

# Parliamentary Oversight and Corruption in Nigeria<sup>1</sup>

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Legislative oversight in any democracy is essential to limiting the exercise of power and ensuring the accountability of government. In Nigeria the National Assembly (NASS) is charged with oversight of the anti-corruption framework<sup>2</sup>.

Corruption has persisted since the return to civilian government in 1999<sup>3</sup>: in the 2016 Transparency International (TI) Corruption Index, Nigeria ranked 136<sup>th</sup> out of 176 countries, with a score of 28 out of 100 (TI, 2017). A 2016 survey estimated that corruption could cost up to 37% of Gross Domestic Product (GDP) by 2030 if it is not dealt with immediately: equating to around \$1,000 per person in 2014 and nearly \$2,000 per person by 2030 (Tamina, 2015).

The framework employed for the collection and analysis of the data contained in this paper is based on that used by Stapenhurst, et. al. (2016), which in turn is an extension of Wang's (2005) methodology for the comparative analysis of parliamentary oversight<sup>4</sup>. The data was collected by interviewer-led and self-administered questionnaires completed by 48 respondents, 12 from each of the following four categories: legislators, legislative staff, media and Civil Society Organisations (CSOs); these were held in late 2016/early 2017. This data has been compared with the information collected between 2009 and 2010 and analysed by Stapenhurst et. al. (2016). A focus group, conducted at the National Institute for Legislative Studies (NILS), and a literature search on oversight and anti-corruption efforts in Nigeria was also undertaken.

This paper comprises three sections: (i) contextual factors, (ii) external oversight institutions and (iii) internal legislative tools. Within each of these, each relevant element is analysed, particularly for its effectiveness in curbing corruption.

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<sup>2</sup> NASS is a bicameral legislature comprising a 109-member Senate and 360-member House of Representatives, elected by the first-past-the-post system.

<sup>3</sup> The genesis of corruption in Nigeria has been traced back to the era of colonialism, when the ruling class exploited their people, under the protection of the British (Oluyitan 2015: 15). Other writers have argued that successive military regimes ensured the total corruption of Nigeria's political and social institutions of the country and eroded institutional accountability (e.g. Fashagba, 2009).

<sup>4</sup> While Wang distinguished external or contextual variables and internal variables, Stapenhurst's extension, enabled the inclusion of practitioner and scholar identified variables which represent an overlap between the two categories.

## 1. Contextual Factors

The 1999 Nigerian constitution provides for a presidential form of government with a separation of powers between the executive and legislature. Wang (2005) argues that a legislature's legitimacy is often reflective of its position and strength vis-a vis the executive. In Nigeria, the political resources of the president have proved superior to that of the legislature (Prempeh, 2008 cited in Stapenhurst et al, 2016: 4) although the creation of NELS and the National Assembly Budget and Research Office (NABRO) in 2011 has improved the capacity of the legislature's oversight function.

Trust in parliament and perceived corruption by legislators are two measures of the social legitimacy of the legislature (Stapenhurst, 2011). Nigerians have low levels of confidence in most official institutions (Hoffman & Patel, 2017: vii), but only the police (22 percent) records lower trust ratings than the NASS (26 percent) Furthermore, the public perception is that 62 percent of NASS members are corrupt and only government officials and the police record higher perceived rates of corruption (Afrobarometer, 2015). One finding from our fieldwork was the extent to which stakeholders, including parliamentary staff, express frustration that the legislature is not doing enough to support the executive's anti-corruption campaigns.

### *Legislative powers*

A second check and balance comes in the form of a joint constitutional mandate between the NASS and the executive to legislate, with the initiation of bills in practice being evenly divided between the two branches of government (Stapenhurst et al, 2016: 5). The legislature has the primary responsibility for law-making, but the President has the power to delay or veto a bill agreed by the Senate and the House of Representatives. This veto can be overturned by a two-thirds majority vote in each House. According to the respondents, this has *rarely* occurred in the past five years (**Table 1**).

**Table 1.** Legislative powers.

Survey Question	Mean score
<b>5. a. iii How frequently in a parliamentary session has the legislature over-ridden a Presidential veto?</b>	<b>2.4</b>
– CSO	2.0
– Media	2.5
– Staff	2.0
– Parliamentarian	2.3

Notes: Scale of 1-5, where 1= Never 2 = Rarely 3= Sometimes 4 = Often 5 = Always

### ***Budgetary Process***

NASS is a budget-making legislature with the capacity to amend or reject the budget proposal of the executive, and the capacity to substitute (part of) a budget of its own conviction.

The vast majority of respondents are aware of the legislature's powers with regard to amending the budget and estimated that it *often* does so (**Table 2**). A breakdown of the data demonstrates that MPs perceive the most activism on budgetary matters by the legislature (*often to always*), and media perceive the least (*often*).

