

The Contributions of the National Assembly to Nigeria's Foreign Policy, 1979 to 1983

Emeka Amadi

Faculty of Humanities,
Department of History and Diplomatic Studies
University of Port Harcourt
Rivers State Nigeria

Abstract

This paper examines the contributions of the National Assembly (NASS) to Nigeria's foreign policy in the Second Republic (1979-1983). The 1979 Constitution gave wide-ranging powers to both the executive and the legislative arms of government in the conduct of Nigeria's foreign policy. However, while existing studies have focused on the conduct of foreign policy by the executive, the contributions made by the NASS have not received commensurate attention by scholars. This paper interrogates this perspective. Primary and secondary sources of data were used for the analysis while the paper relied on the Rational Choice Theory (RCT) for its theoretical framework on the basis of its inter-disciplinary nature. Some of the findings identified by the paper as the tendencies that characterised foreign policy architecture within the periods under scrutiny included frostiness of relations between the two arms of government; the domestication of some of the treaties before their ratification; and the contravention of the Constitution by the non-involvement of the states' Houses of Assembly in treaty ratification process. The paper concludes by recommending a review of some of the treaties; the constitution of a Joint Standing Committee for the conduct of foreign policy; and a constitutional amendment to determine the propriety of ratification of agreements.

Key words: *The legislature, the executive, National Assembly, rational choice theory, foreign policy.*

Introduction:

Robert and Edwards (1991) defined the legislature as an arm of government that is officially elected or selected and imbued with the power and the wherewithal to make laws for a political unit, be it a state or a nation. The legislature symbolises the existence of democracy hence it is also regarded as a body of persons vested with power to make, amend, and repeal laws (Okoosi-Simbiri, 2007). Legislatures all over the world perform a whole lot of functions in proportion to the degree of powers allocated to them by the various constitutions. However, all legislatures basically perform three functions of representation, law-making and oversight.

Representation is the first function of the legislature. Indeed, it is the cornerstone of the other functions of the legislature. The legislature must be seen to be representative before embarking on the functions of law-making and oversight.

To Kousoulos (1982), the legislative arm of government, and not the executive or judicial arms, is the foundation upon which representative democracy is anchored.

The representative nature of the legislature finds expression in several ways. Through private investigation of issues that were brought to his knowledge by member(s) of his constituency and addressing such issues without formally bringing them on the floor of the House, a legislator could be said to have performed a representative function.

The second function which the legislature performs is law-making. The legislature introduces bills, amend and repeal extant ones. However, in a presidential system of government, this must be done in consultation with the other arms of government, especially, the executive, in that it commands the power of the purse.

The third function that is performed by the legislature is over-sight. In presidential system of government as practiced in the United States of America and Nigeria, for instance, this function often resides in the Standing or Ad-hoc Committees of the House while in countries that practice the parliamentary system of government such as Britain, Luxembourg, Norway or Sweden, oversight function is domiciled with the opposition in parliaments (Dunmoye, *et al*, 2007).

Theoretical and Conceptual Framework

The adoption of, or resort to, inter-disciplinary paradigm in research works in historical studies is predicated on the fact that the use of theories, quantitative and statistical analysis as well as concepts these days are no longer the exclusive preserve of the social sciences. Depending on the theme of the study, similar approach, which, hitherto, was exclusively used in the social sciences, can also be applied in historical studies.

It is on the strength of this that the paper utilized the Rational Choice Theory (RCT) to explain Nigeria's foreign policy activities within the period under study.

RCT was propounded by George Homan in 1961 and made popular by other theorists such as Blau (1964), Coleman (1973) and Cook (1997) among others. These scholars expanded the frontiers of the theory and made it gain global currency in academic circles. The kernel of the RCT is predicated on the premise that human beings embark on a particular line of action based on what they intend to get. Led by Gary Becker, winner of the 1992 Noble Memorial Prize for Economic Sciences, apostles of the theory argued that, the RCT, though propounded to explain individuals' behaviour from economic point of view, could also be suitable in the justification or explanation of policies of states in terms of the benefits expected to come from such choice of policies.

