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Executive Legislative Relations and Good Governance in Nigeria: Historical and Current Reflections.

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#### **Abstract**

The provision of good governance has today become a major index of measuring the success or otherwise of governments globally. This is particularly true of Africa and other developing countries experiencing myriads of challenges that tend to make the provision of good governance a mirage. This paper, using the theory of separation of power focuses on examining the relationship between the executive and legislature and the extent to which this relationship has promoted or hampered the provision of good governance in Nigeria. The paper relied on the use of secondary data in its attempt to look at historical and current realities. The paper identified the struggle for supremacy, long history of military rule, selfish tendencies as some of the factors that pre – occupied both arms thereby making them unable to effectively deliver in the area of provision of good governance. The paper recommends among others the strengthening of the justice system, building of national rather than parochial interests in elected official to mention a few as measures that will ensure that all actors in the governance process act responsibly.

Keywords: Good governance, Legislature, Executive, Executive - Legislature Relations, Separation of Powers, Fourth Republic.

# Introduction

In contemporary governments, especially those formed on democratic principles, power belongs to the people who in turn elect those who are to make laws on their behalf since no society can have peace and order without some form of laws to guide their affairs. The laws so made are in turn implemented by the authorized group or groups for the good governance of the society [1].

The importance of the arms of government charged with the responsibilities stated above, that is the legislature and executive cannot be over - emphasized as the activities of these two organs go a long way in affecting the lives of the people on a continuous basis. The nature of relations existing between these two organs in any polity is crucial to the provision of good governance [2,3].

In Nigeria, right from the pre - independence era, the legislature and executive arms of government have existed in one form or the other and the relationship between both arms have been determined by the prevalent system or form of government and depending on the era being studied. More currently, Nigeria adopted the presidential system of government with separations of powers between both organs and within this separation, each arm is to relate with the other according to constitutional provisions in order for the citizens to enjoy the fruits of good governance [4,5].

Against this backdrop, this paper seeks to examine the relationship between the executive and legislature in Nigeria historically and currently with a view to determining whether the dividend of this relationship has promoted or hampered good governance [6,7].

# **Understanding The Concepts**

The paper provides conceptual clarifications for the following major concepts: Legislature, Executive and Good governance.

### The Legislature

Legislatures are usually elected bodies which have the major responsibility of making laws for the whole country. Although, practically everywhere, the universal duty of the legislature is law making, yet they do

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more than write rules [8,9]. In addition to law making, [10,11] adds that the constitution allows the legislature the power of control over public funds, power to approve or withhold approval for the expenditure of such funds, power of investigation, power of scrutinizing and confirming major appointments of the executive, power to approve treaties and pacts made with foreign countries, power to prepare its own budget, recruit its own staff and discipline them and also power of impeachment.

In the same vein, while [12,13,14] explains that parliaments, Congresses and other similar assemblies are commonly called 'Legislatures' to justify their law making role, he equally pointed out that that could mislead as a large part of the time of these bodies is not devoted to law making. He further pointed out that one of their most important functions is to criticize the executive and that in some countries, they make or unmake governments. In terms of institutional framework, a legislature creates a complex interaction between individual members, political parties, committees, rules of legislative procedure and informal norms [15].

In Nigeria, the legislature is officially known as the National Assembly and it is bi – cameral, made up of the House of Senate being the Upper House and House of Representatives being the Lower House. The Senate is made up of 109 members while the House of Representatives is made up of 360 members. The members of Senate are elected on the basis of equality of states while the members of the House of Representatives are elected on the basis of population all for a four – year term [16].

#### The Executive

The Executive is that part of the government that has its authority for the daily administration of the state [17]. Also,[18] adds that the executive (especially in the presidential system) consists of the executive president as chief executive directly elected by the entire country constituting a single constituency and his ministers who are charged with the duty of formulation and implementation of policies.

In other words, the president, like the legislature derives his powers from the people. He is not only the Head of State and government but also the Commander – in – Chief of the Armed Forces. The executive from the foregoing is constitutionally charged with the task of general administration which includes the appointment of Ministers, appointment of foreign envoys, administration of budget, and declaration of war all subject to the approval of the legislature. These are in addition to the provision of good governance, one that will positively touch and improve every aspect of life of the people [19].

