

SUSTAINABLE DEVELOPMENT AND RULE OF LAW IN NIGERIA: UNLOCKING LEGISLATIVE COMMITTEES' CREATIVITY*

Abstract

In modern democracies, the legislature has numerous duties. As a significant state organ in any democratic development, it examines the legislative proposals in the process of their passage and is entrusted with overseeing executive responsibilities and keeps an eye on government activities. Legislative committee system is the most vital structure that permits the legislators to compartmentalize their labour and specialize in particular areas of activities. It is the most significant legislative mechanism and therefore commonly called "miniature legislatures" or "microcosms" of main legislative bodies. Therefore, this paper intends to analyze the function and role of the Nigeria Legislative Assembly committees in the post 1999 era to date and its contributions to sustainable development and rule of law through legislation. In doing so, this study identifies and examines the factors that have considerable influence in the working of the legislative committees in general and the Nigeria Legislative Assembly committee in particular. This paper considers the relationship between sustainable development and committee system in a democratic society by, focusing on the National Assembly. The goal is to identify the realm of committee's function in legislative assembly and legislative process that are necessary for sustainable development in Nigerian societies where exclusive and holistic legislative action remain pervasive. Is it possible to employ committees system to achieve sustainable development?

Introduction

This is a paper on Legislative committees with particular reference to the Nigeria Legislative Assembly. The main focus of this paper is how committees of the legislature can perform when placed in the political

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context of sustainable development and rule of law. Drawing on a theoretically in-framed case study of the Nigeria National Assembly, the present paper focuses on the performances of the Nigeria Legislative Assembly committees and their impact on sustainable development. There is a tendency around the world to rely on committees for accomplishing much of the legislative and or parliamentary activities especially in promoting sustainable development and rule of law through legislation. In this regard, Nigeria is not an exception. Nigeria emerged as an independent state in 1960 following long period of British rule. The new state of Nigeria adopted parliamentary system of government first between the years 1960 to 1966. All legislative powers of the state are vested on the National and State Assemblies in Nigeria. Though all favourable conditions for democracy are in the Constitution, differences between the political parties and overwhelming domination of government party and their refusal to recognize the official opposition party in the parliament prevented building a responsible executive. In a sweeping change, parliamentary form of government was replaced by multi-party presidential system in 1979 after the Military handed over government to civilians¹. The government was abolished when the military seized power *via* a military coup in 1984. Between 1984 and 1999, the country was under military dominated civil/military regimes. With mass upsurge and series of protests that followed the annulment of June 12 election that was widely believed to have been won by Chief Mashood Kasimawo Abiola in 1992, the authoritarian regime came to an end and a democratic system of government was restored in 1999². Since the restoration of democracy, committee system is taken

¹ Between 1966 to 1979, different Military rulers governed Nigeria, General Yakubu Gowon 1966 to 1975, General Murtala Ramat Muhammed 1975-1976 and General Olusegun Obasanjo 1976 to 1979; he handed over government to an elected President Shehu Usman Aliu Shagari.

² The country was ruled by General Muhammed Buhari who overthrew President Shagari 1984 and 1985, General Ibrahim Badamasi Babangida came on board *vide* a coup and ruled for 8 years, 1985 and 1993 and General Muhammed Sauni Abacha, 1993 and 1998 and General Abdulsalam Abubakar 1998 and 1999, he handed over to a democratically elected president, President Olusegun Okikiola Obasanjo and till date the country is still enjoying democratic system of government.

seriously in the political as well as in the academic arena because of its importance in the legislative process and oversight functions.

Nigeria emerged as an independent state in 1960, after many years of British colonial rule. After independence, the new constitution, which was promulgated in 1960 and the 1963 Republican Constitution adopted a parliamentary system of government reflecting the aspirations of the people who had struggled to achieve such a democratic system since the British colonial days. The Nigerian Constitution entrusted all legislative authority to a unicameral Parliament. The President (Nnamdi Azikiwe) was made the titular head of the nominal executive while the real executive power of the state was vested on the Prime Minister (Alhaji Tafawa Balewa) like the cabinet government as practiced in Britain. The Prime Minister and the cabinet were collectively responsible to the parliament. For ensuring government accountability to the parliament, constitutional makers incorporated the provision on parliamentary committee system in the Constitution. The Constitution³ formally granted the legislative assembly/parliament the authority to appoint committees as necessary for discharging its functions. Though many favourable pre-conditions of the legislature/parliamentary system of the government were provided in the Constitution, lack of separation between state, government and party, depending on party machinery on the leader, differences between the political parties, undermining of a free and fair electoral process⁴, overwhelming majority of the government party⁵ in the parliament and their refusal to recognize the existence of the official opposition hindered the opportunities for the regime to practice norms and conventions of the

³ Section 62 and 103 of the *Nigeria Constitution 1999*; see also Article 76 of the Bangladesh Constitution.

⁴ The undermining of a free and fair electoral process is evidenced in the nullification of some elections in Nigeria from various judgments of Electoral Tribunal due to electoral frauds.

⁵ Like in the Nigerian National Assembly the ruling party PDP has the majority in the National Assembly; similarly it is a common feature in Nigeria democracy that the party in power in most states dominates the Houses of Assembly proceedings of the various States.

parliamentary form of government. However, committee system allows oppositions and minority participation in legislative process⁶.

