

National Assembly Capacity Needs Assessment

**National Institute for Legislative Studies
National Assembly**

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Preface

This Needs Assessment was prepared by the National Institute for Legislative Studies (NILS), an Agency of the National Assembly with the support of United Nations Development Programme's Democratic Governance for Development (DGD). The NILS-UNDP/DGD Project was aimed at strengthening key committees and processes in the National Assembly.

Both the NILS and UNDP/DGD share the belief that the rationale behind parliamentary strengthening must be clear from the outset. This necessarily requires identifying the National Assembly's internal capacity needs by means of assessments and surveys drawing on the perceptions of legislators, legislative support staff and aides, and the National Assembly bureaucracy and its agencies.

This Report is a thorough capacity needs assessment related to democratic governance challenges in the Nigerian National Assembly. It is detailed and highlights problem areas, pinpoints the most important challenges, and offers recommendations for future interventions with the aim of strengthening parliamentary capacity. The report provides a very thorough assessment of both the political and legal situation of the Nigerian National Assembly.

Some of the key gaps identified include limited infrastructure and resources, ranging from lack of IT equipment to dearth of research support. Another critical challenge is the shortage of skills given that legislators require staff to carry out often highly specialised and technical functions. Tasks such as servicing a committee; drafting and scrutinising legislation, budgets and accounts; and running policy inquiries require a high level of procedural expertise which is often missing. The Report also identified political factors that militate against the work of legislators such as the political culture, executive interference, and legislators' understanding of their role.

This focused capacity needs assessment will, therefore, assist the National Assembly leadership and management as well as Development Partners to design capacity

development packages that will address some of the issues and challenges identified. The international comparative perspective is also quite useful in presenting best practices which can assist in the design and implementation of the targeted package.

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Chapter One

Introduction

It is widely recognized that the legislature is the foremost institution in all emerging and established democracies. The legislature enacts public laws, represents the interests of the people, oversees the activities of the executive, safeguards public finances and provides an avenue for redressing public grievances. These various roles are summarized in three basic functions: law-making, representation and oversight. Adequate and institutional capacity is required to perform the roles effectively and efficiently.

The uniqueness of the legislature or parliament as an arm of government in democratic governance arises, among other factors, from the fact that it is the site of representation. In addition to law making which is the primary responsibility, the legislature performs other important functions, chief among which are:

- Representing the interests of the constituents and citizens (recommendations; mechanisms and interface building capacities; benchmark for constituency offices);
- Providing an avenue for the articulation and expression of various interests and political view points in the society;
- Providing oversight and checks and balances to improve the performance of the executive arm of government as well as the judiciary; and
- Providing an avenue for aggrieved citizens seeking redress outside the judicial system.

A major concern about Nigeria's democracy is the relative weakness of the legislature in relation to the executive. One explanation for the relative underdevelopment of the legislature has to do with continued tradition of executive dominance in the policy processes which has historical antecedence in colonial rule where the legislature established in response to pressure from the early nationalists was a mere rubber stamp to serve the interests of the colonial state. Not only was the majority of the members nominated to

represent the interests of the colonial state and the British business interests, it was not a deliberative body in the true sense of the word.

Although the attainment of independence in October 1960 witnessed the emergence of elected legislatures at both national and regional levels, the democratic experience was short lived and therefore gave little room to the legislature to mature. The performance of the two chambers of the legislature at the national level and the regional legislature did not show any sign of maturity, largely because of the hangover effect of autocratic rule associated with the immediate colonial past. The premature collapse of the First Republic following a series of political crises and the military takeover that followed brought the life of the legislature to an end.

While the military interregnum that followed for the next 13 years meant that the legislature did not exist as a branch of government, it reinforced the tradition of executive dominance. Nigeria's return to democratic rule in the Second Republic, during which a bicameral legislature existed at the national level while a unicameral legislature that existed at the state level did not go beyond the second election when another military coup replaced the civilian government of Alhaji Shehu Shagari on 31st December, 1983. It would take another 16 years marked by half-hearted transition programmes aimed at restoring democratic rule before Nigeria returned to constitutional rule in May 1999.