**Table 2.** Budgetary powers.

<b>Survey Question</b>	<b>Mean score</b>
<b>4.ii How frequently has the legislature amended the budget?</b>	<b>4.3</b>
– CSO	4.2
– Media	3.7
– Staff	4.3
– Parliamentarian	4.9
<b>4.iii By how much does the legislature amend the budget (percentage of the total budget)?</b>	<b>1.9</b>
– CSO	2.8
– Media	2.0
– Staff	1.8
– Parliamentarian	1.4

Notes: Scale of 1-5, where for Q4ii, 1= Never 2 = Rarely 3= Sometimes 4 = Often 5 = Always and for Q4iii: 1 = 0-19% and 5 = 80- 100%.

### ***Political parties and party dynamics***

The Constitution prevents the emergence of ethnic-based parties and requires the formation of political parties to reflect the country's national outlook (Olorunmola, 2016).

Two factors that shape the effectiveness of legislative oversight are political party majorities and party cohesion, but the notion of parties as an additional check on the executive is undermined by a lack of internal party cohesiveness with elections usually driven by personality rather than policy (Stapenhurst et al, 2016: 6-7). The survey data (**Table 3**) suggests wider agreement with this conclusion, with the average response as to whether political party cohesion is strong being *neither weak nor strong*, *except* that MPs believe that party cohesion is far stronger now than in the previous survey undertaken six years ago.

**Table 3.** Political party dynamics.

Survey Question	Mean score
<b>9. How strong is political party cohesion?</b>	<b>3.1</b>
– CSO	2.8
– Media	1.9
– Staff	3.1
– Parliamentarian	4.6

Notes: Scale of 1-5, where 1= very weak and 5 = very strong

## Discussion

Deep distrust persists between the legislature and executive over the budget process. The 2016 national budget may be remembered as the most controversial budgeting process in Nigeria’s history. This is as a result of allegations of “Budget Padding,” or inflation of the budgetary estimates for improper reasons. There was accusation and counter-accusation between the Executive and Legislature over who was responsible for the “padding.”

Such accusations are not new. During the consideration of the 2005 Appropriation Bill, some senators were alleged to have padded the budget of a ministry after receiving a bribe from the minister. The scandal led to the impeachment of the Senate president and subsequent prosecutions. Other forms of reported misuse of legislative power of the purse include soliciting and accepting contracts from ministries, parastatals, government agencies/departments and private organisations using proxy companies.

These scandals have generated controversy over parliament’s influence in the budget. There is now a noticeable divide between civil society and the legislature in terms of the application of the power of the purse. This may explain why CSO representatives in our survey estimate that the budget is amended by the legislature the most (**Table 2**) and many CSOs have called for an investigation into budget padding or described it as corruption (Premium Times, 2016).

In practice, NASS has the constitutional authority to act and does alter the budget – often, in the view of the executive, at the expense of overall budget credibility or discipline: this issue made the President delay the signing of the 2013 budget for over two months. It is encouraging that the Committee on Ethics and Privileges has begun the practice of reminding members of the need to adhere strictly with the provisions of relevant sections of their rules on their ethical conduct on financial matters. Members were specifically barred from allocating funds either directly or indirectly to their constituencies during the on-going legislative scrutiny of the 2017 budget proposal.

One solution to bridge this gap between civil society and the legislature is for the legal framework to provide for broader participation in the budget process: Nigeria has continued to be rated lowly for budget transparency and participation by the International Budget

Partnership (IBP)<sup>5</sup>. The IBP recommends that Nigeria should prioritize the establishment of credible and effective mechanisms capturing a range of public perspectives during the budget cycle.

These recommendations appear to be gaining traction. The Senate and House of Representatives held a joint Public Hearing, the first of its kind, on the 2017 budget. NASS is also considering a Bill to provide for constituency projects in the Annual Budget. This measure could help to develop policies and solutions that reduce the over-reliance on MPs to deliver local services and benefits to their constituents (Olorunmola, 2016). The danger is that a new initiative for funding constituency projects, even if well intentioned, has the potential for generating further corruption in the absence of wider consultation and appropriate safeguards. Broader reforms could provide an opportunity to rectify some of the well-known long-standing issues with the budget process in Nigeria. The lack of a budget law in Nigeria is a clear weakness and other problems include the existence of special government funds or “Intervention Funds” which lack transparency and accountability.

Turning to the legislative powers of NASS our survey results show that the legislature rarely over-rides a presidential veto. In fact Nigerian stakeholders often perceive the use of a presidential veto as positive because it can prevent legislative efforts to weaken the fight against corruption. This is likely to be a reflection in part of low levels of trust in the legislature. For example, proposed amendments to the Code of Conduct Bureau (CCB) and Code of Conduct Tribunal (CCT) Act in 2016 have been criticized for seeking to protect the Senate President who was being investigated for violating the Code of Conduct (This Day, 2016).