In the face of political turmoil, the Nigerian parliamentary system of government was replaced by a Military dictatorship through a coup d'état in 1966⁷. Though Nigeria started well, adopting parliamentary democracy in its Constitution, it did not work as it ideally should. Under the Military, parts of the constitution were suspended and with the adoption of a Military model, both legislative and executive powers were concentrated on the Supreme Military Council which organ had the power to legislate on anything whatsoever in the country. The military remained in power till 1979 when government was handed over to the civilians. With the exit of Shehu Shagari, the Nigerian Second Republic President and suspension of democracy 1983 from the arena of governance, martial law was declared and the country again came under military governments until May 1999. Following the relinquishing of power by the military regime the democratic system of government was restored in 1999.

With the restoration of democracy came the restoration of separation of powers between the three organs of government, the committee system reappeared creating interests both in political and academic circles⁸. International organizations particularly donor agencies, citizen forums and media emphasize on strengthening the committee system towards demanding government accountability by the parliament. Considering the above, committees have performed creditably well as political institutions adopted by Nigerians. Focusing therefore on the following issues this paper attempts to assess the performances of the committees in the post 1999 Nigerian National Assembly/parliaments with necessary examples and illustrations. The issues are:

⁶ K. C. Wheare *Legislature*, (London: Oxford University Press, 1963), p.291.

⁷ General Aguiyi Ironsi took over government from Tafawa Balewa, 1966; see *Lakanni v Attorney General West*.

⁸ See generally B. O. Nwabueze, *The Presidential Constitution*, (London: Sweet & Maxwell, 1982) pp.31-32.



- i. Formal arrangement or types of committee system including composition, structure and functions of the committee.
- ii. The vesting of committee power and limitation thereof in the functioning of the committee system in Nigeria
- iii. Performance of the committees in relation to sustainable development, accountability, rule of law from the perspectives of the legislative and overseeing processes
- iv. The nexus between the legislative/parliamentary committees and the society; focusing on the role of the media and the civil society.

Sustainable development involves a complex interplay between economic, environmental and socio-cultural considerations. It follows then that for a country to achieve sustainable development it must consider all these issues in making short and long-term development plans⁹. However, sustainable development considerations cannot be appreciated if there is lack of up-to-date legislative control, information, knowledge, tools and skills to address the various issues. Therefore, if the needs of the present generation are to be satisfied without compromising the ability of future generations to meet their own needs, sustainable development must form important consideration in the legislature and its committees' agenda. To explain the functioning of the legislative/parliamentary committees in Nigeria, it needs to explicate some important factors that have considerable impact in the working of legislative committees in Nigeria. For this purpose it needs be explained, the significance of the committee system in general and its power in particular where the committee system has been reformed for the purpose of strengthening parliaments.

⁹ T. M. Franck, (1992). "The Emerging Right to Democratic Governance." *The American Journal of International Law* (AJIL), 86: 46-91.

Good Governance and Sustainable Development

Good governance promotes accountability, transparency, efficiency, and sustainable development through public institutions, the executive, the legislature and its committees and at all levels¹⁰. The committee system allows a sound and efficient management of human, natural, economic, and financial resources in the house for equitable and sustainable development. Moreover, under good governance, there are clear decision making procedures at the level of public authorities, committees' participation in decision-making processes, and the ability to influence legislation to enforce rights and obligations through legal mechanisms.¹¹ These aspects of good governance do not in themselves ensure that society is not run well nor do they guarantee sustainable development. However, their absence severely limits that possibility and can, at worst, impede it. Without proper functioning institutions of governance such as the legislature, based on the rule of law that promote social stability and legal certainty, there cannot be investment and assumption of risk that form the basis of market economy development, let alone sustainable development. Michael C¹², comments on this thus:

Promoting good governance in all its aspects, including ensuring the rule of law, improving the efficiency and accountability of the public sector, and tackling corruption is essential element of a frame-work within which economies can prosper.

¹⁰ J. N., Rosenau, Governance, order, and change in world politics", in James Rosenau and Ernst-Otto Czempiel (eds.) (1999) *Governance without Government: Order and Change in World Politics*. (Cambridge: Cambridge University Press, 1999) 1-29.

¹¹ T. Richard, (2006), "The Stern Review of the Economics of Climate Change: A Comment", November 2, 2006, http://www.fnu.zmaw.de/fi_leadadmin/fnu-fi_les/reports/sternreview.pdf Stern, N., and others (2006). *The Economics of Climate Change*.

http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/stern_review_report.cfm

¹² Michael C., "Good Governance: The IMF's Role Guidance Note approved by the Executive Board of IMF" 1997, <http://www.imf.org/external/pubs/ft/expr/govern/govtindex.htm>.



