ABU LAW JOURNAL (ISSN: 3141-2521)
Faculty of Law, Ahmadu Bello University, Zaria

Article History:
Received: 29 March 2026
Revised: 26 August 2026
Accepted: 26 August 2026
Published: 28 August 2026

Article Info:
DOI: https://doi.org/10.67203/abulj.2026.ss4lae5k
Journal Homepage: https://abulj.org.ng
Volume: 44, No. 1, 2026
Pages: 1-11

AN EXAMINATION OF THE POWER OF NATIONAL ASSEMBLY TO MAKE LAWS FOR PEACE, ORDER AND GOOD GOVERNMENT OF NIGERIA

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Abstract

This paper examines the legislative powers of the National Assembly to make laws for peace, order, and good government of Nigeria. It explores the constitutional foundations underpinning its lawmaking authority, the scope of its powers including legislative, investigative, financial, and oversight functions, and the explicit limitations that shape its operations. Further, judicial interpretations through landmark cases illuminate the balancing act between federal and state legislative powers. Checks and balances inherent within Nigeria's constitutional framework and practical challenges facing the National Assembly in fulfilling its mandate are critically examined. The problem, however, is that it takes years for Bills, which are meant to enhance good governance, to be passed by the National Assembly. The paper adopts doctrinal method of research. The paper concludes with recommendations aimed at enhancing legislative effectiveness to uphold peace, order, and good governance in Nigeria.

Keywords: Examination, Power, Legislature, Laws, Order, Government

1.1 Introduction

Nigeria is a federal state which has adopted the presidential system of government. The system is rooted on the principles of separation of powers among the three arms of government, each of which is to serve as a check on the others.[1] The three arms created by the system are the executive, the legislature and the judiciary. It has always been the view of social and political scientists that concentration of powers on any single arm of government breeds dictatorship and

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[1]Usman, N.L. (2000), *The Legislature as a Democratic Sentinel: An Exposition of Legislative Powers and privileges under the 1999 Constitution;* In Otu, M.M., Haruna Z., et al (ed) *Constitutionalism and Democracy in Nigeria,* Issues Communications, Kaduna, p.158.

destroys the basis of democracy.[2] That is why the power is shared between the three arms of government. While the main function of the legislature is to make laws, the executive is to implement the laws and the judiciary is to interpret them.

The legislative powers of the federation are vested in the National Assembly of Nigeria which consists of the Senate and the House of Representatives.[3] It may make laws for the peace, order and good governance of the federation or any part thereof,[4] but it must have legislative competence on the subject on which it wants to make law.

This paper therefore, examines the powers of the National Assembly to make laws, the extent of those powers and how the powers could be effectively utilized for the peace, order and good governance of Nigeria.

1.2 Conceptual Clarification of Some Key Terms

It is important to provide a conceptual clarification of some key terms that are primary to this paper as they may keep reoccurring herein.

(a) Legislature

Legislature is defined as the branch of government responsible for making laws.[5] In another perspective, it is defined to mean persons who make, amend or repeal laws.[6]

From the above, it is clear that the legislature is a government body with the power to make, amend and repeal laws, and in Nigeria this body consists of the National Assembly (Senate and House of Representatives) and States Houses of Assembly.

(b) Legislation

The term "Legislation" means the process of making or enacting a positive law in a written form, according to some type of formal procedure, by a branch of government constituted to perform this process.[7] Simply put, it is the act of making or enacting laws. Such laws must emanate from a government body known to the laws of that society and this body is usually referred to as "the legislature". Under Nigerian jurisprudence, such body is known as the National Assembly (consisting of Senate and House of Representatives) or the States Houses of Assembly.

[2] Ibid.
[3] Section 4(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended).
[4] Ibid, Section 2(2).
[5] Garner, B.A., Jackson, T. *et al, Black's Law Dictionary,(*West publishing Co. Minnesota, 2004), 919.
[6] Wordweb English Dictionary available online at *ww.wordwebsofware.com*. accessed on 23/3/2026, at 12.50 pm.
[7] Garner, B.A., Jackson, T. *et al*, (n. 5). 918.