Even though the RCT faced a hell-storm of criticisms, among which is that it is considered to be too individualistic since it cannot properly account for the existence of large social structures, the paper adopted the theory to explain or justify Nigeria's foreign policy direction within the period covered by this study because a nation is like an individual and must calculate the costs/ benefits of an action before embarking on it. Any course of action it chooses at the end of the day presupposes that that course of actions would give her the best satisfaction, and, at lowest cost vis-à-vis the nation's national interests.

The expulsion of illegal aliens by the President Shagari-led government in 1983 was a foreign policy decision that was predicated on RCT because the action was taken to drive these peoples out of Nigeria since they were said to be the masterminds of the violence that rocked the northern part of Nigeria, the most prominent being the Maitasine insurgency, that was suspected to have been led by a Camerounian, Mallam Mohammed Marwa.

Other efforts which were made by Nigeria in the conduct of her foreign policy which could be considered to be influenced by the RCT are the ratification of the Convention on the Elimination of all Forms of Discriminations against Women and the Protocol relating to Definition of Community Citizen, among others.

Literature Review

At this juncture, it may not be out of place to review a few literature that guided the paper.

Conceptualising the legislature

Scruton (1982) defined the legislature as the arm of government which exerts legislative power, based on its law-making role. Egwu (2005) viewed the legislature as the First Estate of the Realm in that it is the eyes of the people hence it is representative. To Fish (2005; 2006) and Fish and Kroenig (2007), the power a legislature wields is correspondent to constitutional prescriptions.

Conceptualising Foreign Policy

“Foreign policy”, as a concept, defies a generally-acceptable definition (Aluko, 1981). Even though different schools of thought have defined it from different points of view, each of these definitions could be said to have stemmed from, and influenced by, peculiar ideological strands.

To Modelski (1962), foreign policy connotes the strategy which a country improvises or adopts to respond to the behaviours of other countries in the international system.

Ogwu, (2005:6) defined foreign policy as “policies that deal with relations between sovereign actors in the international system”. In furtherance of this, she sees foreign policy objectives as “a range of intended actions with the express purpose of influencing the behaviour of other sovereign actors within the international system”.

The word “foreign” dichotomizes foreign policy and domestic policy because, by “foreign”, we are referring to a confetti of policy that looks at events in the international system as opposed to the word “domestic” which, undeniably, describes policy that is geared towards addressing events within the country.

Conceptualising the Nigeria’s Foreign Policy activities

Available literature seems to be in agreement as to the seeming subservience of the legislature to the executive in the conduct of Nigeria’s foreign policy in the First Republic. To P.G. Richard (cited in Olusanya and Akindele eds. (1990), p. 159), “the role of parliament, for example, has not been given the attention it deserves probably because foreign relations are a matter of negotiations rather than legislation”. Also, existing studies fail to appreciate the significance of the legislature in exerting influence in the conduct of Nigeria’s foreign policy. This is because, as Olusanya and Akindele eds. (1990:159) equally argued, “the House of Representatives, the more influential of the two legislative chambers in the First Republic, acted more as an ineffective rubber-stamp manipulated at will by the executive than as an active participant in the formulation and criticism of Nigeria’s foreign policy”.

Ogunbadejo (1980) frowned at lack of institutional support in the conduct of Nigeria’s foreign policy in the Second Republic. The author maintained that President Shehu Shagari was more comfortable with the advice from the Ministry of Foreign Affairs functionaries than inputs from the NASS. Even though the relationship between the Presidency and the NASS was cordial, he did not take the NASS into confidence in the management of the country’s foreign policy.

Writing on the imperative of synergising the functions of the executive and the legislature in the conduct of Nigeria’s foreign policy activities, Akindele (1980) argued that there was reasonable measure of inter-dependence between the two arms of government. However, he contended that the Presidency dominated foreign policy activities considering that the Committees on Foreign Affairs in the NASS scarcely met and even when they met, their discussions and debates were tainted with politics; and as such, the Presidency took undue advantage of this to monopolize foreign policy. The author also posited that debates at

plenary were not different from what happened at Committee level hence he said that the NASS left much to be desired in its participation in foreign policy.