Indeed, one can predict a country's economic success by her legislative committee. Therefore deficiency in legislature encourages high rates of corruption, with further devastating consequences on the confidence of economic actors. This lack of policy on sustainable development, in turn, slows economic growth and consequently deprives the governments of resources to invest in education, social safety nets, and sound environmental management, all of which are critical for sustainable development.¹³ Introduction of sustainable development, good governance and rule of law, however, cannot be done overnight. The process is often a gradual one, involving changes to long-standing practices, entrenched interests, cultural habits, and social and even religious norms¹⁴. It is instructive to note that an important step was taken in this line in 1998 when countries adopted the Convention on Access to Information¹⁵, Public Participation in Decision-making and Access to Justice in Environmental Matters¹⁶. The Convention¹⁷ recognizes that sustainable development can only be achieved through the involvement of all stakeholders and seeks to promote greater transparency and accountability among government bodies by guaranteeing three pillars for the public:

- i. The rights of citizens' access to information;
- ii. Citizens' participation in decision making, and
- iii. Citizens' access to justice on environmental matters.¹⁸

¹³ Derin O. "The Law of impeachment and its implications for Democracy in Nigeria" (2007) Lai Olurode (ed) *Impeachment and the Rule of Law, The Future of democracy in Nigeria*, Faculty of social Science, University of Lagos.

¹⁴ Corruption and mismanagement of recourses.

¹⁵ Bill on access to information has just been passed into law by the National Assembly this 2011.

¹⁶ The Aarhus Convention, Though, Bill on Freedom of Information is yet to be passed into law in Nigeria despite Nigeria being signatory to the convention of the Seventh International Conference on Environmental Compliance and Enforcement, Morita, Zaelke, p. 17.

¹⁷ Moreover, in 2000, 191 United Nations member States pledged to fulfil a set of key goals (the Millennium Development Goals) for poverty reduction and sustainable development by the year 2015. In the Millennium Declaration, the member States agreed to "spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development.

¹⁸ See Ojo Ajibola: *Constitution Law & Military Rule in Nigeria*, (Ibadan: Evans Brothers Publisher, 1987), p.10. Nwabueze B.O., *Nigerians Presidential Constitution* 323-324, 1979-83 (New York: Longman Group Ltd. 1985) 281, 340-342; Wade, H. W. R. *Administrative Law* 6th ed., (Oxford: Oxford University Press, 1988) p.58 Nwabueze B.O: *Ideas and facts in constitution Making*, (Ibadan: Spectrum Publishers, 1993).

This represents a positive action toward achieving a sustainable development within the confines of rule of law and good governance. In other words, the Convention guarantees freedom of access to information on the environment, gives citizens a right to participate in decision-making, and provides for recourse to judicial and administrative remedies when these rights are denied by state authorities. In addition to these international agreements by heads of State, donor agencies are making significant efforts to promote the rule of law and good governance throughout the world. In this premiss, the committee system as a forum which allows representative participation in government cannot be over-emphasised¹⁹.

Committee System and the Vesting of its Powers in Legislative Assembly

Sustainable development and rule of law is a very important global phenomenon worthy of being pursued by any progressive society. The role of the legislature particularly committees of the House cannot be over-emphasised because committees stage is one of the critical stages in legislative process. It is the stage where lobbying would succeed or fail. For any government policy on sustainable development to scale through legislative scrutiny, it needs the backing of the legislature and since legislation in modern context is becoming more complex, this in itself has made committee system an indispensable tool for formulation of policy²⁰. Committee is a group of members appointed or elected to perform a particular task in connection with the work of the National and or State Assembly while Legislative Committee is defined as, distinguished from an administrative committee, one charged with studying a particular question of policy, societal conflict and reporting its findings and or recommendation to

¹⁹ *Ibid.*

²⁰ David M. O., *Legislative Process: A Comparative Approach*, pp. 175-176.

the assembly for the latter's guidance in deliberation²¹. According to Shearman²², a committee is:

...a person or body of persons to whom something is "committed" or "entrusted". More commonly the meaning of the term is a plurality of persons elected or appointed to consider and deal with certain matters of business specifically or generally referred to it.

Therefore if parties are one means by which the members and work of a legislature are organized, committees are the other major device for internal organization, although most legislature/parliaments use this method as a means by which, assembly can broaden the base of general membership participation in its affairs and exploit the efficient principle of division of labour²³.

One significant advantage of modern legislative practice is the use of committee in legislative process. However, in spite of the position, it cannot be wished away that the use of committees in parliament/legislative assembly is the nucleus of legislative functions as an arm of Government, which serves as the legislative engine, which propels other arms of government²⁴. Popoola compliments this position thus:

It is obvious from the foregoing that legislation occupies a place of paramount importance action. Indeed, almost every activities of government require the authority of some enabling law. Government can hardly act without a law to back its action.²⁵

It instructive to note that Government business is not only the maintenance of law and order but has become increasingly complex and technical.

²¹ *Dictionary Handbook of Parliamentary Procedure*, (Lagos: Learned Publishers, 1996), p. 29.

²² I.S. Shearman, *The Law and Practice of Meetings*, (London: Sweet & Maxwell, 1997), p. 90.

²³ D.M. Olson, *Legislative Process: A Comparative Approach*, p. 204.

²⁴ *Ibid.* p. 204.

²⁵ A.O. Popoola, "Enforcing the Principles of Separation of Powers: A Review of the 1999 Constitution", (2000) Legal Research and Resource Development Abuja, pp. 14-16.

