



DESENSITISING LEGISLATIVE INFLATION: RETHINKING SENATE BILL 347 IN THE CONTEXT OF QUEST FOR GOOD GOVERNANCE

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Abstract

Law-making is a flagship function of the Legislature in a democratic setting. Thus, the Legislature, in a constitutional democracy, assumes primacy over law-making for the peace, order and good government. However, this constitutional responsibility is undermined by some legislative proposals, one of which is Senate Bill 347 seeking to alter the 1999 Constitution to allow public office holders to maintain foreign bank account. Accordingly, this papers discusses the Bill. The aim of the paper was to examine Senate Bill 347 in the context of Nigeria's quest for good governance and legislative inflation. The objectives were to: ascertain whether the parameter set for the exercise of legislative power is restrictive or permissive; examine some perspectives on the prescribed formula; ascertain whether some of the perspectives on legal formula "for peace, order and government" have had influence on legislators in the exercise of legislative power; examine implications of Senate Bill 347 on Nigeria's quest for good governance; desensitise legislative inflation; and to bolster the capacity of legislators in legislative thinking and analysis. The paper adopts the doctrinal approach to research. The paper found that: the legal formula, "for the peace, order and good government" is restrictive; there is misperception of the prescribed legal formula, which could result in upsurge of legislative proposals; Senate Bill 347 has implications on good governance. The paper concluded that the trajectory of the upsurge in the initiation of bills could result in legislative inflation which in turn results in legislative deflation. Recommendations are made towards desensitising legislative inflation.

Keywords: Bill, Desensitising, Legislative Inflation, Good Governance, Rethinking

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Introduction

The Constitution of the Federal Republic of Nigeria, 1999 (as altered), retains the Presidential system of government, which was instituted by its predecessor, the 1979 Constitution. Under the presidential system, the Legislature has the power, as does the Executive, to initiate legislative proposal except the Appropriation Bill. However, the power to process any legislative proposal, which may or may not necessarily become law, depending on assent of the President or of the Governor, as appropriate, is vested in the legislature, represented by the National and State Houses of Assembly. This power is exercised by making of laws for the peace, order and government of the Federation or of the State, as appropriate. The primary occupation of the Legislature is, therefore, to provide legal frameworks for good governance. The paper examines whether the legal formula for the exercise of legislative power to make laws for the peace, order and government of the Federation or any part thereof, is restrictive or permissive, the second of which could result in a trajectory of transformative laws to legislative inflation. This is important in the light of some legislative proposals, one of which is the Senate Bill 347, seeking to alter the Constitution of the Federal Republic of Nigeria 1999 (As Altered), to allow public office holders to maintain bank accounts in countries other than Nigeria. The Bill could undermine the nation's quest for good governance. Accordingly, the paper examines Senate Bill 347 in the context of Nigeria's quest for good governance. In particular, the paper seeks to ascertain whether the legal formula prescribed for the exercise of legislative power, that is, "for the peace, order and good government", accommodates the introduction of any legislative proposal conceived by members of the legislature.

In order to address the research problem, the paper is organised into nine sections, the first of which gives an overview of the discourse, followed by a discourse on the appropriate methodology for the paper. The third section, examines the legal formula prescribed for lawmaking and some perspectives thereon. Instances of legislative proposal which could be a result of the perspective that the parameter set for exercise legislative power, which is "for the peace, order and good government" is a legal formula for expressing the widest plenitude of legislative power exercisable by the sovereign legislature are cited in the section. The discourse on the legal formula for the exercise of legislative power provides the background for the consideration of some perspectives on some of the legislative proposals in the fourth section, the sum of which suggests potential legislative inflation. The fifth section, discusses the concept of legislative inflation, followed by the sixth section which reflects on some perspectives Senate Bill 347 in the context of Nigeria's quest for good governance. The seventh section examines the implications of Senate Bill 347, while the eighth section summarises key findings. The seventh section, in the light of the discourse in the preceding sections, concludes the discourse and makes recommendations for bolstering capacity of legislators in legislative thinking and analysis; and for desensitising of legislative inflation.

Methodology

This section discusses and justifies the appropriate methodology for the paper. The methodology is doctrinal which invokes the library based approach. Two reasons inform the adoption of the library based research methodology. The first reason is premised on the fact that the fact that the focus of the paper is the need to desensitise legislative inflation with Senate

Bill 347 in perspective. Legislative powers and the scope of exercise of same fall within the realm of constitutional jurisprudence. There has been growing interests in the activities of the legislature since the inception of the Fourth Republic. Consequently, scholars and other public commentators have expressed perspectives on legislative power and what constitutes good governance; and on Senate Bill 347 as it relates to good governance. Accordingly, the paper relies on primary and secondary data. On the one hand, the primary data consists of the Constitution, laws enacted by the legislature and legislative proposals. On the other hand, secondary data comprise perspectives of scholars and other commentators on legislative powers and on the legislative proposals. These perspectives are expressed in books, chapters in books, journals articles, newspaper and other publications, among others.

The second reason for the adoption of the library research methodology is premised on the fact that the library research methodology is considered sufficient for achieving the aim and objectives of the paper. The aim of the paper is to examine the constitutional formula prescribed for exercise of legislative power. The objectives are to: ascertain whether the prescribed formula for the exercise of legislative power is restrictive or permissive; examine some perspectives on the prescribed formula; ascertain whether some of the perspectives on legal formula “for peace, order and government” have had influence on legislators in the exercise of legislative power; examine the implications of Senate Bill 347 in the quest for good governance; desensitise legislative inflation; and to bolster the capacity of legislators in legislative thinking and analysis.

Legal Formula for Exercise of Legislative Power

Prescribing legal formula for exercise of legislative powers, the Constitution provides that the National Assembly, shall make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule thereto.¹ Indisputably, the power to make laws for the peace, order and good government includes the power to alter the Constitution. However, it is arguable whether the phrase, “for the peace, order and good government” is permissive with regard to initiation and sponsorship of legislative proposal on any conceivable issue. Scholars are divided on whether the phrase “peace, order and good government” sets parameters for law-making by the Legislature.

Nwabueze posits that:

The phrase “peace, order and good government”, as the Judicial Committee of the Privy Council has said, does not delimit the extent of the power or purposes for which it is to be used in the sense that a law must be for peace, order or good government in order to be valid. It is a legal formula for expressing the widest plenitude of the legislative power exercisable by the sovereign legislature.²

¹ Section 4 (2). Section 4 (7) makes similar provision for State legislature.

