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Translating Policy into Legislation in Nigeria

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Abstract

Legislation goes through processes before it becomes law. It starts as a public policy to bring about a change in society. To make such public policy binding and effective, some of them are translated into a draft bill and sent to the legislature for onward passage into law. This research, therefore, examines the process of translating public policy into legislation in Nigeria. This research is based on the doctrinal method, which is library-oriented. Primary sources of materials were utilised such as the Constitution of the Federal Republic of Nigeria 1999 and many other relevant statutes and secondary materials such as textbooks, journals, articles, newspapers and internet sources. The research finds that even though the government can implement some of its decision in the form of policies, however, public policies have their limitations which is why some of these public policies must be translated into a draft bill and forwarded to the legislature for onward passage into law. The research also recommends that there should be more training and retraining of legislators, policy makers and legislative drafters involved in the translation of public policy into legislation.

Keywords: *Bill, Law, Legislation, Policy, Translating.*

1. Introduction

Policies are a form of government engagement with direct influence on the citizens which may be directed towards particular sectors of the economy or the general welfare of citizens. The lives of citizens are strongly affected by these policies and the results of policy failures can be challenging.[1]The actions and inactions of government on policy directions as it affects education, security, health, trade and investment, agriculture, poverty reduction, as well as other aspects of the economy, development, and governance have sadly led to untold hardship on the citizens. The damage over the years has left communities with widespread infrastructural and institutional poverty, a rise in crime, food shortage, failure or near-collapse of the education sector, a rise in sectional violence, the spread of diseases, instability, an epidemic of insecurity, instability, insecurity, and numerous other problems. Most worrisome is the fate of governance where the loss

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[1] Lucie Cerna, 'The Nature of Policy Change and Implementation: A Review of Different Theoretical Approaches'<https://www.oecd.org/education/ceri/The%20Nature%20of%20Policy%20Change%20and%20Implementation.pdf> accessed 17 August 2023.

of trust in the government saturates the nation. This perhaps arises from the ineffective translation of government policies into law.[2]

Governments particularly during campaigns and immediately afterwards make a lot of promises which are later declared as government policies. Once a policy is adopted, there is an alternative to either translate it into legislation or implement it as a policy. If there is a need for the backing of the law to ensure the practicability and enforcement of the policy, then it is translated into a draft bill and taken to the legislature for passage into law when the president or governor, as the case may be, assents to it. It is the function of the legislative drafter to translate the public policy into a draft bill for onward transmission to the legislature. At the national level, those in charge of translating public policy into bills are in the case of the executive, lawyers in the department of legal drafting in the Federal Ministry of Justice while in the National Assembly, it is lawyers in the directorate of legal services. At the various states, executive bills are drafted by lawyers in the department of legal drafting of the State Ministry of Justice while in the State House of Assembly, bills are drafted by lawyers in the department of legal drafting of the State House of Assembly. Generally, lawyers who draft bills are called legislative drafters or more recently called legislative drafters.[3]Notwithstanding the importance of translating policies into legislation for better effectiveness of public policies, Nigeria is yet to achieve a working structural pattern that will facilitate the law-making process of policies with ease. It is with this concern that this research examines the process of translating public policies into binding legislation.

2. Conceptual Framework

The system adopted determines the legislative practice and procedure. Since the objective of this paper is to examine the process of translating policy into legislation, it is imperative to contextualise both public policy and legislation briefly.

2.1 Public Policy

Public Policy is a course of action or program that is meant to handle a particular social problem. Public policies deal with present and future problems of society and involve all legitimate means of achieving stated objectives of government and rendering social services to the community by a governmental agency or ministerial department. The policy is central to the operation and activities of both public and private institutions. A policy option made by an individual or private institution is known as a private policy while one made by the government or its institutions is known as a public policy.[4] In Nigeria, just like other nations, public policy is the springboard for channeling development. It is pivotal to translating government intentions into practical actions.[5]

According to Ikelegbe,[6] a policy simply means "actions are taken or to be taken, and actions not taken or not to be taken by a government or private organisations. It is a statement of what an organisation wants to do, what it is doing, what it is not doing and what would not be done". On the other hand, Anderson[7] does not subscribe to this view that an intended course of action constitutes a policy, but posits that a policy is "what is *actually (sic)* done instead of what is only

