

Imperatives of Legislative Oversight Function in Nigerian Democratic System

Onwe. S. Onwe, Ph.D

Department of Public Administration, Ebonyi State University, Abakaliki
E-mail: onweukchioma247@yahoo.com

Ibeogu, Aloysius S.

Department of Public Administration, Ebonyi State University, Abakaliki
E-mail: bogito-son@yahoo.com

Joseph Okwesili Nkwede, Ph.D.

Department of Political Science, Ebonyi State University, Abakaliki
E-mail: senatorlife2011@yahoo.com

Abstract

This study, Imperatives of Legislative Oversight Function in Nigeria Democratic System examines the strength and level of separation of powers, among the three tiers of government, the autonomy, checks and balances among the arms. The study established that the legislative organ is incapacitated from carrying out effective legislation for good governance because of inadequate autonomy, the executive usurpation of legislative powers by involving in oversight function, the problem of god-fatherism and corrupt tendencies of most members of the legislative houses. This work therefore posited that to ensure effective legislation that will bring about good governance in the polity, there should be independent choice of candidates, free and fair election, financial autonomy of the legislature and regular oversight function, devoid of financial and material benefits or inducement by members of the legislative arm.

Keywords: Legislative, Oversight function, Democracy, Good governance, Transparency and Accountability.

1. Introduction

In a federal structure where democratic system of government is in place, there are fundamental principles that enthrone good governance. These principles are seen to operate at the three arms of government, the Executive, the Legislature and the judiciary, based on the constitutional provisions, they include; autonomy, separation of powers and checks and balances. However, the areas of operation of these arms are clearly stated and defined in the constitution.

There is no doubt that the various arms of the government are held accountable for non performance/bringing good governance to the electorate, since their schedule of responsibility has been outlined by the law. It is in the light of this, that the legislature makes the law, the executive implement and the judiciary interprets. On the basis of the above, good governance is dependent on the type of laws enacted by the legislature, hence (legislature) has always been seen as the eye and watchdog to the other arms of government. An assessment of any democratic government begins with the evaluation of laws made by the legislative arm of the state. To impede on the legislative powers of the legislature, Adebayo (2002) observed that the involvement of the Executive in formulation and administration of law has affected the legislative function of the legislature, and mars good governance. This paper therefore aims at examining the imperative of legislative oversight functions vis-à-vis good governance in Nigerian democratic system.

2. Theoretical Framework

This work, Imperative of Legislative Oversight Function in Nigerian Democratic System, adopted the Structural – Functionalism Approach theory as propounded by Augustus Comte (1798 – 1857) Herbert Spencer (1820 – 1903), Emile Durkheim (1902 – 1979) and Talcott Parson (1960) who later refined and reform the theory. The theory which was dominant in sociology views the society as a system or set of interconnected parts which together form a whole, Haralambos and Heald (1980). However, the theory which witnessed a significant drop from the discipline of sociology, partly because of criticisms against it, was adopted in political and administrative studies.

Nwosu and Ofoegbu (1986) states, that functions as used by scholars in politics and administration refers to the contributions of an activity (Legislature) or patterns of behavior to the maintenance of a given society. For Olaniyi (1997), structural functionalism when related to politics and administration can be described as a means of explaining basic functions of both political and administrative structures, and it is a tool of investigation. It tries to explain the relationship between the parts (structures) on the one hand, and between parts and the whole on the other hand. This relationship is explained in line with the basic functions of each, which are

considered positive contributions that help maintain the system, or the dysfunction which refers to the negative contributions that led to the breakdown of the system, or non functional when it bears neither positive, nor negative impacts to the operation of the entire political or administrative system. Therefore, this theory, structural functionalism approach, adopted in this study is to analyze effective legislation which should give room for good governance in Nigeria. As its methodological foundation, structural functionalism approach has it that in any political system, there is a set of functional requirements and operational conditions that must be satisfied if the structure is to perform creditably well. Perhaps, the sub-system (Legislature) must meet up with certain individual and group needs which are fundamental, such as efficient, effective and healthy legislation, which leads to good governance, hence the legislature is seen as the eye of the government and indispensable in any democratic settings. To that effect, the rules, norms, attitudes and behavior of individuals are connected with the society and moreso, the role of the legislature must be explicitly defined and jurisdiction carefully indicated, if not, it will be difficult to understand whether the legislature is actually empowered by the law (constitution) to make legislation or not. The theory also further emphasize the roles of the legislature in understanding good governance, and conditions under which they can perform and their functions be fulfilled, and it is only when this is fulfilled that good governance and maintenance of the system (society) is said to be achieved.