Stapenhurst et al (2016, 20) highlight the impact of weak political party cohesion in Nigeria, but our findings suggest that parliamentarians believe that party cohesion and discipline within the legislature is far stronger in 2016 than in 2009/10. DFID Nigeria (2016) has also noted the development of a two-party system following the 2015 elections which may further increase a trend towards party discipline. Our focus group felt that political parties see their role as “protecting their own” against external allegations rather than rooting out wrongdoing.

The Westminster Foundation for Democracy’s (WFD) report into the cost of politics in Nigeria suggests the party political and electoral systems are most to blame for corruption (Olorunmola, 2016: 2). Other studies have called for the popular financing of party activities, a determined policing of campaign finance at the level of party primaries and general elections, the enforcement of internal democracy in the political parties and strengthening the independence of the election management agency (Abutudu, 2014) although making the finances of political parties more secure may provide “oligarchs with an even stronger power base” (Wardle, 2016: 12).

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<sup>5</sup> Nigeria’s score of 24 out of 100 in 2015, although an increase from 2012, is substantially lower than the global average score of 45 and also compares poorly with its regional neighbours (IBP, 2015).

## 2. External Oversight Institutions

### *Auditor General*

The Auditor General (AG) in Nigeria is in charge of the Supreme Audit Office and appointed by the President upon the recommendation of the Federal Civil Service Commission subject to Senate confirmation. The office does not report directly to the legislature. Our survey results show that this is widely known (**Table 4**). The AG can only be removed by the President when acting upon a two-thirds Senate majority on the grounds of failure or inability to properly discharge his or her function. However, there appears to be some confusion with the media and CSO representatives scoring this higher than staff and MPs. This may reflect awareness of the 2003 sacking of the Acting AG by the President without prior consultation with the Senate.

**Table 4.** Relations between NASS and the Auditor General.

Survey Question	Mean Score
<b>13. Is the Auditor General appointed by the legislature?</b>	<b>1.9</b>
– CSO	1.8
– Media	1.8
– Staff	1.9
– Parliamentarian	1.9
<b>13 a) Does the Auditor General report directly to the legislature?</b>	<b>1.8</b>
<b>13 c) Can the Auditor General be removed by the Executive without reference to the legislature?</b>	<b>1.3</b>
– CSO	1.4
– Media	1.5
– Staff	1.2
– Parliamentarian	1.1

Note: 1 = Yes and 2 = No.

### *Ombudsman*

Nigeria's Ombudsman is the Public Complaints Commission (PCC), established in 1975 to make inquiries into public complaints relating to administrative action taken by governments, public institutions, and both private and public companies. Survey respondents are unaware of the PCC's existence with only twenty-five affirming their awareness of it (52 per cent) and all those in the MP category who answered expressed a lack of awareness.

Of those who are aware of the PCC, the average answered that it does not report to the legislature nor have independence regarding budgeting and staffing.

### *Anti-Corruption Agencies*

Nigeria has two anti-corruption agencies: the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC). All of those surveyed were aware of the existence of these agencies.

### *Effectiveness of External Oversight Institutions*

According to respondents, the AG and Ombudsman were *neither effective nor ineffective* in uncovering fraud and corruption (**Table 5**). Although the mean average for the two anti-corruption agencies is higher than the AG and Ombudsman, they are also considered to be *neither effective nor ineffective* at uncovering fraud and corruption.

**Table 5.** Effectiveness of external oversight institutions

Survey Question	Mean score
<b>17 d How effective is the Anti-Corruption Agency in uncovering fraud and corruption?</b>	<b>3.3</b>
<b>16 d How effective is the Ombudsman in uncovering fraud and corruption</b>	<b>2.6</b>
<b>14. How effective is the Auditor General in uncovering fraud and corruption?</b>	<b>2.8</b>

Notes: Scale of 1-5, where 1= not effective and 5 = very effective

The higher effectiveness of the anti-corruption commissions compared with the AG and Ombudsman is also demonstrated by the responses when asked what occurred when these offices uncovered corruption. The answers for the AG and PCC consist of a variation from *prosecution* and *the case is referred to the law* or *referral to the affected institution* to *nothing*. When asked what the consequences were for perpetrators of corruption uncovered by anti-corruption agencies, the survey answers were more severe, suggesting *investigation*, *prosecution* and *confiscation of assets*.

### *Access to Information and The Media*

The Freedom of Information (FOI) Act in Nigeria, guaranteeing the right of any person to access or request information in the custody of any public institution, was introduced in 2011. FOI is considered *somewhat ineffective* by our survey (**Table 6**), with MPs ranking it lower

than all other groups. The media is perceived as influenced or restricted by the government and, perhaps as a result, media oversight of the executive and legislature, and the investigation and reporting of corruption are considered *neither effective nor ineffective*.

