

POLICY MAKING AND ADMINISTRATIVE AGENCIES THE CASE STUDY OF THE NATIONAL DRUG LAW ENFORCEMENT AGENCY (NDLEA)

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ABSTRACT

The issue of whether or not administrative agencies should be involved in the policy making process has been the fulcrum of debate among politicians, academicians and professional public administrators. Administrative agencies were seen in the past as those whose traditional functions were to implement government policies. This debate was drawn from the idea that key policy decisions should be made by the legislature and implemented through a bureaucracy. This view has begun to change even though the mission of administrative agencies in policy making seems to vary from one administration to another. The purpose of this article is to describe in general terms the current prospects for administrative agencies on policy making, taking into account not only the principle of separation of powers among the three branches of government which has continued to remind each organ of government about its constitutional functions, but also the opposition of numerous critics against the role of administrative agencies in policy making. Primary attention is directed to the current efforts being made by administrative agencies to formulate policies, this being a mission which has facilitated the solution of technical problems more efficiently and timely. The central thesis of this article may be stated quite simply: the role of administrative agencies in policy making is only meaningful and can only be effected successfully if and so long as policies are formulated to promote public interest. The paper will attempt to provide an insight into the role of the National Drug Law Enforcement Agency in the formulation of drug and money laundering policies in Nigeria. The paper concludes that most of the policies relating to the control of drug abuse, drug peddling and money laundering have their origins in the NDLEA in the investigation, forms of rule-making, political advice, investigation, proposals among others.

KeyWords: Policy, Administration, Drug, government, NDLEA.

INTRODUCTION

Modern governments and their institutions are judged by what policies they make, how effectively they make them and how well their policy making process lends itself to the larger needs and purposes of government.

Public policies are made by single individuals or groups who act on behalf of the State. Indeed, most human needs and desires cannot be satisfied without some form of action, and this is generally proceeded by a decision, meaning an act of which will determine in one's mind the course of action to be taken.

The people involved in policy decisions making occupy certain official positions of trust and importance, empowering them to act on behalf of their society. It is the values and interests of this society which they are to uphold and represent.

Public policy making, as Umoren (1998: 232-233) posits, is

an inter-organizational rather than an intra-organization process. Public decision thus evolves from interaction of individuals and groups each seeking a legitimate allocation of resources of authority from governmental system. Policy making in government service

involves a variety of functions – perception and definition of needs, problems and goals, formulation of proposals and plans, mobilization of support, social analysis and political deliberation, political enactment and legitimation.

In addition, policy making involves essential political activities. Here, priorities are carefully determined and final choice made through compromises among groups with diverse values, interests and perceptions of benefits and costs.

Before we proceed to discuss the role of administrative agencies in policy making it is important to build some linkages among relevant concepts that would aid us in our understanding of the issues that will be discussed in this paper.

CONCEPTUAL FRAMEWORK

In our analysis of the role of administrative agencies in policy making in Nigeria, we are adopting the conceptual framework proposed by Woodrow Wilson and other American writers on the issue of relation between politics and administration. The earlier writers on Public Administration drew a sharp dividing line between politics and administration. Politics, according to some of the scholars, is assumed to be concerned with the problems of making decisions, thereby setting goals and determining ends, while administration is concerned with the question of implementing decisions made through the political process. This in effect implies that an administrator is regarded as one who should have no vested interest in the character of public policy. He is described as a robot-like implementer of policy.

As Wilson (1887:197-222) rightly maintained, "administration lies outside the sphere of politics ... is a part of political life only as machinery is part of the manufactured products". Justifying the separation of politics

from administration, Wilson (1941: 481-506) further asserted:

The field of administration is a field of business. It is removed from the hurry and strife of politics. It at most points stands apart even from the debatable ground of constitutional study ... administration lies outside the proper sphere of politics. Administrative questions are not political questions. Although politics sets the tasks for administration, it should not be suffered to manipulate its officials.

For Wilson, politics sets the goals of the society while it is the responsibility of the administration to execute them. However, the traditional distinction between politics and administration was one between means and ends. Ends of government were supposed to be charted by political branches superior to the bureaucracy, the latter's role being confined to implementing pre-ordained decisions. In other words, the distinction is between politics as special sphere of the statesman and administration that of the technical official.

Wilson's notion of the dichotomy between politics and administration has been interpreted in various ways by analysts, some of who have stated firmly that such a dichotomy does not exist. A renowned scholar of Public Administration, for instance, maintained that the political system is structured as an arch. The left arch represents politics while the right arch represents administration. At the apex, there is a fusion. By implication, politics flows into and energises the administration. In the same vein, the influences generated within the administrative process flow into higher levels of the political process.

Pfiffner (1939) held the same view with Woodrow Wilson, and argued that politics should be controlled and confined to its proper sphere, which is the determination, crystallization and declaration of the will of the community, whereas administration is the carrying into effect of this will once it has been made clear by political process. Nevertheless, Pfiffner posited that "politics should stick to its policy determining sphere and leave

administration to apply to its own technical processes free from the blight of political meddlings".