# **Executive - Legislature Relations**

Executive - Legislative Relations connotes the nature of relationship that is supposed to constitutionally exists between the two arms or that exists in practice between both arms. This nature of relationship or interaction vary from country to country yet a pattern of interaction can be isolated and examined from one era to another depending on which country is being examined [20].

This relationship according to [21] is inherently a power relationship and more correctly put, a power struggle. [22] identified three modes of relationship between the Executive and Legislature and these are: The Executive dominates the Legislature, the Legislature dominates the Executive and the Executive and Legislature are balanced. [23], also identifies three types or Executive – Legislature Relations as: where the Legislature is a rubber – stamp assembly, where there is hostile relationship between both arms and where there is cooperative relationship. In summation, therefore, the relationship between both organs could be conflictual, harmonious or domineering in favour of one organ depending on the circumstances.

### **Good Governance**

To have a firm grasp of good governance, it is pertinent to first understand what governance means. Conceptually, governance can be seen as the process by which authority is conferred on rulers, by which they make rules and by which those rules are enforced and modified (World Bank, 2014). To this extent, therefore, the term 'governance' can be used in several contexts as in several contexts such as corporate

governance, international governance, national governance and local governance. Viewed from another angle, [24], views governance in its widest sense as how any organization including a nation is run and this, he adds includes all the processes, systems and controls that are used to safeguard and grow assets.

With the above background of governance, the World Bank views good governance as entailing sound public sector management, accountability (holding public officers responsible for their actions), transparency and prevention of corruption and a legal framework for development where justice, respect for human rights and liberties are given a pride of place [25]. In another rein, the United Kingdom's Department for International Development's (DFID) conceptualization of good governance focuses on legitimacy, accountability, effective policy making, implementation, service delivery and respect for law and human rights [26].

Furthermore, a number of multi-lateral organizations such as the United Nation's Development Programme (UNDP) have generally identified eight (8) major components of good governance which include:

### i. ACCOUNTABILITY

This entails answerability, sanction, redress and system improvement

### ii. TRANSPARENCY

This entails free flow of information as well as accessibility of information to those affected by decisions taken in the governance process. It also entails prevention of corruption.

### iii. RESPONSIVENESS

This cover citizens orientation, citizen friendliness, timely delivery of service and redress of citizens grievances

# iv. EFFECTIVENESS AND EFFICIENCY

This has to do with optimum use of resources, competency and performance of civil servants and result orientation.

## v. RULE OF LAW

This encapsulates fair legal framework, impartial enforcement machinery and independent judiciary.

# vi. PARTICIPATION

This deals with opportunity for citizens to participate in decision making, implementation and monitoring of government activities and freedom of expression and association as well as organized civil society.

# vii. EQUITY AND INCLUSIVENESS

The central idea here is that all groups particularly the most vulnerable, have opportunities to improve or maintain their wellbeing.

## viii. CONSENSUS ORIENTATION

This covers mediation of different interests in society to reach a broad consensus on what is in the best interest of the whole community and how this can be achieved [20].

From the discuss so far, we can safely posit that these components, characteristics or elements of good governance could serve as reliable yardsticks for measuring the extent to which we can say there is good governance or the lack of it in a particular polity and also the absence of these elements can be termed as bad governance or mis-governance [26].

It is important therefore, to say from the above that good governance is associated with efficient administration in a democratic framework and also equivalent purposive and development oriented administration which is committed to improvement in quality of life of the people. In addition, it implies high level of organizational effectiveness, capacity of the centre of power of political administrative system to cope with the emerging challenges of the society as well as the adoption of new rules of governance to establish greater efficiency, legitimacy and credibility of the system. Good governance is therefore, by and

large a function of installation of positive virtues of administration and elimination of vices of disfunctionalities [27].

### **Theoretical Framework**

The ideas of the founding fathers of the constitution of the United State of America have much offer in this direction. This is more so since the current constitution of Nigeria is framed after the United States – type presidential system of government [28]. These founding fathers reasoned that the distribution of power between the Federal and State governments in their conviction prevent excessive centralization, but then, they were faced with the problem of how best to avoid autocracy within the national government itself. To this end, they turned to the principle enunciated by the French Philosopher, Baron de Montesquieu, who felt that if the three processes: Law making, Law implementation and Law adjudication were each the responsibility of separate groups of people, then a concentration of power could be avoided [29].

