

POWER RELATIONS AMONG INSTITUTIONS OF GOVERNMENT IN NIGERIA'S PRESIDENTIAL SYSTEM: ISSUES AND CONTENTIONS

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ABSTRACT

The principle of separation of powers and the doctrine of checks and balances are the two major mechanisms that define power relations among branches of government in presidential system. These institutional control measures are meant to avert disproportionate exercise of power. The assumption of the culture of presidential system is the near absence of personalization of power. In Nigeria, power relations among the three branches of government are clearly defined to ensure the promotion of good governance. Nevertheless, residual and inherent powers of the executive tower above the other two branches of government. This paper discovered that the uneven distribution of powers among the arms of government hampers the operation of a system of checks and balances. Thus, the institutional safety valves become ineffective in the face a rising culture of corruption and impunity. The outcome is the preponderance of governance crisis and abuse of state power. Competition for power among political elites endangers good governance. The paper submits that an informed public capable of enforcing accountability is a sine qua non for a redirection of the culture of accountability in Nigeria's presidential system.

Introduction

The principle of separation of powers and the doctrine of checks and balances are the two major mechanisms that define power relations among branches of government in presidential

system. Essentially, the primacy of power in governance necessitates the need for institutional control measures to avert disproportionate exercise of power. The assumption of the culture of presidential system is the near absence of personalization of power. Nigeria's presidential constitution incorporates these measures with essential provisions aimed at ensuring respect for the rule of law¹. In other words, power relations among the three branches of government are clearly defined to ensure the promotion of good governance. Nevertheless, residual and inherent powers of the executive tower above the other two branches of government.

Uneven distribution of powers among the three major structures of government, the legislature, the executive and the judiciary, in presidential system, to an extent, negates the primary essence of the system of checks and balance. Thus, the institutional safety valves will be ineffective in the face of primordial interests and other informal considerations among the political elites. This becomes more profound in divided societies in the developing countries like Nigeria, where corruption and impunity dominate the activities of the institutions of government. In this way, the structures of government constitutionally responsible for regulating powers against abuse gradually shrink in their capacities to maintain order. The outcome of this is the preponderance of governance crisis. Since institutional measures remain ineffective for the control of power, competition among political elites for political space endangers good governance.

In Latin America, the largest concentration of countries with presidential system, past abuses of executive power has given rise to the demand for a limitation on the power of the executive branch of government². By implication, the loss of the executive branch in terms of power leverage should be the gain of the legislature in power equation. The argument is that because the legislature represents the general will, the ultimate power should be retained by the legislative structure in a bid to adequately cater to the myriads of interest represented in the legislature. On the contrary, the President represents the interest of the whole rather than a conglomeration of constituency interests. In view of this, the President, as a single candidate representing the interests of all, is better equipped to care more about national economic growth for the benefits of all the citizens.

The incentive of the executive differs from that of members of Congress; as head of the country the executive is in a position to internalize the costs and benefits from policies affecting national interests more so than regional interests³.

Consequent upon this, it is necessary that the executive is vested with relatively more power but subjected to checks by the legislature as well as other institutional restrictions to avert abuse.

Does this argument hold in the Nigerian presidential system? If it does, what is the nature of power relations among the institutions of government in Nigeria's presidential system? What are the available constitutional instruments at the disposal of the legislature to checkmate executive abuse of power? How effective are the use of these instruments by the legislature? Has the Nigerian political system benefited from the nature of power relations among the institutions of government? This paper seeks to answer these questions. Aside from this introduction, the rest of the paper has five sections. Section two presents separation of the place of separation of powers in presidential system. This is followed by discussion on power relations among structures of government in Nigeria in section three. Section four identifies some of the constitutional provisions regulating relations among the structures of government. Section five discusses power relation and governance crisis in Nigeria while section six concludes.

Separation of powers in presidential systems

Institutional structures in governing system derive authority in established rules. Such rules are derivatives of the existing body of laws whether constitutions, customs, traditions and precedents, and decrees. In the contemporary world system, constitutional stipulation on the sphere of authority of institutional structures of government is a common practice. Such rules regulate the relationships among the various structures and units of the government. This regulation in presidential systems is executed by the principle of separated but shared power. James Madison (1788; 2008) in the *Federalist Papers* describes this principle of separation of power as an 'essential precaution in favour of liberty'⁴. He notes that disproportionate distribution of power has the danger of concentrating governing power in a single individual or structure. He avers that the 'accumulation of all powers, legislative, executive, and

judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny'⁵. Reaffirming the position of Montesquieu, the original author of separation of power, Madison notes that the only precaution towards the preservation of liberty is the distinctive separation of the three principal powers of legislation, execution and adjudication of government policies.

