orhiomwon LGC v Ogieva* (1993) 4 NWLR (pt.288) p.468 CA.

²⁵ See Sections 1(3); 4(2) and (4) of CFRN. See also *AG Ogun State v AG Federation* (2002) 18 NWLR (pt. 798) p.232; *AG Lagos State v AG Federation* (2003) 12 NWLR (pt. 833) p.1; *AG Abia, Delta & Lagos States v AG Federation* (2006) 9 MJSC p.1. (In all these cases, the laws made by the National Assembly were declared unconstitutional for going beyond the substantive limits allowed by the Constitution.)

²⁶ See *AG Bendel State v AG Federation* (1982) 3 NCLR 1

²⁷ See the decision of Chief Justice Marshall in *McCulloch v Maryland* 17, US 316 (1819).

²⁸ Mowoe, supra note 8, p. 93.; *Olajire v Superintendent General of Local Police Forces* (1961) All NLR 826; *Lawson v Lawson* (1984) 3 NCLR 1 at 50

matters incidental and supplementary to those enumerated in the legislative lists.²⁹ Furthermore, while the legislature cannot generally delegate any of its essential powers to anybody or persons as was noted by the Supreme Court in *AG Bendel State v AG Federation*,³⁰ it can however delegate regulatory powers to the executive, or confer powers to make subsidiary legislation on a body or person.³¹ These are implied in the original powers delegated to the legislature because of the exigencies of modern government.

Under the doctrine of '*covering the field*', where a matter contained in the Concurrent legislative list has been legislated upon by the National Assembly, and a legislation by a state house of Assembly is inconsistent with the legislation of the National Assembly, such legislation by the House of Assembly will to the extent of its inconsistency with that of the National Assembly be void.³² According to Fatai Williams, JSC, in *AG Ogun State v AG Federation*³³:

It is of course, settled law, based on the doctrine of covering the field... that Parliament enacts a law in respect of any matter in which both Parliament and a regional legislature are empowered to make laws, and a Regional legislature enacts an identical law on the same subject matter, the law made by the Parliament shall prevail. That made by the Regional legislature shall become irrelevant and therefore impliedly repealed.

Composition of the National Assembly

The legislative powers of the Federal government is vested in a bicameral legislature: the National Assembly made up of the Senate and the House of Representatives. Section 47 of the 1999 constitution establishes the National Assembly thus:

²⁹ See item no 68 of the Exclusive legislative list Part 1 of the Second Schedule to the CFRN; *Doherty v Tafawa Balewa* (1961) All NLR 604, FSC.

³⁰ *AG Bendel State v AG Federation*, supra note 26

³¹ Mowoe, supra note 8.

³² Section 4 (5) of CFRN; Amucheazi and Moneke, supra note 4, p.27; For a more detailed discussion of the doctrine of *covering the field*, see Mowoe, supra note 8, p. 62-72;

³³ (1982) 1-2, SC 13; (1982) 3 NCLR 166; *N.K. Adamolekun v The Council of the University of Ibadan* (1968) NMLR 253; see also, F.O. Iloh, "Appraising the Legislative Process in Nigeria and the United States of America: a Comparative Approach" AJLHR 1 (2017) p.128.

There shall be a National Assembly for the Federation, which shall consist of a Senate and a House of Representatives.

The Senate

The Senate is the upper house of the legislature. It is composed of three senators from each state of the Federation and one from the Federal Capital Territory.³⁴ Representation of the States in the Senate is based on the principle of equality of the states.³⁵ Thus, each of the 36 states has three Senators each representing it in the Senate. These Senators are elected by popular vote and usually stay in office for 4 years.³⁶ In respect of representation in the Senate, section 48 of the 1999 constitution provides thus: *There shall be three Senators from each state and one from the Federal Capital territory, Abuja.*

The Senate is headed by a President and a Deputy President who are elected by members of the Senate from among themselves.³⁷ To become a member of the Senate, a person must be a citizen of Nigeria and must have attained the age of thirty-five years.³⁸ He must have a minimum educational qualification of secondary school certificate or its equivalent and must be a member of a registered political party and is sponsored by that party.³⁹

The House of Representatives

The House of Representatives is the Lower House of the National Assembly.⁴⁰ The House of Representatives has 360 members representing constituencies of almost equal numbers or population as far as possible.⁴¹ Each member is elected for a four year term of office. Each member is elected to represent one of the three sixty Federal constituencies into which Nigeria is presently divided. A constituency must not fall within more than one state. Section 49 of the 1999 constitution provides that: *The House of Representatives shall consist of three hundred and sixty members*

³⁴ Section 48.

³⁵ Ese Malemi, *The Nigerian Constitutional Law*, 3rd (Lagos; Princeton Publishing Co; 2015) p. 192; Gidado, *supra* note 3, p. 252.

³⁶ Section 64 (1) of CFRN

³⁷ Section 50 (1) (a) of CFRN.

³⁸ Section 65 (1) (a) of CFRN. This however is subject to the provisions of section 307 of the Constitution which prohibits citizens by registration or naturalization from seeking elective posts within ten years of such registration or naturalization; See Mowoe, *supra* note 8, p. 94

³⁹ Section 65 (2) (a) and (b) of CFRN.

⁴⁰ Malemi, *supra* note 35.

