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## EDITORIAL COMMENT

This is the second issue of the *NILDS-Journal of Law Review*, comprising a total of fifteen (15) articles dealing specially with different thematic areas, consistent with the policy of the journal.

Writing on constitutionalizing independent anti-corruption agencies in Nigeria, Doris Dakda Aaron and Edoba B. Omoregie discuss the ostensible statutory independence of the Independent Corrupt Practices and other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC). They argue that despite their efforts in the anti-corruption crusade, there is growing public perception that these agencies are being used for purposes not entirely altruistic. After examining relevant sections of legislations establishing both agencies, the paper argues for their constitutionalisation, using cross-country illustration and global best practices as templates. The goal is to strengthen their institutional capacities, to make the crusade more effective and less susceptible to manipulations.

Augustine Robert Agom examines the extant legal framework of the treaty-making process in Nigeria and highlights the (international law) rules involved in treaty-making. He restates that Nigeria has signed several treaties, which have given her a better voice in global governance, but not without concerns about their implications for the country. Based on comparative lessons from other jurisdictions, the paper identifies the inadequacies of the Treaty (Making Procedure, etc.) Act, 2004, and recommends its replacement with a robust law that shall provide legal and institutional framework for effective treaty management in Nigeria.

Bethel Uzoma Ihugba and Shuaibu A Danwanka, evaluate derogations from human rights for national security consideration in Nigeria. Their paper discusses the constitutional provisions that may be relied upon as grounds for derogations. It is argued that national security and fundamental freedoms are for the benefit of the people and that both are mutually re-enforcing. The authors note that there are clear exceptions to the limits of fundamental rights guaranteed in the constitution, which are contained in the derogation provisions. These derogations require strict Procedures of application, which are constitutionally required to be contained in the legislative framework, within certain parameters. The paper recommends that all arms of government and the people must always conform with relevant constitutional and legislative provisions to prevent undue and arbitrary derogation from fundamental rights, on the ostensible premise of combating threats to national security.



Yahaya Shamsu's paper focuses on the impact of constitutional alteration on democratic consolidation in Nigeria. The paper discusses the various alterations to the Constitution of the Federal Republic of Nigeria, 1999 (as altered), and considers whether the alterations have inspired democratic consolidation in Nigeria. The author argues that the alterations appear to have made modest gains, especially in the areas of institutional strengthening of the National Assembly and the Independent National Electoral Commission (INEC). However, he maintains that much still needs to be done especially with respect to the devolution of powers. He recommends that the federal government should devolve some of its powers to state governments in line with the principles of federalism, in order to deepen democratic consolidation in Nigeria.

Sam Amadi examines executive orders and presidential powers in Nigeria in the context of the practice in the United States of America. The paper argues that there is no authoritative judicial pronouncement on the validity of executive orders in Nigeria. It explores the tension between the conception of the President as Chief Executive and presidential power as a derivative of express legal authorization in the Constitution or legislation. The paper maintains that the proper lens from whence to consider the validity of executive orders in Nigeria is to assess whether it alters the delicate constitutional balance between the legislature and the executive. It declares that executive orders are not derived from the express authorization of the law, and are therefore an invalid exercise of presidential power under the Constitution.

Chukwuebuka S Okeke's paper is an examination of the constitutionality of the Public Officers Protection Act (POPA), with particular reference to the principle of reasonableness and proportionality. The paper argues that POPA constitutes a clog in the wheel of seeking redress against the government or any of its agencies for their wrongdoings, by requiring such actions to be brought within the shortest possible time, as opposed to within reasonable time. It further contends that POPA is unconstitutional because it constitutes an unreasonable and disproportionate interference with the right of access to court, which is a right of fundamental importance.

The paper on the legal implications of economic integration and the role of financial institutions within the Economic Community of West African States (ECOWAS) by Mohammed Wakil, reaffirms that ECOWAS functions on a regular platform with four pillars: Peace and Security, Developing

Infrastructure, Policy Harmonization (to facilitate trade) and Good Corporate Governance. The paper identifies one highlight of ECOWAS's current activities as the West Africa Customs Union, which integrates regional trade and increase external trade of processed goods, thereby creating jobs. It contends that a good deal of emphasis is placed on helping member states understand that adhering to the supra-national level brings benefits at the national level. The paper appraises the legal implications of these fresh strategic responses and identifies reoccurring issues arising; with recommendations on the appropriate way forward

Mustapha Sodiq Sunkanmi undertakes a medico-legal discussion of severe congenital anomalies as grounds for abortion under Nigerian laws. The paper examines the effect of congenital anomalies as some of the common causes of infant mortality in many parts of the world. It reveals that the laws are silent on conditions that endanger the life of the mother, which prompted the Federal Ministry of Health to formulate guidelines for safe termination of pregnancy. It contends that if diagnosed during pregnancy, the laws are silent about the step to be taken. The paper finds that Nigerian laws including the codified penal law founded on Islamic precepts do not make adequate provisions to cater for congenital anomalies. It concludes that although severe congenital anomalies as grounds for abortion can be inferred from studies of penal laws, the guidelines set by the Federal Ministry of Health, etc., there is still a need to make clear provisions to erase any form of ambiguities.