The aim of this separation of powers and the accompanying checks and balances in the arena of executive – legislative relationship is to avoid tyranny on the one hand and promote democratic governance on the other. James Madison in the Federation papers (Number 47) while writing on the doctrine of separation of power maintained that the doctrine was a formidable tool to guide the arms of government in their relations and thus make them more responsible to the people, and by implication ensure and promote good governance [30].

The principle as further high lightened by [31], contain four basic elements: the first element has to do with separation of branches and in sum, no person may serve in more than one of three branches at the same time. The second element is that the power, duties and responsibilities of the three branches are delineated in a written constitution. The third principle relates to partial agency or the principle of checks and balances earlier noted as being complimentary to the doctrine of separation of powers. This gives each branch enough power over the other to be able to check them when they appear to be going beyond the limits of their own jurisdiction. This is also designed to enable the three branches to protect themselves from each other's encroachment. No one branch could therefore hope to act completely independently. The fourth element is that of Judicial review lodged in the Supreme Court. Under it, the courts not only interpret the law, but in effect, make laws through its right to review laws made by the legislature.

It is therefore, on the basis of operation of this doctrine that the Nigerian second republic constitution of 1979 was drawn as opposed to parliamentary system with fusion of powers in the First Republic. This arrangement which formed presidentialism against parliamentarianism was also adopted in the Nigerian Fourth Republic constitution of 1999. This has been upheld till date [32].

# The Connection Between Executive - Legislative Relations and Provision of Good Governance

According to [33],, the ultimate aim of governments worldwide is to achieve sustainable improvement in the quality of life of its citizens and that consequent upon this, nation states, no matter their size or development status strive to achieve some level of good governance. It follows therefore that the executive and legislative arms of government and especially the manner of relationship between them go a long way to determine whether this objective of good governance will be achieved or not. This is in view of the fact that though the legislature makes the laws, but it is common to find that the legislature is not authorized to complete the process without the assent of the executive. On the other hand, though the executive is constitutionally charged with the task of general administration, but the major actions of the executive in this regard are subject to the approval of the legislature [34].

The legislature's scrutinizing and checking role necessarily implies conflict and friction between it and the executive, since every disagreement between them on policy or other executive proposals create friction. To further buttress this, [35], argued that since the legislature and executive are by reason of being independent of each other's control bound to disagree from time to time, frictions from such disagreement or conflicts of opinions may degenerate into stalemates especially when one of the arms decides to become confrontational.

In summation, therefore, the tension often times experienced between the legislative and executive arms may be healthy as this prevents the accumulation of too much power in one branch of government and checks the potential for abuse of power. However, instances where such tensions run into a stalemate could be frustrating since each side will seem more intent on making its claims, on posturing on issues, than in well articulated legislations that will engender good governance.

# Executive-Legislative Relations and the Provision of Good Governance: The Nigerian Experience. Pre-Colonial and Colonial Era:

Nigeria has passed through several eras from the pre - colonial era, though the colonial and post colonial era. During the pre - colonial era, the area now known as Nigeria in West Africa was made up of kingdoms, empires and chiefdoms with different types of political organizations and institutions of government, and government was organized basically at the level of tribes and ethnic groups. The elders or alternatively the chief constituted the embodiment of the collective will of the community. They were both legislators and executors, role differentiation being, by and large low. In this era, the exercise of authority in most of the communities was conceived of very much in personal terms [36].

The colonial era ran formally from about 1861 - 1960 when Nigeria gained its independence from Britain. According to [37], colonialism in the nature of its rule being authoritarian and paternalistic, concentrated the powers of the two arms of government in one hand. He added that the governor was the chief executive as well as the chief legislator. What it meant was that though there was an executive council and a legislature council which were meant to play the roles executive and legislature respectively, but the executive council was only an advisory body to the governor and it operated under a system of government that was neither representative of nor responsible to Nigerians. Equally, though there was a legislature, it had the governor as head and was faced with serious limitations which included the governor's power to initiate all legislations, his official majority and his double vote where necessary, his veto to mention a few [38].