⁴¹ Mowoe, *supra* note 8, p.94.

representing constituencies of nearly equal population as far as possible, provided that no constituency shall fall within more than one state.

The House of Representatives is headed by a Speaker and Deputy Speaker who are elected by members of the House from among themselves.⁴² To become a member of the House of Representatives, a person must be a citizen of Nigeria and has attained the age of thirty years.⁴³ The person must have a minimum education of secondary school certificate or its equivalent. He must be a member of a political party and is sponsored by that party.⁴⁴

Constitutional functions of the Legislature

Generally, the functions of any particular legislature are dependent on the system of separation of powers adopted and the specific powers allocated by the constitution to the legislature. Under the 1999 Constitution, there are about one hundred and fourteen (114) functions exercisable by the legislature in Nigeria.⁴⁵ Some of the functions of the legislature⁴⁶ includes but not limited to the following:

- Removal of elected executive officials in cases of gross misconduct;⁴⁷
- Power over public funds;⁴⁸
- Power to amend the constitution;⁴⁹
- Creation of new states;⁵⁰
- Deployment of Armed forces;⁵¹
- Ratification of treaties;⁵²

⁴² Section 50(1) (b) of CFRN.

⁴³ Section 65 (1) (b) of CFRN.

⁴⁴ Section 65 (2) (a) & (b) of CFRN; Gidado supra note 3, 253.

⁴⁵ Gidado, supra note 3, p. 253.

⁴⁶ For a detailed discussion of the functions of the legislature, See Gabriel O. Arishe, *Developing Effective Legislature: The Country Specific Approach to Assessing Legislative Power*, (Benin; Paclerd Press Limited: 2017) p.178 (stating that opinions are divided among scholars on the classification of the functions of the legislature.); see also B.O. Nwabueze, *The Presidential Constitution of Nigeria* (London; C.Hurst & Co., 1982) p. 23; D.A. Guobadia, "the Legislature and Good Governance under the 1999 Constitution," in *Nigeria: Issues in the 1999 Constitution*, ed. I.A. Ayua & D.A. Guobadia (Lagos :Nigerian Institute of Advanced Legal Studies, 2001) pps. 43, 45-47.

⁴⁷ Sections 143 and 188 of CFRN.

⁴⁸ Ibid, Section 80 (3) and (4)

⁴⁹ Ibid, Section 9

⁵⁰ Ibid, section 8 (1) (a)

⁵¹ Ibid, section 5 (4) (a) (b).

⁵² Ibid, section 12.

- Approval or confirmation of executive appointments;⁵³
- Lawmaking;⁵⁴
- Oversight of the Executive;⁵⁵
- Removal of judicial officers;⁵⁶
- Power to conduct investigations,⁵⁷ etc.

We shall briefly discuss these roles of the legislature in Nigeria.

1. Lawmaking Function

The primary function of the National Assembly and one from which it takes its distinctive character in governmental structure is lawmaking. The National Assembly is the repository of the entire legislative powers of the Federal government.⁵⁸ The National Assembly has powers under the Constitution to make laws for peace, order and good government of the country, or state, or any part thereof with respect to any matter within its legislative competence as stipulated in the legislative list in the Constitution.⁵⁹ Thus section 4(2) of the Constitution provides that: *The National Assembly shall have power to make law for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the exclusive legislative list set out in Part I of the Second schedule to this Constitution.*

Therefore in the exercise of its powers to make laws in relation to the sixty-eight matters specified under the exclusive legislative list, the National Assembly must be motivated by the desire for peace, order and good government of Nigeria.⁶⁰ In the exercise of these powers, the National Assembly can sometimes go outside its sphere of authority, provided, it is in consequence of the exercise of its authority to make laws for the peace order and good government in relation to matters in the exclusive legislative list.⁶¹ Furthermore, the power of the National Assembly to make laws shall be exercised by bills passed by both the Senate and the House of Representatives

⁵³ For confirmation of Judicial appointments, see Ibid, Sections 213 (1) and(2), 238(1), 250(1), 261(1), 266(1) etc.; For confirmation of appointment of ministers, see Ibid, sections 147 (2) and 174 (4).

⁵⁴ Section 4 of CFRN.

⁵⁵ Ibid, section 88.

⁵⁶ Ibid, section 292 (1) (a) (i).

⁵⁷ Section 88 (1) (b).

⁵⁸ Section 4 of the CFRN; See also, Arishe, supra note 46, p.179. (discussing the lawmaking powers of the National Assembly.)

⁵⁹ *AG Bendel v AG Federation & 22 Ors.* (1982) All NLR 85 SC.

⁶⁰ Mowoe, supra note 8, p. 103.

⁶¹ Ibid; See, Item 68 of the Exclusive legislative list of the CFRN

and assented to by the President.⁶² The bills may be initiated by the legislators, the executive, the judiciary or interested individuals or groups.⁶³

2. Power Over Public Funds

The National Assembly has power to make laws in relation to taxation of incomes, profits and capital gains under item 59 of the exclusive legislative list, and authority to determine the spending of the public funds. Generally, all revenue or moneys raised or received by the federal government (except where it is for specific purpose) must be paid into a consolidated revenue fund of the federation.⁶⁴

The Legislature plays a role as a watchdog over the expenditure of public funds. This is an aspect of checks and balances. According to Amucheazi and Moneke, if the Executive arm of government is left unchecked in the way and manner public funds are expended, chances are high that such funds will be misused, misappropriated or outrightly siphoned.⁶⁵ Section 80 of the 1999 constitution establishes the manner in which public funds are to be expended. Sub-section (2) provides that:

No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the fund by this Constitution or where the issue of those money has been authorized by an appropriation Act, Supplementary Appropriation Act or an act passed in pursuance of S.81 of this Constitution.

