

**THE ROLE OF THE LEGISLATIVE DRAFTER IN DRAFTING
LEGISLATIVE AGENDA FOR THE LEGISLATURE: A CASE STUDY
OF THE 9TH NATIONAL ASSEMBLY.**

BY

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**BEING A DISSERTATION SUBMITTED TO THE NATIONAL
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AWARD OF DEGREE OF MASTERS OF LAWS IN LEGISLATIVE
DRAFTING (LL.M).**

MAY, 2023.

DECLARATION

I, **Chidi Maxwell OKOLI**, hereby declare that this research work: **The role of a Legislative Drafter in drafting Legislative Agenda for the Legislature: a case study of the 9th National Assembly** is a product of my own research efforts; undertaken under the supervision of **MRS. J.O ADESINA (SAN)** and has not been presented elsewhere for the award of degree or certificate. All sources have been duly distinguished and appropriately acknowledged.

Chidi Maxwell OKOLI

CERTIFICATION

This Dissertation “**The Role of the Legislative Drafter in drafting Legislative Agenda for the Legislature: A case study of the 9th National Assembly**” has been read and approved as meeting the partial requirement of the Faculty of Law, University of Benin/National Institute for Legislative and Democratic Studies (NILDS) for the award of Masters of Laws(LL.M) in Legislative Drafting.

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DEDICATION

This dissertation is dedicated to **God Almighty, the author and finisher of my faith** for his enduring grace in seeing me through this programme and every inch of my life steps. And to my late parents, **Mr. Benjamin and Mrs. Irene Okoli** for their unalloyed love, care and the solid foundation they gave me in my formative years. May your kind souls continue to rest in the bosom of the Lord. To my lovely wife **Mrs. Chidinma Okoli**, I remain eternally grateful for everything you did to make this dream and others on the home front a reality. To my siblings and friends who believed in me and encouraged me to soldier on, I say a big thank you to all of you.

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TABLE OF CONTENTS

Title Page	-	-	-	-	-	-	-	-	-	-	i
Declaration	-	-	-	-	-	-	-	-	-	-	ii
Certification	-	-	-	-	-	-	-	-	-	-	iii
Approval	-	-	-	-	-	-	-	-	-	-	iv
Dedication	-	-	-	-	-	-	-	-	-	-	v
Acknowledgements	-	-	-	-	-	-	-	-	-	-	vi
Table of Contents	-	-	-	-	-	-	-	-	-	-	vii
Table of cases	-	-	-	-	-	-	-	-	-	-	x
Table of Statutes	-	-	-	-	-	-	-	-	-	-	xi
List of Abbreviations	-	-	-	-	-	-	-	-	-	-	xii
Abstract	-	-	-	-	-	-	-	-	-	-	xiii

CHAPTER ONE

1.0 INTRODUCTION

1.1 Background to the Research	-	-	-	-	-	-	-	-	-	1
1.2 Statement of the Research Problem	-	-	-	-	-	-	-	-	-	3
1.3 Research Questions	-	-	-	-	-	-	-	-	-	5
1.4 Aims and Objectives of the Research	-	-	-	-	-	-	-	-	-	5
1.5 Scope and limitation of Research	-	-	-	-	-	-	-	-	-	6
1.6 Significance of the Research	-	-	-	-	-	-	-	-	-	7
1.7 Literature Review	-	-	-	-	-	-	-	-	-	7
1.8 Research Methodology	-	-	-	-	-	-	-	-	-	10
1.9 Synopsis of Chapters	-	-	-	-	-	-	-	-	-	10

CHAPTER TWO

CONCEPTUAL CLARIFICATION, HISTORICAL FRAMEWORK AND HISTORICAL DEVELOPMENT

2.1 Conceptual Clarification	
2.1.1 Legislative Drafting	12
2.1.2 Analogy of Legislative Drafters as Midwives of Positive Change within the Society	19
2.1.3 Legislative Drafting: Art, Science or Discipline	22
2.1.4 The Philosophy of Legislative Drafting as an Art	23
2.1.5 The Philosophy of Legislative Drafting as a Science	26
2.1.6 The Philosophy of Legislative Drafting as a combination of “art” and “science”	28
2.1.7 Why ask the question? (Reprise)	29
2.2 Legislative Agenda	30
2.3. Legislative Drafter	31
2.4 Background to Legislative Agenda	34
2.5 Reasons for Agenda Setting	35
2.6 Relevance of Legislative Agenda Setting	37
2.7 Effects of matters of urgency in setting and implementing legislative agenda	39

CHAPTER THREE

3.0 THE LEGISLATIVE DRAFTER AND DRAFTING LEGISLATIVE AGENDA

3.1 Key players in the making of Legislative Agenda	-	-	-	-	42
3.2 Drafting the Legislative Agenda	-	-	-	-	46
3.3 Legislative Programming and Timetabling	-	-	-	-	48
3.4 Role of the Legislative Drafter in drafting Legislative Agenda	-	-	-	-	50
3.4.1 Examination for compliance with fundamental legislative principles	-	-	-	-	51
3.4.2 Quality assurance checks - the final process	-	-	-	-	52
3.5 Implementation of Legislative Agenda: a case study of the Legislative Agenda of the 9th Assembly of the House of Representatives, Federal Republic of Nigeria	-	-	-	-	54

CHAPTER FOUR

4.0 DRAFTING LEGISLATIVE AGENDA: A COMPARATIVE ANALYSIS

4.1 Background for Comparison: Agenda control	-	-	-	-	61
4.2 United Kingdom	-	-	-	-	63
4.3 United States of America	-	-	-	-	65
4.4 European Parliament	-	-	-	-	69

CHAPTER FIVE

5.0 SUMMARY, CONCLUSION AND RECOMMENDATION

5.1 Summary of Findings	-	-	-	-	74
5.2 Conclusion	-	-	-	-	75
5.3 Recommendations	-	-	-	-	76
5.4 Contribution to Knowledge	-	-	-	-	78
5.5 Suggestions for Further Studies	-	-	-	-	79
Bibliography	-	-	-	-	80

TABLE OF CASES

Attorney General of Rivers State V Attorney-General of the Federation & 3 Ors. Suit No.

FHC/ABJ/CS/511/2020

Attorney-General of Rivers State V. Attorney-General of Akwa Ibom State [2011] 8 NWLR

(pt.1248) 31 at 295.

McBoyle V. United States 283 US 25, 27 (1931)

Screws V. United States 325 US 91, 96 (1945)

TABLE OF STATUTES

Constitution of the Federal Republic of Nigeria, 1999 (as altered)

Deep Offshore and Inland Basin Production Sharing Contracts Act (Amendment) Bill,

Dodd Frank Act, 2010

Electric Power Sector Reform Act (Amendment) Bill

Police Service Commission Act (Repeal and Re-enactment) Bill

The Nigerian Police Act (Repeal and Re-enactment) Act, 2020

LIST OF ABBREVIATIONS

A.S.U.U.....	Academic Staff Union of Universities
ALDRAP.....	Association of Legislative Drafters and Advocacy Practitioners
C.F.R.N.....	Constitution of the Federal Republic of Nigeria
C.S.O.....	Civil Society Organisation
E.U.....	European Union
I.P.P.I.S.....	Integrated Payroll and Personnel Information System
L.E.D.A.C.....	Legislative Executive Development Advisory Council
M.D.G.....	Millennium Development Goals
M.T.E.F.....	Medium Term Expenditure Framework
N.A.L.T.....	Nigerian Association of Law Teachers
N.A.S.S.....	National Assembly
O.O.N.....	Officer Order of the Niger
P.D.D.....	Public Policy Dialogue
P.I.M.U.....	Policy Implementation and Monitoring Unit
S.O.N.A.....	State of the Nation Address
U.K.....	United Kingdom
U.S.A.....	United States of America
U.T.A.S.....	University Transparency and Accountability Solution
W.T.O.....	World Trade Organisation

ABSTRACT

The success of every Legislative body depends largely on the conception of a legislative vision, setting out clearly defined legislative goals, adequate planning, and implementation of the said goals. Prior to the birth of the 8th Assembly, the underperformance of the legislature in Nigeria has resulted from the absence of such clearly defined goals, and a body charged with the responsibility of the effective implementation. On the other hand, since the introduction of the first Legislative Agenda in the US congress in the 1970's and the Office of the Parliamentary Council in the UK in 1896, Congress and parliament have been effective, result oriented and have continued to work with precision in attaining defined and clearly set out legislative goals.

This research therefore, aims at examining the institutional foundations of agenda-setting in legislative houses. This research which adopted the doctrinal approach, critically considered the roles of the legislative drafter in the drafting of legislative agenda with a case study of the 9th National Assembly. The research found that the legislative drafter is not given a pride of place in the formulation and drafting of legislative agenda. On the contrary, the political party in power and in the majority in the National Assembly usually dominate what agenda the legislature pursues and adopts. The research recommends that the legislative drafter be made an integral part of the process of agenda setting and drafting.

Chapter one of this research touches on the background to the study, statement of the research problem, aims and objectives of the study. In addition, it highlights the significance of the study, the literature review, research methodology. Chapter two of this research work encompasses the conceptual clarification/ foundation, historical framework and development. Chapter three deals with the subject of legislative drafter and the drafting of legislative agenda proper. This discussion encapsulates issues such as key players in the making of legislative agenda, examines the role of the legislative drafter in drafting legislative agenda and a case study of the implementation of the legislative agenda of the 9th National Assembly. Chapter four of the research takes a comparative analysis of drafting legislative agenda in other jurisdictions particularly in the United Kingdom, the United State of America and the European Parliament.

Finally, chapter five of the research work provides a summary, a conclusion and makes some important recommendation for a better articulation, incubation, implementation and monitoring of legislative agenda in Nigeria. The chapter also stated the research's contribution to knowledge and suggestions for further studies.

CHAPTER ONE

INTRODUCTION

Setting the agenda for parliament is the most significant institutional weapon for the legislature to shape policy outcomes, because legislatures with significant agenda setting powers, like France or the UK, are able to produce the legislative outcomes they prefer, while legislative bodies that lack agenda setting powers, are often tossed around different directions by a powerful executive and are most often perceived by its citizens as ineffective. As we shall see in this research, this role can best be articulated, implemented and scrutinised by the employment of experts such as legislative drafters in the course of performing its law making duties.

1.1 Background to the Research

The government of every country exists primarily to serve the interests of the citizenry or general populace, and in most countries the government is divided into 3 arms, the Executive, the Legislature, and the Judiciary, each of which functions independently of the other but with all three arms working in tandem for the general good and interests of its populace. All three arms play key roles in ensuring good governance, but of great significance to the citizenry is the role played by their elected representatives who form the legislature, as they have the prominent role(s) of being the voice and advocates of the people. In other words, they are placed in their positions of power to serve the public interests. They seek to do this by formulating and enacting laws in line with governmental policies and objectives.

Arguably, the legislature is the most important organ of government in modern constitutional democracy. Being the law-making organ of a government, the powers of the legislature in addition to passing laws, extend to establishing the government's budget, confirming

executive appointments, ratifying treaties, investigating the executive branch, impeaching and removing from office members of the executive and judiciary, and redressing constituents' grievances. Because of the numerous functions of the legislature there a plethora of matters requiring its attention, hence there is a need to make a priority list which the legislature is set out to achieve within a given period.¹

As we stated above, setting the agenda for parliament is the most significant institutional weapon for the legislature to shape policy outcomes, because legislatures with significant agenda setting powers, like France or the UK, are able to produce the legislative outcomes they prefer, while legislative bodies that lack agenda setting powers, are often tossed around different directions by a powerful executive and are most often perceived by its citizens as ineffective.²

With a strong comparative framework, this research examines countries and provides a detailed investigation into the mechanisms by which governments in different countries determine the agendas of their corresponding parliaments. It explores the three different ways that governments can shape legislative outcomes: institutional, partisan and positional, to make an important contribution to legislative politics. In all of these, a legislative drafter plays a very critical role in the drafting of the legislative agenda because of his expertise in the working of the legislature. Thus, the role of a legislative drafter as it relates to the legislative agenda, will be examined in some details.

The formulation of a legislative agenda which is a programme that provides an annual framework within which priorities are established for preparing and managing the progress of the government's proposed legislation. The programme arranges groups of existing or proposed government bills in descending priority order, headed by bills that must be passed

¹ Philips Norton, "*The Impact of Legislatures*" (Routledge, 2020) 14

² Ibid at p. 16

each year into laws (such as Appropriation and Impress Supply Bills). The programme may be amended as demands on the government change, new issues requiring legislation arise, and priorities change with the passage of time. Details of the programme and the priority accorded to particular pieces of legislation, are integral to the government's management of its business in the House.

The setting of a legislative agenda annually has become the norm in most parliamentary democracies worldwide, and it is widely recognised by many, as one of the fundamental ways in which proposed legislation is introduced and formulated in line with public policy and governmental proposals. This is of key importance, as no organ of government can act or implement a proposal, without being backed by a new or existing legislation. Therefore, it goes without saying that any shortfall in the formulation, creation and enactment of legislation can affect government performance within that calendar year. By examining the process of the formulation of the legislative agenda and primary legislation, identifying the key players in the process, and analysing these comparatively with what is obtainable in different legislatures or parliaments around the globe, much can be learnt with a view to making suggestions on adjustments or improvements as may be required.

1.2 Statement of the Research Problem

Democracy is best described as a struggle over competing ideals and values. One of the most important places where this struggle takes place is in the parliament or the legislature. For many developed and developing nations, the legislature plays a pivotal role in ensuring development, peace and progress within all parts of the country. A key way by which most legislatures have been able to accomplish this is by setting a yearly agenda or programme, which often contains their legitimate goals and targets in line with the ruling government's policies or the National Development Plan. The legislative agenda setting is also widely

recognised by many, as one of the fundamental ways in which proposed legislation is introduced and formulated in line with governmental proposals. Over the years many people in different fields of study and research have set out to understand the key players in democratic systems who have held or hold the power of controlling the government's policy at any given time, and therefore significantly contributed to the development of the nation. So, the question is: how does the legislative agenda affect the rate or measure of success of any government and government policy? Well, there is a theory by a renowned political scientist, that whoever controls the legislative agenda controls the government's policy and objectives. Therefore, by our studying or closely examining the legislative agenda, one can seek to gauge the level of success achieved by the incumbent or past government, over a given period of time. The logic in this is the fact that, as no organ of government can act or implement a proposal, without being backed by a new or existing legislation, it goes without saying that any shortfall in the formulation, creation and enactment of legislation can affect government performance within that calendar year.

The perception of Nigerian about the National Assembly has been largely negative. Many Nigerians describe the National Assembly as lazy, weak, ineffective etc. As a result of this, people hardly celebrate any good deeds from the National Assembly but are quick to knock the legislators when their conduct seems inimical to democratic survival or developmental aspirations of the people. This makes many people to see the institution as a parasite draining the country's resources and have resulted in calls for the reduction of the institution's running cost. In some quarters, some people have even opined that the existence of the legislature is the major cause of the developmental quagmire the country is facing and subsequently call for its scrapping³. Some also call for the reform of the institution to pave way for part time

³ <https://guardian.ng/opinion/failings-of-the-national-assembly> accessed 6th April, 2023.

legislature in order to reduce the scandalous salaries and allowances being gulped by the lawmakers.

These negative perceptions have been as a result of the inability of the National Assembly to streamline its activities, set and achieve goals and prioritise legislative activities that are citizen-centric. Until recently, the inability of the National Assembly to conceive and develop a legislative vision that will impact the ordinary Nigeria has led to the several backlashes it has received over the years. Thus, this dissertation will explore how the formulation of a legislative agenda to streamline the activities of the Nigerian Legislature will aid in improving its image in the eyes of the citizens.

1.3. Research Questions

Some of the questions which this research work will seek to answer include; How was the current legislative agenda created? Who were the key players in its formulation? To what extent has it achieved its proposed legislative goals or actualized the current government's policies? Who play key roles in the formulation of the legislative programme or agenda in the UK? What role does a legislative drafter (parliamentary counsel) play in the creation of the legislative agenda or programme in the UK parliament? How can the current legislative agenda (9th assembly) be improved upon and subsequent agendas formulated?

1.4. Aims and Objectives of the research

This research work, focusing on the key players in the formulation of the legislative agenda and how these have influenced the policy outcomes within various countries around the globe, is aimed at helping us better understand how legislative agenda affects public policy in various countries, by comparing differences in the time paths of policy development, among those nations is a more effective way to study the causes of national differences in legislative outputs of countries which operate under the same or similar governmental systems.