In summing the colonial era, in theory, the existence of the executive and legislative councils limited the autocratic power of the governor, but in practice, he maintained a firm grip on the formulation and execution of administrative policy. The ordinary people played no part in the executive council and relatively little in the legislative council. Furthermore, the exigencies of the colonial situation did not allow for any formal relations between the executive and legislative arms of government. Equally, the executive and legislative arms of government were removed from the people. The legislature which was subordinated to the executive council was apt to be a willing collaborator of the executive rather than its critic. Balewa (Nigeria's first Prime Minister) in a speech on 19<sup>th</sup> August, 1950 pointed out that under the practice of the British colonial masters, the views of the people were never sought, their welfare seldom regarded and their helplessness shockingly abused [39].

### The Post Colonial Era

In the post colonial era, the First Republic which lasted from 1960 - 1966 before it was truncated by the military was operated under a parliamentary system of government where the relationship between the executive and legislature was fused. With this fused relationship, the responsibility for ensuring that

accountability does take place is constitutionally the responsibility of the legislature which represents the public. Within the period 1960 – 1966, [40] observed that parliamentary debates and motions were ineffective in checking the executive. He explained that at independence, the successor authorities of the colonial structure, the new political class which inherited the mantle of leadership from the colonialists, could hardly regard the legislative institution any different from the way it was earlier regarded under colonial rule and so the relationship between the two arms could not translate to providing good governance for the people.

It is instructive to not that between the First and Fourth Republics, there were vast periods of military rule totaling to more than half of the years of Nigeria as an independent nation. [11], while shedding light on the nature of military rule explained that legislative and executive powers were vested in the military leaders in a fused fashion and that with the fusion of the legislative and executive powers, the legislature was usually suspended. With the above therefore, the type of relationship that should normally exist between the executive and legislature did not operate under military rule which in sum lasted for almost thirty years.

Military rule can therefore be likened with some justification to colonial rule especially in terms of its dictatorial tendencies. All military regimes in Nigeria have been historically intolerant of autonomous source of authority and hence the concentration of legislative and executive powers in virtually the same persons. What military rule offered therefore was a dislocation of the democratic process and a denial of the opportunity to learn for both arms.

In the Second and Fourth Republics (1979 - 1983 and 1999 - date respectively), Nigeria adopted the United States type presidential system of government favouring separation of powers. Regarding the Second Republic (1979 - 1983), [12] observed that the fact that the president's party did not have a majority in the legislature after the 1979 election was an indication of possible uneasy relations between the executive and legislature. The relationship between both arms since Nigeria opted for presidential form of government in 1979 has been characterized by acrimony, mutual suspicion and distrust, political rivalry, intimidation, unnecessary bickering, struggle for supremacy, and sometimes, blackmail [13]. This, according to [14], is however not unexpected owing to the level of competition and opposition from the two arms such that each would be anxious to guard and assert its autonomy.

During this period (1979 - 1983), the legislature though tried to exert its authority, was not independent of the executive arm [15]. This was consequent upon the dominance of the party in power, especially the President and Governors who by their position and influence, were in a position to use the power of patronage to subdue members of the legislature. This action took the form of award of contracts, appointment to Boards and direct bribing by cash, land allocation, distributorship of scarce commodities, provision of social amenities like roads, hospitals, pipe borne water, electricity in the member's constituencies [16]. It is instructive to note that the seeds of corruption were usually nurtured at the highest level in this case. Other major areas of rivalry between the executive and legislature within this period include unwarranted delay in the confirmation of the president's ministerial nominees [13], refusal of the legislature to approve any pay for the presidential Liaison Officers, arguing that those offices were not included in the constitution [8], legislators welfare, electoral bill of 1981 which proposed to introduce electronic voting system in the country (Awotokun, 1988). From the foregoing, it is evident that a lot of the time of these two organs in the Second Republic was spent trying to settle scores, assert their supremacy against each other or fight for personal gains. The resultant effect was that very little time was spent on debating and legislating on issues and policies that could have promoted good governance.

