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AN APPRAISAL OF POST-LEGISLATIVE SCRUTINY MECHANISMS IN NIGERIA: A COMPARATIVE STUDY OF NIGERIA AND THE UNITED STATES OF AMERICA

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BONNIEVOLO ESON ECOMA**

Abstract

As an emerging aspect of legislative practice, post-legislative scrutiny represents a special process that is designed for the purpose of monitoring and evaluating the implementation and impact of legislation, with a view to ensuring that laws are implemented as intended. Its development flows from the profound shift in legislative thinking and practice from focus on mere enactment of legislation, to improved quality and effectiveness of legislation. In line with the drive for more inclusive, impactful and proactive legislation, legislatures around the world have adopted post-legislative scrutiny as a fundamental aspect of legislative practice and procedure. The rapid adoption has however given rise to the evolution of diverse forms, practices and mechanisms of post-legislative scrutiny across legislatures, especially in view of idiosyncratic considerations. This development underscores the importance of analysing post-legislative scrutiny practices across jurisdictions in order to take the benefit of practices or models that are highly beneficial. Against this background and relying on the doctrinal research methodology, this paper undertakes a comparative review of post-legislative scrutiny mechanisms in Nigeria and the United States of America and finds that although post-legislative scrutiny is not specifically defined in the frameworks of both countries, there are structures and mechanisms put in place in the United States of America that align with the principles of post-legislative scrutiny. Based on this, the paper recommends that Nigeria like the United States of America, should deploy a unique combination of mechanisms to ensure that laws are implemented as intended, and that impacts recorded are profound and in accordance with objectives.

Keywords: *Post-Legislative Scrutiny; Legislature; Oversight; Scrutiny; Legislation*

1. Introduction

Until recently, the general perception of the role or function of the legislature was that the legislature was mostly confined to the enactment of laws.[1] That perception led to the visualisation of

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the legislature as a law-making engine room or machinery where or through which bills are introduced, debated and passed without more. For the most part, the legislature itself seemed to validate the perception as it was largely pre-occupied with the mechanical process of law making. The quantum of bills churned out by a legislative assembly during its term thus served as a yardstick in the eyes of the citizenry for determining how effective, efficient and productive a particular legislative assembly was.[2] In that light, the function of the legislature essentially revolved around representation and law making, with a tinge of oversight.

In most legislatures, the oversight function was carried out with circumspection and less precision than required especially in climes where inordinate executive interference or dominance

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[1] Usman Ghani, 'Law-making is the Regime of Legislature: A Critical Overview of Models of Interpretation of Statutes' *SSRN* (Rochester, 22 December 2021) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3990612> accessed 22 December 2022.

[2] Anderson et al; Cox and Terry; Hasecke and Mycoff; Volden and Wiseman; and Ekor et al primarily assess legislative effectiveness or success as the number of bills that are initiated by a legislator and which move through the legislative process, from introduction to assent. See WD Anderson, JM Box-Steffensmeier & V Sinclair-Chapman, 'The Keys to Legislative Studies in the U.S. House of Representatives.' *Legislative Studies Quarterly* [2003] (28) (3); GW Cox and WC Terry, 'Legislative Productivity in the 93rd-105th Congresses.' *Legislative Studies Quarterly* [2008] (33) (4); EB Hasecke and JD Mycoff, 'Party Loyalty and Legislative Success: Are Loyal Majority Party Members more successful in the U.S. House of Representatives?' *Political Research Quarterly* [2007] (60) (4); Craig Volden and Alan E Wiseman, *Legislative Effectiveness in the United States Congress*. (Cambridge University Press, 2014); M Ekor, M Katz & O Iweala, 'Estimating Legislative Effectiveness in Nigeria.' *Developing Country Studies* [2014] (4) (3).

thrived.[3] In addition, the successful enactment and subsequent passing of legislation appeared to be the peak of legislative achievement as legislators were mostly content with simply making large additions to the stockpile of legislation without recourse to their subsequent implementation or societal impact.[4] Statute books thus served as veritable dumping ground for legislatures, especially in view of the fact that the implementation of legislation is regarded as the exclusive preserve of the executive arm or branch of government. In recent years however, advancements in legislative practice, procedure and thinking have significantly altered the primordial perception within and outside the legislature, and have paved the way for an additional role/function of the legislature in the form of post-legislative scrutiny.[5]

This paper undertakes a comparative review of post-legislative scrutiny mechanisms in Nigeria and the United States of America. The analysis focuses on national rather than state legislatures. As a prelude, the paper analyses the concept of post-legislative scrutiny and its essentials. It then proceeds with a consideration of the operation of post-legislative scrutiny mechanisms in the United States and Nigeria, and concludes after a comparative and contrastive analysis.

2. Post-Legislative Scrutiny: Conceptual Analysis

[3] JY Fashagba, 'Legislative Oversight under the Nigerian Presidential System.' *The Journal of Legislative Studies* [2009] (15) (4) 439.

[4] S Frantzich, 'Who makes our Laws? The Legislative Effectiveness of Members of the U.S. Congress.' *Legislative Studies Quarterly* [1979] (4) (3) 410; S Oni, F Olanrewaju & O Deinde-Adedeji, 'The Legislature and Law Making in Nigeria: Interrogating the National Assembly (1999-2018)' in: Joseph Y Fashagba, Ola-Rotimi M Ajayi & Chiedo Nwankwor (eds), *The Nigerian National Assembly*. (Springer Nature, 2019) 26.

[5] Tom Caygill, 'The UK Post-Legislative Scrutiny Gap.' *The Journal of Legislative Studies* [2020] (26) (3) 387; LJ Knap, RV Gameren, VDV Sankatsing, J Legemaate, RD Friele & Nivel 2022, 'The Impact of Ex-post Legislative Evaluations: A Scoping Review.' *The Journal of Legislative Studies* [2023].

Post-legislative scrutiny (PLS) is a process that extends beyond the usual framework of legislative scrutiny in respect of drafting bills, to legislative impact assessment. As an emerging dimension within the oversight role of legislatures, post-legislative scrutiny is a process, instrument or mechanism of the legislature which assesses whether or not the provisions of a legislation, its subsidiary legislation or a set of legislation have entered into force, as well as their impacts. It is thus designed to ensure that policy objectives are adequately met and possibly surpassed.

