

Relationship between the Executive, the Legislature and the Judiciary in the Nigerian Fourth Republic as an Engine of an Unbalanced One: A Study of 1999-2019

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Abstract:- It is probable that the philosopher Baron de Montesquieu meant that power between the legislative, executive and judicial arms of government should not overlap or ultravire their limits when he proposed the principles of separation of power in his; The Spirit of the Laws in 1748. More also, it was part of the resolve to ensure that the might of the three arms of government does not become a common band against the aspiration and freedom of the vast majority of the people that A.V Dicey proposed the need for a system of checks and balances as one of the cardinal element or principle of democracy. Through a careful research of Nigeria's democratic journey since 1999, what becomes apparently plain is a situation of executive overrides over the other two arms of government- the legislature and the judiciary. A cross section of academicians has in part or in whole blamed the executive for the abysmal termination of the tenure of principal officials of the legislature. Between 1999 and 2007 Evan Enwerem, Chuba Okadigbo and Adolphos Warabara lost their seats respectively as senate presidents while Salisu Buhari and indeed Patricia Etteh (September 2007) lost their positions as speakers of the House of Representatives over corruption related charges. The judiciary has as well accused the executive of using its arm the Economic and Financial Crimes Commission (EFCC) to witch-hunt its principal officer. A case in point is the latest sacking of the Chief Justice of Nigeria Walter Onnoghen on 18th April, 2019. On its own part, the executive has blamed the legislature of some unwholesome incidence such as budget padding. The executive also blames the judiciary for delay in granting justice on certain cases requiring urgent delivery of justice.

Keywords: Relationship, Legislature, Executive, Judiciary, Unbalance

I. INTRODUCTION

In Nigeria, the tendency to manage relations between arms of government has been a problematic pathway after the 1999 return from over a decade of blind experiment with military autocracy. At best the relationship between these three arms of the legislature, executive and the judiciary has been the case of the old tale of an unholy alliance of strange bedfellows. Today, circumstances of our democratic or even political life is awash with the gory melodrama of sprees of lack of co-existence and understanding among these arms of government even though from all indications this was not the intent of foremost theoretical architect of modern democracy such as A.V Dicey or even Baron the Montesquieu when they conceived the principle of checks and balances and separation

of power to serve as a guiding light for future generations such as the current inhabitants of Nigeria. Separation of power is the division of powers and functions of government among the three broadly demarcated arms of government, the Legislature, the Executive and the Judiciary.¹

On the other hand, the principle of checks and balances as Kargbo observed, create connecting links among the three arms through empowering each arm to limit the powers of the other arms and create a balance of power among the three arms.² The principle of checks and balances and separation of power was therefore, designed to serve as a medium for not just constructive criticism but as a medium of propagating working recommendation that will alter societies off the tangent of undemocratic trajectories into pools of political growth and development. Thus, through checks and balances and separation of power, we are here tempted to accept the submission of Bo Li that;

*Tyrants will not become benevolent rulers simply because the Constitution tells them to. In order to guard against violations against the letter and spirit of the Constitution, there needs to be a set of institutional arrangements.*³

But as faith would have it, Nigeria's walk through the political turf not just within the labyrinth of the current Fourth Republic but through the entire course of its political sojourn since independence has been a regrettable manifestation of a most alien if not the most anachronistic manifestation of these principles, a development some political analysts have blamed on the military experiment with the nations' politics between 1966 – 1979, 1984 – 1993, and 1994 – 1998. According to one of these sets of scholars Aiyede, "the military regime did not only fuse legislative and executive functions; they also institutionalized a system and

¹ A. E. Obidimma, "The Legislative-Executive Relations in Nigeria's Presidential Democracy", *International Journal of Business & Law Research* 3(1):71-80, Jan-Mar 2015

² Charles Kargbo, "The Principles of Separation of Power", *Independent*, 19th July, 2007