Human nature associated with the exercise of power has the tendency to be abused if not checked. James Madison describes government as 'the greatest of all the reflections of human nature'⁶; this position necessitates the need to control governmental power in a way that will insulate it from abuse. According to him,

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.⁷

As a precautionary measure, separation of power provides further checks on the exercise of power because periodic elections associated with democracy are not enough to guarantee accountability⁸. Indeed, scholars have argued that presidential systems where the heads of the executive branch have a sprawling legislative power often witness political hiccups.⁸ Power is central to the operation of presidential system. The perspectives of scholars on the desirability of presidential system as a vehicle for political stability revolve around allocation and exercise of power.⁹

The founding fathers of the American constitution, the first presidential system¹⁰ are concerned about the control of power among the different structures of government.¹¹ The perspective of Juan Linz¹² on the perils of presidentialism arises from the possibility of gridlock resulting from the exercise and control of power for good governance¹³. His fear is the absence of a mechanism for resolving crisis in the face of conflict between the legislature and the executive. By structural design, in a presidential system, no branch of government has a monopoly of the exercise of power. Indeed, this principle is the foundation of presidential system¹⁴.

In view of the prospect of gridlock and immobilism, Juan Linz praises parliamentary system for its ability to effectively manage conflict in power relation between the legislature and the executive since there is no division in the exercise of governing power. To him, the principle of collective responsibility promotes unity and induces stability while the necessity for separation of power as well as principles of checks and balances has been blurred. Gerring et al¹⁵ support this argument claiming that parliamentary system offers a better prospect for good governance than presidentialism which is characterised by institutional fragmentation of powers.

On the other hand, Perez-Linan¹⁶, a leading scholar in the defence of presidential system, argues that the sprawling power of the President does not guarantee the completion of the term. In other words, though the President exercises broad power in policy process, legislative control in the exercise of power forecloses an arbitrary application of power against the interests of the public. Legislative involvement in policy process keeps tabs on the exercise of executive power. An institutionalised policy-making process associated with parliamentary system and personalised free-floating style of presidentialism, defines the styles of governing power in the two systems¹⁷.

These scholarly perspectives on presidentialism converge on the same platform that power relation between the executive and the legislature determines the outcome of governance. Thus, the location and control of power is essential in order to avert the danger of authoritarianism in a system of divided but shared power. An essential instrument in this direction is the legislative oversight. Walter Oleszek¹⁸ describes it as the ‘continuing review’ of actions of government with respect of the execution of statutes and policies by the legislature. This includes investigation on the administration of statutes, supervision of the implementation of public policies and ‘watchfulness of executive actions and activities’¹⁹. The exercise of legislative oversight defines the nature of relationship between the legislature and the executive.

Another defining measure in power relation mechanism in a presidential system is the use of veto power²⁰. Veto is an inter-branch negotiation instrument reminding the legislature of the primacy of the preferences of the executive branch in legislative outcomes. In a system of

separation of power, veto becomes an instrument of negotiating a consensus on the varying interests of the legislative and executive actors in policy process. This mutual power relation mechanism is predicated on the need for synergy between the legislature and the executive. The fact that the president can veto legislative outcomes requires lawmakers to ‘take presidential preferences into account early when negotiating legislation’²¹.

On the other hand, the legislature can overturn presidential veto. In this way, the president will be wary of arbitrary resort to the exercise of veto power to secure the support of the legislature in policy process. Thus, legislative process is a hub of bargaining. Legislative initiatives are not independent of the influence of the veto powers of the President. Nevertheless, the exercise of this power differs among presidential systems. In Latin America and post-communist presidential systems in Eastern Europe, for instance, most Presidents have extensive legislative powers to get over any legislative obstructions²².

Power relations among structures of government in Nigeria’s presidential system

Nigeria has experienced eleven different constitutions since the 1914 amalgamation by Fredrick Lord Lugard²³. All the pre-independent constitutions have established the executive and the judiciary as institutions of government in Nigeria’s political system. The 1960 independence and the 1963 Republican constitutions, respectively, by their contents and principles, established the legislature as a recognized institution of government at the central and component units of the nation’s federal structure. These two constitutions, however, by the design of the governing system fused executive and legislative powers in a Westminster parliamentary system. Thus, the legislative institution in its infant in the political system is more of an appendage of the already established executive branch.