The research further seeks to examine whether and how those who play significant roles in the formulation of the legislative agenda and in its implementation, impact on the legislative outcomes and ultimately on the government achieving its proposed objectives and goals. It will seek to primarily focus on the indispensable role of the legislative drafter in the creation of the legislative agenda. The researcher seeks to carry out this research by closely examining the current legislative agenda (9th assembly), what has been observed and recommended by other commentators on areas where there are some lapses, omissions, defects in its content and formulation, how it can be improved upon subsequently.

Consequently, the objectives of this research are:

- i. To evaluate the impact of the legislative agenda to nation building and development in the 21st Century democracy;
- ii. To determine the cause(s) of the inefficiency of the legislature especially in meeting the needs of the citizenry;
- iii. To determine the impact of the formulation of a legislative agenda in managing legislative time and resources for effecting nation building; and
- iv. To examine the role of a legislative drafter in the formulation of the legislative agenda in a constitutional democracy

1.5 Scope and limitation of Research

This study will primarily focus on the federal legislative agenda and particularly the current legislative agenda of the 9th House of Representatives of the Federal Republic of Nigeria. It will also feature a close examination of the process of the formulation of the annual legislative programme of the UK parliament. It will further examine the features of the legislative agendas of the European parliament and that of the US congress.

1.6 Significance of the Research

This study contributes significantly to the development of Nigeria's democracy in that it recommends an improved approach to drafting and formulating legislative agenda for the National Assembly, as well as other State Assemblies in Nigeria. It exposes the current pitfalls and the inadequacies in the current process of formulating, drafting and implementing the legislative agenda. The findings and recommendation of this research will be most beneficial to Federal, State and Local governments legislators, as well as lawyers and other stakeholder that work directly or remotely with the legislature. It will be of interest to students and scholars of comparative politics, legislative studies/parliamentary research, governments/coalition politics, political economy, and policy studies.

1.7 Literature Review

One of the earliest articles that got scholars interested in the importance of the legislative agenda was Bachrach and Baratz' classic.⁴ Much of the literature on policy agendas has been largely developed from the US parliamentary framework, and this has led some to question to what extent, the ideas developed within this relatively narrow context can be applied in other political setups around the globe. The theoretical argument for the importance of agenda setting in multidimensional policy spaces was first presented by McKelvey in his famous "chaos theorem." McKelvey demonstrated that because majority preferences in Euclidean spaces cycle, if an agenda setter can introduce multiple questions, he can get his most favoured outcome to prevail. In fact, McKelvey demonstrates that majority rule can lead literally anywhere in space.⁵ If the agenda setter can ask the question only once (which is the case in real legislatures), even if his ideal point cannot be obtained, he can improve significantly (from his point of view) the outcome of the political process. McKelvey's argument also applies in single dimensional spaces: the agenda setter has significant impact over the final outcome.⁶ The paper that made the consequences of this proposition understood was Romer and Rosenthal which demonstrated that whoever controls the agenda of a

⁴ Bachrach, Peter, and Morton S. Baratz, "Two Faces of Power". (*The American Political Science Review*, no. 4, 1962) <https://doi.org/10.2307/1952796> assessed 24-01-2023

⁵ McKelvey, Richard D., "Intransitivity in Multidimensional Voting Models and Some Implications for Agenda Control" (*Journal of Economic Theory*, 1976) 472–482.

⁶ *ibid*

referendum can have a decisive influence on the referendum outcome. In their classic setter-model, amendments were not allowed, and the power of the agenda setter was based on an exclusive right to make “take-it-or-leave-it” offers.⁷

Once the importance of agenda setting was established, multiple studies of the phenomenon appeared in different areas of political science. In the U.S. House of Representatives committees were responsible for setting the agenda because they could operate under closed rule while the corresponding assumption for the Senate was that debates in this chamber take place under open rule Cox and McCubbins⁸ Over time such studies gathered pace and gained much ground in parliamentary systems and governments all across the globe. Referendums were classified in different categories on the basis of who can ask the voters questions and who can trigger referendums (Hug and Tsebelis 2002). Committee composition and chairs (in Congress), and rapporteurs (MPs who propose bills for consideration in front of European parliaments), or ministers, became the object of numerous studies: Shepsle (1978), Krehbiel (1990), among others for the U.S. Congress; Tsebelis (1994, 1997), Bowler and Farrell (1995) and Kreppel (2002) for the European Parliament; Laver and Shepsle (1994, 1996) for ministers in European governments and Mattson and Strøm (1995) for committees in European parliaments; Londregan (2000) for Chile’s Senate; finally, Shugart and Carey (1992) for presidential and semi-presidential systems, and Döring (1995a, b, c) for parliamentary systems subsequently studied comparatively and in detail for specific institutional provisions defining agenda setting.⁹

The book “*Setting the Agenda: Responsible Party Government in the House of Representative*.” By Gary W. Cox and Mathew D. McCubbins is a follow up to the 1993 authors’ book “*Legislative Leviathan*” which advanced a theory of US political parties as “procedural cartels” or strategic teams that uses structure and rule-making to organise the House of Representatives for the benefits of their members.¹⁰ It is this available literature on agenda setting which has guided those who study different governmental systems and has given them the opportunity to place these comparatively in order to observe their similarities and differences more fully. Lijphart (1984b, 1999) made a first step in this respect by creating

⁷ Romer, Thomas, and Howard Rosenthal, “Political Resource Allocation, Controlled Agendas, and the Status Quo” (Public Choice 1978) <http://www.jstor.org/stable/30023066>. assessed 25-01-2023

⁸ Cox, G., and McCubbins, M. “*Setting the Agenda: Responsible Party Government in the U.S. House of Representatives*” (Cambridge: Cambridge University Press 2005) <https://www.cambridge.org/core/books/setting-the-agenda/> Assessed 25-01-2023

⁹ *ibid*

¹⁰ Cox, G., and McCubbins, M., “*Setting the Agenda: Responsible Party Government in the U.S. House of Representatives*” (Cambridge: Cambridge University Press 2005)

a measure of “executive dominance” as one of the dimensions that differentiates majoritarian from consensus democracies. However, he assessed the scores of different countries either based on government duration (most parliamentary systems), or (for presidential systems) on impressionistic grounds. The one whose leading opinion constitutes a strong base for the current study, Tsebelis (2002) has argued that an index generated on the basis of agenda setting in parliamentary systems correlates highly with Lijphart’s “executive dominance” scale. In his argument he uses the institutional details described by Shugart and Carey (1992) for presidential systems and Döring (1995b) for parliamentary ones. Shugart and Carey (1992) develop a system of scoring the powers of presidents in 44 constitutions. They estimate the relative strengths of popularly elected presidents based on two dimensions of presidential power: legislative (exclusive introduction, veto, decree, budget prerogatives, and referendum) and non-legislative powers (authority over the cabinet and the possibility that the president can dissolve the Assembly and call unanticipated elections). They argue that the most powerful presidencies also tend to be the most problematic and caution about the stability of such regimes. In their view dual democratic legitimacies decried by critics of presidentialism – the claim that no democratic principle exists to resolve conflicts over who better can claim to represent the “will” of the electorate – are minimized to the extent that an assembly is accorded a more powerful role in legislation than the president.¹¹

The theory that, whoever controls the legislative agenda of a nation, or has control over the formulation of an agenda, influences the policies which are created and implemented through legislation, was formulated by one of the foremost scholars on institutionalism in legislative research Shepsle and Weingast.¹² The idea which he propagated is that if legislators with extreme preferences (e.g high spenders) are able to self-select for committee memberships and if such committees have;

- (i) Exclusive power to propose policies within their jurisdiction (proposal powers)
- (ii) Control over whether or not bills reported to the floor for deliberation as to whether they are to be enacted or not (how bills are formulated)
- (iii) The power to take it or leave it offers at the stage of deliberation

¹¹ ibid

¹² Romer, Thomas, and Howard Rosenthal, “*Political Resource Allocation, Controlled Agendas, and the Status Quo*” (Public Choice 1978) <http://www.jstor.org/stable/30023066>. assessed 25-01-2023

This would likely lead to the creation of legislation which would not benefit the general public but would instead serve the interests of the members of parliament or the legislature or even the members of the committee who have been selected and assigned to create the legislative agenda. From the above stated theory comes the hypothesis developed by leading political scientist Herbert Döring, that the procedure for the creation and acceptance of the agenda as the guide for the passing of legislation, and which form part of the legislative programme, contributes significantly, in determining the form, type and number of legislations enacted within each calendar year and to a major extent determines the level of success or failures of a particular government or administration.¹³

It is against this backdrop that the review of the Legislative Agenda of the current 9th assembly of the Nigerian House of Representatives has been chosen as the primary focus of this study, and for the remainder of this chapter, I shall be reviewing the content and features of the agenda, and will further examine comments, opinions, and advice of various analysts on the subject. I shall begin this review by presenting a brief overview of the legislative agenda formulated by the 9th assembly.

1.8 Research Methodology

In analysing the role of a legislative drafter in the formulation and drafting of the legislative agenda, this researcher adopts the doctrinal methodology in this study. The research relies heavily on literatures of both national and internal scholars on the subject. Focus is placed on both Nigerian and foreign textbooks, journals and other legal sources to ensure that adequate data information is obtained to enable the researcher to effectively analyse the Nigerian situation and recommend solutions to identified problems. This work draws heavily from works of renowned scholars in analysing the procedure of the formulation of the Legislative Agenda in the UK and Nigeria as well as in the United States and Nigeria.

1.9 Synopsis of Chapters

This study is divided into 5 chapter in line with the Nigerian Association of Law Teacher (NALT) research guidelines. Chapter One introduces the research topic and provides a background to the study. The chapter also amongst other things, states the aim and objectives of the study, defines the scope and limitation, provides some research questions and review existing literatures that are relevant to the study. Chapter Two provides a conceptual

¹³ Döring H., “Parliaments and Majority Rule in Western Europe”. Frankfurt: Campus Verlag, (2001)

framework. It defines relevant terms as used in the study and traces the historical background of the development of legislative agenda. Chapter Three discusses the role of a legislative drafter in the preparation of the legislative agenda. Chapter Four provides a comparative analysis of the procedure for drafting the Legislative Agenda in the United Kingdom and Nigeria, United States and Nigeria as well as the European Parliament. Finally, Chapter Five summarises the finding of the research, concludes and make recommendation. This chapter also discusses how this research will contribute to knowledge and suggests areas for further studies.

CHAPTER TWO

CONCEPTUAL CLARIFICATIONS AND DEVELOPMENTAL FRAMEWORK

There can be no better way to fully understand the concept of legislative drafting than an examination of the concept, particularly from the point of views of academic experts and revered authorities in the field. Thus this researcher shall examine the concept of legislative drafting both as an art and a science and attempt to balance the competing and divergent views of scholars on what the concept really entails.

2.1 Conceptual Clarification

2.1.1 Legislative Drafting

Legislative Drafting as a discipline of law has its own distinct rules and principles. Legislative Drafting simply means the drafting of laws. It deals with the translation of policies into laws¹⁴ and it is an aspect of law that is still in its developmental stages in Nigeria. The primary objective of a drafter is to express the provisions of a proposed legislation very clearly and unequivocally, as to reflect the intention of the policy maker or legislature.¹⁵ Legislative drafting is the "process of constructing a text of legislation....Legislative drafting must be distinguished from legal drafting, which involves the construction of a text used in the judicial process. And it is a narrower concept to the civil law equivalent of law-making: law-making encapsulates the whole process of conceptualization of legislation until its very implementation and thus reflects the legislative process, whereas legislative drafting reflects the drafting process only. But of course this does not mean to say that drafting is completely foreign to the legislative process. In fact, the drafting process is part of the legislative process, which in turn is part of the policy process¹⁶. Legislative Drafting is regarded as an integral part of the legislative

¹⁴ B.R. Atre, *“Legislative Drafting, Principles and Techniques”*, 3rd Edition, New Delhi; Universal Law Publishing Co. Pvt. Ltd. (2011)

¹⁵ T.C. Jaja, *“Legislative Drafting - An Introduction to Theories and Principles”* (The Netherlands; Wolf Legal Publishers, 2012) p.101.

¹⁶ H. Xanthaki, *“Legislative drafting: A new sub-discipline of law is born”* (2013 University of London, *IALS Student Law Review*, Volume 1, Issue 1, Autumn 2013, pp. 57-70, at 57 and 58

process¹⁷. Legislative drafting has experienced tremendous development over the years and today it has been recognized as a discipline of law having its own distinct rules, fundamental norms or values and it has been rightly stated that the object of legislative drafting is “to set forth ideas clearly, succinctly and consistently.”¹⁸

As E. Azinge rightly stated, "Legislative drafting is a critical aspect of law-making in any organized society. In our constitutional democracy wherein the organic law is the Constitution of the Federal Republic of Nigeria 1999 [as amended). Legislative drafting is a veritable instrument for distilling and ventilating policies and ideas of government both at the Federal and State levels¹⁹. According to Ejiogu, “legislative drafting is the process by which the intention of the lawmakers or government is put down in writing into a legal document.”²⁰

Onwe defines legislative drafting as “the art of precise formulation of the rules or principles by which or by reference to which particular matter is to be regulated or administered.”²¹ Onwe went further to add: “Legislative drafting styles refer to norms, usages and structural approaches accepted and given particular meaning in legislative expression. They are aids to construction of statutes which have crystallised into standard legislative communication.”

For Crabbe, “legislation is the framework by which governments achieve their purposes.... Legislation is a means to attain... economic, cultural, political and social policies. The

¹⁷ C. Stefanou, “Drafters, Drafting and the Policy Process” in C. Stefanou and H. Xanthaki (eds. J *Drafting Legislation-A Modern Approach* (Aldershot: Ashgate Publishing, 2008) pp.321-333 at pp.326-327.

¹⁸ *Legislative Drafting Manual*, (Maryland: Department of Legislative Services, Office of Policy Analysis, 2012) 26.

¹⁹ [see Foreword of the book: E. Azinge and V. Madu [eds.J, *Fundamentals of Legislative Drafting* (Lagos: Nigerian Institute for Advanced Legal Studies (NIALS), 2012)]

²⁰ Ejiogu, S.U. “*Challenges of a Draftsman in Contemporary Democratic Nigeria*,” (LLM Thesis, National Institute of Advance Legal Studies, 2011) p. 12.

²¹ Onwe, Hilary, “*Legislative Drafting: Styles and Approaches*” (International Journal of Law Reform, 2015) <http://www.legislawyers-aldrapng.org/blog/a-chat-with-humanrights-lawyer/> (accessed 13 December 2022).

process of drafting such a framework is referred to as 'legislative drafting'.²² Therefore, Legislative drafting is the process by which policies or intentions are transformed into legal documents which when allowed through the enactment process in parliament or relevant authority becomes law and binding. This can be achieved through the drafting of new legislation or the amendment of an existing one.

"Professional legislative drafting is a way of writing legislation in a systematic, almost scientific manner that may be applied to all legislation regardless of content²³ . Legislation deals with legal rights and duties, and with powers and liabilities - that is, with legal relationships between various classes of persons in the community and between the State and the members of the community. Drafting, then, is about settling these relationships in written law, so that those affected can conduct their activities in legal security. What those relationships are to entail in a particular context is a matter of policy. The choice of policy is usually made by the client sponsoring the legislation and has to be confirmed or "validated", sometimes with modifications, by the body authorized to give the instrument the force of law.

Viewed from this standpoint, drafting is the act of *translating* a policy into formal written rules. As with any translation, it may be achieved in a variety of alternative ways. Drafting then is about making choices of approach, in the light of experience of legislative solutions, to obtain the most effective and acceptable way by which the policy can be given legal effect. It calls for an understanding of what has to be provided for *by law*, if a new scheme is to be implemented with certainty and without legal challenge.

As legal requirements become clearer in the course of translating, so the policy itself is often refined or even rethought. Drafting then is about the testing of the policy against the

²² Crabbe, V. *Legislative Drafting* (London: Cavendish Publishing Limited, 1994) P. 1.

²³ A J. Rynearson, "*Legislative Drafting-Step-by-Step*" (Carolina: Carolina Academic Press & ILI, 2013) xviii

manner of its implementation. Will it work? How best can it be made to work? What are the likely legal consequences? Are these desired or should they too be modified? And so on. New legislation is not prepared in isolation. It has to be made to fit with the existing body of law [both written and unwritten), without causing conflict of the new with the old and with proper regard for the interests of those who regulated their affairs on the basis of the existing law. Drafting then is about producing a smooth fit and transitions. The policymaker may have given little attention to what may be needed for these purposes and how best to bring it about. It is an integral part of the drafting process. A drafted text has no legal force until it is validated by the appropriate law-making authority through the recognized law-making process. Drafting is about producing instruments in the form that satisfies the requirements of the relevant process and facilitates their passage. Typically, this requires too the monitoring of the instrument as it passes through the process to prevent legal or formal errors creeping in.

