

A Comparative Analysis of the Interplay of Administrative and Political Structures of the Legislature in the Legislative Procedures¹ of Selected Federal Systems

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KEYWORDS Law Making. Constitutional Powers. Congress. National Assembly. Brazil. Nigeria. United States

ABSTRACT In all democracies, the legislature has the primary function of law making amongst other responsibilities. In the law-making or legislative process, there is the interplay between the political and administrative structures of the legislature. However, little or no attention has been paid to the influence of this interplay on the legislative process in the extant literature. Thus, using three federal political systems; Nigeria, Brazil and the United States as case studies, the present paper aims at the analysis of the impacts of the interplay of political and administrative structures of the legislature on their legislative processes. Comparing these systems brought to the fore the similarities and differences inherent in their legislative procedures and from the findings of the analysis, some policy lessons were drawn for Nigeria in particular. These among others, included the need for a constitutional amendment in Nigeria to restructure the unwieldy size of the Federal legislature and the development of political systems that are indigenous to its historical and socio-political milieu.

INTRODUCTION

Contemporary political discourse parades an array of literature on the constitutional role and powers of the legislature (Ojo 1997; Ibrahim 2004; Gidado 2012); legislative process (Akande 1992; Kalra 2011; Danwanka 2012; Oluyemi 2012); and executive-legislative relationship (Oraegbunam 2005; Oyama 2008; Ogbonnaya et al. 2013). Exhaustive and elaborate as the works may seem, little or no attention has been paid to the relationship between the political and administrative structures of the legislature and their impacts on legislative processes. The closest work in this regard is of Oluyemi (2012). However, the weakness of the work is that it focused only on the Nigerian legislature without any attempt to examine what obtains in other legislative assemblies. Also, Danwanka (2012) in a seminar paper pays attention to the processes of bill drafting, bill analysis and the various stages through which a bill passes to become a law (legislative process) with particular focus on Nigeria but failed to provide a more detailed information on the roles played by the internal structures of the legislature play in the legislative process. On the other hand, Kalra (2011) who did a detailed work on legislative process in India was only concerned with public participation and engage-

ment with the legislative process. Thus, he did not provide any information on the interplay among the political and administrative structures of the Indian legislature and how this influences its legislative process.

It therefore, becomes significant to examine how positively or otherwise the legislative process is influenced by the internal structures of the legislature as it obtains in some federal systems. Given that the significance of structures and operations of the legislative institutions in federal systems are important, it becomes necessary to compare these systems. This comparison will afford us an insight into legislative processes of three different countries and experiences from both advanced and emerging democracies.

Thus, using Nigeria, Brazil and the United States as case studies, this paper engages in the comparative analysis of the impacts of this interplay on the legislative procedures of these selected systems.

Objectives

The general objectives of this paper are to conduct a comparative analysis of the impacts of the interplay of the administrative and political structures of the legislature in the legislative procedures of Brazil, Nigeria and the United States. Specifically, the paper aims at;

1. Examining the differences in the administrative and political structures in the legislatures of the selected systems;
2. Examining the similarities in the administrative and political structures in the legislatures of the selected systems; and
3. Examining the impacts of the interplay of these structures on the legislative procedures in the chosen countries.

Review of Literature

In the context of the Greek assembly where the concept originated, the legislature simply means a meeting for deliberation, where vital issues for the good of the people are discussed. In modern states, these deliberative assemblies are known by designations, which depend largely on the official language of the state's or nation's history. For instance, in Nigeria, the Legislature is called the National Assembly. In Brazil, it is known as the National Congress while in the United States of America, it is called the Congress. These deliberative assemblies in all modern democracies have the power to make laws for the good governance of the society. This is because the legislature is a body of people empowered to make, amend or repeal laws for a nation or unit of a nation. Apart from law-making, other functions of the Legislature include representation and oversight of the Executive.