The legislature thereby becomes an instrument for the reification of the interests of the executive, and, in most cases centre of conflict to settle political scores among the divisive political elites²⁴. The failure of the legislature to assume the independent status necessary for the control of the power of government partly contributed to the advent of military regimes that terminated the post independent civilian eras. For thirteen years of military rule, from January 1966 to October 1979, the legislative institution of a newly democratic independent nation was in abeyance²⁵. While years of forceful colonial governing system stifled the

legislative culture restricting governmental activities to the dictates of the colonial rulers, the years of military interregnum impeded the growth and nurturing of the legislative culture enshrined in the independent constitutions. In all these interregnums, the executive and the judicial structures were functional and institutionalized.

During the period of military rule, the norm of fusion of executive and legislative power associated with the politics of the First Republic subsists with additional addictive to ruling by decrees. This norm further entrenched the culture of executive fiat in the political psyche of a majority of political elites whose orientations are attuned to divisive politics. Rather than resolve the fissiparous tendencies in the polity, military rule frustrated the maturation of the Nigeria's political system and stultified its growth. This however favours the executive branch with enormous concentration of power. Thus, the use of power with impunity to promote primordial interests becomes rampant. A majority of the contemporary political elites in Nigeria's presidential system are lacking in legislative culture having developed their partisan interests under the second phase of military rule in Nigeria²⁶.

By the design of presidential system, the legislative culture plays vital role in the development of the governing process. Unlike the culture of fusion associated with the previous systems, presidentialism exhibits the culture of separation of powers in a system of checks and balances. Thus, by constitutional design, the structures of government operate within the limits of boundaries regulated by rules in a system of shared power²⁷. The development of colonial political system and the subsequent military interventions six years after independence entrenched a centralized presidential system in Nigeria. By this, we mean the centralization of the executive branch with extensive concentrated power.

In the American presidential system, the executive branch has an expansive influence in governmental operations²⁸. Despite this, legislative oversight remains effective as an instrument for the protection of the role of the legislative branch. By this token, the legislature is able to challenge 'unwarranted assertions of the executive power to raise and ask the tough fiscal and policy questions of public officials, and help administrative leaders fix (or avoid) mistakes'²⁹.

It is obvious from above that legislative scrutiny of government activities is not an instrument of antagonism. It is neither a measure that confers executive power on the legislature. Oversight enables the legislature to discover deficiencies in the original statute and make necessary adjustments and refinements³⁰. The exercise of oversight is a statutory mandate that affords the legislature the opportunity to ensure an effective, efficient and frugal executive. Through continuous review of government actions, the public is presented with an opportunity to assess the performance of the government. In a way, oversight is an accountability measure in presidential system.

Unlike the American system, where numerous government bodies and agencies are independent of executive control, all government agencies and commissions in Nigeria are directly responsible to the elected head of the executive³¹. The Nigerian presidential constitution inherits an established set of administrative agencies already integrated into the professionalized civil service trained to be subordinate to the executive. In other words, the appointive power of the chief executive in Nigeria provides an extended leverage over patronage more than the legislature. How does this affect the institution of governance?

Constitutional provisions on power relations among institutions of government in Nigeria

There are extant constitutional provisions in Nigeria that seek to control the exercise of power and regulation of the power relations between the legislature and the executive branches. Sections 4-6 of the Constitution define the status of each of the three branches of government in terms of the exercise of power³². The legislature has the power to legislate on all matters included in the legislative lists³³. This omnibus power of the legislature enables the legislature to make laws for the peace, order and good government of all the components of the Nigerian Federation. There are sixty (60) items under the Exclusive Legislative list and thirty eight items under the concurrent legislative list³⁴.

Aside from the law making power, the constitution also grants the legislature the power to have control over public funds³⁵. This power of fund appropriation also included scrutiny of the accounts of the government through the Auditor-General, to be appointed by the executive upon ratification by the legislature³⁶. The constitution mandates the Auditor-

General to submit the report of the audited accounts of the government to the legislature. This power of the purse is sandwiched by the oversight power to investigate the execution of laws³⁷. The exercise of this power is to among other things to ‘correct any defects in existing laws; and expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it’³⁸.