Indeed, it has taken the form of legislative engineering including but not limited to sustainable development, rule of law, good governance and even conflict management in an attempt to change the pattern of incompatible demands which citizens placed on government. The consequence of this is that specialized skill and knowledge is required in law making. This is so because such complex and technical matters cannot be effectively handled in ordinary plenary sitting of the legislative chambers. The use of committees, sub-committees has enhanced legislative efficacy, thereby elevating the legislature, as an inexhaustible repository of knowledge on all issues of public concerns no matter how intricate or technical²⁶. The legislature in their legislative process at all levels must be responsive to policy expectation of their people particularly in the realm of sustainable development as symbolic satisfaction that can usually be met at low cost for the people they represent. This response must be taken conscientiously. The principal purpose of committees in legislature is to perform functions which the house themselves are not fitted to perform, like investigation, taking evidence and lots of oversight functions. It is apposite to state that the very process of lawmaking affects all facets of Nigerian life including sustainable development because lawmaking involves persuasion, bargaining, compromise and decision all of which affect the alignment of citizens on subject of controversy²⁷. The committees of the Assembly, because of their composition and method of procedure which is structured but generally informal compared with the house are suited to perform evidences on drawing up reasoned conclusions. Committees also perform the functions to wit conflicts management through gathering of evidence from expert's interest groups or individuals. In a sense, they take legislature/parliament to the people and allow direct contact with members of the public by a cross, engaged on programmes of visits or inspections²⁸.

²⁶ A. A. Jimoh, *Law, Practice and Procedure of Legislature*, (Learned Publisher Ltd, 1999), p 109.

²⁷ L. George Jr., *The Little Legislatures: Committees of Congress*, (USA: University of Massachusetts Press, 1979), pp 56-57.

²⁸ J. A. Pettifer, *House of Representatives Practice in Australia*, (Australia: Australia Government Press, 1981), p. 857.

It is instructive to note that the use of investigative powers to take evidence is an important realm of legislative functions that allows peoples' participation in deliberations on government policies, thus helping to curtail the much feared situation where people will be ignorant of laws and policies which affect them and make it possible for people to have a voice on what law should be and how it should operate to achieve sustainable development and rule of law in Nigeria. This is because legislative assembly being a representative institution of members allows for constant balancing of peoples' preference from the constituencies they represent. This preposition is germane to achieving the object of sustainable development through legislative committees' participation in legislation as captured in the postulation of Hobbes²⁹ that:

The use of law is not to bind people from all voluntary actions but also to direct and keep them in such motion as not to limit themselves to their own impetus, desires, and rashness on indiscretion as hedges are set not to stop travellers but to keep them in their ways.

Vesting Committee Powers in Parliamentary Process

The powers of the House (National or State Assembly) to appoint committees are not in doubt towards exercising their legislative powers to make laws and manage conflicts for the peace, order, good governance and provision of enabling environment for sustainable development. The power is so wide but is equally limited by the constitution wherein the parliament derives its powers. It is apposite to state that, with the re-emergence of democracy in Nigeria in May, 1999, the various Legislative Houses are using the Committees System effectively. This is so because in the 1999 constitution, provisions were made vesting the powers for the use of committees in parliament. Accordingly, the Constitution of the Federal Republic of Nigeria 1999 provides that:

²⁹ T. Hobbes, *Leviathan*, (London: Sweet & Maxwell, 1973), Chapter 21 p 256 Erskine M., *Treaties in the Law, Privileges and Usages of parliament*, (London: Butterworth, 1981).

The Senate or the House of representatives may appoint a committee of its members for such special or general purpose as in its opinion would be better regulated and managed by means of such a committee, and may by resolution, regulation or otherwise, as it thinks fit, delegate any functions exercisable by it to any such committee.

The above constitutional provision is a clear source, with extensive ambit for the Nigerian legislature to appoint committees in exercising their legislative powers. In carrying on their functions efficiently, the standing orders of the Senate and House of Representatives provide for committees. The number of such committees, members, their terms of office and quorum shall be fixed by the House appointing it.³⁰ The scope and terms of a committee are usually contained in the instrument appointing it and care must therefore be taken, that the terms of such reference are perfectly clear and precise so that the committee may know the exact limit of its duties and power. The importance and need of committees charged with responsibilities or delegated with powers in legislative process include being properly constituted and term of reference well defined³¹. This was emphasized by the United States Supreme Court in the case of *Watkins v. United States* led (2nd) 1273-1957 quoted by Kanu G. Agabi³² where Chief Justice Warren said:

An essential premise in this situation is that, the House or Senate shall have instructed the committee members on what they are to do with the power delegated to them. It is the responsibility of the congress. In the first instance, to insure that compulsory process is used only in furtherance of a legislative purpose. That requires that the instructions to an investigating committee spell out that group's jurisdiction and purpose with sufficient particularity. Those instructions are embodied in the authorizing resolution. The document is the committee's

³⁰ Section 62(2) and 103(2) of the *Nigeria Constitution 2011* as amended.

³¹ P. O. Idornigie, *The Relevance of Meetings and committee System*, p.10.

