



## Executive-Legislative Budgetary Wrangling and Public Financial Authorization in Nigeria

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### Abstract

To underscore the centrality of the doctrine of separation of powers in Nigeria, the roles of the Executive and Legislature have been clearly delineated in the 1999 Constitution, as amended, in the various fiscal and other financial regulations. The major objective of this paper is to provide an expository analysis of the key public financial authorities in relation to the management of public finance in Nigeria, against the backdrop of the recurring Executive-Legislative budgetary rancour, using the experience during the 2022 budgeting exercise as case study. The paper noted that the fundamental, objectives and directing principles of budgeting had been clearly provided in the 1999 Constitution, as amended; just as the modus operandi had been outlined, by the derivative fiscal legislation and financial regulations, all of which are directed toward the efficient management of public financial resources. The paper concluded that complementarity and cooperation are the sine qua non in the performance of the respective roles of budget preparation by the Executive and budget appropriation by the Legislature. It was therefore recommended that the political and bureaucratic top brass should be continually trained, in order to achieve the requisite deep understanding of the mechanics of budgeting and public financial authorities in Nigeria, as enunciated by the relevant constitutional and legislative instruments.

**Keywords:** Separation of Powers, Constitution, Executive, Legislative, Public Financial Authorities.

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## **Introduction**

Various authors like Hussaini (2013), Omopariola(2003), Akpa (2013) and Aruwa and Neminebor (2021), have defined budget and budgeting differently. In sum however, the various definitions can be coalesced into one as lightly expressed in Akpa (2013,p.55), to the effect that government budgeting is the process of preparing the financial plan which describes the intention and policies to be pursued in the coming period, along with the cost implications. The plan provides a detailed description of the estimated receipts and proposed spending under different heads. A budget indeed relates to a well-articulated policy and, decision of government relating to taxation, public debt, public expenditure, public revenue and other financial matters. The decision and policies are systematically linked together as part of the overall act and objectives which government plans to pursue. Implicit in the foregoing is that a budget is an essential and a vital tool of planning and control of developmental activities (Jhingan,2006, p.489). Very important too, a budget is a most indispensable means by which scarce public resources are logically aligned with strategic priorities, particularly under contending interests and priorities.

Given the critical importance of the functions of budgeting as a means of resource allocation for national priority setting, and for the pursuit of the overall attainment of government's developmental objectives, it is to be expected that budgeting is so important that the responsibility cannot be lightly assigned to only one organ of government, be it Executive or Legislature. In any case, the 1999 Constitution, as amended, and all extant and current legislations deriving therefrom provide for the respective roles of the Executive and Legislature (National Assembly, NASS) in Nigeria's budgeting process. It is against this background that the Executive-Legislative feud in Nigeria's appropriation process, with particular reference to President Muhammadu Buhari's reservations on the NASS-approved Appropriation Act, is hereby examined.

In spite of the copious 'inertia' exhibited in the inexorable wrangling between the Executive and Legislature during annual appropriation exercises, it is curious that addressing the vexed issues has remained considerably inadequate. The dearth of literature and studies has thus created the obvious position or notion that is capable of undermining the potency of such feuds in metamorphosing into a hydra-headed harbinger of disruption in the otherwise critical appropriation exercise, as a cardinal tool for achieving the democratic, political, constitutional-legal, and very important, economic ethos of public budgeting in Nigeria. The observed lacuna is the central problem of this analysis.

As a corollary to the problem stated, the following questions were posed and addressed:

1. whether extant and current constitutional and legislative enactments have sufficiently provided for appropriate delineation of authority and powers in budgeting procedure in Nigeria;

2. whether the major sources of Executive-Legislative wrangling is attributable to lacunae in legal-constitutional framework or individual biases of the chief operators of the distinct arms of government; and
3. Whether it is constitutional amendment or continuous education of the chief operators of the arms of government involved in budgetary process that should serve as antidote for stemming the tide of the wrangling.

### **Objectives of the Study**

The major objective of the study is to examine the sources of the perennial feud between the Executive and Legislature during annual budgetary exercises in Nigeria.