**Table 6.** Access to Information and The media

Survey Question	Mean score
<b>18 a) How effective is the FOI Act in facilitating public/parliamentary access to information?</b>	<b>2.3</b>
<b>19. Are there Government restrictions, or influence over the media?</b>	<b>1.2</b>
<b>19 a) How effective are the media in overseeing the Executive?</b>	<b>3.1</b>
<b>19 b) How effective are the media in overseeing the Legislature?</b>	<b>3.3</b>
<b>19 c) How effective are the media in investigating and reporting incidences of corruption?</b>	<b>3.3</b>

Notes: Scale of 1-5, where 1= not effective and 5 = very effective apart from Q19 where 1= Yes and 2 = No.

### ***Civil Society Organisations (CSOs)***

The average survey respondent considers CSO activities neither effective nor ineffective (**Table 7**). There were very few examples presented to us of cases where CSO activity and parliamentary actions have reinforced each other in oversight of the executive and/or uncovered corruption.

**Table 7.** Civil Society Organisations

Survey Question	Mean score
<b>20 c) How effective are CSOs in investigating and reporting incidences of corruption?</b>	<b>2.9</b>
<b>20 d) Are you aware of any cases where CSO activity and parliamentary actions have reinforced each other in oversight of the Executive and/or uncovered corruption?</b>	<b>1.7</b>

Notes: Scale of 1-5, where for Q20c 1= not effective and 5 = very effective and for Q20d 1 = Yes and 2 = No.



## Discussion

The perception of survey respondents is that the external accountability institutions are not particularly effective. Our results for the media correspond to the findings of Freedom House (2016) and 2015 Afrobarometer which records that opinion is split whether the news media effectively investigate and report on government mistakes and corruption. The ineffectiveness of FOI legislation is supported by the Carter Center (2016, 13) which recommends *inter alia* that the government should ensure that public institutions are equipped with increased capacities to meet their responsibilities under the law and there should be a sanctions mechanism to motivate public institutions to comply with their obligations under the FOI Act. Fashagba (2009) refers to a political culture of refusing to cooperate with information requests and it is perhaps no surprise to see FOI has resulted in little change with the legislature part of such a culture and lacking powers to sanction the bureaucracy.

The problems facing external oversight institutions include capacity constraints and the failure of follow-up, either due to insufficient political will or a lack of enforcement power. A further reason for ineffectiveness is that they are not properly independent of the executive (Stapenhurst et al, 2016). For example the government appoints the AG and the Federal Civil Service hires and fires his audit staff. According to our survey responses, anti-corruption agencies do not report to the legislature and neither do they exercise independence over budgeting and staffing. Moreover, the executive, without the consent of the legislature, can disband them.

However, recent experience in Nigeria suggests independence from the executive does not guarantee effectiveness. In 2014 the PCC was placed under the control of NASS instead of the office of the Presidency, a decision that met recognized international good practice, However, the PCC's budget was reduced by half in 2016 leading to the closure of offices nationwide and its inability to receive, investigate and resolve public complaints. The chairperson of the commission's Labour Union blamed the crisis on the decision to put the PCC under the control of the National Assembly (Okakwu, 2016).

On this evidence a closer relationship between the AG and NASS, as proposed by the 2015 Audit Bill (awaiting presidential assent), is unlikely to prove a panacea for a stronger audit regime. Fixing the gaps in audit is perhaps a greater priority – currently the office of AG is not allowed to examine the books of some corporate entities such as the Nigeria National Petroleum Corporation (NNPC) and is also unable to audit the accounts of (or appoint auditors for) government Statutory Corporations, Commissions authorities and agencies, despite many alleged cases of malpractice in some of these bodies.

The lack of effective follow up mechanisms to enforce decisions and/or ensure that government has implemented the recommendations from the AG and the PCC must be addressed. The Constitution does not expressly specify what the NASS should do with audit reports (Policy and Legal Advocacy Centre (PLAC), 2016: 13) and one option is to empower the AG to prosecute offenders in the same way as the EFCC and the ICPC.

There are also problems on the audit demand side with limited interest and capacity amongst civil society and the media (Mills and De Lay, 2016). The IBP (2015) has suggested that Nigeria establish formal mechanisms for the public to assist the AG's office to formulate its program and participate in audit investigations. Experience from the Philippines, India and other parts of Africa suggest there may be potential for social audit mechanisms in Nigeria (Ramkumar and Krafchik, 2005). Demand-side governance work is also supported by initiatives such as The Brekete Family Show, a radio program modelled after a public complaint forum or people's court, which has proved very effective in holding public services to account and ensuring access to justice for citizens (DFID Nigeria, 2016).

The effectiveness of CSOs in tackling corruption is considered to be neither effective nor ineffective by our survey. However, there is some evidence of CSOs supporting anti-corruption efforts and oversight generally: the Nigerian Civil Society Legislative Advocacy Centre (CISLAC) has highlighted the problem of the abandonment and non-domestication of various Treaties and Conventions<sup>6</sup> by NASS, including the African Convention on Preventing and Combating Corruption. A study by CISLAC (Jimoh, 2016) has also revealed unresolved high profile corruption cases. It should also be noted that a Bill to supervise, monitor and co-ordinate CSOs and Community Based Organizations (CBOs) is being discussed in the House of Representatives. Opponents to the Bill have stated that the establishment of the Commission could attempt to manage and control the financing and activities of CSOs. This Bill should be closely scrutinized for its likely impact on Civil Society.