² Ben Nwabueze. *Constitutional Democracy in Africa* Volume 1(Spectrum Book Limited, 2003), p.183.

Guobadia differs from Nwabueze's perspective. While admitting that the phrase "peace, order and good government" appears expansive, she argues however that:

There is no gainsaying the fact that the law making power thereunder provided is limited by the formula itself. The purposes of the laws to be made are specifically stated to be *for+ "the peace, order and good government" of the State. Thus, apart from all other considerations that may be applied in construing the law making power, clearly the purpose of the law must fall within the three broadly set out in this formula.³

We are in agreement with Guobadia. Apart from the requirement that the purpose of the must fall within the three broadly set out in the formula, it is our humble but firm view that Nwabueze's perspective of the formula "for the peace, order and good government" which is informed by the pronouncement of the Judicial Committee of the Privy Council could be true of the British Parliament but certainly not of the Nigerian legislature where the Constitution proclaims supremacy and subordinates the power of every person and authority to its overriding provisions.⁴ Accordingly, there are three constitutional limitations to the exercise of legislative power of the legislature. The first limitation is contained in the supremacy clause which provides that the Constitution is supreme, according to which its provisions have binding force on all authorities and persons throughout the Federal Republic of Nigeria.⁵ Second, the exercise of legislative power is circumscribed by section 1 (3), which provides for the inconsistency rule by which any other law which is inconsistent with the provisions of the Constitution, the Constitution shall prevail and that other law shall to the extent of the inconsistency be void.

The third constitutional limitation to the exercise of legislative power lies in the fact that democracy thrives on idea of limited government by which no organ of government has and exercises absolute or unlimited power. This is the essence of subjecting the exercise of legislative power by the National Assembly or by a House of Assembly, to the jurisdiction of the courts of law and of judicial tribunals established by law.⁶ The fourth constitutional limitation to the exercise of legislative power lies in one of the hallmarks of the presidential system of government which is separation of powers, implicit in which is the concept of checks and balances. In accordance with the concept of separation of powers, the law-making function⁷ is properly domiciled in the legislature. However, no bill passed by the legislature becomes law until it is assented to by the President or by the Governor, as appropriate⁸, unless

³ Desiree A. Guobadia. "The Legislature and Good Governance Under the 1999 Constitution" in Ayua, Guobadia and Adekunle (eds.), *Nigeria: Issues in the 1999 Constitution* (Nigerian Institute of Advanced Legal Studies, 2000), p.46.

⁴ Ayuba I. Gongu. "An Analysis of Senate Bill 349 Seeking Legislative Approval for the Removal of a Member of the President's or Governor's Cabinet in Nigeria." *Bingham University Law Journal* Vol. 1 No. 1 August, 2023, p.235.

⁵ Section 1 (1) of the Constitution.

⁶ Section 4 (8) of the 1999 Constitution.

⁷ Section 318 of the Constitution defines the word "function" to include power and duty.

⁸ Sections 58 (2) and 100 (2) of the 1999 Constitution.

the legislature activates its power under the relevant provisions of the Constitution providing for exception.⁸ Thus, the President or the Governor, as the case may be, can veto a bill passed by the legislature if the exercise of legislative power is outside the ambit of making laws for the peace, order and good government. The constitutional significance of this procedural requirement of law-making is to circumscribe the exercise of legislative power.

The believe in the perspective that the phrase, “for the peace, order and good government”, is a legal formula for expressing the widest plenitude of the legislative power exercisable by the sovereign legislature might have informed the upsurge in the initiation and sponsorship of legislative proposals which have the trajectory of a movement from quality of legislation to legislative inflation. Instances of legislative proposals which could result in legislative inflation, if enacted abound. Some of these legislative proposals are:

- (a) A BILL FOR AN ACT TO AMEND THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 TO PROVIDE FOR THE CONSENT OF THE SENATE/HOUSE OF ASSEMBLY FOR THE REMOVAL OF MINISTER/COMMISSIONER OF THE GOVERNMENT OF THE STATE – SB 349;
- (b) A BILL FOR AN ACT TO AMONG OTHER THINGS PROVIDE FOR THE PROMOTION OF RELIGIOUS AND ETHNIC TOLERANCE AMONG NIGERIANS AND TO PROHIBIT HATE SPEECHES THAT IS CAPABLE OF INCITING VIOLENCE AND CIVIL DISORDER AND PROVIDE STIFFER PUNISHMENT FOR OFFENDERS AND FOR RELATED – HB 246;
- (c) A BILL FOR AN ACT TO ESTABLISH A SCHEME TO HARNESS MONEY FOR INVESTMENT PURPOSE AND TO ASSURE ANY DECLARANT REGARDING INQUIRIES AND PROCEEDINGS UNDER NIGERIAN LAWS AND FOR OTHER MATTERS CONNECTED THEREWITH;
- (d) A BILL FOR THE ESTABLISHMENT OF THE NATIONAL GRAZING RESERVE (ESTABLISHMENT AND DEVELOPMENT) COMMISSION FOR THE PRESERVATION AND CONTROL OF NATIONAL GRAZING RESERVES AND LIVESTOCK ROUTES AND FOR OTHER MATTERS CONNECTED THEREWITH; and
- (e) A BILL FOR AN ACT TO ALTER THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999, TO PERMIT PUBLIC OFFICERS TO MAINTAIN OR OPERATE BANK ACCOUNT IN ANY COUNTRY OUTSIDE NIGERIA; AND FOR RELATED MATTERS – SB 347.

⁸ Sections 58 (5) and 100 (5) of the 1999 Constitution.

These legislative proposals fell short of evaluation which is concerned with the analysis and assessment of the effects of legislation⁹, the criteria of which are effectiveness, efficacy, and efficiency.¹⁰ By what these criteria connote, legislative effectiveness refers to the extent to which the observable attitudes and behaviours of the target population – individuals, enterprises, public officials in charge of the implementation or enforcement of legislation – correspond to, and are a consequence of, the normative model; that is, to the attitudes and behaviours prescribed by the legislator; efficacy is the extent to which legislative action achieves its goal; and efficiency is the relation between the “costs” and the “benefits”, that is, the direct financial consequences of the implementation of, and compliance with, legal norms; and the goals of the legislative action; all effects which are compatible with the goals can be considered as benefits.¹¹

Generally, any legislative proposal, or indeed any law, must have at least three responsibilities, namely, first, it must be capable of being implemented. This means there must be no provision in the law or in the legislative proposal that militates against smooth implementation. Second, the law must be adequate in terms of textual formulation to ensure that it is capable of being enforced and does not create any lacuna. Third, in the case of penal law, the

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law or the legislative proposal must be capable of identifying and punishing those in breach. In other words, there must be threat of pain to all instigators, sponsors of the breach or violators of the law, especially of electoral violence.¹¹ The legislative proposals reveal deficit of legislative thinking and analysis which calls for a consideration of some perspectives thereon.