Frank Goodnow (1914) another contemporary of Woodrow Wilson said that "Politics has to do with policies or expression of the State will; while administration has to do with the execution of these policies". Like Pfiffner, he was also concerned about the meddling of politics with administration. To him, separation of powers provide the basis of the distinction, meaning that the legislative branch, aided by the interpretive abilities of the judicial branch, expressed the will of the state and formed public policy, while the executive branch administered those policies impartially and apolitically.

Other scholars whose writings amplified the politics-administration dichotomy include M.E. Dimmock (1973), Carl, J. Friedrich (1940), and W.F. Willoughby (1920). To support the belief that politics and administration are distinctly separate phenomena in practice as well as in theory, the United States Congress passed the Civil Service Act of 1833-1940, limiting the political activity of civil servants.

Today, the interpretation that politics and administration are distinctly separate phenomena is viewed as obsolete and naïve. Many scholars have argued that the dividing line between politics and administration is blurred. According to them, politics and administration are inseparable.

Appleby (1974) attempted to justify the close relationship between administration and political realms. He asserted that:

In the sense that politics has to do with making government decisions generally acceptable through the interplay of multiple interests, ideas, and ideals in relation to government courses of action, even very lowly employees of government have at least an indirect part in it... The higher one goes in government the greater the involvement in politics because of involvement in greater public concerns.

Given that political activity is directed at influencing decisions, many of which are made either by the administration or political leaders on the advice of the administration, the administrator

has the opportunity to exercise political power as is evident by the way interest groups seek to develop contacts within the administration as a part of their efforts to influence the decision making process.

ARGUMENT IN FAVOUR OF ADMINISTRATIVE AGENCIES IN POLICY MAKING

The debate on whether or not government bureaucracy should be involved in policy making has divided scholars in the area of public administration into two different camps. One group maintains strongly that bureaucrats should for various obvious reasons be involved in the decision making process, while the other group is vehemently opposed to the idea.

For those who share the view of involving the government bureaucracy, it is argued that why one cannot be sure about the motivation behind the role of administrative agencies in the determination of policy, the doctrine of delegation enjoins them to perform this role. It is also observed that the accumulation of policy making on the legislature has never worked well. From the beginning, the legislature has been obliged to find ways to share its law making powers. Although the legislature theoretically can enact all the laws that govern society, it is seldom plausible to do so effectively and efficiently.

For many years, the legislatures in most countries have recognized that they could not effectively handle all the complexities of policy making under certain conditions. These conditions arise when policy decisions involving complex and technical knowledge are called for. In this case the legislature does not have sufficient expertise and available time to devote to the details of such modern policy making. Under these circumstances, the legislature resorts from a strictly technical standpoint, experts and professionals in the bureaucracy who are in a better position to devote enough time and attention to a particular problem. The legislature has developed a system of legislating only the main outlines of programmes requiring constant and urgent attention, thereby leaving the

administrative agencies the task of working out the details of the policies.

It is therefore, argued that if the legislature were left to make all specific rules and regulations necessary for the administration of programmes, one of two problems would arise: the rules would be too general to serve as effective guidelines for administrators, or they would be too rigid and inflexible, and so would lose their meaning and purpose.

Another argument is that in delegating policy-making power to administrative agencies would relieve the legislature of the burden of detailed work, thereby giving it the opportunity to devote much of its time and energy to matters of general importance. Under the delegated authority, administrative agencies shape, mould and at times change policies set down by the legislature in order to meet changing conditions and the public interests. It is observed that when the legislature, for instance authorises the creation of a new programme, there is usually little reference to the details of implementing the programme. Very often the legislature gives only brief guidelines to the bureaucracy and requires it to run the programme in the public interest. These guidelines give the agency considerable leeway in rule making as it sees fit.

The legislative delegation of power to administrative agencies has over the past several years made them an important force in the policy making process. This has in addition impelled some scholars to label these agencies, the fourth branch of government.

Delegation of power also reflects the belief that administrative agencies can better carry out legislative and judicial functions with neutrality, thus providing greater insulation from political and economic pressures than is likely in a cabinet level department. Policies made by administrative agencies in the form of rules, regulations and interpretations of the way a law is to be applied, account for most of policy output in many democratic governments. Generally speaking, the average citizens in many societies are much more directly affected by administrative actions nearly every day as can be seen in areas such as protection against environmental pollution, fraud,

undue inflation and so on. Statistics show that the largest number of policies that directly affect and govern the people are made by administrative agencies through power delegated to them by the legislature. This point is further emphasised by Thomas (1966:6). In his statement he noted that:

it is doubtful that any modern industrial society could manage the daily operation of its public affairs without bureaucratic organisation in which officials play a major policy making role.

This view was also expressed by Loevinger of the U.S. Federal Communication Commission (FCC). Comparing the frequency of the agency policy making with that of, the United States Congress and Courts, he (1965:305) concluded that:

While the Courts handle thousands of cases each year, and Congress produces hundreds of laws each year, the administrative agencies handle hundreds of thousands of matters annually. The administrative agencies are engaged in the handicraft of law.