Legislative drafting, then, takes place at the stage when legislative policy is converted into legal rules. It is concerned with the preparation of the legislative text in the appropriate form so that it gives effect to the policy as a coherent part of the written law of our legal system. The way in which it is written determines how effectively it communicates its requirements to those affected. It has to be drafted to comply with the local house-style, which in some systems is formally set out in written conventions or practice directions. But drafting is concerned with what is to be communicated, as well as with the way in which it expressed.

According to Patchett Keith, Legislative Drafting is a process by which a legislative drafter writes policies or proposals into legislative language in a document called “Bill” for presentation to the legislative House for passage into legislation in form of an “Act” or a “Law” or “Bye-Law”. The scope of legislative drafting is very wide; it covers drafting

subsidiary legislations, establishing statutory bodies; drafting territorial legislation, retro-active and retrospective legislation, implementation of treaties, appropriation legislation as well as the principles for interpretation of statutes.²⁴ It is about composing proposed legislation. It can also be defined as the art of writing legislation which includes subsidiary or secondary legislation, administrative orders, notices, rules, warrants and similar instruments. It is a unique form of communication employed in the control and regulation of society through framing policy decision that have legal consequences in relation to members of a given society. Legislative Drafting is the art of putting the intention of the legislature or law-making organ of the State; parliament; congress, or National Assembly or House of Assembly, however called, into proper written form for the guidance of private or public actions.

For many scholars such as Jimoh Akintola, legislative drafting is about writing the text of a document that is to be made into legislation through some formal legal procedure.²⁵ This view puts the emphasis on the form and style of legislation; it implies that drafting skills are concerned with using language effectively, choosing the most appropriate expressions and presenting them in a clear and unambiguous way.²⁶ An important function of the drafter is to communicate the content of legislation to those who will use it. Without question this is a central feature of legislative drafting. But it is by no means the complete picture. Legislation deals with legal rights and duties, and with powers and liabilities - that is, with legal relationships between various classes of persons in the community and between the State and the members of the community. Drafting, then, is about settling these relationships in written law, so that those affected can conduct their activities in legal security. What those relationships are to entail in a particular context is a matter of policy. The choice of policy is

²⁴ Patchett Keith, "Report on Legislative Drafting for Nigeria," (Routledge 1992)

²⁵ Jimoh Akintola A. "Law Practice and Procedure of Legislature," (Learned Publishers Ltd., Lagos 1999) p 12

²⁶ Ibid page 14

usually made by the client sponsoring the legislation and has to be confirmed or "validated", sometimes with modifications, by the body authorized to give the instrument the force of law. Viewed from this standpoint, drafting is the act of translating a policy into formal written rules. As with any translation, it may be achieved in a variety of alternative ways. Drafting then is about making choices of approach, in the light of experience of legislative solutions, to obtain the most effective and acceptable way by which the policy can be given legal effect. It calls for an understanding of what has to be provided for by law, if a new scheme is to be implemented with certainty and without legal challenge.

In the modern state, much social and institutional change has to be made or effected through written law instead of arbitrary oral pronouncements of government officials. This is one of the Rule of Law requirements namely, that actions of government officials must be in accordance with laid-down written laws as opposed to arbitrary rules. In this regard, the Supreme Court of Nigeria held it is requirement of the rule of law and a precondition to prevent anarchy, that the laws or legislation that govern the relationship between individuals, States, and the different tiers of government within a Federation such as Nigeria must be "*reduced into writing*".²⁷ This is both a rule of law, democratic expectation and a practical necessity, confirmed by the Constitution, particularly the Fundamental Freedoms provisions enshrined in Chapter IV²⁸. We can no longer look to the courts or to custom *alone* to adjust the system to the fast changing demands made upon it.

In stressing the importance of legislative drafting, some scholars have argued and identified poorly drafted legislation that gives unfettered discretion to government officials to corruptly enrich themselves and others as the root cause of underdevelopment within

²⁷ *Attorney-General of Rivers State v. Attorney-General of Akwa Ibom State* [2011] 8 NWLR (pt.1248) 31 at 295.

²⁸ CFRN, 1999, ss.33-36 (as altered)

the third world²⁹. Legislation today is central to the process of change, for example, in a move from one form of economic system to another or from one form of government to another such as the Electoral Act 2010. It is the vehicle by which countries respond to the increasing demands that arise from membership of the international order, as for example, the changes introduced through the World Trade Organization (WTO) and international agreements on environmental protection. Legislation, and the institutions created under it, are the principal instruments through which planned development is undertaken. Development calls for new legal institutions; these must be appropriate to the needs and circumstances of the particular society. This process is undoubtedly affected by the quality of the instruments and by the speed with which they are drawn up and put into effect. Success may be dependent upon:

- (i) the quality of input from persons with specialist legal skills and knowledge;
- (ii) the excellence of the prior research into the legal and practical implications of the policy options;
- (iii) the satisfactory integration of the new legislative scheme with the overall legal system.

The task of legislation is to provide in a constantly changing environment a framework for settled legal relationships, to reduce the potential for conflict, as well as to establish effective machinery for resolving the disputes that inevitably arise. Success rests in part upon the quality of the legislation. That in turn depends upon the competence, skills and expertise of those responsible for its preparation.

It is not sufficient to have legislation. The field of legislative drafting now recognizes that "effective" legislation the highest goal that legislative drafter pursue when drafting

²⁹ C. Stefanou, "Legislative Drafting and The Policy Process" in C. Stefanou and H. Xanthaki, *Manual in Legislative Drafting* (London: Department for International Development, 2005] pp.1-4, at p.

legislation. The definition is as follows: "effectiveness of legislation means that the legislation manages to introduce adequate mechanisms capable of producing the desired regulatory results...this includes but is not limited to implementation, enforcement, impact and compliance"⁴ Furthermore, "clarity, precision and unambiguity are the tools of effectiveness...clarity, or clearness, is the quality of being clear and easily perceived or understood. Precision is defined as exactness of expression or detail. Unambiguity is certain or exact meaning"³⁰. Closely related tools are gender-neutral drafting and plain language [avoidance of legalese]. Yet many States are handicapped in making the legal changes they require by their lack of the personnel and procedures needed to produce innovative legislation. Commonwealth countries, especially Nigeria, repeatedly report the scarcity of persons with skills in legislative drafting.

*2.1.2 Analogy of Legislative Drafters as Midwives of Positive Change within the Society*³¹

Childbirth is a risky and traumatic experience, the presence of an experienced midwife *however*, makes the childbirth process less risky and safer for mother and child. In like manner, legislative drafters act like midwives to the legislative process to produce legislation that aim to effect positive social changes and development within society.

"Lawyers who draft legislation [legislative drafters] engage in a highly technical aspect of law that requires competence. A failure to properly translate the substantive policy into the appropriate law adversely affects the policy. The lawyers are like *midwives* in the birth of laws and so it behoves them to strive hard to help bring forth laws that are effective, clear,

³⁰ H. Xanthaki "Drafting Manuals and Quality in Legislation" (2010) *Legisprudence-Journal of the Theory of Legislation*, Vol.4 No.2, pp.111-128 at 111,116. "Ambiguity occurs when words can be interpreted in more than one way".

³¹ T.C Jaja and J.O Adesina: "Introduction to Legislative drafting and drafting process in Nigeria"(Malthouse Press Limited)pages 23 - 26

precise, intelligible and capable of only one interpretation, which is the true purpose and intent of the policy as envisaged by the policy initiators³².

Conversely, the importance of legislative drafting can also be understood in terms of the negative consequences of poorly drafted legislation. This is acknowledged in the statement: "Poorly drafted statutes are a burden upon the entire state. Judges struggle to interpret and apply them, attorneys, find it difficult to base any sure advice upon them, the citizen with an earnest desire to conform is confused. Often, lack of artful draftsman-ship results in failure of the statute to achieve its desired result³³. Expounding on the above perspective, David Elliot posited that unnecessarily complex language, redundant words, and language which fails to communicate, impose an enormous financial burden on all levels of society. Even minor improvements to the language of the law can bring substantial savings of time; time which can then be put to more productive use. Elliot's view on modern legislative drafting technique is rather unusual in an interesting way. He expressed his thought from the negative impact of poorly drafted legislation which only translates to an imposition of enormous financial burden on all levels of society. The pecuniary loss as a result of badly drafted legislations hampers national growth and development. Excessive use of *legalese* as the language of legislation is identified as one of the major culprits for poorly drafted legislation and therefore a major impediment to legislative drafting. It is not sufficient just to have written laws/legislation, legislation must be accessible and clear and effective to serve its purpose. "Laws must be written with sufficient clarity that a reader could understand them³⁴. Legislative Drafters must avoid writing legislation that are inaccessible to readers and users as was the practice of the Third Emperor of Rome, Caligula who ruled Rome from 37-41 A.D. He was known for writing his laws in small print and posting it on a high stake at the entrance of Rome. Citizens of Rome could not read the tiny prints, still they were punished for

³² Former Clerk, National Assembly of Nigeria. *The Nation* newspaper of September 2, 2014.

³³ A.R. Menard, Jr, "Legislative Bill Drafting", (1953-1954) 26 Rocky Mountain Law Review, 368.

³⁴ *McBoyle v. United States* 283 US 25,27 (1931)

violation of Caligula's laws. The courts in the USA³⁵ have condemned such a style of legislative drafting. “To enforce such a [vague] statute would be like sanctioning the practice of Caligula who published the law but it was written in small hand and posted up in a corner, so that no one could make a copy of it" or read. Lon Fuller³⁶ stated that one of the fundamental requirements of law is that it should be clear. The author opined that “there can be no rational ground for asserting that a man can have a moral obligation to obey the law that does not exist, or is kept secret from him, or that came into existence only after he had acted, or was unintelligible, or was contradicted by another rule of the same system....”.The call for the reform of language in legislation is heard in many countries around the world today. In some countries such as the USA, by virtue of the Regulation in Plain Language Act 2006, it is now a mandatory requirement for legislative drafting or the language of legislation to be rendered in plain language instead of legalese. It is in most cases a clarion call emanating from those affected by the practice of legislative drafting. Legalese, the ironical colloquial term for traditional legal language has repeatedly been accused of comprising of obscurities, circumlocutions, convoluted language, and difficult sentence structure³⁷. The modern trend advocates for clear and effective use of language in legislations.

Agnes Naakwaley Quartey-Papafio³⁸stated that style or technique in legislative drafting represent the way legislation is drafted; the approach of the drafter towards the choice of words and the arrangement of the sentence structure of legislation. This means that legislative technique constitutes a set of legislative features that are highly dependent on the language, culture, both legal and political of society.

³⁵ *Screws v. United States* 325 us 91, 96 (1945)

³⁶ L. Fuller: “The Morality of the rule of law”, Cited by C. Murphy 2005(New Haven: Yale University)

³⁷ Vanterpool, 2007, p. 167-187

³⁸ Agnes Naakwaley Quartey-Papifio: “Drafting conventions, templates and precedents and their effects on the drafting process and the drafter”. Thesis in LL.M in Advanced Legislative Studies, submitted to the Institute of Advanced Legal Studies (ALS), University of London, 2012.

Imhanobe³⁹commented on modern legislative drafting technique from a historical angle in his book. He said that in all jurisdictions of the world, language is the basic tool of the lawyers' trade. He emphasized on the English language and did a brief analysis on traditional and modern technique or style of drafting. The traditional style was used by early writers in England and later inherited by Nigerian lawyers. Traditional style was convenient then because legal documents were written mainly for lawyers and the courts, and not for client who is a layman. Thus, traditional style was characterized by jargon, archaic words, and sometimes obsolete words. It was verbose, un-paragraphed and punctuations poorly applied.

2.1.3 Legislative Drafting: Art, Science or Discipline?

Every subject or discipline has a theory or conceptual framework. Legislative drafting is no exception. Regardless of the subject matter, a "theory provides an explanatory framework for some observation, and from the assumptions of the explanation, follows a number of possible hypotheses that can be tested in order to provide support for, or challenge, the theory."

In the context of legislative drafting theory, as Sandra Markman⁴⁰ rightly put it:

"In that context, what is useful about this particular debating question (art, science, or discipline) is that if we start by taking up some standard terminological definitions, it becomes obvious that these descriptions need not be seen as mutually exclusive pigeonholes:

Art: The expression or application of creative skill and imagination.

Science: A systematically organized body of knowledge on any subject.

³⁹ S.O Imhanobe: "Principles of legal & Legislative drafting in Nigeria." Imhanobe law books Limited 2014.

⁴⁰ Sandra C. Markman, "Legislative Drafting: Art, Science or Discipline in *the Loophole-Journal of the Commonwealth Association of Legislative Counsel*" (November 2011).

Discipline: A branch of knowledge, especially one studied in higher education.

If we begin to see these perspectives as complementary lenses, rather than as exclusionary boundaries, then each can be very useful in helping us to move beyond stereotype and caricature to a richer understanding of the diverse set of skills that good legislative counsel need. We can begin, in other words, to recognize the full extent of the art and the science in the discipline of drafting laws."

2.1.4 The Philosophy of Legislative Drafting as an "Art"

Determining what drafting is has continued to be a subject under debate in the 21st century. The prevailing view, mostly within the *common law* world, is that drafting is a pure form of art or a quasi-craft⁴¹. It is this approach to the discipline that supported the mentoring style of training for drafters. If drafting is an art or a craft, then creativity and innovation lies at the core of the task. Rules and conventions bear relative value, and the main task of the drafter is to learn the craft from those with more experience. If one believes that drafting is an art, then formal training is not relevant to drafters. In other words, if experience is the only thing that really matters, then simply time spent by a senior may offer the apprentice the only opportunity to learn on the job. But is drafting really a liberal skill possessed by enlightened legal scholars who take part in drafting committees on behalf of a variety of governmental Ministries and agencies drafting legislation⁴².

In summary, learning legislative drafting *solely and only* through "on-the-job" training through apprenticeship within a legislative drafting office is the consequence of holding the theory or philosophy that legislative drafting is a "pure" art. This was the previous and traditional view, it does not recognize the fact that legislative drafting could be learned through formal training within educational institutions.

⁴¹ B.G Schaffs, " Law as Craft"(2001) 45 Vanderbilt Law Review, P. 2339.

⁴² F. Ost and M.Van de Kerchove."Constructing the complexity of Law": towards a dialectic theory(1987) p.52

Geoffrey Bowman⁴³, a former Parliamentary Counsel of the United Kingdom is the chief proponent of this school of thought, he argues that:

legislative drafting is more an art than a precise science. In the ninth century Agobert of Lyons, commenting on the different laws prevailing in much of Europe, said that five men meeting together might be subject to five different personal laws. This has a particular resonance with me because I often say that, if five drafters were set on the same Bill, each might emerge with a different product. It is true that there would normally be little of substance that differed between the drafts. And we would rarely feel that a colleague's efforts were plain wrong. But we might well say, it would not have done it that way. Now, if five different drafters would produce five different Bills, it suggests that legislative drafting is an art rather than a precise science. In essence I want to show that the composition of legislation has little of the mechanical about it. I also hope to give some idea of what it is really like to be a drafter. As Lord Rodger of Earlsferry once said to me, there is scope for letting more light shine in without spoiling the magic of the Parliamentary Counsel Office. All Bills differ- analysis one reason why drafting is an art is that all Bills are different. Private legal instruments (such as contracts or leases) are often based on precedents. The legislative drafter can very rarely draw on a precedent. Each Bill needs to be approached as a unique exercise. This is evident in the early stages of a Bill, when the drafter carries out his function of discovering the department's intention and analysing the proposed policy to see whether it works. In fact, this is one of his main tasks. Let us take a simple example of this function. In the 1990s I drafted the legislation establishing landfill tax. One problem was to define a disposal by way of landfill. I was asked to follow some regulations which defined waste disposal operations. When I looked at the items, I saw that one of them was (in effect) tipping (for example landfill)? I said that we could not use this as part of a definition of landfill, because it referred to the very thing we were trying to define. To define landfill to include tipping (for example landfill)? was rather like saying an elephant is an animal (for example, an elephant)?. Unless you know what an elephant is to start with, it gets you nowhere.

On her part Sandra Markman⁴⁴ elaborates on the "The art of legislative drafting" as follows:

Seeing drafting as an art has long been a popular perspective. After all, who doesn't like to think of themselves as an artist? But it is very easy to have too narrow a conception of what that art encompasses. If it is true that we are not merely scribes or translators, it is equally the case that we are not simply hack poet, turning someone else's prose novel into narrative poetry. Our creativity is not confined to issues of word-choice, rhyme and meter. All too often, it seems to me, when experienced legislative counsel talk about drafting as an art, what they have in mind sounds more as semi-skilled craft. That I think, takes too narrow a view of the kind of creative imagination that good legislative counsel must have.