Perspectives on Some of the Bills

The legislative proposals mentioned in the immediate preceding section, attracted comments which merit consideration. The first legislative proposal seeking the consent of the Senate or of a House of Assembly before the President or the Governor can remove a Minister or a Commissioner, as appropriate, has been analysed elsewhere.¹² Consequently, it is needless to repeat same. Suffice it to say that, the proposal is a violation of both horizontal and vertical separation of powers which is celebrated and accepted as a fundamental and inviolable principle of constitutional democracy; it is deficit of legislative thinking and analysis; is in conflict with the Interpretation Act in terms of power to appoint inheres power to remove; and undermines policy response to corruption, among others.¹⁵

⁹ Luzius Mader. “Evaluating the Effects: A Contribution to the Quality of Legislation.” *Statute Law Review* Volume 22, Number 2, p.123. ¹¹Ibid, p.126.

¹⁰ Ibid, p.127

¹¹ Ayuba I. Gongu. *Legislative Drafting As a Sub-Discipline of Law: Principles and Techniques* (Eiwa Press Ltd, 2024),pp.110-1.

¹² Ayuba I. Gongu. “An Analysis of Senate Bill 349 Seeking Legislative Approval for the Removal of a Member of the President’s or Governor’s Cabinet in Nigeria”, *Bingham University Law Journal* Vol. 1 No.1 August, 2023, pp.232-253. ¹⁵Ibid.

Reacting to the legislative proposal seeking to prohibit hate speech and to promote religious tolerance, Jonathan Vatsa, while deprecating the 9th Assembly of the National Assembly, argues that no legislator was thinking of sponsoring a bill on death penalty for corruption, arguing further that corruption and injustice gave birth to what is being regarded as Hate Speech.¹³ The bill is an expression of zero tolerance for dissenting views, and the desire to be placed on record that the sponsor initiated at least a bill in his tenure as a legislator.¹⁴

Responding to the third Bill which seeks to legalise reinvestment of funds corruptly acquired, Macaulay aptly states that:

It is intriguing that a federal legislator proposed corruption friendly law that is antagonistic to the country's fight against corruption. It is unclear whether the idea belongs to the proposer, or whether the proposer is just a messenger who is delivering a message packaged by champions of corruption who are desperate to corrupt the anticorruption war.¹⁵

Macaulay was not alone in deprecating the sponsor of the Bill.

Sagay, was no less critical of the Bill as he observes that:

In spite of the steep decline in the sense of morality and values in the last 16 years, particularly since this Eighth session of the National Assembly was inaugurated, Okorie's blatant and brazen advocacy of free looting is nevertheless still shocking to senses... That a Nigerian legislator (a lawmaker) can have the effrontery to promote a bill which if enacted into law, will enable looters of our treasury and national patrimony to keep the loot, if only they can acknowledge it is looted, provided they undertake to spend it in Nigeria, is breathtaking...¹⁶

Clearly, the effect of this legislative proposal, if enacted into law, would have been to elevate corruption to a state policy, once the money, obtained through corruption, is reinvested into the economy by establishment of private enterprise.

Some of the perspectives on the legislative bills, suggest that the conception of the bills should not have been thought of *ab initio* if the ideas were subjected to legislative thinking and analysis. An overview of the perspectives on the legislative proposals, reveals that there would have been excess of legislation or legislative inflation in the legal system, if they were enacted. What then is legislative inflation, desensitisation of which is the crux of this paper?

¹³ Ifeanyi N. "Death Penalty: Our Party architect of Hate Speech – APC Chieftain." Available at <https://www.theinfostride.com/death-penalty-our-party-architect-of-hatespeech-apc-chieftain/>. Updated July 15, 2021. Accessed September 4, 2024.

¹⁴ Ayuba I. Gongu. *Legislative Drafting As a Sub-Discipline of Law: Principles and Techniques*. (Eiwa Press Ltd, 2024), p.23.

¹⁵ Femi Macaulay. "Corruption has friends too." *The Nation Newspaper*, July, 2017, p.17.

¹⁶ Ibid.

Concept of Legislative Inflation

Incontrovertibly, the legislature is essentially a lawmaking institution. However, it should not, as that revered member of British Parliament, David Renton, puts it, be turned into a machine for the mass production of ill-considered, hurriedly prepared and often badly drafted legislation.¹⁷ Legislative inflation, refers to increased amount of legislation, otherwise referred to as “increased quantity.”¹⁹ Legislative inflation is one of the causes of legislative deflation, meaning decreased quality.¹⁸ Simply put, legislative inflation is an increase in the quantity of legislation, while legislative deflation refers to decrease in the quality. The cause of legislative inflation and, by extension legislative deflation, is excessive laws.¹⁹

Adediran observes that excessive legislation leads to different challenges such as inconsistency, contradictions and redundancies.²⁰ There is no doubt that if the legislative proposals listed in the immediate preceding section were enacted, the legal system would be faced with the problem of inconsistency, contradictions and redundancies. To avoid the challenge posed by excessive legislation, the role of the legislative draftsman is critical. A draftsman subjects the drafting instructions handed over to him to thorough analysis. At the level of analysis of the legislative policy, it is pertinent for the draftsman to ask if the legislative proposal is necessary. In other words, the draftsman should consider whether, in the light of existing laws or availability of policy options, a new law is desirable or if an amendment to existing law will suffice.²¹ Legislation is not an all-cure for governance challenges. This is the point the late President Umaru Musa Yar'Adua alluded to when he observes that:

No matter the legislations, no matter the efforts we put at electoral reforms, unless we the political leaders change our attitude towards election, we will continue to have problems...If we will be honest with ourselves, we all know how we rig elections in this country. We compromise the security, we pay

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the electoral officials and party agents while on the eve of the election we merely distribute logistics all designed to buy the votes.²²

In simple terms, the challenge of electoral and political hygiene in Nigeria, does not lie in plethora of laws, the result of which is legislative inflation. One of the legislative proposals

¹⁷ David Renton. “The Legislative Habits of the British Parliament”, *Journal of Legislation*, Vol.5: Iss.1, p.13. ¹⁹ Imer B. Flores. “The Quest for Legisprudence: Constitutionalism v. Legalism” in Luc J. Wintgens (ed.) *The Theory and Practice of Legislation: Essays in Legislature* (Ashgate Publishing Limited, 2005), p.30.