This means that every expenditure from the Consolidated Revenue fund must be sanctioned by an Act of the National Assembly. The power of the National Assembly to control expenditure from the Consolidated Revenue fund is exercised to ensure prudent spending of public funds by the executive arm of government. Thus Section 80(3) of the constitution provides that: *No moneys shall be withdrawn from any public fund of the Federation, other than the Consolidated Revenue fund of the Federation, unless the issue of those moneys has been authorized by an Act of the National Assembly.* Additionally, “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.”

These provisions clearly vests in the legislature the power to determine the manner in which public funds can be appropriated. In the exercise of the

⁶² Section 58(1) of CFRN

⁶³ Gidado, supra note 3, p. 259.

⁶⁴ Ibid, section 80

⁶⁵ Amucheazi and Moneke, supra note 4, p. 28.

powers of the purse, the legislature has the right to alter the Appropriation Bill and to determine beyond the submission of the executive how the public funds are to be expended. The legislature is the only governmental body that can authorize the spending of public funds by the state, raising of revenue through taxes, fees, fines and borrowing. Thus, the power to raise revenue and to authorize expenditure is one of the vital roles of the legislature in a democracy.⁶⁶ Hence, some Senators called for the impeachment of President Muhamadu Buhari for not seeking the approval of the National Assembly before withdrawing \$496 million from the Excess Crude Account (ECA) for the purchase of aircrafts from the United States.⁶⁷

The legislature ensures that the annual budget which provides the source of government finance and expenditure is subject to legislative labyrinth and rigors of debate, review, and in-depth consideration before final enactment into law.⁶⁸ This is replicated in the State House of Assembly where the Chief executive is mandated, pursuant to section 121 (1-3) of the 1999 Constitution, to table the state annual budget before the House of Assembly for consideration and passage into law.⁶⁹ This power of the Legislature is therefore intended to ensure accountability and transparency in the appropriation and spending of public funds with the goal of securing the welfare of the people.

3. Representation

Representation is one of the major functions of a democratic legislature. Indeed it forms the fulcrum of other legislative functions.⁷⁰ This means that each member of the legislature is representing the people of his constituency in particular, while the Legislature as a body is representing the people of the country as a whole by watching over, upholding and protecting the welfare and interests of the people.⁷¹ According to **Arishe**, “the representative

⁶⁶ Gidado, supra note 3, p.255.

⁶⁷ John Ameh and Leke Baiyewu, “\$496m aircraft Purchase: Senators demand Buhari’s Impeachment, Reps Undecided”, Punch, April 27, 2018 at www.punchng.com/496m-aircraft-purchase-senators-demand-buharis-impeachment-reps-undecided/ accessed 07/05/2018; Azimzi Momoh Jimoh and Seye Olumide “PDP Urges N’Assembly to Sanction Buhari over \$1b”, The Guardian, Tuesday, April 24, 2018, p. 1.

⁶⁸ Ibid

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ese Malemi, supra note 35, p. 200

character of the National Assembly imbues her with the capacity to manage conflict and integrate the polity- since different shades of opinions and groups within the country make up the two chambers.”⁷² Thus, the Constitution provides that:

48. The Senate shall consist of three senators from each state and one from the Federal Capital Territory, Abuja.

49. Subject to the provisions of this constitution, the House of Representatives shall consist of three hundred and sixty members *representing* constituencies of nearly equal population as far as possible that no constituency shall fall within more than one state.

While Senators represent electoral districts, members of the House of Representatives represent constituencies. Apart from catering to the interest of constituents, the legislator is also expected to be guardian of his constituency.⁷³ Effective legislatures connect people to their government by giving them a place where their needs can be articulated. However, the members of the National Assembly must be accountable to their various constituencies; a failure on the part of a member of the National Assembly in this regard could lead to the invocation of the provision of the constitution on recall.⁷⁴

4. Power to Conduct Investigations

The 1999 Constitution⁷⁵ confers on the National Assembly and the State Houses of Assembly the power to pass resolutions 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/ House of Assembly;

⁷² Arishe, supra note 46, p. 201.

⁷³ Gidado, supra note 3; Guobadia, D.A., “The Legislature and Good Governance under the 1999 Constitution in Nigeria: Issues in the 1999 Constitution” (NIALS) p.43.

⁷⁴ Section 69 of the CFRN.

⁷⁵ Ibid, section 88 & 128

- (ii) Disbursing or administering moneys appropriated or to be appropriated by the National Assembly/House of Assembly.