As an evolving feature of legislative practice and procedure, and given the peculiarities of national systems and the absence of a universal model for adoption by national legislatures, there is the tendency for legislatures around the world to adopt approaches to post-legislative scrutiny which are best suited to their peculiar circumstances, legislative systems and systems of government. Given that post-legislative scrutiny practices have not been substantially deployed in some countries, and in view of its nascent nature, a comparative analysis goes beyond familiar arrangements and assumptions and offers the opportunity to discover a wider range of alternatives, as well as the virtues and shortcomings of practices in other ecological settings. Comparing experiences deepens understanding and presents practicable options for incorporation into the legislative processes of other settings.

While some legislatures seem to have significantly become acquainted with the concept and practice, others are grappling with appreciating and effectively applying the concept. This is made worse by the fact that PLS has been mostly applied in an unstructured manner. Still, there is the challenge of coming to terms with what the nascent concept means and entails. To make for a proper understanding of the concept that serves as a base for this paper, it is pertinent to analyse the concept of PLS and address in detail, its main components.

PLS has acquired quite a settled meaning despite being an emerging concept, although in most cases, it is better described

than defined. One definition that has held sway for a considerable length of time is that given by the Law Commission of England and Wales in 2006. The Commission defined PLS in the following way:

> A broad form of review, the purpose of which is to address the effects of legislation in terms of whether intended policy objectives have been met by the legislation and, if so, how effectively. However, this does not preclude consideration of narrow questions of a purely legal or technical nature.[6]

For Moulds and Khoo, PLS is "most commonly used to refer to a process of parliamentary-led review of enacted legislation, designed to evaluate the implementation and effectiveness of the law and through this process, and in this way, improve the overall quality of parliamentary law making."[7] Knap et al assert that PLS assesses the functioning of legislation by examining whether the legislation works, how it works, and the effects that occur in practice after a law enters into force, and that this evaluation is carried out either systematically (e.g., on the basis of an evaluation clause in the law) or on an *ad hoc* basis.[8] In its London Declaration on Post-Legislative Scrutiny, the Westminster Foundation for Democracy expressed the view that PLS works as a safeguard, protecting core constitutional values such as representative democracy, legal certainty and the rule of law, and that it involves monitoring and evaluating if laws are benefitting citizens as originally intended, with the potential to *inter alia* increase legislators' focus on implementation and

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[6] Law Commission of England and Wales, *Post-Legislative Scrutiny*. (Cm 6945, 2006).

[7] Sarah Moulds and Ying H Khoo, 'The Role of the People in Post Legislative Scrutiny: Perspectives from Malaysia and Australia.' *Journal of International Studies* [2020] (16) 2.

[8] Knap et al (n 5) 1.

delivery of policy aims, and improve government accountability.[9]

Vrieze[10] analysed the concept in two senses: a stricter sense and a broader sense. He asserts that in its stricter sense, PLS looks at the enactment of the law, whether the legal provisions of the law have been brought into force, if secondary legislation has been enacted, how courts have interpreted the law, and how legal practitioners and citizens have used the law. This sense, he notes, is more focused and is a more purely legal and technical review because it examines how a piece of legislation is working in practice. In a broader sense, he notes further that PLS looks at the impact of legislation, whether the intended policy objectives of the law have been met and how effectively. These categorisations bring forth two dimensions of PLS posited by Vrieze that he recommends to legislatures:

(a) to evaluate the technical entrance and enactment of a piece of legislation (the monitoring function); and
(b) to evaluate its relationship with intended policy outcomes (the evaluation function).

Caygill[11] states that the main aims of PLS that follow from these functions are:

(i) to assess whether legislation is functioning as intended and to offer solutions if not;
(ii) to increase focus on the implementation of legislation within government; and
(iii) overall, to produce better legislation.

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[9] Westminster Foundation for Democracy, 'London Declaration on Post-Legislative Scrutiny.' *WFD* (London, n.d.) <https://www.wfd.org/approach/post-legislative-scrutiny/> accessed 5 October 2023.

[10] Franklin De Vrieze, *Post-Legislative Scrutiny: Guide for Parliaments*. (Westminster Foundation for Democracy, 2017) 11.

[11] T Caygill, *Post-Legislative Scrutiny in the UK Parliament: The Post-Legislative Series, 1*. (Westminster Foundation for Democracy, 2021) 7.

These aims essentially serve as pointers to the rationale for PLS in legislative practice. For centuries, legislative practice has virtually centred on representation, legislation and oversight, and the practice in respect of these functions has essentially been to draft, introduce, debate on and enact bills without recourse to their subsequent implementation, and further, to their societal impacts. As noted by Vrieze, parliaments devoted a large part of their human and financial resources to the process of adopting legislation but overlooked the review of implementation of legislation. He further notes that:

> Implementation is a complex matter depending on the mobilisation of resources and different actors, as well as the commitment to the policies and legislation, coordination and cooperation among all parties involved. Implementation does not happen automatically and several incidents can affect its course, including: changes in facts on the ground, diversion of resources, deflection of goals, resistance from stakeholders and changes in the legal framework of related policy fields. Implementation of legislation and policies may also be undermined by power asymmetries, exclusion, state capture and clientelism.[12]

Despite these challenges, Vrieze posits that there are four overarching reasons legislatures are compelled to monitor and evaluate the implementation of legislation:

(a) to ensure that the requirements of democratic governance and the need to implement legislation in accordance with the principles of legality and legal certainty has been met;
(b) to enable the adverse effect of new legislation to be apprehended easily and expeditiously;

[12] Vrieze (n 10) 11.

(c) to support a consolidated system of appraisal for assessing how effective a law is at regulating and responding to problems and events; and
(d) to support improvements in legislative quality by learning from experience both in terms of what works and what does not, and in terms of the relationship between objectives and outcomes.[13]

Possible trigger points to initiate PLS in legislatures include:

(a) representations being made to a legislative committee from individuals or organisations that a piece of legislation needs to be reviewed due to a particular policy impact;
(b) publicity in the media indicating that PLS is required;
(c) a sunset clause or a statutory review period being included in legislation requiring it to be revisited by the legislature;
(d) members of the judiciary commenting that a piece of legislation should be revisited;
(e) a Bill being passed containing a requirement that the Government must report to the legislature on a particular provision;
(f) a petition being brought forward calling for a review of current legislation in a subject area;
(g) a legislative committee deciding that it will undertake regular scrutiny of the implementation of a law; and
(h) a legislative committee inquiry being undertaken into an issue which includes an examination of current legislation.[14]

PLS brings a new dimension to legislative practice, which is that legislatures have the right and responsibility to oversee, monitor and evaluate the implementation of laws and their impacts. It emphasises the point that it is the overall responsibility of legislators not only to see that political intentions of legislation

[13] Ibid.
[14] Ibid, 18.

are achieved by voice votes or majority mandates, but to also ensure that legislative intentions and objectives of bills (laws, when passed) are achieved.[15] Apart from deepening democracy across jurisdictions, PLS creates new frontiers for accountability on the part of the legislature and executive, reduces ambiguity, makes legislation fit for purpose, improves the overall quality of legislation, and keeps legislatures relevant and in tune with the dynamics of society.

