

# Nigeria's National Assembly's Power of Self-Discipline: the Power to Expel, to Exclude and to Punish: Lessons from Other Jurisdictions

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## ABSTRACT

This article examines the contentious issue of internal disciplinary powers within Nigeria's National Assembly, focusing on the legislature's authority to expel, exclude, and punish its members. This research addresses the growing concern over parliamentary autonomy and constitutional supremacy, particularly in light of recent judicial interventions that have consistently invalidated legislative suspensions exceeding procedural and constitutional boundaries. Through analysis of landmark cases including *Senator Ali Ndume v Senate*, *Senator Ovie Omo-Agege v Senate*, and the recently decided *Senator Natasha Akpoti-Uduaghan v Senate*, this study reveals a pattern of legislative overreach followed by judicial correction, undermining institutional credibility and democratic representation. This paper critically evaluates the legal foundations of disciplinary powers under the 1999 Constitution, the Legislative Houses (Powers and Privileges) Act 2017, and the Standing Orders of both chambers, identifying ambiguities that fuel recurring constitutional crises. Through comparative analysis of disciplinary frameworks in the United States, United Kingdom, South Africa, Canada, India, and Australia, this study identifies best practices for Nigeria. This research demonstrates that while all democratic legislatures possess inherent disciplinary authority, successful systems balance parliamentary autonomy with constitutional accountability through clear procedural safeguards, independent ethics committees, and judicial oversight mechanisms. This article proposes comprehensive reforms including codification of clear disciplinary

standards, enhancement of ethics committee independence, and institutional respect for constitutional boundaries, concluding that sustainable legislative discipline requires a fundamental shift from parliamentary sovereignty rhetoric to constitutional supremacy practice.

**Keywords:** Constitutional supremacy, judicial review, legislative powers, Nigerian National Assembly, parliamentary discipline,

## I. INTRODUCTION

The principle that a legislative body must possess internal powers to preserve its dignity, maintain order, and discipline its members is well-established in democratic governance. The ability to exclude, suspend, or in extreme cases, expel a member, is not only an assertion of parliamentary autonomy but also a safeguard for the legislative process. Nigeria's National Assembly, comprising the Senate and the House of Representatives, is no exception. Empowered by both the 1999 Constitution and the Standing Orders of each chamber, it is vested with the authority to regulate the conduct of its members, including imposing sanctions for misconduct.

However, recent political events and judicial interventions have cast serious doubt on the legitimacy and scope of these self-disciplinary powers. Most recently, in March 2025, the Nigerian Senate suspended Senator Natasha Akpoti-Uduaghan for six months over allegations of persistent disorderly conduct and violation of Senate Standing Orders. The grounds included refusal to sit in her allocated seat, speaking without being recognised, and allegedly bringing the Senate

into disrepute. Although the Senate cited provisions of its Standing Orders to justify its action, legal commentators have often described the move as “legislative recklessness,” particularly in light of existing court precedents that limit suspensions to 14 legislative days without due process protections. The Senator has since approached the Federal High Court to challenge the legality of her suspension, potentially adding to a growing line of judicial precedents curbing legislative excesses in Nigeria.<sup>1</sup>

This incident is far from isolated. The National Assembly has, over the past decade, witnessed a pattern of suspensions and disciplinary actions often mired in political controversy and subsequently invalidated by the judiciary. Prominent legislators such as Senator Ali Ndume, Senator Ovie Omo-Agege, Hon. Abdulmumin Jibrin, and Hon. Dino Melaye have all secured court victories after being suspended for making dissenting or controversial remarks in plenary. In most cases, Nigerian courts have ruled that the suspensions violated constitutional safeguards, often citing the right to fair hearing and the right of constituents to be represented.<sup>2</sup>

These recurring issues raise critical questions: To what extent can the National Assembly discipline its members without contravening constitutional norms? Is the current framework adequate to balance parliamentary autonomy with judicial oversight? And what lessons can Nigeria draw from other jurisdictions such as the United Kingdom, the United States, South Africa, Canada, and India where parliaments also wield disciplinary powers but within clearer legal or procedural boundaries?

This article critically examines the internal disciplinary powers of Nigeria’s National Assembly, particularly the powers to expel, exclude, and punish its members. It evaluates the

legal foundations of these powers under Nigerian law, the evolving judicial interpretation, and the inconsistencies between the constitutional provisions, the Legislative Houses (Powers and Privileges) Act 2017, and the Standing Orders of each chamber. This article then undertakes a comparative analysis of relevant jurisdictions to distill lessons for improving Nigeria’s internal legislative governance. Ultimately, this paper argues that while self-discipline is essential to the functioning of any legislature, its exercise must be constitutionally bounded, procedurally sound, and insulated from political arbitrariness.

## II. LEGAL BASIS FOR PARLIAMENTARY SELF- DISCIPLINE IN NIGERIA

### 2.1 Constitutional and Statutory Foundations

The disciplinary powers of Nigeria’s National Assembly find their primary legal foundation in the 1999 Constitution. Section 60 of the Constitution grants both the Senate and the House of Representatives the power to regulate their own procedures, including the authority to establish Standing Orders governing internal conduct:

“Subject to the provisions of this Constitution, the Senate or the House of Representatives shall have power to regulate its own procedure, including the procedure for summoning and recess of the House.”<sup>3</sup>

Additionally, Section 4(1) vests legislative power in the National Assembly, while Section 68(1)(g) provides that a member’s seat becomes vacant if “he becomes a member of another legislative house or political party,” thereby indirectly linking membership to legal and procedural norms.<sup>4</sup> These provisions underscore the constitutional recognition of the Assembly’s autonomy in managing its internal affairs, including disciplinary control over its members.

The Legislative Houses (Powers and Privileges) Act 2017 further provides statutory elaboration. Replacing the 2004 version, the Act codifies parliamentary privileges and procedural immunities. Section 1 grants immunity for words spoken or actions taken in plenary or committee, while Sections 2, 3, 24, and 25 define the powers to summon individuals, compel attendance, and

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<sup>1</sup>Senate Justifies Akpoti-Uduaghan's Suspension, Denies Sexual Harassment Link at IPU' (Arise News, 13 March 2025) <<https://www.arise.tv/senate-justifies-akpoti-uduaghans-suspension-denies-sexual-harassment-link-at-ipu/>> accessed 22 May 2025.