[2]Nicholas Sunday, *Law and Public Policy: Policy Made Simple* (Munich, GRIN Verlag 2013) 34.
[3]Jaja, Tonye Clinton, 'Strategies for Improvement of the Quality of Bills and Legislative Drafting in Nigeria'*NILDS Journal of Law Review* (2018) (1) (1).
[4]I. Dialoke; UkahFinian; MaduagwunaIfeyinwa Veronica, 'Policy Formulation and Implementation in Nigeria: The Bane of Underdevelopment') *International Journal of Capacity Building in Education and Management*[2017]3(2).
[5] ACB Agbazuere, 'Challenges of Public Policy Making and Execution in Nigeria'*European Scientific Journal*(7)[2020] (16) (7).
[6]AIkelegbe, '*Public Policy Analysis: Concepts, Issues and Case.*'(Imprint Services, Lagos 2005).
[7] JE Anderson, '*Public Policy Making'* (5th ed. Houghton Mifflin Company, Boston 2003) 32.

postponed or intended"; hence, he defined a policy "as a relatively stable, purposive course of action followed by an actor or set of actions in dealing with a problem or matter of concern". The two definitions, however, have a point of convergence, that is: a policy differs from a decision in that while a policy has larger complexities and a longer time perspective for its attainment, a decision is simply a choice made among competing alternatives. Put sharply, a policy establishes a broad framework within which discrete decisions are taken[8]. However, the term policy as it is used in this study refers to only those formulated by the government.

2.2 Legislation

Legislation is the will of the Legislature. It is also a form of communication that dictates the rights, obligations, powers, privileges and duties. It prescribes what should and should not be done. In most instances, legislations compel or directs and prescribes punishment for its non-compliance.[9] The legislation also covers subsidiary legislation made by other arms of government under powers delegated to it by the Legislature.[10]

In the making of legislation, the assent of the executive (the President or Governor as the case may be), is required to make legislation effective except where the exercise of veto power is overridden by a sufficient majority of each House of the Legislature.[11]Furthermore, the role of the executive involves far more than mere acquiescence or dissent. They also extensively participate in the formulation of governmental policy and the actual drafting of legislation.[12]

Legislation is a basic tool used by the government to govern a society and therefore, an expertly crafted legislation is fundamental to every democracy.[13] According to Crabbe, "Governments need legislation to govern, the governed need well drafted, readable understandable legislation."[14] Just as legislation is very essential to the government to be able to maintain a stable society, it is equally essential to the governed whose rights and duties are entrenched in them.

A piece of legislation could be seen as a tool in the government's hand for governance while politicians and administrators will consider it a means to attain their economic, cultural, political and social policies[15] to bring development and regulate behaviour in society. Legislation is a deliberate exercise of law-making powers by a person or persons legally or constitutionally empowered to do so in a political setting.[16] It is a utilitarian instrument for the socio-economic and technological development of a country. Legislation is the product of a deliberate and formal expression of rules of conduct made by the relevant law-making authority. Such relevant authority must be recognized for this purpose by the operative political and legal machinery of that state, for instance, the Constitution or else the law it enacts will be considered void. For the benefit of this

[8] G Wilson; AEpelle, 'Public Policy Formulation and Implementation in Contemporary Nigeria' *International Journal of Research in Social Sciences* [2018] (8)(6) 76.
[9] D.T Adem, *Legislative Drafting Manual* (LexisNexis Worldwide 2014) 58.
[10] G.C Thornton, *Legislative Drafting* (4thEdn. Butterworths, Reeds Elevier (UK) Ltd 1996) 67.
[11] See section 58 of the Constitution of the Federal Republic of Nigeria, 1999.
[12]Lawyers in the Department of Legal Drafting in the Federal Ministry of Justice or the Ministry of Justice of the State draft executive bills.
[13]SakariArkio, 'Assessment of Draft Legislation in Finland', in Kellermann and Others, *Improving the Quality of Legislation in Europe.* (Kluwer, The Hague, 1998) 228.
[14]VCRAC Crabbe*, Crabbe on Legislative Drafting* (2nd edn., Lexis Nexis 2008) 17.
[15] Ibid.
[16] Florence Masajuwa, 'Legislation as a source of Law and Statutory Interpretation' (Lecture note is licensed under Creative Commons).

research, the definition of legislation will be restricted to Acts of the National Assembly and Laws made by the various State Houses of Assembly.

3. Stages of Public Policy

Public policy goes through 5 stages. They are:

1. Policy Initiation/Agenda building
2. Policy Formulation
3. Policy Adoption
4. Policy Implementation
5. Policy Evaluation

3.1 Policy Initiation/ Agenda Building

This is the first stage of the policy process. It has to do with the process through which a public problem is acknowledged to be of public interest. To create a policy, the government's attention has to be focused on a pressing problem requiring attention. Policy initiation involves needs identification. Policies are initiated based on the identified needs of society. Thus, before a policy can be created, a problem must exist that is called to the attention of the government.[17]

Policies are initiated due to the public opinions that government gives or intends to give serious attention to. Therefore, this builds the agenda of a particular government. Such agendas become public problems awaiting a response in the present or the future. Policy initiation denotes the phase in the policy process when the government begins to think about, consider and discuss the policy problems and the probable nature of the response.[18]Problem identification is the starting point in this process and will set the tone for the remainder of the stages. To achieve successful public policy, the problem must be clearly defined and understood at an appropriate scale. A problem could be, to deal with an emergency, stimulate economic growth, improve living standards, alleviate an economic or social difficulty or meet a technological change[19].