The specific objectives however, include to:

1. analyse the constitutional provisions in relation to the roles of the two organs of government in budgeting;
2. explore further insights into the *modus operandi* of the budgeting system with respect to performance and confinement to jurisdictional boundary in budgetary role by the Executive and Legislature; and
3. Proffer strategic policy antidotes for relationship improvement and the needed accelerated budget passage.

### **Conceptual and Empirical Reviews**

Several concepts have been employed in the analysis. A succinct review of the salient concepts, which include the budgetary process, public financial authorization and budgetary powers in Nigeria are undertaken.

### **Budgetary Process in Nigeria**

- a) Generically, a government budgeting system consists of six phases that make up the budgeting
- b) budget preparation;
- c) budget execution;
- d) budget tracking and monitoring; and
- e) reporting and audit (Akpa, 2013, p.58)

At the policy review stage, all critical stake holders are enjoined to participate in the articulation of policy directives with due regard to the macroeconomic, fundamentals of the economy. The Executive, after due consultation with all stakeholders, puts together government's intended goals and objectives, policies, priority programmes and projects and strategies for actualizing the

objectives for goal attainment in the coming fiscal year. In Nigeria, the exercise is often coordinated by the Ministry of Finance, through the Budget Office of the Federation (BOF).

The budget preparation stage entails budget drafting. To begin, the Budget Office sends out a request to Ministries, Departments and Agencies (MDAs) to submit proposals or estimates covering capital and recurrent expenditure for the coming fiscal year. The defended and proposed estimates are packaged in a consolidated document by the Federal Ministry of Finance (FMF) and are submitted as 'draft budget' to the President, for due consideration by the Federal Executive Council (FEC). The 'draft budget' is subsequently presented by the President as Appropriation Bill to the joint sitting of the Houses of the National Assembly (NASS) for examination, hearing and passage by each of the two Houses. The Houses, and subsequently NASS, may pass the Bill as presented, or they may affect alterations, after public hearing, in exercising the powers conferred by the 1999 Constitution, as amended.

When done and approved or passed by NASS, the Appropriation Bill is returned to the President for assent. The President may agree or disagree with NASS over the Bill, if changes were effected. The President is at liberty to effect further amendments based on the observations and to return the Bill to NASS. If however, the Bill is returned to NASS, and NASS sustained its position on the provisions, NASS may return the document again to the Executive for assent. In the event of a continued stalemate, NASS may exercise the veto power vested in the organ by the Constitution, to overrule the President and pass the Bill into Appropriation Act. Notwithstanding the position of the President, the vetoed Bill (now Appropriation Act) becomes valid.

Subsequent stages in the budgeting cycle relate to tracking, audit and reporting, to ensure that the budget is properly executed as passed. The major activities involved include monitoring, tracking, audit, variance analysis and reporting, all for necessary remediation. Of note are the constitutional and legal provisions which require that annual appropriations should derive from a pre-approved Medium -Term Expenditure Framework (MTEF), a three-year 'plan' providing the synopsis of annual revenues and expenditures upon which subsequent annual budgets shall be based. The aims are to guide budgeting actions, direct sectoral allocations in line with pre-determined development priorities, facilitate strategic thinking, guide expenditure and enhance fiscal responsibility and transparency in government business (Akpa, 2013, p.63).

### **Public Financial Authorization and Budgetary Powers in Nigeria.**

For a country's budgetary process or framework, the organic laws form the basic foundation. In Nigeria, there is a plethora of constitutional and legal provisions contained in the various Constitutions, Financial Regulations and Instructions and Finance and Public Administration Laws. Thus, Sections 129 – 134 of Nigeria's Constitution 1963; Sections 74 – 79 and 112 -117 of the 1979 Constitution of Nigeria; and 81 and 82 of the 1999 Constitution provide for the

custody of public expenditure; as well as forbids any public expenditure without prior legislative authorization by the appropriate authority.

To kick-start the Annual Budget, the President is required to present a draft budget that contains estimates of receipts and expenditures of the Federal Government of Nigeria (FGN) for the next succeeding year to NASS. In Sections 74(2) of the 1979 Constitution and 80 (2) of the 1999 Constitution, it is clearly stated that no money shall be paid out of the Federal Government's Treasury except pursuant to an appropriation by law. Explicitly, the Treasury is enjoined by the Constitution not to make any payment out of public Treasury, except as authorized by the Act of Parliament, through the Appropriation Act.