³ Bo Li, "What is Constitutionalism?" *Perspectives*, Vol. 1, No. 6, n.d

culture of government that was extremely executive-centred”.⁴

Through a careful search into vigorous track of history, one comes in touch with the fact that at independence in 1960, Nigeria adopted the British – styled parliamentary model. This system failed to see the light of the day because of the apparent state of imbalance between the executive arm led by the Prime Minister (Sir Tafawa Balewa) and the titular legislative head led by the president (Chief Nnamdi Azikiwe), thereby making the southern portion of the country where the president hailed from to feel short charged in the power equation of the country. The January 1966 coup was therefore seen by southern agitators as litmus test for escaping this state of unequal power between the executive and the legislature as configured by the 1960 Independence Constitution and consolidated by the 1963 Republican Constitution in which they were “subsumed” between the parliamentary system of the country especially from 1963, when a Nigerian brand parliamentary system different from the British model was enthroned. As it soon became clear, both the first coup of 1966 and the counter coup of that year were not aimed at correcting the imbalance of the executive-legislative power or worst of this, the relationship of either of the above two with the judiciary while the instrument of ethnic-nationalism-domination of one or a few ethnic group (s) or region(s) over the others – a case of real politics indeed was in the under-palm. the conflicts that were thrown up by the political chicanery of the period, eventually plunged the country into a 30 – month civil war. The successful effort to keep the country united was concluded by a planned return to a civil democracy in 1979.

The Murtala/Obasanjo military government (30th July, 1975⁵-30th September, 1979⁶) of the period, mindful of the institutional failures of the parliamentary system attempted in the First Republic, set up a Constitution Drafting committee (CDC) and the Constituent Assembly in 1975 to help produce a new constitution for the country. In declaring the mandate of the Constituent Assembly (CA), it was most unfortunate that the same government that promised of “righting the wrongs of the past”, could challenge the committee to produce a constitution that will “discourage institutionalized opposition in power and instead, developed a consensus in politics and government”.⁷ The CA recommended an executive presidential system of government, a system in which the president running with his/her vice president are elected... (And) are brought into office in manner to be reflect the

federal character of the country”.⁸ Hence, from the Second Republic through the Fourth Republic, there has been an open display of blatant abuse of the executive over the other arms of government particularly the legislature, since the constitutions 1979, 1989 and 1999, made its power absolute over the other arms. Thus, one is not surprise that in the fourth republic, the president could veto bills even against the behest of the legislature. Between 1999 and 2003, the presidency of Chief Olusegun Obasanjo vetoed 10 of the 36 bills passed by the legislature and transmitted to the executive for assent.⁹ It was in view of this state of affairs that, the political analysts Momodu and Matuidi asserted in 2013;

*Nigeria has had 14 years of unbroken democratic stability since May 29, 1999 to date, after a prolonged military occupation and usurpation of the country's political machinery, which lasted for about 16 years (1983-1999). However, the Nigeria's Fourth Republic (May 1999 to date), has consistently witnessed a conflict-ridden relationship between the key political institutions namely, the executive and legislature, both at the federal and state levels. Often times, the conflict between the executive and legislature heats up the polity to the extent that the machinery of the state is plunged in a state of inactivity and low-productivity. However, the relationship that exists between the legislature and executive branches of government is very crucial for attaining good governance.*¹⁰

More also between 1999 – 2011, the Nigerian legislature witnessed premature change of the senate three times, and the house of representatives two times in what most Nigerians believed to be unconnected to the cat and rat race that was then ongoing between the executive and the judiciary. Many believed the corruption related challenges that led to this abrupt change of mantle was the result of the hatchet job of the executive. Between 2015 – 2019, when the Eight Assembly proceeded, while the then senate president Bukola Saraki and the speaker of the house of assembly were not prematurely diffused of their positions through the ploy of the “traditional” Instrument of the impeachment as witnessed by their predecessors (i.e.; Evan Enwerem, Chuba Okadigbo, Adolphos Wabara, Salisu Buhari and Patricia Eteh), their relationship with the executive was not that of usual bedfellows, this was strained as allegation of non – accent to bills (i.e.; the Electoral Act Amendment, and the Petroleum Industry Bill), allegation of budget padding (i.e. the 2016 budget), delay in budget proceedings, etc.; were the regular horse trading between these two arms of government all through the life – span of the eight assembly. As for the