On the powers and impact which the legislature are expected to make on the formulation and implementation of Nigeria's foreign policy, Akindele (1990) among other things, argued that the legislature occupies a vintage position on the issue of foreign policy. He opined that the powers of the NASS in foreign policy are copiously provided for in the Nigerian Constitution. He further submitted that what was required of the legislature is the political will to activate these provisions in a bid to take its pride of place in the scheme of things.

Even though there are existing literature on the Nigerian legislature and its powers in relation to the executive arm, there is a lacuna on its role in Nigeria's foreign policy activities.

The mission of this paper is to fill this void by showcasing its contributions to Nigeria's foreign policy from 1979 to 1983.

The Contributions of the NASS to Nigeria's Foreign Policy (1979 – 1983)

1. Confirmation of appointments/approval of requests from the executive

Compared with the NASS in the First Republic, the NASS in the Second Republic demonstrated some measure of commitment in the conduct of Nigeria's foreign policy. Specialized committees on Foreign Affairs were created in both the Senate and the House of Representatives. The Senate Committee on Foreign Affairs was comprised of nine (9) members with Senator Jallo Waziri as its Chairman while the House of Representatives Committee on Foreign Affairs had twenty-five (25) members with Hon. Abubakar Sani as its Chairman (Akindele, 1982). Through these committees, the NASS was involved and participated on issues affecting Nigeria's foreign policy. Despite the fact that the NASS allowed politics to characterize its position on several issues in foreign policy, the measure of legislative competence it displayed within this period was a far cry from what obtained in the First Republic.

In the course of the visit of the sub-committee on the Americas to the United States, the sub-committee engineered the process of getting trade agreements signed between Nigeria and the United States.

Through the report of the visit of the sub-committee in Foreign Relations which was adopted by the Senate committee on Foreign Affairs, the NASS recommended to the executive to initiate a bilateral agreement between the two countries. Similarly, a pending Trade and Commerce Agreement, Tax Treaty Agreement which barred double taxation and an agreement for the training of vocational teachers were requested to be presented to the NASS for ratification (Report of the Senate Foreign Relations sub-committee on the Americas, 1982).

The budgets of the Ministry of Foreign Affairs made up of the Nigeria Institute of International Affairs (NIIA), embassies and High Missions were approved by the NASS from 1979 to 1983. Similarly, in consonance with constitutional provisions, the NASS, through its Committees on Foreign Affairs, carried out oversight functions on the MFA and its parastatals as well as on the embassies and the foreign missions

The budgets of the Ministry of Foreign Affairs including those of the N.I.I.A., Nigerian embassies and the foreign Missions were scrutinised and approved by the NASS from 1979 to 1983.

However, one of the shortcomings of the committees on Foreign Affairs in both the Senate and the House of Representatives was that "they met infrequently, took too long a time to report to the NASS, were short also of adequate and profession personnel to work and advise them, and also, their debates at both the plenary and at the committee meeting were tainted with bipartisan prejudices" (Olusanya and Akindele, 1986: 156).

As a result of these shortcomings, President Shehu Shagari did not take them into confidence and rather than seeking their inputs in the conduct of Nigeria's foreign policy "supplemented advice from the senior permanent higher civil servants"(Olusanya and Akindele, 1986:156). Despite these shortcomings, the NASS, through the committee on Foreign Relations performed its statutory obligations of approving the annual and supplementary budgets of the MFA and its parastatals, embassies and foreign missions, screened and confirmed the appointments of ministers of Foreign Affairs and ambassadors in the Second Republic, High Commissioners and principal Representatives of Nigeria abroad in line with Sections 75 (1) and 135 (2) of the 1979 Constitution, respectively.

2. *Ratification of Treaties and Agreements*

In line with Section 12 (1) of the 1979 Constitution, the NASS in November 1981 requested the executive "to lay before the Senate Committee on Foreign Relations all Treaties that have been signed or about to be signed by the executive since the inception of the administration" (Akindele, 1982:56). The implication of this statement is that some treaties had already come into force before they were sent to the Senate for legislative action. Among the treaties that treaties ratified by the NASS between 1979 and 1983 were the Treaty on the Convention on the Elimination of All Forms of Discriminations against Women and the Protocol relating to the Definition of Community Citizen.