3. Tracing the Evolution of PLS

Although there is perhaps no proper record or account of the history or evolution of PLS, it is known that the concept gained prominence and momentum around the early 2000s. PLS is essentially an offshoot of the *Better Regulation* movement in Europe and America in the 1990s and early 2000s that was aimed at developing policies and legislation that were subject to ex-ante and ex-post evaluation, and which achieved their objectives. At the time, European countries were criticised for churning out excessive and poorly drafted legislation that inordinately regulated businesses and citizens. '*Better Regulation*' was therefore a process of designing policies and laws in ways that enabled the achievement of their objectives at minimum cost; it was a way of working to ensure that political decisions are prepared in an open, transparent manner, informed by the best available evidence and backed by the comprehensive involvement of stakeholders.[16]

Using strategic planning, impact assessment, consultation and evaluation as its main tools, '*Better Regulation'* in Europe aimed at preparing and adapting European Union policy and legislation in knowledge of its expected economic, environmental and social impacts, avoiding unnecessary burdens and red tape for citizens, businesses and public authorities. It was both an aim

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[15] BR Atre, *Legislative Drafting: Principles and Techniques*. (3rd edn, Universal Law Publishing Co. Pvt. Ltd, 2011).

[16] E Golberg, ''Better Regulation': European Union Style.' *M-RCBG Associate Working Paper Series* [2008] (98) 9.

and a process setting out how regulations should be prepared, assessed and revised.[17] The initiative is itself a hybrid, combining the American tool of regulatory impact assessment with European strands such as simplification and a standardised approach to measuring administrative costs.[18]

Baldwin argues that the United Kingdom's *Better Regulation* rhetoric echoed that which was encountered in the European Union, and that the way to ensure better regulation was seen in terms of the need to develop and apply a series of regulatory improvement tools and policies, chief of which was Regulatory Impact Assessment.[19] On her part, Goldberg notes that the assessment of regulation from the design phase to implementation, with public consultation throughout the process, has become systematic.[20] It is arguable that that systematisation birthed PLS which is in itself, impact assessment of legislation. In line with the better regulation initiative, the central objective of PLS is to ensure that there are effective laws in circulation that achieve their policy and statutory objectives. It is fast becoming a systematised legislative process for producing better, efficient and effective laws which are specifically designed through the deployment of special tools, to address current and emerging societal issues and challenges.

4. Theoretical Underpinnings of PLS

PLS essentially draws on two theoretical perspectives: checks and balances, and effective legislation. The principle of checks and balances derives directly from the concept of separation of powers.[21] Although the concept has evolved and has been

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[17] Ibid, 3, 9.

[18] JB Weiner, 'Better Regulation in Europe.' *Duke Law School Faculty Scholarship Series* [2006] (65) 6.

[19] R Baldwin, 'Better Regulation in Troubled Times.' *Health Economics Policy and Law* [2008] (1) (3) 203.

[20] Ibid.

[21] Dean Wells, 'Current Challenges for the Doctrine of the Separation of Powers – The Ghosts in the Machinery of Government.' *QUT Law Review* [2006] (6) (1) 105.

applied in differing manners, its core objective has essentially remained true for ages. The principle of checks and balances posits that although governmental powers are distinct among the three arms or branches of government, it is imperative to monitor, evaluate or check the activities of each arm so as to forestall absolutism or abuse. This is regarded as a central way of keeping society together. It is in the exercise of the power of the legislature to check on the executive and judiciary that the principle of oversight was birthed: that the legislature has a responsibility to monitor and evaluate the exercise of power by the executive and the judiciary. PLS is in itself, a mechanism within the legislative and oversight role of legislatures. The concept thus rests first on the principle of checks and balances, and then on that of effective legislation.

PLS also rests on the pillar of effective legislation and this reflects significantly on the *Better Regulation* initiative. PLS has as its central motive, ensuring that enacted legislation is implemented as intended and achieves the objectives for which it was enacted. It aims at the continuous evaluation of enacted laws in order to reform them and bring them into conformity with contemporary demands, thereby making them effective to deal with existing and potential challenges, and achieve set objectives with minimal challenges. Thus, there is the drive to have legislation and legislatures that work or are effective.

Professor Xanthaki asserts that effectiveness reflects the relationship between the purpose and the effects of legislation and expresses the extent to which it is capable of guiding the attitudes and behaviours of target populations to those prescribed by the legislator.[22] In simple terms, effectiveness expresses the extent to which a law can do the job it is intended to do, and this is regarded as the primary expression of legislative quality.[23]

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[22] Helen Xanthaki, 'On Transferability of Legislative Solutions: The Functionality Test' in Constantin Stefanou and Helen Xanthaki (eds), *Drafting Legislation: A Modern Approach*. (Ashgate, 2008) 17.

[23] Helen Xanthaki, 'Quality of Legislation: An Achievable Universal Concept or an Utopia Pursuit?' in Luzius Mader and Mart Tavres de

With tools such as clarity, precision and unambiguity, effectiveness of legislation denotes the introduction by legislation, of adequate mechanisms capable of producing the desired regulatory results.[24] Mousmouti notes that effective legislation is the result of complex mechanics in the conceptualisation, design, drafting, implementation and enforcement of the law which requires processes and institutions for regulatory governance and tools to guide legislative design, drafting and implementation.[25] Although the successful implementation of legislation depends on certain factors or structures that are external to the legislature, the legislature may however contribute to implementation by including in the body of legislation, provisions which set up institutions or frameworks to enable implementation. This will ultimately make for ease in implementation by the executive, as well as monitoring and evaluation by the legislature. Thus, the twin pillars of checks and balances and effective legislation on which PLS rests essentially reflect on the central functions of PLS– whether legislation has entered into force or has been implemented, and whether the desired or intended objectives or impacts of the legislation have been achieved or realised.