⁴ R E. Aiyede, “Legislature-Executive Relations in Nigeria’s Democracy”, in Ojo O. E, Challenges of Sustainable Democracy in Nigeria, Ibadan: Archers. 2006. P.148

⁵ T. Falola, Heaton M., *A History of Nigeria*, Cambridge: Cambridge University Press. 2008

⁶ O O. Adinoyin, *Olusegun Obasanjo in the eye of time*, Ibadan: Spectrum books limited. 2007. Pp. 1-4

⁷ R E. Aiyede, “Legislature-Executive Relations in Nigeria’s Democracy” ...

⁸ M M. Momoh, *Nigerian Government and Politics Since Independence for NCE and Undergraduate Studies*, Ankpa: Sanni Printers, 2016

⁹ A P. Anyim, Fourth Assembly Senate-a Valedictory Speech, Abuja, 28th May, 2003

¹⁰ A J. Momodu Matuidi, G. I, “The Implications of Executive-Legislative Conflicts on Good Governance in Nigeria”, Public Policy and Administration Research, Vol.3, No.8, 2013

judiciary, in the hands of the executive, this arm is perceived by the majority of Nigerians to be no more different from a mere metal at the disposition of the “blacksmith” to be subjected to whatever measure of malleability that suits its “blacksmith’s” whims and caprices.

II. CONCEPTUAL CLARIFICATION

Pondering on the term executive, this is what Appadurai had to say; “it is more common in political science to restrict the use of the term executive to those whose primary duty is rather that of seeking that law are enforced than that of doing things which the law calls for”.¹¹ Garner writing in the book, Political Science and Government, provides a broad sense of the word executive to mean; “the aggregate or totality of all the functionaries and agencies which are concerned with the execution of the will of the state as that will has been formulated and expressed in terms of the law”.¹² According to Mclean and McMillan, the executive is; “the branch of government concerned with the execution of policy”.¹³ In the Merriam-Webster Collegiate Dictionary of English, the word executive, in a political sense was defined as; “branch of government responsible for activating the laws of a country”.¹⁴ The executive broadly refers to the arm of government responsible for carrying out or administering laws enacted by the legislature.¹⁵

In a similar way Garner defines the executive as; “the branch of government responsible for effecting and enforcing laws; the person or persons who constitute this branch... the residue of all government after subtracting the judicial and legislative branches”.⁹ In the Chambers 1st Century Dictionary, the word executive was as well defined as; “the branch of government that puts laws into effect”.¹⁶ Godwin, described the executive as that branch of government responsible for planning, initiation and execution of laws of the states.¹⁷ He further added that; “it could also be seen (especially in the Nigerian context) as the person or group of persons charged with the responsibility of inspiring and guiding, which could lead the nation into a period of socio political and economic transformation”.¹⁸ Anifowose gave the following definitions; “those who apply the authoritative rules and the polies of a society are called political

executives”.¹⁹ According to Olisa et al., the executive; “is one of the three arms of government whose principle duty is to carry out the general administrative of the country; that in this process of administering the country, it enforces laws, introduces bills into legislations and organizes the bureaucracy with the view of making it function efficiently”.²⁰ On other hands Ball and Peter see the political executive as responsible for executing laws, but increasingly, the executive has taken responsibility for making laws as well.²¹