A cursory look at administrative agencies reveals that under delegated authority they are capable of adopting regulations that the legislature itself might not have adopted. This is often the case when strong lobby groups tend to dissuade elected members of the legislature from responding to public demands. For instance, while the United States Congress was trying to battle with the Gun Control Legislation in the 1960s after the brutal assassination of Senator Robert Kennedy, the United States Post Office Department applied its delegated power and adopted a policy, preventing the importation of guns through the mail, in spite of the powerful influence of the National Rifle Association. The association that had frustrated the efforts of the Congress from passing Gun Control Law, was surprised by the new policy which was initiated by the Post Office Department, requiring all packages containing guns to be marked, "Fire Arms". It also provided that local police should be notified of the arrival of these guns before they leave the post office for delivery.

It must be recognised that the action of

the US Post Office Department facilitated not only the making of law through rules and regulations, but also the correlation of rule making with other important functions such as adjudication, investigation and supervision. This action was also a clear demonstration of the central mission of an administrative agency as policy initiator and policy making in a democratic society. The National Rifle Association with its huge political resources could have exerted considerable influence within the traditional legislative system through congressmen serving on the Committee or sub-Committee involved in Gun Control policies, and there would be little hope for successful initiation of new policy within Congress. To effect a change in public policy, an administrative agency had to be used.

CONSTRASTING VIEWS OF THE INVOLVEMENT OF ADMINISTRATIVE AGENCIES IN POLICY MAKING

Series of opposition have been raised against the role of administrative agencies in policy making from numerous critics. Included are those who perceive that their interests have been threatened by agency policies. The critics have identified the problems inherent in this practice. First is the argument that authorising administrative agencies to make policies on matters involving private rights or to make law through rule making contravenes the rule of law often interpreted. Second, to authorise non-elected bureaucrats to exercise legislative and executive powers violated the theory of separation of power as enunciated by the French philosopher, Baron de Montesquieu. Third, authorising an agency to perform legislative and judicial functions means a clear violation of the non-delegation doctrine. The rationale behind the non-delegation concept is regarded as a means of protecting citizens from the abuse of powers of administrators. Besides, unrestricted delegation of power could threaten, if not destroy the theoretical basis of the concept of separation of powers. In other words, the fundamental issue raised by the critics is that policy making is the prerogative of the legislature. The argument for and against the involvement of civil servants has been discussed in the last section of the paper.

An important question this section is going to address is, How has this issue worked in our political system? To answer this question effort would be made to look at the involvement of the civil servants in policy making from the colonial days to the present period.

PUBLIC POLICY MAKING AND THE BUREAUCRACY IN NIGERIA.

In Nigeria, the age-long debate in the literature over the question of the relation between politics and administration has not assumed any great dimensions and the type of refinement found in the literature of the Western World does not exist. This is partly because of Nigeria's colonial experience, the type of political system in the country, the character of the relation between politics and administration as well as the debate itself. Nigeria's experience on the bureaucratic involvement in policy making will be discussed from the colonial period to the present era.

THE COLONIAL PERIOD

The colonial administration in Nigeria presented a different type of question from that which is normally associated within the discussions over the relationship between politics and administration. During the earliest periods of the British administration, the Nigerian bureaucracy seemed to generate few political issues. Although the government handled important tasks, most of these demanded no larger or expensive administrative apparatus. Nigerian society was relatively small and the complex patterns of interdependence so common to modern society such as intricate transportation system, population congestion centres, productive and distribution enterprises, among others were absent.

However, the executive council which was established by the British was empowered to make policies for Nigeria, subject to the approval of the Colonial Secretary in London. From the outset, the members of the Executive Council, including the Governor, were highly placed Civil Servants. Others included the Chief Secretary,

the Attorney-General, Provincial Residents, and the Heads of Professional-Technical Departments. Although the colonial office in London laid down the broad frame work within which politics for Nigeria were to be determined, the Civil Servants on the spot used their power of discretion to determine policies.

In the various provinces as the country was divided, the residents who were the senior political officers were strongly involved in the policy making process. Eventhough there was a class responsible for the implementation of policy, there is enough evidence that they also made contributions in the making of policy. The professional and technical experts on the spot were in a position to procure enough data for the determination of policies. In addition, they suggested the most reasonable options in solving problems in the light of the available information.

It is important to point out that it was not always that the political officers accepted suggestions given by professionals. There were, of course instances such suggestions were rejected partly because of the residents or coordinators of the services of government in the field, or some other cogent reasons. The point I want to stress here is that Civil Servants as professionals had the legitimate authority to make recommendations on how problems were to be handled. That by implication, qualified them as legitimate part of the decision making group.

The introduction of Macpherson Constitution in 1951 brought about important changes in the structure of the executive council both on the national and regional levels of government in the country. For the first time, Nigerians were appointed ministers. In other words, Nigerians became heads of various ministries under which the departments were groups for effective and efficient handling of the policy making process. This means that for the first time, there were Nigerian politicians whose primary function was to formulate policy all working through the legislative process. It is instructive to say that from this point it was quite possible for one to distinguish between politics and administration in the traditional sense of the concept.