According to Abayomi (2002), the phrase "legislative process" has both restrictive and expansive connotations. In its restrictive sense, it may be limited to the process which the legislature must go through before it can enact policy proposals into laws or statutes. It covers the various steps, stages and processes of law making in the legislature. However, legislative process could be understood or defined as the entire process or processes of the legislature. This meaning depicts the ways of the legislature, the powers of the legislature in its entirety and not just its powers as it relates to the law-making process. In a bicameral legislature for instance, legislative bills will have to traverse various stages (debates and amendments); passing through various committees and sub-committees in both houses of the parliament before the President's assent or final promulgation into law. This is the case in Nigeria, Brazil and the United States. In Unicameral legislature, however, legislative bills traverse various stages, committees, sub-com-

mittees, debates and amendments of a single chamber before it is sent to the President for assent. In other words, legislative procedures suggest the sequence of steps required for laws to move through the system; from ideas to formally adopted legislation. These processes are to ensure that all issues are debated upon, comply with any generally accepted rules, precedents and practices used in the governance of deliberative assemblies. In bicameral or unicameral legislature, there exists an interplay between the political and administrative structures of the legislature in the law making process and this has impacts on the legislative process.

Effective comparison requires awareness of both similarities and differences of the selected systems and institutions. First, the selected countries practice federal political system and each has key institutions that are broadly similar. Secondly, they all have presidential systems of government and bicameral legislatures (Friedrich 1968; Watts 1996). However, the differences are more complex and demand careful attention. For instance, these federal systems vary in population size, geographical area, and in levels of socio-economic and technological advancement. While Nigeria's population is estimated at 160 million people with a geographical size of 0.9 million sq. kms, the United States has an estimated population of 293 million with a geographical size of 9.6 million sq. kms. On the other hand, according to the Brazilian Institute for Geography and Population (*Instituto Brasileiro de Geografia e Estatística*, IBGE), Brazil's population as at 2009 was estimated at 191 million and a geographical size of 8.5 million sq.kms (CIA World Factbook 2005; IBGE 2010). Though differences in the population size of these countries are marked, they do correlate with geographic variables. Surprisingly however, the population of Brazil is small compared with its geographical size. These differences in population and geographical sizes explain the differences in the number of federating units that each of these countries comprises of. For instance, Nigeria has 36 federating states; the United States has 50 federating states, while Brazil has 26 federating states. Also, while Nigeria has a National Assembly of 469 members (109 Senators and 360 House of Representatives members), the United States has a Congress of 535 (100 Senators and 436 House of Representatives members), Brazil has a National Congress

of 594 members (81 members of the Federal Senate and 513 members of the Chamber of Deputies). According to Saunders (2006), the very large territorial areas present challenges for the coverage of both national institutions and the institutions of larger constituent units.

Apart from the differences in the population and geographical sizes of these federal systems, there is also a difference in their economies. For instance, while Nigeria's per capita Gross Domestic Products (GDP) stands at USD 1000, the United States has a per capita GDP of USD 40,000, Brazil has per capita GDP of USD 11,600 (The World Factbook 2012). One striking similarity between the Nigerian and Brazilian legislatures is that both are emerging democracies from long years of colonialism, military and authoritarian regimes that were devoid of legislative institution. Consequently, the legislatures in these countries are yet to develop strong institutional capacities in legislative processes compared to what obtains in the United States (Kiewiet et al. 2002; Huneus et al. 2007; Lafenwa 2009). On the other hand, the United States is one of the oldest democracies in the world and has maintained uninterrupted democratic governance since independence in 1776. Thus, while the political and administrative structures of the United States Congress are well developed and advanced with functions, roles and duties clearly defined, that is not the case in Nigeria and Brazil, where the constitutions are silent on which of the two chambers of the legislature is superior to the other. This no doubt, impacts, to a large extent on the relationship between the two chambers. Another similarity is that they are all federal states with presidential systems of government where there is a clear separation of power between the legislative, the executive and the judicial arms of government. Beside this, the legislatures in these countries are bicameral, having two chambers. In these systems, legislative procedure becomes a very thorough process through which legislations must pass in order to become laws or acts. These basic arrangements derive from the various constitutions of the countries under consideration (Mezey 1979; Elazar 1987; Lemos and Power 2011).

In Nigeria and the United States, the upper chambers of the legislature, the Senate is designed largely to provide another check and vehicle for representation in the system. They also provide balance for ethnic and regional

groups. For example, in both the Nigerian and the United States Senates, each state has equal representation. Therefore, no one state or region is able to dominate the debate on issues of national importance nor can the interests of any one state (or region) be overridden because that state lacks adequate representation.