While the first important function of the legislature of course, is to enact laws, it should be corrected that the legislatures in modern states do not all perform identical functions. Everywhere, they pass laws, determine the ways of raising and spending public revenue, and discuss matter of public importance.²² Appadurai, identifies four functions of the modern legislature to include; legislation, administration, finance and ventilation of grievances.²³ The legislature is made up of the representatives of the people. Their main task is to make laws that guide or govern the country or its units where authority is also exercised.²⁴ While supporting the claim that the primary function of the legislature to make law for the country, pointed out that in Nigeria, the legislature is called the parliament, and that this is made up of the house of senate and the house of representatives similar to the British house of lords and house of commons.²⁵ Garner defines a legislature as the branch of government responsible for making statutory laws.²⁶ Furthermore, the Webster’s Dictionary of English defines a legislature as; “a body of persons officially constituted and empowered to make and change laws”.²⁷ In the Chambers 1st Century Dictionary, legislature was defined in a similar respect to mean; “the part of the government which has the power to make laws”.²⁸ The Geddes & Grosset English Dictionary & Thesaurus defines the word legislature in a similar light to the above definitions as; “the body of people who have the power to make laws”.²⁹ Specifically, to Nigeria, the 1999 Constitution provides that the legislature shall have power to make laws for the peace, order and good government of the federation or the state.³⁰

The judiciary is so important in a democracy that, Bryce once asserts; “there is no better test of the excellence of

¹¹ A. Appadurai, The Substance of Politics, India: Oxford University Press. 1968. P. 556

¹² F W. Garner, Political Science and Government, American Book Company, 1930

¹³ I. Mclean, McMillan. A, Concise Oxford Dictionary of Politics, Oxford: Oxford University Press, 2003

¹⁴ Merriam-Webster Collegiate Dictionary of English

¹⁵ A E. Obidimma, “The Legislative-Executive Relations in Nigeria’s Presidential Democracy”, International Journal of Business & Law Research 3(1):71-80, Jan-Mar 2015

¹⁶ Chambers 1st Century Dictionary, New York: Rowman & Littlefield Publishers, Inc. 1973

¹⁷ O. Godwin, “Structure and Organs of Government”, in Chikendu. P. N (ed.), Introduction to Political Science, Enugu: Academic Publication Company. 2002

¹⁸ O. Godwin, “Structure and Organs of Government” ...

¹⁹ R. Anifowose, “The Structure and Organization of Government”, in Anifowose. R; Enemuo. F, Elements of Politics, Lagos: Sam Iroanusi. 1999. Pp.171-190

²⁰ Olisa et al cited in Mbah. M, Foundation of Political Science, Anambra: Rex Charles and Patricks Ltd. 2007

²¹ A R. Ball, Modern Politics and Government, Palgrave. 1988

²² M. Mbah, Foundation of Political Science, Anambra: Rex Charles and Patricks Ltd. 2007

²³ A. Appadurai, The Substance of Politics ...

²⁴ M. Mbah, Foundation of Political Science ...

²⁵ P N. Chikendu (ed.), Introduction to Political Science, Enugu: Academic Publication Company. 2002

²⁶ F W. Garner, Political Science and Government ...

²⁷ Webster’s Dictionary of English ...

²⁸ Chambers 1st Century Dictionary ...

²⁹ Geddes & Grosset English Dictionary & Thesaurus

³⁰ Section 4(2) and (7) 1999 constitution of the Federal Republic of Nigeria (as amended)

a government than the efficiency of its judicial system”.³¹ On the concept of judiciary Mclean and McMillan defines this word as; “the body of judges in a country”.³² In the Webster Dictionary, judiciary was defined as; “the department of government which administers the law”.³³ Similarly, in the Collins English Dictionary judiciary was defined as; “of or relating to the court of law, judgment or judges... the branch of the central authority in a state concerned with the administration of justice”.³⁴ Mbah defines the judiciary as the organ of government which has its main function, the interpretation of the laws of the state, and it is made up of the body of judges in the country, the laws and the court system”.³⁵ Apart from law interpretation, Mbah identify other functions of the judiciary to include; constitutional interpretation, judicial review, protection of individual civil rights, advisory roles, as well as miscellaneous functions.³⁶ Godwin recognized the judiciary as having a function which touches so much the life and welfare of citizens.³⁷ This is consonance with Appadurai’s assertion that; “for nothing more important touches the welfare and security of the citizen than his knowledge that he can rely on the certain, prompt and impartial administration of justice”.³⁸ Appadurai further added; “the role of the judiciary being so important, it is obviously essential to choose men of honesty, impartiality, independence and legal knowledge to fill the places of judges”.³⁹ Three of these method of appointing judges have been identified to include: nomination by the executive as in; Nigeria, Britain, the French Republic, the USA, Canada, Australia, South Africa, Germany, Italy and India, or by election by the legislature such as in Switzerland and in Russia, or by election by the people as it applies to some Swiss cantons and American states.