Therefore under subsection (a) above, the National Assembly can direct investigation into any of the matters listed in the exclusive and concurrent legislative lists with respect to which it has the authority to make laws. This is so whether or not a law has already been made in relation to it.⁷⁶ Generally, under this section, the legislature can look into the affairs of members of the executive in relation to duties or responsibilities vested or intended to be vested on them under laws made or to be made by the National Assembly.⁷⁷ According to Guobadia, “investigations can serve as a potent source of control over public funds by the legislature and properly used, can make all persons who deal directly with public funds aware that their conduct could be called into question at any time,”⁷⁸

However, the power of legislative investigations is circumscribed to the extent permitted by section 88, subsection (2), paragraph (b) of the CFRN 1999 as amended which provides that, the powers are exercisable only for the purpose of enabling the National Assembly or House of Assembly 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.

The implication of the above provisions is that the National Assembly cannot conduct investigations into any matter outside the ambit of the provisions of section 88, otherwise such conduct will be declared *ultra vires* the powers of the Assembly.⁷⁹ In *Senate of the National Assembly & Ors. V. Tony Momoh*,⁸⁰ while construing a similar section in the 1979 Constitution, the Court of

⁷⁶ Mowoe, supra note 8, p. 111.

⁷⁷ Ibid.

⁷⁸ Ameze Guobadia, “The Legislature as a Watch-dog of Public Funds” in I.A. Umezulike (ed.), *Towards the Stability of the Third Republic* (Lagos, Federal Ministry of Justice; 1993) p.81; Nathaniel A. Inegbedion, “Scope of Legislative Oversight under the 1999 Constitution” *NIALS Journal of Constitutional Law*, vol. 1, p. 53.

⁷⁹ Inegbedion, N.A & Odion, J.O., *Constitutional Law in Nigeria*, 2ed. (Benin; Ambik Press: 2011) p.186.

⁸⁰ (1982) 2 FNR 307. See also *Adikwu & Ors. v. Federal House of Representatives & Ors.* (1982) 3 NCLR 394 (where the court held that the legislative power of investigation does not permit a legislative body or committee to require a newsman

Appeal held that section 82 of the 1979 constitution was not designed to enable the legislature usurp the general investigating functions of the executive nor the adjudicative functions of the judiciary. Any invitation by the legislature to any person outside the purpose defined by section 82 (2) of the Constitution was invalid. The Court went further to say that the legislative Houses can only invite members of the public when they want to gather facts for the purpose of enabling them make laws or amend existing laws in respect of any matter within their legislative competence or as witnesses in a properly constituted inquiry under section 82 (1)(b). Their power to expose corruption, inefficiency or waste is also limited to government departments, authorities and functionaries. It is not enough that the matter for investigation be within the legislative competence of the House, a proper and lawful investigation must have been constituted.⁸¹

Therefore, the power is not unlimited, as stated above, and is to be used only in aid of the exercise of legislative powers.

5. Approval and removal Functions

Approval or confirmation of appointments made by the President into important executive,⁸² judicial,⁸³ Ambassadorial positions,⁸⁴ and other public offices⁸⁵ and so forth is a function of the legislature.⁸⁶ Confirmation of appointment is by the Senate at the Federal level, and by a State House of Assembly at the State level. This is to prevent the President or Governor, from lopsidedness, mediocrity, favoritism, nepotism, tribalism, bribery, corruption, and so forth in making appointment into government or public offices. Lack of confirmation by the Senate nullifies appointment. The approval of legislature is also required by the executive for proclamation of a state of emergency⁸⁷, or declaration of war,⁸⁸ deployment of the armed forces for combat⁸⁹ and so forth.⁹⁰ In relation to removal of some public officers of the federation, such as the auditor-general, members of the various

to disclose his source of information except in grave an exceptional circumstances e.g. the security of state.); *El Rufai v. House of Representatives & Ors.* (2003) 46 WRN 70.

⁸¹ Inegbedion & Odion, supra note 75.

⁸² Section 147 (2) of CFRN.

⁸³ Sections 231, 238,250, 256 and 261 of CFRN.

⁸⁴ Ibid, Section 171 (4).

⁸⁵ Sections 154

⁸⁶ Malemi, supra note 35, p.201.

⁸⁷ Section 305(2) & (6) of CFRN.

⁸⁸ Ibid, Section 5(4)(b)

⁸⁹ Ibid, Section 5 (5).

⁹⁰ Gidado, supra note 3, p.260.

commissions, and heads of the various levels of courts at the federal level,⁹¹ the president may remove them, acting on an address supported by two-thirds majority of the Senate requesting for removal for reasons of inability to perform the function of their office or misconduct, and in relation to the heads of court, also for contravention of the code of conduct.⁹² Therefore, the input of the Legislature here is to act as a check and balance on the powers of the president.

6. Passing of Budget

This is the passing of the annual and supplementary budgets to finance the programs and activities of government. The passing of annual and supplementary budget is a function of legislature, as public funds cannot be spent without approval by the legislature. However budget proposals for the spending of public money must come from the executive, which usually accommodates inputs from the other arms of government.⁹³

7. Power to amend the Constitution

Section 9 of the Constitution gives the National Assembly the power to alter any part of the 1999 Constitution. This however requires the support, by way of resolution, of the House of Assembly of two-third of all States of the Federation.⁹⁴

8. Impeachment/Removal Function

The Constitution empowers the National Assembly to impeach⁹⁵ elected officers of both the Executive and legislative arms of government, such as the President and Vice President of Nigeria, Senate President, speaker of the House of Representative, and other elected officers of the National Assembly, Governor and Deputy Governor of a State, elected officers of the state House of Assembly, and also elected executive and legislative officers of a local government Council.⁹⁶ Section 143 of the 1999 Constitution provides for the impeachment of the President or Vice president from office,

⁹¹ Mowoe, supra note 8, p. 106.