Aruwa and Neminebor (2021, p.34) examined the legal framework for the budgetary process in Nigeria. The analysis corroborates evidence in support of the pivotal role of the Legislature in budget making process. Thus, the authors noted that Sections 4, 59, 80, 81 and 82 of the 1999 Constitution have considerable relevance to the appropriation process. Other financial authorities are provided for in the Finance (Control and Management) Act, CAP F26, LFN 2004, Fiscal Responsibility Act, 2007; Revenue Allocation (Federation Account, etc) Act CAP F26, LFN 2004; Public Procurement Act, No.14, 2007, and Revenue Mobilization and Fiscal Allocation Commission Act CAP. R. T LFN 2004.

Several administrative instruction manuals and documents which are derivatives of the afore-stated legislations have also been instrumental in budgeting process. Salient among the instructions are the Annual Budget Call Circular from the Federal Ministry of Finance (FMF), and Federal Government Financial Regulations.

Although not directly saddled with budgeting responsibilities, the Judiciary, through the various rulings, have added impetus to strengthening the budgetary process in Nigeria. In this regard, the Supreme Court in *Attorney-General of Bendel State v. Attorney-General of the Federation* gave a clear direction on the procedure for enacting money bills, which included the role and extent of powers of the Joint Finance Committee of NASS in budgeting process (Aruwa and Neminebor, 2021, p.34). To be sure, the legal arrangement for passing money bills by the Federal Government of Nigeria is governed essentially by Sections 59, 80 and 81 of the 1999 Constitution, as amended. In essence, the Constitution stated clearly that no money shall be spent by FGN unless such expenditure had been provided for directly by the Constitution, or it is authorized by the appropriation of NASS.

In Section 81(1) of the 1999 Constitution, the President is required to prepare the annual estimates and to lay such estimates of revenues and expenditure before NASS at any time in each financial year. This Section thus prescribed the cardinal role of the President or Executive in the budgetary process, to wit, preparation of the annual estimates and laying of such estimates before NASS.

It is also instructive to note the position of the 1999 Constitution under Section 59 on the role of NASS in the passage of money bills. The provisions placed no limit on the powers of NASS in altering the budgetary estimates submitted by the President. Where the President withholds his assent to the Appropriation Bill as “approved” by NASS, Section 59(4) empowers NASS to veto the President’s position and to thereby pass the Appropriation Bill into Appropriation Act. Such veto power is exercised where the President withholds his assent for a period beyond 30 days upon receipt of the Bill, provided that two-thirds majority of members of each House of NASS vote in favour of the Bill.

The Supreme Court's position on the powers of the Legislature (NASS) is buttressed by the relevant provisions of the Fiscal Responsibility Act (FRA). Section 3 of FRA empowers the Fiscal Responsibility Commission established under FRA, to enforce the provisions of Section 16(2)(d) of the 1999 Constitution, with respect to the provision of adequate food, shelter, livable wage, personal, unemployment and sick benefits and the welfare of the disabled. Section 16(2)(c) also enjoins that the economy should be operated with a view to guaranteeing egalitarianism in economic opportunities for all Nigerians.

Arising from the forgoing analysis, it is discernable that the existing constitutional, legal, regulatory and administrative systems have provided for a framework for a mutual inter-organ co-existence and cooperation between the Executive and Legislature, be it in budgetary responsibilities or in other inter-organ functional relations, through the appropriate delineation and delimitation of functions and powers.

It follows therefore, that beyond constitutionality or constitutionalism, and the appropriateness of the *modus vivendi*, factors which include historical antecedent, and personality may be critical in fuelling the Executive-Legislative wrangling in Nigeria. However, while the constitutional-legal provisions have adequately defined the role of each of the organs of government, the original operational dynamics have been bastardized by the chief political actors of the system, particularly in pursuit of self-ego or personality. For this reason, Mahmud and Ogwuzebe (2020) posited that the major factor in the sordid Executive-Legislative relationship during the administrations of President Olusegun Obasanjo and the first tenure of President Muhammadu Buhari was ascribable to personality clash. Such situation arose from the poor understanding of the workings of the emerging post-military constitutional democracy, vis-à-vis, the erstwhile autocratic dispensation, characterized by the fusion of executive and legislative powers in the Supreme Military Council or Armed Forces Ruling Council. Under such regime, peremptory orders or commands were prevalent. Be that as it may, separation of powers is an essential attribute of constitutional democracy; and all key players are required to respect this fundamental, for the successful operation of the system.