III. EVOLUTION AND OVERVIEW OF RELATIONSHIP BETWEEN THE ARMS OF GOVERNMENT OF NIGERIA BEFORE THE FOURTH REPUBLIC

The story of the relationship between the arms of government in Nigeria evolves from the broader history of the nation itself, and can be examined on the historical basis of the problems faced by each of these arms vis-à-vis relationship with the other arms in the country’s constitutional and political history. A journey through the nation’s political history will also show the unlikeliness that the legislature, Executive and the judiciary evolved simultaneously (at the same time). In pre-colonial Nigeria, from one community to another, one could, also following a careful exploration of the historical contours of the history of its various people decipher, the existence of these modern agencies for the

authoritative allocation of values in traditional forms. While those ethnic groups which had highly centralized political system such as Hausa, Igala, Yoruba, Jukun, Benin, etc.; had monarchical system represented by a near absolute executive, other ethnic groups that had a non-centralized political system such as the Tiv, Igbo, Urhobo, etc.; were bequeathed by a form of political system that is acephalous or egalitarian in which power was not constituted in a few or one central authority. Even among such groups with centralized political system, the degree of centralism does vary from one ethnic group to another as these groups could be distinguished by those with clear-cut principles of separation of power or checks and balances, and those where these features are nearly absent or very weak.

Hence, while one can find a solid legislature among the pre-colonial Yoruba (as confided in the Oyo-mesi),⁴⁰ Igala (as confided in the Igala-mela council),⁴¹ or Benin (as confided in the Uzama),⁴² who can depose an erring king, among the Hausa, the Emir was supreme to any extent and apart from the Koran and the Hadith as interpreted by the council of the wise (ulama), the king was under no legislative obligation. The judiciary, i.e.; the Ogoni society among the Yoruba, the Qadi among the Hausa/Fulani, or the Ala or the earth goddess represented by a chief priest⁴³ among some Igbo tribes, were responsible for settling civil and criminal offences even though these were mainly at a smaller scale. More serious cases such as those involving tribes and communities were referred to the council of elders such as the Iregba among the Ebira⁴⁴ or the Offo among the Igbo.⁴⁵ It was in this context that these arms operated as they, while observing checks and balances in some cases, also ensured that the limit of the power of each arm is preserved.

In a modern sense, the evolution of the arms of government in Nigeria is traceable to the beginning of British colonization of Nigeria. The colonial executive was absolute because, the authority of the executive is not to be questioned by the legislature and the judiciary which are under its precedence. The colonial government was a military one, defined by a unitary system in the guise of indirect rule. A

³¹ J. Bryce, *Modern Democracies*, Vol. II. Ch. IXVIII, Macmillan. 1921

³² I. Mclean, McMillan. A, *Concise Oxford Dictionary of Politics* ...

³³ *Webster’s Dictionary of English* ...

³⁴ *Collins English Dictionary*

³⁵ M. Mbah, *Foundation of Political Science* ...

³⁶ M. Mbah, *Foundation of Political Science* ...

³⁷ O. Godwin, “Structure and Organs of Government” ...

³⁸ A. Appadurai, *The Substance of Politics* ...

³⁹ A. Appadurai, *The Substance of Politics* ...