⁹² See Sections 87, 157 and 292 respectively.

⁹³ Malemi, supra note 35, p. 201, Gidado, supra note 3, p.259.

⁹⁴ See Ibid, Gidado, p. 260.

⁹⁵ The word "impeachment" is not found in the constitution but has been generally used in Nigeria to refer to the removal of the President or vice president, governor or deputy governor from office by the respective legislature. See also, Arishe, supra note 46, p. 226.

⁹⁶ Malemi, supra note 35, p. 202; Gidado supra note 3, p. 261; Aduba, N.J & Oguche, S., *Key Issues in Nigerian Constitutional Law*, (Abuja; NIALS, 2014) p. 284.

while section 188 of the Constitution provides for the removal of the Governor or Deputy Governor of a state from office, and so forth.⁹⁷ The legislature's power of impeachment is one of the constitutionally guaranteed ways of controlling executive excesses. It is directly linked to the concept of checks and balances.⁹⁸ This power is so important that the threat of its exercise can send shivers down the spines of the public officer faced with the threat of removal.⁹⁹ What is more threatening is the fact that the exercise of this legislative power has been removed from the purview of judicial review.¹⁰⁰

However, for impeachment to be outside the purview of judicial review, all the constitutional requirements for the removal must be adhered to.¹⁰¹ Thus where the said procedure is not strictly followed by the National Assembly or State House of Assembly in removing the President, Vice President, Governor or Deputy Governor, the Court will certainly have the competence to wade into the matter to rectify such irregularity.¹⁰²

9. Oversight of the Executive

Legislative oversight is defined as “the review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation.”¹⁰³ Oversight function of the National Assembly is provided for under section 88 of the 1999 Constitution which empowers the legislature to carry out investigations within its competence to prevent and expose corruption, inefficiency or waste in the execution or administration of laws. Thus from the wording of the Constitution, the National Assembly has independent powers to inquire into the workings of the government because with or without the cooperation of the executive arm of government because of the prominence given to the oversight responsibility of the National Assembly. For instance, Section 67(2) of the CFRN provides that:” A minister of the government of the

⁹⁷ Ibid, Malemi; see also *Inakoju v. Adeleke* (2007) 4 NWLR (pt. 1025) 423.

⁹⁸ Arishe, supra note 46, p. 336.

⁹⁹ Amucheazi and Moneke, Supra note 4, p.30.

¹⁰⁰ Sections 143 (10) & 188(10) of CFRN; see also Madubuike-Ekwe, N.J., “The Abuse of impeachment powers of the Legislature: Any role for the Courts?” BIU Law Series, vol. 1. No. 1. August 2013, p.76.

¹⁰¹ See Sections 143 (1-9) and 188 (1-9) of CFRN for the constitutional requirements for impeachment.

¹⁰² *Inakoju v. Adeleke*, supra note 93; *Diapialong v Dariye* (2007) 8 MJSC 140; see also, Lawrence Njoku, “Court quashes Impeachment of Former Enugu Deputy Governor, Sunday Onyebuchi,” *The Guardian*, December 19, 2015 at <https://guardian.ng/news/court-quashes-impeachment-of-former-enugu-deputy-governor-sunday-onye> Accessed 06/11/2017.

¹⁰³ Hironori Yamamoto, *Tools for Parliamentary Oversight* (Geneva: Inter Parliamentary Union, 2007) p.9.

federation shall attend either House of the National Assembly if invited to explain to the House the conduct of his ministry, and in particular when the affairs of that ministry are under discussion.” Legislatures exercise oversight of the executive branch to ensure that policies agreed upon at the time they are passed into law are in fact implemented by the state. According to **Arishe**:

Oversight is an essential function for any democratic legislature because it ensures horizontal accountability of all other agencies of government to the one branch whose primary function is representation.¹⁰⁴

In order to ensure effective discharge of its oversight functions, the National Assembly sets up committees to check government agencies with respect to applying the law to expenditure, disbursement of funds or as it may have to do with the rights and privileges of individuals and Acts passed by the National Assembly. There are no fewer than eighty four committees in the House of Representatives while the Senate has at least fifty seven committees carrying on these investigations.¹⁰⁵ Each committee in either House consists of many members with each Senator or Member of the House of Representatives belonging to several committees at the same time.

IV. Constitutional Limitations on Legislative power

Despite all the powers granted to the legislature as stated above, the Constitution expressly limits these powers. Firstly, under the omnibus provision of section 1 of CFRN, the provisions of the constitution are binding on all authorities and persons in Nigeria. As such, “any law made which is inconsistent with the provisions of the constitution is to the extent of its inconsistency, null and void and of no effect.”¹⁰⁶ The phrase “any law” in the section encompasses those made by past and present governments at the Federal, State and Local government levels. It does not include resolutions of the

¹⁰⁴ Arishe, *supra* note 46, p. 211; See also Oyewo Oyelowo, “Constitutionalism and Oversight Functions of the Legislature in Nigeria,” paper presented at the African Network of Constitutional Law Conference on Fostering Constitutionalism in Africa, Nairobi, April 2007, p. 7-9.

