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DEMOCRATIC SUSTENANCE AND LAW-MAKING PROCESS: A
COMPARATIVE PERSPECTIVE OF NIGERIA AND GHANA

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Abstract

The research will examine the law-making process of Nigeria and Ghana and how the process of law has influenced there people with a focus on the weaknesses and opportunities has experienced. Both Nigeria and Ghana has faced a different path of democratic development. By comparing the democratic journey of these two West African countries, this work aims to uncover the factors that have shaped their political systems and to compare Nigeria and Ghana law-making process. Using a qualitative approach and institutional theory, the study seeks to: compare how socio-economic factor influences democratic and law-making process in Nigeria and Ghana: to examine the impact of legislative process on democratic sustenance in Nigeria and Ghana: to examine institutional impact on Law-making process and democratic sustenance.

Key Words; Democracy, federalism, Governance, Development, Law, Law-making

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Introduction

The Law-making is a process form of the state activity intended on the creation (or revision) of the legal norms(Eboh, 2022). The law-making is also a process during which an idea of a law is transformed into a law(Anyogu & Iwuorie, 2023). This law-making is a complex process. A state plays the leading role in it. State regulate law-making process, plan it and thus influence on the development of the law(Olayinka, 2022). In the law-making process the interest of the people and the interest of the state meets(Ekeyi, 2021). Society needs stable legal system, reflected changing demands and interests of the society(Akpuokwe¹ et al., 2024). In achieving this task the law-making process must be based on democracy and science in order to reflect and determine the development of the society. Also, the society is interested in the influence on the governmental bodies in law-making and in it control(Ibeanu et al., 2022). The mistakes of the state in the law-making process have negative impacts on the development of the society; however, the right direction of the law-making process has positive impacts on the development of the state (Davydova, 2022).

The law-making establishes the model of the behavior – the legal norm but the changing society often fills it with new content(Ibe-Ojiludu, 2022). Law enforcers will demonstrate whether a new norm corresponds to the relations. The greater part of the law-making process is a political process and principles that can be regulated by law. These principles are constitutional principles of the modern

state. These principles are binding for the state and ensure the rights of the society, its groups and individual(Atupare, 2021). The modern constitutions recognize and determine the state as the social, rule-of-law State; democratic based on the principle of the separation of powers. Principles determine the place of the legislative bodies in the law-making process and the characteristics of the law-making process(Ramalan, 2023).

The basic objective of this work is to comparatively research the Law-making process of Nigeria and Ghana and how it has positively or negatively impacted there democracy in these two nations. To check how the Law-making process has influenced there democracy and how each country has been able to build her democracy respectively, the factors that has helped each countries on there democracy, the achievements, challenges, differences, similarities and the failures faced in the process of strengthening their democratic principles. This introduction is followed by a review of literature on the key concepts; Democracy and law-making process with specific illustration from Nigeria and Ghana experiences.

The concluding sides would target the recommendations on how to improve Democratic principles through law-making process thereby, paving the way for a more inclusive and resilient democracy in developing countries most especially in Nigeria and Ghana.

Conceptual Clarification

Democracy

In a simplest terms Democracy means “rule of the majority”, if that means that minorities’ interests are ignored completely. A democracy, at least in theory, is government on behalf of all the people, according to their “will”. Democracy is a way of governing which depends on the will of the people. “No one is born a good citizen, no nation is born a democracy. Rather, both are processes that continue to evolve over a lifetime. Young people must be included from birth”(Warren, 2021). According to Kofi Annan Democracy, then, is not autocracy or dictatorship, where one person rules; and it is not oligarchy, where a small segment of society rules. The idea of democracy derives its moral strength and popular appeal from two key principles; the individual autonomy and the equality(Marciel, 2023). These principles are intuitively appealing, and they help to explain why democracy is so popular. Democracy tends to be “rule of the majority”; but rule of the majority can mean that some people’s interests are never represented. A more genuine way of representing everyone’s interests is to use decision making by consensus, where the aim is to find common points of interest(Framo, 2024). However, today there are as many different forms of democracy as there are democratic nations in the world. No two systems are exactly the same and no one system can be taken as a “model”. There are presidential and parliamentary democracies, democracies that are federal

or unitary, democracies that use a proportional voting system, and ones that use a majoritarian system, democracies which are also monarchies, and so on(Akpunonu & Eze, 2021). It is very important to understand linkage between democracy and the Law-making process; the process whereby laws are developed, drafted, consulted and discussed, scrutinized, amended, adopted and published, and later monitored and evaluated must followed the key democratic principles. The process is carried out by democratically elected or designated bodies that adhere to the principle of the separation of powers and checks and balances. The process is compliant with the rule of law and human rights obligations. It is open, transparent, accessible, non-discriminatory, gender-responsive, inclusive, representative, participatory and sensitive to the needs of diverse groups of society.

Federalism

Federalism is the theory or advocacy of federal principles for dividing powers between member units and common institutions. Unlike in a unitary state, sovereignty in federal political orders is non-centralized, often constitutionally, between at least two levels so that units at each level have final authority and can be self-governing in some issue area. Citizens thus have political obligations to, or have their rights secured by, two authorities. The division of power between the member unit and center may vary, typically the center has powers regarding defense and foreign policy, but member units may also have international

roles. Federalism is a philosophy, doctrine and arguably an ideology (Watts: 1998) that favors a distinct territorial pattern of government, one that combines the centralization of some political powers and the decentralization of others. The etymological origins of federalism derive from “foedus,” the Latin for “alliances” or “leagues” of states that joined together in pacts, covenants or agreements, typically for defensive purposes. A federation may be defined as a political system in which at least two territorial levels of government share sovereign constitutional authority over their respective division and joint share of law-making powers; differently put, neither the federal government nor the relevant federative entities may unilaterally alter one another’s powers without a process of constitutional amendment in which both levels of government participate. Within federations, sovereignty is constitutionally divided and shared between a federal government (which normally has federation-wide authority over certain functions) and what are variously known as regions, provinces, states, länder, cantons, republics, or entities.