(c) Good Governance

It should be noted that the Constitution empowers the national Assembly to make laws for peace, order and good government of the federation or any part thereof.[8] A question may be asked as to what amount to good governance? It has been submitted that the term "Good Governance", undoubtedly has a very wide connotation.[9] It can be described as governance that meets the yearnings and aspirations of the people in terms of development and good life,[10] governance according to rule of law, that is to say, governance that institutionalises procedure for guaranteeing and protecting the rights of the citizens within the framework of the Constitution.[11] Good governance can also be described as that which promotes self-actualization and abhors poverty, recognizes the inalienable rights of the citizens to education, good health, constant and uninterrupted electricity, good water supply[12] and indeed, all the necessaries of life.

1.3 The Legislative Power of the National Assembly to Make Laws for the Peace, Order, and Good Government of Nigeria

The legislative powers of the federation are vested in the National Assembly consisting of the senate (upper House) and the House of Representatives (Lower House). The legislative powers of the states are vested in the states Houses of Assembly. At both levels, Laws are to be enacted or made for the peace, order and good government of the federation or any part thereof, as the case may be, in respect of matters in the exclusive or concurrent list over which the respective legislative houses can legislate upon.[13] Besides the primary powers of making laws, the National Assembly has an ancillary powers such as power to control the executive, power to control public funds, investigatory powers as well as powers to exercise judicial control.

It is submitted that the powers of the National Assembly to make laws for peace, order and good government of the federation or any part thereof may be meaningless without other ancillary powers enumerated above. Therefore, these various powers would now be examined in turn.

1.3.1 Powers to Make Laws

This is the primary duty of the legislature which is inalienable. The Constitution has vested the legislative powers of the federation on the National Assembly which consist of the Senate and House of Representatives, while that of the state is vested on the State Houses of

[8]Section 4(1) of the 1999 Constitution, op. cit.
[9]Akomolede, I.T. (2012) *Legislation as a Tool for Good Governance in Nigeria: Legal Matters arising;* European Journal of Business and Social Sciences, Vol.1, No.6, p.62 available at *www.ejbss.com/recent.aspx*. Accessed on 20/5/2026, at 11.30 am.
[10] Ibid.
[11] Ibid.
[12] Ibid.
[13]Section 4(2) and (7) of the 1999 Constitution, op. cit.

Assembly.[14] In accordance with the principle of federalism, both the federal and state legislatures have defined areas of jurisdictions to enact laws.

The National Assembly has the exclusive jurisdiction to enact or make laws in respect of the maters included in the exclusive legislative list as well as some of the matters found in the concurrent list.[15] It also has power to make laws with respect to matters which it is empowered to make laws in accordance with the provisions of the Constitution.[16]

It is interesting to note that matters included in the exclusive legislative lists include Aviation, banks, Commercial and Industrial monopolies, customs and exercise duties, drugs and poisons, export duties, immigration, maritime shipping and navigation, incorporation and winding up of corporate bodies, construction, alteration and maintenance of federal roads, insurance, prisons, railways, mines and minerals, police and security agencies, posts, telegraphs and telephones etc.[17] The concurrent legislative list contains matters in respect of which both the National Assembly (Senate and House of Representatives) and States Houses of Assembly can make laws and the extent of the exercise of such legislative powers.[18]

The import of the above is that both the National Assembly and States Houses of Assembly have powers to make laws on a broad spectrum of matters which if carried out adequately will translate into good governance for the benefit of all Nigerians.

It must be stressed that not only did the Constitution confer on the National Assembly the power to make laws, but it also spelled out the mode of exercising such powers. The method is by way of a bill duly presented and passed by the national Assembly.[19] An important point to note here and which is in line with the principle of checks and balance is that a bill passed by the National Assembly does not become a law unless the president has given his assent to it.[20] It is submitted that the aim is to give the president, who would be saddled with the responsibility of implementing the law, an opportunity to appreciate the new legislation and make observation(s) in areas that may require some tinkering.