⁴³ B. Geoffrey: "The art of legislative drafting", *Amicus Curiae*, (2006) pp,2-9

⁴⁴ Sandra C. Markman, "Legislative Drafting: Art, Science or Discipline in *the Loophole-Journal of the Commonwealth Association of Legislative Counsel*" (November 2011).

This is not to diminish the creative skill required by the crafting of instrument itself. A legislative counsel needs a very high level of technical invention to find clear, simple and precise language suitable for the intended audiences, conform to the appropriate style for the particular instrument type, establish the necessary harmony, both formal and substantive, between the new provisions and others, both within and outside the instrument being drafted; and ensure the equivalency of various language versions. However, the modern legislative counsel's creative imagination is engaged well beyond the four corners of the drafting table. Always operating within the labyrinthine structures of the modern governmental bureaucracy, frequently taking instructions from multiple sources, and all too often charged to do more with less time and fewer resources, the art of the modern legislative counsel extends to:

- i. Understanding, clarifying and harmonizing policy (listening, Questioning, explaining),
- ii. Conceiving a legislative scheme (instrument choice and structure),
- iii. Working in a team (negotiation, conflict management),
- iv. Managing scarce resources (time, people).

This is why I think that although the artificial intelligence gurus have developed chess-playing programs that can match the play of world champions, no one has even made even the first tentative steps toward software that can actually draft laws (as opposed to intelligent systems that provide research and technical support to human legislative counsel)-⁹. In fact, even just to have a process with a fixed end-point is sometimes little

more than an aspiration, as this somewhat over-elaborate paraphrase of Yogi Berra's famous exhortation¹⁰ makes clear:

“[T]he elaboration of a policy proposal during the drafting process may produce a legislative scheme that covers a wider range of matters, or provides for more complex arrangements, than initially envisaged. In those circumstances, further, second-level verifications may be appropriate after a draft is completed.”

2.1.5 The Philosophy of legislative drafting as a "Science"

According to Piris, legislative drafting is a science or technique. This is the prevailing approach in most of the civil law world. If we agree with the theory or philosophy that legislative drafting is a science, then there are formal rules and conventions, whose inherent condition manages to produce predictable results, provided that the application is correct. If this approach is followed, then there is plenty of scope for formal training. Drafters may learn the rules and conventions of their science, and the correct way in which these are applied in order to produce predictable results.

As Sandra C. Marknan stated⁴⁵, "Seeing [legislative] drafting as a science - "a systematically organized body of knowledge/" pushes us to recognize that the knowledge base a legislative counsel puts to use with every draft, extends far beyond a list of drafting conventions. Producing workable legislation requires the application of at least three distinct knowledge sets:

- i. legal (constitutional, statutory, substantive, international),
- ii. governmental and political (formal legislative process, Cabinet process, government policy),
- iii. technical (drafting conventions, research methods and tools).

⁴⁵ F. Ost and M. Van de Kerchove. "Constructing the complexity of Law: towards a dialectic theory" (1987) p.42

Traditionally, when we think of the body of knowledge that a legislative counsel was obliged to master, it was only the last set, the technical aspect, that came to mind. Departmental counsels were seen as the members of the drafting team, required to know the substantive legal context for the proposed legislation, and other public servants were responsible for managing the policy and process aspects of the drafting exercise. If that view ever accurately reflected the reality of the drafting process, it no longer corresponds to the actual division of labour amongst the members of the drafting team in any modern bureaucracy. To begin with, the level of substantive legal knowledge required of legislative counsel should not be underestimated. In some jurisdictions, the complexity of the law in certain areas dictates that they specialize and acquire expertise in the substantive law (taxation springs to mind). However, even generalist legislative counsel must always understand enough of the state of the law as it stands before the proposed legislation to ensure that the legislative instrument being drafted actually effects the desired change in the law (assuming that that desired change has been elaborated - with the help of the legislative counsel using their arts and crafts skills). In the complex regulatory environment of the modern state, even a superficial familiarity with the substantive area may require considerable learning.

In addition, all legislative counsel, whether specialists or generalists, must try to shape a legislative instrument to create a good "fit" with its surrounding legal context. This context starts, of course, with other statutes in the same subject area within the jurisdiction, but it reaches beyond that, not only to legislation on other subject-matters in the same jurisdiction, but also to legislation in other jurisdictions. The pressure for harmonization of legal regimes between nations requires legislative counsel to scan even more distant legal horizons in their evaluation of the legal context for their work. Finally, in an era when

personnel - particularly senior personnel - in even the most stable government departments turn over on a regular basis, the legislative counsel often must also serve as the key resource on the nuts and bolts of the legislative process. They may be the only person on the drafting team with any real experience of the complex interaction between the Cabinet process, the formal legislative process and the underlying bureaucratic and political policy imperatives."

2.1.6 The Philosophy of Legislative Drafting as a combination of "art" and "science"

As Xanthaki has rightly argued, the modern view is that "one is not bound to a strict choice between art and science of legislative drafting," this is the case if one views legislative drafting as a sub-discipline of law, then there must be a third option: law is not part of the arts, nor is it part of the Sciences in the positivist sense.

Sandra C. Markman⁴⁶ aptly summarizes on this sub-heading. The discipline of drafting, seeing drafting as a discipline - "a branch of knowledge...studied in higher education" - supplies a much-needed corrective for two great competing (but equally counter-productive) myths about the training of legislative counsel. The first myth is that drafting skills cannot really be taught in any formal way, and especially not in an academic setting. Drafting skills can be learned only by service in a long apprenticeship to experienced practitioners. In the more extreme versions of this view, experienced legislative counsel are sometimes described in terms better suited to priests in an ancient cult, slowly initiating their acolytes into the semi-mystical rites of the religion, than to modern professionals engaged in professional training.

⁴⁶ Ibid n. 43

The second myth is that the drafting skill-set is purely a subset of the skill-set that all lawyers are trained to have. Specialized training for legislative counsel, whether by long periods of apprenticeship or through dedicated academic programs, is simply a waste of time. When new legislative counsel are needed, they can simply be taken from other government departments or straight from the private sector, handed a precedent book, and set to work. In the more extreme versions of this view, legislative counsel begin to look more like assembly-line workers who can be hired off the street, than experts who have acquired a very distinctive combination of knowledge and abilities through a rigorous program of specialized professional training. In different ways, each of these myths is a serious impediment to meeting the challenge of the world-wide drafting shortage. Those who deprecate the role of formal academic training effectively throw up their hands and tell the governments of the world: "Sorry. You'll just have to wait. The process can't be rushed." Those who see no real need for dedicated specialized training are equally unhelpful. They toss untrained neophytes into drafting offices and shrug off the howls from Parliamentarians, judges and counsel about the poor quality of legislation as unjustified quibbles. After all, the laws were drafted by lawyers. What else could have been done? In fact, drafting skills can be studied and learned very successfully in a formal academic setting.

2.1.7 Why ask the question? (Reprise)

Indeed, much of what a legislative counsel needs to know about the work of the profession is best addressed in that environment. It is certainly true that no professional is ever fully functional without some period of hands-on experience in the field. However, a sound formal training program can give *a* new legislative counsel a solid professional foundation that allows those first months and years of on-the-job training to be put to use in

honing skills and developing mature professional judgment, rather than in acquiring basic competencies and understanding.

The Rule of Law has always been a fundamental prerequisite to social and economic growth. The skills required to create coherent and effective laws have therefore always been in demand. However, in a global economy there is an even more acute need for capable legislative counsel to supply the legislative framework that allows societies to develop and prosper as their people wish. Looking at drafting through all three of the lenses of Art, Science, and Discipline, instead of just any single one, allows us to see the profession in all of its dimensions. That fully rounded view of what we legislative counsel actually do, and how we do it, will help us develop more efficient and effective training programs to meet the urgent need for competent legislative counsel all over the globe."

2.2 Legislative Agenda

Legislative agenda sets out the manner in which a legislative body shall conduct its business within the defined timeframe. The setting of an agenda will guide and position the legislative body to deliver legislative aids of development and reforms aimed at improving the living condition of the citizens. The agenda outlines steps and priority legislative actions required to achieve set goals and objectives. Annually-issued legislative agendas list priorities and recommendations for the year, giving the public and government officials an outline of the Federation's plans.

Legislative agenda should be distinguished from Order paper which is a list that shows the order in which matters will be discussed on a particular day. It is best described as the daily agenda of the legislative house for that particular day only.⁴⁷ In a typical parliamentary setting, the Order Paper provides members of the legislature with details of what will be

⁴⁷ Jimoh Akintola A., "*Law Practice and Procedure of Legislature,*" (Learned Publishers Ltd, 1999) p 17

happening in that house, including the questions that have been tabled for departmental question sessions and members who have been selected to speak.⁴⁸ It also gives details of when and where the standing committees and select committees will be meeting, and the list of debates to be held. Written questions tabled to ministers by members of the legislature on the previous day are listed at the back of the order paper. It lists all motions to be moved and deliberated before the floor of the house, it lists all Bills that are to be considered by the legislative house for the day. In the case of Nigeria, the Order paper is usually prepared by the Rules and Business Committee of the house and it is most times prepared with a view to achieving the overall annual legislative agenda in that, in preparing the order paper, priority is always given to Bills and Motions that are geared towards achieving the Legislative Agenda.⁴⁹

2.3 Legislative Drafter

A legislative drafter is a person engaged in the drafting of legislative Bills and other instruments at whatever level of government. In Nigeria the offices of legislative drafters are found in various government ministries, parastatals and in all legislative institutions.⁵⁰ When a decision is made for legislation, the drafting instruction is sent to the legislative drafter whose responsibility it is to reduce the policy into simple legal instrument. The drafter examines the document and takes a decision on which way to proceed. The responsibility of the drafter is to ensure that legislation is based on sound legal principles, addresses the policy objectives and is comprehensible. It is not the place of the drafter to ensure that every instruction received must pass through as legislation. With careful analysis, the drafter must

⁴⁸ *ibid*

⁴⁹ Rasch, Bjørn Erik, “*Institutional Foundations of Legislative Agenda-Setting*,” cited in Shane Martin, Thomas Saalfeld, and Kaare W. Strøm (eds), “*The Oxford Handbook of Legislative Studies*” (2014; online edn, Oxford Academic, 2 Sept. 2014), <https://doi.org/10.1093/oxfordhb/9780199653010.013.0010> accessed 23 Jan. 2023.

⁵⁰ G. C. Thornton, “*Legislative Drafting*”, 4th Edition (London; Butterworths, 1996).

explain to the instructing authority why a particular legislation is not appropriate, or why certain provisions must be expunged or incorporated. Estelle puts it thus:

Legislative drafters provide specialist form of legal service. The relationship between a drafter and an instructing department is similar to that between a solicitor and a client. The drafter must provide advice and drafting services in a professional and impartial manner. It is not the drafter's role to push through whatever an instructing department wants at all costs. On occasions, drafters have to speak the unpalatable truth or expose the weakness in a legislative scheme. This does not always make them popular with ministers or policy-makers, but it is a necessary part of their job.⁵¹

In order to give sound advice, it is important that the drafter be armed with a good understanding of the policy that necessitated the call for a piece of legislation. The drafter should be able to demonstrate an in-depth knowledge of existing laws in relation to the fact at hand, as this will provide a preliminary view of the matters that need to be covered by new legislation. Therefore, the role of a legislative drafter in any society cannot be over emphasized. It is necessary that attention be given to the development of the capacity of the drafter in order to ensure the reflection of qualitative and up to date drafting technics in legislation. In a bid to improve skills and expertise in legislative drafting and support services to the 36 states of the Federation and the Federal Capital Territory, F.C.T, the federal government has commenced a special training and certification for legislative drafters and lawyers in the country. Organized jointly by the Federal Ministry of Justice and the Ethics and Corporate Compliance Institute of Nigeria, the program is aimed at bridging the gap in that specialized area in Nigeria⁵². Speaking on this subject matter, a technical advisor to the program and a subject matter expert Sir, Agabaidu Jideani said that “the need has been identified for Nigeria to develop and implement a uniform framework for the improvement of

⁵¹ ibid

⁵² Vanguard Newspaper, Friday, 17th February, 2023

legislation and other instruments in all the 36 states and the F.C.T as well as the federal government itself through enhanced skills and expertise of the legislative drafters.”

What is prevalent in the country today, he noted, is an unorganized approach to legislative drafting such that drafting skills, style and philosophy differ from state to state and among the various ministries of justice and the various legislative houses – hence the need for a uniform training and harmonization of positions to enable properly drafted bills, instruments and legislations contribute to national development. He highlighted the gains of the program to include bringing together legal officers of the various public institutions with the power to make regulations as well as private practitioners and drafters from the 36 states and the FCT.

Also a representative of the Ministry, Mrs Mercy One noted that the lack of a unified system of legislative drafting coupled with a lack of relevant proficiencies within the states and the FCT resulted in very poor quality of bills and legislation over the years. According to her, good quality legislation enhances economic development and improvement in the standard of living of the people. Obe maintained that more than 80 per cent of the bills submitted in the various State Houses of Assembly, as well as the National Assembly are poorly drafted are poorly drafted, not properly thought out and not intended to serve any national development function but solely submitted so that the legislator would be listed in the media as having sponsored many bills.

Observers at the event commended the Federal Ministry of Justice and the Ethics and Corporate Compliance Institute of Nigeria for putting the program together, noting that targeted training and capacity enhancement is required because legislative drafting is a specialized area of legal practice which is not taught at the undergraduate levels in Nigerian Universities. In its remark the Abuja Branch of the Nigerian Bar Association, Unity Bar, commended the initiative, saying it would pact positively on Nigeria and Nigerians in the

years ahead. Further, the Association of Legislative Drafters and Advocacy Practitioners (ALDRAP) has advocated the recognition of legislative drafting as an area of legal practice in Nigeria. In a statement signed by its Secretary, Dr. Tonye Clinton Jaja⁵³, recommended that additional sections be added to the Legal Practitioners Act⁵⁴ to recognise the practice in the new Legal Practitioners Bill scheduled for hearing at the National Assembly. There are however, some basic principles which are the hallmark of a good legislation and a drafter must bear these in mind as he or she embarks on the all-important assignment of drafting legislation

2.4 Background to Legislative Agenda

The legislative agenda is a core element in decision-making process in modern democracies. By legislative agenda, we mean the series of legislative proposals which provides a comprehensive view of current socio-economic conditions and presents a corresponding list of reforms that the legislature or parliament should give serious considerations to. Often times, legislative proposals form the agenda are in the areas of macro-economic stability, trade and investment promotion, agricultural competitiveness and sustainable environmental management, human capital development, public sector governance and other priority policy concerns.

There are several factors that influences the content of a legislative agenda or programme. It has been noted that one of the strongest predictors for the ability to set the issue agenda is political power. In parliamentary systems, for example, the parliamentary agenda is strongly influenced by parties in government.⁵⁵ Because government parties have substantial control of legislative policy making, analysis of pledge commitment primarily focuses on electoral

⁵³ Guardian Newspaper, 16th November, 2021

⁵⁴ Cap. 207 LFN 2004

⁵⁵ Lena Maria, Anita Bodlos and Thomas M. Meyer, “Disseminating Legislative debates: *How Legislators Communicate the Parliamentary Agenda*”, online (the legal Idea, 2021) “Disseminating legislative debates: How legislators communicate the parliamentary agenda” (researchgate.net) assessed 23-01-2023

programmes of government rather than opposition parties or on documents of government parties such as coalition agreements and legislative pledges.⁵⁶

A legislative agenda is also shaped by the diversity of issue preferences in the legislature. For example, coalition governments tend to prioritise issues on the legislative agenda where the party in government have similar policy. Yet, once issues emerge on the legislative agenda, such issues get more floor time. This is true for divisiveness within the coalition for the legislature as a whole.⁵⁷ Finally, there is a wealth of research, analysing the impact of the broader public on the legislative agenda. Political elites respond to issues that are prominent in the media. Similarly, the legislative agenda seems to be responsive to issue priorities of citizens.⁵⁸

2.5 Reason for Agenda Setting

It is widely recognized and accepted that the legislative or parliaments, organize their own business in line with the legislative agenda, which serves as a guide for their daily and sessional calendar. Without its existence, there would be no clear point of reference for the citizenry to inspect and challenge the legislative affairs and activities of their legislative representatives with a view to ensuring that they follow through on their promises and carry out their sworn duties.⁵⁹ In cases where the legislature fails to pass proposed and approved bills which form part of the legislative agenda within their yearly session or a calendar year, it can serve as a check on their performance of their legislative duties during that year, which those who belong to the opposition parties and who may be vying for those elective representative positions can point to as evidence of a failure on the part of the incumbent government to fulfil their duties and obligations to the people.