In a federation, the federal government and the regions respectively have exclusive responsibility for certain functions, though some powers may be shared. The division and sharing of powers is entrenched in a constitution, which requires the consent of the regions for amendments—though not always their

unanimous consent (Ubillos, 2024). For example a constitutional amendment may require the support of a qualified majority of the federative entities. “Non-centralization” emphatically distinguishes between federation and the devolution or delegation of authority (“Join, or Die – Philosophical Foundations of Federalism,” 2016). Within federations powers rightfully belong to both the federation and its regions. In federations, an impartial judicial tribunal normally decides constitutional disputes, though exclusively political means may also be used to resolve intergovernmental conflict, e.g. an inter-governmental conference of ministers. Federations standardly have bicameral legislatures within the federal government. Philosophical contributions have addressed the dilemmas and opportunities facing Canada, Australia, Europe, Russia, Iraq, Nepal, Ethiopia and Nigeria, to mention just a few areas where federal arrangements are seen as interesting solutions to accommodate differences among populations divided by ethnic or cultural cleavages yet seeking a common, often democratic, political order.

Governance

There is no universally accepted and agreed definition of governance. In the 1990s, the World Bank became the first international institution to adopt the concept of good governance into lending arrangements for developing countries and introduce the idea to the general public. In its 1992 report entitled

“Governance and Development”, the notion of good governance was written as the way in which power is used to regulate the economic and social resources of a country for development. (Bradway and Shah 2009) define it, governance is “the formulation and execution of collective action at the local level. Government is territorially based body that makes authoritative decisions (for which it has constitutional or legislative authority) that are binding on residents and businesses within its boundaries. Governance is the process through which decisions are made that are explicitly meant to affect economic, social, environmental, and other important societal outcomes throughout the entire region or at least throughout parts of the region that extend beyond single governmental jurisdictions. Governance means the Process of decision making and the process by which decisions are implemented or not implemented. Governance is a active concept. It encompasses fast changing political, social and economic milieu together with the international environment and conditions of operational governance. Modern concept of governance is participatory, responsive, consensus-oriented, transparent, accountable, effective and efficient, equitable and inclusive and follows the rule of law. Governance is related with efficient and effective administration in a democratic framework an administration considered to be citizen friendly, transparent, citizen caring, responsive and respecting human rights at large (Iacobelli et al., 2023).

Development

Development is a multi- and interdisciplinary study rather than a single discipline. It seeks to understand the interplay between social, economic, political, technological, ecological, cultural and gendered aspects of societal change at the local, national, regional and global levels. In a broad discussion process, EADI approved a definition of Development in 2017. Development, as a study, is also characterized by normative and policy concerns about inclusive and sustainable development (Pinto et al., 2025). It aims to contribute to possible solutions to societal problems and is increasingly applied in focus and engaged with policy and practice. Development is context sensitive. It examines societal change using historical, comparative and global perspectives. It aims to take into account the specificity of different societies in terms of history, ecology, institutions, culture, knowledge, technology, etc. It further examines how these differences can – and often should and do – translate into varied local responses to regional or global processes, and varied development strategies. Development is an evolving study, which covers an expanding range of concerns. Current concerns include poverty, inequality and exclusion, environmental sustainability and climate change, global governance; armed conflict and violence, urbanization, rural development, land tenure and agrarian change, migrations, health, education, labour, and gender equity (Dabelko et al. 2022). However,

the range of concerns it addresses and the methods it uses evolves over time, as witnessed by an increasing interplay between social and ‘hard’ sciences and the emergence of novel concerns such as South-South cooperation, poverty and social exclusion in industrialized countries, technological innovation, and private sector actors in international development. Development promotes and draws part of its strength from genuine partnerships and cross-fertilization between institutions and individuals anchored in different disciplines and traditions, and working in different parts of the world (System, 2022).

Law

According to Encyclopædia Britannica, it is defined as “the mechanism, process, institution, practice, or norm that supports the equality of all citizens before the law, secures a non-arbitrary form of government, and more generally prevents the arbitrary use of power.”. Law or the rule of law is a political and legal ideal that all people and institutions within a political body are subject to the same laws, including lawmakers, government officials, and judges. It is sometimes stated simply as “no one is above the law” or “all are equal before the law”. Law is the principle whereby all members of a society (including those in government) are considered equally subject to publicly disclosed legal codes and processes. The rule of law or law do not make a judgment about the justness of law itself, but define specific procedural attributes that a legal framework must have in order to be in

compliance with the rule of law. The rule of law or the law can sometimes require the punishment of those who commit offenses that are justifiable under natural law but not statutory law. The rule of law is thus somewhat at odds with flexibility, even when flexibility may be preferable (Shomade, 2021). A 1977 article by Joseph Raz argued that the rule of law means that people should obey the law and be ruled by it. In Raz’s view, one of the virtues of the rule of law is the restraint it imposes on authorities. It aims to exclude arbitrary power, as most of the exercises of arbitrary power violate the rule of law. Raz also identified some of the potential pitfalls of the rule of law. He opined that as the rule of law is designed “to minimise the harm to freedom and dignity which the law may cause in its pursuit of its goals however laudable these may be”, the strict pursuit of the rule of law may prevent one from achieving certain social goals which may be preferable to the rule of law: “Sacrificing too many social goals on the altar of the rule of law may make the law barren and empty”. Ideas about the rule of law have been central to political and legal thought since at least the 4th century bce, when Aristotle distinguished “the rule of law” from “that of any individual.” In the 18th century the French political philosopher Montesquieu elaborated a doctrine of the rule of law that influenced Western liberal thought. In general, the rule of law implies that the creation of laws, their enforcement, and the relationships among legal rules are themselves legally regulated, so that no one—including the most highly placed

official—is above the law. The legal constraint on rulers means that the government is subject to existing laws as much as its citizens are.