¹⁰⁵ Abubakar Jimoh, “What the New Legislators must understand”, at <http://cislacnigeria.net/index.php/legislative-and-policy-advocacy/> Accessed 23/10/2017.

¹⁰⁶ Section 1(1) and (3) of CFRN; Mowoe, *supra* note 8, p.119.

legislature.¹⁰⁷ In *Attorney-General of Bendel State v. Attorney General of the Federation*,¹⁰⁸ the Supreme Court declared null and void the appropriation Bill passed by the National Assembly in a manner contrary to the provisions of the Constitution.

Secondly, the National Assembly has powers to make laws for the federation, however, the Court has the power to strike down any of the laws that, in its opinion, conflicts with the Constitution. Known as “judicial review”, this is the power of a court to examine the acts of other branches of government, lower courts, public or administrative authorities and uphold them or invalidate them as may be necessary.¹⁰⁹ Under Section 4(8) of the Constitution the legislature; the National Assembly or the State House of Assembly, is subject to the jurisdiction of the Courts and judicial tribunals established by law. As such, the legislature must not enact any law that directly or indirectly purports to *oust* the jurisdiction of a court or a tribunal established by law. In *Adikwu v Federal House of Representatives*¹¹⁰ the Court noted that section 4(8) provides for the control of the legislative powers by the Courts. Therefore, the courts can declare a law passed by the legislature invalid if it, in its opinion, conflicts with the constitution.

Thirdly, the National Assembly or a House of Assembly cannot make any retrospective criminal laws.¹¹¹ This is predicated on the principle of natural justice that nobody should be punished for any offence which did not constitute a crime as at the date of the commission of the offence. Hence, legislations on criminal matters must take effect prospectively not retrospectively.¹¹²

Fourthly, the power of legislative oversight over public funds with a view to exposing corruption is limited to where public funds are involved and does not extend to private enterprises or where the subject of the probe is outside its legislative competence or is not with a view to exposing corruption. Ojo identifies some other constitutional limitations on legislative oversight of the National Assembly.¹¹³ These include prohibition of inquiries into the

¹⁰⁷ Ibid, Mowoe.

¹⁰⁸ (1982) 2 NCLR 1.

¹⁰⁹ Malemi, *supra* note 35, p. 410; see also section 46(1) of CFRN; Kabir Mohammed Danladi, *Outline of Administrative Law and Practice in Nigeria* (Kaduna; ABU Press Ltd; 2013) p. 112

¹¹⁰ (1982) 3 NCLR 394, SC.

¹¹¹ Section 4(9) of CFRN; Mowoe, *supra* note 8, p. 120

¹¹² See Section 36 (8) of CFRN

¹¹³ Abiola Ojo, “The Investigatory Powers of the National Assembly under the 1999 Constitution: sections 86 and 87 considered” in I.A. Umezulike (ed.) *Democracy*

private and personal life of an individual just to “expose for the sake of exposure”,¹¹⁴ or acting outside its terms of reference as contained in the resolution published in Government Gazette or asking questions that are irrelevant to the subject-matter of investigation which has been described as “jurisdictional concept of pertinency” or convert itself into a “roving commission”.¹¹⁵ Thus in *Oil Palm v Attorney General, Bendel State*¹¹⁶ the former Bendel State House of Assembly attempted to investigate the functions of a limited liability company, Oil Palm Company Ltd. The Court held that “the question that immediately arises is- has the House of Assembly any power to make laws with respect to Oil Palm Company Ltd (The plaintiff/Applicant)? The answer is certainly “No”- it is clear that it is the National Assembly that can make laws with respect to companies”¹¹⁷

Fifthly, the Constitutional allocation of authority to the President to modify an existing law ‘as may be necessary to bring it into conformity with the provisions of this constitution’¹¹⁸ limits the lawmaking power of the Legislature. For instance, relying on this provision, President Olusegun Obasanjo repealed the law setting up the Petroleum Trust Fund (PTF),¹¹⁹ and consequently, the Fund ceased to exist. The Senate kicked against this move by the president¹²⁰ because no effort was made to follow the proper procedure for the repeal of that piece of legislation.¹²¹ Similarly, in furtherance of his Constitutional power, President Obasanjo enacted the Allocation of Revenue Modification Order 2002 on May 8, 2002.

Beyond the Third Republic (Lagos; Federal Ministry of Justice; 1993) p. 101, 104-105; Inegbedion, N.A., “Scope of Legislative Oversight under the 1999 constitution” *NIALS Journal of Constitutional Law*, vol. 1, p.63.

¹¹⁴ *Watkins v. United States* 354 U.S. 178.

¹¹⁵ *Ibid.*

¹¹⁶ (1985) 6 NCLR 344

¹¹⁷ *Ibid.*, p. 351; See also *Tony Momoh v Senate of the National Assembly* (1981) 1 NCLR 105; Inegbedion, *supra* note 112, p. 63

¹¹⁸ Section 315 (1)-(4) of CFRN; *Adigun v. Attorney General of Oyo State*(1987) 1 NWLR (pt. 53) 678 at 704 paragraph H, per Obaseki JSC; For further details on existing laws, see also, Akeem Olajide Bello, “An Overview of the Process of Constitutionalizing Existing Laws under the 1999 Constitution”, *The Nigerian Law Journal*, vol. 20, No. 1, 2017, p. 90

¹¹⁹ Petroleum Trust Fund Decree No. 25 of 1994 as amended by Decree No. 1 of 1995.

