

## LEGISLATIVE-EXECUTIVE RELATIONS AS A PANACEA TO ENHANCING THE STANDARD OF PRACTICE AND PROCEDURES OF THE LEGISLATURE TOWARDS GOOD GOVERNANCE

**Nwankwo Oliver Uchenna & Elechi, Felix Aja**

Department of Political Science  
Ebonyi State University, Abakaliki

### **Abstract**

*This paper Legislative-Executive Relations as a panacea of enhancing the standard of practice and procedures of the legislative towards good governance x-rays the import of cordial relations between the two arms of government for the overall good governance. It reviews literatures on the conceptual overview of the executive, and the legislature. Areas of gray hair that reveals the aspects of executive-legislative relations that can be cordial or conflictual were opened up. These include oversight functions, financial appropriations, ratification of appointments and executive unilateral decisions. Concluding, the paper offered a policy recommendation that will improve cordial relations between the two arms for overall bountiful service delivery of the two arms of government.*

**Keywords:** Legislative – Executive Relations, Arms of Government, Oversight Functions, Good Governance, Financial Appropriation

### **1. Introduction**

The beauty of democracy resides in the application of checks and balances that are domiciled in the principle of separation of power. Without prejudice to the intellectual pushes around the concept and principle of separation of power, it is the concept that birthed the relationship between the legislature and executive arms of governments in a democratic political setting. While the principle of separation of power entails that both the legislature and the executive should have defined abilities to check the powers of the others in order to prevent abuse of power, the implication is that there should be an entrenched independence between them. However, this entrenched independence should allow for a palpable degree of interdependence (and therefore cooperation) that the Constitution expressly and tacitly provides for. This tacit provision (both in practice and theory) compels for a historical analysis of the relationship between the legislature and the executive arms of government in Nigeria. The essence is to highlight the point of convergence and divergent to drive a discussion that first identified the ills in the relationship between these all-powerful and all-important arms of government that can be said to have influenced the democratic process of the county and by extension, affected governance and service delivery to the people (Babajide 2020).

Many authors and political players have written avidly on the legislature-executive relationship. Many awkward practices that are on towards the democratic process have been identified and highlighted with valid and valued recommended way forwards towards peaceful and harmonious collaboration in the exercising of constitutional roles and responsibilities assigned to both arms of government. This piece is particularly a corroboration of the importance of the legislature-executive relations discourse, especially in contemporary times when our nascent democracy needs all the supports to grow and develop to that point where our democratic institutions would be on auto-pilot in checkmating abuses and excess as well

as deviances. Thus, the necessity of building a workable synergy and desirable relationship between executive and legislative arm of government cannot be overemphasized, hence my acknowledgement and accolades to those who have written on or spoken out about the relationship between the executive and the legislature in Nigeria.

As Ibieta and Olaninyi (2022) would like to put it, cordial and symbiotic relations between the executive and legislative arms of government are simply the irreducible minimum requirements for entrenching robust participatory democracy and ultimately development of any policy. This is because the agenda of socio-economic and political development, growth and sustainability is contingent on the relationship between the arms of government in operation (Erunke & Uchem, Nd). This is because while the legislature reflects the aspirations and desires of the generality of the citizens as it is made up of different people from different political parties who have the mandate of their people to represent them in the council or National Assembly, the executive equally has the mandate to represent the interest of the nation but usually from the point of view of the ruling party.

Aiyede (2006) in his analysis on legislative-Executive relations prior to the inauguration of democracy in 29<sup>th</sup> May, 1999 states that the interactions of the both arms of government were shut down. Thus, with the new order, the modern and nascent legislatures were expected to play major roles with the executive in promoting good governance. To achieve the aforementioned objective, the 1999 constitution provided for a clear separation of powers, and functions between the three arms of government. Section 5 (1) and Section 4(1) and (2) provides for executive powers and legislative powers respectively. The executive powers of the federal government were vested on the Presidency while, the legislative powers, to make laws for peace, order and good governance were vested on the National Assembly as provided by Section 5(1) and Section 4(1) and (2) of the constitution.