5. Principles of PLS

PLS holds certain principles that relate to its mandate or rationale, its scope, the participants, the processes involved, and the timeframe for conducting it. Although these principles are not absolute, they serve as guidelines that legislatures can follow for adoption of the practice, and thereafter expand on. The principles as formulated by the Westminster Foundation for Democracy (WFD) are derived from a cross-jurisdictional study of the operation of PLS in select legislatures and are aimed at assisting legislatures in setting up and enhancing PLS practices.

Almeida (eds), *Quality of Legislation: Principles and Instruments* (Nomos, 2011) 80-81.

[24] Helen Xanthaki (n 22) 6.

[25] M Mousmouti, 'The "Effectiveness Test" as a tool for Law Reform.' *IALS Student Law Reform* [2014] (2) (1) 5.

The fifteen PLS principles advanced by WFD are grouped under five thematic heads as follows:

A. Mandate

- Parliament has a responsibility to monitor that the laws it has passed have been implemented as intended and have had the expected effects. Therefore, PLS is an important tool for increasing government accountability;
- Three binding instruments typically provide a mandate for PLS: ministerial undertakings, review clauses in legislation or sunset clauses;
- Even when no binding commitment to PLS is made during the passage of a bill, parliament should be able to undertake PLS on any matter that it so chooses.

B. Scope

- PLS reviews both the enactment of law and its impact on society, and hence contributes to improve law itself and people's wellbeing;
- To make use of time and resources in the most effective way, parliament needs a transparent process for identifying the pieces of legislation that are selected for post-Legislative review;
- To understand the implementation and impact of legislation, it is useful to review secondary or delegated legislation at the same time as reviewing the primary Act;
- PLS provides an opportunity to assess the impact of legislation on issues which cut across different Acts, such as gender or minorities.

C. Participants

- Parliament should consider whether responsibility for PLS should lie with its standing (permanent) Committees or with a dedicated body. PLS should be an inclusive process in which all party groups are able to participate;
- For parliament to conduct PLS inquiries effectively, it needs to empower its human resources and enable them to work with appropriate ICT systems and applications. Parliament may consider whether to establish a specialised Post-Legislative Parliamentary Service or to outsource this function to an external independent review panel that must report to parliament;
- Public engagement in PLS enables access to additional sources of information, increases the credibility of the findings and enhances public trust in democratic Institutions.

D. Processes

- Inclusion of PLS in the parliamentary rules of procedure contributes to generating clarity, purpose and resources to post-legislative activities;
- PLS processes avoid a simple replay of policy arguments from the time when the merits of the law were debated;
- Effective PLS requires full and timely access to governmental information, and to the views of a wide range of stakeholders, including civil society organisations;
- Parliament should have processes in place to ensure consideration of the findings of PLS so that, where necessary, changes to legislation and policy can be made in a timely manner.

E. Timing

- PLS should generally take place at least three years after enactment of the law in question.[26]

6. PLS in the United States of America

PLS in the United States of America essentially takes the form of congressional oversight. While there is, strictly speaking, no specially defined framework that goes by the name or description of "PLS", there are very potent structures and mechanisms for monitoring and evaluating the implementation of laws and assessing their impacts. These structures and mechanisms are very similar to, and in some cases, even more advanced than the usual PLS mechanisms. In the final analysis, they align with those put forward by PLS. Admixtures of processes and mechanisms feature prominently.

The United States Administration is overseen internally and externally. Internally, each government department and most agencies have an internal review mechanism– an Office of the Inspector General [27] that is charged with the function of identifying, auditing, and investigating fraud, waste, abuse, embezzlement and mismanagement of any kind within the executive department. In respect of external oversight, Congress has several non-partisan agencies at its disposal such as the Government Accountability Office (GAO) (which audits the

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[26] Franklin De Vrieze, *Principles of Post-Legislative Scrutiny by Parliaments*. (Westminster Foundation for Democracy, 2018).

[27] C Klugman, 'Congressional Oversight of the US Administration: Tools and Agencies.' *European Parliamentary Research Service* [2016] Briefing, November, 1, 3. For instance, the United States House of Representatives has, as established by its Rules, the Office of the Inspector General for the House of Representatives, which is empowered to provide *inter alia*, audit, investigative and advisory services to the House and joint entities in a manner consistent with government-wide standards. See Rule II (6) of the Rules of the United States House of Representatives, 118th Congress, January 10, 2023. See also Inspector General Act of 1978.

government), the Congressional Budget Office (CBO), and the Congressional Research Service (CRS).[28] Regulatory Impact Analysis is the instrument that government Departments and Agencies use (by themselves, in part, under scrutiny of the Office of Information and Regulatory Affairs– a branch of the White House) for ex-ante assessment of the major potential effects of regulation.[29] Ex-post analysis is carried out through retrospective reviews that can be mandated by Congress if the original legislation demands that the executive branch provides regular reports. If Congress deems a rule (regulation) dissatisfactory, it can repeal it, change the underlying legislation or use its power of the purse to withhold funding.[30]

Although Congress usually exercises its power of oversight through the committee system, congressional oversight may take different forms and may be executed through a range of techniques. These may include authorisation, appropriations, hearings by standing committees, specialised investigations by select committees, and reviews and studies by congressional support agencies and staff.[31] While there is no express provision on congressional oversight in the U.S. Constitution, the Constitution vests all legislative powers in Congress and this has been interpreted by the United States Supreme Court to mean the vesting also of implicit authority in Congress to gather information in aid of its legislative function– "We are of opinion that the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function."[32] The power of Congressional oversight and its relevance to law-making and appropriation has been emphasised by the United States Supreme Court. In *Watkins* v *United States*,[33] the Court

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[28] CM Davis, T Garvey & B Wilhelm, 'Congressional Oversight Manual.' *Congressional Research Service* [2021] CRS Report, March 31, 10.

[29] Ibid.

[30] Ibid, 1, 8.

[31] LE Halchin and Frederick M Kaiser, 'Congressional Oversight.' *CRS Report for Congress* [2012] Congressional Report Service, 1.

[32] *McGrain* v *Daugherty* 273 U.S. 135, 174 [1927].