On the whole, the military occupied the political space for 30 out of 39 years of post-independence period. The consequence is that while the executive and judicial arms of government had always been in place and functional, whether under military or civilian regimes, the legislature which was always suspended along with the Constitution has remained relatively undeveloped. In addition, prolonged military rule constricted democratic space, entrenched authoritarianism and nurtured militarism to the detriment of democratic cultures of dialogue and debates, the absence of legislative activities ensured decline in legislative capacity and culture.

Decades of authoritarian military rule, together with the stability enjoyed by the public bureaucracy encouraged arbitrariness and impunity in the management of public affairs. By

extension, this means prolonged absence of the legislature to the extent that skilled legislative personnel had to be absorbed into the public bureaucracy that serviced the other branches of government such as the executive and the judiciary. What appeared as the equivalent of the legislature such as the Supreme Military Council (SMC) or the Armed Forces Ruling Council (AFRC) functioned to endorse decisions taken by the military helmsmen.

It is against this background that the legislatures in the Fourth Republic, at all levels, have been faced with severe capacity challenges which needs to be addressed to enable the legislature play its expected role in Nigeria's emergent democracy. The capacity challenges of the legislature appears even more acute when the constitutional choice by Nigeria by embracing the United States-type presidential system is considered. The evidence across democracies shows that presidential systems of government especially in a context where political parties are weak and less institutionalized requires strong parliamentary institutions that can provide counter-veiling powers to the executive.

Among others, the problems associated with the presidential democracies which require strong legislatures include the fact that it is an exclusive system of government in which "winner takes it all"; thus excluding from government critical voices in the political system; encourages political polarization, weakens the role of political parties especially the opposition and the parliament in general in the recruitment of the political recruitment; establishes the unipersonal executive structure which weakens the deliberative and compromise-oriented processes of decision-making; and encourages personalization of power and clientelism in politics. Under these conditions, the safeguard against all the known perils of presidentialism is strong parliaments that can perform oversight functions, play critical roles in the appropriation process and ensure that the executive is accountable to the citizens at large (Lijphart, 1996).

Many observers of the new democracies across the world have focused on the capacity of the legislature as a critical factor in the deepening of democratic practices and cultures. This is confirmed by the observation of Barkan, et al (2003:1) as follows:

Where the legislature is an emerging player, it has begun to strengthen its internal capacity to scrutinize government ministries, and to amend legislation that they propose. Some legislatures have sought to build capacity by upgrading their committee systems. Some have become proactive in establishing procedures for the holding of public hearings on proposed legislation at which cabinet ministers, senior civil servants and representatives of civil society are questioned. Others have or attempting to improve the quality of their professional staffs, a process analogous to the broader process of civil service reform. Some are seeking to play a greater role in the budgetary process.

In the specific case of Nigeria, the National Assembly is the arm of Government at the Federal level constitutionally vested with legislative powers. The Assembly is divided into the Senate and the House of Representatives with a total of 469 Legislators, comprising 109 and 360 members in the Senate and the House of Representatives respectively. The Constitution empowers the National Assembly to make laws for the peace, order and good government of the Federation or part thereof with respect to any matter in both the Exclusive and Concurrent lists of Legislation as set out in Parts I and II of the 2nd Schedule of the Constitution. The other functions of the National Assembly include discharging of oversight functions by evaluating bills, ensuring effective implementation of appropriations and conformity to constitutional provisions and good governance. Consequently, members of the National Assembly dispense enormous efforts in initiating and treating bills.

Despite the weak oversight capacity of the Nigerian legislature especially at the national level, it has shown signs of institutional growth that has accompanied the relative stability, including regular elections enjoyed by democracy in the Fourth Republic. It is increasingly becoming assertive in the process of law making and policy formulation in addition to the stability of leadership it has enjoyed since the fourth successive elections in May 2007. In particular, the 6th and the 7th National Assembly have shown remarkable progress in terms of increase in the proportion of Members' Bills that were considered and passed into law as against Executive Bills that hitherto dominated. Some of the legislation are of high impact

nature including those on anti-corruption, Freedom of Information, and constitutional amendments; the last deliberately responding to the lacuna that has been identified in the 1999 Constitution (Egwu, 2014). The establishment of the National Budget and Research Office (NABRO), and the increasing engagement of the executive on issues around the Medium Term Framework (MTF) and benchmarks for oil prices in the budgetary process are signs of a legislature that cannot be reduced to a mere rubber stamp