<sup>2</sup>*Senator Ali Ndume v Senate* [2017] FHC/ABJ/CS/551/2017; *Senator Ovie Omo-Agege v Senate* [2018] FHC/ABJ/CS/314/2018; *Honourable Abdulmumin Jibrin v House of Representatives* [2016] FHC/ABJ/CS/812/2016; *Dino Melaye v House of Representatives* [2010] FHC/ABJ/CS/460/2010.

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<sup>3</sup>Constitution of the Federal Republic of Nigeria 1999 (as amended) s 60.

<sup>4</sup>*ibid* s 68(1)(g); see also s 4(1) and s 101.

penalize contempt.<sup>5</sup> However, the Act also places implicit limits by anchoring parliamentary privileges within the framework of judicially reviewable law. In essence, once legislative immunities are codified into statute, they become justiciable and susceptible to constitutional scrutiny by the courts.<sup>6</sup>

Thus, while the National Assembly is empowered to maintain discipline and regulate decorum, these powers are neither absolute nor immune from judicial oversight. As Nigerian courts have consistently held, internal disciplinary actions must comply not only with procedural rules but also with fundamental rights under the Constitution, most especially the right to a fair hearing (Section 36) and the right of citizens to be represented by their elected officials (Section 40).<sup>7</sup>

## 2.2 Internal Procedures: Standing Orders of the Senate and House

The Standing Orders of each chamber provide detailed disciplinary procedures. In the **Senate**, the core disciplinary provisions are embedded in **Order 67**, especially sub-orders 4, 6, and 9. For instance, Order 67(4) authorizes the Senate President to move a motion suspending a member for disorderly conduct, but it clearly limits such suspension to a period not exceeding 14 legislative days.<sup>8</sup> In practice, however, this limit has often been breached, sometimes citing other Standing Orders that allow suspension "until determined by the Senate" which seems to be a vagueness that Nigerian courts have not tolerated.<sup>9</sup>

Similarly, in the House of Representatives, Order Ten provides the framework for maintaining order. It allows the Speaker to direct a member to withdraw for disorderly conduct and, in more serious cases, to "name" a member. Upon such naming, the House may vote to suspend the

member for a stated period not exceeding 14 legislative days.<sup>10</sup> However, Rule 10(6) introduces ambiguity by permitting suspension for the remainder of the session when the member resists withdrawal, a clause that courts have repeatedly struck down when improperly invoked.<sup>11</sup>

Both chambers also maintain Ethics and Privileges Committees. These committees are responsible for investigating allegations of misconduct and recommending sanctions. However they often operate with opaque procedures and lack independence, which renders them vulnerable to politicization.<sup>12</sup>

## 2.3 Ambiguities and Legal Tensions

A central problem lies in the dual constitutional heritage of Nigeria's legislative structure. While the presidential model mimics the United States with clear separation of powers, Nigeria's legislative privileges and disciplinary traditions are derived from the British Westminster system's Bill of Rights 1689, which emphasizes parliamentary sovereignty and internal autonomy.<sup>13</sup> The result is a hybrid system that has struggled to reconcile legislative privilege with constitutionalism and justiciability.

Unlike in the UK where Article 9 of the Bill of Rights precludes judicial questioning of parliamentary proceedings, Nigerian courts have rejected absolute legislative immunity. For instance, in *Omo-Agege v Senate*, the court ruled that the Senate had acted beyond its constitutional authority in suspending the Senator for 90 days, holding that it had no such power beyond what was permitted by its own Standing Orders.<sup>14</sup> Similarly, in *Ali Ndume v Senate*, the court affirmed that any

<sup>5</sup>Legislative Houses (Powers and Privileges) Act 2017, ss 1-3, 24-25.

<sup>6</sup>Legislative Immunity and Privilege in Nigeria (AWJAI) <https://awjai.org/legislative-immunity-and-privilege-in-nigeria/> accessed 22 May 2025.

<sup>7</sup>See *Senator Ovie Omo-Agege v Senate* (n 2); *Senator Ali Ndume v Senate* (n 2); *Honourable Abdulmumin Jibrin v House of Representatives* (n 2).

<sup>8</sup>Senate Standing Orders 2015 (as amended) Order 67(4).

<sup>9</sup>ibid Order 67(8); see also *Senator Ali Ndume v Senate* (n 2).

<sup>10</sup>Standing Orders of the House of Representatives (9th edn) Order 10.

<sup>11</sup>ibid Order 10(6); see *Dino Melaye v House of Representatives* (n 2).

<sup>12</sup>Factsheet on the Public Petitions Committees of the Nigeria National Assembly' (PLAC) <<https://placng.org/i/wp-content/uploads/2024/12/Factsheet-on-the-Public-Petitions-Committees-of-the-Nigeria-National-Assembly.pdf>> accessed 22 May 2025.

<sup>13</sup>See Bill of Rights 1689 (UK) art 9; see also *Prebble v Television New Zealand Ltd* [1995] 1 AC 321.

<sup>14</sup>*Senator Ovie Omo-Agege v Senate* (n 2).

disciplinary action must conform to the 14-day rule and respect the principles of natural justice.<sup>15</sup>

Thus, while the National Assembly may view its disciplinary powers as inherent and absolute, Nigerian courts have consistently served as a reminder that such powers must remain within the ambit of constitutional supremacy and judicial review.

### III. JUDICIAL INTERVENTION AND CASE LAW

The tension between legislative autonomy and judicial oversight in Nigeria has reached its sharpest point in the context of disciplinary actions by the National Assembly. While the Constitution and Standing Orders empower both the Senate and the House of Representatives to maintain order, the Nigerian judiciary has repeatedly intervened to curb what it considers to be excesses, violations of constitutional rights, and disregard for procedural rules. The courts have established clear limitations on how far the legislature can go in disciplining its members, especially with regard to suspension durations, fair hearing, and the right of constituents to representation.