By and large, the requirement of the president's assent is not immutable. Thus where he refused assent or rather vetoed the legislation, and the bill is returned to the National Assembly, a 2/3 vote passed by the legislature in favour of the law would operate to dispense with the requirement of the president assent.[21]

[14] Ibid.
[15] Ibid, Section 4(2) and (4)(a).
[16] Ibid, Section 4(4)(b).
[17] See part 1 of the Second Schedule to the Constitution.
[18] See first column of part II of the Second Schedule to the Constitution.
[1919] See Section 58 and 100 of the 1999 Constitution.
[20] Ibid, Section 58(3) and (4).
[21] Ibid, Section 58(5).

One other fundamental power of the National Assembly in relation to making laws is the power of Constitutional and other statutory amendments. The Constitution has expressly and exclusively confers powers to amend any part of it on both the National Assembly and State Houses of Assembly.[22] The recent move by the national Assembly to make Constitutional amendments may appear to be an affront on the provisions of Section 9 of the Constitution.

As an ancillary to the legislative powers to make laws, it naturally follows that the national Assembly should also have powers to amend and repeal such laws. This power, it is submitted, should extend to "existing laws" which have been validated by the provisions of Section 315, with necessary modification as to bring it into conformity with the letter and spirit of the Constitution.[23]

Curiously, however, the same section 315 of the 1999 Constitution (as amended) seems to usurp this power and confer same on the executive. It confers on the president or the Governor, as the case may be, the power to modify such law, by way of "addition, alteration, omission or repeal."[24]

It is clearly pursuant to this provision that the then President Olusegun Obasanjo decided to abolish some statutory bodies like the Petroleum Trust Fund (PTF), without recourse to the National Assembly and which naturally invited some uproar from the legislators. It is, therefore, submitted that this provision must be looked into, so as not to undermine legislative and judicial powers. Sadly, the Supreme Court of Nigeria, in the case of *A.G. Abia State v. A.G. Federation,*[25] unequivocally validated the power of the president or the Governor, as the case may be, to modify existing laws by way of addition, alteration, omission or repeal. The court held that the president has wide powers when modifying any existing law to bring it into conformity with the constitution. In its opinion, although the principle of "Separation of Powers" is essential to a healthy democracy, the power given to the president and to a State Governor in existing laws of the states by the constitution is not an abuse of the principle or doctrine of "separation of powers". It is essential to giving meaning to an existing law so that the constitution itself is not abused.

The court went further to hold that the exercise of the power to modify the allocation formula in the existing Allocation of Revenue (Federation Account etc) Act (Cap. 16 Laws of the Federation of Nigeria 1990) as amended by Allocation of Revenue (Federation Account) (Amendment) Decree (No. 106 of 1992) is constitutional and within the scope of the right of the president under the 1999 Constitution. Except in military regime, the supreme law is the constitution itself.

[22] Ibid, Section 9.
[23] Usman, N.L. op. cit., p.162.
[24] See Section 315(4) of the 1999 Constitution.
[25] (2003)1 S.C.N.J p.131, at 135, Ratio 5 and 6.

It is interesting to note, however, that the power of the National Assembly to make laws is not an absolute one. The power is not only limited by the Constitution itself but also subject to the supervisory role of the courts to declare invalid any such laws which are unconstitutional. The Constitution subjected the exercise of legislative powers of making laws to the jurisdiction of the courts and therefore no law could be enacted to oust the jurisdiction of any court of law.[26]It, therefore, becomes the duty of the court to see to it that the legislative powers to make laws are exercised in a manner not to violate the very constitutional provisions that confers such powers. The Supreme Court in the case of *Bendel State v. A.G. Federation*[27] observed that by virtue of the provisions of Section 4(8) of the Constitution, the courts of law in Nigeria have the power, and indeed the duty to see to it that there is no infraction of the exercise of legislative power, whether substantive or procedural, as laid down in the relevant provisions of the Constitution. If there is any such infraction, the courts would declare any legislation passed pursuant to it unconstitutional and invalid.