Apart from similarities, there are differences in both the patterns, histories and political structures of the systems and legislative institutions of the countries under study. For instance, the members of Nigeria's National Assembly are elected in single-member constituencies using the simple majority (or first-past-the-post) system. Members serve four-year term and can seek re-election for as many times as possible. This is because in Nigeria and the United States, the constitutions do not have tenure limitation for parliamentarians. Historically, it is important to note that before the return of democratic rule in 1999, there had been at least six legislative Houses in Nigeria; 1960-1964, 1964-1966 (First Republic); 1979-1983; October 1983-December 31st 1983 (Second Republic) and 1993 (aborted Third Republic). Since 1999, the country has successfully passed through three Legislative Houses both at the Federal and State levels of government viz: 1999-2003; 2003-2007; 2007-2011.

In the Brazilian legislature, the Senate represents the 26 states and the Federal District. Each State and the Federal District has a representation of three Senators, who are elected by popular ballot for a term of eight years. Every four years, renewal of either one third or two-thirds of the Senate (and of the delegations of the States and the Federal District) takes place. When one seat is up for election in each State, each voter casts one vote for the Senate; when two seats are up for election, each voter casts two votes, and the voter cannot give his two votes for the same candidate, but, in elections for the renewal of two-thirds of the Senate, each party can present two candidates for election. The candidate in each State and the Federal District (or the first two candidates, when two thirds of the seats are up for election) who achieve the greatest plurality of votes are elected. The Chamber of Deputies represents the people of each state and its members are elected for a four year term by a proportional representation. Unlike the Senate, the whole of the Chamber of Deputies is renewed every four years. The Congress meets annually in its Brasília seat from 2 February to 27

July and from 1 August to 22 December (Hudson 1997).

Historically, Congress in Brazil has been closed five times under authoritarian intervention since 1930; November 1930 to December 1933; November 1937 to February 1946; November 1966; December 1968 to October 1969; and for fifteen days in April 1977. The 1988 constitution restored most of the powers and prerogatives that Congress had lost during the military regimes (Desposato 2004). In the United States both Representatives and Senators are chosen through direct election. Members of the House of Representatives serve two-year terms representing the people of a district. Congressional districts are apportioned to states by population using the United States Census results, each state in the union having at least one representative in the Congress. Regardless of population, each of the 50 states has two Senators who serve a six-year term. The terms are staggered so every two years approximately one-third of the Senate is up for election (Bacon 2009).

Secondly, in Nigeria, there is multiplicity of offices and positions in the legislature especially in the political structure. There is the office of a Deputy Senate President for the Senate and a Deputy Speaker for the House of Representatives. Such offices do not exist in the United States Congress and Brazilian National Congress. The Majority Leader in the United States and in Brazil is the equivalent of Nigerian Deputies in both chambers of the legislature. Thirdly, in Nigeria, while the political structure of the legislature appoints the members of the Board of the National Assembly Service Commission, headed by the Senate President; which in turn appoints the administrative structure, this is not the case in Brazil and the United States.

Similarities and dissimilarities of the legislatures notwithstanding, Arter (2007) has submitted that in seeking to compare legislatures, the basic questions to ask should be how much policy-making power does a legislature have? In answering this question, it is necessary to consider the interplay between the internal structures of the legislature. The efficiency and effectiveness of the legislative process depends largely on the strength of the internal structures of the legislature. Consequently, questions such as how do legislatures in these countries function and what are the ways through which legislators involve themselves in the policy making

process deserve attention? It is in this context that Esaiasson and Heidar (2000) view the operation of the legislature in the context of four sets of relationships, each located along a distinct dimension; the vertical, the internal, the horizontal and the external dimensions. While the vertical dimension involves the relationship between parliament and the electorates; the internal dimension, with which this paper is concerned, involves the organization of the legislature and where final decisions are taken; the horizontal dimension focuses on the position of parliament vis-à-vis competing political elites and the position of parliament in the overall scheme of national decision-making. Finally, the external dimension examines the position of parliament in the wider international community. Emphasis here is laid on the "internal dimension" considering the pivotal function it performs in the legislative process. This leads us to the second issue of legislators' involvement in the legislative process, which borders on how legislators, both individually and collectively, work to perform their legislative roles in the three phases of the legislative process – that is, in the formulation and deliberation of public policy and oversight of the executive? How do the political and administrative structures of the legislature influence legislators in the performance of their duties? This is necessary considering the fact that the legislators operate within guidelines provided by these internal structures.