Chukwudi Victor Odoeme, writing on environmental politics and carbon footprints politics in Nigeria, attributes climate change to excessive carbon build-up in the atmosphere. He contends that the negative impacts of climate change make carbon emission part of the list of dangerous human activities against our planet. Although Nigeria is deemed not to contribute much to global warming and consequential climate change, certain reckless use of the environment, such as wood logging for domestic and small scale industrial use are adding to Nigeria's carbon footprint with deleterious impact on our environment. The paper evaluates the legal regime relating to climate change in Nigeria in light of international environmental politics and makes proposals for legislative review.

Mohammed Amali and Ngozi Onyinye Nwafor-Orizu's paper is an advocacy for the use of forensic science in criminal investigation in Nigeria. The paper maintains that the long-established legal requirement of proof beyond reasonable doubt in criminal litigation derives from the fact that human justice

has its limitations. It argues that the possibility of error, which is inherent in any system of justice, necessitates the adoption of scientific methods in criminal investigation to reduce such errors as much as possible. It notes the serious difficulties experienced by judges, lawyers, and prosecutors alike in seeking the truth where conflicting versions to events are presented. The paper recommends the deployment of forensic and other scientific investigative processes to reach a conclusion concerning criminal complicity or culpability of suspects and accused persons.

Reviewing laws on funding and campaign financing of political parties, Augustine C Osigwe, Chukwuemeka O Onyimadu and Chukwuka E Onyeaku undertake an appraisal of the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as altered), the Electoral Act 2010 (as amended), and the Electoral Act (2010 (Amendment) Bill, 2018 vis-à-vis campaign financing. Unveiling the inadequacies of the extant campaign financing laws in Nigeria, the authors advocate a periodic review of existing legislation on campaign financing and setting up of a Commission to oversee and enforce political campaign financing laws in Nigeria. It is expected that the proposed commission will deepen electoral integrity and aide in democratic consolidation in Nigeria.

Dayo Ashonibare appraises the law on the prohibition of religious and political organizations from possessing broadcast licenses in Nigeria. The paper focuses on the relevant provisions of the National Broadcasting Commission (NBC) Act, 2004, which vests the NBC with the mandate of licensing and regulating the broadcasting industry in Nigeria vis-à-vis, the Constitution of the Federal Republic of Nigeria 1999 (as altered). It argues that section 10 of the NBC Act is discriminatory, and out-of-touch, especially given the advancement of the internet in Nigeria. The paper recommends a legislative review of section 10 of the NBC, to bring it up to speed with current advancement in technology.

Samuel Oguche's paper is a review of the book *Committees in the National Assembly: A Study of the Performance of Legislative Functions, 2003-2013*, a publication of the Institute. The review emphasizes the challenges confronting legislative oversight in the eighth Assembly and those that have continued to emerge. The review covers the nine chapters of the book, noting the need for update since a lot has happened after the publication. It recommends that the update should focus on performance of National Assembly committees,

successes recorded in legislative oversight by the 8<sup>th</sup> Assembly, and other emerging challenges such as powers of the National Assembly to alter an Appropriation Bill and the limits of oversight and undue delays in the judicial process, among others.

Adaobi Julia Ofordeme's paper is a review of *Gender and Leadership Training Manual for the National Assembly*, NILDS. The six-module manual provides guidelines and content support for training on gender and leadership for legislators and legislative staff of the National Assembly. The review notes that the manual excludes other key players on gender mainstreaming such as the state legislators, state legislative staff and civil society. The review also notes that the manual does not accommodate the male gender apart from merely mentioning it in a section. Against the background of the foregoing and other inadequacies, the review recommends a new edition of the manual, to address these concerns.

Chinedu Anita Ikpeazu, in a review of the book *16 Years of Law Making 4<sup>th</sup> – 7<sup>th</sup> National Assembly: An Analysis of Bills Processed*. The book is a publication of NILDS. The review extrapolates the uniqueness of the seven-chapter book, especially as it contains the detailed use of tables and graphs. These have been done for illustration, with a view to providing an in-depth analysis of various aspects of the process of the bill in the National Assembly. The review identifies some gaps in the book, such as the absence of petitions considered by the Senate like those of the House of Representatives, which are contained in the book; wrong citation of constitutional provisions concerning legislative powers of the Houses of Assembly of States, among others. To improve the quality of the book and correct these gaps, the review recommends the publication of another volume.

**Professor Edoba B Omoregie**  
Editor-in-Chief  
December, 2019