However, as easy as that seems in theory, identifying the issue to be addressed might not be that easy in reality because what some refer to as a problem might not be considered a problem by others. This will thus pose a problem for policymakers, for example, a certain group of people may regard the free-roaming of cows in the city as a problem and might call on the government to find a way to stop it. However, some other people might not regard it as a problem, thinking the government has greater problems to deal with than such.

According to Ishola and Adebola[20], problem identification is the first stage where the problem which seeks a solution is clearly defined. A policy is developed or formed due to an existing problem either concerning a certain group in society or the generality of the citizens in a country. Identifying the problem involves studying the problem and its causes. This is the stage where some vital questions that are crucial to the policy process will be asked. Such questions include: which

[17]Remi Anifowose and Francis C. Enemuo, *Element of Politics* (Malthouse, Lagos 2015) 214.
[18] V Menon, *Public Policy and Administration* (Wisdom Press, New Delhi, India 2014) 56.
[19] VE Aitken,'An Exposition of Legislative Quality and its Relevance for Effective Development' (Rule of Law Development Advisor, PROLAW Graduate, previously practised as a legislative drafter and legal consultant, July 2013).
[20]Ishola, Adebola, 'Legislators' Role in Problem Identification and Agenda Setting in Public Policy Process in Nigeria' *International Journal of Advanced Research*[2019] (7) 23.

groups or members of the society are affected by the problem identified or if it affects every segment of the society, will a single action bring relief, and will government intervention be effective?

3.2 Policy Formulation

Policy formation refers to the development of relevant policy about public problems and the proposition, consideration and enactment of the policy. This refers specifically to the consideration of policy alternatives, which may be the recommendation of a policy by and executive body or enactment by a legislative body or the making of a regulation or an executive order. Policy formulation is important because the fact that government considers responses to a problem is not enough. Government may decide to respond through a non-decision or defer action and it may as well take action to resolve the problem. The nature of action would depend on the nature and circumstances of the public problem.

This is the development of effective and acceptable courses of action for addressing what has been placed on the policy agenda. This second step would be to develop a policy that will address the problem identified and achieve the objective. This also involves confirming the policy objective, determining the mechanisms and resources to implement the policy, including the decision whether to implement by legislative instrument and, if so, the level of the legislative instrument to be used. It includes designing and writing the legislative provisions that will communicate and affect the policy. In this way, if it is decided to implement by a legislative instrument, legislation is a tool for effecting public policy.[21]

According to Nwekeaku[22], policy formulation involves identifying the problem, analysis of the problem, implications, rules, and regulations concerning the issue, as well as selecting the principles that are in consonant with the objectives. He further opined that the formulation stage involves asking questions such as:

(a) what are the cost implications?

(b) Who are the beneficiaries?

(c) What are the consequences of this policy?

(d) What are the best options for this policy?

(e) Is it in the public interest?

In policy formulation, it is important to carry along all major stakeholders in the process for an effective outcome. There should be a flexible top-down approach. The importance of consultations and the involvement of stakeholders in the policy formulation process is to create a sense of policy ownership among stakeholders. This enables the stakeholders to see the policy as reflecting their beliefs or needs. Limited or lack of involvement of stakeholders might make the affected stakeholders regard the policy as unnecessary because it may be seen as offending their ideological inclinations. This could result in strong opposition to the policy and cause a need to go through the

[21]Ishola, Adebola, 'Legislators' Role in Problem Identification and Agenda Setting in Public Policy Process in Nigeria'*International Journal of Advanced Research* [2019] (7) 24.

[22] CE Nwekeaku, *Public Administration Principles and Theory* (Ogunmileye Press Nig. Ltd., Abuja 2014) 156.

formulation process again to make the policy more effective or to remove portions that appear ineffective/offensive[23].