#### 3.1 Legal Principles Established by the Courts

Nigerian courts have consistently applied the following key legal principles to disciplinary actions by the legislature:

**Suspension Duration Must Comply with Standing Orders:** In multiple cases, courts have held that suspensions beyond the 14-legislative-day limit prescribed by the Standing Orders are ultra vires, illegal, and unconstitutional.<sup>16</sup>

**Right to Fair Hearing:** Suspensions imposed without affording the legislator an opportunity to be heard violate Section 36 of the 1999 Constitution.<sup>17</sup>

**Constituents' Right to Representation:** Courts have recognized that suspending an elected legislator effectively disenfranchises the constituents, infringing their constitutional right to representation.<sup>18</sup>

**Lawmakers Are Not Employees:** Courts have emphasized that legislators are elected officials, not civil servants, and therefore cannot be denied salaries or allowances on the basis of internal disciplinary measures.<sup>19</sup>

**Judicial Authority Supersedes Parliamentary Privilege:** Where parliamentary actions infringe constitutional rights, courts have asserted jurisdiction to review and nullify such actions, thereby displacing the notion of absolute legislative privilege in internal matters.<sup>20</sup>

#### 3.2 Key Judicial Precedents

The Nigerian judiciary has played a decisive role in delineating the boundaries of legislative disciplinary powers. Several landmark cases have not only clarified the scope of these powers but have also consistently emphasized constitutional supremacy, due process, and the electorate's right to representation. These precedents form a robust body of jurisprudence that limits arbitrary suspension and exclusion of elected legislators.

##### (a) Hon Dino Melaye & Ors v Speaker, House of Representatives (2010)

Following a political fracas, Hon. Melaye and ten other lawmakers were suspended indefinitely from the House of Representatives for their outspoken criticism of House leadership. Justice A. Bello of the Federal High Court nullified the suspension and ordered their reinstatement. The court emphasized that the legislative body cannot, through disciplinary measures, disenfranchise the electorate or operate outside the limits of its Standing Orders.<sup>21</sup>

##### (b) Senator Ali Ndume v Senate President (2017)

Senator Ndume was suspended for 90 legislative days after he called for a probe into allegations involving Senate leadership. Justice Babatunde Quadri of the Federal High Court ruled the suspension illegal, emphasizing that the Senate's own Standing Orders capped suspensions at 14 legislative days. The court reiterated that legislators are not employees of the Senate but

<sup>15</sup> *Senator Ali Ndume v Senate* (n 2).

<sup>16</sup> *Senator Ali Ndume v Senate* (n 2); *Senator Ovie Omo-Agege v Senate* (n 2).

<sup>17</sup> Constitution of Nigeria 1999 (as amended) s 36; see also *Hon Rifkatu Danna v Speaker, Bauchi State House of Assembly* (2017) 49 WRN 82.

<sup>18</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended) s 40; *Dino Melaye v House of Representatives* (n 2).

<sup>19</sup> *Honourable Abdulmumin Jibrin v House of Representatives* (n 2).

<sup>20</sup> *Senator Ali Ndume v Senate* (n 2); see also *Legislative Houses (Powers and Privileges) Act 2017* (n 5).

<sup>21</sup> *Dino Melaye v House of Representatives* (n 2).



representatives of the people, and thus their rights cannot be abridged without due process.<sup>22</sup>

**(c) Senator Ovie Omo-Agege v Senate (2018)**

Senator Omo-Agege's suspension for 90 days followed his public dissent against proposed amendments to the Electoral Act. Justice Nnamdi Dimgba of the Federal High Court invalidated the suspension, affirming that any legislative punishment must conform to due process and be within the scope of standing rules. The judge ruled that the Senate had no authority to suspend a member beyond 14 legislative days and condemned the act of penalizing Omo-Agege for approaching the courts.<sup>23</sup>

**(d) Hon. Abdulmumin Jibrin v House of Representatives (2016–2018)**

Hon. Jibrin was suspended for 180 legislative days after he publicly raised allegations of corruption and budget padding against the House leadership, including the Speaker Yakubu Dogara and other principal officers. Justice John Tsoho of the Federal High Court held the suspension to be ultra vires and ordered his reinstatement, including payment of withheld salaries. Although the detailed judgment remains unpublished, it aligned with established judicial principles that lengthy suspensions without statutory or constitutional backing are void.<sup>24</sup>

**(e) Speaker, Bauchi State House of Assembly v Honourable Rifkatu Danna (2017)**

Often cited as the locus classicus, this case involved the indefinite suspension of the only female member of the Bauchi Assembly for voicing dissent. The Bauchi State High Court presided over by the Chief Judge of the State, Justice Ibrahim Zango, who initially declared the suspension illegal and ordered her reinstatement. Later, the Court of Appeal in Jos dismissed the appeal filed by the House against this judgment, thereby upholding Justice Zango's ruling. The Court of Appeal held the suspension unconstitutional, emphasizing that a legislative house cannot impose disciplinary measures that violate fundamental rights, including the right to political participation and representation.<sup>25</sup>

<sup>22</sup> *Senator Ali Ndume v Senate* (n 2).

<sup>23</sup> *Senator Ovie Omo-Agege v Senate* (n 2).

<sup>24</sup> *Honourable Abdulmumin Jibrin v House of Representatives* (n 2).

<sup>25</sup> *Hon Rifkatu Danna v Speaker, Bauchi State House of Assembly* (n 17).