Therefore, the application of this theory to imperatives of legislative oversight function in Nigerian democratic system, we opine that the power and efficiency of the legislature in performing its statutory roles creditably depends largely on the legislature providing visionary leadership, since it services as the “watch-dog” to the other arms of government, but if it fails to legislate well, the entire system (government) will be affected.

3. Transparency, Good Governance and Accountability as an Instrument for Effective Legislation

In a democratic regime, decentralization of power and transparent administration has three principal components; Participation, Openness and accountability. Participation; is mainly concerned with increasing the role of citizens in choosing their leader, telling the leaders what to do; thereby contributing to good governance. Openness or transparency is where nearly all decisions are carried out publicly. Transparency as introduced is a means of holding public officials accountable and of fighting or reducing corruption (Wikipedia, 2009). When government meetings are open to the press and the public, when budgets and financial statements may be reviewed by anyone; when laws, rules and decision are open to discussion, they are seen as transparent and there is less opportunity for the authorities to abuse the system to satisfy themselves. When courts of law and the legislative chambers admit the public, and when all information about any activity by an establishment is open, and freely available, those processes are transparent. Open government is the political doctrine which holds that the business of government and administration should be open at all levels for effective public scrutiny.

President Barack Obama of the United States of America in his memorandum to the Heads of Executive Departments and Agencies (<http://www.whitehouse.gov/march11th>, 2009) quoted in Omeje, declared that government should be transparent, and for which, his administration was committed to creating “an unprecedented level of openness in government”. Transparency strengthens democracy, promote efficiency and effectiveness in governance; it promotes accountability and provides information for citizens about what their government is doing. Good transparent government is about taking appropriate action consistent with law and policy, to disclose information rapidly, in the forms that the public can readily find and use (Obama 2009). Good governance is based on the establishment of representative and account rendering form of government. According to ADG (2009), good governance depends on transparency, accountability and equity in ways that are responsive to the needs of people. It is composed of the mechanisms, processes and institution through which citizens and groups can articulate their interest, exercise their legal rights, meet their obligations and mediate their differences. It requires a strong and pluralistic civil society, where there is freedom of expression and association as well as rules and laws governing the actions of individuals and organizations. Good governance requires the primacy of an impartial and effective legislative and legal system. It also utilizes a high degree of transparency and accountability in public and corporate processes (Downer 2000). A participatory approach to service delivery is important for public services to be effective.

Accountability: This constitutes the other side of good governance process, it is the degree to which the Legislative Arm gives account of their stewardship, or have to explain or justify what they have done or failed to do. Improved information about legislative needs and preferences is one of the theoretical benefits of decentralization, but there is no guarantee that leaders will actually act on these preferences unless they feel some sort of accountability to citizens (Cameron, 2004). Accountability comes into dimensions; namely, that of civil/public servants (government workers) to the legislature (elected representative) and that of the latter of the citizens who elect them.

4. Structural Relationship and Constitutional Responsibility of the Legislative Arm in Nigeria

In modern governments, the legislature wields enormous powers spreading beyond the traditional functions of law making. This is in contrast with what people take to be the primary function of the legislature which is law

making. In section 4(6) and (7) of the 1999 constitution of Nigeria, subsection (6) states that the legislative power of a state of the federation shall be vested in the House of Assembly of the State while subsection (7) states that the House of Assembly of a state shall have power to make laws for the peace, order and good governance of the state or any part thereof ... it is the duty of the legislature to debate and enact bills into law following carefully laid down legislative procedures. Bills could be initiated or originate from the executive arm, members of the public or the private members within the legislative house. Following a recognized mode of initiation, bills find their route into the legislative chambers where they are scrutinized, examined, debated, amended and when necessary eventually passed into laws.