The height of this investigative power is the provisions stating the removal procedure of the President and or his deputy, and, Governor and or his deputy³⁹. These provisions guarantee accountability in the face of immunity provisions in section 308 where heads of the executive branch are shielded from any civil or criminal proceedings. The section states

(1) Notwithstanding anything to the contrary in this Constitution, but subject to subsection (2) this section (a) no civil or criminal proceedings shall be instituted or continued against a person to whom this section applies during his period of office; (b) a person to whom this section applies shall not be arrested or imprisoned during that period either in pursuance of the process of any court or otherwise; and (c) no process of any court requiring or compelling the appearance of a person to whom this section applies, shall be applied for or issued: Provided that in ascertaining whether any period of limitation has expired for the purposes of any proceedings against a person to whom this section applies, no account shall be taken of his period of office.

(2) The provisions of subsection (1) of this section shall not apply to civil proceedings against a person to whom this section applies in his official capacity or to civil or criminal proceedings in which such a person is only a nominal party.

(3) This section applies to a person holding the office of President or Vice-President, Governor or Deputy Governor; and the reference in this section to “period of office” is a reference to the period during which the person holding such office is required to perform the functions of the office⁴⁰.

In a bid to avert proclivity towards an uncontrolled power of legislations, section 4(8) of the Constitution sets a limit to the extensive power of the legislature to make laws.

Save as otherwise provided by this Constitution, the exercise of legislative powers by the National Assembly or by a House of Assembly shall be subject to the jurisdiction of courts of law and of judicial tribunals established by law, and accordingly, the National Assembly or a House of Assembly shall not enact any law, that ousts or purports to oust the jurisdiction of a court of law or of a judicial tribunal established by law⁴¹.

This judicial check on the legislative power safeguards the executive against the abrasive stance of the legislature. This is a constitutional design to assert independent actions by each of the branches of government with a view to stimulating coordinated activities towards good governance in a system of separated but shared powers.

While legislative power domiciles in the legislature as a body, the constitution vests executive powers of the federal and state governments in the individual heads of the executive branches, the president and the Governors, respectively⁴². Nevertheless, the exercise of this power is dependent on the laws made by the legislatures. These powers include the ‘execution and maintenance of this Constitution’ and all laws made by the respective legislatures and ‘all matters with respect to which’ the legislatures have power to make laws⁴³.

Section 5(6) of the Constitution also vests judicial power of the Federation and the states in the courts rather than the office of the heads of the courts. In other words, while the executive power is vested in individual, legislative and judicial powers are vested in their respective institutions. This personalisation of the executive power is predicated on the composition of the institutions⁴⁴. The executive has a measure of control over legislative power to veto legislations. Though this power is not absolute, it is an invitation to a review of legislations by the lawmakers⁴⁵.

To accomplish this compartmentalisation of power into three branches, section 81(3) of the Constitution provides for financial autonomy of the Judiciary. The section states:

Any amount standing on the credit to the judiciary in the Consolidated Revenue Fund⁴⁷ of the Federation shall be paid directly to the National Judicial Council for disbursement to the heads of the courts established for the Federation and the States under section 6 of this Constitution⁴⁸.

The first alteration of the constitution in 2010 extends this financial autonomy to the National Assembly and the Independent National Electoral Commission⁴⁹. The implication of this is that rather than going to the executive branch begging for fund for its statutory duties, the legislative institution has the authority to assert its role and autonomy in its routine activities because disbursement of fund is no longer within the purview of the executive⁵⁰.

Residual powers and unevenness in power relations between the legislature and the executive in Nigeria's presidential system

The executive branch in Nigeria's presidential system has expansive power leverage over the legislature. Successive governments since the colonial periods through the post-independent civilian and military regimes have demonstrated the importance of the executive power thereby revealing the potentials and capabilities of this structure to operate as a super-ordinate branch of government⁵¹. The vast tentacles of its operation as the engine room of governmental activities at all levels of government embolden the tendencies to stultify other branches.

The Nigerian public ascribes the appellation of 'government' to the executive. Thus, rather than see the legislature as an integral part of the government, the public reduces the role of the legislature to law making and as appendage of the executive. This public disdain coupled with the sprawling power associated with administration of the government elevates the executive far above the legislature. A former Deputy Speaker of a state legislature in response to my question said:

In Nigeria, the executive has an edge over the legislature because the structure of the executive branch has been stabilized since 1960. The civil service is stabilized. But the parliament is not. In fact, the legislature does not have its own bureaucracy. The same civil servants serving the executive are seconded into the legislature. The civil servant is the main instrument of policy process. The legislature should have its own bureaucracy independent of the executive civil service. The executive often manipulates the legislature through the civil service to its own advantage⁵².