OBSERVATIONS AND DISCUSSION

Legislative Processes in Nigeria, United States and Brazil

The functions, operations and structures of the legislature in Nigeria, Brazil and the United State are defined by their various constitutions. In Nigeria, Section 4 of the 1999 Constitution established the National Assembly. Subsection 1 of the constitution provides as follows;

The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation, which shall consist of a Senate and a House of Representatives.

Section 58 through to Section 61 of the 1999 Constitution of the Federal Republic of Nigeria carefully outlined the processes to be followed when a law is passed. In the United States, Article 1, Section 1, of the United States Constitution provides as follows:

“All Legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives”.

For administrative convenience, the legislature in these systems is divided into political and administrative structures. The political structure is made up of the elected parliamentarians. This structure is headed by the President of the Senate or Congress and other principal officers of the legislature. Its principal function is to make, amend or repeal laws for the good governance of the state. The administrative structure on the other hand, is made up of the bureaucratic staff of the parliament (that is, all staff of the parliament who are not elected politicians). This structure is further divided into Management and non-Management cadre and it is headed by the Clerk of the Parliament. The political and bureaucratic administration of the legislature revolves around these two structures of the parliament.

Politically, the Head of the legislature in the United States is the President of the Senate and in Brazil it is the Speaker while in Nigeria it is the Senate President. On the other hand, the Clerk of the Assembly is in charge of the day-to-day administration of the parliament. However, in the United States, the Vice President presides over the Senate. Modern Vice Presidents have done so only rarely—Vice Presidents usually only preside to swear in new senators, during joint sessions, and when casting a tie-breaking vote. The Senate chooses a president pro tempore to preside in the Vice President’s absence. Modern presidents pro tempore, too, rarely preside over the Senate. In practice, the junior senators of the majority party typically preside in order to learn Senate procedure.

While the political structure is mainly concerned with political activities such as law-making, oversight, representation and other administrative issues that concern parliamentarians, the Office of the Clerk addresses staff matters. In addition to this basic political arrangement and apart from performing their law-making roles in the chamber, Members are also assigned to various committees and sub-committees. This arrangement greatly eases the law-making process through division of labour. Thus, by their contributions in Committees, the Members play more significant role in the formulation and consideration of public policy than they do in open

debate on the floor of the house. In the countries under consideration, each House is a legislative department headed by the Clerk of the House and comprises of officers who carry out the legislative work of the respective Houses and implement their political decisions under the directive of the respective Clerks.

The legislative process in Nigeria varies from those of the United States and Brazil in some respects. While a bill in Nigeria passes through six various stages from drafting to President’s assent (Osuji 2005), in the United States, it takes about thirteen different “steps” or stages to have a bill passed into law or regulation (IPC 2012). In Brazil, it takes seven stages. In all the systems, the essence of this process is to ensure a thorough scrutiny of the bill. It helps to check the passage of obnoxious laws and that the law conforms to the purposes and objectives of government in making them.

Another area of similarity in the legislatures of the countries under study is the committee system. The legislative committees are units of organizations within a legislative chamber that allow groups of legislatures to review policy matters or propose bills more closely than would be possible by the entire chamber. In Nigeria, Brazil and the United States, referral to committees is a formal step in the process of adopting bills; committees play a major role in shaping legislative outcomes because they possess the following attributes;

1. They have developed a degree of expertise in a given policy area often through continuing involvement and stable memberships, and this expertise is both recognized and valued by their colleagues;
2. The committees are both able to represent diversity and reconcile enough differences to sustain recommendations for action;
3. Committee arenas are important so that people inside and outside the legislature seek to influence outcomes by providing information about what they want and what they will accept;
4. When committees function effectively, they provide a means for a legislative body to consider, in depth, a wide range of topics and to identify politically and technically feasible alternatives.