Notwithstanding, the contestation between the legislature and the executive in Nigeria has proved that democracy is still on trial. The vital constitutional issues of contest between the legislature and executive have sometimes threatened the nascent democracy. Worthy to note of the morbid symptoms that threaten democracy consolidation in Nigeria is the gladiatorial contest between the executive and the legislative arms of government, both at the federal and state levels. Dorgus (2000) in “Democracy on Trail in Nigeria”, states that these unhealthy developments are all necessary tensions that characterize the fire-tuning of the democratic process; to him it is healthy in so far as it shows that both the legislature and the executive are alive to their constitutional responsibilities not to yield ground on principles. Such tension, according to him should, therefore, be seen as positive energies, which will be used to transform the landscape of our democracy.

Though there is some taught in this position as it is to be expected, that in the system of “checks and balances” the executive acts as the legislature, and the legislature acts as the executive. Therefore, modern government and the relationship between the three arms involve coordination rather than reparation of powers. As principles of separation of powers in both cabinet and presidential system of government, it is of utmost importance to first understand what is meant by complete separation of powers in a particular system of government. A complete separation means that there should exist a legislature directly elected by the people for a fixed term, an executive also directly elected by the people or indirectly elected through an electoral college as “is the practice in United States of America, for a fixed term but should be independent of the legislature and judges equally elected and appointed and also independent of the legislative and executive councils. A critical examination of the workings of different governments will reveal that it is difficult to find a particular government where a complete separation of powers is being practiced but what is found in most governments is an incomplete separation of powers, better placed,

coordination of powers which Nigeria is not an exception. Therefore, the legislative-executive relations in Nigeria involve coordination of powers rather than complete separation or reparation of powers.

In Nigeria for instance, the blessings of the legislature is equally needed by the executive in cases of appointments and its ratification, signing of new treaties. The president can also be impeached by the legislature. The legislative oversights are another clear report of the executive and the legislature. The primary purpose of the oversight function is to ensure that the activities of the executive are legally, efficiently and in a manner consistent with legislative intent. Oversight ensures that the work of the legislature does not end with the passage of a bill; rather it further ensures that the laws work and are being administered in an effective, efficient and economic manner.

## **2. Conceptual Discourse**

The executive and legislative arms of government, as well as the Presidential system of government and its application in Nigeria are explained in this section.

### *The Executive Arm of Government*

The term Executive has variegated uses, and depending on the context, it can be typologized into Authoritarian, Democratic, Presidential or Parliamentary executives. This paper is however interested in the taxonomy that situates the concept within the ambit of government and it is responsible for policy and program execution. The political connotation especially as underscored in presidential systems encapsulates Ministers, Commissioners and senior government's officials elected/appointed and headed by the President both at federal and state level.

There is a solid constitutional base for the executive arm of government in Nigeria, and this branch is headed by the President at the federal level and Governor at the state level. The executive powers of the federal government were vested on the Presidency and adequately provided for in section 5(1) of the 1999 constitution of the federal Republic of Nigeria as amended.

The executive is mainly concern with the responsibility of implementing the law, but with the expanding responsibilities of the executive in modern government, the executive can today perform both legislative and judicial functions. This is practicable with the powers of power to check power theory. There are basically three know types of the executives; single, plural and collegial executives. In single executive system, the president is allowed to act simultaneously as the head of state as well as head of government. In plural or dual executive system, there exist dual executive head. The symbolic and ceremonial functions were performed by the ceremonial head, otherwise regarded as the head of state, while the nation's public policies are enforced by the head of government. This system is practiced in a Parliamentary system of government. In collegial executive system, there is no one person that serves as a chief executive but the executive powers are performed by a council or a cabinet who normally appoints a presiding officer or chairman in rotational form among members of the council normally appoints a presiding officer or chairman in rotational form at each session.

### *The Legislative Arm of Government*

This is the formal structure of government commonly called the Assemblies which are bodies of officials

elected to represent the public, and charged with the responsibility of law making. Nwobashi (2010) maintained that the making, modification and amendment of rules are primary concern of the legislature.

There is solid constitutional base for the legislature in Nigeria, and the branch is headed by the President of the senate and the speaker for federal and state levels. The legislative power of the federal government is vested at the National Assembly and adequately provided for in section 4(1) of the constitution of the Federal Republic of Nigeria (1999) as amended.