Aitken gave a checklist for policy formulation or development as follows[24]:

1. What is the problem to be addressed, how is it caused and why is it necessary for the government to take action to address it?
2. What is the present factual, legal, social, economic, political and global, and regional position relevant to the problem?
3. What is the policy objective to be achieved in overcoming the problem?
4. Have sufficient legal and social research and assessment procedures been undertaken to ascertain the facts and define the problem and objective?
5. Has there been sufficient consultation with and participation by stakeholders and other interested persons?
6. What are the alternative options for action to address the problem and achieve the objective? In identifying the possible options, has consideration been given to the following:
    a. Is government action necessary and at what level of government?
    b. Is immediate action necessary?
    c. Who will be most directly affected by each option and are they likely to take advantage of opportunities or comply with the requirements of each option?
    d. What are the mechanisms for implementing, enforcing, and achieving compliance with each option?
    e. What arethe anticipated costs, benefits, risks, implementation difficulties, and outcomes of each option, and is there an acceptable cost-benefit relationship between the costs of implementation and enforcement of each option and the likely results achieved?
    f. Is implementation and enforcement of each option practicable and within financial, human resources, and technological capacity?
    g. What are the likely intended and unintended effects of implementing each option?
7. What is the preferred option and why? Do the benefits of that option justify the costs, risks, and difficulties predicted? Does this option comply with the constitution and is it consistent with the existing law and legal system?
8. What are the proposed mechanisms for monitoring implementation and conducting the ex-post evaluation?
9. Has an ex-ante assessment been undertaken to explain and understand the policy objective, identify and ascertain the likely effects, costs, benefits, risks, consequences, and impacts of

[23] CW Anderson, 'Comparative Policy Analysis: The Design of Measures' *Journal of Comparative Politics*[1971] (4) (1) 117.

[24] VE Aitken (n19) 33.

each possible option for implementing the policy and inform the process for determining the preferred option and developing the policy?

3.3 Policy Adoption

This is the third stage of the policy process. At this stage, a policy is adopted by the policymakers for implementation. Policy adoption involves decisions being taken at the governmental level, resulting in a decision that favours one or more approaches to addressing a given problem. Formulated policies have to be adopted by relevant institutions of government to be put into effect. Adoption can be affected by the same factors that influence what issues move into the earlier stage of agenda building.

This step is what Aitken[25] calls ex-ante assessment which is analysing, assessing, and testing the likely effects, consequences, and impact of a proposal for government action to overcome an identified problem[26], and is intended to help "narrow the gap between the expected results and actual outcomes" of taking the action. It is a predictive or preparatory process that informs policy decisions and facilitates evidence-based policy-making by establishing the case for taking action to deal with an identified problem and highlighting the actions to take in so doing. The problem and the objective for solving the problem that has given rise to the need to take government action are also analysed.[27]

3.4 Policy Implementation

This has to do with translating the goals and objectives of a policy into action, giving effect to policy so that the objectives of the policy can be achieved. Policy implementation is the process of translating policy mandates into action, prescriptions into results and goals into reality. It refers to the processes and reality. It refers to the processes and activities involved in the application, effectuation and administering of a policy. It is the actions taken to carry out, accomplish and fulfill the intents, objectives and expected outcomes of public policies. It is the act and process of converting a policy into reality and enforcing a policy. The implementation process consists of the implementing organisation, the environment, particularly the political and economic environment, the policy target group, the objectives and the enunciated method of implementation and policy resources.

This is the critical stage in the policy-making process as it determines the overview of the quality of the decision made. This stage is very sensitive and subject to criticism. The quality of a policy is determined by its implementation, and not how good it looks on paper. For instance, the 6 – 3 – 3 – 4 policy on education looks so good on paper but how effective is it since its inception? In Nigeria, it is a well-known fact that the ability to implement a policy is a big problem. However, policy implementation centres on, who is involved, what is to be done to carry policy into effect, what resources are available for policy implementation, what impact does this have on policy content.[28]

3.5 Policy Evaluation

This is the last stage of the public policy process. After the implementation stage, performance appraisal comes up which is done through evaluation. The essence is to know how well a policy is

[25]VE Aitken (n19) 34.

[26]The processes are also referred to as checking, appraising, verifying or evaluating the impact of future government action (European Commission 2001) or regulatory impact assessment.

[27] The purpose of an ex-ante evaluation is to have better insight into the possible or potential effects of a proposed policy and the mechanism planned to give it effect.