4.1 The Power to make Approval

In a way to ensure good governance, especially the one that bequeath legationary, public trust and recognition, the legislature shares certain roles and functions with the executive in a wide range of subjects. The Legislature scrutinizes and possibly rejects nominees for top government positions by the executive arm. The legislative arm ensures that the requests sent to it by the executive are properly examined, debated before they are approved. The request may include: approval for loan credit, approval to carryout or embark on some policies, especially the ones that may not have been provided for in the constitutions, examples includes the banning and facing off, motor – bikes in most cities and towns across the states of Nigeria, approval of nominees for cabinet, and diplomatic positions, ratification of treaty or bilateral agreement between countries, the approval to name some important institution after nationalist, approval to pass appropriation bill or supplementary appropriation bills and approval to embark on the establishment of developmental projects and programmes. This implies that for the legislature not to deviate from effective scrutiny, especially where it is seen as a “watch – dog” to the other arms of the government (Executive and judiciary), the executive must always send a good bill void of sentiment and unnecessary financial strangulation and intimidation to the legislature for its approval.

4.2 The Power to Conduct Investigations

The conduct of investigations by the legislative arm is a very good means of not only ensuring, but empowering the legislature to carryout effective legislation. In section 82 and 120 of the 1999 constitution of the Federal Republic of Nigeria, the national and state assemblies have powers to direct or cause to be directed or investigated into:

- i. Any matter or thing with respect to which it has power to make laws;
- ii. The conduct of affairs of any person, authority, ministry or government department charged with the duty or responsibility for executing or administering laws enacted by the national or state assembly, and disbursing or administering the money appropriated;
- iii. To make laws with respect to any matter within its legislative competence and to correct any defects in existing laws;
- iv. To expose corruption, inefficiency or waste in the executive or the administration of laws within its legislative competence.

The essence of the legislature conducting investigations on those matters appropriated to it by law is to ensure or make its legislation apparently effective for good governance in the country. Aside the constitutional provisions, it is an established democratic practice for the legislature to conduct investigations for the good governance of the country, but the question is, how effective and transparent is the legislative houses in carrying out these investigations?

4.3 Impeachment as an Instrument to Guarantee Good Governance

One of the most important constitutional responsibilities assigned to the legislature in the legislative processes, which gives room for good governance to the electorate is perhaps the impeachment proceedings.

In view of the fore-going, it is important for us to appreciate the fact that the State House of Assemblies and the National Assemblies (Senate and House of Representatives) can impeach the state Governors and Deputies, the President and Vice Presidents, respectively, as provided by the constitution. The impeachment of the Chief Executives and their deputies is one of the highest sanctions given to these elected officers, which must not be based on sentiments, but on evidence of bad governance. Away from the impeachment of the Chief Executives of the states/the national government and their deputies, impeachment could also be carried on the principal officers of the state Houses of Assemblies and the national assemblies, which included, the speaker and deputy speaker of Houses of Assembly, the speaker and deputy speaker of House of Representatives, the president and the deputy president of the Senate. A case in point in impeachment, is the impeachment of Rtd Comdr Murtala Nyako, governor of Adamawa State and Chief Sunday Onyebuchi, the deputy governor of Enugu State. How justified the impeachment is, is what Nigerians are yet to come up with the answers, especially when the allegations leveled against them does not hold much waters for them to deserve that, ie, Murtala Nyako

accused of gross misconduct, Chief Sunday Onyebuchi, accused of growing chickens (poultry farm) in his official residence. Is it not the same allegation (gross misconduct) that Rt Hon Chukwuma Nwazunku, Speaker Ebonyi State House of Assembly was accused of that led to his impeachment on the early hours of Monday 21st July 2014, and the subsequent installation of Hon Mrs. Helen Nwobasi as the speaker, of Ebonyi House. However, the impeached speaker, Rt Hon Nwazunku was later re-instated on the directives of the governor, Chief Martin Elechi, that it is a party affair, which the PDP stakeholders have resolved that Hon Chukwuma Nwazunku, be recalled as the speaker of the assembly (Ibeogu 2014). This was not anticipated especially when the matter was in court, while other members of the respective Houses is through a vote of no confidence which could be passed on them. For this to take place, there must be an established gross misconduct against them, and the impeachment/vote of no confidence must be at least two third (2/3) majority of membership of various Houses.