**(f) Senator Natasha Akpoti-Uduaghan v Senate (2025, pending)**

Senator Natasha was suspended for six months following allegations of "gross misconduct." The Senate reportedly ignored an interim court order restraining the disciplinary process. The case is currently before Justice Binta Nyako of the Federal High Court in Abuja, who took over after the original judge, Justice Obiora Egwuatu, recused himself due to allegations of bias.<sup>26</sup>

Senator Natasha prayed the Court for an Order setting aside the Findings and Recommendations of the Committee on Ethics and Privileges for breach of fair hearing and her privileges as contained in the Act and other consequential remedies. She also prayed the Court for a Declaration that the actions of the Senate President and the Senate in denying her right to raise and rely on her Privileges as contained in the Legislative Powers and Privileges Act and the Standing Orders of the Senate before ordering the security personnel to enforce her suspension, which action according to her is ultra vires, unlawful and gross violation of her right to fair hearing. She further challenged her referral by the Senate and the Senate President to the Senate Committee on Ethics and Privileges of the event that occurred on the 22<sup>nd</sup> February 2025 to the Committee without first considering and disposing the matter of her matter of Privilege at Plenary, despite her raising same on the 20<sup>th</sup> February 2025 and such referral is therefore unlawful, unconstitutional and ultra vires. That due to the fact that her matter of Privilege was not first determined at Plenary on the 20<sup>th</sup> February 2025 at Plenary when raised, the Committee on Ethics and Privileges lacked the powers to hear and determine the issues concerning her conduct on the 20<sup>th</sup> February 2025. She relied on the provisions of fair hearing in Section 36(1) Constitution of the Federal Republic of Nigeria 1999(As amended) and several cases as well as Orders 9-11 of the Senate Standing Orders. The Senator concluded

<sup>26</sup> *Senator Natasha Akpoti-Uduaghan v Clerk of the National Assembly, Senate, Senate President Godswill Akpabio & Chairman Senate Committee on Ethics, Privileges and Public Petitions* (Federal High Court Abuja, Suit No. FHC/ABJ/CS/384/2025, presided by Justice Binta Nyako, judgment reserved 27 June 2025); see 'Senate Justifies Akpoti-Uduaghan's Suspension, Denies Sexual Harassment Link at IPU' (n 1).

that referral of her matter to the Committee on Ethics and Privilege before considering her matter of privilege at Plenary was mischievous and subversion of her legislative privileges.

The Senate argued that Senator Natasha's suit was frivolous and urged the Court to discountenance same. The Senate raised the issue of the Jurisdiction of the Court to entertain the suit on the ground that (a) Senator Natasha did not follow due process in instituting the suit before the Court as the suit contravened Section 1 of the Legislative Houses Powers and Privileges Act 2017 (b) the suit was of an academic nature and doubled as an abuse of Court process. The Senate further argued that by virtue of the facts and circumstances of the case, the Plaintiff's rights were not breached at all. Arguing the issue of Jurisdiction, the Senate sought to rely on the time tested and internationally recognized principles of congressional immunity which is enshrined in Section 1 of the Legislative Houses Powers and Privileges Act 2017 which provides that no criminal or civil proceedings shall be instituted against a member of a legislative house in respect of words spoken or written at the Plenary Session or Committee Proceedings of the Legislative Houses. The Senate enthused that the suit of Senator Natasha relates to internal parliamentary proceedings which are matters in the realm of political questions which the Court cannot adjudicate upon. The Senate contended that the crux of Senator Natasha's case was whether the Senate President was not duty bound to immediately recorded, consider and make a decision on any point of Order raised by a Senator touching on her privilege and render a decision of same, before proceeding with any other matter in the course of the proceedings before the Senate by virtue of the Senate Standing Rules. The Senate argued that the position canvassed by Senator Natasha, contravened the Letters and Spirits of the Legislative Houses Powers and Privileges Act as well as the Standing Rules of the Senate. That by virtue of the Rules of the Senate, the Senate President reserves the power to allocate Seats to Senators who must be in their designated seats upon entry into the Chambers and that the exercise of privilege is contingent on adherence to the Senate Rules and does not override the collective privileges of other members against disruptive behavior. That being not on her designated seat, she could not even raise a matter of privilege. That the decision to refer the matter to the Senate Committee on Ethics and Privileges was not a unilateral decision of the Senate President who was the 3<sup>rd</sup> Defendant in the suit but by concurrence of the entire Senate. Furthermore, according to the

Senate, the Defendants gave the Plaintiff-Senator Natasha adequate opportunity to be heard by the Ethics and Privileges Committee and that she cannot turn around having snubbed the Committee and refusing to enter a defense to complain of breach or denial of fair hearing.

Senator Natasha also prayed the Court to invalidate and declare null and void her suspension for 6months without pay as same was in contravention of the Senate Rules and that the Rules are not discretionary, hence failure to adhere strictly to it renders the disciplinary action null and void, relying on the case of THE SPEAKER, BAUCHI STATE HOUSE OF ASSEMBLY & ANOR V HON. RIFKATU SAMSON DANNA (CA/1/207/2014).

The Court in determining the issues held that the Standing Order of the Senate regulates the Senate and its members including Senator Natasha when at Plenary. That once Rules are made, they ought to be obeyed. Failure of Senator Natasha to stay at her allocated Seat before raising the matter of privilege disentitles her from being heard by the Senate. Hence the Senate and Senate President cannot entertain her complaints, she being in contravention of the Rules that bind them all. The Senate President is not obliged to give notice or reason for allocation of seats to Senators by virtue of the extant Rules of the Senate.

In the Ruling of the Court, the Court, the Court held that there is no doubt that the Senate's Internal disciplinary procedures, including its right to regulate its own proceedings are guided by Section 60 of the Constitution, which gives each House power to regulate its procedures. Hence the Courts have consistently held that they lack the powers to interfere in the internal affairs of the legislature unless there is clear breach of the constitutionally guaranteed right. The Court relying on previous decision of Senator Ali Ndume v The Senate President in FHC/ABJ/CS/551/2017 held that the Senate may discipline its members, provided that the principles of fair hearing are observed. An invitation to appear before the Senate Committee on Ethics and Privileges is a clear manifestation of procedural fairness and not breach of fair hearing. The crux of the Case of Senator Natasha according to the Court relates solely to the protection of parliamentary privilege on the floor of the Senate and it is not the intendment of Section 36(1) CFRN 1999(As amended) that this Court has powers to entertain complaint against every discussion, communication arising from Plenary Sessions of the Senate otherwise the Courts would have no rest at all.

