

Challenges of Sustainable Democracy in Nigeria

Edited by

Emmanuel O. Ojo

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Democracy and Corruption: Executive-Legislature Relations in Nigeria's Fourth Republic

Iyabo Olojede

Associate Professor, Department of Public Administration,
Lagos State University, Ojo, Lagos, Nigeria

Introduction

In any democratic society, government is supposed to serve the citizens. That government in modern state is the sum total of the legislative, executive and judicial bodies which engage in lawmaking, administering and interpretation of laws. To enhance the process of democratisation in Nigeria, the 1999 Constitution provides for the operation of the three arms of government. Section 4(1) (2) (81) establishes that the Legislature (comprising of the House of Representatives and Senate) is to make laws or revise laws to promote peace, order and good government.

By law, the legislature has powers over the executive as it relates to the management of public funds (sourcing and allocation). It is also a democratic order that public funds cannot be raised or disposed of without legislative approval. To reinforce this principle s. 80 (3) and 80 (4) of the Constitution provides that:¹

No money shall be withdrawn from any public fund of the Federation, other than the Consolidated Revenue Fund of the Federation, unless the issue of those monies has been authorised by an Act of the National Assembly.

In s. 88 the legislature is also empowered to investigate the executive in the process of implementation of public programmes. Consequently, public agencies could be called upon for the purpose of investigation to prevent inefficiency and corruption.

Section 143 also indicates that in public interest, the legislature is empowered to remove the President and the Governors. This constitutional role of the legislature is to prevent executive recklessness knowing full well that the President can be impeached on constitutional grounds. This constitutional check positions the legislature as watchdog on the actions of the executive. However, in

developed liberal democracies such as United States of America, such impeachment power is rarely utilised.

Similarly, it is within the purview of the legislature to confirm the appointment of ministers and commissioners forwarded by the executive. The required legislative approval is to ensure that right standing men and women are put in positions of trust. By the same token, the 1999 Constitution contains the powers of the executive (President, Governors, etc.).² The President is charged with the responsibility for the administration of law and order.

The powers and functions given both to the legislature and the executive is for collective good. It was not intended that the powers be rigidly compartmentalised into separate entities as rigid adherence to a dichotomy of functions could paralyse government business. Implicit in this notion of separation of powers/checks and balances is the distribution and exercise of powers of government, power must be used as a check against powers. No organ of government should be too powerful as to possess an undisputed power of its own. In addition, each of the organs of government though mutually must serve as a watchdog on its counterpart. The rationale is that neither the executive nor the legislature and by extension the judiciary should dominate the others. It is anticipated that no single organ can claim a full exercise of its powers without relying on the cooperation of others. However, the Nigerian experience shows ambivalence in legislative and executive relations. While the legislature claims that it is poised to carry out its oversight functions on the executive in the public interest, available evidence shows the contrary.³

The Concept of Democracy

Democracy has been an object of diverse interpretations, depending on people's political persuasions and ideological leanings. The concept of democracy has been subjected to infinite debates over the centuries. As De Jouvenel puts it, all discussions about democracy, all arguments whether for it or against it, are stricken with intellectual futility because the thing at issue is indefinite.⁴ Tyrants from Mussolini, Stalin, Marcus Nguema, Samuel Doe had at different times alluded to their regimes as democratic. To some people, democracy connotes freedom of speech, freedom of associations, supremacy of the will of the electorate, regular elections and accountability. This definition presupposes a pluralistic and active participant culture before democracy thrives. However, the reality of this definition has assumed different shapes in different countries.

Ogunsanwo defines democracy as a whole series of processes and cultural values which relates to the election of leaders at all levels of society, the behaviour of groups and individuals vis-à-vis those who hold different views on issues under consideration, as well as the use of power by those the selection

1. See 1999 Constitution, Federal Republic of Nigeria, Lagos.

2. Ibid.

3. *The Punch*, 10th June, 2003, p. 1.

4. De Betrand, De Jouvenel on Power, Trans Huntington, J.F. New York, Viking Press, 1949, p. 276.

process placed in decision making positions.⁵ It also includes the existence of the rule of law which relates to the equal treatment of all and the curbing of excessive power of those in control of affairs at all levels of society.⁶ This definition constitutes the operational parameter within which discussion in this chapter will be based.