[33] 345 U.S. 178, 187–88 [1957].

held that: "the power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes." In *Barenblatt* v *United States*,[34] the Court held that: "the scope of the power of inquiry ... is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution" and in *Trump* v *Mazars USA, LLP*,[35] it was held that: "Without information, Congress would be shooting in the dark, unable to legislate wisely or effectively." In view of the fact that congressional oversight is regarded as part of lawmaking, congressional committees are required, in carrying out the oversight function, to observe applicable constitutional limitations and respect applicable rights.[36] Two limitations are that: (1) the oversight must be related to, and in furtherance of, a legitimate task of the Congress; it must serve a 'valid legislative purpose;'[37] and (2) the scope of the oversight is limited to subjects that can be legislated on, and so Congress "cannot inquire into matters which are within the exclusive province of one of the other branches of the Government."[38]

Congress is also empowered by legislation to carry out oversight functions through its committees. Examples of such legislation are:

i the Legislative Reorganization Acts of 1946 and 1970 which empowered standing committees in the Senate and House of Representatives to carry out checks and balances on programmes and agencies within their jurisdiction, and review and study on a continuous basis, the application, administration and execution of laws within their jurisdiction;

[34] 360 U.S. 109, 111 [1959].
[35] 140 S. Ct. 2019 [2020].
[36] *Watkins* (n 33) 197.
[37] Ibid, 187; *Quinn* v *United States*, 349 U.S. 155, 161 [1955].
[38] *McGrain* (n 32) 177; *Barenblatt* (n 34) 112.

ii the Congressional Budget Act of 1974 that empowers Congressional Committees to carry out evaluation programmes by themselves or through contractors; and

iii the Government Performance and Results Act 1993 which demands from the executive, consultation with Congress and submission of reports to same in respect of plans and achievements.

Also relevant are the House and Senate Rules that amongst others provides for "*special oversight*" or comprehensive policy oversight, respectively, for specified committees over matters that relate to their jurisdiction. In addition to committees with specific jurisdictions and accompanying oversight powers in respect of those specific matters, the Rules of the House of Representatives provide for the establishment of the Committee on Oversight and Accountability which is one of the twenty standing committees of the House.[39] The committee has jurisdiction over *inter alia*: (a) the Federal Civil Service, including intergovernmental personnel; (b) Government management and accounting measures generally; and (c) the overall economy, efficiency, and management of government operations and activities. The Rules also provide for general oversight responsibilities for the various standing committees in order to assist the House in: (1) its analysis, appraisal and evaluation of: (a) the application, administration, execution, and effectiveness of Federal laws; and (b) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and (2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.[40]

In order to determine whether laws and programmes addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or

[39] Rule X, clause 1(n) of the Rules of the United States House of Representatives, 118th Congress, January 10, 2023.
[40] Rule X, clause 2(a) of the U.S. House Rules.

eliminated, each standing committee (except the Committee on Appropriations) is required to review and study on a continuing basis: (a) the application, administration, execution, and effectiveness of laws and programmes addressing subjects within its jurisdiction; (b) the organisation and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programmes addressing subjects within its jurisdiction; (c) conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and (d) future research and forecasting on subjects within its jurisdiction.[41] Additionally, the Rules provide for special oversight functions for the various standing committees. In this regard, the Committee on Oversight and Accountability is required to review and study on a continuing basis, the operation of Government activities at all levels, including the Executive Office of the President, while other standing committees are required to review and study on a continuing basis, all laws, programmes and Government activities relating to their respective jurisdictions.[42]

In the Senate, the Standing Rules of the Senate provide for the Committee on Homeland Security and Government Affairs (formerly Committee on Governmental Affairs), a standing committee. By the provisions of the Senate Rules, all proposed legislation, messages, petitions, memorials and other matters relating to the Federal Civil Service, Government information, intergovernmental relations, and the organisation and reorganisation of the executive branch of the Government *inter alia* are to be referred to the Committee.[43] The committee has the duty of: (a) receiving and examining reports of the Comptroller General of the United States and submitting recommendations to the Senate as it deems necessary or desirable in connection with

[41] Rule X, clause 2(b)(1) of the U.S. House Rules.

[42] Rule X, clause 3 of the U.S. House Rules.

[43] Rule XXV(1)(k)(1) of the Standing Rules of the United States Senate (revised to January 24, 2013).

the subject matter of such reports; (b) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government; (c) evaluating the effects of laws enacted to reorganise the legislative and executive branches of the Government; and (d) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organisations of which the United States is a member.[44] The jurisdiction of the Committee supersedes the jurisdiction of any other committee of the Senate.

Apart from working through the oversight function of committees directly, the United States essentially conducts PLS through other means such as appointing external bodies to carry out evaluation and report back to Congress, setting up monitoring frameworks in the body of legislation, and utilising review and sunset clauses. An admixture of these approaches can be found in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) passed in March 2020. In order to ensure that the reliefs provided by the Act actually impact the populace, and to also ensure accountability, the Act sets up multiple oversight mechanisms for effective and efficient monitoring and evaluation of implementation and impacts. Included in the pack are three newly established oversight mechanisms, to wit: the Special Inspector General for Pandemic Recovery (SIGPR), the Pandemic Response Accountability Committee (PRAC), and the Congressional Oversight Commission (COC).

The SIGPR is charged with conducting, supervising, and coordinating audits and investigations into the "making, purchase, management, and sale of loans, loan guarantees, and other investments made by the Secretary of the Treasury" under the Act.[45] In accordance with the Inspector General Act of 1978, the SIGPR is empowered to undertake investigations without prior approval, issue subpoenas, make arrests, and seek arrest and search warrants without prior authorisation from the

[44] Rule XXV(1)(k)(2) of the U.S. Senate Standing Rules.
[45] Section 4018 of the Act.

Attorney General.[46] It can also refer matters to the Department of Justice (DOJ) or other agencies for prosecution and must submit quarterly reports to Congress, and report to Congress any instance when information it seeks has been unreasonably withheld. As provided under the Act, the SIGPR shall terminate on the date five (5) years after the enactment of the Act.[47]

PRAC has oversight of all funds appropriated under the Act, and any past or future COVID-19-related measures.[48] It has broad authority to conduct investigations and audits aimed at preventing and detecting fraud, waste, abuse, and mismanagement, including as to private entities.[49] As provided under the Act, PRAC will operate for a little over five (5) years.[50] During its lifespan, it is required to submit semi-annual reports to Congress and inform appropriate Congressional committees if the information or assistance requested by it has been unreasonably withheld.[51] The COC on the other hand is responsible for supervising the implementation of Title IV of the Act (*Economic Stabilisation and Assistance to Severely Distressed Sectors of the United States Economy*) by government, and assessing the effectiveness of Congressional efforts to provide economic stability in light of the pandemic.[52] It is empowered by the Act to take testimony, hold hearings, and receive evidence. Reports are to be forwarded to Congress every thirty days.[53] It has a lifespan of five (5) years. In addition to the above mechanisms, there is also the newly established House Select Subcommittee on the Coronavirus Pandemic (HSSCP). The HSSCP is an oversight body that is distinct and separate from the COC and is laser-focused on ensuring that: (a) taxpayer

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[46] Latham & Watkins, 'Caring for the CARES Act: The New Oversight and Investigations Landscape for COVID-19 Relief Programs.' *Client Alert* [2020] (2705) 2.