Notwithstanding the progress it has made, there are capacity gaps in the national legislature that have to be addressed to enable the legislature meet the expectations of citizens in an increasingly consolidating democracy. There are enough reasons to conclude that a lot needs to be done to strengthen the legislature considering the lack of experience on the part of the legislators, inexperienced staff and inadequate facilities, and the high turnover rate of legislators following every election since 1999. The high turnover, for example, has tended to exacerbate the question of institutional retention of experience within the legislature such that every capacity building challenges have to be addressed at the beginning of every four years. Yet, because of the political dynamics such as the implementation of zoning policy by political parties and communities and the problems of internal democracy in political parties, it is difficult to mitigate the problem in the short run.

The specific challenges that have confronted the National Assembly can be summarized as follows:

- Inadequate access to research and information;
- Dearth of parliamentary facilities;
- Inadequately prepared legislators;
- Inadequately trained legislative staff;
- Lack of high quality technical/professional support;
- Poor public perception and lack of understanding of the work of NASS;
- Poor oversight capability; and
- An overbearing and hyper-assertive executive arm of government.

When critically examined, each of the challenges, taken in isolation or in combination, draw attention to the urgent need to build and/or strengthen the institutional capacity of the National Assembly to function as a major pillar of democratic governance and deepening democracy. In recognition of this urgent need, substantial investments in human and institutional capacities have been undertaken by the successive leadership of National Assembly since 1999 which have resulted in notable improvements in human resources and infrastructural facilities available to the legislators and their committees. Among others, these include capacity building programmes, in the form of orientation courses, training programmes, exchange programmes, workshops and seminars organized with the aim of improving skills in the core functions of a legislative assembly. Existing platforms for training and knowledge management in the National Assembly include the National Institute for Legislative Studies, Training Departments of NASS, Committees of NASS, National Assembly Budget and Research Office (NABRO). The World Bank (WB), National Democratic Institute (NDI), the United Nations Development Programme (UNDP), United States Agency for International Development (USAID), Department for International Development (DFID) and Africa Capacity Building Foundation (ACBF) have provided technical and financial support. These efforts have largely failed to address the capacity needs of the National Assembly.

What has been the missing link, however, is a strategic plan for the National Assembly that is informed by institutional capacity assessment. Institutional capacity assessment of this nature is, therefore, timely given the numerous challenges it faces and in particular, the important role expected of the legislature in consolidating Nigeria's democracy after the fourth successive democratic elections in April 2011. Ordinarily, this kind of assessment should take place in the context of a strategic plan that seeks to address, in the short, medium and long terms, capacity gaps that would enable the National Assembly fulfil its core mandate. Previous efforts to develop such a strategic plan for the National Assembly failed largely either because of sudden change in the leadership of the National Assembly or insufficient buy-in from the National Assembly leadership.

For instance, the House of Representatives under the leadership of the former Speaker, Hon. Umar Ghali Na'aba, sought to develop a strategic legislative agenda around issues of economic reform, including efforts to develop sectoral strategic development plans. However, this initiative was scuttled because of the suspicion of the executive and the subsequent impeachment of Umar Ghali Na'aba as the Speaker. The Policy Analysis and Research Project (PARP) (2003-2007) commenced a similar initiative for visioning and strategic planning for the National Assembly under the aegis of the C.N.A's Management Seminar Series with the objective of sensitizing the management and membership of NASS to the process of reforming and modernizing parliamentary management. Unfortunately, the initiative which enjoyed the support of parliamentary bodies from countries such as Canada, Belgium, Australia Netherlands and the United Kingdom did not go beyond a report submitted by a Committee of Directors that was set up by the Clerk to the National Assembly. This report provides an institutional assessment of the National Assembly to highlight the nature of the subsisting gaps and challenges as well as clear recommendations to redress them.