There are basically two major kinds of the legislature, the Unicameral and Bicameral legislature, while, the unicameral legislature explains the existence of a single parliamentary chamber, the Bicameral legislature explains the existence of more than one parliamentary chambers in a state. Hence other function of the legislature includes.

- Legislature and statute making
- Legislature as a vehicle for wider representation
- Legislature and sustenance of democratic governance through law making and oversight functions
- legislature and investigation functions through adhoc committees
- Legislature and executive appointment ratification and approval of proposals.
- Legislature and interest articulation and aggregation.

### *Governance*

Governance is a concept that has been frequently used by social scientist and practitioner without a concise definition. For Otu (2012), governance is deeply connected to security, peace and stability. Since 1999, contemporary southeastern states of Nigeria have literally become an epitome of bad and/or unaccountable governance. Governance can be defined as the act of governing. It depicts the process of overseeing the responsible, legal, ethical, transparent and effective achievement of national or organizational goals. To distinguish the term governance from government; “governance” can be said to be what a “government” does (Orji, 2012).

The World Bank Group (2011) defined governance as the way power is exercised through a country's economic, political, and social institutions. It is the political leadership of a country that exercises power. According to World Bank group (2011), governance is the traditions and institutions by which authority in a country is exercised for the common good. This includes the following characteristics (Onolememen, 2015):

- The processes by which those in authority are selected, monitored and replaced.
- The capacity of the government to effectively manage its resources and implement sound policies.
- The respect of citizens and the state for the institutions that govern economic and social interactions among them.

*Good Governance*

Good governance plays an important role in the advancement of sustainable development. It promotes accountability, transparency, efficiency and rule of law. Besides, it allows for sound and efficient management of human resources for equitable and sustainable development. According to former United Nations Secretary General, Kofi Annan (1998), “Good governance is perhaps the single most important factor in eradicating poverty and promoting development”. Good governance enhances human development and human development is the pivot around which other developmental activities revolve. Human development is the channel through which other forms of development are achieved.

Odock (2006, p.3-5) cited in Coker and George-Genyi (2014), sees good governance as “a system of government based on good leadership, respect for the rule of law and due process, the accountability of the political leadership to the electorate as well as transparency in the operations of government.” According to Odock (2006), the full exposition of the theory and practice of good governance hinges on the role played by the leadership. For Odock, ... the need for leadership in all societies cannot be disputed; for it is only the aid of effective leadership that a society or group of individuals can succeed in attaining their political, economic and social objectives ... consisting the art of motivating people to work together, to attain some agreed objective... (2006, p. 4)

Good governance helps to diffuse tensions and ensures executive-legislative cooperation in order to promote development. It engenders cohesion in the society as it helps to bring different groups in the society together for the common good of all of them (Agidi, 2013; cited in Ogangan & Umma, 2019). The rancor or conflictual relationship between the executive and legislative arms of government in Nigeria has manifested in leadership failure, corruption, insecurity, immunity clause, insincerity of the political leadership is some of the challenges of good governance. Good governance sustains democracy and guarantees rule of law which in turn guarantees personal liberty, freedom and the gamut of fundamental human rights that are basics to freedom.

### **3. Aspects of Executive-Legislative Relations that can be Cordial or Conflictual**

Eme (2016) revealed that causes of conflicts among the two arms of government includes, pride and personality clash, perceived executive dominance, ignorance of constitutional provisions, functional overlapping and performance of legislative oversight functions. He further x-rayed the consequences of conflicts among the two arms to include delay in discharge of duties, stalemate, disunity and outright opposition. It is important to bearing in mind the implication of disunity and conflict among the legislature and the executive towards enhancing the standard practice and procedure of quality legislation on good governance. An area of interactions between the legislature and executive which if not properly handle may ignite conflict to the detriment of overall good governance are;

- Oversight functions of the legislature
- Financial Appropriation by the legislature
- Ratification of Appointments by the legislature
- Unilateral Decision and executive order