Law-making

The Law-making process is a process whereby laws are developed, drafted, consulted and discussed, scrutinized, amended, adopted and published, and later monitored and evaluated following key democratic principles. The process is carried out by democratically elected or designated bodies that adhere to the principle of the separation of powers and checks and balances. The Law-making process is compliant with the rule of law and human rights obligations. It is open, transparent, accessible, non-discriminatory, gender-responsive, inclusive, representative, participatory and sensitive to the needs of diverse groups of society. The law-making process should be approached as the following stages: policy setting; law drafting; parliamentary scrutiny; adoption, publication and consolidation; monitoring and evaluation (Abdulrauf, 2021). The Law-making process in modern democracies is the work of legislatures, which exist at the local, regional, and national levels and make such laws as are appropriate to their level, and binding over those under their jurisdictions. These bodies or system of government are influenced by lobbyists, pressure groups, sometimes partisan considerations, but ultimately by the voters who elected them and to which they are responsible, if the system is working as intended. Even the

expenditure of governmental funds is an aspect of law-making, as in most jurisdictions the budget is a matter of law. The law-making process is the process of crafting legislation. In its purest sense, it is the basis of governance (Aluko & Idowu, 2023).

Law-making process, Nigeria experience

Federal Republic of Nigeria is one of the democratic nations in the soil of Africa. Nigeria is being governed under a three-arm of structural government; the executive, legislative and judiciary. Each arm of government is tasked with fulfilling specified obligations as contained in the 1999 Constitution of the Federal Republic of Nigeria (“Constitution”). Ideally, the executive and judiciary are saddled with the responsibility of enforcing and interpreting laws respectively; whereas, the legislature is recognized for its law making powers, and responsible for enacting laws that govern Nigeria. Our focus is on the legislature; particularly, the processes involved in making laws in Nigeria. Understanding the Law-making process is essential, as it allows for the informed participation of Nigeria citizens who can engage with their representatives, voice their opinions on proposed laws, and even attend public hearings (Yin & Atupare, 2025). Furthermore, transparency is strengthened when the public understanding on how laws are debated and voted upon, holding lawmakers

accountable for their decisions. It allows Nigerians to be informed citizens who can track the development of laws that impact our lives. Whether it's a new law or a change in regulations, bills can significantly affect citizens daily routines, rights, and responsibilities(Agu et al., 2024). As a democratic state, Nigeria legislatures are to legislates on behalf of its populace, it is founded on the most fundamental democratic ideas and ethics(Ayodele & Akanmu, 2024). The Nigerian democracy thrives on ideal federalism, a system of checks and balances with the National Assembly holding legislative power. This bicameral legislature is comprised of two chambers: the Senate and the House of Representatives serving as the cornerstone of Nigeria's law-making process(Ogunwa & Abasilim, 2024).

The composition and structure of Nigeria legislatures (lawmakers) are as follows:

1. The Senate: Often referred to as the "Red Chamber," consists of 109 Senators, with three representatives from each of the 36 states and one from the Federal Capital Territory. Senators are elected for four-year terms.
2. The House of Representatives: Also known as the "Green Chamber," has a larger membership, currently 360 members. Each state's representation is based on the number of constituencies, ensuring a broader voice for Nigerians. Representatives serve four-year terms as well.

3. The Senate is headed by the Senate President and Deputy Senate President, the chamber also features eight principal officers who manage its affairs.

4. The House of Representatives is led by the Speaker and Deputy Speaker. The House has a similar structure with eight principal officers for smooth operation.

Roles and Functions of the Legislature in Law-making are examine thus;

1. Initiating Legislation: Legislators, either Senators or Representatives, introduce bills (proposed laws) for consideration by the National Assembly. These bills address a wide range of issues, aiming to solve problems or improve existing situations.

2. Law-making Process: The National Assembly doesn't just vote yea or nay on bills. Legislators engage in a thorough process that includes debates, reviews, and amendments. Committees play a vital role here, scrutinizing bills, proposing revisions, and ensuring they align with the Constitution and national needs.

3. Representation: Legislators act as representatives of the people who elected them. They are expected to consider their constituents' needs and interests throughout the law-making process. Public hearings can be part of this process, allowing citizens to directly voice their opinions on proposed laws.

4. Oversight: Law-making isn't a one-time act. The National Assembly also plays an oversight role. They monitor how the executive branch implements the

laws they create. This ensures that the laws are functioning as intended and that there's no misuse of power.

5. Budget Approval: The National Assembly is responsible for approving the national budget. This involves allocating resources for various government functions and ensuring proper spending. By controlling the purse strings, the legislature can influence government priorities.

Both chambers make up what is referred to as the National Assembly, which is empowered by the provisions of section 4(1) of the Constitution to make laws for the peace, order and good government of the federation. In performing its law making obligations, the senate and house must comply with laid down law making procedure. There are law-making procedures or stages in Nigeria law-making process;

Stage 1; Presentation of the Bill: Before any document can be recognized as law, it must be tabled as a bill before the National Assembly. A bill is a draft of a proposed law which is presented before the senate and house for deliberation. Such bill can be presented by a member of the senate (or a 'senator'), the public or a member of the house, and in certain instances, a member of the executive arm of government. Where a bill is proposed by a senator, it is usually presented before the presiding officer, in the person of the senate president. The senate president then forwards the proposed bill to the speaker of the house (or 'speaker') for consideration. The speaker is responsible

for presiding over the proceedings of the house and where a member of the house presents a bill, the speaker must follow the same procedure employed by the senate president. In the case of an executive proposing a bill, such document is often referred to as an executive bill and presented through the office of the president to the senate president and speaker of the house.