Although there were changes in the structure of the executive council on paper, but in reality, there were not clearly and neatly defined. For instance, five members of the executive council, namely, the Governor, the Chief Secretary, the Financial Secretary, the Attorney General and the Development Secretary, all of whom were Civil Servants had a more predominant role in the determination of policy for the country. The executive council in the first place was dominated and controlled by the members of the bureaucracy, composed mainly of the British Civil Servants, while the legislative council was dominated by Nigerian politicians. However, what the legislature could legislate on depended to a large extent on what was presented to it by the executive organ of government. In fact the 1950's was characterized by conflicts between Nigerian politicians and the British Civil Servants.

By the latter part of the 1950s and early 1960s, the situation had some what changed from what it was at the beginning of 1950s. Many Nigerian politicians in the executive council and in the legislature had at this time acquired reasonable experience of public issues. As a result, they were able to exert their influence to make firm contributions on policy making.

It could be said that by the time Nigeria achieved her political independence in 1960, Nigerian Civil Servants had acquired more experience in governance than the politicians, which could have placed them on a better position to control the political functions in the country. Unfortunately, this was not true in the case of Nigeria.

INDEPENDENCE PERIOD

The issue of what the relation between politicians and civil servants should be, and the confusion which arose from it, compelled the Nigerian government to take measures after independence to address the problem. The former Eastern Nigerian Government, for example, made its on the issue in the following statement:

The public service of Eastern Nigeria is an independent autonomous service established under the Nigerian (Constitution) Order-in-Council in 1960. It shall be scrupulously insulated from partisan politics, and observe the highest standards and traditions as evolved in Britain, on whose system our own has largely been modeled. It must be a disciplined, efficient and loyal service, impartial in the exercise of its duties and devoted to serving the Government in power. While essentially the executive arm of the government, it will be expected to give honest help and advice in the formulation of policy and to ensure that approved policies are faithfully, energetically and whole-heartedly carried out. (Quoted in Awa, 1985:17)

However, it can be discerned from the statement above that no rigid separation was made between policy and administration. The point is that the position of the former Eastern Nigerian Government has also indicated the extent of which neutrality and anonymity of the bureaucracy on policy making structure must go for it to operate successfully. Suffice to say also that the ministers depended on the advice and recommendations of the higher public servants because they (ministers) lacked understanding of many of the issues at stake. Certain issues involve many questions which are more technical in nature, and as a matter of fact there is no clear dividing lines between the politicians and public servants in their roles in policy making. In some cases the research that goes into policy formulation could be initiated by either the minister or the bureaucrats.

THE MILITARY REGIMES, JANUARY 1966 – OCTOBER 1979

Under the military regime, the relation between the Commissioners and the Permanent

Secretaries also underwent some fundamental changes. A number of reasons have been advanced for the growth of Public Servants as superior political actors during the period of the military.

First, it has been argued that having discredited the politicians whom they displaced, the military could not have involved them in government. The bureaucrats acted as a mechanism of the political system when the politicians disappeared from the scene of governance at the arrival of the army. Political offices were vacated, leaving the maintenance of law and order, and authority into the hands of bureaucrats. The Head of State and his fellow officers had no prior knowledge about the running of the government; they therefore, depended heavily on the Civil Servants.

Second, the Civil Service was perceived as an institution of technically competent people who had the talent and the technical know-how to lead. The top Civil Servants became the mediators of the Nigerian Ministries and the various interests in the country. For instance since the military was less organizationally weak and more deficient in managerial skills than the civil service, it was by these facts, considered necessary to seek the support of the civil servants to revamp the economy as a basis for a stable political order.

Third, the civil servant was worthy because of its commitment to national unity. The capability of the civil service was reflected in its providing the technical and professional resources for the administration of the post-civil war reconstruction, rehabilitation and reconciliation programmes designed by the Gowon administration to bring about unity in the country.

Fourth, it is observed by many scholars that the military had common characteristics and interests. In this regard, the military and the civil service had to pull together because of their organizational behaviours and ideological characteristics as bureaucratic institutions (Olugbemi, 1979: 12-15).

Military rule in Nigeria attracted the top-level civil servants deeper into policy making

roles. According to Luckham (1971: 203 – 24) the Ironsi regime relied heavily on the permanent secretaries, and virtually all important decisions were taken by a dozen military leaders together with a handful of civil servant advisors.

Because of the absence of Commissioners, Major-General Ironsi entrusted ministerial powers in the Federal Executive Council. Nevertheless, the Head of the Military Government and the Federal Executive Council delegated broad powers to the permanent secretaries to promulgate subsidiary statutes, including extensive rule making authority. At the regional level, higher administrative officers sat in the Executive council as of right.

However, the direct involvement of bureaucrats in the policy making arena reached its peak under General Gowon (Harris, 1978; Nwosu, 1985). The lack of experience on the part of most military officers in decision making gave rise to the administration's dependence on civil servants. It was reported that General Gowon relied more on suggestions made by Federal Permanent Secretaries and the Supreme Military Council than recommendations made by his ministers.