1. **Convention on the Elimination of all Forms of Discriminations against Women, 1979**

The Convention on the Elimination of all Forms of discriminations against Women is a multi-lateral treaty which came into existence at the instance of the United Nations (UN) through the instrumentality of Resolution 34/180 Of 18th December, 1979. It came into force on 3rd September, 1981 in line pursuant to Article 27(1) of the Convention. The treaty was ratified by the NASS on 18th December, 1979.

Composed of 30 Articles, the fundamental objective of the treaty is to criminalize all manners of discriminations against women since "all human beings are born free and equal in dignity and rights and everyone is entitled to all rights and freedoms without distinction of any kind, including distinction based on sex". It was against the foregoing backdrop that State Parties to the Convention not only condemned the incidences of discriminations against women but set out mechanisms through which discriminations could be addressed in the economic, political, social and religious facets of the society.

The Convention mandates State Parties to criminalize discriminations against women and codify such discriminations in their various constitutions, legislative frameworks, regulations and modify or abolish existing legislations that encouraged discriminations.

The Convention also required that State Parties enforce its provisions with regard to the right of women to family benefits, bank loans, mortgages and other financial credit, and the right to participate in recreational activities, sports and all aspects of cultural life.

To all intents and purposes, the Convention was meant to salvage the conditions of women in the scheme of things and offer them a better opportunities and equal rights within the society. The Convention created measures for the elimination of all manners of discriminations against women in marriage, offices, schools, churches or at any platform where men could use the issue of gender to gain undue advantage.

To ensure that the provisions of the Convention were complied with by State Parties, a mechanism known as Committee on Elimination of discriminations against women was set

up and made up of twenty-three “experts of high moral standing and competence in the field covered by the convention.

Benefits of the Convention to Nigeria:

The following are some of the benefits which the ratification of the Treaty has brought to Nigeria:

1. Increase in the enrolment figure of women in Nigerian educational institutions. Most parents who, ordinarily, would not have been in support of the training of their girl-child to the university level now do so because they see other parents train the girls to this level. This would not have happened if not that the NASS in the Second Republic, by ratifying this Treaty made it compulsory for parents to send their girls to school. The implication of this development finds expression in the number of girls that are annually churned out from higher institutions. With their certificates, they contribute to the growth and development of the country in line with the adage that says “if you educate a man, you have educated an individual; but if you educate a woman, you have educated a nation”. The educated woman has the propensity to affect the family more than the educated man because she brings up the children considering that she nurtures them more than the man who is always away fending for the family.
2. Closely related to the foregoing analysis is the increase in the number of women who contribute to the Gross Domestic Product (GDP) of Nigeria. With higher education and qualifications, women could attain the highest positions in the land and contribute to the society the way it never happened before. Today, we see women attained positions of Ministers, Deputy Governors, heads of blue-chip companies, Vice-Chancellors, Ministers of God, Senior Officers in the Armed Forces, etc. Through their positions, these women make tremendous impact on the Nigerian society.
3. The Convention has also instilled the spirit of competition in both men and women. For instance, in organizations, men need to show that, by merit, they deserve to occupy certain positions, not because of their gender. The women also, in the same vein, aspire to occupy certain positions to prove the men wrong that they can, on merit, perform creditably well, if given opportunities. This healthy competition brings out the best in both the men and the women. The greatest beneficiary is Nigeria. The competitive attitude of the men and the women impact positively on the Nigerian economy in such a manner that drives development.
4. Another area through which Nigeria benefits from the Convention is in the criminalization of obnoxious traditional practices such as disinheritance. In some cultures in Nigeria, widows are discriminated against when it comes to inheritance. On the death of their husbands, they are stripped of every property that the deceased husband left behind, even if the property were jointly acquired by the women and their late husbands. However, most communities in Nigeria have put that tradition behind and today widows in those communities not only inherit their late husbands’ property, but through these properties, contribute to the up-bringing of the children they had with their late husbands. With the level of education acquired by these children they could grow up to impact on the Nigeria society. Some could even be employed in international organizations or foreign companies thereby contributing to the development and betterment of the world at large.
5. One other fundamental issue which the Convention advocates is that “State Parties shall ensure that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband”. The beauty of this clause is that a Nigerian woman, even if married to a Ghanaian, would not be prevented from

contributing to the development of Nigeria by way of appointment. Nor would a Rivers woman married to a Yoruba man be prevented from getting an appointment in the Rivers State Government based on her professional expertise which she could bring to bear on the development of Rivers state.