⁴⁰ O R. Akanji, Dada. O. M., “Oro Cult: The Traditional Way of Political Administration, Judiciary System and Religious Cleansing Among the Pre-Colonial Yoruba Natives of Nigeria”, *The Journal of International Social Research*, Volume: 5 Issue: 23, Fall 2012

⁴¹ S. Haruna, “Igala in Nigeria”, *Adagba Magazine*, 2004. p. 14; Abdulkadir. M. S., “British Administration of Igalaland, 1896-1918”; in *FAIS Journal of Humanities*, Vol. 1, No. 4, 2001. Pp. 130-144; Momoh. M. M., *Comparative Historical Study of the Igala and the Tiv Traditional Political System: A Study of a Centralised and a Non-Centralised State in the North-Central Nigerian Region in the Pre-Colonial Period*, being an Unpublished Paper Written for the Central Nigeria History Confab, 2018

⁴² P A. Oguagha, “The Igala People: A Socio-Historical Examination”, *ODU Journal of West African Studies*, No. 21, Jan/July, 1981. PP 168-192

⁴³ “pre-colonial political systems in Nigeria (Igbo traditional system)” - passnownow.com

⁴⁴ J A. Ohiare, “Political Institution of Ebira of Nigeria by 1900”, in *International Centre for Black and African Art and Civilization*. 1989

⁴⁵ M S. Olisa, “Principles and Machinery of Justice in Igbo Society”, in *International Centre for Black and African Art and Civilization*. 1989

military government, first by its mode of occupation, and second, by the roguish character of exploitation and plunderage orchestrated against the men and material of the various ethnic groups that now constitute the Federal Republic of Nigeria.⁴⁶ This precedence defines the character of the relationship of its arms of government within the continuum of executive dominance over the other arms of government which remains consolidated through the fading ages leading to the current year (2019). In tracing the history of the Nigerian legislation, Usman sums this process as thus;

*The first act in the formal colonization process was the annexation of Lagos in 1861. At the head of the colonial administrative set-up for the colony called the settlement of Lagos was a governor aided by six officials; two Europeans, and two Nigerians, who were unofficial members, and whose only function was advising the governor. It did not have other legislative powers, as we know them today. Following the 1914 unification of the colony of Lagos with the Southern and Northern protectorates, there was established a Nigerian Council which existed side by side with the legislative council. The Nigerian Council was comprised of 36 members, out of which 23 were European officials, 7 European business men and 6 Nigerians mainly traditional rulers. The Nigerian Council was larger than the legislative council but had only advisory powers, with no competence over financial matters and no executive authority. The first constitution for Nigeria to establish a legislative body was the Clifford constitution of 1922. Before then, legislative bodies did not derive their powers from constitutional laws but from other legal instruments. The Clifford constitution abolished the legislative council and Nigerian Council. In their place, was established a new legislative council of 46 members, out of which 27 were official members, including the governor. Of the remaining unofficial 19 members, 10 of which were Nigerians, 15 were nominated by the governor and 4 were elected. The new legislative council was empowered to legislate for the peace, order and the good governance of the colony of Lagos and the Southern provinces. The governor legislated for the Northern provinces by proclamation.*⁴⁷

As for the modern executive in Nigeria, its history dates back to between 1912-1914 when Lord Frederick Lugard was appointed first governor of the Northern protectorate and the last governor-general of Southern protectorates of the Country and continuing until his further appointment as the governor of Nigeria between 1914 and 1919. After Lugard, a host of other colonial officials supported by a chain of provincial governors called residents

who oversaw the work of native rulers called district heads and local administrators appointed by the colonial government called district officers spearheaded the executive arm of the country before the attainment of political independence in 1960. Throughout the colonial period the head of the British mission in Nigeria (the Governor-general) was the head of the legislative arm. It was only after the Richard's constitution in 1946 that, the governor stopped making laws by proclamation in northern Nigeria. The central legislative council which though had an enlarged membership which featured as an unofficial majority, was still yet composed of the governor, 16 officials, 13 of them ex-officio and 3 nominated, and 28 unofficial members who were either elected or selected.⁴⁸