With the Gowon administration, the Permanent Secretaries were preoccupied with policy making. Moreover, the super-permanent secretaries, as they were called, and other top-level public servants usurped the authority of their ministers and dominated the determination of public policies. In addition, many career civil servants took the opportunity provided by the ouster of politicians in government to expand their dominant roles in shaping and determining policies.

This pattern did not remain consistent. During the Generals Mohammed and Obasanjo regime some important changes were made in the decision structure. One of such changes, and perhaps the most important was the denial of the Permanent Secretaries from the Federal Executive Council, including about 10,000 public servants alleged of corruption, inefficiency and redundancy. The power and status of the

Permanent Secretaries who were closely linked with General Gowon's regime were reduced to the lowest level and some Permanent Secretaries and administrative officers were summarily dismissed from Federal and State ministries and parastatals. Military leaders who constituted the political component of the decision making structures were no longer dependent on the Permanent Secretaries as was the case in the Gowon regime.

In spite of the limitations on the powers of Permanent Secretaries and dismissal of many civil servants, many scholars had argued that public servants continued to be involved in policy formulation. For instance, the 1976 Local Government reform clearly provided for the role of Chief Administrative Officer. Comparing their position to that of the Residents and Divisional Officers in the early 1950's, Local Government Secretaries during the 1976 – 1977 period tried to dominate the policy making process. Nevertheless, many Councilors were satisfied to ratify proposals initiated and submitted by the departmental heads.

THE SECOND REPUBLIC

With the return of Nigeria to a Civilian rule on October 1979 under President Shehu Shagari, efforts were made to establish a political system that controlled the bureaucracy. The 1979 Constitution provided measures to limit the previous role of higher civil servants in both policy formulation and policy execution.

Articles 139 and 177 of the 1979 Constitution provided for the appointment of special advisers to the President and State Governors as well as a Secretary to the Government who was to serve as the overall political adviser to the President. However, the special advisers held temporary political rather than civil service appointments and served at the pleasure of the President and Governors. In effect, the special advisers exercised more authority and influence than the Federal Ministers and Commissioners at the State level. Furthermore, the Permanent Secretaries were banned from serving as the administrative heads

of their ministers under articles 136 and 174 State Commissioners were delegated this responsibility and recognized as the representatives of the Chief Executive.

Most importantly, the 1979 Constitution changed the status of high public servants by allowing elected Chief Executives to appoint persons from outside the career civil service as Permanent Secretaries, Heads of Extra-Ministerial Departments and Secretary to the Government (see Articles 157 – 188). Implicitly, these appointments gave the President and the Governors the opportunity to transfer or dismiss from office those persons serving as Permanent Secretaries, Heads of Departments, Secretary to the Government and Head of Civil Service. The office of Permanent Secretary as the Vice President, Alex Ekwueme casually commented was to become unpermanent.

In actual sense, the implication of the changes in the executive structure was to place limitations on the bureaucratic policy making roles. By 1980, numerous conflicts and confusion arose from the policy formulation role of Permanent Secretaries at the Federal and State levels, as a result of the various ways the provisions of the Constitution were interpreted. In Kaduna State, for example Permanent Secretaries played more prominent role in policy making and execution. In addition, high civil servants continued to exercise varying degrees of influence in policy formation in other eighteen States.

The second republic came to an end when the military seized power under the leadership of General Buhari in 1984. General Buhari's administration renewed the retrenchment of public servants with the primary objective of solving government's financial problems. The regime also set up the Dotun Phillips Study Team in March, 1985 to review the Federal Civil Service, and among other things to assess the role of the Civil Servants. The Report of Phillip's Team which formed the bedrock of the 1988 Civil Service Reform was submitted in August 1985

General Babangida's regime made significant changes in the structure and role of the civil service with the introduction of the 1988 Civil

Service Reforms. The rudiments of the reform became a reality with the passage of Decree 43.

While we will not waste time on the detailed analysis of the 1988 Reforms of the Civil Service, it is important to highlight the following reform measures.

1. The office of the Permanent Secretary was made a political office, and the Permanent Secretaries as political appointees must retire with the government that appointed them;
2. The Permanent Secretary (who was then Director-General) was totally under the subordination of the minister who was both the Chief Executive (political head), and the Accounting Officer of ministerial department;
3. The professionalisation of the civil service was abolished;
4. Also abolished were the Civil Service Commission as an autonomous institution and the Office of the Head of Civil Service.

Like the fundamental changes in the structural arrangement in the executive branch of government, the intended consequence of the 1988 civil service reform was to create an atmosphere for a new civil service in the Nigeria's Third Republic. The reforms contained the seeds of control over the civil service by the executive branch of government. This was also further strengthened by the 1989 Constitution even though it did not see the light of day. In a nutshell then, it was the intention of the Babangida administration to make the civil service committed to government policies.