### **Executive - Legislative Budgetary Feud in Nigeria**

The history of protracted executive-legislative wrangling in Nigeria dated back to the emergence of post-military democratic rule with the transition to Civil in 1999. Thus, authoritarianism in financial management which characterized military-type procedure became susceptible to debate during Legislative proceedings and public hearing. Olusegun Obasanjo, President of Nigeria, refused to assent to several Appropriation Bills as passed by NASS, for reason that some of the estimates therein were altered. Specifically, the Executive alleged that the estimates were “strangely” padded by NASS with extraneous projects and inflated amounts considered alien to budgetary process and Bills proposed by the Executive.

The wrangling culminated in a protracted impasse that disrupted the budgetary process. Several Chief Executives of Ministries, Departments and Agencies (MDA) confessed that they were intimidated by the Legislature into including projects with entrenched interests of the sponsors in NASS. In the heat of the cross fire, the Minister of Education’s appointment as Cabinet member was determined, on grounds of padding or related offences. Although the issue was eventually resolved politically, it took a severe toll on budget implementation and service delivery for that year, with the citizenry as the loss-bearer.

The wrangling became exacerbated with the inauguration of President Buhari’s administration and the 8<sup>th</sup> National Assembly regimes with Abubakar Bukola Saraki as Senate President and Yakubu Dogara as Speaker of the House of Representatives respectively. The initial cordial relationship progressively degenerated into a war of ego or personality. While the Executive maintained the position that the organ was responsible for service delivery to the citizenry pursuant to campaign promises, NASS insisted that the function and powers of budgetary appropriation were constitutionally vested in the organ, without any intention to jointly exercise such powers with any other arm of government in Nigeria. Thus, the 2016 Appropriation Bill was assented to by the President only after the first half of the year.

The impasse similarly resulted in the initial refusal of the President to Assent to 2016 and 2017 Appropriation Bills, against the backdrop of NASS’ intractable posture and Executive’s intransience. In sum, passage of the Appropriation Bill was overly delayed, resulting in sub-optimal budget implementation, below 60 per cent, as variously reported by the Budget Office of the Federation and the Minister of Finance, Budget and Planning.

The ‘rancour improved with the change in the leadership of NASS in 2019. Central in the improvement of the Executive-Legislative relations in the new dispensation was the determination of the leadership to ‘cooperate’ with the Executive at every cost, in order to move Nigeria forward, as often expressed by the Presiding Officers. Although some public analysts had entertained fears about the possibility of institutionalizing executive-manipulation and possible indirect rule (Mahmud, Itodo & Abdullahi, 2019), others had held the view that such alliance was required to effectively on electoral promises to the citizenry. However, prospects of

the wrangling resurfaced during the 2022 budgetary exercise, with alterations some of the Executive estimates by NASS.

Arising from the foregoing, it is discernable that the procedure of effective budgeting in Nigeria encompasses: Executive's role in *preparing* the estimates; and Legislative (NASS)'s role in *appropriating* the estimates. Where there is no feud or rancor, budget approval is collectively achieved by the appropriation of the Legislature and assent by the President or Executive. Where however, there is a disagreement, presidential assent may be set aside by legislative veto, as noted by Aruwa and Neminebor (2021, p.36) and the 1999 Constitution, as amended.

### **Theoretical framework**

Theoretically, this analysis is anchored on the doctrine of Separation of Powers, popularized by several authors cited in Habu, (2018, p. 76), including, Charles de Secondant Montesquieu (1689-1755), erudite French jurist, although other writers including Locke (1588-1679), Rousseau (1712-1778) and Bodin (1530-1596).

In its essence, the doctrine postulated that the same persons should not form more than one part of the three principal organs of government; or should one organ perform the role of another organ, notwithstanding any need for cooperation and synergy. Indeed, having been delineated and assigned by a constitution or any competent authority, distinct functions of government should only be performed by distinct organs. As a cardinal pillar of modern democracy, separation provides a mechanism for checks and balances among governmental organs; and has been demonstrably practiced in the advanced democracies of the United State of America and Great Britain (Appadorai, 2004; Laski, 2008). When exercised alongside the doctrine of Rule of Law, separation can be relevant and considerably useful in gaining insights into role assignment and performance expectations with respect to the budgetary process (authorization and powers) in Nigeria.