¹⁸ Ibid.

¹⁹ Adejoke O. Adediran. “Legisprudence and Legislating for Good Governance” in Epiphany Azing & Adejoke Adediran (eds.), *Legislating for Good Governance* (Nigerian Institute of Advanced Legal Studies, 2013), p.11.

²⁰ Ibid.

²¹ Ayuba I. Gongu. *Legislative Drafting As a Sub-Discipline of Law: Principles and Techniques*, (Eiwa Press Ltd, 2024), p.192.

²² Olusegun Adeniyi. *Power, Politics and Death: A front-row account of Nigeria under the late President Umaru Musa Yar'Adua* (Lagos: Kachifo Limited, 2011), pp.115-6. ²⁷Sections 8, 58, 59 and 100.

that would have introduced inconsistency, contradictions and bad governance in the legal system if enacted, is Senate Bill 347, a discourse on which engages the ensuing section.

Examination of Senate Bill 347

One word that is celebrated in most sections of this paper, is the word “Bill.” What does the word connote in terms of law-making? The Constitution which mentions the word “bill” in its relevant sections²⁷, dealing with law-making does not provide for a definition of the word in its interpretation section.²³Section 58 (1) of the Constitution, for instance, provides that: The power of the National Assembly to make laws shall be exercised by bills passed by both the Senate and the House of Representatives and, except as otherwise provided by subsection (5) of this section, assented to by the President.

In terms of law-making, there is no fluidity in the definition of the term. A bill is draft of a proposed law.²⁴In another sense, a bill is a draft of a proposed law presented to Parliament for discussion.²⁵The National Secretariat of Nigerian Legislatures (NSNL) defines bill as: The draft of a proposed law to be discussed by parliament. It is a document by which the Executive or one or more members of the Legislature seek to effect some changes in a statutory Law or to enact a new statutory Law or effect the repeal of an existing Law (Act) or seek to propose changes or addition to the Constitution.²⁶

Comparatively, the third definition is preferred not only because it covers the whole spectrum of legislative activities, but because of an aspect of the definition that is relevant to the discourse in this section. The aspect is that which states that a bill is a document by which one or more member (s) of the Legislature seek (s) to effect changes to the Constitution.

Clearly, Senate Bill 347, derives from the right of legislators, in a presidential system, to propose private members legislative bills. It is in exercise of that right that Olamikan introduced a private member bill numbered as SB 347. The right of members of the legislature to conceive, initiate and sponsor legislative proposal is not contestable. What seems to be debatable is whether the right of a legislator to conceive, initiate and sponsor legislative proposal is circumscribed by the legal formula of making laws for the peace, order and good government.

²³ Section 318.

²⁴ A. S. Hornby. *Oxford Advanced Learner's Dictionary of Current English*, Eighth edition (Oxford University Press, 2010), p.131.

²⁵ Soanes, C., Hawker, S., & Elliott, J. (eds.) *Oxford Dictionary of Current English* (Oxford University Press, 2006), p.79.

²⁶ NSNL. *A Handbook on Legislative Practice and Procedure of the National Assembly* (Intec Printers Limited, 2004), p.120.

Senate Bill 347 has the following long title:

A BILL FOR AN ACT TO ALTER THE CONSTITUTION OF THE
FEDERAL REPUBLIC OF NIGERIA, 1999 TO PERMIT PUBLIC
OFFICERS TO MAINTAIN OR
OPERATE A BANK ACCOUNT IN ANY COUNTRY OUTSIDE NIGERIA; AND
FOR RELATED MATTERS.

The Bill, in specific terms, seeks to alter the Constitution by deleting paragraph 3 of Part I of the Fifth Schedule, which relates to Code of Conduct for Public Officers. For purpose of clarity and for ease of reference, the said Paragraph 3, sought to be deleted forbids public officers from operating bank account in banks outside Nigeria while still occupying public office.²⁷ The reason for which the initiation and introduction of the Bill, is premised is, “owing to the fact that the prohibition does not accord with the current realities where the world has become a global village, where illicit funds could be tracked.”²⁸

As would be expected, reactions trailed the Bill in question. The Director of the Civil Societies Legislative and Advocacy Centre, Auwal Musa-Rafsanjani, observed that the bill was self-serving. More importantly, in the context of this paper, he states:

I don't know if our present crops of legislators are in the National Assembly to serve themselves or to serve Nigerians. Are these the kind of bills they should be dissipating their energy on at this time of economic emergency? I think Nigerians have a duty to rise up and let these people know that there is hunger in the land and that what we expect are practical solutions to our economic challenges.

Rafsanjani's question as to whether these were the kind of bills legislators should be dissipating their energy on, stems from another bill which Olamikan, the sponsor of the bill, had earlier sponsored which sought to alter the Constitution to allow lawmakers to have powers with the President or the Governor, as the case may be, on the issue of removal of non-performing Minister or Commissioner from office.

Apart from the bill being self-serving, it has implications for Nigeria's policy response to corruption, expressed in section 15 (5), which, in specific terms, provides that the State shall abolish all corrupt practices and abuse of power. Government, in response to this policy declaration, enacted some critical anti-corruption laws.²⁹ The enactment of these legislation, stems from the fact that the legislature and the executive are both elected to solve the challenges

²⁷ Explanatory Memorandum to the Bill.

²⁸ John Alechenu. “Senate wants public officers to operate foreign accounts.”
Available at <https://punchng.com/senate-wants-public-officers-operate-foreign-accounts/>.

Accessed May 19, 2023.

²⁹ Such as the Independent Corrupt Practices and Other Related Offences Act 2000; Economic and Financial Crimes Commission (Establishment) Act 2004 and Nigerian Financial Intelligence Unit Act 2018.

of the country or improve on the existing state.³⁰ It means, therefore, that where government is unable to solve the challenges or improve on the existing state, the legislature should not aggravate the situation by enactment of laws that promote bad governance.

A law, or legislative proposal, must be for public good. It is in this context, that some critical questions could be asked with regard to Senate Bill 347. First, how would the Bill have addressed abject

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poverty which has created a wide gap between the rich and the poor? Second, what are the benefits, if any, to be derived from permitting public office holders maintain foreign accounts? Third, what could be the reason for public office holders running away from saving their monies in Nigerian Banks? Fourth, how is paragraph 3 of Part I of the Fifth Schedule to the Constitution, which relates to Code of Conduct for Public Officers, an impediment to good governance; or to law-making for the peace, order and good government? Fifth, would the National Assembly, in the light of legislative proposals by its members, have lived out its responsibility as a national forum for public consideration of critical governance issues and challenges? Admittedly, law-making includes alteration of the Constitution but the alteration of such important document should result from urgent and compelling need to address governance issues.