### **3. Oversight tools and mechanisms: internal**

#### ***Confirmation of ministerial appointments***

One key check and balance concerns how the ministers are appointed. The President of the Senate can refer the President's nominees to the Committee on Ethics, Privileges and Public Petition for detailed scrutiny and subsequent recommendations. The Committee bases its recommendation on the nominee's competence, security reports from the Department of State Services, the Police and all anti-corruption agencies. Once these appointments have been confirmed, there are no constitutional provisions enabling the NASS to dissolve the cabinet – this power constitutionally belongs to the President.

We found that the majority of people interviewed were fully aware of these constitutional arrangements, but perceived that the legislature did not fully exercise its powers in this respect.

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<sup>6</sup> While the Federal Executive Council is mandated to sign and ratify treaties, NASS and State Houses of Assembly are constitutionally charged with the responsibility of enacting or domesticating them into law.

## ***Censure and Impeachment***

Nigeria has never impeached a President and our survey results demonstrate that this is widely known. The three respondents who believed impeachment had occurred felt that, on average, it had done so *rarely* on the grounds of violation of the constitution and incorrect implementation of the budget, with, once more, the CSO representative perceiving the most action and parliamentarians and NASS staff generally agreeing that it had *never* occurred<sup>7</sup>.

Although the NASS is unable to vote no confidence in the government, we received a mixed response whether legislators had passed a vote of no confidence in the past five years. Of those who replied *yes*, the frequency was estimated to be *rarely*. This confusion is possibly caused by the existence in the Senate of votes of *confidence* (instead of formal votes of no-confidence found in parliamentary systems).

## ***The Committee System***

The NASS has the power to initiate and conduct investigations into any matters of governance. The survey data suggests that oversight committees<sup>8</sup> are considered to be *neither effective nor ineffective* in uncovering fraud and corruption on average, with MPs, however, perceiving it to be between *somewhat* and *very effective* (**Table 8**).

All groups rate the effectiveness of special legislative commissions/committees of inquiry into corruption higher than oversight committees generally with MPs returning an average answer of *very effective*. A recent example is an Ad Hoc Committee established by the Senate in November 2016 to investigate alleged fraudulent practices in the collection, accounting, remittance and expenditure of internally generated revenue. However, when asked about the consequences of such inquiries, the respondents returned a variety of answers, ranging from *nothing to reports to the house to recommendations to the relevant committees*.

One of the key findings from our focus group is that Committee Inquiries strengthen party political ties by acting as a weapon with which to attack the party to which those under

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<sup>7</sup> This discrepancy reflects the difference between actual impeachment and threats of impeachment. Over the last five years there have been threats of impeachment against both President Goodluck Jonathan (because of non-implementation of the 2012 budget) and President Buhari (because of a proposed trial of the Senate leadership for forgery). One of the concerns raised by participants is that threats of impeachment are more a reflection of fraught executive-legislative relations and divisions within NASS than consideration as to whether the president's actions constitute gross misconduct.

<sup>8</sup> NASS legislative Committees include Special and Standing committees. The former are ad-hoc committees appointed by the legislature to deal with specific matters designed to facilitate the legislative process and enhance effectiveness in the conduct of business in the House. Standing Committees are appointed under the Standing Orders of both the Senate and House of Representatives and their number varies between administrations. Most committees are created in line with the existing ministries, departments and agencies of government.

investigation belong. As a result, the consequences of such work are dependent upon which party the perpetrator belongs to and often result in beneficial positions being handed out to members of the victorious bloc. This brings into question the motivation for establishing Inquiries and, as a consequence, those measures by which the investigators determine success.

**Table 8.** Oversight Committees

Survey Question	Mean score
<b>25. How effective are the oversight committees in uncovering fraud and corruption?</b>	<b>3.3</b>
– CSO	2.9
– Media	2.9
– Staff	2.9
– Parliamentarian	4.5
<b>22. What is the degree of partisanship within those legislative committees charged with oversight?</b>	<b>3.4</b>
<b>23. How many technical staff support the oversight committees?</b>	<b>3.8</b>
<b>29 a How effective is/was the special commission/committee in uncovering fraud and corruption?</b>	<b>3.9</b>
– CSO	3.1
– Media	3.4
– Staff	3.6
– Representative/Senator	5.0

Notes: Scale of 1-5, where for Q25 & Q29 1= not effective and 5 = very effective; Q22 1= very weak and 5 = very strong; and for Q23 1 = 0 and 5 = More than 7.