[28]CE Nwekeaku, *Public Administration Principles and Theory* (Ogunmileye Press Nig. Ltd., Abuja 2014) 156.

doing concerning intended purposes, objectives targets and intended accomplishments. It relates to whether intended services have been delivered, the intended outcome or other desired state is achieved, or whether the target problem or situation has experienced the desired changes. Performance answers the question of how the policy has fared in its interaction with the environment. The degree of achievement of the aforementioned aspects determines the level of performance. Performance encompasses effectiveness and efficiency. It is at this stage that a policy is evaluated to verify whether its implementation and its effects are aligned with the objectives that were explicitly or implicitly set out. This evaluation can be carried out by the government apparatus, consultants, or civil society.[29]

Policy evaluation is the assessment of the overall effectiveness of a national program or policy in meeting its objectives. Policy evaluation is a tool for measuring the worthiness, performance, and efficacy of any policy. It is concerned with the ability of the policy to improve some social conditions and the effectiveness of a public policy in terms of its perceived intentions and results. Evaluation involves checking how well the policy is working out, which is a difficult task. The cost-benefit analysis is used by people inside and outside the government to determine whether government expenditure on a particular program, is justified by the benefits derived from it. Further, different or also contradictory interpretations may be obtained from the data that forms the basis of the cost-benefit analysis. History has shown that once implemented, policies are difficult to terminate. When they are terminated, it is usually because the policy became obsolete, clearly did not work, or lost its support among the interest groups and elected officials that placed it on the agenda in the first place.[30]

Policy evaluation refers to the assessment of the policy so pursued. It is the stage at which the stated objectives are scrutinised to show if there is a gap. Where there is a vacuum between intended objectives and the actual outcome, there is an implementation gap. The step also involves identifying alternative options for action to solve the problem that is within the resources and capability of the government, making prospective estimations of the implementation and enforcement requirements, other potential effects (including counter-effects), costs, benefits, and risks of each option, deducing the likely adequacy of each option to achieve the objective, (and by so doing testing whether it is likely to be an effective and efficient option) and recommending the option that is likely to be the most effective and efficient means for solving the problem.

Evaluation of policies can be done by the policymakers, the implementing organ, members of the public and public policy analysts or experts. There are some good techniques used in policy evaluation, these include the Cost Benefit Analysis (CBA), the Cost Effectiveness Analysis (CEA), Management by Objectives (MBO), Programme Planning and Budgeting System (PPBS), Programme Evaluation and Review Technique (PERT), and Zero-Based Budgeting (ZBB). Evaluation enhances data availability on the state of programmes and provides feedback on the programme results, activity and impact.[31]

This information is presented to the policy decision-maker in a clear and well-structured way to guide the government in deciding which action is likely to be the most appropriate to resolve the problem in a manner that minimises costs and administrative burdens on government and society and is suitable for national economic, social and political realities

[29] M Howlett; M. Ramesh, '*Studying Public Policy: Policy Cycles and Policy Subsystems'* (Oxford UP Toronto, 2003).
[30] Aitken (n19) 34.
[31] M Howlett; M. Ramesh, '*Studying Public Policy: Policy Cycles and Policy Subsystems'* (Oxford UP Toronto, 2003) 56.

4. Translating a Policy into Legislation

The Nigerian Legislature at the national level is made up of the Senate and the House of Representatives.[32] The Senate has 109 Senators[33] while the House of Representatives has 360 members.[34]The Constitution has vested in the National Assembly the power to make laws for the peace, order and good governance of the Federation.[35] The Assembly also has broad oversight functions and is therefore empowered to establish committees of its members to scrutinise bills and the conduct of government institutions and officials.[36]

After a bill is drafted by a legislative drafter, it is then sent to the National Assembly by giving a notice of presentation.[37]Where the bill is an executive bill, the Clerk, on receiving the draft from the Senate President or Speaker, must number the bill and publish it in the Journal of Official Gazette. A copy must be sent to every member of the chamber in question. For a Private Member's Bill, the Member or legislator sponsoring the bill must move by way of a motion, for leave to present the bill by sending a copy to the Clerk of the House. The Member must also cause the bill to be published in at least two successive issues of the Official Gazette. A copy of the first issue must be sent to each Member after its publication. All bills are numbered or marked according to their chamber of origin. For example, a bill from the House of Representatives is marked HB (House Bill). While the one from the Senate is marked SB (Senate Bill). An Executive bill is marked with "Executive" printed on the title page of the bill. It is printed tiny and to the right-hand side of the page.

On the receipt of a bill, the Speaker forwards it to the Rules and Business Committee while the Senate President sends it to the Committee on the Rules and Procedure. These Committees then look at the bill to determine whether it meets all the standards in draft and presentation. If not, the bill will be forwarded to the Legal Department of the National Assembly for re-drafting and further advice. After this; the Committee then sends the bill for gazetting and for subsequent stages: first, second and third readings[38].