In the light of the dearth of legislative analysis revealed in Senate Bill 347, it is plausible to presume, though rebuttable, that the Bill did not pass through the expertise of a legislative draftsman who would have, on receipt of the drafting instructions, examined the legislative proposal in the light of constitutional and other policy considerations. Law-making, requires conception and initiation of legislative bills that have transformative effect.³¹ What could be the implication of the Bill on other legal and institutional frameworks? The ensuing section, accordingly, examines the implications of Senate Bill 347 in the context of good governance.

Implications of Senate Bill 347

Senate Bill 347 would, if enacted, would have offended the principle of congruity, undermined the fight against corruption, effectiveness of legislative oversight and would have promoted legislative inflation. These are discussed, briefly.

³⁰ Ayuba I. Gongu & Nwogbo-Egwu, Cordelia Chinwe. *Understanding the Dynamics of Separation of Powers in the Context the Presidential Constitution and LegislativeExecutive Conflict Resolution Approaches* (Eiwa Press Ltd, 2024), p.445.

³¹ Oserheimen A. Osunbor. *Deepening Democracy in Nigeria Throw Law: An Analysis of Some Contemporary Issues in National Transformation* (Nigerian Institute of Advanced Legal Studies, 2010), p.10.

(a) Senate Bill 347 and Incongruity

No legislation operates in isolation. A bill, once passed by the National Assembly or a State House of Assembly and assented to by the President or by the Governor, in that order, must fit into or must be in harmony with the body of laws, otherwise known as *juris corpus*, in existence.³² Medupin otherwise expresses it thus: “a new legislation should be effective, technically sound, fit into the general fabric of the existing law.”³³ The legal system of a country, which consists of the laws, rules, regulations, institution put together to ensure its functionality is a whole. The first test of compatibility is the Constitution. The Constitution provides that if any law is inconsistent with its provisions, the Constitution shall prevail, and that other law shall to the extent of the inconsistency be void.³⁴ It is the duty of the draftsman to ensure that the legislative proposal, when it eventually becomes law, should not conflict with extant laws in operation.

The anti-corruption laws, enacted by the National Assembly, are derivative of the Constitution. The Senate Bill 347, apparently, would not fit into the legal system in terms of Nigeria’s policy response to corruption. In other words, it will work against or weaken the fight against corruption. Interestingly, the Bill proposed

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an alteration to the Constitution by deleting therefrom paragraph 3 of Part I of the Fifth Schedule which relates to Code of Conduct for Public Officers without making reference to section 15 (5) on the basis of which anti-corruption laws were made and anti-corruption agencies were established.

(b) Bill 347 and Policy Response to Corruption

Corruption is the bane of good governance and security in Nigeria. Different perspectives have been given on what constitutes good governance. However, good governance would, in the context of this paper, be directed at poverty alleviation and providing a reasonable living standard for the populace, guaranteeing the security of life and property of the people, the maintenance of law and order and the provision of an accepted level of infrastructural development.³⁵ Lugga, maintaining the nexus between corruption and insecurity in Nigeria, opines that:

Depending on how one scholarly looks at it, corruption could conclusively be classified as one of the major factors breeding insecurity in all communities and Nations. In my view, corruption has more hand in Nigeria’s security challenges than any other factor. Perhaps that is why all governments, since independence in Nigeria, in Nigeria, have been claiming to be fighting this

³² Gongu, A. I. *Legislative Drafting As A Sub-Discipline of Law: Principles and Techniques*. (Eiwa Press Ltd, 2024), p.116.

³³ C. A. Medupin. “The Drafting Process: An Introduction.” Training Manual for the Postgraduate Programme in Legislative Studies, Nigerian Institute of Advanced Legal Studies, Lagos.

³⁴ Section 1 (3) of the Constitution of the Federal Republic of Nigeria 1999 (As Altered).

³⁵ Desiree A. Guobadia. “The Legislature and Good Governance under the 1999 Constitution”, in Ayua, A. I., Guobadia, D. A. & Adekunle, A. O. (eds.) *Nigeria: Issues in the 1999 Constitution*, p.43.

monster....excerpts of speeches from coup leaders during government takeover; and from political leaders during power hand-over will justify my assertion.³⁶

It is trite that corruption was, before the Fourth Republic, instituted by the 1999 Constitution, responsible for intermittent military rule. In other words, Nigeria, historically, had been a coup-prone country, often rationalised on leadership ineptitude and corruption. Every coup was rationalised on corruption. For instance, Major Chukuma Nzeogwu, in a Radio Broadcast that announced the first military coup on Radio Nigeria, Kaduna, on January 15, 1966, said, in part, that Nigeria's enemies were the political profiteers, the swindlers, the men in high and low places that sought bribes and demanded 10 percent; those that had corrupted our society and put the political calendar back by their words and deeds.³⁷ Brigadier Sani Abacha, in a coup that toppled President Shehu Shagari on December 31, 1983, had this to tell Nigerians: You are all living witnesses to the grave economic predicament and uncertainty which an inept and *corrupt leadership* has imposed on our beloved Nation for the past four years. I am referring to the harsh, intolerable conditions under which we are now living. Our economy has been hopelessly mismanaged; we have become a debtor and beggar Nation. In some States, workers are being owed salary arrears of eight to twelve months and in others there are threats of salary cuts. Yet our leaders revel in squandermania, corruption and indiscipline.⁴⁰

Furthermore, in a maiden speech of Major General Muhammadu Buhari, he states, in part, while bashing members of the legislature, that:

...it is true there is a worldwide economic rescission. However, in the case of Nigeria, its impact was aggravated by *mismanagement*. We believe the appropriate government agencies have good advice but the leadership disregarded their advice. *The situation could have been avoided if the legislators were alive to their constitutional responsibilities. Indeed, the legislators were preoccupied with determining their salary scales, fringe benefits and unnecessary foreign travels, et al, which took no account of the state of the economy and the welfare of the people they represented.*⁴¹ (Italicised words mine for emphasis).

³⁶ Sani Abubakar Lugga. "Corruption As a National Security Challenge: Which Way Out?" A lecture delivered to the Participants of Senior Executive Course No. 40, 2018, of the National Institute for Policy and Strategic Studies, Kuru, Nigeria, November 1, 2018.