[47] Section 4018(h) of the Act.

[48] Latham & Watkins (n 46) 3.

[49] Ibid.

[50] Section 15010(k) of the Act.

[51] Section 15010(d)(2)(A)(B); (e)(3)(C) of the Act.

[52] Latham & Watkins (n 46) 2.

[53] Section 4020(b)(2)(B)-(c) of the Act.

money goes to workers, pay cheques and benefits; (b) federal response is based on the best possible science and guided by health experts; and (c) money invested is not being exploited by profiteers and price gougers. It is empowered to examine all aspects of the federal COVID-19 response and has the powers of subpoena for its oversight duties. These new oversight bodies supplement existing civil and criminal enforcement mechanisms, including DOJ enforcement of federal fraud statutes (such as the False Claims Act), and the mandates of financial regulators and other agencies (such as the Internal Revenue Service and the Securities and Exchange Commission) to investigate and oversee activities within their respective areas of authority. [54] A combination of these mechanisms creates a matrix of dynamic interplay between law enforcement, internal oversight mechanisms, newly established mechanisms, and congressional oversight.

A legislation that is similar to the CARES Act in terms of multiple oversight regimes or mechanisms is the Emergency Economic Stabilization Act of 2008 (EESA). The EESA provides authority for the Secretary of the Treasury to purchase and insure "troubled assets" to provide stability and prevent disruption in the economy and financial system.[55] It established two oversight bodies– the Financial Stability Oversight Board (FSOB) and Congressional Oversight Panel (COP) – and placed the function of auditing the programmes in the hands of the Special Inspector General for the Troubled Asset Relief Program (TARP), and the Comptroller General of the Government Accountability Office (GAO). Another relevant legislation is Leahy Law. The Leahy Laws or Leahy amendments (named after lead sponsor, Senator Patrick Leahy) are U.S. human rights laws that prohibit the U.S. Department of State and Department of Defence from providing military assistance to foreign security

[54] Latham & Watkins (n 46) 2.

[55] Curtus W Copeland, 'Emergency Economic Stabilization Act: Preliminary Analysis of Oversight Provisions.' [2008] CRS Report for Congress 5.

force units that violate human rights with impunity.[56] The law is implemented through a process known as "Leahy vetting" in which U.S. embassies, the Bureau of Democracy, Human Rights, and Labor, and the appropriate regional bureau of the U.S. Department of State vet potential recipients of security assistance, and if they are found to have been credibly implicated in serious abuse of human rights, assistance is denied until the host nation government takes effective steps to bring the responsible persons within the unit to justice.[57]

The mechanisms strategically deployed by the U.S. detailed above evince a cocktail of PLS measures. From the analysis, there is a composite application of legislative oversight; review clauses; sunset clauses; establishment of structures and institutions to carry out reviews, performance evaluation and impact assessments; submission of periodic reports by officials in the executive branch; and internal and external institutional reviews with reports to Congress. These features firmly establish the presence of PLS in legislative and even inter-branch practices and procedures in the United States even if only in terms of structures and functions, and not labels.

7. Post-Legislative Scrutiny in Nigeria

The general perception has been that the concept of PLS is yet to be firmly rooted in Nigeria in view of the fact that there is no institutionalised systematic mechanism to evaluate the impacts of laws enacted by the legislature to determine their effectiveness.[58] Usually, amendment to legislation in Nigeria is prompted by public outcry, government policy directions, the media, and occasionally on the recommendation of the

[56] S Harrison, 'The "Leahy Laws" and U.S. Assistance to Ukraine.' *Just Security* (New York, 9 May 2022) <https://justsecurity.org> accessed 15 November 2022.

[57] Ibid.

[58] DC Ogbu, 'Post Legislative Scrutiny as a Mechanism for Effective Legislation.' *International Journal of Legislative Drafting and Law Reform* [2021] (10) (1) 17.

judiciary.[59] Although these are essentially PLS triggers, the actual assessment of post-implementation impacts of laws (and the exercise of oversight generally) has often been beset by constraints such as executive interference, internal conflicts, inexperience of legislators, high rate of turnover of legislators, and most of all, compromise by the legislature.[60] While there are some tools for post-legislative evaluation, these tools are ineffectively deployed, and mostly in select circumstances.

A primary tool that is a general legislative feature is the oversight mechanism. Oversight powers derive directly from the Constitution of the Federal Republic of Nigeria, 1999 (as altered) and the Standing Rules of the two chambers of the National Assembly (NASS) i.e. the Senate and the House of Representatives. While section 88 of the Nigerian Constitution grants the NASS power to conduct investigations, section 89 provides powers for matters of evidence. Section 88 specifically empowers each House of the NASS to direct investigation into-

(a) any matter or thing with respect to which it has power to make laws; and
(b) the conduct of affairs of any person, authority, Ministry or government department charged or intended to be charged with the duty of or responsibility for-
   (i) executing or administering laws enacted by the National Assembly, and
   (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

These powers are only exercisable for the purpose of enabling the NASS to make laws with respect to any matter within its legislative competence and correct any defects in existing laws, and to expose corruption, inefficiency or waste in the execution

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[59] Ibid.
[60] Fashagba (n 3) 440; Rick Stapenhurst, Kerry Jacobs & Oladeji Olaore, 'Legislative Oversight in Nigeria: An Empirical Review and Assessment.' *The Journal of Legislative Studies* [2016] (22) (1) 2.

or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.[61] This has been affirmed in appellate decisions such as *House of Representatives & Ors* v *SPDC (Nig) & Anor*,[62] *NICON Insurance Ltd & Anor* v *Bureau of Public Enterprises & Anor*,[63] and *SPDC (Nig) Ltd* v *Speaker, House of Representatives & Anor*.[64] Apart from limiting the jurisdictional scope of the oversight powers of the NASS, the Nigerian Constitution essentially provides the primary framework or basis for PLS in Nigeria by stipulating (to slightly paraphrase the section) that the oversight powers of the NASS are exercisable for the purpose of correcting defects in laws, and exposing inefficiency in the execution or administration of laws within its legislative competence. The second aspect of the paraphrased provision aptly aligns with some of the goals of PLS.