On the illegality of the Senator's Suspension for Six(6)months, the Court held that the Constitution, the Legislative (Powers and Privileges) Act and Senate Rules, do not intend that the Constituents of the Senator to be without representation for six(6)months. Although one may suggest that the Rules allow a Senator to be suspended for as long as the Senate intends, such will result in a denial of the constituents of the Senator, their representation. A Senator is expected to represent the people for a specific number of days in a sessions . A suspension cannot exceed the requisite number of days that a Senator is expected to seat in a year. To suspend a member for 6months means suspension for 180days and this is half the number of days he is expected to seat in the House representing the people. That cannot be the framers of the Law. Hence the Senate can amend its Rules as it is currently for being overreaching. The Senate can therefore recall Senator Natasha from suspension as the period is too long and overreaching.

### 3.3 Judicial Criticism of Legislative Conduct

The judiciary has not merely declared legislative suspensions unlawful, it has gone further to censure the National Assembly for what it calls "legislative recklessness." In *Omo-Agege v Senate*, the court expressed dismay that the Senate disregarded court orders and fundamental rights. In *Ndume's* case, the court characterized the action as "a usurpation of judicial power."<sup>27</sup> This judicial posture signals a growing impatience with what is perceived as the legislature's recurring defiance of constitutional norms.

Furthermore, courts have repeatedly criticized the National Assembly's tendency to ignore previous rulings. The fact that similar legal principles are raised and resolved in nearly every case suggests either a failure of institutional learning or a willful disregard for judicial authority. In either case, it undermines public confidence in legislative integrity and democratic governance.

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<sup>27</sup>See judicial commentary in *Senator Ovie Omo-Agege v Senate* (n 2) and *Senator Ali Ndume v Senate* (n 2); Funmilayo Odude, 'A Senator's Suspension Threatens the Right of Representation' (Financial Nigeria) <<https://www.financialnigeria.com/a-senator-s-suspension-threatens-the-right-of-representation-blog-937.html>> accessed 22 May 2025.

## IV. COMPARATIVE JURISDICTIONS

A comparative analysis of how legislative bodies in other democracies exercise internal disciplinary powers provides important insight into the challenges and prospects facing Nigeria. While the power to discipline members is universal, its scope, application, and limitations vary significantly, depending on the jurisdiction's constitutional framework, parliamentary traditions, and judicial philosophy.

### 4.1 United States: Distinct Powers, Constitutional Boundaries

In the United States, the power of congressional self-discipline is explicitly entrenched in the Constitution. Article I, Section 5, Clause 2 of the U.S. Constitution provides:

"Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member."<sup>28</sup>

**Expulsion**, the most severe form of discipline, requires a two-thirds majority and is rarely exercised. The U.S. Senate has expelled only 15 members in its history, with most cases relating to disloyalty during the Civil War.<sup>29</sup> In contrast, exclusion which is the refusal to seat a member-elect is constitutionally constrained. The landmark case of *Powell v McCormack*<sup>30</sup> held that Congress cannot exclude a duly elected member who meets the constitutionally prescribed qualifications (age, citizenship, and residency). This ruling sharply limited legislative discretion in denying membership and upheld the principle of popular sovereignty.

Other forms of discipline include censure and reprimand, both of which function as formal public condemnations without affecting the member's tenure or voting rights. Investigations are typically conducted by the House Committee on Ethics or the Senate Select Committee on Ethics.<sup>31</sup>

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<sup>28</sup>US Constitution art I § 5 cl 2.

<sup>29</sup>Congressional Research Service, 'Expulsion of Members of Congress: Legal Authority and Historical Practice' (CRS Report RL34706, 2022) <<https://www.congress.gov/crs-product/R45078>> accessed 22 May 2025.

<sup>30</sup>*Powell v McCormack* 395 US 486 (1969).

<sup>31</sup>Senate Select Committee on Ethics, 'Senate Ethics Manual' (2003) <https://www.ethics.senate.gov/public/index.cfm/senate-ethics-manual> accessed 22 May 2025.

U.S. jurisprudence reflects a careful balance: while Congress enjoys wide latitude to discipline its members, judicial review ensures that constitutional boundaries are respected. The Powell case, in particular, emphasizes that disciplinary powers must not be used to override democratic mandates.

#### 4.2 United Kingdom: Parliamentary Sovereignty and Judicial Restraint

The United Kingdom's model operates under the enduring doctrine of parliamentary sovereignty, reinforced by long-standing practice and common law. Article 9 of the Bill of Rights 1689 famously declares:

"The freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament."<sup>32</sup>

The UK Parliament retains broad disciplinary powers, including:

- ❖ **Reprimand and Naming:** The Speaker may name members for disorderly conduct. Suspension follows by motion, typically for 5 days for a first offence and up to 20 for repeated misconduct within the same session.<sup>33</sup>
- ❖ **Expulsion:** Although rarely used in recent decades, the House of Commons retains the power to expel members by motion. Expelled members may seek re-election, as no permanent disqualification arises.<sup>34</sup>
- ❖ **Automatic Disqualification:** Members convicted and sentenced to more than one year's imprisonment are disqualified by statute.<sup>35</sup>

The Standards Committee and the Parliamentary Commissioner for Standards oversee investigations, drawing upon the Code of Conduct and ethical frameworks. Importantly, courts in the UK exercise significant deference to parliamentary procedures, avoiding review of internal matters,

unless rights are clearly violated outside of parliamentary proceedings.

This model shows a near-complete separation between parliamentary autonomy and judicial review, rooted in the UK's unique constitutional history. Yet, the codification of standards and external oversight mechanisms (such as the Electoral Commission and the Independent Parliamentary Standards Authority) help to deter abuse.<sup>36</sup>

#### 4.3 South Africa: Constitutionalism and Strong Judicial Review

South Africa presents a middle-ground approach. While Parliament possesses disciplinary authority under the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 2004, the country's 1996 Constitution which is a product of post-apartheid transformation places a premium on constitutional supremacy and justiciable rights.