Stage 2; First Review of the Bill: Upon receipt of the bill by the senate or house as the case may be, the bill is forwarded to relevant committees for review. The senate and house have established committees responsible for reviewing bills to ensure that they meet the required standard. One of these committees is the Rules and Business Committee and the Committee on the Rules and Procedure for the house and the senate respectively. In the event that the bill falls below the required standard, the respective chamber committee must send the bill to the legal department of the National Assembly for redrafting. After which, the bill is sent out for gazetting and a date and time for the first reading of the bill is scheduled.

Stage 3; Gazetting of the Bill: Gazetting of the bill involves officially informing the public that the National Assembly is considering a proposed law, and inviting them to make their presentations for or against such bill. The clerk of the appropriate chamber is usually saddled with the responsibility of obtaining a copy of the bill and publishing same in the official gazette (similar to a publication), however where the bill emanates from a member of either the

senate or house of representatives, permission must be granted by the appropriate chamber leader before the member sponsoring such bill can publish same in two successive issues of the official gazette.

Stage 4; First Reading: The first reading is done to introduce the bill to members of the appropriate chamber. At this stage the clerk must have distributed copies of the published bill to the members, before proceeding to read out the short title of the bill (an example of a short title is ‘the constitution of the Federal Republic of Nigeria). The bill is then tabled before the presiding officer and members of either the senate or house are precluded from discussing or debating the contents of such bill until its second reading.

Stage 5; Second Reading: Here, the legislators proceed to debate the bill in their chambers. To begin, a motion to discuss the bill must be moved by a member of the appropriate chamber, and seconded by another member. Where the motion is not seconded, that bill is considered rejected; whereas, a seconded motion will open the floor for debate. Members will be given the opportunity to make presentations for or against the bill, stating reasons why it should be considered or not. Thereafter, the bill will be put to vote and if a simple majority of members vote in favor of the bill, it will proceed to the next stage. It is imperative to note that a motion to commence debate for an executive bill is moved by the presiding officer and must be seconded by another member.

Stage 6; Committee stage: A further review of the bill is conducted by two special committees, namely; the Standing Committee and the Committee of the Whole House. The House and the Senate have the two types of committees charged with the responsibility of examining the bill and making necessary adjustments. The process of analyzing the bill may involve inviting members of the public to make contributions to the bill through a public hearing, and putting such observations into consideration. After which, a report is made and presented together with printed copies of any adjustments to the bill to members of the appropriate chamber. Thereafter, a motion to proceed with the amended bill must be moved by a member before the commencement of the next stage of the law making process.

Stage 7; Third & Final Reading: At this stage, there are no debates or discussions concerning the bill. The clerk reads the long title of the bill and members are only required to study the bill for any mistakes or errors. Where there are none, the bill is accepted and passed into law by the appropriate chamber. Any amendments to the bill made by a member at this stage must be by motion, which must be approved by the presiding officer. In such case, the bill will revert to the Committees discussed earlier for re-evaluation.

Stage 8; Signing of the Bill: After the bill is passed into law, the clerk will print a final copy of the bill and sign same. The bill is thereafter forwarded to the appropriate presiding officer to append

his signature and later sent to the other chamber for deliberation and passage. As Nigeria operates a bicameral legislature, a bill which has been passed by the senate must be forwarded to the house of representative for concurrence, and vice versa. Thus, upon receipt of such bill, the receiving chamber must initiate the same law making process as highlighted above and make a decision to pass the bill, reject it in its entirety or make adjustments to it. Where the decision is to make adjustments to the bill, a committee comprising of members of both chambers is formed to deliberate on the amendments and reach a compromise. Such compromise is presented as a report to both chambers for consideration and approval. Upon approval by both chambers, a copy of the updated version of the bill is sent by the clerk of the receiving chamber to that of the originating chamber to produce a final copy of the bill for the president's assent. However, where the committee fails to reach a compromise, the initial bill will be presented to and passed by the National Assembly before it is sent to the president.

Stage 9; President's Assent/Signature: The final copy as approved by both chambers is presented to the president for his signature. The signature of the president is required to convert a bill into law and section 58(4) of the Constitution requires the president to append his signature on the bill within 30 days of receipt. Where the president withholds his signature and proposes some amendments to the bill, the National Assembly will consider such amendments

and agree to incorporate same into the bill. However, where the president rejects the whole bill, the National Assembly is empowered by the provisions of section 59(4) of the constitution to recall the bill and re-pass it into law by a two-third majority vote in both chambers. Thereafter, such bill will be regarded as law, regardless of the absence of the president's signature.

The Nigerian law-making process is facing various challenges that could be improved through reforms;

1. Citizens input in law-making process is very low. Citizens opinions are not adequately taking care of.
2. Collaboration with research institute is not in proper consideration by the law-makers.
3. Timing, improper actions and inadequate monitoring of the bills.
4. The legislature should be more effectively hold the executive branch accountable for its actions by strengthening oversight.
5. The Law Reform Commission should be charged to do more.
6. Debates on restructuring Nigeria's government and amending the constitution could also impact the Law-making process.
7. Public hearings and committee deliberations should be more transparent and accessible.

Law-making process, Ghana experience

Ghana is operating a Unicameral Legislature. There is only one parliament, which exercises all primary legislative functions.