In a similar vein, the Court of Appeal in *Abaribe v. The Speaker, Abia State House of Assembly*[28] observed that it is the duty of the judiciary to keep in check the excesses of the executive and abrasive tendencies of the legislature so that each of the three components of Government confines itself to the province allocated or prescribed for it by the Constitution.

Be that as it may, the National Assembly, since its inception in 1999 to 2012, has passed 195 Acts only while so many bills are pending and are in various stages.[29] This, it is submitted, is inadequate in view of the fact that billions of tax payers' money have been expended on the National Assembly to enable it perform its constitutional role of enacting laws for "peace, order and good government of Nigeria". As one scholar observed, "it may not be heart-warming that only 195 Acts were passed by the National Assembly in about 12 years."[30]

As of late 2025, the 10th National Assembly has introduced 844 bills, with the 9th Assembly (2019 - 2023) widely recognised for passing a high volume of legislation, specific totals vary significantly, but often fewer than 10% of introduced bills are signed into law.[31] In 2022, the Senate passed 49 out of 68 constitution amendment bills.[32] It is note worthy that while thousands of bills are proposed, high levels of legislative effort frequently occur within each 4 year Assembly, focusing on economic and institutional reforms

It is however interesting to note that from 1999 to date the National Assembly has legislated for the peace, order and good governance of the country. It has enacted into law a

[26] Ibid, Section 4(8).
[27](1982)3 N.C.L.R.1 at p.3.
[28](2000) F.W.L.R. 1558 at p.1560.
[29]Akomolede, I.T. (n. 9). 65.
[30] Ibid.
[31] https://nass.gov.ng, accessed on15/3/2025 at 3,30 pm
[32] ibid

number of Acts which are meant to promote good governance. Such Acts include, but not limited to the following:

1. The Economic and Financial Crimes Commission (EFCC) Act;[33]
2. The Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act;[34]
3. The Freedom of Information Act,[35]
4. The Evidence Act.[36]
5. The Code of Conduct Bureau and Tribunal Act (CCBTA).[37]
6. The Failed Banks (Recovery of Debts and Financial Malpractices in Banks) Act.[38]

This, it is submitted, will help in curbing the menace of corruption and the likes thereby promoting good governance in the country. It is noteworthy that the Nigerian National Assembly enacted several major statutes between 2024 - 2026.[39] Key pieces of legislation passed during these periods include the following:

a) The Electoral Act 2026. This Act was passed to update the 2022 law, particularly regarding electronic transmission of results.[40]

b) Fiscal Reform: The Nigeria Tax Act 2025 and Nigeria Tax Administration Act 2025 unified multiple tax codes, while the Joint Revenue Board Act 2025 created new regulatory bodies such as the Joint Revenue Board (JRB), Tax Appeal Tribunal (TAT) , and Office of the Tax Ombud.[41]

1.3.2 Power to Control the Executive

Apart from the primary powers of making laws, the Constitution has also conferred on the National Assembly the powers to control certain Executive functions. This, perhaps, is to enable the National Assembly have some influence in the implementation of its laws and policies. The state Houses of Assembly have the same powers. These powers includes that of confirming the appointment of the federal and states executive councils;[42] determining the number and remuneration of Special Advisers,[43] as well as confirmation of the appointment of

[33] Cap E1 LFN 2004.
[34] Cap C31 LFN 2004.
[35] FOI Act of 2011.
[36] Cap HB.214, 2011 (as amended).
[37] Cap C15 LFN 2004
[38] This Act has been amended by the *Tribunals (certain consequential Amendments) Act No.62 of 1999, now Cap F2 LFN 2004.*
[39] https://nass.gov.ng, accessed on 18/8/2026 at 1.41pm
[40] Ibid
[41] Ibid
[42]Section 147(2) and 192(2) of the 1999 Constitution.
[43] Ibid, Section 151(2) and 196(2).

chairmen and members of the other federal and state executive bodies.[44] The power of confirmation is, perhaps, to ensure that only competent and qualified persons are appointed into such bodies. This, if properly exercised, can ensure good governance and qualitative life to all Nigerians.