Also while trying to correct the ills of the Richard's constitution through the abolishing of the central legislative council and the establishment of the house of representatives which in consequence transformed the Nigerian legislature from a unicameral one to a bicameral one, the Macpherson's constitution of 1951 still consolidated executive strangle-hold on the legislature as the governor (John Stuart Macpherson) was still the president of the house of representatives. This constitution further provided for , 6 European officials including the lieutenant governor, 136 Representatives elected by the Regional Houses, 68 by the Northern Region House of Assembly, 34 by the Western Region House of Assembly and 34 by the Eastern Region House of Assembly, and 6 special members appointed by the governor to represent interests and communities which had inadequate presence in the House of Representatives.⁴⁹ The House of Representative at that time had no powers over bills relating to public revenue and public service. Hence, it was technically ineffective. From history of modern arms of government in Nigeria, it would appear that the judiciary is the oldest arm of the three. Here too, a Senior Advocate of Nigeria (SAN) Yusuf Ali, would be our aid. His submission on the origin and evolution of the Nigerian judiciary is provided hereto;

The Nigerian Judiciary has had a history of 4 distinct eras namely, the period before 1842, 1845-1912, 1914 to 1953 and 1954 to date. Before the advent of the Europeans, the various indigenous people of Nigeria had difficult methods of dispute resolution mechanism. Among the Yoruba and Ibo, the system resolved around their traditional institutions. It was fashionable among the Yoruba to refer contentious matters to the head of the family. If he could not settle the dispute, the matter was taken to the head of the compound until a solution could be found up to the Oba. Similarly, systems existed among the Ibo. In the North, there was a bit of formalization as

⁴⁸ E I. Amah, "Nigeria—The Search for Autochthonous Constitution" Beijing Law Review, 8, 141-158. 2017

⁴⁹ Oshadare. O. T, "National Integration and Constitutional Development of Nigeria 1914-1960", in Anyigba Journal of the Department of History and International Studies, Vol. IX, 2005; Akinboye. S. O and Anifowose. R, "Nigeria Government and Politics", in Anifowose. R; Enemu. F, Elements of Politics ... Pp. 238-260; Momoh. M. M, Nigeria Government and Politics Up to 1960 for NCE and Undergraduate Studies, Ankpa: Sanni Printers. 2015

⁴⁶ J. Amzat, Olutayo. O. A, "Nigeria, Capitalism and the Question pf Equity", Anthropologist 11(4), 239-246, 2009; for a broader view on Africa, see.; Ake, C. (1981). A Political Economy of Africa Essex: Longman

⁴⁷ A T. Usman, "A Decade of Legislative Practice in Nigeria, 1999-2009"

founded on the Islamic legal system, the Sharia. There was an elaborate system of court systems, the hub of which was the Alkali system. The Emir was the ultimate appellate judge. After 1842, the power to administer and dispense justice in Nigeria was mainly vested in native courts. These courts dispensing justice, fashioned out systems of taxation, civil laws and procedure, penal law and sentencing policies including death sentence. (pp. 1-3).⁵⁰

Yusuf Ali was further quoted as saying;

It should be noted that these Native Courts are the forerunners of the present Customary Area and Sharia Courts. With the advent of the colonialists in the Southern part of Nigeria between 1843-1913, the British through a combination of Foreign Jurisdiction Act of 1843 and 1893 established law under which various courts were set up. In 1854, the earliest courts called the Courts of Equity were established by the British in the Southern parts of Nigeria particularly Brass, Benin, Okrika and Opobo... In 1863, by Ordinance No 11 of 1863, the Supreme Court of Lagos was established, it had both civil and criminal jurisdiction. In 1899, the Northern Nigerian Order in Council 1899 gave the Commissioner of the protectorate of Northern Nigerian the power to provide for the administration of justice in that protectorate. In 1900, via the Supreme Court Proclamation Order No.6, a Supreme Court was established for the Southern Nigerian protectorate. The High Commissioner also issued the Native Courts Proclamation Order of 1900, which established a new system of Native Courts for the territory. The Native Courts were presided over by an Alkali, the higher grade called Judicial Council was presided over by an Emir. This arrangement endured until 1914 when the Northern and Southern Protectorate of Nigeria were amalgamated, Provincial Courts were abolished and in its place were established High courts which consisted of Chief Judges, Judges and assistant Judges. Below these High Courts were Magistrate Courts. Native Courts will remain at the bottom of the judicial hierarchy. (pp. 4-5).⁵¹