2. Protocol relating to the Definition of Community Citizen, 1982

This Protocol was promulgated in consonance with Article 27 of the Treaty of the Economic Community of West African States (ECOWAS) which made citizens of Member States of the ECOWAS citizens of the ECOWAS community.

The Protocol which was ratified by the NASS on 25th April, 1982, came into force later, in the ECOWAS countries on 10th July, 1984.

It has five (5) Articles bordering on the Acquisition of Community citizenship; loss, forfeiture and withdrawal of Community citizenship; Re-integration; Transitional provisions and Deposit and entry into force.

By the provisions of Article 1, a person can acquire the citizenship of the Community by birth in a Member State, by adoption by a citizen of a Member State or by adoption by a citizen of a Member State or by naturalisation in a Member State of the Community. An adopted child of parents who are of dual nationality shall renounce the nationality of any state outside the Community. The Protocol also stipulates that a person seeking naturalisation must first renounce his nationality and would have lived in the Member State he wants to take up nationality for not less than fifteen (15) years. However, the ECOWAS Council of Ministers is at liberty to reduce the years if it considers that the “person had rendered services to the Community or because of any other consideration.”

Secondly, a person seeking naturalisation may not be granted the status if it is considered that the interest of the Member State to which he wants to be a citizen will be jeopardized.

Article 2 of the Protocol which deals on the issues of loss, forfeiture and withdrawal of Community citizenship stipulates the conditions upon which a person may lose the citizenship of a Member State, namely: permanent settlement in a State outside the Community; voluntary acquisition of the nationality of a State outside the Community; de facto acquisition of the nationality of a State; loss of one’s nationality of a country of origin; and on his express request

Also, a naturalised or Community citizenship may be withdrawn from a person if it is discovered that he committed a crime that is “prejudicial to the interest of one or more Member State of the Community” or if “the Community citizenship was obtained through fraud”. The person could be re-integrated if, after investigation, he is innocent”. There is a judicial body that is responsible for requests for acquisition, loss, forfeiture, withdrawal of Community citizenship.

Benefits of the Protocol to Nigeria:

Nigeria stands to derive benefits from the Protocol in so many ways among which are:

- 1) Like any other country that is signatory to the Protocol, Nigeria’s economic and socio-political development would be enhanced by this new regime that the Protocol drives. This is because Nigeria would tap from the intellectual resources and expertise of people of the other nationalities that would want to take up Nigerian citizenship. As a matter of fact, these people would not only settle in Nigeria, more importantly, they would impact their skills and expertise on the Nigerian economy thereby enhancing her well-being. This development has multiplier effects considering that these persons would come with their wealth of experience in different fields of human endeavours.

Whether in government or private sector, their services would certainly be put to use for the betterment of the Nigerian economy.

- 2) The Protocol enables Nigerians to live in other Members States of ECOWAS without difficulty arising from hostility from citizens and immigration officials in these countries. Nigerians are adventurous people and they travel a lot. It goes without say that the Protocol serves as impetus to those Nigerians willing to take up citizenship in other Member States of ECOWAS. At every point in time, not only do these people come home to invest in Nigeria, they also travel back with their relations who in turn take up citizenship of these countries with a view to making a living there. At the end of every year, these people come home to contribute to the development of their countries through community development initiatives.
- 3) The Protocol fosters integration in the sub-Region in that goods from Nigeria could easily be made available in Members State of the ECOWAS just as products from other Members States could also be available in Nigeria. Through this measure, employment opportunities and economic empowerment would be enhanced, thereby reducing, to bearable minimum, the incidence of crime and other ant-social tendencies.
- 4) Another benefit derivable by Nigeria for being a signatory to the Protocol and also ratifying it is the bonding that it has engendered between Nigeria and other Member States of the ECOWAS so much so that whatever happens to Nigeria is also seen to have happened to these Member States; hence, they pool resources together to address the challenge. The understanding is that the Protocol has created the spirit of camaraderie and a sense of family among the Member States. Consequently, issues affecting Nigeria are regarded as having the potential to also affect other Member States, and on the basis of this, a holistic approach would be adopted by all the Member States despite the fact that the issue is affecting Nigeria alone.