³⁷ Sani Abubakar Lugga. "Corruption As A National Security Challenge: Which Way Out?" A Lecture Delivered to the Participants of Senior Executive Course 40 of the National Institute for Policy and Strategic Studies, Kuru, p.1.

⁴⁰ Sani Abubakar Lugga. "Corruption as A National Security Challenge: Which Way Out?" A Lecture Delivered to the Participants of Senior Executive Course 40 of the National Institute for Policy and Strategic Studies, Kuru p.2.

⁴¹ Max Siollun. *Soldiers of Fortune: Nigerian Politics from Buhari to Babangida*. (Cassava Republic Press, 2013), p.278.

It is little wonder that Ogban describes the Second Republic National Assembly as a “thoroughly corrupt National Assembly.”³⁸

David Cameron’s description of Nigeria as “fantastically corrupt”⁴⁶, inflicts reputational carnage on Nigeria and Nigerians. Lamenting on the perception of Nigerians by other countries in terms of ³⁹corruption, Babalola states that:

...in foreign countries, Nigerians are regarded and treated as corrupt people. Unlike other nationals, no bank would allow Nigerians to open bank account as of right. The Nigerian green passports are separated from other nationals...Nigerians are subjected to degrading and inhuman treatment and are as treated pariahs on the grounds that they are Nigerians who hail from the most corrupt country in the world.⁴⁰

Stating the devastating effect of corruption in Nigeria, Ribadu pointedly observes that corruption is the:

...biggest national that we face today and we run the risk of destroying our democracy, for it can buy police, Independent National Electoral Commission and party officials as well as our economy as it has done to social and community life.⁴¹

With these perspectives on corruption, especially as it affects governance, Senate Bill 347 not only ignores the fight against pervasive corruption in Nigeria, it is insensitive to the ravaging effect of poverty among the citizens the legislature is supposed to represent.

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(c) Bill 347 and Legislative Oversight

Considering the implication of Senate Bill 347 in the context of legislative oversight stems from the reason given by the sponsor of the Bill. In his words, the introduction of the Bill was owing to the fact that the prohibition against public officers operating foreign accounts did not accord with the current realities where the world has become a global village where illicit funds could be tracked. The remit in this section, is to examine of Senate Bill 347 in the exercise of oversight responsibility as one of the means of exposing corruption and instituting good

³⁸ Ogban O. Ogban. “The National Assembly, Corruption and Democratisation in Nigeria.” In Alex Gboyega (Ed.) *Corruption and Democratisation in Nigeria*, Frederick Elbert Foundation, pp. 1-25.

³⁹ Ibrahim Wakili. “Nigeria, Afghanistan fantastically corrupt- Cameron.” *Daily Trust Newspaper*, May 11, 2016, p.5.

⁴⁰ Afe Babalola. “An address as amicus curie in *Attorney-General of Ondo State v Attorney-General of the Federation* [2002] FWLR (Pt. III) 1972 at 2008.

⁴¹ Nuhu Ribadu. “Sanitising Nigeria’s Business Environment for Direct Foreign Investment.” A presentation at the Annual Patriots’ Club of Nigeria Luncheon in Johannesburg, South Africa,

governance. The burden of ensuring governance rests squarely on the shoulders of the legislature. This, it can discharge by demanding good governance through effective oversight.⁴²

The oversight function of the legislature which is essentially a quasi-judicial function, is to be found in sections 88, for the federal legislature; and 128, for the state; and the procedure to be followed are prescribed in sections 89 and 129 of the Constitution. Section 88, for instance, empowers the National Assembly by resolution published in its journal or in the official Gazette of the Government of the Federation to direct or cause to be directed an investigation into: (a) any matter or thing with respect to which it has power to make laws; (b) the conduct of affairs of any person, authority, Ministry or government department charged, or intended to be charged, with the duty of or responsibility for – (i) executing or administering laws enacted by the National Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

Subsection (2) of section 88, defines the scope of the legislative investigation. In specific terms, it provides that the power conferred on the National Assembly under the provisions thereof, are exercisable only for the purpose of enabling it to – (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it. Osunbor, while emphasising the enormity of power of legislature and abuse of same, thereby loosing public confidence, pointedly states that: The power of legislative oversight are so enormous and far-reaching that if faithfully exercised have the capacity to eliminate or reduce executive excesses, illegalities, waste and corruption. *Regrettably, legislators sometimes give the public reasons to doubt that in their discharge of this constitutional responsibility, they act with diligence, honesty and courage. There are widespread belief that some legislators see their oversight function as an opportunity to extort and make money rather than a genuine effort to promote and uphold faithful implementation of the law.*⁴³ (Italicised words mine for emphasis.)

Statistical evidence has established that legislative oversight has been used by some legislators as avenue to over-reach themselves.⁴⁴ Commenting on the bribery scandal involving Faruk

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Lawan and the desperate efforts made in denial, Okeomah bluntly describes a Nigerian politician in general as “a study in greed, deceit and hypocrisy.”⁴⁵ Furthermore, Osewe asserts that the legislature, in specific terms the National Assembly, had failed in exposing corruption

⁴² NILS. A Comprehensive Report on a 2-Day International Conference on Emerging Democracies in Africa: Challenges and Opportunities, 2013, p.99.

⁴³ Oserheimen A. Osunbor. *Deepening Democracy in Nigeria Through Law: An Analysis of Some Contemporary Issues in National Transformation*, (Nigerian Institute of Advanced Legal Studies, 2000), p.13.

⁴⁴ Olumuyiwa Adejokun. “The 7th National Assembly: The report card.” *The National Assembly Legislative Digest*, 1 (5), p.89.

⁴⁵ Chinazo-Bertrand Okeomah. “The Faruk Lawan in US.” *TELL Magazine*, p.60.

through legislative oversight on account of corruption. He attributed the inability of the National Assembly to expose corruption to the involvement of some of legislators in bribery since 1999. He cited the cases of Okadigbo and Patricia Etteh, among others. Okadigbo was involved in a contract scam, while Patricia Etteh was involved in a six hundred and Twentyfive million Naira contract inflation.⁴⁶ The legislature in Nigeria was, between 1999 and 2003, perceived to be third corrupt institution, the police and political parties being the two before it in the ranking.⁴⁷

Maxwell, reviewing the involvement of the National Assembly in corruption, concluded that the lawmakers seemed not to be serving the interest of Nigerians. He gave as instance of scandal, the issue of padding of the 2016 annual budget by principal officers of the House of Representatives.⁴⁸ Indeed, the consideration of the 2016 annual budget, became controversial in the House of Representatives sequel to allegation of budget padding resulting in the removal of the Chairman of the Committee on Appropriation, Abdulmumin Jubrin and replaced by Mustapha Dawaki.