In Nigeria, Brazil and the United States, Standing Rules of the legislative chambers list the committees to be formed, provide rules for

assigning members and chairs of the committees (Onagoruwa 2009). However, the number and size of committees vary greatly and does not necessarily correspond to the size of the legislature. For instance, Nigeria's National Assembly with a total of 469 members (109 Senators and 360 House of Reps. Members) has 140 committees (56 Senate Committees and 84 House Committees), the US House of Representatives has 435 members and 19 permanent committees (Okeke 2011). Committee chairs and members are nominated and confirmed through several mechanisms, including through party caucuses, by presiding officers in Nigeria but by the entire legislatures in the United States. In Brazil and most other Latin American countries, committee chairmanships rotate on an annual basis, therefore there are no longstanding powerful committee chairs, as in the United States and Nigeria.

The Political and Administrative Structures of Nigeria's National Assembly

The Nigerian National Assembly comprises two Houses – the Senate and the House of Representatives, each headed by a Presiding Officer and Deputy who are the political heads of each chamber. Responsible to the two Houses is the Clerk to the National Assembly who is also the Accounting Officer of the National Assembly. He is assisted by a Deputy Clerk to the National Assembly and acts in the absence of the Clerk to the National Assembly.

This basic arrangement according to Oluyemi (2012) derives from Sections 47 to 51 of the 1999 Constitution of the Federal Republic of Nigeria. Built upon this constitutional arrangement are provisions made in the Standing Orders of each of the Houses for other political functionaries; House Leaders, Party Leaders, Whips and Committee Chairmen. Serving each of these Houses are the Chamber Deputies of the Clerk to the National Assembly – the Clerks of the Senate and the House of Representatives. The two Officers are responsible to the Clerk of the National Assembly and Presiding Officers and manage the administrative affairs of their respective Houses as well as execute their legislative decisions on behalf of the Clerk of the National Assembly. Each House is a legislative department headed by the Clerk of the House and composed of officers who carry out the legislative work of the respective Houses and implement their po-

litical decisions under the directive of the respective Clerks.

According to Oluyemi (2012), the Standing Orders of each House make provisions and define functions of the Leaders of the Houses and their Deputies, the Party Leaders and their Whips, Chairmen and Deputy Chairmen of Committees. In addition to this basic political arrangement and apart from performing their law-making roles in the Chamber, Members are also assigned to the Committees and Sub – Committees. This arrangement greatly eases the law-making process through division of labour. Thus, by their contributions in Committees, members play more significant role in the formulation and consideration of public policy than they do in open debate on the floor of the House. To the realization of the objectives of law-making, there is enacted, the National Assembly Service Commission Act 2000, and the Commission in compliance with the statute appoints persons to hold positions or act in the various Offices, Departments and Divisions.

The Interplay of Administrative and Political Structures of the Legislature

The legislature is the first arm of government and like the other two arms, it requires a sound and effective structure to enable it perform its constitutional role efficiently. In principle, while the administrative and political structures define the bureaucratic and political organs of the legislature has been distinct from the other, in practice both structures function complementarily in the legislative process. For instance, whether in Nigeria, Brazil or the United States, the legislative process is divided into various stages. At each stage, both the administrative and political structures work together to ensure a smooth completion and passage of a legislative bill.

At the first stage of bill analysis, a Parliamentary Counsel, Legislative Drafting/Legal Officer (usually those employed in the Legal Services Department of the National Assembly), conduct bill scrutiny. Bill scrutiny according to Danwanka (2012) is part of bill analysis which gives general highlights on the relevance, suitability and necessity of a bill in relation to a particular subject matter. If the bill is necessary and does not conflict with any existing law, a scrutiny report is written and sent to the Rules

and Business Committee; if the bill is from the lower chamber or it is sent to the Rules and Procedure Committee; if it is from the upper chamber where it will be gazetted and prepared for the next stage; first reading. At this stage, the Clerk of either the Senate or the House of Representatives introduces the bill to the House and proceeds to table it before the Senate President or the Speaker.

There is also interplay between the internal structures of the parliament in the committees of the parliament. The staff size and degree of professionalism reflect the relative importance of committees in a given system. It reflects a legislature's overall access to resources. Committees may be organized with a secretariat that employs staff and organizes the administration of the committees. In the United States, each of the 19 permanent committees in the lower house can employ 18 professional and clerical staff. In Nigeria and Brazil, each committee has access to a clerk, an administrative secretary and other administrative staff. The administrative staff, in all systems, arranges committee meetings, conduct researches, assist in drafting legislation; provide information and expert advice to legislators (Adeola 2012). Thus, it can be asserted that at every stage of the legislative process, the internal structures of the legislature (political and administrative) complement each other and countries need to adapt structures and systems to fit their own cultures and circumstances (Adeola 2012).