From August 27, 1993 when General Babangida stepped aside, and shoved into office an Interim National Government headed by Chief Ernest Shonekan, who was booted out of office in a palace coup by General Sani Abacha in 1993 to General Abdulsalami Abubakar in 1999, the prospect of the civil service altering its status remained a remote possibility. This implies that civil servants continued to maintain the tradition of political neutrality. The doctrine of neutrality enjoins the civil servants to implement the policies of their departments once they are laid down regardless of whether or not such policies are at variance with the personal ideological positions.

Furthermore, the doctrine of neutrality also implies that the civil servant must not take any overt action that can enhance the chances of a political party to be put into power at the expense of another party.

With the introduction of democratic rule in the country, the Obasanjo administration has instilled new hope into the civil service. One major development concerning the Nigerian Civil Service during the Obasanjo era has been the resuscitation of the office of the Head of the Civil Service and the formal appointment of a head of the Civil Service of the Federation in June 1999. This, in precise terms has enable civil servants to rediscover themselves and discharge their traditional role of implementing government policies effectively.

Although the Nigerian bureaucracy has not assumed the full status it enjoyed during the colonial period and the first military regime of General Gowon, it still plays significant roles in the policy formulation process and policy execution. A large number of public servants were dismissed by the purge of 1975, some were demoted and others threatened by the loss of authority under the provisions of the 1979 Constitution, but both the military and civilian governments have continued to find that their professional skills and technical expertise are indispensable in the shaping and implementation of government policies and programmes. The National Drug Law Enforcement Agency (NDLEA) and Public Policy making public concern for the high incidence of drug abuse, drug trafficking and other drug-related activities all over the world began to heighten in the 1980s. The drug problem is probably best summarized by the UN Secretary-General of the UN, Kofi Annan, who in November 1999 stated that:

Drugs are tearing apart our societies, spawning crime, spreading diseases such as, AIDS and killing our youth and future.

He added that:

today, there are an estimated 190 million drug users around the world. No country is immuned and lone, no

country can hope to stem the drug trade within its borders. The globalisation of drug trade requires an international response (Quoted in Adesina (1993):336).

The United Nations' World Report identified Nigeria as a major transit country for drugs. Efforts to curb and check hard and psychotropic drug trafficking and abuse in Nigeria gave birth to the establishment of the National Drug Law Enforcement Agency (NDLEA) by the Babangida administration. NDLEA was established by Decree 48 of 1989, and is responsible for the prevention of illegal drug cultivation, production, manufacture of, illegal trafficking and use of hard drugs.

OBJECTIVES OF NDLEA

The NDLEA is quite expressly aimed at:

- a. Reducing the growing problems of drug abuse and drug trafficking;
- b. Coordinating all drug laws and enforcement functions in the country, including those conferred on any authority; and
- c. Identifying, trace, free, confiscate or seize drugs and proceeds derived from drugs and drug-related offences, or property whose values correspond to such proceed.

PROCEDURES USED BY THE NDLEA IN POLICY MAKING PROCESS:

As a government agency, NDLEA is an arm of the executive. It derives its power and authority from the law-making body in the country. NDLEA can be used to characterize governmental authority other than the court and other legislative body which affects the rights of citizens and of private parties. NDLEA was established by decree to implement policies and programmes relating to drug abuse and drug trafficking, but one cannot realistically expect the agency to carry out these policies and programmes in a purely mechanical fashion. As

the agency implements them, it develops new policies. In other words policy process does not stop with the passage of laws or the giving of orders. The decisions must be executed, and in the process of implementation, policy may also be created (Pressman and Wildavsky, 1980; Larson, 1980; Edwards, 1980). Vague statutes obviously require administrative agencies to make decisions during implementation, but this may not be the only instance or instances in which implementers create policy. Even carefully crafted laws or seemingly unambiguous directives require the continual exercise of judgment or discretion by agencies. During the implementation of policy on drug, the NDLEA, for example, may discover that the policy has left hundreds of questions unanswered. On the other hand, the government may give broad general guidelines on how a problem can be solved. For one thing, the agency is compelled to make major decisions.

The point we are making is that it would be a mistake to assume that the NDLEA is primarily confined with the function of implementation of drug laws. In Nigeria, administrative agencies like NDLEA and others have adopted a norm of behaviour which not only permits, but expects that they be involved in policy implementation as well as formulation. As has been said earlier in the paper, policy making process is a sequential activity, involving single individuals and groups who act on behalf of the state. Sometimes when a particular problem like the one involving drug abuse and drug trafficking emerge, the government is compelled to establish an administrative agency, and ask it to search for solution. It is in the course of searching for solution that new policies are created. Nevertheless most government policies originate from the grassroots (agencies).