1. Article 11 of the 1992 Constitution of Ghana states: "The laws of Ghana shall comprise- (a) this Constitution; (b) enactments made by or under the authority of the Parliament established by this Constitution; (c) any Orders, Rules, and Regulations made by any person or authority under a power conferred by this Constitution; (d) existing law; and (e) common law."
2. Therefore, chief legislative power has been vested in the Parliament of Ghana.

The Legislative branch of the Ghanaian government passes bills which assented to by the President, become the laws which protect the constitutional rights of the citizens of Ghana. The elected body consists of "no less than 140 members." A Member of Parliament must be a citizen of Ghana and must have "attained the age of 21 years and be a registered voter." The article 94 further states: "a Member of Parliament must hold current residence in the area he or she represents or has lived in the area for at least 5 of the 10 years preceding his or her election." All taxes must be paid. Criminal cases, bankruptcy, or other judicial issues can

prevent a citizen from becoming a Member of Parliament. Article 94 of the 1992 Constitution outlines possible reasons for someone not being qualified to become a Member of Parliament:

- (1) A person shall not be qualified to be a Member of Parliament if he:
 - (a) Owes allegiance to a country other than Ghana; or
 - (b) Has been adjudged or otherwise declared bankrupt under any law in force in Ghana. It is very important to also note that even after being elected, a Member of Parliament can lose his or her seat for a number of reasons. Such reasons include, but are not limited to: "if he is elected as Speaker of Parliament, if he is absent without the permission in writing of the Speaker, if he is expelled [after being] found guilty of contempt of Parliament, [or] if he leaves the party of which he was a member at the time of his election to join another party or seeks to remain as an independent." One of the most important clauses in Article 97 pertains to the act of changing political parties following an election. Although this has not been much of an issue now within Ghana as in the past, other countries have suffered from such acts. Currently, many parties exist within parliament, including the National Democratic Congress (NDC), which is the majority party, and the New Patriotic Party (NPP), which is the minority party. Other political parties

within Parliament are the Convention People's Party (CPP), the People's National Convention (PNC), and independent candidates. The current Parliament of Ghana has 230 members.

The leadership composition of Ghana Parliament goes as thus:

1. The Speaker of Parliament

The Speaker of Parliament presides over Parliament and enforces the observance of the Standing Orders. The Speaker of Parliament "shall be elected by the Members of Parliament from among persons who are members or who are qualified to be elected as Members of Parliament." The Speaker's decision is never appealed on at any point of order and shall not be reviewed by the House, except upon a substantive motion made after notice. The Speaker must be non-partisan and patient. The Speaker can exercise indirect influence on both the majority and minority to reach consensus when necessary. However, the Speaker has neither an "original nor casting vote." According to the constitution, "no business shall be transacted in Parliament other than an election to the office of the Speaker, at any time when the office of Speaker is vacant."

2. First Deputy Speaker.

Due to the possible absence of the Speaker, two Deputy Speakers are elected. The Deputy Speakers "shall not be members of the same political party." When a First Deputy Speaker presides, he or she exercises all the powers of the

Speaker for the "effective and efficient conduct of business in the House." According to the Standing Orders of Parliament, the First Deputy Speaker also presides over the Appointments and the Privileges Committees.

Second Deputy Speaker

When both the Speaker and the First Deputy Speaker are absent, the Second Deputy Speaker presides over sittings of parliament. Under these circumstances, he exercises all the powers of the Speaker "for the effective and efficient conduct of business in the House." Additionally, in accordance with the Standing Orders of Parliament, the Second Deputy Speaker presides over the Committee on Members Holding Offices of Profit.

3. Second Deputy Speaker.

When both the Speaker and the First Deputy Speaker are absent, the Second Deputy Speaker presides over sittings of parliament. Under these circumstances, he exercises all the powers of the Speaker "for the effective and efficient conduct of business in the House."

4. Majority Leader

The Majority Leader is elected from the political party that holds the majority of seats in the House. A Deputy Majority Leader and a Majority Chief Whip assist the Majority Leader. The Speaker must consult the majority and minority leadership on the business of the House and other important issues. The Majority Leader is usually the first to gain the Speaker's attention during debates. The

position of the Majority Leader allows smooth and orderly progression during important debates. He maintains order by scheduling legislation for floor consideration by planning the daily, weekly, and annual legislative agendas. The Majority Leader urges colleagues to support or defeat motions on the Floor and works to “advance the goals of House in general, and the majority party in particular.”

5. Minority Leader.

The Minority Leader is elected from the second largest political party in Parliament. Like the Majority Leadership, a Deputy Minority Leader and a Chief Whip assist the Minority Leader with his various tasks. The two Leaders and the Chief Whip constitute the Minority Leadership of Parliament. The speaker must consult with the Minority and Majority Leadership on the business of the House and other important issues.

6. Committees of the Parliament.

Once all leadership positions have been filled, Members of Parliament undertake their most important responsibility – the legislative process.

The Law-making Process in Ghana (How a bill Becomes a Law)

The legislative process in Ghana is the “crystallisation of ideas”. It is termed this way, because people involved in the law-making process put a lot of thoughts and effort into ideas before they are even presented to others. Once presented, these ideas “crystallise” to form a larger, more

cohesive unit, which can then be drafted into law. Many different organisations play major roles in the law-making process.