It must, however, be emphasized that unless properly managed, the exercise of this power is a potential source of conflict between the legislature and the executive. This is especially where party differences between the two arms are brought into play, or simply where some pernicious considerations are brought in. it would, therefore, reduce the potential problems if the National Assembly or the States Houses of Assembly, as the case may be, would have some standard guidelines to help them in exercising these powers.

1.3.3 Power to Control Public Funds

It must be stressed here that no legislative power of executive control would be worth its value unless and until some instrument of enforcement accompanies it. Consequently, financial control by the National Assembly may be *sine quo non* to any semblance of control it may have over the executive. By and large, the National Assembly being direct representatives of the people deserve a higher degree of control on spending public funds. This will certainly ensure good governance in the country.

Happily, the Constitutional arrangement has taken effective care of this need. It prohibits any expenditure either from the consolidated revenue fund or any other fund except it has been authorized by an Act of the National Assembly or the law of States Houses of Assembly respectively.[45] Thus, before the commencement of any financial year, the president or the Governor, as the case may be, must have to present before the respective National Assembly and State Houses of Assembly an estimate of revenue and expenditure in what is known as Appropriation Bill. It is this Bill when duly passed and assented to into a law that forms the authorization needed from the legislature before public funds are expended. Thus, except in some circumstances allowed by the Constitution,[46] any expenditure outside the Appropriation law is unconstitutional.

Apart from the power to authorize expenditure, the National Assembly and State Houses of Assembly have also been conferred with the powers to fix the salaries and remuneration of some key government officials including the president and the State Governors.[47] Similarly, the Auditor-General of the Federation or of the state is obliged to submit an audited account to either the National Assembly or State Houses of Assembly as the case may be.[48] The aim here is to

[44] Ibid, Section 154(1) and 198(1).
[45] Ibid, Section 80 and 120.
[46] Ibid, Section 82, 83, 122 and 123.
[47] Ibid, Section 84 and 124.
[48] Ibid, Section 85 and 125.

further enable the National Assembly or State Houses of Assembly monitor compliance of the approved appropriation law, thus fostering good governance, transparency and accountability.

1.3.4 Investigatory Power

This may best be described as an ancillary power to the general legislative powers and functions. It is provided for mainly to assist the national Assembly in the exercise of its law-making powers.

The Constitution provides that the National Assembly may by resolution, direct or cause to be directed an investigation into:

(a) Any matter or thing with respect to which it has powers 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 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.[49]

These quasi-judicial powers must not in any way be treated as absolute and independent power, since the Constitution itself subjected whatever powers that may be conferred by these provisions to any other constitutional limitations. Thus the powers must not be interpreted as to impinge on the constitutionally guaranteed powers of the judiciary.

Therefore, the investigatory power must not be exercised as to either usurp the police powers to crime investigation or the court's power to judicial trial.[50] Similarly, the power must not be exercised in a manner as to infringe on the constitutionally guaranteed rights of the citizens. These rights include but not limited to the right to personal liberty,[51] the right to fair hearing,[52] and the right to private and family life.[53]

One very fundamental limitation to this power is that it must be exercised with respect to matters to which the National Assembly has powers to make laws as contained in the legislative list.[54] In addition, the investigations must be for two main objectives, namely, to make laws with respect to any matter within its legislative competence and to correct any defects in the existing laws. Secondly, to expose corruption, inefficiency or waste in the execution or administration of

[49] Ibid, Section 88.
[50] *Akomolafe vs. Ondo State House of Assembly* (1984)5 NCLR 355.
[51] Section 35 of the 1999 Constitution.
[52] Ibid, Section 36.
[53] Ibid, Section 37.
[54] Section 4 and parts I & II to the Schedule of the 1999 Constitution.

laws within its legislative competence and in the disbursement or administration of funds appropriated by it.[55]

While the first objective clearly limits the aim of the investigation to the law making process, the second is to ensure transparency and accountability, thereby enhancing good governance in the country.