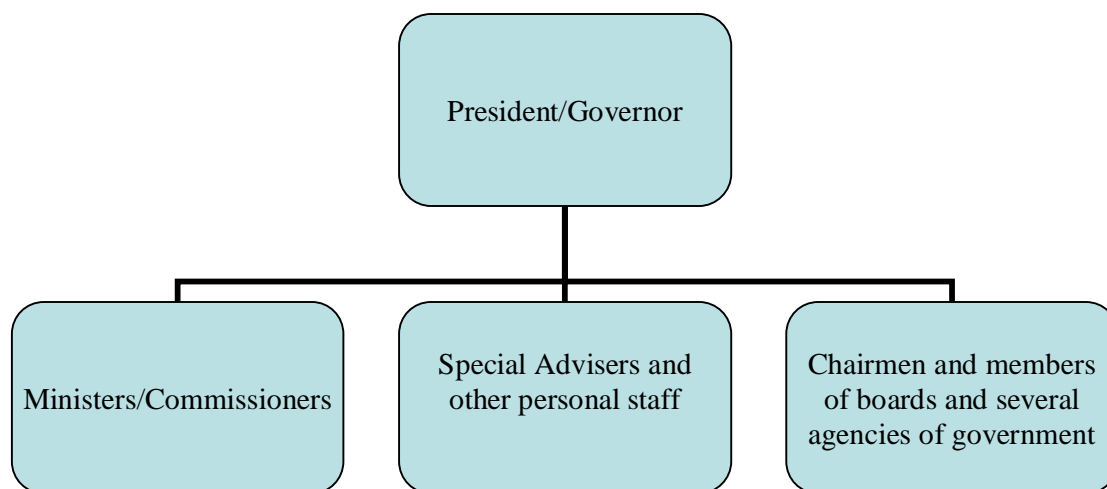
While the National Assembly obtained its financial autonomy in 2010, state legislatures depend on the executive for the approval of funds. On the one hand, the executive as a single feasible person has a vast leverage over the control of the society through patronages. The heads of the executive do not hesitate to exploit this public perception to bolster their relevance.

Even at that, the Nigerian public is still skeptical and suspicious of executive power of government. With the frustrating experience of abuse of powers in the First and Second Republics⁵³, Nigerians who participated in the political debates organized during the military

regime in preparation for the new civilian regime had sought for a streamlined executive power⁵⁴. Indeed, the Political Bureau did ‘acknowledge the expansiveness of the powers of the executive.’⁵⁵ Though the legislature has fundamental authorization power, Nigerian lawmakers are yet to develop an institutional framework to transform the legislative potentials to instrument of enforcing accountability because of the prominence of the executive branch in general administration of government.

In Figure I, the president/governor, as the chief executive officer of the state, has a towering power over his appointees. The design of their offices, responsibility and functionality are defined by the president/ governor. Their tenure is at the behest of the governor. Those whose appointments require legislative confirmation do not enjoy the honour of removal by legislative confirmation. Through this retinue appointive authority, the president/governor has an extensive power of political patronage and perks of office. In a system besieged by corruption, prospect of political appointment is a potential weapon to coerce a majority of support. In Nigeria, the highest political office holders are regarded as the effective leaders of their political parties not necessarily by law but the control of power of government. Thus, the president/governor enjoys enormous good will when he remains in power.

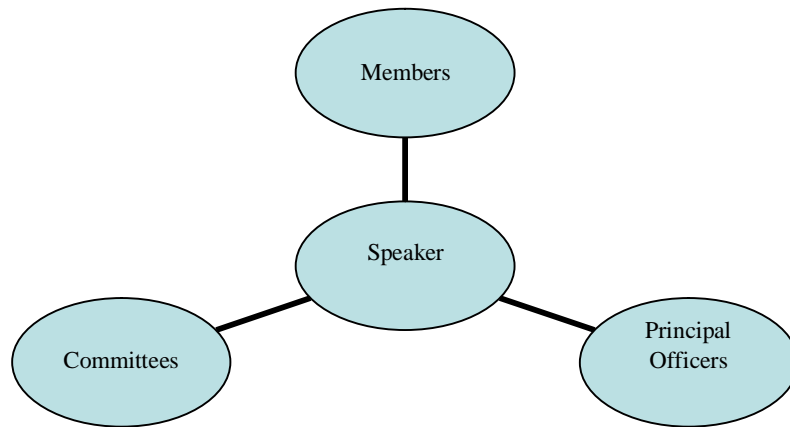
Figure I
Diagrammatic representation of the sphere of power influence in the executive branch of a typical state in Nigeria’s presidential arrangement



Source: Created by the author

Figure II

A diagrammatic representation of the structure of power distribution in a typical state legislature in Nigeria



Source: Created by the author

On the other hand, the leadership of the legislature does not have this power leverage as shown in figure II. While the heads of the executive have and exercise control over the cabinet and coteries of political appointees, the leadership of the legislature is a product of the good will of the members. Thus, the actual exercise of legislative power in Nigeria is limited to the routine procedures of approval.