4.4 Supervision and Monitoring of Projects (Oversight Function) by the Legislative Arm

Another important way of ensuring good governance to the people (electorate) is through supervision and monitoring (oversight function) of projects and programmes embarked by the executive arm of government. It does not end with the executive arm, it also extends to the legislative arm by way of embarking on constituency tours to monitor and commission projects embarked and completed by the legislators in their constituencies through constituency allowances. Constitutionally, the executive is empowered to carry out development activities in the state through the use of appropriation act (budget) by the legislature. In the same vein, the executive is monitored and kept under constant surveillance by the legislature.

The legislature is charged to check, raise questions and where necessary directs the executive through the political heads of various ministries, (ministers and commissioners) to appear before the parliament on the floor of the house to defend allegations leveled against their ministry, especially as it has to do with non-performance. In the light of the above, Akintola (1999:52) states that supervision of the executive by the legislature, sometime assumes the nature of legislative control when exercised through questions addressed to ministers or through the rejection of executive proposal or bill forwarded to the Houses of parliament.

In a presidential system of government, it could come in the form of impeachment of the President or the Governor. Therefore, this makes the executive arm, under a democratic settings to live up to its responsibility and ensure good governance.

5. Effective Representation as a Responsibility of the Legislative Arm

Since the legislature are elected representatives of the people from the various wards, constituencies and senatorial zones, who takes decisions on behalf of the electorate, it is then expected that they represents the electorates effectively by taking decisions or passing of bills that are not detrimental to the survival of these electorates. It is based on this axiom that the House of Representatives (lower chamber of the national assembly) had an emergency seating convened on Sunday 8th January, 2012 at the Legislative Chambers (of national assembly) to kick against the increase of the price of Premium Motor Spirit (P.M.S) by Dr. Goodluck Jonathan, President of Nigeria, from sixty-five naira (₦65.00) to one hundred and forty-one naira (₦141.00), their action contributed a great deal in the reduction of the price of P.M.S to ninety-seven naira (₦97.00) only. On this they have given expression to public opinion and yearnings of the people. Again, for the fact, that legislative arm are elected representatives of the people, they are not only suppose to be closer to the people but are in a position to educate and inform the electorates adequately about the activities of government.

5.1 The Power to Raise and Control the Spending of Public Fund (Budget)

In a bid to ensure that government (the executive) performs her statutory responsibility of catering for the welfare of the people, the law empowered the legislature to ensuring effective management of public fund. The legislature also exhibits great influence (monitoring and supervision) over the borrowing powers of the state, all these are to ensure prudent management of public fund and promotion of good governance. To prove the efficacy of the legislature in maintaining good governance, the 1999 constitution of the Federal Republic of Nigeria, Chapter Five, Section 81, Subsection (1) states: the President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the federation for the next following financial year. In Section 80, (1), all revenues or other moneys raised or received by the Federation (not being revenues or other money payable under this constitution or any Act of the National Assembly into any other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund of the Federation. Section 80 (2), stated that moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the Fund of this constitution or where the issue of those moneys has been authorized by an Appropriation Act, Supplementary Appropriation Act or an Act passed in pursuance of section 81 of this constitution. Section 80 (3) of the constitution stated that moneys shall be withdrawn from any public

fund of the Federation, other than the Consolidated Revenue Fund of the Federation, unless the issue of those moneys has been authorized by an Act of the National Assembly. Section 80 (4) suggested that moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation, except in the manner prescribed by the National Assembly. In tune with the legislative powers of the legislature to raise and control public spending, section 59 (2) of the 1999 constitutions states, where there are differences between the proposal and amendments made by the Senate and House of Representatives, a joint Finance Committee of the two Houses shall be convened by the Senate President, to resolve the differences. The final version mutually agreed to by the joint finance committee must be referred to each of the two Houses (sitting jointly or separately) for approval, before it is sent to the President for assent.

Therefore, since Appropriation Bill is finance bill, it must go through all the approved stages before it is signed into law by the President. Section 59 (3) of the 1999 constitution provides that where the joint finance committee fails to resolve the differences between the two Houses, with regards to the Appropriation Bill or any other money bill,

The bill shall be presented to the National Assembly sitting at a joint meeting and if the bill is passed at such a joint meeting, it shall be presented to the President for assent.

The provisions of section 59 of the 1999 constitution are so stringent that the non – observance of one of it's sub-section was the bone of contention in the celebrated case of the Attorney General of old Bendel State vs Attorney General of the Federation, popularly known as the Revenue Allocation Bill.