Discussion on Lessons for Nigeria

As a result of findings of the analysis brings out that some policy lessons were drawn for Nigeria in particular. The lessons are based on the experiences of legislatures of the countries studied and others around the world:

1. Every country's political system develops and evolves according to its past history, make-up and socio-political conditions. When a country tries to model its own political system after another country's political system, it seldom works. This was the case, for example, when Nigeria in the First Republic, tried to adopt the Parliamentary System of government. The system failed because it did not provide a role or outlet for dissenting parties. As a result, revolts in the form of military coups ensued. Focusing on its internal structure would be beneficial to Nigeria.
2. In Nigeria, the legislature is large and unwieldy, their membership encompasses a multitude of interests, and their complex internal organization does not often lend itself to swift and decisive action. The United States with its massive landmass has 50 States and 100 Senators (2 Senators per State) as against Nigeria's 109 Senators for 36 States. There is need for constitutional amendment to reduce the size of Nigeria's legislature, especially the Senate to a manageable proportion.
3. No legislature can be effective unless it has adequate resources to conduct research on policy issues, develop models, analyze data, and write laws. Staff, libraries, and expertise are all necessary, as are tools like computers, telephones, and fax machines. Just as the United Congress benefits from the services of the Congressional Research Service of the Library of Congress, the Congressional Budget Office, and the Office of Technology Assessment, Nigeria's National Assembly as a body can benefit from the services of the National Institute for Legislative Studies but it needs to be well funded. However, some resources, including secretarial assistance and research assistance, should be available to individual members as well.
4. A committee system created to fit the policy areas that the legislature will deal with is essential. Committees may be given the responsibility to draft bills, hold hearings, or air grievances. It can include chairmen from the governing party or parties or from opposition parties. They can be independently strong or weak. However, committee systems are increasingly being recognized in parliaments as a way to facilitate the policy-making process, even though it is difficult to define clear jurisdictional lines for subjects like energy or the environment, and committees often squabble among themselves. Thus, there is a need for the strengthening of the committee system in Nigeria's legislature. This will create room for division of labour which is necessary in any meaningful legislature for efficient legislative process.

5. There is a need for Nigeria's legislature to strike a balance between its political and administrative structures as this is appropriate for a meaningful and organized legislative process.
6. From the experiences of other countries, the legislature is often the best and most legitimate forum for debating differences. Every society as in Nigeria has differences over policy directions, items to be on the national agenda, and groups that deserve special treatment. Thus, providing opportunities and the best environment for real debate should form an important function of Nigeria's legislature.
7. A legislature needs to act as a counterweight to the executive. The committees in the British House of Commons for examples, attempts to oversee the actions of the executive departments and their civil servants. They are responsible for ensuring that there is no fraud, scandal, or abuse of power, and that insulated government bureaucrats do not wield their power carelessly, arrogantly, or sloppily. Congressional committees in the United States do the same thing, although much more aggressively. Though legislative committees in Nigeria do the same through oversight function, there is need for the legislature to set up some other mechanisms to strengthen its oversight capacity. This will ensure that no institutions of government acts without accountability, without some other individual or organization to keep it accountable to the public.

CONCLUSION

It is apparent from the foregoing that every country's political system and legislature develop and evolve according to its history, makeup, and political and socio-political conditions. Secondly, the legislature is a necessary ingredient for democratic governance in the complex societies of the modern world because they represent a permanent and independent link between the populace and the government. Some common traits of a well-developed legislature include a division of labour, leadership and organizational structures (political and administrative) and a committee system, though this paper noted that various legislatures possess these traits

to differing degrees. An interesting trend noted by legislative scholars in recent years is the apparent convergence of legislatures around the world. Certain common trends can be identified among legislative bodies that traditionally had a little in common.

While we have witnessed some convergence in terms of institutional direction among the legislatures of the countries studied, individual legislatures have at the same time maintained distinct characteristics related to the history, culture, and character of their respective countries. Ultimately, the most important task of a legislature in a democratic regime is to give legitimacy to the government by providing representation for the citizenry.

NOTES

- 1 In this paper, the terms "legislative procedures" and "legislative processes" are used interchangeably.
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