It must be admitted that the discourse on the implications of Senate Bill 347 so far does not suggest that the legislature, in spite of involvement in corruption, has not recorded any successes in exposing corruption through its oversight responsibility. Impressively, the National Assembly has performed well in the use of legislative oversight power to expose corruption or planned corruption. Few instances will suffice. An indication of proclivity to corruption is often demonstrated in making budgetary estimates that are unreasonable, ridiculous and embarrassing in terms of economic productive approach to finding solution to national challenges.⁴⁹

An instance of unreasonable budgetary provisions is the 2022 Federal Ministry of Health's estimate of Eighty-Two billion Naira for the purchase of mosquito nets. The most astonishing aspect is that the budget, would be funded through external loan. Anoba aptly describes the loan request as a deep-rooted endemic financial recklessness across State apparatus and a demonstration of Nigerian government's appetite for wastefulness.⁵⁰ It stands to reason that the Presidency was advised to encourage all federal agencies to embrace economically productive approaches to solving problems.⁵¹ Commendably, the Senate Committee on Health

⁴⁶ A. E. Osewe. "The Legislature, Corruption and other Unethical Issues in Nigeria since 1999: The Nigerian Experience, in Patrick, U, Philip, A. & Tangshak, A. L. (eds.), *Studies on the Nigerian Legislature 1999-2011*, (Vast Publishers, 2013), P.15.

⁴⁷ Emeka Ihedioha. "The Legislature: Roles, Misconceptions and Experience in Democratic Nigeria." A Paper presented at a public lecture organised by the Department of Political Science, University of Lagos. p.5.

⁴⁸ David Maxwell. "Corruption reigns in National Assembly." *Aljahirah Nigeria Newspaper*, p.11.

⁴⁹ Ayuba I, Gongu. *Jurisprudential Contestations and Public Perceptions of the Nigerian Constitution* (Eiwa Press Ltd, 2022), p.238.

⁵⁰ Ibrahim B. Anoba. "Malaria Palaver: N82 Billion Loan For Mosquito Net is Unreasonable And Disgraceful." Available at <https://saharareporters.com/2021/10/31/malaria-palaria-palaver-N82-billion-loanmosquito-netsunreasonable-and-disgraceful-ibrahim-b-anoba/>. Accessed November 12, 2021.

⁵¹ Ibid.

was alive to its oversight responsibility. The Committee, through its Chairman, Gershom Bassey, picked up with the Minister on the request in the face of large army of unemployed youths capable of carrying on a revolution.⁵⁹ The Committee lamented that government was not thinking of engaging the youths, rather, it is only interested in request for loan to purchase mosquito nets.

Another instance of exposing corruption through legislative oversight, is the discovery by the Senate Committee of the theft and mismanagement in 2013 of N195 billion Pension Fund Administration by PRTF. The Senate Committee invoked section 89 of the Constitution to get Abdurashheed Maina, arrested over his refusal to appear before the panel to account for the missing N195 billion.⁶⁰ Eventually, Abdurashheed Maina, the Chairman of the defunct Pension Task Team, was arraigned before the Federal High Court, Abuja⁶¹, and convicted on a 12-count money laundering charges and sentenced to eight-year jail term which was upheld on appeal by the Court of Appeal.⁶² Furthermore, in 2012, House of Representatives Ad-Hoc Committee on Fuel Subsidy Regime uncovered massive fraud in the administration of fuel subsidy.⁶³ In 2011, Senate Committee, probed of oil subsidy expenditure indicted the Nigerian National Petroleum Company of making double withdrawals. The Committee published the names of beneficiaries of the fuel subsidy scheme operated by government agencies.⁵² Furthermore, in 2009, a House of Representatives Committee, probed the National Independent Power Projects, resulting in the discovery of several contracts awarded to incompetent people with millions of dollars paid up-front. In some cases, the contractors did not even know the construction sites.⁵³ Lastly, the Senate probe of Petroleum Trust Development Fund, indicted the Vice-President, Atiku Abubakar, and others of diverting and mismanaging public funds. The committee recommended that they should refund the stolen money to the Federal Government and face prosecution.⁶⁶ The question is, has the stolen money been refunded? For obvious reasons, the recommendation of the Committee, to the effect that others who were indicted along with the President and the Vice President, was not implemented. .

Was there good faith in introducing Senate Bill 347, which would have permitted public officers to maintain foreign bank account while occupying public office? Could the intendment of Senate Bill 347, be to provide an escape route for proceeds of corruption to foreign banks? In the light of pervasive corruption in governance by public officials, should there be a law, under the guise that the world has become a global village where illicit funds could be tracked, which would have further undermined effectiveness of legislative oversight and good governance? Senate Bill 347 would have undermined legislative oversight which seeks to institutionalise transparency, accountability and efficiency, which are some aspects of indices of good governance.⁵⁴ The trajectory of initiating and sponsoring legislative proposals just for the fun of it

⁵² 56 Ibid, pp.274-5.

⁵³ Ibid, p.273. ⁶⁶ Ibid, p.272.

⁵⁴ Ayuba I. Gongu & Nwogbo-Egwu Cordelia Chinwe. *Understanding the Dynamics of Separation of Powers in the Context of Presidential Constitution of 1999 and LegislativeExecutive Conflict Resolution Approaches* (Eiwa Press Ltd, 2024), p.41.

or to perpetuate self-serving interest or for personal aggrandisement could result in excessive legislation without achieving concrete policy objectives or could introduce contradictions, inconsistencies, redundancies in the legal system – which consists of system of laws, rules, regulations and institutions put together to ensure its functionality as a whole.⁵⁵ This sets the context for the examination of Senate Bill 347 in terms of legislative inflation.