Corruption is a universal problem. corruption has accounted for the changes of several regimes or defeat of one strong political party in countries with diverse ideologies and stages of development.⁷ Regimes have been changed at different times on account of corruption in Holland, Israel, Turkey, India, South Korea, Columbia, Philippines, Nigeria, etc.⁸ What then is corruption? We define it as abuse of official powers for personal interests. It would include actions to favour one's outlook; dictates or actions taken to twist the intent of law as against public or societal interests.⁹ Corruption is diametrically opposed to democratic ethos. Democracy aims at promoting the common good through supremacy of rule of law, while corruption aims at prevailing the rule of law to serve narrow interests.

Legislature-Executive Imbroglia

The legislators and the chief executives at the federal, state and local government levels were elected directly by the people to demonstrate popular consent. In the process of executing their functions, they experience some level of friction. However, the acrimony by the legislature and the executive in the discharge of their responsibilities has often been used the one to blackmail other.

The power to remove the President, Governors, etc. which was constitutionally provided to check executive excesses is a major source of intimidation of the executive. The power of impeachment granted to the legislature has often been trivialised, thereby threatening the process of democratisation in Nigeria. The Obasanjo executive has been threatened at various times with impeachment by the National Assembly.¹⁰ At the state level the scenario of impeachment is also played out. Several Governors were also faced with impeachment from "omnipotent state legislatures" threatening the course of public administration in the affected states. Governors Bisi Akande of Osun State was charged with "22 impeachable offences". These offences included flouting the Appropriation Bill for 2000 fiscal year and upturning some parts of the 1999 Constitution.¹¹ Reports on

the legislature-executive crisis in Osun State revealed that the propelling force for impeachment was the desire of the legislators to enrich themselves through financial settlements.¹² In the same year, Governor Jolly Nyame of Taraba State was charged with many impeachable offences.¹³ They include non-assignment of executive duties to the Deputy Governor and the Commissioners and withdrawals from the State Consolidated Revenue without Appropriation Bill. Rasheed Ladoja of Oyo State was removed as Governor by the State Assembly in 2006 on trivial grounds.

Impeachment was not only a legislative tool for arm-twisting. The executive has also been accused of engineering impeachment of principal legislative officers such as Senate President and Speaker, House of Representatives to arm-twist the legislature to do its bidding. The executive posture of foisting its initiatives, direction on the legislature without impediments (debates, discussions and accommodation) is another source of corruption which is threatening democracy where dissents and differences between the legislature and executive ought to be resolved through democratic procedures of debates, discussions which will ultimately lead to respect of each other's roles and limitations. For example, the desire of Obasanjo to have a pliable National Assembly has often led to allegations of corruption against the President. Allegations were often made by the key principal officers of the National Assembly that legislative members are often prodded to do the executive bidding through distribution of financial benefits to some members to ensure cooperation or promote conspiracy against National Assembly leadership where the latter is perceived to be confrontational.¹⁴ As noted by an ex-Senate President Pius Anyim, all you need to do as a Senate President to deserve impeachment was to hold contrary views to the executive.¹⁵ The trivialisation of impeachment has often led to situations where the affected executive and legislative officers are more concerned with strategies for survival in their leadership positions than promotion of democratic ideals.

The legislative power of approval of Ministers, Commissioners, etc. is also another source of arm-twisting between the legislature and the executive. The Constitution empowers the legislature to confirm the appointment of Ministers, Commissioners, Special Advisers etc. This was to ensure that competent men and women of integrity are saddled with executive responsibilities. The legislative power has also occasioned opportunism and crass materialism as legislators demand bribes from prospective Ministers to facilitate approval.