Non-governmental organisations, private citizens, public officers, sectors of the government (including the Attorney General’s Office, the Law Reform Commission, and the Sector Ministries) and numerous others have the ability to influence legislation. For example, the Law Reform Commission has the ability to review statutory and customary laws, while Sector Ministries research and gather information for its incorporation into legislative drafts and reports. Although these entities have distinct spheres of influence as well as varying levels of control, the power to actually construct and pass laws is distributed between parliament (which passes the bill) and the President (who assents the bill). The Cabinet Memorandum then goes before cabinet for decision and policy approval. The cabinet consists of “the President, the Vice President and not less than 10 and not more than 19 Ministers of State.”²⁸ Once cabinet has approved the memorandum, the Secretary to Cabinet informs the Sector ministry, or the ministry that first initiated the legislation. The Chief Director of the Sector Ministry then produces a set of drafting instructions which are delivered to the Attorney General’s Department. The Parliamentary Counsel, also known as Legislative Drafters, under the advice of the Attorney General. According to Article 106, clause (2), of the constitution “No bill...shall be introduced in Parliament unless it has been published in

the Gazette at least 14 days before the date of its introduction in Parliament.” The bill, as published in the Gazette is introduced in parliament. The legislative process in parliament can be classified in four stages: first reading, second reading, committee or consideration stage, and third reading. In the Committee or Consideration Stage, the bill is discussed clause by clause and all concerns are debated and voted upon. The Speaker states each clause of the bill and members note their questions and concerns. Finally, changes or amendments are voted upon. The AG’s Department then takes the accepted amendments and redrafts the bill.

All organs of government have a role in law-making. Law-making power is distributed between parliament, which passes the bill, and the President, who assents it. Non-governmental organisations, judges, public officers, or any other group of people have the ability to influence legislation. The majority of bills are initiated through the ministries, the executive institutions of the government.

Why some bills do not become Laws

The bane for bills not being passed in parliament usually concerns highly controversial political matters. An example of a tough legislation that met resistance in parliament is the transfer of Convicted Persons bill. Private Members’ bills while most bills are expected to come from the executive level, Members of Parliament can initiate legislation through “Private Members’ bills”.

Although parliamentary rules of procedure allow for Members of Parliament (MPs) to initiate bills, MPs have “not exercised this right because of the lack of resources or expertise needed to draft legislation.”(Ottoh, 2022).

Effectiveness of Ghanaian law-making Process

The legislative process of Ghana is very effective. The use of Parliamentary Counsel as the sole drafters of legislative documents is effective, because the average Member of Parliament may not have the necessary resources to draft the legislation(Gule, 2021).

To rectify this, the Parliamentary Counsel are well-trained and highly equipped to draft such documents.

Challenges facing Ghana law-making process

1. The Attorney General should research more on policy and financial implications of proposals.
2. Ghana should increase efforts in raising public participation
3. Article 108 prevents the introduction of any law reform initiative without the sponsorship of the Executive. Thereby it limits the power of the Ghanaian Parliament.

Comparative Analysis of Nigeria and Ghana law-making process

Federal Republic of Nigeria is practicing bicameral legislature has established under section 4 of the

Constitution of Nigeria. The body consists of 109 members of the Senate and 360 members from the House of Representatives. There are three senators from each of the States of Nigeria and one senator representing the Federal Capital Territory and single-member district, plurality voting in the House of Representatives(Onyekakie, 2022). While The Parliament of Ghana is the unicameral legislature of Ghana. It consists of 276 members, who are elected for four-year terms in single-seat constituencies using a first-past-the-post voting system(Amoah, 2024). Article 11 of the 1992 constitution of Ghana has established. Both countries are democratic states in the aspect of similarities, they both witnessed military intervention/interruptions in there democracy journey at different times for slightly different reasons. Since Nigeria became independent in 1960, there have been five military coups. Between 1966 and 1999, Nigeria was ruled by a military government without interruption, apart from a short-lived return to democracy under the Second Republic of 1979 to 1983. However, the most recent coup occurred in 1993, and there have been no significant further attempts under the Fourth Republic, which restored multi-party democracy in 1999. Hence, From 1966 to 1979, the nation of Ghana underwent a turbulent era as the Second Republic of Ghana. It began when the government of Kwame Nkrumah was overthrown on February 24, 1966 by a military coup. After the coup, the National Liberation Council (NLC) took control of the country of Ghana, and

Joseph Ankrah officially was the country's president. The council eventually assembled another government and held the 1969 Ghanaian parliamentary election. This led to the government of Kofi Busia, who led the Progress Party. In January 1972, Ghana's government was overthrown again. This led to yet another government run by the National Redemption Council (NRC), which reorganized into the Supreme Military Council (SMC) in 1975. In 1979, the SMC was overthrown yet again in the 1979 Ghanaian coup d'état, leading to the Armed Forces Revolutionary Council. However, the noticeable aspect of there differences is there political system. Nigeria moved from Parliament system of Government to Federal/Presidential system of Government. The Parliament system era could be traced to Colonial era and early period of independence in 1960. As for the Ghana, a unitary system or a presidential representative democratic republic, whereby the president of Ghana is both head of state and head of government, and of a two party system. The constitution that established the Fourth Republic provided a basic charter for republican democratic government.

The federal government of Nigeria is composed of three distinct branches: the executive, the legislative, and the judicial, whose powers are vested and bestowed upon by the Constitution of the Federal Republic of Nigeria. The supremacy of Nigeria's constitutions refers to the principle that the constitution is the highest and supreme law of the land. It means that the provisions of the constitution have binding force on all

authorities and individuals throughout the Federal Republic of Nigeria.

While the Article 93(2) provides that the legislative power of Ghana shall be vested in Parliament. Article 58(1) provides that the executive authority shall be vested in the President. Lastly, Article 125(3) provides that the judicial power shall be vested in the judiciary. Further, the power delineated to these organs of government shall be exercised in accordance with the Constitution. In practice, the details in the design of the Constitution, the voluntary surrender of power by the legislature and illiberal judicial decisions and practices have culminated in an imperial presidency. Thus, some have argued that a President who operates under the 5th Constitution is as powerful as the President who operated under the 2nd Constitution or even under some of the military regimes, even if the latter made no pretenses that they disfavored separation of powers.