### **Methodology**

This study adopted an expository analysis in the dialectics of the perennial wrangling between the Executive and Legislature during annual budgeting exercises in Nigeria, particularly with the transition from military to democratic rule. Accordingly, the design is a documentary survey, based on extant and current records held in constitutional, legal and regulatory provisions, as the major sources of references. Media reports, essentially newspaper stories and commentaries and expert opinions also provided useful sources of input. Similar method and sources were used in related analysis by Akinsanya, Hassan and Olasupo (2018, 98-104) and Adebisi, Mahmud &



Egugbo(2019, 17-20). The method is apt when a reconciliation of dichotomous positions by opposing groups is contemplated.

### **Analysis of Executive-Legislative Wrangling in Nigeria: Case of 2022 Budget Exercise.**

During the 2022 annual budgeting exercise, the Executive, in exercise of the powers vested in the President by virtue of Section 81(1), presented the Appropriation Bill for 2022 to NASS for consideration and passage, pursuant to Section 59 of the 1999 Constitution, as it relates to the treatment of money bills. NASS was however, alleged by the Presidency to have passed the Bill with amendments or adjustments, by inserting over 9,000 additional projects, while removing some projects considered critical in achieving the objectives of the administration. Among other reasons, the President was of the view that most of the projects inserted by NASS bore lower relevance to the people than the projects expunged from the estimates. Besides, the President complained of the fiscal implications of the additional projects, with particular reference to the attendant higher deficit and the inevitable expansion of borrowing need. For sure, FGN will borrow over ₦5trillion to finance the deficit earlier projected; which deficit was already in excess of the 3 percent ceiling set by FRA 2007. Very worrisome too, debt servicing initially projected at about ₦4.0trillion is higher than the about ₦3.16 trillion projected oil revenue. In all, the projected deficit of about ₦5.25 trillion is about 3.39 percent of Nigeria's GDP (Apekhade& Cole, 2022, p.29). When the deficit ascribable to the new borrowing to fund petroleum subsidy is factored in, the total deficit would escalate to about ₦7.25trillion.

In the specific response to NASS, the President regretted the action of the Legislature and insisted that the Executive acted within its constitutional confines as the organ of government vested with the powers and responsibility of preparing the estimates of revenue and expenditure, under Section 81(1) of 1999 Constitution, as amended, to wit: *The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year,*

The President might have relied on “emotional attachment” to the citizenry or the people whose feelings or yearnings the President “understands better”, and whose interest is better served by the Executive. To serve such interest, the President believed that projects identified and included in the Appropriation Bill by the Executive were therefore more people-oriented than the projects substituted by NASS. Furthermore, Section 80 (4) of the 1999 Constitution, as amended stated, inter alia that, “*No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation, except in the manner prescribed by the National Assembly*”.

In defence of its action, NASS relied on Section 59 (1) of the afore-stated Constitution with respect to the mode of exercising federal legislative power regarding money bill, thus:

The provisions of this Section shall apply to:

- a) an appropriation bill or a supplementary appropriation bill including any other bill for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any money charged thereon or any alteration in the amount of such a payment, issue or withdrawal; and
- b) a bill for the imposition or increase in any tax, duty or fee or any reduction, withdrawal or cancellation thereof (1999 Constitution of the FRN, as amended in 2011, PLL.49).

The complementary provisions of the 1999 Constitution, as amended, and FRA 2007, with respect to the budgetary roles and powers of the Executive and Legislature in Nigeria in appropriation are clear: while the Executive prepares the Appropriation Bill, the Legislature passes the Bill, provided that the Bill as passed into Appropriation Act is acceptable to the Executive, as reflected in the President's assent; otherwise, it may be vetoed by two-thirds majority of members of NASS.