Public hearing is a vital aspect of effective lawmaking in any democratic society. Through public hearings, the legislature is afforded the opportunity of diversity of opinions on prospective bills or issues. To facilitate the work of the legislature, the legislative house is divided into committees. This is to reduce the burden of technical details faced by the House on the several bills/issues. The committees among other responsibilities are given the task of investigation on any issue or proposed bill as mandated by the legislature. However, the committee

5. See Alaba Ogunsanwo, Problems of Democratisation in Africa in Omoruyi, Omo et al (eds.) *Problems of Democratisation in Africa. African Perspectives*, Vol. 2, 1994, Benin City, Hima & Hema Ltd, p. 139.
6. Ibid.
7. See M.J. Balogun "Promoting Integrity in an Ethically Cloudy Setting: Critical Battles in the Anti-Corruption War". Paper presented at the National Seminar on the Nigerian Public Service in the 21st Century. 15-22 December, 2000. Ijebu-Ode, Yisade Hotel, p. 2.
8. Ibid.
9. Glenn Stahl, *Public Personnel Administration*. New York, Harper & Row Publishers, 1983, p. 383.
10. *TELL*, 13th May, 2002, p. 2.
11. *Sunday Newspapers*, 12th November, 2000, p. 17.

12. Ibid p. 17.
13. *ThisDay*, 12th November, 2000, p. 11.
14. Ibid, p. 19.
15. Ibid, p. 49.

work through public hearing has turned into a source of legislative fraud. Public hearing has become an avenue for enrichment of some corrupt legislators. Available evidence revealed that some legislators exploit public hearings to garner personal funds. Depending on the magnitude and scope of its mandate, committees draw a budget of between ₦3 million and ₦7 million per public hearing. Such allocations are purportedly spent on publicity, press conference, feeding and accommodation, official reporters, entertainment, consultancy, contingency and travels. Some National Assembly committees have also been known to collect money to organise public hearings outside the Federal Capital (Abuja) without traveling out of Abuja.¹⁶ This phenomenon has often robbed the legislature of the diversity of views on important national issues on which public decisions are made.

The seemingly corrupt management of the National Assembly finances has also eroded the powers of the legislature from being an effective check on the executive. It has also become a source of discord among legislators opposed to financial profligacy within the House resulting into factionalisation. Legislative activities for most part of 1999-2003 focused on convocation of executive sessions, party and zonal caucuses to ensure the survival of legislative leadership against the onslaught of exposition of corruption practices in the management of the House finances.¹⁷ Several cases of financial abuses were reposed on the National Assembly leadership. For example in 2002, a consultant was reported to have collected the sum of ₦3,240,000 to assess the impact of the National Assembly in the polity.¹⁸ This assignment throws a pertinent question. What is the role of the constituency offices funded from public funds, from which responses/reactions to the National Assembly activities can be collated? Similarly, a sum of ₦500,000 was received as maintenance imprest for the residential quarters of the Speaker for the purchase of toiletries and the feeding of animals. During the same period, the Deputy Speaker Office expended the sum of ₦226,000 to pay the hotel bills of the Deputy Speaker's visitors.

While it cannot be doubted that these leadership positions are honourable offices, which must be accompanied with special privileges the level of enjoyment of such privileges must be comparative to the material conditions of the people they claim to serve. Expending huge sums on personal security such as dogs when the State provides ample security for such high-ranking officers smacks of financial profligacy.

The poverty level in the country also provides a leeway for the executive to induce corruption in the legislature. The monetisation of the electoral process in Nigeria led to heavy expenditure on the part of legislators for political campaigns to get elected. After elections, these monies must be recouped. However, the executive has immense powers in the allocation and distribution of patronage. The executive conscious of this fact has often used this financial power to ensure compliance to its dictates. For example, between May 1999 and May 2003, the Lagos State House of Assembly was more or less a rubber stamp to the Governor,

Senator Bola Ahmed Tinubu.¹⁹ It was, therefore, not surprising that at the end of the tenure of the Lagos State House of Assembly, the legislators were given a "golden handshake" by the Governor. The overt confidence of the Governor working with a pliable Lagos State House of Assembly was carried over to the newly elected House of Assembly when the list of commissioners was released to the public without prior consideration/ approval of the new Lagos State House of Assembly.

16. *TELL*, 1st July, 2002, p. 31.

17. *ThisDay*, op. cit p. 22.

18. *The Guardian*, 12th October, 2000, p. 8.

19. See *TELL*, 26th November, 2001, pp. 30-31.