¹²⁰ See Records of the 16th Sitting of the Senate of Friday, July 2, 1999, in the *Lawmaker*, 3, no. 19 92001):28-37.

¹²¹ Arishe, *supra* note 46, p. 375.

The modification order changed the existing formula for revenue sharing among the constituent governments in the federation from what it was in the Allocation of Revenue (Federation Account, etc.)¹²² The President's order increased the share of revenue due the federal government from 48.5 percent under the formula prescribed by the Act to 56 per cent, with retrospective effect from May 29, 1999. Unfortunately, the Supreme Court unanimously sustained the constitutional validity of the order.¹²³

Sixthly, the President's vast power of patronage affects the relevance of the Legislature. The ability to reward friends and foes alike with state largess, including appointments to important and not-so-important (but still lucrative) public offices is a presidential prerogative.¹²⁴ Nearly all open constitutional and statutory offices, including directorship and management posts in state-owned corporations and agencies, are filled by presidential appointment.¹²⁵ While the approval of the legislature is usually required in the case of few offices, the President has ample patronage resources with which to secure legislative support for most of his nominations as well as legislative proposals. The ratification function of the National Assembly is sometimes a matter of ritual, devoid of critical scrutiny to verify the credibility, integrity and suitability of the candidate for that office. This is even made worse by the constitutional provision that empowers the president to appoint persons to state offices on acting capacity pending legislative ratification, with the exception of ministers who cannot be so appointed and that of the extension of the acting capacity of auditor-general beyond a certain period.¹²⁶ Most appointments to headship of agencies, commissions, and departments requiring legislative approval follow the same pattern of presidential nominees assuming office in acting capacity pending Senate approval which is rarely ever denied the nominees or refused even when legislators express reservation about their competence.¹²⁷ For instance, Mr. Ibrahim Magu was appointed as '*acting Chairman*' of the Economic and Financial Crimes Commission (EFCC) by

¹²² Ibid; See Cap. 16 LFN 1990.

¹²³ *AG Abia State & Ors v AG Federation* (No. 2) (2003) 19 WRN 1; (2003) 1 SC (pt.) 1.

¹²⁴ Arishe, supra note 46, p.377

¹²⁵ Ibid; see also Kwasi Prempeh, "Africa's 'Constitutionalism Revival': False Start or New Dawn?" *International Journal of Constitutional Law* 5, no. 3 (2007): 469, 498 & 499.

¹²⁶ Section 318 (2) of CFRN.

¹²⁷ Sufuyan Ojeifo, "Senate, Presidency in a Battle of Wits over EFCC Chair," *Thisday*, May 25, 2008, 99 & 100; Arishe, supra note 46, p. 377.

President Muhammadu Buhari on November 9, 2015. In December, 2016, the Senate failed to confirm¹²⁸ Magu as substantive Chairman over two conflicting reports by the Department of State Services (DSS) indicting Magu of Corrupt practices.¹²⁹ Again, on January 24, 2017, President Buhari renominated Magu for confirmation but the Senate rejected him as substantive Chairman of EFCC based on another report from the DSS indicting Magu of corrupt practices.¹³⁰ President Buhari has refused to remove Magu as Acting Chairman of EFCC and insists that Mr. Ibrahim Magu will remain the 'acting Chairman of EFCC and that his appointment does not require Senate approval under section 171 of the 1999 CFRN.¹³¹

Seventhly, the Constitution allows the president access to funds for running the government in default of appropriation for a period of six months or until legislative approval is given to the appropriation.¹³² The rationale for this provision is to cushion the effect of deadlock over the budget and avoid a possible government shutdown. This provision *de facto* neutralizes legislative obstruction and significantly diminishes the legislatures bargaining power over the executive's budget proposal. Arishe notes that, "the practical effect of section 82 of the Constitution on the legislatures power over budget comes to the fore on every annual budget amended by the legislature since 1999 till date."¹³³ This has consistently frustrated the legislature's work on the budget. While the face-off over the budget is on-going, the President continue withdrawals from the Consolidated Revenue Fund to meet government expenditures that

¹²⁸ Section 2(3) of the Economic and Financial Crimes commission (Establishment) Act, 2004.

¹²⁹ See Ben Nwabueze, "Constitutionality of the EFCC Act 2004 subjecting the President's appointment of members of the commission to senate confirmation," Vanguard, April 15, 2017 at <https://www.vanguardngr.com/2017/04/constitutionality-efcc-act-20...> Accessed 27/10/2017.

¹³⁰ Saxone Akhaine et al, Lawyers fault Osinbajo on appointment of EFCC Chairman", Guardian, April 16, 2017, at <https://guardian.ng/news/lawyers-fault-osinbajo-on-appointment-of-efcc-chairman/> Accessed 27/10/2017.