³² G.A. Kanu, "Oversight Powers of the National Assembly, Limit, Myth and Reality", (2001) Paper presented at NBA Conference Calabar 2001, pp 10-11.



charter. Broadly drafted and loosed, worded. However, such resolutions can leave tremendous latitude to the discretion of the investigators. The vaguer the committee's Charter is, the greater it becomes the possibility that the committee specific actions are not in conformity with the will of the parent House of congress.

It is apposite therefore to say that the powers of committees are usually delegated to it and thus it is bound by the maxim *delegates non protest delegare*. The parliament cannot delegate its institutional legislative powers to a committee. The Nigeria Constitution 1999 provides that:

Nothing in this section (section 62) shall be constructed as authorizing such House to delegate to a committee the power to decide whether a bill shall be passed into law or to determine any matter which it is empowered to determine by resolution under the provision of this constitution, but the committee may be authorized to make recommendations to the House on any such matter.

The use of Committees in legislative process has enhanced legislative efficacy thereby elevating the legislature as an inexhaustible repository of knowledge on all issues of public concern in the realm of sustainable development and management of conflicts no matter how intricate or technical. It is instructive to note, that large similarities exist in the type of committees that are set up by the parliament, notwithstanding, a number of other differences accompanying the differences in legislative activities³³.

In today's political systems, the legislative organ as the national representative body is considered indispensable for proper governance and sustainable development especially the committee stage of legislative process. In democratic framework the role of the legislature and legislative structures (committee) in establishing responsible government can hardly be overemphasized. It is therefore posited that of all political institutions (the

³³ A. A. Jimoh, *Law and Practice and Procedure of Legislature*, p.109.

executive and Judiciary), none is more vital to the process of sustainable development, linking governors and governed in relationships of authority, responsibility, and legitimacy, than the modern legislature³⁴. In modern democracies, parliament/congress/bundestag/legislative assembly with the use of committee system can play significant role in making a bridge between the government and the public³⁵ and providing room for sustainable development especially through oversight functions. Democratically elected legislatures/parliaments are potentially important because they represent pluralist conception so that various segments of the society can contribute to law making and monitoring the executive and set value goals for the society. As organic body, legislative/parliamentary structures developed through a long process of institutionalization particularly the issues of ever increasing complexity of legislation has itself made committee system indispensable to the legislative process³⁶. It is on this premise that the constitution took notice of committees and made significant provision for their operation as properly explained by Horack Jr³⁷ to the effect that American legislative assembly operates on division of labour; organize their membership into committees' representatives of majority and minority parties. Thus by specialization of inquiry and by balance of party influence, legislatures attempt to eliminate impractical and ill-time legislation without the expenditure of time and effort by the entire body. Committees provide interested parties an opportunity to present their cases and after hearing propose to legislature, if they favour the bill, legislation in perfect form³⁸. The relevance of committees conducting hearing during deliberations on Bill serves as an arena for the expression of

³⁴ L. Gerhard & C. P. Samuel, *Comparing Legislatures*, (Canada: Little Brown & CO. Ltd 1979), pp 1-5 and Erskine M., *Treaties in the Law Privileges and Usage of Parliament*, (London: Butterworth, 1989), p.557.

³⁵ Yves Meny and K. Andrew noted that, "If there is one symbol that stands for a representative system, it is certainly that of the Assembly, a collegial body through which the will of all (or part) of the population is expressed." Meny, Yves, *Government and Politics in Western Europe*, (Oxford: Oxford University Press, 1990), pp.181- 185.

³⁶ G. J. Rexford, *The Emerging Constitution*, Harper's Magazine Press, 1974, see Chapter 10, L. Gerhard & C. P. Samuel, *Comparing Legislatures*, p. 3.

³⁷ Hans I 201 at 131.

³⁸ *Ibid*.



the multitude of viewpoints which is found in society. By serving as channels for national concerns, committees help to resolve tensions, promote sustainable development as well as solve problems. By maintaining themselves as listening post for citizen concerns, the committees form a vital link in the representative process. Committees are the engine room of the legislature as Woodrow Wilson³⁹ observed; *'it is not far from the truth to say that congress in session is congress in public exhibition, whilst congress in its committees' room is congress at work'*.

Committee System, Sustainable Development and Rule of Law in Nigeria

In this era of globalization, commitment to the ideals of democracy, sustainable development, rule of law and a culture of accountability, rooted in constitutionalism, and defined in terms of good and responsible governance, have become core values in measuring the performance of governments and regimes⁴⁰. The prevention of corruption in the public sphere through legislative initiative and committees of legislative assembly in this perspective cannot be over-emphasized, and the effective monitoring of the fiscal responsibility of one arm of government to another have thus become critical values from which no legislative assembly and its committees will constitutionally, officially or even consciously shirk⁴¹.

Apart from the parliamentary system, some Commonwealth states have sought substantiation in the committees of parliamentary/National Assembly institutional mechanisms to promote rule of law, accountability and good governance, in particular, through the enactment of Leadership Codes and

³⁹ Woodrow W., *Congressional Government*, (USA: Prentice Hall Inc., 1885), p. 276.

⁴⁰ See generally John B., "Accountability and Governance under the New Regulatory State", (1999) *Australian Journal of Public Administration* 58(1) p 90; and Michael M., *Understanding the Regulatory State*, 32 *British Journal of Political Science* 32, pp. 391-413.