Section 50 of the Nigerian constitution creates the President of the Senate of Nigeria and the Speaker of the House of Representatives of Nigeria, as heads of their respective chambers. The President of the Senate is the Presiding Officer in the Senate and Chairman of the National Assembly. The Deputy Senate President carries out the functions when the Senate President is in his/her absence. The Majority Leader is the Leader of the House elected by members of the Majority Party. His/her role includes serving as a spokesperson for the majority, leading the business of the House, managing the legislative schedule

and liaising with various Committee Chairmen. The Chief Whip is elected to maintain the order and decorum of the House and also discipline among members of the majority Party. The Minority Leader is elected by members of the minority party and his/her role is to represent their interests and maintain discipline among them. Section 53 states: "At any joint sitting of the Senate and House of Representatives, the President of the Senate shall preside, and in his absence, the Speaker of the House of Representatives shall preside." The same structure exists in the House of Representatives. The National Assembly is vested with powers to make laws for the peace, order and good governance of the Federation with respect to matters in the exclusive legislative list. While The Speaker of the Parliament of Ghana is the presiding officer of the Parliament of Ghana. Article 95 of the 1992 Ghana constitution provides that, the election of a speaker shall be from among the members of parliament or from persons who are qualified to be members of parliament. Where the speaker is elected from among the members of parliament, Article 97 of the constitution specifies that the Speaker vacates his or her seat in Parliament, triggering a by-election. There are two Deputy Speakers who are elected from among the members of parliament by the members. Both deputy speakers cannot be from the same political party. The national legislative leadership structure of Nigeria and Ghana are different. The area of similarities are there primary functions and purposes which is to make law, serve as watchdog

for the executive branch and to represents the interest of the people or constituents.

The process of the bill in Nigeria National Assembly would witness these procedures; the bill introduction and First reading, the second reading and Committee stage, the report stage and third reading, the passage to the other house, and the presidential Assent. While in Ghana the processes involved include; first reading, bill is laid at the table of the house, bill is referred to the appropriate, committee sittings may include public hearings and consideration of memoranda, committee's report laid at the table of the house for second reading, second reading, consideration of the bill, third Reading, bill transmitted to President for assent, and the President may also refer the bill to the Council of State and accordingly, notify the Speaker. The area of slight similarities lies on the bill procedures and stages of Bill in Nigeria and Ghana. Yet, bill implementation and timing process and duplicate of duties are the differences that should be checked. Ghana bill process would escape duplicate of duties, and emergency bill to arrest emergency situation bill will not be delayed in passage, since the country is practicing unicameral legislature. Reverse is the case in Nigeria, duplicate of duties and office has been hindered the passage of bill. Emergency bill usually suffered setback or delay when a chamber could not validate the bill as of time being needed for verification and validation.

The law-makers, the executive, the non-governmental Organizations and individual can sponsored or cosponsors a bill in Nigeria. While The Parliamentary Counsel, also known as Legislative Drafters, under the advice of the Attorney General (AG), has the responsibility of drafting all legislative documents in Ghana.

Conclusion and recommendations

Based on the comparative examination of this work on Nigeria and Ghana law-making process, the paper discovered that in both Nigeria and Ghana there is established rule of law and law-making which is playing essential roles in the administration of justice, governance and democracy. It equally resulted into injustice, fraud and favoritism. The paper also discovered that some important characteristics of good law-making process like accountability, transparency and citizens input are lopsided in both Nigeria and Ghana legislative system. The rule of law is the bedrock of any strong democracy, it is important that the rule of law prevail no matter the circumstances and remain institutionalization of democracy in both Nigeria and Ghana.

The paper recommends that digitalization of the proposal or bill for citizens verification, knowledge and understanding before passage is very important, this will give citizens sense of involvements in the smooth running of their country. Public opinion should be taken serious for the proposed bill. Also,

the concerned law enforcers are to be adequately carried along the process and have input on a new bill concerning them. This will make the enforcement much easier and help the smooth running of the affairs of government. This paper also recommends that government should adequately take the advice from research institute very serious and consideration; this will encourage the researchers to do more.

References

- Abdulrauf, L. A. (2021). States of emergency and the rule of law under contemporary African constitutions: A comparative analysis. *Journal of Comparative Law in Africa*, 8(1), 67–101.
<https://doi.org/10.47348/JCLA/v8/i1a3>
- Agu, J. C., Nkwo, F. N., & Eneiga, R. U. (2024). Governance and anti-corruption measures in Nigeria: Strategies for enhancing transparency, accountability and public trust. *International Journal of Economics and Public Policy*, 8(1), 1–15.
- AgYEI, E. K. Y. (n.d.). *A Quest For A Better Africa, Revolution or Reforms; What Counts? A Focus on The Resurgence of Military Intervention on the African Continent*. Retrieved 22 May 2025, from https://www.researchgate.net/profile/Enoch-Agyei-2/publication/377977915_A_Quest_for_a_Better_Africa_Revolution_or_Reforms_What_Counts_A_Focus_on_the_Resurgence_of_Military_Intervention_on_the_African_Continent/links/668430a50a25e27fbc1f9456/A-Quest-for-a-Better-Africa-Revolution-or-Reforms-What-Counts-A-Focus-on-the-Resurgence-of-Military-Intervention-on-the-African-Continent.pdf
- “Non-centralization” emphatically distinguishes between federation and the devolution or delegation of authority Akpunonu, A. C., & Eze, J. A. (2021). Practice of Democracy in Nigeria: Challenges and Prospects. *IJOCLLEP*, 3, 164.
- Akpuokwe, C. U., Adeniyi, A. O., Bakare, S. S., & Eneh⁴, N. E. (2024). *The impact of judicial reforms on legal systems: A review in African countries*. <https://www.academia.edu/download/119426349/1052.pdf>
- Aluko, A., & Idowu, O. (2023). The Future of Democracy in Developing Countries: A Study on Legislative and Judiciary Relations. *Journal of Social Political Sciences*, 4(1), 20–37.
- Amoah, D. K. (2024). Gender inequality in legislative representation: The