Oversight is primarily exercised through the committee system in Nigeria's legislature. The Senate and the House of Representatives each have well over fifty committees that are assigned different areas of jurisdiction. In general terms, the areas of oversight assigned to the various committees are mainly in respect of the subject matters of the respective committees, and annual budget estimates.[65] There is, with the exception of a few committees,[66] no express inclusion of oversight over the

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[61] Section 88(2) of the Nigerian Constitution.
[62] [2010] LPELR-5016(CA).
[63] [2020] LPELR-51574(CA).
[64] [2023] LPELR-59844(CA).
[65] See for instance, Order 18 Rules 5 and 10 of the Standing Orders of the Nigerian House of Representatives, Ninth Edition, 2016. Rules 5 and 10 of the said Order respectively provide for the Committee on Public Petitions (with oversight over *inter alia* the Public Complaints Commission and annual budget estimates), and the Committee on Agricultural Colleges and Institutions (with oversight over *inter alia*, the Federal Ministry of Agriculture, Agricultural College and Institutions, and annual budget estimates).
[66] See for instance, Rule 98(15)(20)(24)(26) and (41) of the Nigerian Senate Standing Orders 2015

implementation, enforcement, review or performance of enacted laws and evaluation of impacts.

Apart from the oversight feature, there are subtle forms of PLS mechanisms in Nigeria. These are mainly the insertion of sunset clauses, the insertion of provisions that establish structures or institutions that will ensure the implementation of legislation, and submission of reports to the legislature by executive officials. It is however noteworthy that these mechanisms are present in very few legislation, thus stultifying effective monitoring and evaluation of the implementation of legislation and the impacts thereof. Put differently, these mechanisms are not regular features of Nigerian legislation. The Administration of Criminal Justice Act, 2015 (ACJA) is perhaps the only federal legislation that establishes a distinct structure for ensuring the implementation of the Act. Section 469 of the Act establishes the Criminal Justice Monitoring Committee (CJMC) that is *charged with the responsibility of ensuring the effective and efficient application of the Act by relevant agencies*. Additionally, the CJMC has right of access to all the records of the organs in the administration of justice sector to which the Act applies. It is also required to publish annually, a report of its activities.

In respect of the submission of reports to the legislature by executive officials, few Acts have such provisions. Three of the few Acts that have such provisions are the Federal Competition and Consumer Protection Act, 2018 (FCCPA), the Nigeria Extractive Industries Transparency Initiative Act, 2007 (NEITIA), and the Fiscal Responsibility Act, 2007 (FRA). Section 25(3) of the FCCPA requires the Commission established by the Act (the Federal Competition and Consumer Protection Commission) to prepare and submit to the President of Nigeria through the Minister of Industry, Trade and Investment, and to the NASS, a report on the activities of the Commission during the immediate preceding year which includes a copy of the audited accounts and auditors' report on

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15(6), 22(2), 27(2), 31, 36, 39, 40, 41, 43, 51, 54, 64, 67, 73 and 82 of the Standing Orders of the Nigerian House of Representatives.

the accounts for that year. The report is to be submitted on or before 30th June in each year. In addition, the Act empowers the Commission to advise the Federal Government on any matter relating to the operation of the Act, including making recommendations for the review of policies, legislation and subsidiary legislation for the eradication of anti-consumer protection and anti-competitive behaviour. [67] As well, the Commission is empowered to liaise with or assist any association or body of persons in developing and promoting the observance of standards of conduct for the purpose of ensuring compliance with the provisions of the Act.[68]

As regards NEITIA, the Act requires the Nigeria Extractive Industries Transparency Initiative (NEITI) established by the Act to appoint independent auditors in each financial year to audit the total revenue that accrued to the Federal Government for that year from extractive industry companies, in order to determine the accuracy of payments and receipts.[69] The Act further requires NEITI to:

(a) submit audit reports received from the independent auditors to the NASS and Auditor-General of the Federation;
(b) publish those reports; and
(c) submit a bi-annual report of its activities to the President of Nigeria and the NASS.

The Auditor-General of the Federation is required to publish comments made or actions taken by the Government on the audit reports not later than three months after the reports are submitted to the NASS. Restrictions are placed on the re-appointment of auditors or auditing firms. The Act establishes the National Stakeholders Working Group (NSWG) that serves as the governing body of the NEITI. The NSWG is responsible for formulating policies, programmes and strategies for the effective

[67] Section 17(f) of the Act.
[68] Section 18(g) of the Act.
[69] Section 4 of the Act.

implementation of the objectives of NEITI. It is empowered to ensure the periodic review of programmes performance by NEITI. On its part, NEITI is also required to submit a report of its activities during the immediate preceding year to the President of Nigeria and the NASS not later than 30th September in each year. Its audited accounts and the auditor's report in that regard are to be included in its report.

Apart from placing effectively, the implementation of the FRA in the hands of the Fiscal Responsibility Commission (FRC), the FRA requires the FRC to submit a report of its activities (including cases of contravention investigated) during the preceding year to the NASS not later than 30th June in each financial year.[70] A copy of its audited accounts for that preceding year is to be included in the report. By section 30 of the Act, the Minister of Finance is empowered to monitor and evaluate, through the Budget Office of the Federation, the implementation of the Annual Budget, and also assess the attainment of fiscal targets, with quarterly reports to the Fiscal Responsibility Council and the Joint Finance Committee of the NASS. The reports are to be published in the mass and electronic media and on the website of the Ministry of Finance not later than thirty-days after the end of each quarter. In addition, the Act mandates the Federal Government, through its Budget Office, to publish a summarised report on budget execution in a form prescribed by the FRC, within thirty days after the end of each quarter. It further requires the Minister of Finance to publish (for submission to the NASS and dissemination to the public), a consolidated budget execution report showing implementation against physical and financial performance targets.

Regarding sunset clauses, there is a near absence of them in Nigerian legislation. This is because Nigerian laws are generally enacted to exist in perpetuity until they are amended or repealed. Sunset clauses (which are clauses that stipulate the expiration of legislation) are essentially only present in Appropriation Acts. It is evident that the insertion of sunset clauses in Appropriation

[70] Section 10 of the Act.