With reference to the Fourth Republic (1999-date), [5], averred that the management of executive - legislative relations has been a major disturbing issue in the presidential system of Nigeria's Fourth

Republic. He explained that the country has witnessed conflicts between the legislators and the executive at all levels of government. He added further that despite some determined provisions of the constitution aimed at rectifying some of the challenges identified in the earlier Republics, the Fourth Republic has also followed the confrontational and conflictual power relations and that managing executive – legislative relations has been the single most problematic issue since the new dispensation known as the Fourth Republic. The first democratic dispensation of the Fourth Republic was according to [5] characterized by gridlocks over major public policy decisions and struggles in a climate of partisanship because of face-off between the legislature and executive.

Major areas of conflict and disagreement between the executive and legislature from 1999 - 2003 include legislators furniture allowance, Niger - delta Development commission (NDDC) Bill, Electoral Act, Appropriation Bills to mention a few [16]. These according to [16] kept throwing the executive and legislature into bouts of conflict for most part of the life of that administration. He explained that as a way of hitting back at the executive, the legislature embarked on a probe of selected federal bodies and on several occasions threatened to impeach the president and even giving the president and an ultimatum to resign within two weeks, while the president used the weapon of asking the legislators to publicly declare their pay, giving Nigerians the hint that the legislators earned more than what was statutorily allocated to them. In fact the issue of legislators salaries and allowances have been shrouded in mystery to this very moment. It is believed that they allocate to themselves humongous allowances making them the highest paid law makers in the world. Equally, the then Central Bank Governor, Lamido Sanusi Lamido made the same assertion and added that 25% of Nigeria's budget was being consumed by the National Assembly [10]. This is a strong pointer to the allegation of corruption often leveled against members of both arms of government. Even though the president's party, the People's Democratic Party (PDP) had a majority in both chambers of the legislature, this could not stabilize the relationship between both arms for most part of 1999 - 2007

The change in administration in 2007 opened a new way to new executive – legislative relations in Nigeria's Fourth Republic. President Yar'adua's different style of leadership contrasted with Obasanjo's assertive personal control of many aspects of government [23]. However, a major crisis between the executive and legislature under the Yar'adua administration did not come about as a result of any disagreement on policy but rather, it emanated from the deliberate refusal or inability of President Yar'adua to transmit a written declaration to the legislature to inform it that he was proceeding on health vacation, and this according to [6], revealed the continuous acrimonious relationship between the excutive and legislature. The fallout of that saga which created a power vacuum for over 100 days, resulted in the introduction of the doctrine of necessary and the eventual assumption of office by the then vice president, Goodluck Jonathan as acting President and his eventual swearing in as President at the death of President Yar'adua.

The Goodluck Jonathan's administration both in acting and substantive capacity also had its own share of executive and legislative interplay of conflicts. One of the conflicts was the legal battle on the validity of the amendment of the 1999 constitution by the legislature without the signature of the President [30]. The disagreement between both arms was on whether constitutional amendment required presidential assent in order to become operational [19]. The legislature held that having passed through public hearings and passed by more than more than the two-thirds of the State Houses of Assembly made up of the representatives of the people, the assent of President Goodluck Jonathan was not needed.

It is instructive to note however, that according to section 9 of the 1999 constitution which is the constitution of the Fourth Republic, amendment of the constitution is within the jurisdiction of the legislature which must be supported by two-thirds majority of the members of the States House of Assembly in the federation. In the same vein, Section 8 of the same constitution stipulates that a bill of the

National Assembly (Legislature) shall not become law until it is accented to by the President. According to Section 58 (5), it is only when the President exercises his veto power and refuses to assent that he shall after 30 days send the bill back to the National Assembly who may use its overriding power and pass the bill into law by the support of two-third of the whole members and will no longer require the assent of the President [7].

Other areas of rivalry under the Goodluck Jonathan administration included the removal of fuel subsidy on Jan 1, 2012 leading to an increase in the pump price of petrol from N65 to N141 which was followed by a nation-wide strike and an eventual motion by the legislature that the President rescinds the decision [17]. The President, however, in a swift reaction described the legislators resolution as merely advisory and this did not go down well with the members of the legislature. Shortly thereafter, there were threats of impeachment over poor implementation of some resolutions of the legislature. It is pertinent to note that a resolution is the decision of the legislature expressing its condemnation of certain unpleasant actions of a body on particular issues of state, national or international concern (Okorie, 2010), and such resolutions though persuasive, do not require the agreement of the President as it does not have the force of law but only an expression of the sentiments of the legislature [4].