The policy making process in the NDLEA takes various forms. First is the rule-making. In simple term; rule-making involves developing policies in a manner comparable to that used by the legislature. In other words, rule making is characterized as quasi-legislative. In rule-making NDLEA issues regulations and rules that govern the activities of drug dealers. In fact, it is instructive to mention that many policies have

been created since the establishment of DNLEA in 1989. These new policy ideas and programmes have their origins in the NDLEA. For instance, the NDLEA has discovered that the problem of drug use and drug trafficking will not be solved by arresting and jailing the offenders. The Agency, has initiated rules which the government has promulgated into laws or policies. These are:

- i. Policy on Demand Reduction: The policy is intended to attack the appetite of the drug users. It involves counseling and rehabilitation of the drug users so that they do not go back to drugs.
- ii. Policy of Drug Supply Reduction: This is based on the logic that a drug user can be an addict when he has the drugs. NDLEA proposed a policy which the government adopted and passed into law. It authorized the agency to arrest the drug trafficker and seize the drugs before they get to the users. In 1995 alone 54,126.9 kilogrammes of hard drugs were seized at Lagos and Kano Airports. Between 1995 and 1997, 53.97 kilogrammes of cocaine and 60.14 kilogrammes of heroin were also seized (ibid:338).
- iii. Policy on Crop Substitution: While implementing government policy and programmes, it was discovered by the NDLEA that drugs such as cocaine, marijuana and cannabis are grown by Nigerians. The Agency initiated a policy which is aimed to destroy such farms and providing other crops and inputs to farmers to substitute the drugs. The policy also involves rehabilitation of drug farmers and supporting them to grow other crops such as cassava, maize, rice, yam and others.

The second form the NDLEA is involved in policy making is recommendation. All measures put in place to eradicate hard drugs menace were

frustrated by cases of money laundering. It was found that accessibility to easy, but illegal repatriation of the proceeds of illicit drug trade continuously recapitalized hard drug trade in Nigeria. Through the recommendation of the NDLEA, Money Laundering Decree No. 3 of 1995 was promulgated to be the law regulating and dealing with money laundering in Nigeria. The Decree was amended in 1999 as contained in Section 18 of Decree 62. The amended decree takes care of the loopholes in Decree 3 of 1995 which laid more emphasis on fighting hard drugs. The 1995 amended Decree on money laundering includes such offences and illegal activities like bank fraud. The Obasanjo administration has established the office of Senior Special Assistant on Drugs and Financial Crimes. This is a unit under the NDLEA. Consequently, the office is charged with initiating policies and strategies and appropriate frameworks aimed at reducing the increasing rate of drugs and financial crimes, including the restoration of the confidence of international community in Nigeria.

Third, is investigation. The NDLEA in collaboration with the Central Bank of Nigeria carries out investigation of banks, auto-dealers and individuals. From the investigation, NDLEA supplies information on money laundering that will assist the government to formulate policy to guide banks in dealing with their customers, especially with regard to records of transactions.

Fourth, NDLEA officials attend International Conferences and Seminars. Ideas and policies are sources from international conferences and seminars put together and presented to the government to shape policies.

Fifth is the policy on training which was suggested by NDLEA to the Nigerian government. The training of narcotic officers in West Africa has gained support from the International Community. It has provided West African States the opportunity to provide training to narcotic officers, thereby helping them to deal with drugs problems more effectively.

Lastly, policy making involves making proposals to the law making body to promulgate laws. NDLEA has forwarded a proposal to the National Assembly to establish Financial Crime

Commission. Such a proposal becomes a policy which can be credited to NDLEA.

From the points raised here, it is important to note that no policy or law is made in Nigeria without inputs from the grassroots. That an individual or a group of individuals is involved in the policy making process does not mean that individual or group of individuals must necessarily be politicians or members of Local, State or Federal legislatures.

FACTORS THAT PROMOTE NDLEA'S POLICY MAKING AUTHORITY

In Nigeria the debate over the question of bureaucratic involvement in policy making has not assumed any great dimension found in the literature of the Western world is not so much pronounced. Every administration in Nigeria from the colonial period to the present, has witnessed the role of civil servants in policy making. This is in part due primarily to four important factors namely: the political environment; foundations of bureaucratic power; chief among which are the ability to build, retain and mobilize political support for programmes and to make use of expertise in a particular field; the sub-system politics, and the political accountability of non-elected officials. Each of these factors is typical and unique in influencing decision making by civil servants.

THE POLITICAL CONTEXT OF BUREAUCRATIC POWER

The political environment in which politics are made, and of the most important, is the structural arrangements of the Nigerian Constitution such as the separation of powers, checks and balances, federalism and the judicial review. Of the numerous Constitutions Nigeria has had, none contains a word about the bureaucracy. For example, the Constitutions refer to "departments" and "executive departments", but there is no where in the Constitution which stipulates what such departments should do or who should supervise them. This lack of clarity has led to considerable political debate about the role of administrative agencies in policy making.

It is important to observe that there is competition for power among the arms of government and within them. There is also factional conflict within the major political parties and the continual competition for position and influence among interest groups. Let us illustrate the position, taking a critical look at the regulatory boards and commissions. These agencies are empowered to issues and regulations governing for example, government energy policy. It is all likely that policy decisions made by the Nigerian Electric Power Authority may not be congruent with those of Petroleum Industry, manufacturers of electric appliances, environmental groups, coal corporation, etc. Consequently, conflicts are created and expanded when attempts are made by one administrative agency to impose rules on other agencies.