Disciplinary tools include:

- ❖ **Withdrawal and Suspension:** The Speaker may order withdrawal for misconduct, and more serious breaches are referred to the Joint Committee on Ethics and Members' Interests.<sup>37</sup> The Committee may recommend fines, suspension of privileges, or temporary exclusion from debates or committees.
- ❖ **Party Discipline and Expulsion:** While Parliament may not directly expel a member under current law, party expulsion can lead to loss of parliamentary seat under South Africa's system of proportional representation, where party membership is a prerequisite for legislative office.<sup>38</sup>

<sup>32</sup>Bill of Rights 1689 (UK) art 9.

<sup>33</sup>UK Parliament, 'Disciplinary and Penal Powers of the House' (House of Commons Information Office Factsheet G6, 2019) <<https://www.parliament.uk/globalassets/documents/commons-information-office/g06.pdf>> accessed 22 May 2025.

<sup>34</sup>See eg *Expulsion of Peter Baker MP*, HC Deb 16 November 1954 vol 533 cc1830-1832.

<sup>35</sup>Representation of the People Act 1981 (UK) s 1.

<sup>36</sup>Electoral Commission, 'About Us' (Electoral Commission, 2025) <<https://www.electoralcommission.org.uk/about-us>> accessed 26 May 2025; Independent Parliamentary Standards Authority, 'Who We Are' (IPSA, 2025) <<https://www.theipsa.org.uk/who-we-are>> accessed 26 May 2025.

<sup>37</sup>Parliament of South Africa, *Joint Rules of Parliament* (2020), ch 5, rule 120 <<https://www.parliament.gov.za/storage/app/media/jointRules/joint-rules-a51.pdf>> accessed 22 May 2025.

<sup>38</sup>Constitution of the Republic of South Africa 1996 s 47(3)(c).



The South African courts have been actively involved in reviewing parliamentary discipline. In *De Lille v Speaker of the National Assembly*<sup>39</sup>, the Cape High Court held that the exercise of disciplinary power must comply with constitutional standards on the right to fair hearing. In *EFF v Speaker of the National Assembly*, the Constitutional Court underscored that parliamentary decorum cannot override constitutional rights.<sup>40</sup>

South Africa's model illustrates that even in a system with robust legislative privileges, the judiciary plays a vital role in ensuring that internal disciplinary mechanisms do not infringe constitutional norms. It balances legislative independence with fundamental rights which has been the approach Nigerian courts have increasingly adopted.

#### 4.4 Canada: Parliamentary Privilege and Judicial Definition

In Canada, the powers of parliamentary self-discipline are largely derived from the Constitution Act, 1867, which incorporates the privileges of the UK House of Commons into Canadian parliamentary practice through Section 18:

"The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons... shall be those of the House of Commons of the United Kingdom."<sup>41</sup>

The Parliament of Canada Act supplements this provision, outlining parliamentary powers of discipline, including the authority to expel members, suspend members, or censure them for misconduct.<sup>42</sup> Expulsion has historically been used in exceptional cases, such as that of Thomas McGreevy (1891) for corruption and Fred Rose (1947) for espionage.<sup>43</sup> However, like in the UK, an

expelled member is not barred from seeking re-election.

Disciplinary processes typically begin when a matter of privilege is raised by a member. If a prima facie case is established, the Speaker may refer it to the Standing Committee on Procedure and House Affairs for investigation. Sanctions include naming, suspension, and formal admonition. "Strangers" (non-members) may also be removed or summoned before the bar of the House if found in contempt.<sup>44</sup>

Canadian courts generally refrain from interfering in parliamentary affairs, respecting the principle of parliamentary privilege. However, in *Canada (Attorney General) v Vaid*, the Supreme Court clarified that parliamentary privilege is subject to judicial definition and must be shown to be necessary for the legislature to function effectively.<sup>45</sup> More recently, in *Canada (Attorney General) v Power* (2024), the Court acknowledged that parliamentary privilege cannot justify violations of the Constitution or basic rights.<sup>46</sup>

Canada's framework highlights the balance between parliamentary autonomy and constitutional oversight: while the legislature controls its own house, the courts retain jurisdiction to define the boundaries of privilege and to intervene where constitutional values are at risk.

#### 4.5 India: Judicial Enforcement of Legislative Discipline

India operates a system that combines Westminster-style parliamentary privilege with strong judicial enforcement of constitutional rights. Articles 105 and 194 of the Indian Constitution guarantee the freedom of speech in Parliament and immunities for actions in the course of legislative duties, while Articles 122 and 212 limit judicial review of parliamentary procedures.<sup>47</sup>

Yet the Indian courts have not been silent on internal legislative discipline. In *Raja Ram Pal v*

<sup>39</sup>*De Lille v Speaker of the National Assembly* 1998 (3) SA 430 (C).

<sup>40</sup>*Economic Freedom Fighters v Speaker of the National Assembly* [2016] ZACC 11.

<sup>41</sup>Constitution Act 1867 (Canada), s 18.

<sup>42</sup>Parliament of Canada Act RSC 1985, c P-1, ss 10-12.

<sup>43</sup>James Bowden, 'Collective Parliamentary Privilege Includes the Expulsion of Members' (Parliamentum, 14 March 2017) <https://parliamentum.org/2017/03/14/collective-parliamentary-privilege-includes-the-expulsion-of-members-of-parliament/> accessed 22 May 2025.

<sup>44</sup>House of Commons of Canada, *Parliamentary Privilege* – Our Procedure [https://www.ourcommons.ca/procedure/our-procedure/parliamentaryprivilege/c\\_g\\_parliamentaryprivilege-e.html](https://www.ourcommons.ca/procedure/our-procedure/parliamentaryprivilege/c_g_parliamentaryprivilege-e.html) accessed 22 May 2025.

<sup>45</sup>*Canada (Attorney General) v Vaid* [2005] 1 SCR 667.