Acts is purely as a result of definite constitutional requirements. Section 81 of the Nigerian Constitution provides that "*the President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year, estimates of the revenues and expenditure of the Federation for the next following financial year*". The heads of expenditure are to be included in an Appropriation Bill (known as Appropriation Act when passed). "Financial year" is defined by section 318 of the Constitution to mean any period of twelve months beginning on the first day of January in any year or such other date as the National Assembly may prescribe. In compliance with sections 80 and 318 of the Constitution, each Appropriation Act contains a sunset clause with the marginal note "*Expiry*". An example is the Appropriation Act, 2022 which provided the following in its section 13: "In line with the provisions of section 318 of the Constitution of the Federal Republic of Nigeria, this Act expires after 12 months, starting from 1st day of January to 31st day of December, 2022 when assented to".

From the analysis above, it is evident that for the proper entrenchment of PLS as part of Nigeria's legislative practice and procedure, a lot still needs to be done. While there are some visible elements of PLS in legislation, those elements are found in an infinitesimal number out of the deluge of legislation in Nigeria. The picture however appears to be on course for change. At the 2022 conference organised by the Westminster Foundation for Democracy (WFD) in partnership with the National Institute for Legislative and Democratic Studies (NILDS) and the National Assembly, participants shared knowledge on PLS and its potential implementation in Nigeria whilst reflecting on the theme "*Strengthening the Impact of Laws in Nigeria through Post-Legislative Scrutiny*". At the conclusion of the conference, a position paper with recommendations for introducing and deepening PLS in the legislative process of Nigeria was presented. The recommendations were-

(a) the committee approach should be adopted;
(b) Senate/House Committees on Legislative Compliance should serve as Pilot Committees;

(c) the National Assembly should champion the institutionalisation of PLS; and
(d) PLS should be included on the agenda for inaugurating elected legislators.

8. A Brief Comparative Analysis

The previous sections have analysed PLS in the United States of America and Nigeria. This section briefly compares notable points revealed by the analysis. While some differences in the practice and application of PLS in both jurisdictions are quite glaring, others are not so evident.

While the United States has institutionalised mechanisms that compete favourably with the initiative and mechanisms of PLS, Nigeria mainly has the tool of legislative oversight that is in most cases, not properly or effectively utilised. The United States applies a unique combination of mechanisms to ensure that laws are implemented as intended, and that impacts recorded are profound and in accordance with objectives. The following points are noteworthy about PLS in the United States of America-

(a) the U.S. adopts the style of utilising institutions or organisations external to Congress to handle monitoring and evaluation of legislation, for instance, the Government Accountability Office;
(b) the office of the Inspector General is a feature of virtually every Department in the executive branch, which office is responsible for internal oversight;
(c) while all Congressional committees have the power of oversight, there is a standing committee specially created for the purpose of oversight and accountability, having powers of oversight over the entire government;
(d) congressional standing committees are each required to review and study on a continuing basis, the application, administration, execution, and effectiveness of laws within their respective areas of oversight jurisdiction;

(e) monitoring and evaluating frameworks or institutions are created in the body of legislation, with oversight powers over the whole legislation or specific parts of it; and
(f) effective use is made of review and sunset clauses.

Nigeria on the other hand mainly makes use of the legislative oversight system. The system is generally flawed by the over-concentration in most cases, of legislative oversight on scrutiny of the financial accounts of Ministries, Departments and Agencies. While such scrutiny ensures financial probity and accountability to a large extent, continuous and in some cases, absolute fixation leads to utter neglect of other areas or aspects which deserve intense scrutiny, such as the level of implementation of legislation and impacts recorded. With the exception of a few committees, there is no express inclusion (in the Rules of both chambers of the NASS) of oversight over the implementation, enforcement, review or performance of enacted laws and evaluation of impacts. Apart from the oversight feature, Nigeria makes use of an imperceptible amount of mechanisms which align with those of PLS, to wit: (a) sunset clauses; (b) the insertion of provisions which establish structures or institutions that will ensure the implementation of legislation; and (c) submission of reports to the legislature by executive officials.

There are also slight additions such as submission of reports to the Chief Justice of Nigeria, making recommendations for the review of primary and subsidiary legislation, publication of reports of activities, periodic review of programmes performance, submission of reports to the President, and the utilisation of an executive institution (such as the Budget Office) to monitor and evaluate implementation and the attainment of targets. While these additions are laudable, they appear in very few Acts, thus whittling down the composite effects that broad application would ordinarily have. Nigeria has several significant lessons to learn from the United States.

9. Conclusion/Recommendations

While legislators expect enacted laws to be implemented and assume that the laws will be implemented as intended and record visible impacts, the expectations, assumptions and hopes are not always achievable due to several factors. This brings to the fore the recurring question of how to transform the idea of theoretical benefits into practical reality. PLS provides significant answers to this and other questions. The paper has revealed through comparison, mechanisms adopted by the United States and Nigeria. It has found that although there is no specially defined framework that goes by the name or description of PLS in both jurisdictions, there are certain mechanisms for monitoring and evaluating the implementation of laws and assessing their impacts. In this regard, they align with PLS mechanisms. While the structures and mechanisms in the United States are highly commendable, those in Nigeria are essentially frail and thus incapable of entrenching PLS with ease.

Based on these findings, this paper recommends that the Nigerian legislature understudy legislatures across jurisdictions that have successfully implemented PLS because this will enable both national and state legislatures have an in-depth understanding of PLS and its application. Furthermore, laws are not meant to exist in perpetuity, therefore the effective utilisation of review and sunset clauses depicts an understanding of the dynamism of laws and societies. The Nigerian legislature therefore needs to adopt the practice of effectively using review and sunset clauses in legislation.

Equally important to note is the fact that the oversight mechanism is not just an effective tool for ensuring executive and judicial accountability, but one that also ensures the effective implementation of legislation. Oversight powers have been abused in many instances by the Nigerian legislature. There is the urgent need for a paradigm shift in this regard. Although the Nigerian Senate and House of Representatives have several committees, some of which are required by the Rules of each House to ensure the implementation of enacted laws, such

requirement has, in a number of cases, remained mere rhetoric. There is thus the need for a rejuvenation of the commitment of legislators to the duty of ensuring that laws are implemented as intended, and that desired statutory objectives are achieved. One of the ways through which this can be achieved is the deployment of a cocktail of mechanisms for advancing PLS, and conscientious oversight and performance appraisal of laws and institutions. In addition, there is the need for urgent legislative review, in partnership with relevant stakeholders, of all Acts in Nigeria. As well, regular training programmes on PLS and other aspects of legislative practice and procedure should be regularly organised for legislators in the National and State Assemblies. Finally, PLS should be included in the Legislative Agenda of every Legislative Assembly.