⁵⁶ ibid

⁵⁷ ibid

⁵⁸ Ibid

⁵⁹ Aleman, Eduardo and George Tsebelis, "The Origins of Conditional Agenda-Setting Power in Latin America," (Latin American Research Review, 2005) 40: 3–26

Shortly after it was inaugurated, the 9th Senate had rolled out a legislative agenda to *enhance stability in the legislative activities and also foster national development*.⁶⁰ The Senate had said it is concerned that the country is underdeveloped because of vital sectors that are not viable. Nigeria's Senate President, Ahmad Ibrahim Lawan said the 9th Senate under his leadership inherited four major challenges at the assumption of office. These challenges were the reasons the 9th Assembly drew a comprehensive Legislative Agenda to guide lawmakers as they pursue their constitutional mandates.

In his address to mark the second anniversary of the 9th National Assembly, Lawan listed the challenges to be an underperforming economy, insecurity, unemployment and myriad of socio-economic problems. He stressed that his leadership worked out the Legislative agenda that would find solutions to the challenges, so as to restore the confidence of Nigerians who worked hard to have democracy put in place. In his words "*We would recall that the Agenda was developed against the backdrop of an underperforming economy, security challenges, unemployment and a myriad of other socio-economic problems*".⁶¹ The thrust of the Agenda was, therefore, to contribute solutions to those and other challenges and restore the hope of Nigerians in their country, and their confidence in its democratic institutions⁶².

This is perhaps the reason while the Speaker of Nigeria's 9th House of Representative Hon. Femi Gbajabiamila commenting on an updated version of the Legislative Agenda of the House of Representatives of the Federal Republic of Nigeria, described it as a contract. In his words: "*We called this updated Legislative Agenda "Our Contract with Nigerians" to reflect the revised content, the latest strategy, and the new implementation approach. But most importantly, we called this document a contract because that is what it is; a written account of what we owe the people and how we intend to meet our obligations within the shortest*

⁶⁰ Emphasis mine

⁶¹ Emphasis mine.

⁶² Daily Post Newspapers, June 9th 2021.

possible time."⁶³ The importance of a legislative agenda, which comprises a program of all proposed legislations, in line with the government's policies and primary objectives/agenda within a legal framework, cannot be overstated, as it is this, that will guide the legislative activities of any given legislature and ensure that it achieves its set goals,

2.6 Relevance of Legislative Agenda Setting

What makes comparative research on agenda setting of importance to our understanding public policy?

This is a question that should firstly be addressed because, we must know the importance of the course which we are setting out on. Thankfully though, many political analysts have already successfully carried out this research and have given their perspectives on this, and this section of this study will now examine some of these.

Green-Pedersen and Wilkerson⁶⁴ who carried out research on how the legislative agenda affects public policy in various countries by comparing differences in the time paths of policy development among those nations, are of the opinion that, it is a more effective way to study the causes of national differences. Jones and Baumgartner hold the same view as to the importance of carrying out this research as the previous commenters, however their modus operandi and objective are quite different.⁶⁵ They are of the opinion that rather than examining the differences in policies from one nation to another, it is more practicable to start with policy changes and link them to flows of information from the policymaking environment such as changes in demographics, attention to important events and changes in political coalitions. This is of importance in their opinion because, one does not just want to

⁶³ A Lecture delivered by The Speaker of The House of Representatives, Representatives, RT. Hon. Femi Gbajablamila At The Second Edition Of The Distinguished Parliamentarian Lecture Series Organised By The National Institute For Legislative And Democratic Studies (NILDS) On Monday December 12, 2022, <https://nibl.ac.cn/cam/view/706> accessed on 21/1/2023

⁶⁴ Green Pedersen and Wilkerson, 'How agenda-setting attributes shape politics: Basic dilemmas.' (Journal of European Public Policy vol. 13, 2006)

⁶⁵ Ibid

know the level of policy differences among nations but also the changes over time which may alter these in the future (as was the case when nations experienced the global pandemic).

The above would by itself justify the investigation of agenda-setting and policy change in a comparative perspective. However, the potential insights to gain from studying agenda-setting comparatively are broader than only the ones outlined above. Comparative perspectives on agenda-setting may provide insights to more general issues both in policy research and also in relation to central issues within political science. One such issue is the theory that “policy determines politics” and Green-Pedersen and Wilkerson are of the opinion that this theory can be further developed with the aid of the agenda to policy comparative approach. In their opinion “One way through which policy may determine politics is that certain issues tend to attract significant political attention across different countries, which can be explained through their agenda-setting attributes”.⁶⁶ In support of their argument, they further cite the example that health care attracts a lot of political interest partly because it is about life and death, an issue that easily draws wide attention in any country. So, there may be important limits to the impact of institutional design, limits imposed by the substance of the policy itself. Thus, even with different institutional structures, they show important similarities in health care policy dynamics in the two systems.

One of the challenges of developing comparative studies of policy agendas is therefore, to extend the work of the policy agendas development to other nations. The potential benefits of doing so are significant. Having substantial and wide-ranging databases documenting the objects of policy action and political debate in many countries across over a considerable length of time, offers totally new possibilities of understanding why some issues are the subject of extensive debate within one political system but are ignored in another. We can

⁶⁶ Green Pedersen and Wilkerson, “*How agenda-setting attributes shape politics: Basic dilemmas*.” (Journal of European Public Policy vol. 13, 2006)

also understand why some issues attract a lot of attention across countries, despite considerable differences in political systems and previous policy histories. If policies have consequences and often reflect the inheritance of previous policy choices, a comparative study of policy dynamics should reveal how strong these are.⁶⁷ I am, of the opinion that building on the research on agenda setting and policy change, is crucial to our gaining a better understanding of how similar changes in circumstances affect the legislative outputs of various nations when placed in comparison with others, it would also contribute immensely to our understanding of how legislative agendas are created in various parts of the world and reasons why they may be adjusted or amended.

2.7 Effects of matters of urgency in setting and implementing legislative agenda.

Motions of matters of urgency, simply put are motions brought on the floor of the parliament either by a private legislator or from the executive branch of government. As the name suggests, this a motion on an issue that was neither envisaged nor foreseen. It simply put, bothers on a matter, an event, or a situation that calls for prompt and immediate action on the part of the government. This may take the form of a threat to national security or the outbreak of a disease of a communicable nature, which if not arrested, would cripple the economic base of the country or a section of it, in addition to catastrophic loss of lives. A ready example in this regard is the outbreak of the Covid 19 pandemic that brought the world to its knees in 2020. This health challenge of a global proportion presented such emergency requiring urgent intervention which invariably disrupted the implementation of the legislative agenda of the 9th assembly, making it an instant “backbencher”.

Thus at the presentation of the updated legislative agenda of the house of Representative, the Speaker, Rt. Hon. Femi Gbajabiamila stated:

⁶⁷ Baumgartner, Green-Pedersen and Jones opp. cit.

Last year, the House of Representatives pledged to pursue a Legislative Agenda that was explicit in its commitment to champion social justice, promote individual aspiration, provide public services and infrastructure and finally support business, innovation and private enterprise. We were making good progress in fulfilling the promises we made in that Agenda when the world changed. The novel and deadly Coronavirus emerged and expose most cruelly, long-ignored weaknesses in our economy, our systems of public governance, education, security, social justice and social welfare, and so

much else. The last few months have made clear, that we have to move faster and farther than we had previously thought, or else we may well be the generation that answers to history for superintending over the final and systemic collapse of this our beloved nation. The kind of fundamental change we need begins with a wholesale reimagining of the structures and assumptions that have long underpinned much of our existence as a country”.....The Speaker noted further, “the updated Legislative Agenda of the 9th House of Representatives is our response to this new reality. We have in this new document, renewed the commitments we made in our first year, but this time with accelerated timelines for implementation, key performance indices to measure performance and clearly identified actions in the immediate to long term”.

Also speaking on the effect of the pandemic on the legislative agenda the Chairman Adhoc committee on review of the legislative agenda, Hon. (Prof.) Julius Ihonvbere, OON stated that:

On the 11th of October 2019, when the 9th House of Representatives presented its Legislative Agenda to the Nigerian public, the Speaker of the House of Representatives said, “Poverty and inequality, insecurity and strife are the product of policy choices. They are not the result of some inherent flaws in our nature or a consequence of an absence of God’s favour on our endeavours. We have it in our power to remake our world, to make it better, to say that no child born in this generation will die of a preventable disease or fail to receive an education because his family can’t afford one”. This statement summed up then as now, the motivating ideas behind the Legislative Agenda the recognition of the fact that it is within our power as citizens and legislators to build for ourselves and our children a future of peace and prosperity, justice and equity. Since then, this recognition has become more profound as our country continues to contend with existing trials as well as new challenges that we did not then foresee but must rise to overcome. The unforeseen challenges, as of when the Legislative Agenda was produced in 2019, is the advent of the novel corona virus in 2020 which has fundamentally altered our world, our economies and our lives as we know it. It is in response to the new reality thrust upon us by the corona virus that we saw it expedient to review the Legislative Agenda and assure that it addresses these multi-faceted challenges posed by the COVID-19 pandemic. In this document, we have not sought to answer every question or

cover every ground. We have focused on identifying those areas of our national life where through quick, fair, intelligent and determined action, we can achieve reforms that have sustained impacts on the lives of our citizens and from there create the circumstances for further positive change to happen. We have sought to ensure that the policy priorities identified herein reflect the expectations of the Nigerian people and serve to meet them at the point of their most vital needs.

It is glaring from the words of the above principal members of the legislature that motions on matters of urgency definitely takes a front burner in the legislative session and is capable of relegating legislative agenda to the backseat, at least temporarily. No one saw the pandemic coming, let alone having an adequate conception of the devastation it brought to mankind and economies across the globe. Suffice to say that prior to the outbreak of the pandemic, the National Assembly, particularly the House of Representatives have marshalled out its legislative agenda for the legislative session. This however was not to be as the most important thing to the government and the governed alike was basically survival from both the disease and its attendant economic effect. The Federal government quickly introduced the Infectious Diseases (Emergency, Prevention) Regulations 2020 to combat the devastating effect of the pandemic. By this singular stroke, all other proposals in the legislative agenda of the 9th Assembly took the back seat for a more urgent matter; Covid 19. As a fallout of this, the Senate introduced and passed the National Health Emergency Bill which seek to provide a framework for the control of outbreak of infectious diseases in Nigeria. This followed the passage of the Control of infectious Disease Bill which was earlier introduced in the House of Representatives.

CHAPTER THREE

THE LEGISLATIVE DRAFTER AND DRAFTING LEGISLATIVE AGENDA

As we have noted severally in the course of this research work, the duty of a legislative drafter is a specialised profession which requires special skills and training (or apprenticeship as some have argued). Therefore, to actualise his aims, the drafter requires some incentives both in human and material resources. The drafter needs the cooperation of all actors and stakeholders in the law making process. These stakeholders include but not limited to civil society organisations, members of the public as well as the legislature. As we shall see hereunder, the process of drafting a legislative agenda is a task that can be achieved only when these elements work in tandem and with a common purpose.

3.1 Key players in Drafting and Making of the Legislative Agenda.

There are several stakeholders in the legislative process with varying priorities, and considering that a major role of the legislature is representation, this makes it challenging. This is more so, because an implementable agenda must reflect and address the current concerns and interests of all concerned. These include the Executive, the judiciary, constituents, civil society organizations, the private sector, academia, international development partners and the manifesto of the political parties, particularly the ruling party.

However in the drawing of the legislative agenda of the 9th Assembly, there is no evidence of any serious consultations or roundtable meetings and deliberations on the issues in the agenda, by all of groups and stakeholders as mentioned above. This is not to say however that that no opportunity was given by the legislature to such interest groups to make any meaningful contributions. For instance⁶⁸ speaking on the agenda, the Executive Director,

⁶⁸The Punch Newspaper, 10th November, 2019.<https://punchng.com/ninth-assembly-and-its-ambitious-legislative-reforms/accessed> 15th February 2023.

Civil Society Legislative and Advocacy Centre, a non-governmental, non-profit legislative advocacy, information sharing and research organisation, Mr Auwal Musa, commended the House for coming up with an agenda with which the public could hold the lawmakers accountable. He, however, warned the parliament against putting too much on the table at a time. In his words:

“It is not just about coming up with an agenda, it is also about ensuring that the agenda is complied with and followed through,” he said. Musa also said the House had listed “so many issues” the lawmakers were going to address. He stated that it is only when there is seriousness and focus that the goals can be achieved. He noted, “It is a huge situation that they have put themselves in because they are talking about the issues of reforming the House, social justice, power, environment and climate change, economic growth and development, job creation, gender equality, anti-corruption and sustainable agricultural development and food security.” The human rights activist, however, stated that open governance, transparency and accountability are “some of the major things that we really want to see.”

He added, “I will like to see how the National Assembly can focus on reforming and redeeming the integrity of the institution. I want them to focus on ‘Open NASS’ because one of the major challenges is that there is too much secrecy and lack of adequate information about what goes on in the different National Assembly committees.”

He further said, “Again, let them not be too over ambitious about bills because I saw that just within three months, there were about 300 bills introduced. These bills are not necessarily the most important thing in the legislative work. Some of the bills are not properly examined not to contradict the Nigerian Constitution. So, instead of focusing attention on coming up with bills, they should actually focus more on ensuring that oversight is transparently and respectfully carried out to ensure that the people actually benefit from democracy. Poor

budget implementation is also as a result of poor legislative oversight.” Musa also called on the National Assembly to focus more on strengthening the laws and policies governing the health and education sectors “by providing them with the enabling resources.” He stated, “If they can only be able to pick up these few issues – around education, health and open governance, transparency and accountability– they would have been able to achieve a lot. They don’t need to focus their energy on everything.”

Also speaking on the agenda⁶⁹, the Executive Director, Policy and Legal Advocacy Centre, and Convener, Nigeria Civil Society Situation Room, Mr. Clement Nwankwo, noted that it was the first time a federal parliament would be documenting the goals it sets to achieve. Nwankwo said, “It is a very important agenda, that they have defined what they would like to achieve in a four-year period. It would be the first time that they (lawmakers) would on their own initiative, be producing a legislative agenda. So, I think it is really important that they have it and I am happy that the National Assembly – both the House and the Senate have been able to come up with an agenda.”

When asked if the agenda was achievable, the human rights lawyer, said, “The legislative agenda is a set of aspirations that the House or the Senate would like to see happen. The 8th Assembly saw a lot of friction in relation to the relationship between the executive and the legislature. Now, this legislative leadership matched some significant inputs from the executive, so our hope is that the advantage of the cordial relationship between the executive and the legislature to achieve the goals set in the legislative agenda. I am sure that if they are determined, they will be able to achieve them.”

To make implementation smoother and effective, it is imperative that in designing the Legislative Agenda, deliberate collaborative efforts must be made to harmonize competing

⁶⁹ ibid

priorities of the various interests and stakeholder groups and align the different arms of government towards the same goals. It involves making concerted efforts to identify areas of agreement, and consolidating on those area, while making necessary concessions for others in the interest of national advancement. It has been noted that this consolidation strategy of policy development and implementation can be a helpful tool by directing attention towards the areas of overlap where competing interests may align." One tool that has been deployed by the 9th House of Representatives and has proven effective is the Public Policy Dialogues (PPD). These dialogues are highly structured engagements between stakeholders designed to build a shared understanding of issues and advance policy recommendations that address those issues in a manner the parties can agree on or live with. These dialogues have helped to advance national security legislations that might otherwise have proved difficult to scale. It is a model of stakeholder management that should be fully embraced in parliament and across government.

The main stakeholders of the legislative agenda are the citizens. This is because the laws are made for and on behalf of the citizens. In modern democratic government, sovereignty always lies with the people or the electorates. Senators and Honourable members represent the interest of the people who elected them in their respective constituencies. The electorates have the ultimate power to vote into office, or vote out of office any senator or representative that does not conform to the demands of the people. To this end, the Constitution⁷⁰ in section 14 (2) (a) provides:

14 (2) (a) *“sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority;”*⁷¹

However, the will of the people is often ignored by the legislature in preparing the legislative agenda. Before the preparation of the legislative agenda, the national

⁷⁰ CFRN 1999(as altered)

⁷¹ CFRN 1999(as altered), Section 14(2)(a).

assembly needs to consult widely with the people. This consultation may be by way of town-hall meeting, public hearing etc. If the aspiration and the expectation of the citizen are not known, efforts by the government to meet same may be efforts exercised in futility.