Executive bills are gazetted or published in the House/Senate Journal once, while those introduced by legislators are published three times before they can be presented to the House of Representatives/Senate for consideration. The House Rules and Business Committee or the Senate Committee on Rules and Procedures is also expected to determine the day and the time a bill is to be discussed in the House of Representatives/Senate. All bills must receive three readings before they can be passed into law and the readings must be on different days.[39]

Some bills can receive accelerated consideration on the same day based on their urgency and significance for government policy. In that case, the rules of legislators in the House/Senate to be suspended for easy passage. Examples of such bills that may receive accelerated hearings are the

[32]Section 4(1) of the 1999 Constitution of the Federal Republic of Nigeria, 1999.
[33]Section 48 of the Constitution of the Federal Republic of Nigeria, 1999, provides that the Senate shall consist of three senators from each state and one from the FCT.
[34]Section 49 of the Constitution of the Federal Republic of Nigeria, 1999 provides that the House of Representatives shall consist of 360 members representing constituencies of nearly equal population as far as possible provided that no constituency shall fall within more than one state.
[35]Section 4(2) of the Constitution of the Federal Republic of Nigeria, 1999.
[36]Section 62 of the Constitution of the Federal Republic of Nigeria, 1999.
[37] RA Ahmadu, *A Handbook on Legislative Practice and Procedure of the National Assembly* (2nd edn. Innovative Communications, 2011).
[38]AAwotokun, 'Legislative, Executive and Judicial Duties in Sustaining Democracy: A Theoretical Discourse in Nigeria' (1998) XXIV (1-2) *Indian Socio-Legal Journal*, 34.
[39]*Ibid*.

ones that are needed to enable the president to take urgent action on matters relating to national security.[40]

A summary of the process which a public policy which has now been converted to a draft bill goes through for it to become legislation are:

4.1 First Reading

The Clerk of the House/Senate usually does the reading of bills scheduled on the House/Senate Calendar[41]. The Clerk of the House/Senate reads the short title of the bill for the first reading and then proceeds to "table" it.[42] Normally, at this stage, there is no debate on the bill on the floor of the House/Senate. The reading simply informs the legislators that a particular bill has been introduced and received from here, and the bill moves to the next stage.

4.2 Second Reading

This period is when legislators debate over the bill. Usually, speakers on a bill are allocated a time of about five or seven minutes to speak. Debate commences with a motion by the Senate or House Leader that the bill be read the second time if it is an Executive Bill. The motion must be seconded (supported) by any of the other parties' leaders. When it is not seconded, the bill cannot be debated but, in most cases, Executive bills are allowed, as a matter of courtesy to proceed to a second reading.[43]

However, if the bill is by a legislator of the House or the Senate, the sponsor of the bill would move the motion that it be read the second time. The motion must be seconded (supported) by another legislator of the House or Senate. Also, when a bill by a legislator cannot get the support of another legislator in the House or Senate, it cannot be debated and hence stands rejected.[44]

The person moving the motion, whether in the case of an Executive or Member bill, is expected to lead a debate to highlight the objectives, general principles and subject matter of the bill. He is also expected to state the benefits of the bill if passed into law. If the House agrees to the motion, the Clerk will read the long title of the bill. Immediately after this, Members must signify their intention to speak on the bill. Two things can occur at this stage:

(i) The bill may receive the support of the majority of the House/ Senate and be allowed to move to the next stage. Once it gets the needed support, it moves to the Committee stage.

(ii) The bill may be "Negatived" (killed) if it does not get the support of the majority of the House or Senate Members.

When a bill is killed, it is taken off the table and cannot be discussed until it is re-introduced at a later date. After the debate on the general principles of the bill, it is referred to the appropriate Standing Committee. The Senate President/Speaker of the House is empowered by the rules of both the Senate and the House to determine the relevant committee(s) to which the bill is referred.[45]

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[40]Okoosi-Simbine,Ibid.

[41] This is a schedule indicating the day and the time each bill will receive a reading.

[42] The word "table" is used to mean the action by which the Clerk places the bill on the table before the Speaker/Senate President.

[43]Awotokun (n38) 35.

[44]*Ibid*.

[45]PLAC Handbook: A guide to the Nigerian National Assembly. Page 03 <https://placng.org/i/wp-content/uploads/2019/12/A-Guide-to-the-Nigerian-National-Assembly.pdf> accessed 20/12/2022.

4.3 Committee Stage

This is the period when the committee assigned to deliberate on a bill examines it more critically. The House and the Senate have two types of committees. The first one is the Committee of the Whole House and the second is the Standing Committees. The House and Senate have many Standing Committees.[46]

If the Committee of the Whole House is to discuss a bill, the Deputy Speaker of the House acts as the chairperson. The Speaker would leave his/her seat and sit at the Clerk's seat. The mace too will be taken to 'the lower table for the Committee of the Whole House deliberation to commence. In the case of the Senate, the Senate President acts as the chairperson of the Committee of the Whole House and thus presides over the Committee's sittings. When the Deputy Speaker or the Senate President presides over the Committee of the Whole House, he or she stops being addressed as the Deputy Speaker or the Senate President. Rather, he or she is to be called "Mr. Chairman Sir" or "Chairperson Ma" for the period of the Committee session[47]. As for the Standing Committees, the chairperson presides over the committee or, in his/her absence; the Deputy stands in for him/her. Chairpersons of Standing Committees are appointed by the Senate President/Speaker of the House.