¹³¹ Clifford Ndujihe, et al., EFCC: Nigerians divided over Senate rejection of Magu" Vanguard, March 16, 2017, at [https://www.vanguardngr.com/2017/03/efcc-nigerias-divided-senates-rejection-magu/...](https://www.vanguardngr.com/2017/03/efcc-nigerias-divided-senates-rejection-magu/) Accessed 27/10/2017.

¹³² Section 82 of CFRN. (Stating that the plan to recall Senator Dino Melaye may prove tougher than his detractors envisaged, but may be potent enough to caution him against playing politics like a unionist).

¹³³ Arishe, supra note 46, p. 378.

are non-capital in nature. At the end of it, the National Assembly has to amend the vetoed budget to suit the presidential wish.¹³⁴

Finally, legislators face a limitation based on the need to run for re-election every four years.¹³⁵ The possibility of losing an election can prevent members of the legislature from taking political stances at odds with public opinion or the executive branch. Therefore, the real fear of not being re-elected or the fear of being sanctioned by the party if legislators take positions that are diametrically opposed to that of the Executive, which in most cases is in alliance with the party, have tended to erode the ability of the legislature to perform its oversight functions.¹³⁶ For example, the failure of former speaker of the House of Representatives, Hon. Umar Ghali Naaba, to get re-elected into the House is widely believed to be attributable to his persistent hardline posture against the administration of former President Olusegun Obasanjo.¹³⁷ Same reason applies to the failure of another former Speaker of the House of Representatives, Bello Masari to win the Governorship ticket of his home State, Kaduna State.¹³⁸

Additionally, the Constitution provides for the recall of non-performing legislators by the electorate.¹³⁹ This is a check on the legislators to ensure that at all times they exercise their powers for the benefit and welfare of those who elected them into office. For example, Senator Dino Melaye, representing Kogi West Senatorial District, is currently battling a recall process instituted by some of his constituents who filed a petition for his removal from the Senate.¹⁴⁰

V. Conclusion

In this article, we have analyzed the scope of legislative powers under the 1999 Constitution of the Federal Republic of

¹³⁴ Ibid.

¹³⁵ Section 64(1) of CFRN.

¹³⁶ Inegbedion, *supra* note 112, p. 56.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Section 69 and 110 of CFRN; Amucheazi and Moneke, *supra* note 4, p. 32.

¹⁴⁰ Lois Ugbede, "Dino Melaye's recall: INEC to return to court on Thursday,"

Premium Times, September 26, 2016 at

<https://www.premiumtimes.com/news/headlines/244259-dino-melayes-recall-inec-return-court-thursday.html>. Accessed 1/11/2017; Tobi Soniyi "Recalling Dino

Melaye," Thisday, July 10, 2017, at

<https://www.thisdaylive.com/index.php/2017/07/10/recalling-dino-melaye/>

Accessed 1/11/2017.

Nigeria to make laws for the peace, order and good government of the federation and the limitations on the exercise of the powers. The article also notes that the Constitution makes ample provision for the separation of powers between the executive, legislature and the judiciary. Therefore, the principles of checks and balances guide the relations between the three arms of government.

To be more effective in their lawmaking functions and other roles, there is need for legislators to undergo regular trainings in the form of workshops, seminars and visits to other jurisdictions; this will impact on the quality of laws that they make, considering that some of them are not very highly educated and have little or no experience in legislative work.¹⁴¹

Similarly, there is need for members of the National Assembly to participate in international parliamentary Institutions (IPIs) at both regional and global levels. This will enable them develop capacity and gain experience from interaction with other legislators. In so far as democracy is a global phenomenon, the legislature as a democratic institution cannot be divorced from the global democratic movement.¹⁴² IPIs provide the forum for the sharing of ideas, proffering solutions to problems encountered in member countries, and may, by and large, act as pressure groups for the enhancement of the powers and status of national legislatures.¹⁴³

While there are several justifications for legislative oversight, certain constitutional limitations exist against the exercise of oversight functions. For a more effective oversight of the executive, there is need to shift focus to the results of spending, on the basis of 'value for money' or performance audits instead of the current system of focusing on spending regularity and compliance with actual budgeted figures.¹⁴⁴ There should be a balance between the exercise of oversight powers for the purpose of ensuring good governance and the need to preserve the doctrine of separation of powers in order to prevent its abuse or whittle down executive powers.

¹⁴¹ Ibid, Amucheazi and Moneke.

¹⁴² Zlatko Sabic, "Building Democratic and Responsible Global Governance : The Role of International Parliamentary Institutions," *Parliamentary Affairs* 61, no. 2 (2008), p. 255; See Arishe, *supra* note 46, p. 466.

¹⁴³ Ibid.

¹⁴⁴ Ibid, Arishe, p. 474.

The exclusive legislative list in the 1999 Constitution is too broad and cumbersome for the National Assembly to legislate effectively on all matters that are of vital importance to the public welfare, considering the long process of passing laws in the National Assembly.¹⁴⁵ There is need to transfer some of the items on the legislative list to the concurrent List. This will enable the State Houses of Assembly to have competence to legislate on such matters that directly affect the people rather than wait indefinitely for the National Assembly to have opportunity to make such legislations, while the citizenry suffer hardship in the meantime due to absence of such necessary legislations. This will enhance the principle of federalism and good governance in Nigeria.

¹⁴⁵ Amucheazi and Moneke, *supra* note 4, p. 33.