Findings

The following findings were made in the course of the research:

- a) that the relations between the executive and the NASS were frosty in that the two arms of government virtually disagreed on every national issue including issues related to the conduct of foreign policy;
- b) that the NASS was relatively effective in the conduct of foreign policy in the Second Republic compared with its performance in the First Republic;
- c) that the Houses of Assembly were excluded from participating in the treaty ratification process despite the provision of Section 12 (3) of the Constitutions that made the process of treaty ratification incomplete without the corresponding agreement of the Houses of Assembly;
- d) that most of the debates of the Committees on Foreign Affairs in both chambers of the NASS, just as in other Committees, were tainted with party sentiments; and
- e) that, despite its misgivings in its relations with executive, the NASS in the Second Republic seized the windows of opportunity inherent in the 1979 Constitution to make far-reaching contributions in the conduct of Nigeria's foreign policy.

Conclusion and recommendations

While the NASS has made significant contributions in the conduct of Nigeria's foreign policy, the documentation of such efforts has not been commensurately done by historians, social scientists and other researchers interested in the activities of the legislature in the promotion of democratic governance and nation-building.

The paper has shown that the perception that the conduct of Nigeria's foreign policy is an exclusive preserve of the executive is a fallacy. Considering the enormity of powers

conferred on the NASS vis-à-vis the executive, what is required in order to achieve a hitch-free conduct of Nigeria's foreign policy is robust collaboration between the two arms of government in this regard.

In the light of the fore-going, the paper recommends the following:

First, collaboration between the executive and the NASS should be enhanced. Consequently, there is need to establish a Joint Standing Committee comprising people from both arms of government. The objective of the Committee is to always articulate and analyse foreign policy issues before decisions are finally taken. This mechanism will help to reduce unhealthy and unnecessary rivalry in that all stake-holders from both arms of government would be on the same page in foreign policy matters.

Second, considering the fact that both the 1979 and the 1999 Constitutions were silent on whether an agreement must be ratified by the Senate before it could come into force, it is recommended that an amendment should be brought to bear on the current Constitution in this regard. The proposed amendment should expressly state the line of action to be pursued. This will help in eliminating seething discontent and unnecessary bickering as witnessed during the presidency of Chief Obasanjo over the Green Tree Agreement (GTA).

Third, the Senate should review all the treaties and agreements that were purportedly ratified with a view to activating them for the purpose of achieving the objectives of their domestication. In the light of the circumstances under which most of them were ratified a review will help to determine the propriety of each of them against the background of contemporary events in the international system.

Fourth, it is recommended that the executive should ensure that treaties are ratified by the NASS before they are made to come into force. This recommendation is borne out of the fact that the tendency of allowing the treaties to come into force before they were sent to the NASS for ratification had always been one of the sources of the frictions between the two arms of government, especially, in the Fourth Republic.

Fifth, considering the fact that Section 12 (3) of both the 1979 and the 1999 Constitutions made it mandatory that the Houses of Assembly should affirm the ratification of treaties before they would be domesticated, it is hereby recommended that that provision of the Constitutions should be respected by the NASS in order to enhance robust contributions from all the components that are required to contribute to foreign policy activities. This recommendation is made against the background of the fact both in the Second and Fourth Republics, the Houses of Assembly had been denied the opportunity to participate in the conduct of Nigeria's foreign policy with regard to the ratification of treaties.

Lastly, the legislators should learn how to exercise patience and understanding with the executive, especially, foreign policy formulators in the Ministry of Foreign Affairs. The legislators must appreciate the fact that decades of military regimes which witnessed the absence of the legislature has not helped matters in that those in the executive are still finding it difficult to come to term with the inevitable fact that foreign policy activities should now be done collaboratively between the two arms under a democratic setting. The legislators must realize that even though they are required by the Constitutions to give approval to foreign policy activities, the executive is still in a better position, by the level of sophistication of its functionaries, to provide the template and guidance to routine foreign policy initiatives.

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