⁴¹ See generally Ibrahim Imam, et al., "Corruption in Nigeria: A Call for Aggressive Legal Solution", *Journal of International Law and Jurisprudence*, (2010) Nnamdi Azikiwe University, Anambra (UNIZIK) 1, pp. 135-145 and Ibrahim Imam & Mrs M. A. A. Mustapha, "Combating Corruption: The Role of the Legislature Examined" (2009) *University of Ilorin Law Journal*, 5(1) Faculty of Law, University of Ilorin, pp. 57-79

oversight activities. It is instructive to note that, there is no absolute constitutional or legal arrangement against corruption. This paper emphasizes that the relative committee structural efficacy of the Nigeria National Assembly Public Account Committee,⁴² like the British model, is one that should stimulate interest and deserving of healthy scholastic engagement in important discourses relating to sustainable development, rule of law, accountability and good governance in Nigeria. Consequent upon these premises therefore, the perspectives within which this paper proceeds are as follows:

- i. that the committees system in constitutional democracy is normative for curbing corruption and promoting sustainable development within the existing scheme of democratic practice;
- ii. that the Nigerian National Assembly committees stand in a most significant position for national constitutional approaches to promoting the rule of law, public accountability and good governance in Nigeria;
- iii. that the National Assembly committee system presents a credible and more acceptable approach to meeting the challenges of sustainable development, rule of law, public accountability and good governance in Nigerian states and;
- iv. that beyond constitutional and statutory initiatives for promoting public accountability and good governance, there exist various other constitutionally- entrenched oversight approaches through committee systems that could be explored in promoting sustainable development, rule of law, public accountability in Nigeria in the context of this paper, public participation in legislative-led approaches.

It is important to bear in mind that public accountability significantly assumes a technical meaning in the context of this paper and for that

⁴² B. Gerhard and P. Samuel, *Comparing Legislatures*, (United Kingdom: Little Brown Company, 1979), pp. 1-3 and M. Erskine, *Treaties in the Law and Privileges and Usage of Parliament*, (London: Butterworth, 1989), pp. 557-603.

purpose, the term connotes the democratic process through which those holding public office, and in particular those who exercise powers over the national resources of the country and the 36 states including the Federal Capital Territory, are rendered accountable to the ordinary people, through their elected representatives i.e. committee system scrutiny⁴³. The essence of this process is the maximization of the effectiveness of government and the ability to eliminate or curb abuse and waste. It is thus noteworthy that public accountability⁴⁴, therefore, must be distinguished from other connotations of "accountability" as may necessarily be employed in other perspectives. In similar perspective, good governance herein is used to describe a system of governance that is first and foremost accountable, transparent, responsive, equitable, participatory, oriented towards consensus, and ultimately, effective and efficient. This, in our view, can be achieved from parliamentary committee oversight functions⁴⁵. Good governance is, therefore, to be characterized by efforts towards the diminution of corruption, and responsiveness to the prioritization of the present and future needs of society⁴⁶.

In a constitutional democracy, the use of checks and balances in compliance with the doctrine of separation of power reduces excesses and abuse of office and creates conducive environment for sustainable development through speedy passage of developmental legislations. Placed within the

⁴³ In the Nigerian National Assembly public officers are held accountable to the people through the defence of budget in parliament. Section 88 of the Constitution allows the committees to invite public officers to account for their spending on the appropriation to their departments.

⁴⁴ There is usually established in the Nigerian National Assembly a Public Account Committee saddled with this responsibility. The first parliamentary Public Accounts Committee (PAC) in the Commonwealth was established at Westminster in April 1861 on a motion moved by William Gladstone, then Chancellor of the Exchequer, to examine the audited accounts of public expenditure, on an annual basis.
http://www.parliament.uk/parliamentary_committees/committee_of_public_accounts/pachist.cf

⁴⁵ A. A. Jimoh, *Law and Procedure of Legislature*, (Lagos: Learned Publishers Ltd, 1999), p. 109. The use of committee and sub-committee has enhanced legislative efficacy thereby elevating the legislatures as inexhaustible repository of knowledge on all issues of public concerns no matter how intricate or technical.

⁴⁶ See generally Déjà Lowe: "Parliamentary Control of Public Finances in Nigeria: The Constitutional and Structural Dimensions Examined", (2001) *LASU Law Journal* 4(1) pp. 10-20 See generally Away B. Shah: "The Structure and Role of the Public Accounts Committee in the Third Republic", (1991), *Journal of Nigeria Public Administration and Management*, pp. 126-127 and Gerhard B. and Samuel P., *Comparing Legislatures* pp. 1-3

context of the quest for public accountability and good governance in Nigeria, constitutional democracy assumes the role of a catalyst for transparency and accountability in public activities especially finance which would ensure that resources reach their intended targets, promote popular participation in prioritization, and even encourage confidence in the administration. In this perspective, one of the many possible constitutional democratic platforms for securing sustainable development is through the idea of National Assembly committee system in its oversight of public finances. In the exercise of its constitutional duty of controlling the general public activities, administration and expenditure of public fund, the legislature usually operates a number of committee specialized committees particularly in financial matters⁴⁷, the committee stage for technical reasons is usually formal. The Annual Appropriation Act deals with the balance of money appropriated to ministries and agencies but so far not disposed of and confirmed respectively the appropriation made from the Consolidated Fund Act⁴⁸. This is supported by the Nigerian constitution, which provides that:

...the powers conferred on the National Assembly under the provision of this section are exercisable only for the purpose of enabling it to expose corruption, inefficiency or waste in the execution administration of law within its legislative competence and in the disbursement or administration of funds appropriated by it⁴⁹.