In terms of the perceived level of technical support to each committee, the average estimate was between five and six members of staff (no media representative provided an estimate suggesting little understanding of the mechanics of committee work). In addition, support is provided by NILS and NABRO and CSOs such as PLAC that are increasingly providing training and support. The evidence suggests that the problems are structural and behavioural rather than purely resource based.

### ***Chamber***

One way of seeking information from the executive is through oral and written parliamentary questions. Despite the relative frequency of meetings and a good attendance, the average respondent felt that *Question Period* was *somewhat effective* in uncovering fraud and corruption (**Table 9**). Opposition legislators are given at least equal time as government party members to ask questions and MPs view the effectiveness of the Question Period far higher than other groups. The consequences, however, do not appear to be serious, with many

respondents saying the culprits would suffer naming and shaming, referral for investigation, punitive measures and discipline or no consequences at all.

**Table 9.** Question Time

Survey Question	Mean score
<b>26 a How effective is Question Period in uncovering fraud and corruption?</b>	<b>3.6</b>
– CSO	3.3
– Media	2.9
– Staff	3.0
– Parliamentary	4.8

Notes: Scale of 1-5, where 1= not effective and 5 = very effective.

### ***Procedural Safeguards***

The general view was that the legislature possesses formal autonomy in all three areas surveyed: establishing its own rules of procedure, selecting its Presiding Officers and in determining its own budget. However, we found that most interviewees felt that the legislature fails to discharge its powers in a responsible manner. For example, although the legislature has the power to determine its own budget, the detail and operation of the budget lacks transparency. Since the 2015 budget NASS has not provided a detailed breakdown of expenditure for the parliament and our focus group thought this lack of transparency brought the internal budgetary process into disrepute.

In addition, the respondents thought that the staff resources of the NASS are *considerable* with the legislators themselves considered that the legislature has staff resources *to a great extent* (Table 10). The fundamental issue, however, is the quality of these staff rather than the quantity.

**Table 10** Autonomy of Legislature.

Survey Question	Mean score
<b>30. To what extent does the legislature have autonomy from the executive in establishing its administrative procedures?</b>	<b>4.2</b>
<b>31. To what extent does the legislature have autonomy from the executive in determining its own budget?</b>	<b>4.1</b>
<b>32. To what extent does the legislature have qualified staff to fulfil its oversight function?</b>	<b>4.0</b>

Notes: Scale of 1-5, where for Q30 and Q31 1= no autonomy and 5 = totally autonomous and for Q32 1 = Not at all and 5 = great extent.

### ***Resources***

Access to resources provides the legislature with external and unbiased information and evidence, as well as different perspectives for the purpose of investigation, thus aiding the proper functioning of its oversight role. Individual members have a budget for research and technical support, (although such funds are used often to employ family/friends rather than relevant professionals), but key institutional players in this role are NILS, NABRO<sup>9</sup> and Library, Research and Computer Services. Almost all survey respondents were aware of the library and the average respondent stated it is *sometimes* used by MPs (with legislators themselves claiming that they *often* use the library).

### ***Informal Structures***

When asked whether or not informal structures or networks within the legislature existed, the average answer was to a *moderate extent* (**Table 11**). There was a mixed response as to whether or not these structures are used by the legislature in fulfilling their oversight role and a lack of awareness of any instances in which these might have been used to uncover corrupt practice. Other studies have alluded to the presence of informal modes of governance in Nigeria (Olorunmola, 2016) and DFID Nigeria reports that several of its implementing partners are using informal behind the scenes support in a fluid political context (DFID Nigeria, 2016). Stapenhurst et al (2016, 21) also explain how patronage allows the legislature's leadership to control funds according to their wishes rather than the interests of the institution as a whole.

One example given to us concerns the lobbying that goes on before, during and after the screening process for ministerial appointments. Since some nominees are political associates of the President and may not be specialists in any particular field e.g., aviation, tourism or commerce, they usually need to lobby the leadership of the Senate, other Senators and stakeholders in government to ensure their success at the screening stage.

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<sup>9</sup> NABRO's key functions include providing independent, non-partisan analysis of the executive's annual budget estimates; assisting the parliamentary committees with their scrutiny of the sections of the budget related to their respective departments; and analysis of the potential economic implications of legislative proposals. It is also empowered to analyze the budget of the NASS and assist all its Committees in developing their annual budgets.

**Table 11** Informal governance structures within NASS

<b>Survey Question</b>	<b>Mean score</b>
<b>36. To what extent do informal governance structures or networks exist within the legislature?</b> <ul style="list-style-type: none"> <li>- CSO</li> <li>- Media</li> <li>- Staff</li> <li>- Parliamentary</li> </ul>	<b>2.7</b> 3.0 2.2 2.8 3.0
<b>37. Do legislators/staff use informal governance structures/networks to assist them in oversight?</b> <ul style="list-style-type: none"> <li>- CSO</li> <li>- Media</li> <li>- Staff</li> <li>- Parliamentary</li> </ul>	<b>1.6</b> 1.8 1.4 1.6 1.0
<b>38. Are you aware of any cases where informal governance structures/networks have reinforced oversight?</b> <ul style="list-style-type: none"> <li>- CSO</li> <li>- Media</li> <li>- Staff</li> <li>- Parliamentary</li> </ul>	<b>1.9</b> 2.0 2.0 1.8 1.0

Notes: Scale of 1-5, where for Q36, 1= not at all and 5 = great extent and for Q37 and Q38 1= Yes and 2 = No.