Committees examine all aspects of the bill clause-by-clause and point-by-point. They also organise public hearings on the bill. This may take place at the National Assembly Complex or any other area or location the Committee deems appropriate. Any member of the public or expert(s) having an interest in the bill may be allowed to attend the public hearing and make contributions to the public debate of the bill. A member of the public can make suggestions (s) on any aspect of the bill, but only a legislator who is a Member of the Committee can propose amendments to the bill. All amendments must be in line with, and relevant to, the principle and the subject matter of the bill as agreed to at the second reading stage.[48]

Sometimes, however, a bill may touch on areas of two or more Standing Committees. When this happens, the committee with dominant issues will take the bill while others will form subcommittees to consider areas relating to them and report to the main committee. The main committee will collate all suggestions and amendments of the "sub-committees" and report to the House/Senate. For example, all committees are always involved in the "Appropriation Bill" (Budget) but they act as sub-committees to the Appropriation Committee in the House/Senate. In other words, they report back to the Appropriation Committee with their changes or amendments.[49]

4.4 Committee Report to the Whole House

After the committee has concluded its work, it will report back to the Whole House/Senate in plenary with or without amendments. It must beforehand ask the House Rules and Business Committee/Senate Committee on Rules and Procedure to put the bill on the House/Senate Calendar.[50] It is important to note that the Committee of the Whole House must also report back to the House/ Senate. When it is reporting back, the Speaker or the Senate President goes back to his/her former seat and the mace is returned to its original position. Whether it is the Standing Committee or the Committee of the Whole House that considered a bill, at the committee stage,

[46] A Okoosi-Simbine, A. 'Understanding the Role and Challenges of the Legislature in the Fourth Republic: The Case of Oyo State House of Assembly' *Nigeria Journal of Legislative Affairs* (2010) 3 (1& 2) 22.
[47] *Ibid.*
[48] TH Little; DB Ogle, The Legislative Branch of State Government: People, Process and Politics (2006).
[49] *Ibid*.
[50] i.e. fix a date and time for the hearing of the committee's report.

the chairperson is expected via a motion to report progress on the bill. All things being equal, a clean copy of the bill is prepared by the Clerk of each chamber.[51]

4.6 Third Reading

After the report of the Committee and the deliberation of the Committee of the Whole House, a motion may be moved that the bill be read the third time either immediately or at a later date and passed after each chamber has certified the contents of the clean copy to be accurate. Generally, no amendment can be entertained after the third reading stage. However, if a legislator wishes to amend or delete a provision contained in the bill or to introduce a new provision, the legislator must give notice of his/her intention "That the bill be re-committed" before the motion for the third reading is moved. If the motion is agreed upon, the House/Senate will dissolve itself into the Committee of the Whole House/Senate immediately or at a later date to discuss the amendments. After all necessary amendments, the House/Senate will then proceed to the third reading and pass the bill.[52]

When a bill has been read the third time and passed, a clean printed copy of it, incorporating all amendments will be produced, signed by the Clerk and endorsed by the Speaker/Senate President. The copy will then be forwarded to the Clerk of the House or Senate as the case may be. The copy will be accompanied by a message requiring the concurrence (passage of the bill or agreement) of the receiving chamber (House or Senate). In the case of the Executive bill, both chambers will just exchange copies of the bill since they both received copies and discussed the bill at almost the same time.[53]

When a bill is sent to either chamber for concurrence, three things may happen:

(i) The receiving chamber may agree with the provisions of the bill and hence pass it.

(ii) The chamber may not agree to some parts of the bill and hence make amendments.

(iii) The chamber may not agree with the bill at all and therefore reject it in its entirety. This situation is however rare and has never been witnessed in Nigeria.

In the event of the second situation, the Chamber from which the bill originated may agree with the amendments or recommendations. But if the amendments are not agreeable to the Chamber, then a Conference Committee of the two chambers will be constituted to work out any disagreement.

4.7 Conference Committee

The Conference Committee is normally constituted when there are differences in a bill passed by both legislative chambers. Membership of the Committee is based on equality, usually six members from each chamber with a senator acting as chairperson. The mandate of the Committee is to harmonise the differences between the two chambers on the bill. They cannot introduce any new matter into the bill at the conference committee. The sitting of the Conference Committee may be open or closed to the public. This will depend on the subject matter under discussion and the view of the majority of the Conference Committee members. The decision of the committee on those areas of differences is bidding on the chambers. Failure to accept the decision of the

[51] JT Komolafe, *Understanding Legislative Practice and Procedure in Nigeria* (Ancient Words Digital Press, University of Ibadan, Nigeria, 2001).