The persistent cat and mouse relationship between the Lower House of the legislature and the executive continued unabated even though several top figures of the administration underplayed it (Umoru, 2013). Both chambers of the National Assembly were dominated by the people's Democratic Party (PDP), the government party, and so as stated earlier, one would have expected that advantage to have been used to stabilize the relationship, but that was not the case, and as averred by [5], the cancer of prebendal politics and culture of settlement, mediocrity and opportunism continued to dictate the political behavior of the public officers involved. The height of this was the defection from the PDP by a number of law makers in both chambers including the then Speaker of the House of Representative, Aminu Tambuwal to the then new opposition party, the All People's Congress (APC) prior to the 2015 general elections and the consequent efforts by the Presidency to oust the speaker [12].

The turn of events did not get any better in the run up to the elections especially with the political alignments and re-alignments in the heat of the 2015 electioneering process. The 2015 general elections having come and gone with the tide completely changed in favour of the All Peoples Congress (APC) clinching the Presidency and also having a majority in both chambers of the legislature, Nigerians look forward to a better executive-legislative relations that will promote good governance [8], even as both chambers have been engrossed since May, 29 in trying to sort out the election and appointment of principal officers with the executive treading with caution and staying rather aloof.

# A General Synopsis

As a result of the predominantly acrimonious relationship between the executive and the legislature for most of the period examined, both arms of government were unable to devote quality time to the provision of good governance to the citizens. On the one hand, there were instances as noted from the discuss so far that the legislature became too docile to check the executive, and at other times became too confrontational while on the part of the executive, there had been the tendency to monopolize the whole process through manipulations [3]. Also, the Nigeria legislature which is supposed to facilitate accountability through the protecting and controlling of public treasury have focused on material and financial benefits it could amass using its office and power [5]. This has made the legislature equally corrupt as it often finds it convenient to connive with the executive to perpetrate corrupt practices. Closely related to the factors mentioned above is the personal ambition and parochial interests and agenda of both members of the executive and legislature and so, the self serving and pathological

conception of politics in Nigeria is such that control of political power is seen as a means of perpetuating selfish interests [34].

With the prevalence of these factors, therefore, good governance as identified earlier has continued to appear as a mirage. The elements or characteristics of good governance which include accountability, transparency, responsiveness, effectiveness and efficiency, rule of law, participation, equality and inclusiveness as well as consensus orientation have in principle remained the mantra of each seeker of public office whether into the executive or legislative arm but have not in practice been given the drive needed to actualize them.

### Conclusion

The historical and current realities of the executive and legislative relations in Nigeria and how it has affected the provision of good governance have been examined in the course of this paper. The nature of executive-legislative relations have taken on different dimensions from the colonial era to date. The long period of military rule spanning more than half of the total years of Nigeria's independence also came to the fore as it retarded the development of both arms more especially the legislature which was always suspended. Corruption, it was also revealed was a major factor that hindered both arms from agreeing on major policy issues that could have made the people to reap the dividends of good governance.

### Recommendations

The following are recommendations with a view to promoting a better relationship between the executive and legislature towards making such relationship capable of providing good governance for the citizenry.

- i. Meaningful consultation and dialogue should always be employed by both arms as continuous acrimony can only serve as a disincentive to good governance.
- ii. National rather than parochial interests should be the motivating factor for elected officials and both arms should be able to see each other as partners rather than rivals in the task of providing good governance.
- iii. There should be an effective mechanism for enforcing strong ethical standards especially accountability in governance, transparency, rule of law, equality to mention a few.
- iv. Citizens and civil society groups need to rise up in concerted effort and demand accountability and transparency especially in public governance.
- v. The justice system should be strengthened so that people found to have been involved in corrupt practices will be made to face the wrath of the law irrespective of their political and social status.
- vi. Both arms should aim at good governance as this is the most potent guarantee against military incursion into politics and this will also restore the confidence of the people in the system.

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