There are salient powers that the executive branch exercises independent of the legislature. The concept of imperial executive is apt to describe the exercise of power in Nigeria's presidential system. This attribute is a contraption of the leaders who at different times, seek to consolidate power through habitual resort to violation of the rule of laws. The presidency of Olusegun Obasanjo displayed this abrasive use of power between 1999 and 2007. Ordinarily, a presidential system does not promote the abuse of executive power. Indeed, the essence of the system is to prevent executive lawlessness and legislative recklessness and instill a regime of checks and balances. In the case of Nigeria,

Obasanjo flagrantly and habitually disobeyed rulings from the courts on several occasions. He literally owned the ruling party, appointing and

dismissing its chairman at will. Candidature for the party, from the presidential level right down to the local government level, was mainly decided on his desk. There was certainly no respect for the legislature, which he saw as a subordinate institution to the executive⁵⁶.

This perspective of legislature as a subordinate structure to the executive is a general notion in the executive arms of government at the central and state levels. Indeed, state governors often relate with the legislature as an extension of the executive branch effectively under the control of the head of the executive. Governors want the leadership of the legislature to be subservient to them rather than upholding the enshrined principle of separation of power in policy issue for the purpose of instilling the policy of good governance.

A former Speaker of a state legislature said:

One of the menaces of the current constitution is that the legislature does not exist on its own. It depends for many things on the executive arm of government and you need to have the backing of the executive to be able to do anything. For example, the legislature cannot give an instruction to the Commissioner of Police (CP); the Governor will give a counter instruction. The CP will defer to the instruction of the Governor⁵⁷.

Unfortunately, sections 5 8(1) of the Constitution restricts the exercise of the legislative law making power to bills passed and assented to by the head of the executive branch.

Exercise of power and governance crisis in Nigeria

The expansive appointment power of the executive widens the level of patronage which the legislature and the judicial officers do not have. This retinue of appointees, in reality, are loyalists of the heads of the executive whose survival depends largely on their continuous loyalty to the president or the governor who appointed them. Even if they know that actions of government go against the interest of the public, they defend such action not as a matter of patriotism but of political loyalty to their sponsors. This is in tandem with the assumption of Cristina Corduneanu-Huci⁵⁸ that political elites in leadership position would want to stay in office as long as possible. In order to realise this objective, they craft a series of policy measures to reward loyal coalitions and supporters and punish the opponents.

Political elites in Nigeria's presidential system often deploy this reward system to forge a common front in the use of impeachment as instrument of reward and punishment. The failure of the legislature to adhere to the principles associated with the application of the power of impeachment as an instrument of oversight engenders the prevailing governance crisis in Nigeria's presidential system⁵⁹. Thus, a political system where systemic corruption prevails will reduce impeachment to a mere instrument of political vendetta. The failure of legislators to commence impeachment proceedings against state governors with records of allegations of corruption and abuse of office is politically motivated. Such deliberate docility engenders the persistent crisis of governance in the Nigerian political system.

A former Governor of Nigeria's Central Bank, Sanusi Lamido, recently revealed that

In Nigeria today, there are millions of young people who are economically dislocated, either through unemployment or a lack of engagement with any meaningful economic activities. In effect, 24 percent of our economic agents are disaffected and disenfranchised through unemployment and that figure rises to almost 70 percent when we consider those between the ages of 18 and 30⁶⁰.

Section 14 (2b) of the constitution declares that 'the security and welfare of the people shall be the primary purpose of government'⁶¹. Section 16 (1) mandates the government to, among other things,

- (a) harness the resources of the nation and promote national prosperity and an efficient, a dynamic and self-reliant economy;
- (b) control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity;
- (c) without prejudice to its right to operate or participate in areas of the economy, other than the major sectors of the economy, manage and operate the major sectors of the economy;
- (d) without prejudice to the right of any person to participate in areas of the economy within the major sector of the economy, protect the right of every citizen to engage in any economic activities outside the major sectors of the economy⁶².

Section 80 (3-4) of the constitution empowers the legislature to authorise and prescribe the manner of withdrawal of money from the CRF. This power of the purse is the most effective power upon which the legislature exercises vital control on the activities of the executive.