⁴⁷ Such Committees may include, Public Account Committee, Expenditure Committee, Estimate Committee and Audit Committee. Section 62 and 103 of the Nigerian Constitution allows the National and States' Houses of Assembly to employ committee system in legislative functions.

⁴⁸ K. Awotokun, *Governance and Legislative Control: Lesson from Second and Third Republics*, (San-Francisco, International Scholarly Publications, 1998), T. M. Erskine, *Parliamentary Practice: the Law, Privilege, Proceedings and Usage of Parliament*, (London: Butterworth, 2004). In order to prevent corruption President Shehu Musa Yar'Adua ordered the payment or return of unspent money at the end of every financial year back to the purse of the Federal Government. The fear that such money usually found their way into private accounts was evidenced in the action a Minister, Alison Madueke (former Health Minister) that withdrew N30.9 million between 26th – 31st December 2008 against the directive of the President that such money unspent be remitted to the Federation Account. See *The Nation* of Monday June 30th, 2008.

⁴⁹ Popoola A. O., *Enforcing the Principles of Separation of Powers: A Review of the 1999 Constitution*, Legal Research and Resource Development Centre Abuja 14-16th Feb. 2000 pp. 4-5; E. May, *Treaties in*



In this global period, especially with the vast number of former colonies that are now sovereign member-states of the British Commonwealth with Nigeria inclusive, the idea of good governance has re-emerged as a defining theme on the agenda of governance. The organization has issued numerous communiqués and declarations urging its member-states to pursue democratic rule and accountability in tandem with good governance⁵⁰.

Capturing the core essence of the Commonwealth's determined commitment to accountability and good governance, Kiyaga-Nsubuga⁵¹ posits that:

Good governance entails efficient and effective use of power and resources, constitutionalism and rule of law, justice and equity, electoral and participatory democracy, security of person and property, promotion of human rights, transparency and accountability (political, managerial and financial), exemplary and inspirational leadership, and popular participation in social and economic processes. Its facilitating conditions include a strong state, a robust and dynamic economy, and a vibrant civil society and informed and empowered citizenry.

It is instructive to note that in the United Kingdom today, the Public Account Committee (PAC) is a special standing committee of the House of Commons set up primarily to examine the accounts of the appropriations of the sums granted by Parliament to meet public expenditure and such other

the Law Privileges and Usage of Parliament, (London: Butterworth, 1989), p. 112 see also A.A. Jimson, *Law Practice and Procedure of Legislature*, (Lagos: Learned Publisher, 1999).

⁵⁰ The Declaration of Commonwealth Principles, Singapore, Jan., 22, 1971; Harare Commonwealth Declaration, Oct. 20., 1991; Commonwealth Heads of Government Meeting, Coolum, Australia, 2-5 March 2002, The Coolum Declaration, 28(1) C'WEALTH L. BULL. 598, 609 (2002); Commonwealth Local Government Action Forum, Time for Local Democracy: The Aberdeen Agenda – Commonwealth Principles on Good Practice for Local Democracy and Good Governance, Apr. 2005; Commonwealth Secretariat, Local Democracy, Good Governance and Delivery of MDGs in Africa, Report of the Africa Regional Symposium held in Kampala, Uganda, Apr. 2006, 3-4 (2006). For an analysis of some of these instruments, see Alison Duxbury, *Rejuvenating the Commonwealth: The Human Rights Remedy*, 46 INT'L & COMP. L.Q. 344, Francis N. Botchway, *Good Governance: The Old, the New, the Principle, and the Elements*, (2001) 13, *Journal of International Law* pp. 159-210.

⁵¹ John Kiyaga-Nsubuga, "Commonwealth Secretariat, Local Democracy, Good Governance and Delivery of MDGs" in Africa: Background Paper 57, 61(2006), <http://www.MDG/paper.com> accessed on 2/3/2011

accounts laid before Parliament as the PAC deems fit. The PAC is usually composed of fifteen members who are nominated on the strength of the parties' standing in the House. It is significant to note that the Chairperson of the PAC is customarily an experienced member of the official Opposition⁵².

By its longstanding practice, the Public Account Committee (PAC) holds two hourly sessions twice a week from January to July⁵³ every year and examines a wide range of accounts by questioning the Permanent Secretary and the supporting staff of the concerned public departments. The Permanent Secretary is the accounting officer of each department and his/her appearance before the PAC is one function that is not delegated. It is the annual report of the Comptroller and Auditor-General that usually forms the basis for the PAC investigations. It follows that rather than be concerned with the formulation of policy, the PAC is more concerned with the administration and implementation of governmental policy⁵⁴. As with other Select Committees of the House of Commons, in considering the Comptroller and Auditor-General's report, the PAC asks for oral and/or written evidence from the accounting officer(s) of the government department concerned. During these sessions that are customarily held in public, with the Press in attendance, the accounting officer may be questioned on his department's handling of the program or project under scrutiny or about an element of his judgment⁵⁵.