In that case, after the difference between the Senate and House of Representatives had been resolved at the joint finance committee, the money bill was sent to the president for his assent, without being ratified by the Senate and the House of Representatives seating jointly or severally as the legislature. The Supreme Court therefore declared that the purported assent by the President was not given to a bill passed by the National Assembly, hence it declared that the Act or law was null and void, on the ground that it was not passed in accordance with the provisions of the constitution. (Ocheoha, 2000).

5.2 The Predicament of the Legislative Arm in Ensuring Good Governance

The legislature, both at the federal and state levels face a lot of obstacles and challenges that impedes effective legislations in Nigeria, they include;

5.3 Ineffective Representation by the Legislature

Consequent upon the nature of conducting elections into Chief Executive Positions and the Legislature in Nigeria, it becomes glaring that most of them are ineffective, especially having been rigged into power and this makes one understand that they are actually not the representatives of the people. The legislators are to be the representatives of the people, if the people (electorate) gave them the mandate to represent them in the legislative Houses. They attend, participate, initiate and sponsor bills, as well as lobby and influence the passage of such bills, which the belief is that it will bring about good governance to the people. No doubt, many do not attend seating, initiates, sponsor or embark on any constituency projects, even when the allowances have been paid to them, but only end up, not only picking their allowances, but remains in cities, then distancing themselves from the people they were meant to represent.

5.4 Inexperience and Lack of Clear Knowledge or Expected Roles and Rights

One of the militating factors against effective legislation by the legislative houses has been attributed on the above factor, and it results into the following;

- ❖ Some legislators sees their role as a part time job and devote more time to business and matters that are private to them;
- ❖ Lack of trust between members of the legislative arm and their Chief Executives (Governors and President). This has generated a lot of rancor, acrimony, crisis, impeachment and disruption of legislative proceedings at the various legislative chambers;
- ❖ Inexperience in Public affairs on the part of some legislators in the various State Houses of Assemblies and National Assembly (Senate and House of Representatives) is another handicap to the effective performance of legislators in Nigeria. Eighty percent (80%) of members of the legislative arm in Nigeria got into government administration (legislative business) due to unemployment and not as a result of personal or group conviction, and thus unprepared for the task ahead in the legislative chambers;
- ❖ Political interference in the floor of legislative chambers is one other major obstacles to the effective realization of legislative business on the floor of our legislative chambers. Most often, members of the legislature at the state houses of assembly and the National Assembly sees themselves as representing their party interest or other primordial motives. This results into wrangling between them (legislative arms)

- and the chief executives (Governors, President, Heads of Boards);
- ❖ Requisite academic qualification-Section 65, subsection (2B) of the 1999 constitution of the federal Republic of Nigeria, states that for one to qualify to contest legislative position, he or she must be educated up to, at least School Certificate level or it's equivalent. To this effect, various legislative houses at all levels in Nigeria, are flattered with illiterates who do not know what legislative business entails, but sees it-selves as an opportunity to better their conditions by receiving fat salaries and allowances.

5.5 Poor Communication Link

In the legislature, there is a great link of communication breach between the law makers and the people they represent as enunciated by Duru (2012). For organizational growth and development, every organization requires a continuous and effective system of communication and feedback among members of the organization and the leaders.

This implies that the bedrock of any governmental institution, body or arm is a good flow of communication between the headquarters and the territorial units. In view of this, the legislative arm, in the most cases fails to deliver effectively because they lose link or communication with their electorate.

5.6 Political God-Fatherism Syndrome In The Legislative Houses

A critical analysis and survey shows that majority of the legislators in our democratic setting lack the political acumen to stand and run elections on their own, without being projected by the well to do politicians in the various electoral constituencies. In a situation whereby the members seeking election into the legislative houses, queue behind the party stalwarts for them to get elected, then no one should expect anything good, like legislative autonomy, but that they will be under the shell of god-fatherism and the Chief Executives to carry out their duties, since they were the persons that gave them the mandate to be there and so should be answerable to them.