Aside from authorisation, the legislature also has the power to monitor the disbursement of the fund in order to ascertain the compliance of the executive to the manner it prescribed for the disbursement. In case of delay in the passing of the appropriation bill for the year, section 82 of the constitution empowers the executive to

[A]uthorise the withdrawal of moneys in the Consolidated Revenue Fund of the Federation for the purpose of meeting expenditure necessary to carry on the services of the Government of the Federation for a period not exceeding six months or until the coming into operation of the Appropriate Act⁶³.

This legislative power assigned to the executive is however limited to the contents of the appropriation act of the preceding year.

In order to ensure transparency and accountability, section 15(5) of the constitution mandates the State to ‘abolish all corrupt practices and abuse of power’⁶⁴. With requisite statutory instruments, the Constitution empowers the legislature to enforce measures towards the abolition of corruption through the mechanisms of checks and balances. To what extent has these fundamental objectives and principles of state policy been implemented? Has the legislature harnessed this accountability power to stimulate good governance? What are the obstacles in the process of achieving this constitutional fit?

Nigeria has a large reserve of oil and gas as well as huge deposits of other mineral resources such as bauxite; iron, among other solid minerals⁶⁵. Specifically, Nigeria is the 12th largest producer of petroleum products in the world⁶⁶. Yet, Nigeria is among the countries with Low Human Development maintaining 153th position⁶⁷. In Africa, the MO Ibrahim Index of African Governance in 2011 ranks Nigeria 41st out of 53 countries⁶⁸. Data from Nigeria’s National Bureau of Statistics, a government agency, indicates that 112.519 million out of the estimated 150million Nigerians live in relative poverty conditions while 33 million are jobless⁶⁹. In the failed states index, Nigeria has remained among the top countries susceptible to implosion⁷⁰.

In specific terms, uneven developments, legitimacy crisis, poor service delivery in the public sector, ‘endemic corruption and deep distrust of the state’, among other vices characterize the nature of the Nigerian state⁷¹. In the 2011 Transparency International (TI) report on corruption perception in 183 countries, Nigeria ranks 143rd⁷². Between 2000 and 2008, report

indicates that Nigeria lost US\$130 billion to illicit financial flows⁷³. Between 2000 and 2010, report has it that Nigerian leaders stole N3.047tn through money laundering⁷⁴. Yet, there are legislators equipped with the requisite constitutional powers to make and monitor the laws to institutionalize good governance.

Conclusion

In presidential system, there is no strict adherence to the theory of separation power but the conventional practice of separated but shared power⁷⁵. In this sense, there is no watertight separation of functions⁷⁶. In fact, contemporary trend shows that interactions among institutional actors within and outside the legislature and the executive characterize the functioning of modern presidential systems. As Cheibub and Limongi have noted, ‘the question is not so much of what triggers conflict or cooperation between the executive and the legislature, but about institutions and the struggles that allow government to obtain the support of a majority’⁷⁷.

In Nigeria, the problem of accountability remains a major obstacle to achieving the best in terms of governance. This has been compounded by the absence of an informed public capable of holding the leadership in the executive and the legislative branches of government accountable. The constitution provides sufficient provisions for ensuring good governance but then the unevenness in the application of this regulatory power by the two political branches of government has remained an obstacle. Political elites seeking to exploit power to promote personal interests will not hesitate to negotiate away the interest of the public in order to promote their personal interest. In the absence of institution of accountability, governance crisis festers while the public groans under the burden of failure in the right application and exercise of power by their representatives.