(d) Senate Bill 347 and Legislative Inflation

One of the implications of Senate Bill 347 is legislative inflation. By constitutional design expressed in the principle of separation of powers, the legislative powers of the Federal Republic of Nigeria or of a State is domiciled in the National Assembly and in a State House of Assembly, respectively.⁵⁶ The mode of exercising the legislative power is by bills passed by both the Senate and the House of Representatives; and by a House of Assembly.⁶¹ In a presidential system, unlike the parliamentary system in which the executive dominates initiation of legislative proposals, the power of the legislature to initiate and introduce bill is coterminous with the power of the executive, except the initiation of Appropriation Bill over which only the executive can initiate.⁵⁷ The monopoly over Appropriation Bill, otherwise known as money bill, by the executive, is not only peculiar to Nigeria. For instance, the Constitution of the Republic of South Africa, 1996, provides, among others powers, that in exercising its legislative power, the National Assembly may initiate or prepare legislation, except money Bills.⁵⁸

It is against the backdrop of the fact that the legislature, which works outside the executive in a presidential system, has equal power as the executive to initiate legislative proposals, except Appropriation Bill, that there is an upsurge in the initiation of bills by legislators. However, the right of legislators to initiate and sponsor legislative bills does not inhere the right to turn the Legislature into an institution for the mass production of legislation. There is no denying the fact that it is the framers of the Constitution had clear understanding of the ways the proceeds of corruption are concealed, one of which is to starch the stolen funds in foreign banks to avoid

⁵⁵ Ibrahim B. Anoba. “Malaria Palaver: N82 Billion Loan For Mosquito Net is Unreasonable And Disgraceful.” Available at <https://saharareporters.com/2021/10/31/malaria-palaver-N82-billion-loanmosquito-nets-unreasonable-and-disgraceful-ibrahim-b-anoba/>. Accessed November 12, 2021. 60

⁵⁶ Ladi Hammalai. “Legislative Oversight of the Executive” in Ladi Hammalai & Rotimi Suberu (eds.) *The National Assembly and Democratic Governance in Nigeria* (National Institute for Legislative Studies, 2014), p.277.

⁵⁷ *FRN v Abulrasheed Maina*: Suit No: FHC/ABJ/CR/256/2019.

⁵⁸ Esther Blankson. “Appeal Court upholds eight-year jail term for Maina.” Available at <https://punchng.com/appeal-court-upholds-eight-year-jail-term-to-maina/> Accessed September 4, 2024.

⁵⁹ Ladi Hammalai. “Legislative Oversight of the Executive” in Ladi Hammalai & Rotimi Suberu (eds.) *The National Assembly and Democratic Governance in Nigeria* (National Institute for Legislative Studies, 2014), p.266.

⁶⁰ Ayuba I. Gongu. *Legislative Drafting As a Sub-Discipline of Law: Principles and Techniques*, (Eiwa Press Ltd, 2024), p.116.

⁶¹ Section 4 (1) and (6) of the Constitution of the Federal Republic of Nigeria 1999 (As Altered).

⁶² Sections 58 and 100 of the Constitution of the Federal Republic of Nigeria 1999 (As Altered).

⁶³ Sections 81(1) (2) and 121 (1) (2) of the Constitution of the Federal Republic of Nigeria 1999 (As Altered).

⁶⁴ Section 55 (1) (b) of the Constitution of the Republic of South Africa 1996.

detection that the prohibition against operation of foreign bank account by public office holders was made. Consequently, the policy prohibiting public officer from maintaining or operating bank account in foreign countries, expressed in paragraph 3 of Part I of the Fifth Schedule to the Constitution is not cosmetic.

It desires to entrench public morality in the public service and in the polity that underpins the provisions for Code of Conduct in the 1999 Constitution. It must be pointed out, however, that the idea of Code of Conduct for public officers, was not an innovation of the 1999 Constitution as it is a retention from the Second and Third Republics Constitutions of 1979 and of 1989, respectively. Giving an insight into the retention of provision of Code of Conduct and of the establishment of Code of Conduct Bureau as an institutional

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framework for the enforcement of Code of Conduct in the 1989 Constitution, Aniagolu said it was to ensure a clean society.⁵⁹

Conclusion

This paper, in the light of the discourse in the preceding sections, makes the following findings:

- (a) The legal formula prescribed in section 4 (1) and (7) of the Constitution for the exercise of legislative power is restrictive and not permissive.
- (b) There is a misperception of the prescribed legal formula resulting in a thinking that legislative proposal could be initiated on any conceivable policy issue.
- (c) The misperception of the prescribed legal formula has resulted in upsurge of legislative proposals which could lead to excessive legislation in the legal system, which in turn could result in legislative inflation.
- (d) Senate Bill 347 implicates on good governance, thus undermining transparency, accountability and efficiency which are some aspects of its indices of good governance.

Law-making is a serious business⁶⁰ which cannot be achieved, as Tobi would put it, though in a different context, with all the ease and comfort like the way the English man sips his coffee on his breakfast table.⁶¹ Law-making requires more than just offering oneself constituency representation; or just the basic knowledge that the legislature is a law-making institution. It requires profound knowledge of legisprudence which is the theory of creation and practice of legislation. Desensitising legislative inflation has at least five significance. First, it engenders certainty in the legal system. Second, it reduces plurality of laws on the same subject matter. Third, it avoids incongruity, that is, conflict in laws. Fourthly, it engenders legal effectiveness

⁶⁵ A. N. Aniagolu. *The Making of the 1989 Constitution of Nigeria*, (Spectrum Books Limited, 1993), p.4.

⁶⁶ *The National Assembly v. The President of the Federal Republic of Nigeria & 2 Ors* [2002-2003] 2 LLR 903 at 916.

⁶⁷ *Hon. Muiwa Inakuju & 17 Ors v Hon. Abraham Adeolu Adeleke & 3 Ors* [2007-2010] 4 LLRN 1581 at 1575. ⁶⁷ Imer B. Flores. "The Quest for Legisprudence: Constitutionalism v. Legalism", in Luc J. Wintgens (ed.) *The Theory and Practice of Legislation: Essays in Legislature* (Ashgate Publishing Limited, 2005), p.29.

and effectiveness. Fifth, it avoids complexity in the enforcement and implementation of laws, thus reducing frequency in approaching the court for interpretation as to which law is extant.

In the light of implications of Senate Bill 347, legislative inflation and the need to desensitise same, it is recommended that:

- I. Legislators should avail themselves for capacity development in legisprudence which is the theory of creation and practice of legislation or the jurisprudence of legislation which, in essence, has been reduced to a theory of creation and application of statutes.⁶⁷
- II. Legislative proposals should be submitted to or should be drafted by trained legislative draftsmen. This recommendation stems from the fact that the legislative proposals considered in this paper might have been drafted by legal draftsmen based on an erroneous perception that legislative and legal drafting are coterminous.
- III. Legislators should always be guided by the fact that the underlying purpose of any legislative proposals, either initiated by the legislature or by the executive, must be for the promotion of good governance; and their efficacy – the extent to which their goals and purpose are achieved; and their efficiency which is the level of compliance to them must be envisaged.
- IV. Legislators, executive and draftsmen should deploy the mechanism of prospective and retrospective evaluation of legislative proposals and legislation, respectively, as means of desensitising legislative inflation.