1.2. Objectives of the Study

The overall objective of this study is to carry out institutional and functional assessment of the National Assembly aimed at identifying institutional and capacity weaknesses/gaps with a view to making recommendations that could lead to legal, legislative and institutional strengthening of the national legislature. The specific objectives are as follows:

- i) Examine the institutional set up of the National Assembly in relation to its core mandate of law making;
- ii) Assess the quality of support services available to members of the National Assembly;
- iii) Examine the nature of subsisting challenges of the National Assembly in terms of capacity and institutional gaps;
- iv) Identify international best practices in legislative business that could be adopted by the National Assembly;

- v) Make recommendations on measures that could be implemented to address identified institutional capacity deficits and weaknesses; and
- vi) Propose strategies for implementing the recommendations (Develop a roadmap)

The study is thus expected to, amongst others, provide a basis for:

- designing support that would help strengthen the legislature and other functions of the National Assembly in the areas of identified weaknesses;
- promoting a harmonious working relationship between the Senate and House of Representatives;
- improving the working relationship between members of the National Assembly and staff of committees and the National Assembly as whole in order to enhance productivity;
- creating of a framework for greater civil society inclusion and involvement in the legislative process;
- creating a framework for strengthening the capacities of CSOs and legislatures to interface effectively in driving the governance agenda;
- creating accountability mechanisms to the public, (make specific suggestions on the roles of NLS (PARP) & NSNL), and
- moving the National Assembly in the direction of goal-oriented legislation.

1.2. Methodology

The data for this institutional assessment of the National Assembly draws from both primary and secondary data which were analysed using appropriate techniques. While secondary data was derived from desk review of academic and analytical works on Nigerian and other selected parliaments, secondary data was generated from Key Informants Interviews and questionnaires.

Key Informants Interview was extensively carried out with key officers of the National Assembly and other officers who not only have the institutional memory of the national legislature but are key players in the decision-making process of the National Assembly. This crop of officers who hold strategic positions and are thus better placed to provide valuable

information on the legislative process, capacity situation and resources needs of the Assembly include the Senate President, Speaker of the House, Deputy Senate President, Deputy Speaker of the House of Representatives, the Clerk to the National Assembly, the Deputy Clerk to the National Assembly as well as the Clerks of the Senate and House of Representatives. To take in the views of stakeholders outside the National Assembly, interviews and questionnaires were administered to some donor agencies, CSOs and the media that had been engaging the national legislature. For the questionnaires, respondents were chosen using a stratified random sampling technique. A total of 116 respondents, representing 10 % of the members of the two chambers as well as the committee staff and heads of units/divisions were targeted for the survey. The only exception was the members of the management such as Directors considering their small size and importance.

(Survey of stakeholder groups, including donor support and creating coordination platform)

1.3. Limitations of the Study

This study encountered a number of challenges that are associated with the environment of the study. One of such challenges is the generally nonchalant and uncooperative attitude of legislators most of whom turned down requests for interview and rejected questionnaires. Despite the wide contacts that had been established between the consultants and legislators over the years, those that accepted to fill the questionnaires did so with very little interest. This partly explains why some of the critical questions contained therein were not answered by some of the legislators. The length of the questionnaire was yet another factor that accounted for the low level of response. This equally led to a situation where some questions that would have been useful were un-attended to. Thirdly, the timing of the study, which coincided with the Christmas and New Year vacations of the legislators, affected the availability of legislators and explains the low level of response to the questionnaire.

1.4. Organization of the Study

The study is organized in six chapters. Chapter one introduces and discusses the objectives of the study, methodology and challenges to the research. Chapter two provides a cross country comparative review of capacity and resources of parliaments of selected countries in order to properly situate the capacity position in Nigeria's parliament. Chapter three

introduces the legal framework within which NASS operates, focusing on functions and powers. Chapters four and five contain empirical analyses of National Assembly's institutional capacity situation and needs in relation to the legal framework, the legislative process and oversight conduct, among others. Appropriate recommendations are made with a view to strengthening the national legislature so as to carry out its primary functions and responsibilities effectively. Chapter six is the summary of the research findings, and the recommendations arising therefrom.

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