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18. Gerring et al, 2009.
19. Oleszek, 2014, p.382
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21. Palanza, V. and G. Sin, 2014, Veto Bargaining and the Legislative Process in Multiparty Presidential Systems, *Comparative Political Studies*, Vol 47, no 5, pp. 766–792; Aleman, E. and T. Schwartz, 2006. Presidential vetoes in Latin American Constitutions, *Journal of Theoretical Politics*, Vol 18, no 1, pp. 98–120.
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23. Aleman and Schwartz, 2006; Beliaev, M. V., 2006. Presidential Powers and Consolidation of new post- Vol 39, no 3, pp. 375-398.
24. Ejimofor, C. O, 1987. *British colonial objectives and policies in Nigeria: The roots of conflict*, Onitsha: Africana-FEP Publishers Limited. Five of these constitutions (1914 amalgamation, 1922 Clifford, 1945 Richards, 1951 Macpherson and 1954 Lyttelton Constitutions), were promulgated during the colonial era, two (1960 and 1963 independence and Republican Constitutions respectively), while the remaining four (1979, 1989, 1995 and 1999), were promulgated by the military regimes. Only two, 1979 and 1999 were actually practiced while the other two 1989 and 199 were contrivance of the military as facades of commitment to democratic transition documents.
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28. The first phase, beginning from January 15, 1966, spanned till September 30, 1979. The second phase began with the coup that ousted the civilian regime of President Sheu Shagari in December 1983 and spanned till May 28, 1999.
29. Oleszek, 2014. The president has the power to establish a wide range of government agencies and departments that operate under his instructions.
30. *ibid*, p382.
31. *ibid*.
32. Nwabueze, B. O, 1985. Nigeria's Presidential Constitution, 1979-1983: The Second in Constitutional Democracy, London, Ikeja, New York: Longman; Olson, D. M., 2002. Presidential Systems in Nigeria and the United States, in Adeolu Adesanya and Gordon Idang (eds), Nigerian Government and politics (1979-1983), Calabar, Nigeria: Wusen Publishers, pp. 104-121.
33. Constitution of the Federal Republic of Nigeria, 1999 (as amended).
34. Parts I and II of the Second Schedule of the Constitution contains the exclusive and concurrent legislative lists respectively. The National Assembly has the exclusive legislative power on matters contained in the former while it shares the legislative power on matters in the latter with the state legislatures.
35. The legislative lists in the Nigerian constitution define the sphere of legislative activities of the federal and state governments. Constitutionally, state governments are subordinate to the Federal Government. The exclusive legislative list contains items directly under the sphere of the federal government. The concurrent legislative list has items that fall within the sphere of both the federal and state level. While the state legislature cannot legislate on any items under the exclusive legislative list, the National Assembly can legislate on items in the two lists. Beside this, any conflicts in the legislations of the state land the National legislature will be resolve in favour of the National Assembly. Section 4(5) of the Constitution states: 'If any Law enacted by the House of Assembly of a State is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail, and that other Law shall, to the extent of the inconsistency, be void' (Constitution of the Federal Republic of Nigeria, 1999 (as amended)).
36. Sections 80-83 and 120-123 of the Constitution of the Federal Republic, 1999 (as amended).
37. Sections 85 (1-6), *ibid*.
38. Sections 88-89, *ibid*.
39. Section 88 (2 a7b), *ibid*.
40. (Sections 143 and 188), *ibid*. These sections are expedient in order to forestall abuse of power. Section 308 of the Constitution shields the president and his deputy, governors and their deputies from any criminal proceeding for any criminal conduct while in office.
41. Section 308, *ibid*.

42. Constitution, 1999.
43. Section 5(1-3), *ibid*.
44. Section 5 (1b-2b), *ibid*.
45. The legislature is composed of members of equal status representing a disperse constituencies while the heads of the executive at the state and federal levels are elected candidates from a single constituency.
46. If the executive refuses assent to legislation, after some stipulated duration, the legislature can override the veto through a two-third majority vote. See Sections 58-59, Constitution, 1999.
47. The Consolidated Revenue Fund (CRF) is pool of all revenues that accrue to the Nigerian Federation. Any withdrawal from the CRF should be authorized by the National Assembly.
48. Section 81 (3), Constitution, 1999.
49. Constitution of the Federal Republic of Nigeria, 1999 (First Alteration Act 2010).
50. The lack of financial autonomy of the Nigerian legislature at all levels was the bedrock of the incessant executive-legislative crisis in the formative years of the Fourth Republic. The budgetary allocations of the legislature require executive approvals for disbursement. Indeed, at the state level, daily financial needs of the legislature require the approval of the Governor. This phenomenon literarily made the legislature a department of government under the executive branch. While Governors often used this opportunity to negotiate policy preference, the legislature was incapacitated to actually function as an independent institution of government responsible for routine oversight of the activities of the executive.
51. Nwabueze, 1985; Akinsanya, A. A. and A. E. Davies, 2002. Executive-Legislature relations, in Akinsanya and Idang, 2002, pp. 136-154; The Report of the Political Bureau, March 1987, Abuja: The Directorate for Social Mobilisation, (MAMSER).
52. Personal Interview, May 10, 2014.
53. Joseph, 1991; Lafenwa, 2010.
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75. Cheibub, J. A. and F. Limongi, 2014. The structure of legislative-executive relations: Asia in comparative perspective, in R. Dixon and T. Ginsburg, Comparative constitutional law in Asia, Cheltenham and Northampton: Edward Elgar Publishing, Inc., pp.123-162.
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77. Cheibub and Limongi, 2014, p.124.