*Oversight Functions of the Legislature:*

The most important way that legislatures can harmoniously relate with the executive and contribute effectively towards good governance is through the exercise of the instrumentality of its oversight functions. Legislative oversight function is the supervisory responsibility that the legislature carries out on the executive and MDAs in order to ensure that they comply with the legislative intent, as well as judiciously expending their budgets in order to effectively meet their policy mandate. Johnson (2005) further reveals that in the practice of oversight functions, legislature look back on government spending and activities to determine whether money was spent appropriately, and to ask “value for the money” spent. According to Williams and Huyghebeert (2008) legislature have an array of tools at their disposal for conducting oversight. The most common tools include: questions to ministers and commissioner as the case of federal and state levels respectively. In this case oral or written questions, interpellation and vote of no confidence may be deployed. Other tools include mechanisms related to budgetary oversight. These tools are classified into ex-ante and ex-post tools. That is oversight before and after enactment. By and large, legislative oversight remains an important area of cordial relationship between the legislatures and executive that can enhance the standard of practice and procedures of the legislative toward overall promotion of good governance.

However, the legislature is seen as functioning within the ambience and impulse of the executive. This is creating a feeling that the legislature derived its powers from the executive, because the legislature in most cases has failed to act as a true watch-dog on the executive, as they succumb easily to the demands and functions from the executive. Though, this independency does not necessary mean a total separation but a coordination of power.

Often times, the poor management of relationship during oversight function of the legislature may ignite crisis among the two arms. This sometimes is as a result of pride among members and lack of information of the constitutional provisions. In reality, all the three arms of government derive their powers and functions from the constitution and are separate, independent and coordinate in persons and functions. The compromises of the legislature in this regards undermines the objects of the constitutional provisions of separation of powers and checks and balances, whereas the fulcrum of power dispersion theory is that power should be able to check power.

*Financial Appropriation by the Legislature:*

The fact that the legislature occupies a central position in democracy manifests in its primary responsibility of law making. Accordingly, the legislature monitors the movement of bills from committee stage to their final passage. Emphases are always placed on the need for harmonious relations between the executive and legislature at this all important period of law making, especially on financial appropriation. This aspect of legislature-executive interaction may cement harmonious relationship and may also ignite conflicts among the two arms. The parliament votes funds and can also decline. The refusal to vote funds can drastically affect good governance, since the executive in that case cannot implement its programmes.

This is the commonest cause of conflicts and frictions as well as point of contact between the executive and legislature not only in Nigeria but in the United State and countries practicing the American type of Presidential system of government. The passage of bills and especially of money bills is always a sensitive aspect of interaction that must be handled carefully by the two arms not to ignite crisis. Section



118 provides that “No money shall be withdrawn from the consolidated Revenue fund of the state or any other public fund of the state except as presented by the Assembly. It further provides that “No money may be withdrawn from such fund unless the expenditure is charged on the consolidated revenue fund by the constitution or authorized by an appropriation law, supplementary Appropriation law or other law passed by the Assembly. While it is the prerogative of the chief executive to make financial provisions for the execution of projects of the state, it is the right and duty of the legislature to examine the proposal and make necessary amendments in the interest of the people they represent. Therefore, when the Governor submits to the House what he considers a carefully thought out Appropriation bill, the legislature goes to work, examines every provision to the bill, and makes such amendments, as it considers necessary. This is a necessary process to provide a check on the executive in the interest of the people. Recent times the legislature has compromised on their constitutional duties to check appropriation bills as presented by the executive rather than been accused of budget padding. This deviation from constitutional role of the legislature may be as a result of executive dominance and pressure on the legislature.

The power of control over the release of fund constitutes one of the weapons the executive employ to twist the hand of the legislature. This tendency has forced most legislative house to institute an impeachment moves against the chief executive for failure to observe constitutional provisions in financial dealings. This is usually regarded as illegal misappropriation of state fund. Whereas, in financial relations of the two arms, the state should work as a system, were the different bodies are meant to serve as complimentary. The constitutional provision on financial appropriation should be followed religiously in order to enhance the standard of practice and procedure of the legislature towards good governance.