As we noted above, the manifesto of a political party comes into play as a determinant of the colour and content of a legislative agenda. A manifesto is a formal set of principal goals which are supported by a political party or individual candidates, in order to appeal to the general public, for the ultimate purpose of garnering the general public's support and votes about complicated topics and issues. It is a published declarations of the intentions, motives or views of the issuer, be it an individual, group, political party or government⁷². Thus it goes without saying that these wishes, aspirations, intentions and goals of the political party in power or in the majority in the legislative house are usually on the front burners of the programme the party hopes to achieve or deliver as part of its campaign promises and are invariably given a pride of place in the formulation, articulation and execution of a legislative agenda.

3.2 Drafting the Legislative Agenda

Drafting legislative agenda calls for a systematic, often painstaking, application of a particular expertise in a range of analytical and writing skills. In drafting the legislative agenda, legislative drafters are primarily concerned with converting the political interest of the people, and other stakeholder into a coherent and binding roadmap that will guide the legislative body in its activity within a given period of time.

Thus, before proceeding to draft a legislative agenda, a legislative house should first conduct a need assessment to determine areas requiring urgent legislative action, and areas that are

⁷² <https://en.m.wikipedia.org>

not so vital to nation building and development. The legislative house should determine critical areas considered by the electorates, that requires legislation and give priority to those areas. The legislative house should also conduct a need assessment of its resources, including: equipment, man power, processes and mechanism to determine the adequacy or not, as well as what is needed to be put in place to enable it deliver on its mandate to the people. The legislative need assessment should be carried out by an independent committee comprising experts and credible and experienced Civil Society Organisation (CSOs).⁷³ In determining these requirements for need assessment, the legislature should endeavour to articulate an agenda that is realistic, firm, achievable and yet flexible enough to accommodate unforeseen circumstances that may arise and pose a threat to the actualisation of its agenda and goals. As we noted above⁷⁴, there may arise some unforeseen circumstances that may require immediate adjustments and even abandonment of an agenda. Cases of national security, outbreak of war and other emergencies such as the corona virus pandemic may result in an unforeseen situation which may relegate the pursuit of a legislative agenda to the background.

The agenda must contain not only the priority legislative area, but also the manner of the performance of other secondary legislative functions such as the oversight functions, etc. A legislative agenda is usually drafted to include timeline for each legislative business, the relevant body or committee responsible for implementing such business or activity, the estimated cost and required manpower.⁷⁵

Parliaments in many countries have power conferred by the Constitution to initiate new bills of their own as well as to propose amendments to Government bills submitted to them. However, in drafting the legislative agenda, some areas that will require parliament to draft

⁷³ Jones, B.D. and Baumgartner, F.R., “*The Politics of Attention: How Government Prioritizes Problems*,” (University of Chicago Press, 2005)

⁷⁴ Paragraph 2.5, pages 39-42

⁷⁵ Ibid

new Bills or amend existing ones may not be reasonably foreseeable, hence the need for flexibility in the agenda. Also, the quality of that legislation has to be measured by the same standards as are applied to bills prepared by Government and as suggested earlier, policy analysis and need assessment should be conducted from early in the legislative agenda formation process, in respect of their own initiatives. Parliaments seem ill-equipped to carry this out to the same standard as Governments. As we have seen, such processes depend upon information and expert knowledge of the subject matter, as well as a working understanding of administrative and operational factors and resources, that are not usually found in the legislative house. Parliaments, in preparing new bills of their own, tend to rely upon outside specialists or experts or upon individual Members who have specialised interest in the subject area.⁷⁶

Sound and implementable legislative agenda is more likely to emerge if adequate time and resources are allocated for preparation and drafting. The more hurried the processes the more probable it is that matters will be overlooked or that lower standards of drafting will have to be tolerated. On the other hand, political imperatives commonly lead to pressures to complete the processes quickly in order that new agenda can be adopted by the house and be put promptly into operation. At the same time, account must be taken of the fact that legislative projects may make significant demands in financial and human resource terms. In that case, it is clearly wasteful for substantial work to be done on legislative projects that have low priority or are unlikely to affect the development of the country positively.

3.3 Legislative programming and timetabling

At the heart of the conception and development of the legislative agenda, are those policies of Government, the success of which is determined by its translation into laws. In some countries, such policies are to be submitted to the legislature by the executive before the

⁷⁶ Ibid

commencement of the legislative year for inclusion in the legislative projects or agenda for the coming year.⁷⁷ In some countries an extended time frame may be adopted to enable Ministries to undertake more elaborate projects over a longer period in the confidence that they are destined for submission to the Legislature in a subsequent session. Settling such a legislative programme enables Government to agree collectively where its legislative priorities lie, especially where the Ministries' demands for legislative time are likely to outstrip the Legislature's capacity to deal with new legislation. It also provides a basis upon which the Legislature can establish for its own timetabling purposes, the flow of draft laws that will be placed before it. In a number of countries, the programme will be submitted to the Parliament for its consideration and, in some, for its approval.

Once programming is practised, timetabling or the legislative agenda is inevitable. Decisions need to be made as to when the draft laws are to be placed before the legislature, and in consequence timetables for their preparation have to be set centrally, monitored and enforced by the committee on the implementation of the legislative agenda. In the UK for instance, an overall timetable is needed to fix realistic timescales for preparation of individual projects that allow Ministries adequate time to prepare and draft the agreed laws.⁷⁸ This will enable Ministries to make internal plans and detailed timetables for their legislative work and to allocate the resources that will be necessary to complete the projects by the set deadline. An overall timetable will also facilitate the timing of submission of completed drafts to the Cabinet/Council of Ministers for their consideration and approval, as well as forward planning of the work of the Legislature.⁷⁹ In the UK as well, a necessary concomitant of timetabling is the authorising of a body, such as the office supporting the Cabinet/Council of

⁷⁷ Green-Pedersen, C. "*The Political Agenda in Denmark: Measurement and Trends Since 1953*," (Research note 2005) available at <http://www.ps.au.dk/greenp/Research/Agenda.htm>.

⁷⁸ Banducci, Susan A., Todd Donovan, and Jeffrey A. Karp. "*Minority Representation, Empowerment, and Participation*". (The Journal of Politics, 2004) 534–56.

⁷⁹ Ibid

Ministers to monitor, on its behalf, compliance with the overall timetable, as well as a procedure for making timetable adjustments in altered circumstances.

In Nigeria however, legislative timetabling is not practiced because of the system of government adopted by Nigeria. Nigeria operates a presidential system of government where there is a complete separation of the legislature from the executive arm of government. Ministers in Nigeria do not form part of the legislature as in the United Kingdom where Ministers form part of the Cabinet. Although, legislative timetabling is similar to the legislative timetable, it only binds and apply to ministries requiring legislation to give effect to a project or a programme.

3.4 Role of a Legislative Drafter in Drafting the Legislative Agenda

A legislative drafter plays a significant role to the success of the legislative house. Giving the importance of a legislative drafter in most parliamentary activities, some jurisdiction such as the United Kingdom, have since institutionalised the office of a legislative drafter. In the year 1869, the British government established the office of the Parliamentary Counsel which was the first of its kind.⁸⁰ Office of the parliamentary counsel comprised of lawyers with special skills in legislative drafting and who were appointed to and were responsible for drafting government Bills that are presented to the parliament. Over the years, the office of the Parliamentary Counsel (OPC) has played a critical role in the formulation and drafting of legislative agenda.

Even in non-common law jurisdiction, the role of legislative drafters in agenda setting is very pivotal. Thus, a legislative drafter must - have good writing and compositional skills; have an understanding of the legislative process as well as the impact and effectiveness of the instructions received. He should be able to translate the instructions into a document, and

⁸⁰ T.C. Jaja, “*Legislative Drafting - An Introduction to Theories and Principles*” (The Netherlands; Wolf Legal Publishers, 2012)

should be able to draft in simple and clear language, bearing in mind the end-user which are the common man.⁸¹

While drafting the legislative agenda, Drafters must keep consulting with principal officer of the legislative house, the committee responsible for implementing the agenda and instructing officers either by phone, at meetings and through exchange of annotated drafts. In some jurisdictions, instructing officers, committee member and other principal members of the legislative house are present throughout the drafting process. In other jurisdictions, the presence of the instructing officers depends on several considerations. These are, the nature, complexity of the agenda; whether the policy is well defined and what stage the drafting is. Sometimes their presence would be determined by the drafters, officers' preferences, workload and schedule. In some jurisdictions, drafters work alone but may be supervised by delegates from the Legislature.⁸²

In addition drafting the document that is to be adopted as the legislative agenda, a legislative drafter's role also extends to Examination for compliance with fundamental legislative principles, and also quality assurance checks which shall be discussed briefly hereunder.

3.4.1 Examination for compliance with fundamental legislative principles

A legislative drafter should not just be carried away by his instruction. He must do beyond reducing his instructions into writing. It is assumed that by virtue of his training, expertise and experience, a legislative drafter is seized with significant knowledge of legislative principles. Often times, legislators have limited knowledge of the laws and proceedings as it relates to the legislature. This is often the case with legislators or parliamentarians who have been elected into the legislative house for the first time. In this case, it is the duty of the legislative drafter to accordingly, advice the instructing parties where he has received

⁸¹ ibid

⁸² ibid

instruction that will or is likely to set the legislative agenda against any existing law or established parliamentary procedure.⁸³ Thus, a legislative drafter must at all times acquaint himself with the constitution, and in the case of Nigeria, he must be very conversant with the Legislative Houses (Powers and Privileges) Act, the Standing Order of the Senate (in the event the agenda is being drafted for the Senate), the Standing Order of the House of Representatives (in the event he is drafting the legislative agenda for the house of Representatives).⁸⁴

Where in the drafted instruction, the legislature sets out to do anything or execute any legislative project that is outside the legislative competence, the drafter must accordingly draw the attention of the house to that. Consequently, a drafter must be very familiar with all the matters in the Exclusive Legislative List which is reserved exclusively for the National Assembly by virtue of Section 4 of the 1999 Constitution of Nigeria (as altered). The constitution also allows both the National Assembly and the State Houses of Assembly to legislate matters in the Concurrent Legislative list.

Section 4 (2) and (3) of the constitution provides:

- “(2) *The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.*
- (3) *The power of the National Assembly to make laws for the peace, order and good government of the Federation with respect to any matter included in the Exclusive Legislative List shall, save as otherwise provided in this Constitution, be to the exclusion of the Houses of Assembly of States.*”⁸⁵

3.4.2 Quality assurance checks - the final process

⁸³ Arthur J. Rynearson, *Legislative Drafting Step-by-step*. (Carolina Academic Press, 2013)

⁸⁴ Ibid

⁸⁵ CFRN 1999 (as altered)

Drafting the legislative agenda is usually a team project that involves legislators, legislative officers, and sometimes other staff members from a house committee who are neither legislators nor lawyers. Being an expert in drafting legislative documents, the drafter who has primary responsibility for overseeing the entire drafting process, must ensure to perform an oversight and quality assurance role. The quality assurance check by the legislative drafter at the end of the drafting process involves a number of considerations. These include:

- i. Whether the intent of the legislative house is adequately represented in its agenda and whether same does not breach any rules of law;
- ii. Whether the document meets the inherent quality of the policy from a legal professional viewpoint;
- iii. whether the draft agenda incorporates a whole-of-government perspective and does not contain extraneous matters on which the legislative house lacks competence;
- iv. the draft's consistency with the authority of the legislative house;
- v. the draft's consistency with fundamental legislative principles; and
- vi. the overall quality of the draft as part of the working document of the legislative house.

The editorial and publishing check aims to achieve:

- i. consistency of language both within the agenda and with other law and rules governing the house such as the Standing Order of the House;
- ii. consistency of formats, styles and expressions;
- iii. accurate flow of words and sentences, including the flow of subsections into paragraphs, subparagraphs and sub-subparagraphs;

- iv. correct numbering of the agenda in terms of putting priority legislation first; and
- v. correct cross-references within the agenda and correct references to other documents and legislation

Many of the editorial and publishing matters can only be fully considered after the final, or near final, draft of the agenda has been settled by the drafter and the legislative house.

3.5 Implementation of Legislative Agenda: a case study of the Legislative Agenda of the Nigerian 9th Assembly

The implementation of an agenda is usually more tedious than making it. Once the legislative agenda has been adopted as a resolution of the house, the next incumbent task of the legislative house is to work towards the implementation of the agenda. In some countries of the world including Nigeria, a specialised committee is often inaugurated and saddled with the assiduous task of implementing the agenda. Although, it is the duty of the entire house especially the principal members of the legislative house to ensure that the goals set out in the agenda are achieved, a committee is usually designated to monitor and ensure that the success of the agenda is achieved.

It is important to also point out that the Legislative Agenda of the House of Representatives is a policy document. As such, it is just a statement of intent and an articulation of shared priorities. It is not a rule book. There are no mechanisms in it or elsewhere to compel legislative action, even within the House of Representatives. There is, therefore, a need to develop a system to drive its implementation through the Policy Innovation and Monitoring Unit (PIMU) in the Office of the Speaker and the Special Committee on Monitoring and Implementation of the Legislative Agenda. As rightly noted by the Speaker of the 9th House

of Representatives, Rt. Hon. Femi Gbajahamila,⁸⁶ the infrastructure in place to drive implementation (i.e. the Policy Innovation and Monitoring Unit (PIMU) in the Office of the Speaker and the Special Committee on Monitoring and Implementation of the Legislative Agenda) has been helpful. It is however, limited by the fact that both the Unit and the Committee are new creations, and are still developing the institutional capacity, expertise and memory required to achieve more effectively.

Second, and related to the first, is the issue of availability of resources. Effective policymaking requires resources for research and data analysis, policy review and assessment, monitoring and implementation. There must then be a way forward. This requires all stakeholder to devise a way to improve resource allocations to these functions. This is important because the quality of governance depends in no small measure on the process of decision-making that leads to government actions. After the Legislative Agenda of the ninth House of Representative was launched, the House immediately commenced its implementation. First an ad-hoc committee on the implementation of the legislative agenda was constituted by The Speaker of the house with Rep. Henry Nwanwuba as the chairman of the Committee. The Committee worked closely with the committee on Rules and Business as a result of which many priority Bills were passed. For example, the immediate implementation of the agenda was what catalysed the passing and signing into law the 2020 Appropriation Bill into law by December 2019. This paved way for the resuscitation of January-December national budget cycle which has been maintained for about four years now. Recall that both the Senate and the House of Representatives passed the Appropriation Bill on the 28th day of December, 2022. This was a laudable reform.

⁸⁶ A Lecture delivered by The Speaker of The House of Representatives, Rep. Femi bajablamila At The Second Edition Of The Distinguished Parliamentarian Lecture Series Organised By The National Institute For Legislative And Democratic Studies (NILDS) On Monday December 12, 2022, <https://nibl.ac.cn/cam/view/706> accessed on 21/1/2023

Suffice to say at this point that the legislature does not have to wait for government/ Executive bills in order to set legislative agenda. The agenda of the legislature is akin to a road map on what the lawmakers intend to achieve in a legislative session. Therefore, this agenda is not hinged on executive bill, which more often than not, may arise at any point during the legislative year. In the Legislative Agenda, the Gbajabiamila-led House listed a number of key reforms, both for the lower chamber of the National Assembly and Nigeria as a country, some of which would require an amendment of the Constitution. The document said the agenda “is a declaration of our intent to serve Nigeria with dedication, focusing our considerable energies on those issues that most affect the lives of our citizens.” The House said in the document that the members were elected at a time in the country’s history “when we are confronted with great peril and even greater opportunity to turn around our nation’s fortunes and put us back on the path to genuine peace, and progress that impacts on all, rather than just a privileged few.”

The House also stated that members were determined that over the duration of their tenure, “every legislative action we take will have an identifiable positive benefit on the lives of the Nigerian people on whose behalf, and at whose pleasure we serve.” They also resolved to “conduct themselves so as to reflect the position and inspire confidence, respect, trusts of colleagues and the public; avoid attacking the motives of fellow legislators including making ridiculous use of abusive and ‘unparliamentary’ language and unfair comments about colleagues on the basis of ethnicity, religious or political affiliation; and conduct their financial affairs in such a transparent manner that leaves no room for the assumption or possibility of corruption by special interests.”