In the instant case of the 2022 Appropriation Bill, the varied opinions expressed in public analysis is that NASS, instead of altering the estimates as presented in the Appropriation Bill by the President, ought to have referred the newly inserted financial provisions or any alterations or variations in the Bill to the President, for budget rework and representation; because it is the President who has the constitutional powers and duty "to prepare an Appropriation Bill". It was thus argued by the Executive, as a corollary, that by "preparing" the Appropriation Bill, through the insertion of new projects, NASS had acted out of its limit of constitutional powers, role or responsibility.

To the contrariwise however, NASS argued that since the powers to appropriate were vested in the organ, by virtue of Section 80(4) and 59(1)(a) of the 1999 Constitution, as amended, it was, by implication, empowered to appropriate as it saw fit, any estimates submitted to it by the Executive. This position of NASS proposed to stress the role of the Executive in preparing the Appropriation Bill as merely "clerical", or at best, administrative; while the role of approving the Appropriation Bill which was the crux of the responsibility in the budgetary process, was vested in the Legislature. The Supreme Court, as earlier noted, had clarified the procedure for enactment of money bills, besides the provisions of Section 80(4) and 59(1)(a) of the 1999 Constitution of Nigeria, as amended.

Beyond legalism, it may be surmised that budgetary appropriation is a cardinal role of NASS. This is because all activities or actions undertaken may have been done to facilitate budgetary appropriation by the Legislature. It is on this premise that it may be instructive to concede the powers of budgetary appropriation to NASS, on the balance of the respective roles and powers assigned to the Executive and Legislature by the 1999 Constitution of Nigeria, as amended. Nevertheless, it should also be conceded, on the balance of the arguments that neither the Executive nor the Legislature is vested with the authority to issue inter organ preemptory

instructions during budgetary exercise; instead, the relationship entails distinct complementary roles.

### **Implications of the Wrangling**

Whether the perennial wrangling between the Executive and Legislature in Nigeria is ascribable to poor understanding of the *modus vivendi* and *modus operandi* of the Constitution, or the mechanics of public financial management, the adverse consequences are huge for governance, the economy and polity. Salient among the implications are:

- i. breach of constitutional provisions, doctrine of separation of powers and rule of law;
- ii. aggravation in economic malfunctioning;
- iii. disruption in governance and service delivery;
- iv. social disruption;
- v. insecurity; and
- vi. political instability.

Breach of Constitutional provisions arises when either or both Executive and Legislature cross the constitutional limits or boundaries in the discharge of the budgetary roles, notwithstanding the clarity of the provisions of the Constitution. Underneath such behaviour are ignorance and ego, although the latter factor may be more impactful. If not checked, progression of the tendency into inter-organ autocracy and authoritarianism may result.

Economic malfunctioning can be exacerbated when budget passage and implementation are delayed. Among the major casualties of such malfunctioning is lagged management of critical macroeconomic target variables: inflation, exchange rate, unemployment, interest rate, trade and payment balances, debt servicing, etc. Exacerbation in the already weak positions may emanate from the consequent delayed management of the instrument variables, such as money supply, trade policy, provision for debt servicing, etc, all of which are often set and expressed in the annual budget and appropriation.

The social disruption that may emanate from lagged payment of salaries, wages, pension arrears and social security benefits will aggravate existing poverty and economic and social vulnerability. Crime in diverse ramifications: robbery, kidnapping, cyber theft, crude oil theft, drug abuse, prostitution, violence and other social vices will certainly escalate to wider dimensions. Civil disorder may be compounded by insecurity due to escalation of insurgent-attacks, particularly when funding is not readily available for the procurement of contingent military platforms since, if the rule of law and budgetary discipline are to be observed, no public spending can be undertaken without appropriation.

Political instability can be precipitated when the cumulative effect of all the foregoing implications crystallize. Very many African states were plunged into military regimes due to political wrangling resulting in protracted impasse and governance failure.

To be sure, a palpable sense of disruption in governance and service delivery may be experienced while social service delivery in education, health care, water supply, electricity, recreation and transportation may be in abeyance over a period of time, the duration depending on the degree of protraction of the impasse. Similarly, projects involving new infrastructural facilities such as roads, rail, dams, schools, markets, airports, motor parks, etc, may be delayed for execution at future dates. Ultimately, the entire system, due to the interconnectivity and interoperability, may grind to acute slow down or total halt, depending on the recalcitrance of the key actors in the power game. Without doubt, development will take the back burner, at the expense of the polity, under such circumstances.