<sup>46</sup>*Canada (Attorney General) v Power* [2024] SCC 26.

<sup>47</sup>Constitution of India arts 105, 194, 122, 212.

Speaker, Lok Sabha<sup>48</sup>, the Supreme Court upheld Parliament's power to expel members for misconduct but emphasized that such powers are subject to **judicial review** when fundamental rights are implicated or constitutional boundaries are crossed. The Court held:

"Parliamentary privileges are not an end in themselves... They are a means to ensure the independence and integrity of the legislature and its members."<sup>49</sup>

Indian legislatures may reprimand, warn, suspend, or expel members. Under Rule 374A of the Lok Sabha Rules, the Speaker may automatically suspend a member for grave disorder without debate.<sup>50</sup> Disciplinary issues may be referred to the Committee of Privileges, whose findings are debated and decided upon by the House.

The balance between privilege and constitutionalism was reaffirmed in *Sita Soren v Union of India* (2024), where the Supreme Court ruled that parliamentary immunity does not extend to bribery and that members may be prosecuted for criminal acts, even if related to their legislative role.<sup>51</sup>

India's model thus provides a cautionary tale and a roadmap: while legislatures require space to function without undue interference, the courts serve as guardians of democratic and constitutional values. Nigerian courts have cited Indian precedents to support similar principles, reinforcing their relevance.

#### 4.6 Australia: Self-Discipline Without Expulsion

Australia presents a unique model where the power to expel members has been deliberately abolished. Under the Parliamentary Privileges Act 1987, the House of Representatives and the Senate may suspend or censure members but lack any legal authority to expel them from office.<sup>52</sup>

The only historical expulsion occurred in 1920, when Hugh Mahon was expelled for seditious speech. Following public controversy, Parliament passed the 1987 Act to remove this power, signalling a preference for electoral

accountability over legislative censure as the mechanism for seat loss.<sup>53</sup>

The Act also codifies contempt and sets out the procedures for investigation and punishment. The Privileges Committees of both chambers handle complaints. Suspensions are typically short-term within 24 hours for a first offence, increasing incrementally for repeated infractions.<sup>54</sup>

Judicial review is limited to determining whether parliamentary actions breach the Australian Constitution. Courts will not question parliamentary debates or internal procedures due to the codified privileges and freedom of speech under Section 49 of the Constitution.<sup>55</sup>

Australia's model underscores the principle that severe disciplinary sanctions such as expulsion can be politically dangerous and judicially contentious. Instead, the reliance on public accountability and criminal law for misconduct offers a minimalist but effective approach to maintaining parliamentary integrity.

## V. COMPARATIVE SYNTHESIS AND LESSONS FOR NIGERIA

The comparative review of legislative disciplinary powers across jurisdictions, especially the United States, United Kingdom, South Africa, Canada, India, and Australia reveals key patterns, divergences, and best practices that offer actionable lessons for Nigeria's National Assembly. While all democratic legislatures affirm the necessity of internal self-discipline, they differ in how they structure, limit, and supervise these powers. For Nigeria, which sits at the crossroads of British parliamentary heritage and American constitutionalism, these international experiences provide both cautionary tales and constructive frameworks for reform.

<sup>48</sup>*Raja Ram Pal v Speaker, Lok Sabha* (2007) 3 SCC 184.

<sup>49</sup>*ibid.*

<sup>50</sup>Rules of Procedure and Conduct of Business in Lok Sabha (16th edn, 2019) r 374A.

<sup>51</sup>*Sita Soren v Union of India* (2024) AIR SC 2024 462.

<sup>52</sup>Parliamentary Privileges Act 1987 (Cth) s 8.

<sup>53</sup>Australian House of Representatives, Punishment of Members: Former power of expulsion<[https://www.aph.gov.au/About/Parliament/House\\_of\\_Representatives/Power\\_s\\_practice\\_and\\_procedure/Practice7/HTML/Chapter20/Punishment\\_of\\_Members](https://www.aph.gov.au/About/Parliament/House_of_Representatives/Power_s_practice_and_procedure/Practice7/HTML/Chapter20/Punishment_of_Members)> accessed 22 May 2025.

<sup>54</sup>*ibid.*

<sup>55</sup>Commonwealth of Australia Constitution Act 1900 s 49.

### 5.1 Common Threads in Parliamentary Discipline

Despite differences in political systems and legal traditions, several commonalities emerge from the comparative analysis:

**Recognition of Inherent Legislative Authority:**

All parliaments acknowledge that the power to discipline members through censure, suspension, or expulsion is essential to institutional integrity, order, and the enforcement of ethical norms.

**Procedural Safeguards:** Most jurisdictions require internal due process, including investigations by ethics or privileges committees, opportunity to be heard, and decisions ratified by the full house. In India and South Africa, these safeguards are constitutionally mandated.

**Checks on Expulsion:** Expulsion is treated as a measure of last resort. The United States requires a two-thirds vote; in the UK and Canada, it is rare and reversible; and in Australia, it has been abolished entirely.

**Ethics Committees and Independent Oversight:**

Legislatures increasingly rely on institutional mechanisms such as ethics committees, parliamentary commissioners, or external watchdogs to ensure fairness, impartiality, and public trust.

**Judicial Review in Constitutional Democracies:**

Where a written constitution is supreme (e.g. Nigeria, South Africa, India), courts play a significant role in reviewing disciplinary actions to prevent abuse, ensure compliance with constitutional standards, and uphold the right to representation.