POLITICAL SUPPORT

Policy making requires a strong coalition support because of fragmentation of authority, organizational complexity and unequal distribution of power characterized by decision making. Political support for an agency to make policy may come from the National Assembly, particularly from a committee or sub-committee rather than the entire National Assembly, with authority to oversee how the agency operates.

A second important source of political support is the executive branch, meaning both the Presidential support as well as that of other administrative agencies. Presidential support can determine the success or the failure of an agency. This is an important reason many agencies try as much as possible to win presidential support, especially in the area of favourable reviews of budget requests by these agencies to carry out their programmes. The next way of getting the support of the executive branch is through coalition with another agency or agencies for the achievement of common objectives. This is what is usually referred to as inter-agency alliances.

In addition, administrative agencies strive to seek for support from client groups that look to the agencies for satisfaction of their policy demands. These are interest groups affected

directly by what agencies do. In other words, these groups have a tangible stake in their (agencies) programmes. The relationship which develops between an administrative agency and an interest group is that of reciprocity. In actual fact each has something from which the other can benefit. The pressure groups in most cases provide political or economic resources to the agency or agencies in return for meeting their needs. The group can provide channels of communication to other influential individuals or groups, thereby helping the agency to sell its programme to the members of the public as well as politicians in parliament.

BUREAUCRATIC EXPERTS

The level of technical know-how an agency has in achieving the responsibility assigned to it is a strong factor that shapes the agency's involvement in the policy making process. Our society has become so complex and technologically advanced that agencies require experts with specialized knowledge needed in making policy. In Nigeria, for instance, administrative agencies are staffed with experts in various fields who now play important role in policy making. As one scholar has rightly observed, the influence of experts in policy formulation rests on five major components namely:

- i. full-time attention by expert to a problem or subject-matter area, giving rise to both demand and opportunity for professionalism in public service,
- ii. specialization in the subject,
- iii. a monopoly on information in the subject area, which if successfully maintained by only one staff of experts, makes them indispensable in any decision making involving their subjects,
- iv. a pattern of increasing reliance on bureaucratic experts for technical advice, and
- v. increasing control by experts of bureaucratic discretion.

POLITICS OF ORGANIZATIONAL STRUCTURE

The organizational structure can mean a number of things. First, a particular structure involves commitment to some policy objectives and not to others. The establishment of a special agency, for instance, the Niger Delta Development Commission (NDDC) in 2001 represents a policy commitment by the Obasanjo administration to combat the socio-economic problems in the Niger Delta region. NDDC performs specific missions relative to certain substantive programmes and geographical area. Such other agencies include the Nigerian Institute of Economic and Social Research (NISER), River Basin Authorities (RBA), the Federal Environmental Protection Agency (FEPA), to mention just a few.

Nevertheless, the success or failure of the National Drug Law Enforcement Agency (NDLEA) in policy making will depend on the four factors discussed above. In a situation for instance where the legislature short-changes NDLEA by under-funding or reducing its statutory allocation is a sign that the legislature is moving toward limiting the rule-making powers of the agency, or where the agency does not attract strong support from interest groups.

CONCLUSION AND RECOMMENDATIONS

In this paper we have attempted to illustrate that the dichotomy between politics and administration does not work in actual practice as it is theoretically written on paper. Evidence clearly shows that higher public servants have consistently played central roles in the formulation of policy in Nigeria. This trend is likely to continue in future. Murtala Mohammed military regime, Shehu Shagari civilian administration and the military regimes of Muhammadu Buhari and Babangida made some efforts to limit the bureaucratic involvement in policy making, but with little success. The involvement of public servants in the policy making process is predicated by the fact that certain problems that are technical in nature require bureaucrats who are in a position to use their expertise in solving

these problems.

With these facts in mind, the Natural Drug Law Enforcement Agency (NDLEA) occupies a prominent position in policy formulation. Major policies and programmes on drug abuse, drug trafficking and money laundering have come in the form of rule-making, initiating alternative policy proposals, providing political advice and investigation by NDLEA as it implements government laws in illegal drugs. NDLEA has devoted considerable amount of its time and resources to develop policy. In other words, the policy ideas developed in NDLEA are debated by law makers, aggregated and promulgated into drug and money laundering laws have their origins in the Agency. For instance, when the NDLEA officials investigate a case of money laundering in banks, and provides an information which will help policy makers to take series of actions aimed at fighting against drug problems in Nigeria, they are automatically involved in shaping policy at certain stages of the policy making process.

To enhance the policy making of the NDLEA, it should enjoy not only the confidence and support of the legislature, but also of the interest groups in the country. Since most of the issues on which the Agency is authorized to initiate policy are crucial, the Agency should not abuse the powers delegated to it. One of the criticisms against the bureaucratic involvement in policy making during the Gowon regime was that the higher public servants undeniably over-reached their conventional roles on various occasions. Furthermore, the role of NDLEA should not be compromised with political conflicts between it and the legislature or courts.

Finally, the Agency should apply learning procedures in adopting its rules, thereby educating the public about its roles in fighting against drug problem.

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