For the purpose of any investigation, the Constitution empowers the National Assembly to procure written or oral evidence, require that such oral evidence be on oath, summon any person to give evidence, and on failure, a warrant may be issued to compel attendance.[56]

One other issue arising out of the above is whether the president and his vice or the Governor and his Deputy could be summoned and be compelled to appear and give evidence before the National Assembly? The answer appears to be in the negative for the Constitution confers immunity to this category of officers against any arrest, imprisonment and compellability to give evidence either as a result of court's process or otherwise.[57] It is respectfully Submitted that that since the application of Section 89 is subject to other provisions of the constitution, it would be inapplicable to these officers.

1.4 Limitations on Legislative Powers of the National Assembly

The National Assembly's authority is not absolute; it operates within constitutional constraints designed to safeguard individual rights, maintain balance among government branches, and protect the federal character of Nigeria. Chapter IV[58] enshrines Fundamental Human Rights which limit any legislation that could infringe upon these freedoms.

The doctrine of separation of powers institutes checks by the executive and judiciary to prevent legislative overreach. Specific constitutional prohibitions exist, such as barring laws with retrospective criminal effects,[59] preserving fairness and justice.

Legal precedence establishes that in concurrent legislation, state laws override federal statutes when inconsistency arises, reinforcing the federated nature of governance. Moreover, judicial review empowered by the Constitution[60] authorizes courts to declare unconstitutional any legislation that violates the Constitution, serving as a critical check on legislative powers. Implied boundaries also restrict the Assembly from encroaching on the core functions of the executive and judiciary. Public opinion and media scrutiny also function as informal yet powerful checks by holding legislators accountable and influencing policy directions.

[55] Ibid, Section 88(2).
[56] Ibid, Section 89.
[57] Ibid, Section 308(1) and (3).
[58] Ibid, Sections 33 - 44.
[59] Ibid, Section 4 (9).
[60] Ibid, Section 6

Internally, the National Assembly's own rules and procedures regulate legislative conduct and processes, while federalism structurally divides powers between the federal and state governments, allowing localized governance and preventing centralization. Finally, elections serve as ultimate democratic checks, empowering the electorate to reward or penalize representatives based on their performance.

1.5 Conclusion

This paper has so far examined the various legislative powers conferred by the 1999 Constitution on the National Assembly to make laws for the peace, order and good governance of the federation or any part thereof. It may be stated as a fact that the survival of democracy, the world over, depends on an effective legislature that enact laws which promote good governance and provide checks on executive excesses. In a presidential system like ours, the role of the National Assembly in making laws for the good governance of the federation is paramount. It is submitted that the 1999 Constitution (as amended) has provided a fairly enough legislative authority to the National Assembly for the discharge of its legislative functions.

Based on the above, this paper brings forth the following findings:

1. It takes years for Bills, which are meant to enhance good governance, to be passed by the National Assembly; and

2. The financial recklessness of some members of the National Assembly and sometimes absence of decorum in which the activities of the two houses of the National Assembly are conducted have, to a large extent, smeared the image of the legislature.

Based on the above findings, this paper proffers the following recommendations:

1. Enhancement of legislative capacity through training and institutional reforms especially on the need for speedy passage of bills,

2. Deepening of transparency and anti-corruption measures. In this circumstance, the National Assembly must avoid any act that will tarnish its image. It must also live to its responsibilities of enacting laws that will provide good governance and diligently exercise its oversight function under the Constitution.