### 5.2 Nigeria's Unique Challenges

By contrast, Nigeria exhibits significant inconsistencies in both the application and judicial treatment of parliamentary discipline:

**Overreach and Vague Standards:** Disciplinary terms such as "gross misconduct", "bringing the House to disrepute", and "unparliamentary behaviour" remain ill-defined in Nigeria's Standing Orders, leaving room for politicized interpretation and application.<sup>56</sup>

**Frequent Judicial Nullifications:** Unlike other jurisdictions where legislative procedures enjoy a high level of deference, Nigerian courts have repeatedly invalidated suspensions on grounds of

exceeding duration limits, breach of fair hearing, or unconstitutional denial of representation.<sup>57</sup>

**Institutional Amnesia and Legal Defiance:** The recurrence of similar judicial decisions across cases such as *Ndume*, *Omo-Agege*, *Dino Malaye*, and *Jibrin, Danna*, suggests either deliberate defiance or systemic institutional learning failure within the legislature.<sup>58</sup>

**Ambiguity in Standing Orders:** The Senate Standing Orders, for instance, limit suspension to 14 legislative days under Order 67(4), but Order 67(8) permits suspension "until determined by the Senate", creating a direct conflict that fuels litigation and judicial invalidation.<sup>59</sup>

### 5.3 Strategic Lessons for Reform

Nigeria can draw valuable lessons from other democracies to strengthen our institutional capacity and reduce the recurrence of unconstitutional legislative discipline:

#### (i) Codify Clear and Objective Disciplinary Grounds

Ambiguity breeds abuse. Nigeria's Standing Orders should be revised to define specific disciplinary offences with clear thresholds for action. The inclusion of illustrative examples such as unauthorized disclosure of confidential materials, repeated interruption of proceedings, or violent conduct would limit arbitrary interpretations and align with global best practices.<sup>60</sup>

#### (ii) Align Sanctions with Proportionality and Fair Hearing

Disciplinary measures should reflect the principle of proportionality. A minor infraction should not attract maximum sanctions. Internal ethics procedures should be codified, including timelines for notice, investigation, defence, and

<sup>56</sup>See Senate Standing Orders 2015 (n 8) Orders 67(2), 67(11); Standing Orders of the House of Representatives (n 10) Orders 10(2)-(8).

<sup>57</sup>*Senator Ovie Omo-Agege v Senate* (n 2); *Senator Ali Ndume v Senate* (n 2).

<sup>58</sup>See case history: *Senator Ali Ndume v Senate* (n 2); *Dino Melaye v House of Representatives* (n 2); *Honourable Abdulmumin Jibrin v House of Representatives* (n 2); *Hon Rifkatu Danna v Speaker, Bauchi State House of Assembly* (n 17).

<sup>59</sup>Senate Standing Orders 2015 (n 8) Orders 67(4)-(8).

<sup>60</sup>Compare UK Parliament, 'Disciplinary and Penal Powers of the House' (n 33).

appeal. This mirrors India's multi-stage disciplinary process and Canada's committee-based structure.<sup>61</sup>

### **(iii) Respect Constitutional Boundaries and Judicial Pronouncements**

Repeated judicial censure of legislative actions undermines the rule of law and institutional legitimacy. The National Assembly must treat constitutional rulings as binding norms, not suggestions. A compendium of judicial precedents on legislative discipline should be created and updated regularly for reference by ethics committees and presiding officers.<sup>62</sup>

### **(iv) Enhance Ethics Committee Independence**

To reduce the perception of partisan targeting, Nigeria's Ethics and Privileges Committees should adopt transparent procedures, include cross-party representation, and publish their decisions (with redacted details) to enhance accountability. The UK's Parliamentary Commissioner for Standards provides a useful institutional model.<sup>63</sup>

## **VI. CONCLUSION AND RECOMMENDATIONS**

The power of Nigeria's National Assembly to discipline its own members is a foundational aspect of legislative autonomy. However, as repeatedly demonstrated in recent years, through the suspensions of Senators Ali Ndume, Ovie Omo-Agege, Abdulkumin Jibrin, and most recently Natasha Akpoti-Uduaghan, this power is not without limit. Judicial decisions have consistently reaffirmed that while the National Assembly may regulate its internal affairs, it must do so within the boundaries of constitutional rights, due process, and the rule of law.

Comparative analysis reveals that self-discipline is a universal parliamentary attribute, but

jurisdictions differ sharply in its implementation. The United States and India emphasize judicial oversight and proportionality; the United Kingdom maintains strong parliamentary privilege with institutional safeguards; South Africa emphasizes constitutional accountability; Australia avoids legislative expulsion altogether; and Canada balances privilege with legal responsibility. These models offer instructive lessons for Nigeria.

At the heart of Nigeria's disciplinary dilemmas lies a conflict between inherited parliamentary traditions and the imperatives of a written constitutional democracy. The National Assembly often invokes the concept of parliamentary sovereignty reminiscent of Westminster, yet it operates under a constitutional framework that mandates judicial supremacy and the protection of fundamental rights. This has as resulted in an enduring pattern of overreach, litigation, and judicial correction.

To restore public trust and institutional credibility, it is imperative that the National Assembly undertake deliberate reforms. These reforms should aim to clarify disciplinary standards, codify fair hearing procedures, respect judicial decisions, and embrace alternative sanctions that uphold order without infringing democratic representation. Additionally, strengthening ethics committees with transparent procedures and ensuring political neutrality will insulate disciplinary processes from abuse.

The stakes are high. Indiscriminate suspension of elected representatives not only undermines internal decorum but also disenfranchises entire constituencies. In a fragile democracy such as Nigeria's that has been marked by political polarization and democratic deficits, legislative restraint and procedural fidelity are not mere technicalities; they are essential to governance legitimacy.

Ultimately, the path forward lies in a principled embrace of constitutionalism, not just as a legal command but as a legislative ethos. A self-disciplined National Assembly must begin by disciplining itself to constitutional limits.

The recent case of Senator Natasha is to the effect that the Courts respects the autonomy and independence of the National Assembly to the extent of its upholding the Constitution and that the Courts will not interfere with internal matters of the Legislature, including political questions except when the Constitution is breached.

<sup>61</sup>See Rules of Procedure and Conduct of Business in Lok Sabha (n 50) r 374A; House of Commons of Canada, 'Parliamentary Privilege' (n 44).

<sup>62</sup>Funmilayo Odude, 'A Senator's Suspension Threatens the Right of Representation' (n 27).

<sup>63</sup>Parliamentary Commissioner for Standards, 'Role of the Parliamentary Commissioner for Standards'

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