[52] Little (n48).

[53] Section 58(2) of the Constitution of the Federal Republic of Nigeria, 1999 provides that a bill may originate either in the Senate or the House of Representatives.

Conference Committee may lead to a joint sitting of both the Senate and the House with the Senate President presiding on the area of contention.[54]

The report of the Conference Committee is presented in both Chambers for consideration. If both Chambers adopt the report, all the original papers are sent to the Clerk of the Chamber where the bill originated. The Clerk puts together all the amendments and produces a clean copy of the bill which is sent to the Clerk of the National Assembly who then sends it to the President for his signature.[55]

4.8 Presidential Assent

A bill does not become law until the President signs it. The Clerk of the National Assembly will "enrol"[56] the bill for the President's signature. Once a bill has been passed by both chambers of the National Assembly, the Clerk of the National Assembly produces the clean copy, certifies it and forwards it to the President. The President has thirty (30) days to sign a bill sent to him/her by the National Assembly. If he or she disagrees with the provision of the bill or some aspects of it, the president can veto it by withholding his/her signature. Within 30 days the President must communicate to the National Assembly his/her feelings and comments about the bill.[57]

The President must state the areas that require amendment before signing the bill. If the National Assembly agrees with the President the bill can be withdrawn for deliberation on the amendments suggested by the President. However, the National Assembly is empowered by the Constitution to overrule the veto of the President. If, after 30 days, the President refuses to sign the bill and the National Assembly is not in support of the President's amendments, the two Chambers can recall the bill and re-pass it. If the bill is passed in the form it was sent to the President by a two-thirds majority vote in both Chambers, the bill automatically becomes a law even without the signature of the President[58].

The Court in the case of *The National Assembly v The President of the Federal Republic of Nigeria*[59]nullified the actions of the National Assembly in passing the Electoral Act 2004 into law by exercising its overriding veto power to pass the bill into law with a mere motion. In this case, the fulfilment of this Constitutional requirement was held to mean that:

> *…each House of the National Assembly has to pass the bill again. The language used by section 58(5) is 'and the bill is again passed by each House'. This means that the Bill has to go through the same processes it had gone through when it was first passed. That is the clear importance of 'the bill is again passed'...*

On the interpretation of 58(5), the Court further held that:

> *Giving Sections 58(5) its ordinary Natural meaning, [a]two-thirds majority of each House can only mean two-thirds of the membership of each of the Senate and the House of Representatives. It cannot mean anything else. The Section has no*

[54] TH Little and DB Ogle, *The Legislative Branch of State Government: People, Process and Politics* (ABC-CLIO2006).
[55]Ahmadu (n37).
[56] Enrolment is the production of a clean copy for the assent of the President.
[57]Section 58(4) of the Constitution of the Federal Republic of Nigeria, 1999.
[58]Section 58(5) of the Constitution of the Federal Republic of Nigeria, 1999.
[59]National Assembly v President of the Federal Republic of Nigeria (2003), 9NWLR, (Pt. 824).

> *relationship with [the] ordinary quorum of each House. It is two-thirds of each of the whole of the Senate and House of Representatives. ..*[60]

However, in the case of the Niger Delta Development Commission Bill, the two Chambers passed the bill into law after the President failed to sign it within the time that is prescribed for him to do so.[61]

5. Conclusion/Recommendations

This paper examined the process of translating public policy into legislation in Nigeria. Every government desires to bring about qualitative improvement in the standard of living of its citizens, afford them security and promote growth and development. Achieving these entails not only the formulation of policies but also the articulate translation of some of these policies into legislation. In Nigeria, there has been a wide gap between the policies formulated, and those well transmitted into legislation. This paper has delved deeply into the roles of all players on the side of the policymakers who are in charge of the policy initiation and agenda building to the side of the legislative drafter who is in charge of translating the policy into a draft bill fit for presentation before the legislature, and finally to the legislature reposed with the responsibilities of guiding the policies till they become legislation. Accordingly, the paper recommended that the legislators and policymakers should be properly enlightened on policy formulation and the process of transforming policies into legislation. This will help in the policy formulation and the legislative process. Secondly, there should be continuous training and retraining of legislative drafters. Once legislative drafters are well trained, it will reflect on the quality of the legislation they draft.

[60]Per Oguntade JCA in *National Assembly v President of the Federal Republic of Nigeria*(2003), 9NWLR, (Pt. 824).
[61]Ahmadu (n37).