- case of women representation in Ghana's Parliament. *SN Social Sciences*, 4(7), 138.
<https://doi.org/10.1007/s43545-024-00936-3>
- Anyogu, F. A., & Iwuorie, C. (2023). Treaty Making and its Application in International Law: Nigeria and South Africa as Case Study. *LASJURE*, 4, 58.
- Atupare, A. P. (2021). A fundamental law of reason and the constitutional law of elections in Africa. *Journal of Comparative Law in Africa*, 8(1), 1–41.
<https://doi.org/10.47348/JCLA/v8/i1a1>
- Ayodele, B. A., & Akanmu, K. I. A. (2024). The Legislature in the Nerves of Socio-Economic Governance and Development: The Nigerian National Assembly in Perspective. *African Journal of Stability and Development (AJSD)*, 16(2), 438–455.
- Eboh, P. C. (2022). *An Examination of the Role of the Judiciary in Law Making in Nigeria* [PhD Thesis, NILDS-Department of Studies].
<https://ir.nilds.gov.ng/handle/123456789/964>
- Framo, M. (2024). *Explaining Variation in Democracy in West Africa.: A Case Study of Ghana and Nigeria*. <https://www.diva-portal.org/smash/get/diva2:1866204/FULLTEXT01.pdf>
- Gule, N. P. (2021). The Hallmarks of the Legislative Drafting Process in Common Law Systems: A Comparative Study of Eswatini and Ghana. *Eur. JL Reform*, 23, 69.
- Ibeanu, O., Okoye, I. 'Kelue, Alumona, I. M., & Aniche, E. T. (2022). Introduction: The Theory and Practice of Political Decision-Making in Nigeria. In O. Ibeanu, I. 'Kelue Okoye, I. M. Alumona, & E. T. Aniche (Eds.), *Anonymous Power* (pp. 3–26). Springer Nature Singapore.
https://doi.org/10.1007/978-981-16-6058-0_1
- Ibe-Ojiludu, S. (2022). Nigeria's Developmental Challenge: Conceptualising Law and Development in the Nigerian Context. *Beijing L. Rev.*, 13, 1.
- Marciel, R. (2023). On citizens' right to information: Justification and analysis of the democratic right to be well informed. *Journal of Political Philosophy*, 2023, Vol. 31, Num. 3, p. 358-384.
<https://diposit.ub.edu/dspace/handle/2445/217259>
- Ogunwa, S. A., & Abasilim, D. U. (2024). Democracy, federalism and governance in Nigeria.

Journal of Governance and Development (JGD), 20(1), 105–127.

- Olayinka, O. F. (2022). Economic Development, Democratisation and the Rule of Law in Ghana and Nigeria. In M. E. Addadzi-Koom, M. Addaney, & L. A. Nkansah (Eds.), *Democratic Governance, Law, and Development in Africa* (pp. 443–469). Springer International Publishing.
https://doi.org/10.1007/978-3-031-15397-6_17
- Onyekakie, G. K. (2022). *The Role of the Legislature in Modern Democracy: Effectiveness and Challenges of the 8th Senate in the Nigerian National Assembly, 2015–2019* [PhD Thesis, NILDS-Department of Studies].
<https://ir.nilds.gov.ng/handle/123456789/997>
- Otto, F. O. (2022). Political Question Doctrine and Judicial Attitude to Political Controversies in Nigeria: Implications for Constitutionalism. *Lentera Hukum*, 9, 263.
- Ramalan, F. A. (2023). *AN ANALYSIS OF THE IMPLICATION OF STATUTORY INTERPRETATION FOR JUSTICE DELIVERY IN NIGERIA* [PhD Thesis, FACULTY OF LAW, BAZE UNIVERSITY].
<https://portal.bazeuniversity.edu.ng/student/assets/thesis/20241022143506620806689.pdf>
- Warren, M. E. (2021). *Democracy and association*.
<https://www.torrossa.com/gs/resourceProxy?an=5642451&publi sher=FZO137>
- Yin, E. T. Y., & Atupare, P. A. A. (2025). GHANA'S NEED FOR SOCIOLOGICAL JURISPRUDENCE: A CRITICAL APPLICATION OF ROSCOE POUND'S THEORY. *UCC Law Journal*, 4(2), 1–26.
- Join, or die – philosophical foundations of federalism. (2016). In De Gruyter eBooks.
<https://doi.org/10.1515/9783110422108>
- Pinto, H., Barboza, M., & Nogueira, C. (2025). Perceptions and Behaviors concerning tourism Degrowth and Sustainable tourism: Latent dimensions and types of tourists. *Sustainability*, 17(2), 387.
<https://doi.org/10.3390/su17020387>
- Dabelko, G. D., Barnhoorn, A., Bell, N., Bell-Moran, D., Broek, E., Eberlein, A., Gadnert, A., Remling, E., Staudenmann, J., Alvarado, J., Bogner, C., Eklöw,

K., Horn, B., & Kim, K. (2022).
*Navigating a just and peaceful
transition: Environment of
Peace (Part 3).*
<https://doi.org/10.55163/bhyr7656>

System, N. J. (2022). Africa Review of
Books, Volume 11, n° 1, 2015.
Africa Review of Books, 11(1).
<https://doi.org/10.57054/arb.v11i1.1407>