To achieve this, the House focused on six things:

- i. process review and reform;

- ii. budget monitoring and evaluation;
- iii. delineation of responsibilities;
- iv. executive compliance;
- v. budget cycle and'
- vi. reform of the MTEF.⁸⁷

The Medium-Term Expenditure Framework (MTEF) sets out three-year spending plans of the national and state governments. It aims to ensure that budgets reflect Government's social and economic priorities and give substance to Government's reconstruction and development commitments. The 9th House of Representatives has been an unusually productive parliament despite the limitations imposed by a global pandemic. It has taken legislative action to address longstanding challenges of governance and economics in Nigeria. It has passed landmark legislation to fix the oil and gas industry, reform the police and reorganize the corporate administrative system in Nigeria. The 9th House have also considered and passed meaningful legislation impacting all areas of our national life. Some of these bills are the Police Service Commission Act (Repeal and Re-enactment) Bill, the Electric Power Sector Reform Act (Amendment) Bill, and the Deep Offshore and Inland Basin Production Sharing Contracts Act (Amendment) Bill, amongst others. It has passed a slate of bills to reform the aviation sector and clean up the airports so that these critical national assets can be properly administered to the best expectations of the Nigerian people. The annual budget process of the Federal Government has also been reformed. The 9th house has used the appropriations process and the power of parliament over the public purse to pursue community and constituency development across the country, and has invested in primary, secondary, and tertiary education infrastructure. It has provided ICT training centres to facilitate learning and enhance educational outcomes.

⁸⁷ <https://leadership.ng/between-9th-senate-and-legislative-agenda/>

There is virtually no constituency in the country that hasn't benefited from significant investment to improve primary healthcare, rehabilitate classrooms and schools, and provide community roads.⁸⁸ Equally worthy of mention, is the intervention the 9th House of Representatives in resolving outstanding issues between the Academic Staff Union of Universities (ASUU) and the Federal Government so that University students could return to their academic pursuits after an extended period of industrial action by the union. Since then, the House of Representatives has worked to address the issues that led to the protracted strike. Furthermore, the House of Representatives has convened the Accountant General of the Federation (AGF), the Academic Staff Union of Universities (ASUU) and other stakeholders to facilitate the adoption of elements of the University Transparency and Accountability Solution (UTAS) into the Integrated Payroll and Personnel Information System (IPPIS). It is important to note these issues are the fundamentals that have been at the heart of the perennial agitation by the union.⁸⁹ The intervention of the 9th House in these matters pertaining to education is in alignment with its updated Legislative Agenda commitments to strengthening human capital development by providing access to quality education opportunities across the country. This is important because education is one of the most impactful areas of public policy in any society. If the education policy it's gotten right, it becomes a blessing all through generations. A university degree, or tertiary qualification of some other kind, can be the spark that changes the trajectory of an entire family. Evidence abounds of the transformations that can happen when ambition and diligence are amplified by access to quality education and training. For this reason, education is central to the consolidation approach adopted in the updated Legislative Agenda of the 9th House.⁹⁰

⁸⁸ T.C. Jaja, “*Legislative Drafting - An Introduction to Theories and Principles*” (The Netherlands; Wolf Legal Publishers, 2012)

⁸⁹ Nelson V., ASUU Strike: NLC commends Gbajabiamila for intervening, online (Vanguard Nigeria, 2020) <https://www.premiumtimesng.com/news/more-news/559099-asuu-strike-nlc-commends-gbajabiamila-for-intervening.html>

⁹⁰ Ibid

Similarly, the Police Bill and the Police Trust Fund Bill, both of which were passed by the House and has been signed into law by the President are other laudable initiative of the House.

While it is true that the 9th House of Representative has done remarkably well in the implementation of its Legislative Agenda and pursuing policy objectives relevant to our present realities, there is still much work to be done. Various stakeholders have identified some of these areas that still deserves the attention of the legislature. Regarding the budget, for example, the view has been expressed that, aside from the prompt passage of the budgets, and the finance bill which has been reviewed twice now, in 2020 and 2021, no visible changes have been noticed in executive compliance with the budget. The Nigerian Police Act (Repeal and Re-enactment) Act, 2020 is the first comprehensive review of the Police Act of 1943, which was repealed and re-enacted. Despite the passage of the bill, it has, however, been observed that the relationship between the police and the people remains hostile. For instance, the Act provides that a person's attributes, including his colour, age, hairstyle or manner of dressing, shall not be grounds for reasonable suspicion. There is also a section that prohibits wrongful profiling of people. Unfortunately, the wrong profiling of people has continued. Then, there is Police Trust Fund provides funding for the police outside the normal annual budget. The Act introduces a 0.005 per cent levy on the net profit of companies to fund the training and equipping of the police. The Act also provides a legal framework for the management and control of the Police Trust Fund. The fund, which is an intervention fund of six years unless extended further by an act of the National Assembly, also mandates 0.5 per cent of total revenue accruing to the federation account, and 0.5 of Value Added Tax to the fund to be channelled to the purse of the federal government. The

constitutionality of this well-intended provision was however challenged in the case of *Attorney General of Rivers State v Attorney-General of The Federation & 3 Ors.*⁹¹

The provision of above Bills that were passed by the house is a reflection of the commitment of the house as stated in the Legislative Agenda, to improve the security of the country by passing Bills that will improve the welfare of the police and other security agencies.

⁹¹ Suit No. FHC/ABJ/CS/511/2020 .The facts of the case were that the Federal Government of Nigeria ("FGN"), relying on the provisions of the Act, had deducted 0.5% of the total revenue accruing to the Federation Account for the month of March 2020 and remitted same to the Trust Fund. Aggrieved, the Rivers State Government ("RSG"), acting through the office of the Attorney-General of Rivers State, commenced an action in the FHC against the FGN, challenging the constitutionality of section 4(1) (a) and (b) of the Act.

CHAPTER FOUR

DRAFTING LEGISLATIVE AGENDA: A COMPARATIVE ANALYSIS

While it may be said that the duties of a legislative drafter is the same everywhere, it is undoubtedly true that the process of initializing and formulating legislative agenda differ among jurisdictions. This contrast is more pronounced between common law and civil law jurisdictions and even between common law jurisdictions. Every state have peculiar process of initializing its legislative agenda and this more often than not, determines the roles played by legislative drafters.

4.1 Background for comparison: Agenda Control

Most parliaments around the world are privileged to organize their own businesses by themselves. The parliamentary or legislative agenda generally, is usually not arranged only for each sitting day but also for the sessional calendar. Without agenda control, it would be difficult for most parliaments to pass the annual budget in time, to enact a government's legislative program promised to the voters at the polls, or to make room for debate on urgent questions without interrupting the conduct of ordinary business.⁹² In parliamentary system of government, agenda control strives to achieve a delicate balance between "the right of the majority to govern and the right of the minorities to be heard."⁹³ Therefore, the manifold instruments for legislative agenda found in Western European parliament's hinge upon general questions of principle. Should a government be entitled to curtail debate on a bill before final voting and to block, by unilateral declaration, amendments from the floor to secure passage of its bill against delay or even obstruction? Does obstruction of business form, as some assert, a legitimate last resort against the agenda-setting prerogatives of a government riding

⁹² Döring, Herbert. "Parliamentary Agenda Control and Legislative Outcomes in Western Europe." (Legislative Studies Quarterly 26, no. 1 2001); available at <https://doi.org/10.2307/440407> assessed 23-01-2023

⁹³ Birkland, T.A. 'Focusing events, mobilization, and agenda setting', Journal of Public Policy 1

roughshod over minorities?⁹⁴ Where does one draw the line? In most, but by no means all parliaments, bills lapse with the end of the session if not passed; in others, "bills never die"⁹⁵

In the case of Nigeria, it would seem that unlike in the European parliament, un-concluded agenda never lapses, but are somehow carried over and inherited by the next legislative session. This can be gleaned from the article (ix) of the stated objectives in the agenda of the 9th Assembly. This objective is geared towards "making rules to achieve uncompleted agenda of the past assembly, particularly as relates to constitutional matters". Further, a careful examination of the legislative agenda of both the 8th and 9th Assemblies would reveal a repetition or recurrence of the same objectives, goals and aspirations.

If and when bills fail with the termination of the sessional calendar and must go all the way back to the legislative obstacle course, the opposition parties may actually hold the government hostage. Some parliaments, therefore, allot government special privileges in determining the legislative agenda. Others do not grant their governments any prerogatives in setting the agenda, so that the executive must rely on private members from the governing parties, or on the independent decision of presidents of parliament, to achieve its aims. Between these alternatives, a great variety of agenda-setting devices exist across the 17 parliamentary systems of Western Europe. Rules for preparing the legislative agenda differ depending on what kind of activity: law-making, approval of the annual budget, or scrutiny of the executive through questioning and topical debates.

A cross-national analysis of the rules and procedures guiding parliamentary questioning in Western Europe has been provided by Wiberg.⁹⁶ The parliamentary process governing the assessment, amendment, and approval of budgetary expenditure, differs from the process of

⁹⁴ Ibid

⁹⁵ Ibid

⁹⁶ Döring, Herbert. "Parliamentary Agenda Control and Legislative Outcomes in Western Europe", (Legislative Studies Quarterly, vol. 26, no. 1, 2001) JSTOR, <https://doi.org/10.2307/440407>. Accessed 26 Jan. 2023.

passing a legislation because there must always be a budget, whereas a government is free to drop a bill. Given the theoretical interest outlined above, we focus on two distinct aspects of legislative agenda in this comparative analysis devices in the procedure for passing bills: first, timetable control enabling government to determine what will be debated in which period of time and, second, the (relative) autonomy of committees to establish their own business independent of government whips. In some countries, the government may unilaterally, or by its control of a majority on the president's council, determine which bills are given priority. In such countries, the opposition party (or parties) make only limited contribution to the legislative agenda.

As stated earlier, the setting of a legislative agenda annually has become the norm in most parliamentary democracies worldwide, and it is widely recognized as one of the fundamental ways in which proposed legislation is introduced and formulated in line with public policy and governmental proposals. This is of key importance, as no organ of government can act or implement a proposal, without its being backed by enacted or existing legislation. It is thus imperative, that parliament devise at the beginning of every parliamentary year, the list of priorities and recommendations that it intends to introduce. Under this chapter, an examination of the practices regarding legislative Agenda setting in the United Kingdom and the United States and the European Parliament will be examined.

4.2 United Kingdom

In the UK, Government policy is normally formulated within the responsible ministry. The impetus for this may be research and analysis within the ministry, or commissioned by the ministry from outside public or private sector sources, or independent research and analysis which is brought to the attention of the ministry, or a combination of these. A common feature of modern policy development is an impact assessment of the proposed policy and

implementing legislation. Such assessment usually embraces not only a cost/benefit analysis but also an evaluation of the regulatory impact of the policy and related legislation, and thus its indirect economic consequences. Impact assessment is both a continuous process to help the policymaker fully evaluate and understand the consequences of possible and actual government intervention and a tool to enable the government to weigh and present the relevant evidence on the positive and negative effects of such intervention, which includes reviewing the impact of policies after they have been implemented. It may also be used of course to determine the impact of existing legislation preparatory to considering revising it. In that sense, it can be treated as a continuum within government.⁹⁷

Once the necessary research has been done, a legislative Programme which is a list of bills which the United Kingdom government intends to introduce to Parliament during a parliamentary session is drawn up. The Programme is an outline of the Government's intended direction and emphasis in the coming year. According to the Cabinet Office, the Legislative Programme sets out the UK Government's plans for legislative and key non-legislative action in next year's Parliamentary session." The Programme contains the names and summaries of the laws which the executive intends to produce in the following year. It is compiled by the Government and approved by the Cabinet, before the Monarch delivers the Programme in the Speech from the Throne in November. The speech is given from the throne in the House of Lords before members of the Houses of Commons and Lords during the State Opening of Parliament on the first day of the annual parliamentary session. After the programme is delivered, it is debated in both Houses. Individual bills in the programme are introduced by the government over the course of the parliamentary session. The government

⁹⁷ Braun D, Mikhaylov S and Schmitt, “*Manifesto Study Documentation*”. (Advance Release, 2010). URL: available at <http://www.piredeu.eu> assessed 21-01-2023

is not bound by the programme and is not required to fulfil the programme during the session.⁹⁸

If the Government's legislative priorities are to be achieved with reasonable despatch, some guarantees need to be provided that the drafts it sends to Parliament will be considered there with some promptitude. For their part, Legislatures need to have some assurance that Government legislation will be sent at regular intervals so that their work can be suitably spaced across the annual session. In some circumstances, Government may be able to exert direct political influence through having majority representation or through parliamentary leaders who support it. Parliamentary Rules of Procedure may set a timeframe after presentation within which work on Government drafts must start in the Legislature. In a number of countries, Governments assign to a member of the Government the responsibility of liaising with the Legislature on the legislative processing of government drafts.

4.3 United States of America

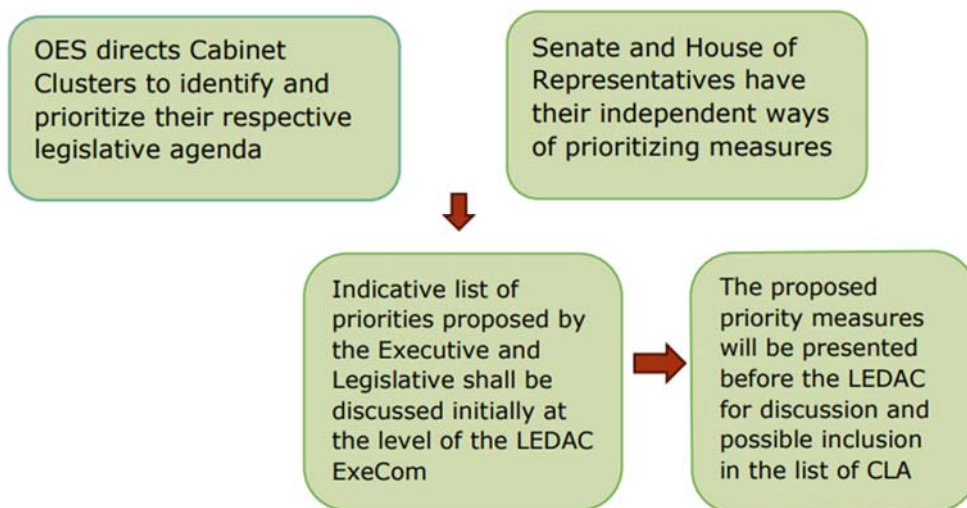
In the United States, members of the Senate belonging to the two major political parties are organized into party conferences. The conferences (also referred to as caucuses) and their leaders play an important role in the daily functions of the Senate, including setting legislative agendas, organizing committees, and determining how action proceeds on the Senate floor. When senators represent third parties (examples include the Populist Party of the 1890s and the Farmer-Labour Party of the mid-to-late 20th century) or serve as Independents, they typically work within the two established party conferences to gain committee assignments or manage legislation.

In the United States, the Majority Leader who serves as the leader of the majority party in the chamber, oversees the construction of a legislative agenda, serves as the caucus'

⁹⁸ Ibid

spokesperson in various fora, and oversees the Majority Caucus Staff. The Majority Leader also structures the chamber agenda and leads action on the floor by selecting which items to call up for debate.⁹⁹ The legislative agenda of Congress is harmonised with the agenda of the executive to align with the National Development plan, and the harmonised agenda is then referred to as the Common Legislative Agenda. The common legislative agenda thus includes a list of priority legislative measures that the Council has agreed to submit to the Legislature to pass into law. The process for the formulation of common legislative agenda starts with prioritization of proposed priority legislative measures separately by the Executive and Legislative branches. In the Executive Branch, the Executive Secretary directs the Cabinet clusters to identify and prioritize their respective legislative agenda. Congress has its independent way of prioritizing its measures. The indicative list of priorities proposed by the Executive and Legislature shall be initially discussed at the level of the Legislative-Executive Development Advisory Council (LEDAC) for harmonization. Then the proposed priority measures will be presented before the LEDAC for discussion and possible inclusion in the list of common legislative agendas.¹⁰⁰

I. Process Flow



⁹⁹ Benoit K and Laver M, “*Party Policy in Modern Democracies*”. (New York: Routledge, 2006)

¹⁰⁰ Ibid

The legislative bills that intend to achieve inclusive growth, i.e. pursues a high, sustained and broad-based economic growth that generates mass employment and draws the majority of the people into economic and social mainstream and growth, that reduces poverty and achieves the Millennium Development Goals (MDGs), as well as those that improve the quality of governance, boost the market's essential institutional infrastructure, and support an economy that guarantees full, equal and universal enjoyment of all human rights are always given priority. Agencies/sectors concerned or other stakeholders who propose for inclusion of their bills in the priority legislative agenda may be guided by the following criteria:

- a. Proposed legislative measure is included or aligned with the National Development Plan, the President's Social Contract and State of the Nation Address (SONA)
- b. Consistent with international commitments/treaties
- c. Aligned with the priorities of the Congress Clusters, Regional Development Councils, NEDA Board and National Security Council
- d. Supportive of the country's fiscal/financial/investment program
- e. Consider political acceptability to promote government stability
- f. Timing and relevance of the legislative measure given the current political situation
- g. Consideration on the impact and effects of the proposed legislation
- h. Consideration on the implementation and operational requirements of the proposed legislation

In determining the measures to be included in the priority list, other parameters to be considered are: people, resources, legal basis and political objectives. The legislative agenda must be aligned with the Administration's policy directions and must be national in scope, with high impact for greater effect, and broad stakeholder base for a meaningful stakeholder participation impact – to create momentum for change.