5.7 Resistance to Oversight Duties, Programme or Policy Evaluation

For effective legislative duties, especially as provided by law, the legislature appraises and evaluates (oversight) what is to be done and what has been done by the executive, which is usually done by various House Committees, but what in most case happens, is the resistance of the government officials against legislative committee from carrying out their functions effectively. Apart from laisezz-fair attitude among legislators and various House Committees, what constitute resistance to oversight duties by legislators, include; financial strangulation by the executive arm to the legislative arm, and collection of "kick backs" by the legislature to certify project that may have been poorly executed. Ezeani (2006:311) posited that "policy evaluation often results to indictment of certain government officials and institution".

To avert this indictment, government officials and agencies, resist policy evaluation if they anticipate unfavourable results.

5.8 Legislative/Leadership Ineptitude and Corruption in the Legislative Chambers

Most members of the legislative arm lack legislative experience/leadership ineptitude, as they have never had any experience as it concerns the administration of public affairs, so it constitutes serious set back to effective legislation. Another militating factor is the issue of corruption. Corruption which has to do with deviating from the normal set standard of doing something to do it an unacceptable manner, affects the legislature greatly. The executive arm contributes to corruption in the legislative arm by way of using money to lobby the legislature to over look some matters that they would have reported during oversight duties.

It could also be used to influence the legislature to give expeditious legislations to some bills presented by the executive to the legislature which they (executive) have interest, and in most cases negates the interest and aspirations of the electorates (public).

6. Conclusion and Recommendations

The increasing responsibility before the legislative arm (State and National Assembly) make its existence indispensable so long as democracy is concerned, therefore, it then behooves on the legislature to be meticulous, in handling legislative matters, as it is only on the basis of this that effective legislature will be guaranteed, hence bringing about good governance to the people. Based on this, the following recommendations have been postulated:

- Elections into legislative houses should be free and fair, that is, it should be devoid of rigging, intimidation of electorates, snatching of ballot boxes and forcing the electorates to vote candidates which they do not want them to represent their various constituencies;
- Free Choice of Candidates. There should be independence of candidates aspiring for elective positions in Nigeria, especially in the legislative house. The idea of "god-fatherism" should be done away with if we

- must ensure effective legislation that will bring about good governance. This is because if the candidates emerge as a result of being the electorates choice, they will be willing and ready to promote the well being of the people, but if the reverse becomes the case (imposed by god-fathers) then they sees themselves as representing their party interest or other primordial motives, thereby resulting into wrangling between them. A case in point is the impeachment of the Speaker of the Ebonyi State House of Assembly on 23rd December 2011, for daring to object the position of the “god-fathers” who gave him the mandate to the 2011 general elections to Ebonyi State House of Assembly and equally recommended his nomination/election as the Speaker of the Ebonyi State House of Assembly. (Ibeogu, 2014);
- All elected members of the legislative arm should be reminded of the oath of allegiance he/she took as the representative of the people, because by virtue of that oath, he/ she is in a social contract with the people, and where he/she could not adhere to the oath of allegiance, the members of her constituency should recall the representatives in accordance with the constitutional provisions;
 - The legislators should always listen to the needs and aspirations of the members of their constituency. By implications, he/she should maintain a constituency office, where he/she will from time to time meet with members of the constituency and have a first hand information of what their needs are, and better be in the position to address them, as they appear in the legislative houses;
 - Much as lobbying is one of the techniques prescribed for influencing or woeing the legislative arm to expediting action on Executive bill, appropriation bill or members bill, they are charged to be prudent, meticulous and tactful as they scrutinize these bills, they should not be carried away by the financial and material gains they will make from all bills that are commuted to committees charged with a particular bill. After deliberations by the committee in charge, it should be brought back to the floor of the house for harmonization by committee of the whole house before forwarding for executive assent;
 - A healthy supervision and monitoring (oversight) of projects should be encouraged. When discovered that money meant for constituency projects or for the execution of projects that will bring the dividends of democracy to the people are diverted, then the individuals, organizations, institutions, found cupable should be made to face commensurate punishment as may be directed by the legislature. The legislature should educate and inform the people about the happenings (policy) of the government, as they serve, not only as the mouth piece, watch dog, but also as the representatives of the people;
 - The legislative arm should also not forget that good governance is about symmetric relationship, and requires some level of synergy. Therefore, they should be or have good rapport with the executive arm, the judiciary and the electorate in order to carryout their legislative assignment effectively and then promote good governance.

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