### **Conclusion and Policy Recommendations**

The assignment of the various roles and powers to the Executive and Legislature during annual budgeting procedures in the 1999 Nigeria's Constitution, as amended, is clear. First, it was intended to strengthen separation of powers such that no one of the two organs of government is so powerful that it could prepare and approve the all-important annual budget, as a major tool of economic, social and political development. Second, the procedure guaranteed fairness by providing an opportunity for the representatives of the people at NASS to participate in the budgetary allocation of national resources, usually in the custody of the Executive. In the absence of this inclusive principle, one arm of government would allocate most of the available resources in favour of the constituents of the majority party, to the detriment of the constituents of the minority or opposition during budgeting exercise.

Unfortunately, due to personality struggle or pursuit of personal ego, political actors at the highest echelon have engaged in mindless wrangling during budgetary exercises. The situation is a hang-over of the long military rule and the characteristic authoritarianism, manifested in unquestionable orders or commands that emanated from the fused military "political" structure.

In any case, the provisions of the relevant sections of the 1999 Constitution, aforementioned, are clear on the assignment of powers and responsibilities in budget preparation and appropriation. The ding-dung often experienced during the budgetary exercises is expected, particularly given the inchoate nature of Nigeria's democracy. As the system matures, it is expected that the operators will comprehend the *modus operandi*, particularly as it is obtainable in the advanced democracies of United States of America, Great Britain and Canada.

It is therefore essential and imperative that operators of the Nigerian democratic system at the political pinnacle cultivated a deeper understanding of the dynamics of public financial

management deriving from the constitutional-legal relations among the authorities, in order to smoothen the rough edges and wrangling, often ascribable to ignorance and personality clash. For sure, constitutionality and not personality should be the guiding principle. Furthermore, where issues arise due to ambiguity and misunderstanding of the constitutional or legal provisions, both arms of government should seek judicial interpretation, as it was in the case of FGN and Bendel State, aforementioned.

Arising from the conclusion, it is hereby recommended as follows.

1. Basic and continuous training in the mechanics of the operation of inter-organ relations under democratic rule, particularly the operation of the doctrine of separation of powers and public financial management, should be institutionalized and provided for all legislators and key political officers of the executive arm by government at all tiers.

Such training will reduce the level of ignorance pervading the political apparatus and militating against the proper understanding of constitutionality in governance. Given the military background of Nigeria's inchoate democracy, it is not unexpected that the key political operatives of the system will harbour deficiencies in constitutional government: the cardinal requirements of separation of powers and rule of law. Similar wrangling characterized the operations of democratic regimes in many African independent countries, smarting from prolonged military rule: Ghana, the Gambia, Burkina Faso and Ethiopia, among others.

2. Without prejudice to the right of every citizen of Nigeria who is qualified to aspire to, and hold any position, the Constitution should be amended to redefine and raise the minimum academic or professional qualification and experience for political office. Raising the bar will sanitize the system and filter the "garbage" for a more refined crop of national leaders whose intellectual capacity is higher and commensurate with the high office.

Education moulds and re-moulds the mind, while building the man. Given the allegation of progressive decline in the "quality" of education in Nigeria, prescribing a standard as low as School Certificate for a candidate who aspires to the high office of President, State Governor, or Senate President might be out of tune with the contemporary requirement in bench-mark United States and United Kingdom, where the standards are much higher.

3. Judicial interpretations should be sought by aggrieved organ of government, when ambiguity is perceived in any constitutional or legal provisions relating to separate powers and functions in public budgeting, before such ambiguity or doubt are escalated to a rancorous status. The essence of recourse to judicial arbitration is that it provides an authoritative and acceptable mechanism for peaceful resolution of disputes or conflicts among organs of government and all juristic persons in a society. Above all, it prevents

deployment of bullying or arbitrary use of official position or powers which an arm of government in a “stronger” position might deploy against the weaker arm in any event.

4. Given that the root-cause of most inter-arm wrangling is self-interest and corrupt agenda, for which inordinate ambition for control of government resources is sought, governments at all tiers should tenaciously prosecute the war against the scourge. In this regard, stiffer sanctions against corrupt practices by public officers should be institutionalized.

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