⁵² David M.O. *Legislative Process: A Comparative Approach*, London, (Oxford: Oxford University Press, 1989), p. 195.

⁵³ The practice differs in Nigeria. Such Committees may include, Public Account Committee, Expenditure Committee, Estimate Committee and Audit Committee. Sections 62 and 103 of the Nigerian Constitution allow the National and State Houses of Assembly to employ committee system in its legislative functions.

⁵⁴ David M.O. *Legislative Process: A Comparative Approach*, p. 195 see also Mohammed I. Z. (2002). *The Concept of Economic Growth and Development*, in Abdullahi, M. & Sulaiman S. (eds), *Leading Issues in Economic Development and Social Welfare*; (Kano: Samarib Publishers). *Newswatch*, 14(8) August 19, 1991.

⁵⁵ Akintola A.A. *Law and Procedure of Legislature*, p. 101, see also D. A Guobadia; *The Legislative and Good Governance under the 1999 Constitution*, NIALS Publication, 2001, p. 43 at 45-7 see Section 85 (2) (b) (for the Federation) and section 125(2) (for the states) of the Nigerian Constitution 1999.

The idea of Public Account Committee was imported to Nigeria from Britain where it has served as a veritable Parliamentary instrument of controlling public expenditure since 1861. The essential point to note here is that since the Public Account Committee concept was introduced into Nigeria, there has been a form of public accountability structure in Nigeria⁵⁶. Administrative and executive heads as well as the chief accounting officers of the various departments of Government must be ready to answer questions and to provide required evidence before the audit committee over the spending of approved expenditures enacted by the legislature in the appropriation Acts or Laws⁵⁷. The Constitutional provision relating to the audit of public accounts provides as follows:

The public account of the federation and all officers and courts of the federation shall be audited and reported on by Auditor General who shall submit his report to the National Assembly, and for that purpose, the Auditor General or any other person authorized by him on that behalf shall have access to all the books, records, returns and other documents relating to those accounts.⁵⁸

From all discourse, linkage between legislators and the constituencies depends on how members of the legislature conceptualized their constituencies, the focus of representation on their attentiveness to constituent, the representation style and their ability to maintain contact with constituents through various means of developmental legislations, communications and or ability to act in the legislature in manner responsive to the yearnings of their constituents' Committee system provides the enabling platform for each of the factors that determined the proprieties of the political system in each legislative act.

⁵⁶ Olowu D. *Parliamentary Control of Public Finance in Nigeria: the Constitutional and Cultural Dimension examined*, pp. 10-24.

⁵⁷ Section 85 (2) (b) (for the Federation) and section 125(2) (for the states) of the *Nigerian Constitution 1999*.

⁵⁸ Section 85(2) *ibid.* see also Kanu G.A., "Oversight Powers of the National Assembly, Limits, Myths and Reality", a paper presented at the NBA Conference, Calabar, 2001, p.12.

Conclusion

This paper explored the interrelationship between the notion of participatory governance through committee system in parliament and sustainable development. The idea is that because the content of sustainable development is indeed important, attention should be given to the legislative elements through which the more substantive pillars of sustainability and rule of law can be translated into practice. Thus, committees' participation in legislative process has become a central element of both national and state assembly engine-room witnessing the emergence of participatory governance entitlement as an effective sector for achieving sustainable development objectives.

Thus in this paper the concept of sustainable development has been explained as an effort at improving the socio-economic status in connection with how legislative committees can be effective drivers for the purpose of improving the quality and standard of life in Nigeria in such a way that the needs of the future generations are not jeopardized. We noted that the term committee system became more pronounced and received greater attention when discussing legislative functions more significantly in National and various State Houses of Assembly assigned with functions to propose long-term environmental strategies for achieving sustainable development.

The legislative committees' dialogue should transcend a mere regular assessment of bill or oversight functions but must include participation in the realm of the development in respect of sustainable development, human rights, democratic principles, the rule of law and good governance. The standards for democracy, sustainable development, fundamental freedoms, rule of law and good governance should be reinforced, through committee system in legislative Assembly and not lowered or limited under the pretext of avoiding delegation of legislative powers to committees. This is imperative for achieving a virile and sustainable development in Nigeria.

Conclusively the discourse in this paper relies on an understanding of the notion of an empowered committee system as an arbiter entrusted with striking a healthier balance between legislative assembly, economic imperatives and societal needs on the ground, the need for vibrant action by legislature to allow people's participation outside formal processes so as to effectively harvest ideas from society's contribution within such processes. It is thus expedient to state that committee system may go a long way as a body within the whole House in promoting sustainable development through effective and efficient deliberations and considerations of legislative process. In this arraignment, members will have the chance to contribute to legislative process as aptly justified in the words of Robert Luce⁵⁹ thus:

Every member of congress has the chance to contribute towards good legislation. If he belongs to the majority party he is not necessarily a voting dummy in parliament. If he belongs to the minority, he is not restricted to mere fault finding ... Committees' room may play a most useful part in constructive efforts for public good.

⁵⁹ G. George, *The Little Legislative Committees of Congress*, p. 66.