In the Nigerian context where the legislature still survives at the mercy of the executive because of lack of clear financial autonomy, the executives are still seen as the pay master. Though, the legislature plays a vital role in the financial appropriation. There is no responsible government that spends public funds without approval from the legislature. Nwobashi (2000) placed on record that in most modern democratic systems, legislatures hold the basic official financial powers. Through legislative appropriation, the legislature determines the nature and the amount of money to be spent by the executive.

#### *Approval and Ratification Power of the Legislature:*

The relationship between the legislature and the executive in Nigeria has been characterized by mutual suspicion, acrimony and political rivalry (Aiyede 2005). The power to ignore executive proposal or recommendations make the executive helpless in such situation since the executive cannot dissolve the legislature. The legislature sometimes retaliates to the executive acrimonious activities by deploying their legislative powers of disapproval to ignore executive proposal or delay same. The consequences of this unhealthy relationship result in delay in discharge of duties, stalemate, disunity and outright opposition capable of drawing back the pace of development.

Though it is a constitutional responsibility of the legislature to ratify and confirm ministers and commissioner as in the cases of federal and state, on account of unhealthy relationship the legislature may delay such proposal of the executive or screen out the minister or commissioner designates. This unhealthy rivalry undoubtedly is detrimental to good governance and national development.

*Unilateral Decision and Executive Fragrant Orders:*

Historically, one of the early issues of discord between the legislature and executive was the scrapping by the President Obasanjo, the Petroleum Trust Fund (PTF) established under Decree No 25 of 1994. This act was viewed by the National Assembly as usurpation of its constitutional responsibility of making and repealing laws. It took the intervention of the Attorney General and the Minister of Justice to lay the matter to rest. The Minister argued that the President could modify any existing law. He further argued that the modification could be addition, alteration, omission or repeal (Ehwarieme, 2001).

Another example of executive impunity in fragrant decisions that usually ignite conflict can be traced down to late President Yar' Adua's deliberate refusal to transmit a written declaration, to the National Assembly to inform it that he was proceeding on health vacation. Recall that, the power vacuum caused by the health saga was a case of executive and the legislative gridlocks caused by ambiguous provisions of the 1999 constitution as amended. Recently in Nigeria, President Tinubu was called to order by the decision of the legislature to disassociate self from his plans to engage in war with Niger Republic over their disobedience to ECOWAS order. That development if not properly handled can bring disaffection between the two arms.

Drawing from the strengths of evidence marshaled out on the fragrant executive decisions and orders that has stroked actions from the legislature, you discover the impunity of deviation from due process from the executive in relating with the legislature, and is undoubtedly a point of disaffections.

#### **4. Conclusion and Recommendations**

Governments and her institutional mechanisms, should embrace cooperative and collaborative responsibility for the management of the society. Each of the various organs of government should see itself as exercising a delegated power from the people. Tolerance and due process can only be assured in a society of enlightened political actors who are transparent and selfless according Achebe “The trouble with Nigeria”. There should be a reorientation for all towards nation building pursued with commitment by the chief executive as a matter of courage and patriotism. The total financial autonomy of the legislature must be pursued with seriousness to ensure total independence without the dictate of the executive. Above all constitutional amendment that will reduce the executive superiority and enshrine true separation of powers should be encouraged. The electoral system should be more proactive and transparent to install credible member as a legislator.

Based on the analysis and finding, this paper put forward the following policy recommendations to improve the relations between the executive and legislature as well improving their service delivery capacity both at federal and state levels;

- Both the executive and legislature should respect and strictly adhere to the tenets of the principles of separation of powers.
- They should also try to collaborate in necessary areas that would promote good governance and avoid unhealthy rivalry.
- The executive and legislature should embark on regular capacity building training on basic conflict resolution and management with a view to improving their conflict management skills as well as their problem solving skills.



- The legislature should evolve different techniques and strategies to strengthen its oversight functions, which would enable it to conduct regular and in depth checks and monitoring on the activities of the executives. This will put the executive on its toes and it would also make it more service oriented, accountable and transparent.
- Both the legislature and executive should deem it necessary to always adopt dialogue in resolving their differences instead of resulting to outright confrontation that usually dead locks the policy making and implementation process.

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