Party leaders in the U.S. House and Senate play a key role in making initial committee assignments and in setting the legislative agenda. The committee assignment power has

changed in significant ways over the years, but the main concern of party leaders is to insure that they have solid majorities on the major committees. A secondary, but still important, concern is to assign individual legislators to committees where they will be able to make the most significant contribution. This usually means assigning people to committees that are of particular concern to their constituents. Setting the legislative agenda is not something that Congress controls entirely; in a formal sense, however, the leaders of the House and Senate bear responsibility for assigning bills to committees, establishing the legislative calendar (the schedule which establishes which bills will be taken up before the full House and Senate), and, in general, overseeing the law-making process.¹⁰¹

Legislative proposals typically originate in three different ways: from the Presidency and the Executive, from Congressional party leadership, and from individual legislative entrepreneurs within Congress. The Dodd-Frank Act of 2010 is a good example of a legislative proposal that began within the executive branch. President Obama had raised the issue of financial reform during his Presidential primary campaign, well-before the financial crisis had occurred. In the aftermath of the financial crash, Obama administration officials, along with a variety of academic experts, laid the groundwork for the initial legislative proposal that would become the Dodd-Frank bill.¹⁰² In other circumstances, the legislative agenda is set by the majority party, as in the aftermath of the 1994 election when the Newt Gingrich-led Congressional Republicans attempted to implement their “Contract with America.”¹⁰³ Individual legislators also play a key role in establishing the legislative agenda. Whether as a consequence of their own individual policy ideas, or as a consequence of their relationship with influential interest groups, individual legislators in the American Congress often play a crucial role in developing policy ideas and pushing political issues onto the Congressional

¹⁰¹ Bòrzel TA, Hofmann T, Panke D and Sprungk C. “*Obstinate and inefficient: Why member states do not comply with European law*”. (Comparative Political Studies Journal, 2016) 4

¹⁰² Ibid

¹⁰³ Ibid

agenda.¹⁰⁴ One should also note that Presidents, the executive branch, Congressional leaders, and individual legislative entrepreneurs often work together simultaneously to establish a legislative agenda.

Looked at more broadly, setting the legislative agenda is a process that encompasses both government officials as well as interest groups and public opinion. Part of the great difficulty of understanding this process is that “agenda-setting” encompasses both issues that draw Congress’ attention, and also issues that fail to draw Congress— what might be called “negative agenda setting.” While there are many different ways of looking at the agenda setting process, James Q. Wilson’s theory of policy-making, based upon the ways in which different policies impose costs and benefits is a useful starting point. According to Wilson, Congressional policies impose costs that are concentrated on particular set of individuals or groups, or they impose costs that are diffused through society as a whole. Benefits are distributed in a similar way. This yields four theoretically distinct types of policy areas, each of which creates a distinct kind of politics.

4.4 European Parliament

While the European Parliament is the only European Union institution that is directly elected by European Union citizens, its legal power to set the legislative agenda is still limited. The long-standing constitutional question of the European Parliament’s right of legislative initiative was partly dealt with in the Lisbon Treaty reform, but was not fully settled. Since then, the European Parliament has adopted four resolutions calling on the European Commission to enhance its legislative powers.¹⁰⁵

Notwithstanding its limited legislative powers, each year, the European Parliament, the Council and the Commission discuss and agree on the European Union's legislative priorities

¹⁰⁴ Budge I, Klingemann H-D, Volkens A, Bara J and Tanenbaum E (2001) “Mapping Policy Preferences: Estimates for Parties, Electors and Governments” 1945–1998. Oxford: Oxford University Press

¹⁰⁵ Ibid

for the upcoming year, which are set out in an annual Joint Declaration. Since 2016, the European Parliament, the Council, and the Commission have discussed and agreed on EU legislative priorities for the preceding year in an annual Joint Declaration. This enables the institutions to work more effectively and more closely together on key legislative proposals put forward by the Commission for which the European Parliament and the Council are co-legislators.

The Joint Declaration on EU legislative priorities (or the legislative agenda) usually sets out a shared European vision for a stronger and more resilient Europe. It shows the resolute commitment to remain united in supporting weaker European countries to overcome the great challenges of time. The Declaration or agenda is usually accompanied by a working document which lists specific legislative proposals to be considered by not only the European Union, but also by the parliament of the respective countries.

One important distinction between European Parliament and the regular parliaments such as the UK Parliament and the United States Congress as well as the Nigerian Legislature discussed in this chapter is that, in the latter the legislative agenda is often affected by the agenda of the majority or ruling party. In the US Congress for instance, the role of parties has dominated scholarship on political institutions. One of the most important and outstanding questions in legislative politics is whether majority party control affects legislator behaviour and agenda control. Since at least the 1970s, political parties successfully set the agenda on the US House floor ¹⁰⁶ and in multiparty democracies¹⁰⁷ though see Krehbiel ¹⁰⁸ for alternative view. Does majority party control cause changes in legislative policy making? We argue that majority party floor control, affects legislator behaviour and agenda control.

¹⁰⁶ Cox, Gary, and McCubbins: “Setting the agenda: Mass media and public opinion”, Cambridge University Press

¹⁰⁷ McElroy, Gail, and Benoit, Kenneth. 2012. “Policy Positioning in the European Parliament.” *European Union Politics* 13 (1): 150–67.

¹⁰⁸ K.Keith – Ann Arbor: “Pivotal politics: A theory of US lawmaking” University of Michigan Press, 1998

Leveraging on a natural experiment where nearly one tenth of a legislature's members died within the same legislative session, we are able to identify the effect of majority party floor control on the legislative agenda and on legislator choices. Previous correlational work has found mixed evidence of party effects, especially in the mid-twentieth century. In contrast, we find that majority party control leads to both changes in the agenda and changes in legislators' revealed preferences. In Nigeria for example where legislators are voted for on the basis of first past the post and the majority party in the National Assembly dominate the positions of the principal members of both chambers, it is a forgone conclusion that the agenda of the legislature may be likened to the agenda of the majority party in the legislature. However, majority rule has never officially existed in the European Parliament as there has never, to-date, been a party group that holds a majority of seats. Although this is a common occurrence in many parliamentary systems, the European Parliament's organization is complicated further by the fact that there is neither a government nor an opposition. The combination of these two realities means that the procedural rights of individuals and party groups in the European Parliament are different from more established parliamentary systems. This poses considerable challenges to existing theories of legislative organization, and particularly to those of legislative agenda-setting. In particular, it shows that the ability to control the legislative agenda is dependent on the ideological and policy positioning of party groups in different issue areas. The analysis focuses on the previously ignored, yet crucially important Conference of Presidents – a council made of party group leaders that have control over the legislative agenda. A quantitative analysis of the European Parliament roll-call dataset, as well as an original database of proposal delay in the Parliament, shows that the

institutional set-up of the Parliament's rules of procedure means that it is the median party on any given policy dimension that holds agenda-setting powers.¹⁰⁹

Also important to note is the fact that most EU member states apply a 'legislative discontinuity principle', under which legislation that is pending at the end of a parliamentary term is dropped. But the EU's governing treaties make no mention of such a principle, although the Parliament's rules of procedure make an attempt to introduce legislative discontinuity by specifying that "unfinished business shall be deemed to have lapsed" before an election. By implication, any proposed legislation in the legislative agenda which is not concluded before the next European election shall be deemed dead.¹¹⁰

The European Parliament Legislative Agenda is often earmarked by legislative proposals that are fundamental to delivering the European Green Deal, achieving a Europe fit for the digital age, creating an economy that works for people, making Europe stronger in the world, promoting the European way of life, as well as strengthening democracy and defending the common European values.¹¹¹ Unlike the regular parliament like Nigeria and the United States Congress, the Conference of Presidents is the political body of the EU that is responsible for the organisation of Parliament's business and legislative planning, deciding the responsibilities and membership of committees and delegations relations with other EU institutions, the national parliaments and non-EU countries. The Conference of Presidents prepares Parliament's timetable and plenary sitting agendas and allocates seats in the Chamber. Their role is very similar to that of the principal members of the Nigerian National Assembly. In the case of Nigeria, the President of the Senate constitute the committee that will prepare the legislative agenda and when the agenda is adopted by the senate in a plenary, the President of the Senate constitute an ad-hoc committee for the monitoring and

¹⁰⁹ Golub J "Survival analysis and European Union decision-making".(2007) *European Union Politics* 8(2): 155–179.

¹¹⁰ Ha"ge FM (2011) "The European Union policy-making dataset. *European Union Politics*" 12(3): 455–477

¹¹¹ Ibid

implementation of the agenda. In the case of the House of Representative of Nigeria, the Speaker makes appointment in to the committees to draft the agenda as well as committees that implements the legislative agenda.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATION

In concluding this research, the researcher shall enumerate the findings of this research which clearly shows among other things that legislative agenda is an important tool for nation building and development. The chapter also provide a sound and logical conclusion on the subject of the research as well as some recommendations, geared towards a better engagement of legislative drafters in the drafting of legislative agenda among others. The study presents a framework to understand agenda setting in the legislature and its policy implication, not only in Nigeria but in other jurisdiction operating a parliamentary system of government. The research highlights three dimensions of agenda setting: the partisan, the institutional, and the positional. The study explains the interaction between these legislative agenda setting and nation building and points out how each the failure to set legislative goals have led to a negative perception of the legislature.

5.1 Summary of Findings

This research finds that, the legislative agenda is an important tool for nation building and economic development. This is evidenced by the tremendous success that has been witnessed in the Federal Legislature since the inception of legislative agenda. Until the 8th and 9th Assembly, Legislative Agenda was alien to Nigeria. The Nigerian legislature had over the years conducted its business without any focus or direction and these had led to delay in enacting essential laws in Nigeria. For instance, important bills such as the Appropriation Bill were hitherto the introduction of legislative agenda, usually not passed within the year preceding their implementation to enable government plan adequately for the following year. Also, despite the numerous benefits of setting annual or sessional legislative agenda, state

legislatures in Nigeria (Houses of Assembly) are yet to adopt this all-important innovation but have continued to allow themselves to be tossed around by powerful Governors.

Just like the United States, the ruling majority party in several ways, dictate the legislative agenda of the house and this have resulted in a little reflection of the aspiration of the people in the agenda. In the appointment and composition of committees to conceive, prepare and recommend an agenda for the house, preference is giving to the majority and ruling party as the committee is usually flooded with members of the majority party. This will lead to a situation whereby only the agenda of the ruling or majority party is propagated as opposed to an agenda that promotes national integration and national development.

5.2 Conclusion

Setting the agenda by the legislature is the most significant institutional instrument for the legislature to shape policy outcomes, because parliament with significant agenda setting powers, like France or the UK, are able to produce the outcomes they prefer within a given legislative session, while parliaments or legislative houses that fail to set agenda at the beginning of a legislative assembly or session often go about without direction and are often perceived by citizens as lazy and ineffective.

With a strong comparative framework, this research has examined the Legislative Agenda setting processes in three countries: Nigeria, the United Kingdom and the United States, as well as the European Parliament and has identified, non-consultation on part of the Nigerian Legislature, party bias, the engagement of non-professional legislative drafters, as the loopholes in the procedure adopted by Nigeria in setting the legislative agenda.

5.3 Recommendations

There are improvements that could be made to the procedure for the development of the legislative agenda in Nigeria to ensure the process is more inclusive and democratic, and that the agenda adopted is a reflection of the aspirations of the citizens.

First, the House of Representative and the Senate should create an all-inclusive agenda setting procedure. Creating an inclusive legislative agenda-setting process requires a balance between ensuring all salient identities are considered, while also respecting the mandate of a majority party. Including every member of a legislature in the agenda-setting stage of the legislative process would be a costly and time-consuming process—one that would not be an efficient or effective use of representatives' time.

Secondly, the agenda setting of both chambers of the Nigerian National Assembly (i.e., the Senate and the House of Representatives) should be harmonised. This is because Nigeria operates a bi-cameral legislation with its implication being that for a piece of legislation to be deemed passed, it must obtain the concurrence of both chambers before it is taken to the President for assent. Therefore, if a Bill which has been designated by the Senate as priority Bill is passed by the senate, it must obtain concurrence in the House of Representatives and where it is not considered a priority Bill by the House of Representative, it may be pushed aside and its essence may be defeated. With the bicameral legislature, the house's efforts will continue to remain futile where such supports are not obtained.

It is therefore suggested that the National Assembly should adopt the American model. Thus members of the National Assembly belonging to the two majority parties should be organized into party caucuses. These caucuses and their leaders shall play an important roles in the daily functions of the National Assembly, including setting legislative agendas, organizing committees, and determining how these agenda are activated, actualized and monitored. The

Majority Leaders of both chambers who serve as the leader of the majority party in the chamber, shall oversee the construction of a legislative agenda, the caucus' spokespersons in various fora, and oversee the Majority Caucus Staff. The Majority Leaders shall also structure the chambers agenda and lead actions on the floor, by selecting which items to call up for debate.

The third recommendation would be the president's agreement with the house's direction, where the collective decision of the parliament should also be made to fall within policy drive of the executive arm. Therefore, the legislative agenda of the National Assembly should be harmonized with the agenda of the Executive to align with the National Development plan, and the harmonized agenda should then be then referred to as the Common Legislative Agenda. The common legislative agenda should include a list of priority legislative measures that the National Assembly has agreed to submit to the Legislature to pass into law. The process for the formulation of common legislative agenda should start with prioritization of proposed priority legislative measures separately by the Executive and Legislative branches. In the Executive Branch, an officer of the Executive who may be either the Secretary to the Government of the Federation may direct individual ministers, heads of parastatals and other agencies to identify and prioritize their respective legislative agenda.

The indicative list of priorities proposed by the Executive and Legislature shall then be discussed at the level of the Legislative-Executive committee, set up primarily for that purpose. Then the proposed priority measures will be presented before a select committee made up of the legislative caucuses members and the council of ministers, heads of parastatals, agencies and other stake holders for discussion where issues such as committee assignments and in setting the legislative agenda majorities on the major committees assignment of individual legislators to committees where they will be able to make the most

significant contribution, assigning people to committees that are of particular concern to their constituents.

Fourthly, state legislatures should adopt the practice of conceiving and developing a legislative agenda that will guide their activities, and set achievable legislative goals to be achieved within a legislative session. The Policy Innovation and Monitoring Unit (PIMU) in the Office of the Speaker and the Special Committee on Monitoring and Implementation of the Legislative Agenda should also be strengthened with institutional capacity, expertise and memory required to achieve more effective, realistic and practicable legislative agenda

Finally, there is a need to make conscious efforts to draft legislative agenda that will reflect, not the will and political agenda of the party in majority in the legislature, but one that represent and geared towards addressing the genuine social, economic, political and sundry needs of the common man.

5.4 Contribution to Knowledge

This study on the legislative agenda is quite novel in Nigeria. Very few literature exist on the subject as researcher have been more concern about how the legislature contributes to democracy while ignoring the fact that the activities of the legislature if properly streamlined and guided by a working document known as the legislative agenda, will be more impactful and contribute immensely to national development. The study presents a framework to understand agenda setting in the legislature and its policy implication, not only in Nigeria but in other jurisdiction operating a parliamentary system of government. The research highlights three dimensions of agenda setting: the partisan, the institutional, and the positional. The study explains the interaction between these legislative agenda setting and nation building and points out how each the failure to set legislative goals have led to a negative perception of the legislature.

Another area highlighted by this research is the role of a legislative drafter to nation building. The research posits that by the significant participation of a drafter in drafting the legislative agenda, a legislative drafter's contribution to national development cannot be ignored.

5.5 Suggestions for Further Studies

This research did not measure into the details of how the legislative agenda is implemented. As such, further reading may still be done in the area of the implementation of the legislative agenda and the challenges that are likely to be encountered in the implementation thereof.

Further reading can still be done on the influence of the executive in the legislative agenda setting.

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