## Discussion

Recent events suggest that scrutinising executive appointments is assuming greater importance than shown by our survey results. After his election as President in March 2015, President Buhari took six months to name his cabinet positions (one complication for the president is that the Nigerian constitution requires one minister from each state to be selected), but even with this delay the ministries being allocated were not specified. An explanation for the delay was to ensure a careful selection process and to allow integrity checks to be conducted, but some of the President's nominations still generated considerable opposition because of allegations of corrupt practices raised against them.

The Senate did agree to stricter guidelines for the nomination process because of the controversy generated by Buhari's nominations. Consequently, the Senate agreed on certain conditions for screening the nominees, including proof of assets declaration; approval of nomination by at least, two senators from their states; and clearance (of corruption, abuse of

office, embezzlement) by the Senate Public Petitions Committee. Based on the agreed template for the screening and the heightened political tension between the two major political parties, some of the nominees went through very rigorous grilling during the screening. Furthermore, NASS is currently considering a constitutional amendment to ensure that the President assigns portfolios to persons nominated as ministers prior to confirmation by the Senate.

Other recent cases have also shown that the Senate is willing to exercise its power over broader executive appointments – in December 2016 the Senate declined to confirm the appointment of Ibrahim Magu, Acting Chairman of the Economic and Financial Crimes Commission (EFCC), following adverse reports against him from the security and anti-corruption agencies. The Senate rejected his appointment for a second time in March 2017. However, the confirmation of ministerial nominees who have served in the NASS is still seen as a formality. This practice is dubious given the accusations of misconduct and corruption often thrown at former Members.

Internal oversight tools are perceived to be more effective on average than external tools and institutions, largely because parliamentarians are more likely to rank their effectiveness more highly. One explanation may be the improved research support available to the NASS through NILS and NABRO; our findings also suggest that legislators are making more use of library and research facilities. NABRO's mandate to provide review and monitoring of programmes and budgets of the Federal Government offers some potential although the government will need to publish In-Year Reports in order for this to be realized. Some progress has already been made by NABRO: it was suggested to us that it encourages the NASS to question the executive's estimates, for example with regard to the 2013-15 Medium-Term Expenditure Framework. Committees are also seeking NABRO's professional input when ministries and agencies appear before them to defend their annual budget estimates. Others claim that information received from the Budget Office was used to justify the amendment of the budget submitted by the executive in 2016.

However, the overall effectiveness of oversight committees in uncovering fraud and corruption appears to have declined from the 2009/2010 survey (with only parliamentarians suggesting an improvement). The Public Accounts Committees (PAC)<sup>10</sup> are often seen as the principal oversight committee (the PAC is the only committee mentioned in the constitution), but the submission of regular reports to it by the AG is not guaranteed and very few PAC recommendations are deliberated upon on the floor of the House.

One explanation may be increasing signs of partisanship within the oversight committees. A further factor is the bloated governance system in Nigeria: in 2016 there were 65 committees in the Senate and 96 committees in the House of Representatives (Dan-Azumi & Nwosu, 2016). Furthermore, developed committee systems generally have a small and permanent membership, but the size of Committees in the House of Representatives ranges between 25

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<sup>10</sup> Broader studies have shown that monitoring public finances has preventive effects on corruption, particularly if done repeatedly (DFID, 2015)



and 40 Members. Absenteeism in meetings is cited as a concern. In 2007, when the number of members on some House committees was between 16 and 19, the average participation level was 61%. The level of participation dropped to 37% when the number of members on some committees increased to 22 (Dan-Azumi & Nwosu, 2016).

A third explanation for the ineffectiveness of committees (and oversight generally) is that the autonomy enjoyed by the legislature has become a tool for fostering corrupt practices. One example given to us was a flawed committee investigation of the Millennium Housing Project. There is a perception that parliamentarians are failing to discharge their powers in a responsible manner, which weakens the legislature's credibility in other key areas, such as determining its own budget. DFID Nigeria is working with PLAC to support an Independent Needs Assessment Committee which is helping to provide an evidence base from which to discuss the optimum needs, management and oversight of the NASS budget (DFID Nigeria, 2016). Efforts to strengthen the autonomy of the legislature are also being considered through the creation of a National Assembly Service Commission.

## **Conclusion**

A number of previous studies have concluded that the NASS's oversight role has been compromised (Fashagba, 2009; Stapenhurst, 2011; Pelizzo and Stapenhurst 2014). While our interviews showed acceptance that the role of the legislature is to conduct "proper" or "meaningful" oversight – and parliamentarians themselves view internal oversight tools as somewhat effective, the limitations of such tools are exposed by the lack of interest shown by legislators in holding the government to account and/or in anti-corruption efforts generally (Booth and Cammack, 2013).

Parliament is increasingly seen as part of the problem of corruption. For example, oversight/investigative committees can become avenues for money making or political influence by the legislators (Otusanya et al 2015; Nwagwu 2014; Fasagba 2009). In our focus group, when asked how legislative oversight has changed specifically with regard to corruption, the responses ranged from "*nothing has changed*" to those who said the ability/willingness of the legislature to conduct oversight had, in fact, deteriorated with the result that corruption had intensified. A common view expressed to us was that oversight/anti-corruption mechanisms are not working or making a difference to the welfare of the people.

Three factors were stressed when conducting oversight, generally, and in reducing corruption in particular: the importance of leadership, transparency across the work of the legislature, and accountability (not just of the executive to the parliament but also in terms of the accountability of the legislature). Ensuring that the legislature is fully transparent, including when setting its own budget, will promote a more responsive and inclusive institution, and also give the legislature moral authority to demand higher standards of other agencies.

The anti-corruption campaign of the current President shows political leadership is in place at the highest level. Our fieldwork demonstrated the extent to which stakeholders, including parliamentary staff, are looking to the executive rather than the legislature to take the lead in anti-corruption efforts; the fact that the executive publicizes most anti-corruption cases rather than the legislature was cited as evidence. There was also frustration that the legislature is not doing enough to support the executive's anti-corruption campaigns.

Wang (2005) has argued that the social legitimacy of the legislature is important: if so the latest results from Afrobarometer are discouraging, trust in legislators and the NASS is low and declining and 75 per cent of respondents think the country is heading in the wrong direction. If attitudes and expectations across Nigerian society are to change they will need to see a change of behaviour on the part of the legislature, including an end to questionable practices such as budget-padding.

Developing and enforcing a workable and tough legislative Code of Conduct is one way to rebuild trust in legislators and it would also be helpful to start a national discussion as to what constitutes a corrupt action. For example some focus group participants argued an action should only be defined as corrupt if it was deliberate; others argued that inaction or refusal to act should also be classed as corruption. Other areas highlighted were aiding and supporting corrupt activities even in the absence of financial or personal gain and the abuse of office (or the abuse of the privileges of office).

Yet there are some grounds for optimism. The constitutional amendments and legislation being considered by NASS offer an opportunity to show a constructive relationship between the executive and the legislature. Scrutinising executive appointments appears to be assuming greater importance and, with the support of CSOs and the media, the Senate has the potential to ensure that those suspected of corrupt acts are not appointed to public positions (or are deterred from seeking office). The early work of NABRO is promising in enhancing parliamentarians' budget analytical capacity and their access to key information needed for budget review. CSOs and the media are supporting anti-corruption efforts, although our study suggests this work has yet to filter through to consciousness of wider stakeholders, particularly within NASS.

Care must be taken when applying international good practice: the recent experience of the Ombudsman in Nigeria suggests that the focus of change must be based on what works in Nigeria. There is no guarantee that moving the Audit Office away from the influence of the executive towards the legislature, as international good practice suggests is advisable, will improve its capacity to oversee public funds.

Ensuring change within the legislature will require further engagement with Nigeria's politics and the cooperation of political parties in particular. WFD's 2016 report into the Cost of Politics offers some very useful recommendations, particularly in relation to reforming political parties internal governance and on political and campaign finance. WFD's work demonstrates that the cost of becoming and remaining an MP is a root cause of political corruption in the legislature.

Spending more money on political parties and parliamentarians, even for the laudable intention to improve their capacity to conduct oversight may prove counter-productive in the absence of greater transparency about how this expenditure is spent and the results generated. However, there is an appetite for training and travel opportunities among parliamentarians – it is sensible to be cynical about this, but perhaps the international community needs to accept the reality and use it to reward those Members who are supporting positive change and/or have shown leadership in oversight and anti-corruption efforts.

‘Demand side’ governance programmes have had some success at state level and the oversight of key areas such as the extractive sector will be improved by utilising the research, advocacy and networking skills of CSOs. The development of formal mechanisms for the public to assist the AG’s Office to formulate its audit program and participate in audit investigations should be encouraged. There should also be broader discussion on the meaning of the power of the purse. The legislature must be able to demonstrate, alongside the government, that it is using public funds effectively to support development rather than on material and financial benefits for its members. Finally, civil society must be closely involved in the current discussions about providing for constituency projects in the Annual Budget. This legislative proposal must be scrutinized very carefully to ensure that it does not institutionalize existing bad practice whereby public goods and services are often distributed for patronage and personal gain rather than on the basis of need and national priorities.

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