At independence, the Nigeria adopted the British styled parliamentary system of government. This constitution enthroned a system of shared power between the prime minister and the president while providing no complete separation of power between the Executive and the Legislature. The loophole created by this lack of clear-cut separation between the executive and the judiciary provided an opportunity for inter-arm "encroachment" which became a source of political friction throughout the First Nigerian Republic. This dominance was so intense that a newspaper in

1963 referred to the federal legislature as an "expensive irrelevant talking shop".⁵² This state of conflict between the executive and the legislature in the First Republic was not limited to the federal level, as the Federal executive at the top also seek to control the regional government even though, theoretically, each region has autonomy that is separate from the Federal government. This was particularly manifested in the relationship between the Northern Peoples' Congress (NPC) of the then Prime Minister Alhaji Tafawa Balewa and the regional Premier of the West and the leader of the Action Group (AG), Chief Obafemi Awolowo which degenerated into several gory tales. Judicial processes were sabotaged by a deliberate attempt at executive influence over the judiciary as depicted by what some scholars on the political history of Nigeria have described as a compromised and hastened trial of Chief Obafemi Awolowo who was charged with treason⁵³ along with 18 other prominent Yoruba leaders including Alhaji L. K Jakande, Chief Onitiri, Ayo Akinsanya, etc.; by Justice George Sodeinde Sowemimo of the High Court of Lagos in September 1963.⁵⁴

In 1963, Nigeria became a Republic and abolished the Westminster model constitution for the Washington model. Thus, the Supreme Court of Nigeria became the court of last appeal. When the Judiciary could not carry out its constitutional role of interpretation, adjudication and "checks and balances between the other two organs of government (Executive and Legislature) as shown in the treason charge against Awolowo above, the democratic process of the country became weakened. The pressures mounted on the First Republic political system thus, made the Judiciary unable to carry out its roles effectively. This sowed the seed of the collapse of the political system with that most undesirable military incursion in the nation's politics, which truncated the 1960s nascent democracy on 16th January 1966.⁵⁵ Military rule impacted negatively on the Nigerian political system, producing oligarchic state political actors, who were bent on having control of state power since 1966.⁵⁶

The Second Nigerian Republic was anchored on the premise of ensuring absolute separation of power among the three arms of government. This was well echoed in the 1979 Constitution of the Federal Republic of Nigeria which jettisoned the Westminster model of Parliamentary democracy for the American form of presidential system as we have already stated elsewhere in this essay. The 1979 constitution

⁵²Federal Republic of Nigeria, Report of the Political Bureau (Lagos: Printer, 1987). p. 208

⁵³ J D. Ogundere, *The Nigerian Judge and his Court*, Ibadan: University Press. 1994. P. 97

⁵⁴ A. Ademoyega, *Why We Struck: The Story of the First Nigerian Coup*, Ibadan: Evans Bro. 1981

⁵⁵ V M. Chucks, Grace. O. U, Agbata. I. F, "Judiciary and the Theory of Separation of Powers in Achieving Sustainable Democracy in Nigeria (The Fourth Republic)", *British Journal of Education* Vol.4, No.8, pp.84-104, August 2016

⁵⁶ V M. Chucks, Grace. O. U, Agbata. I. F, "Judiciary and the Theory of Separation of Powers in Achieving Sustainable Democracy in Nigeria (The Fourth Republic)" ...

⁵⁰Yusuf Ali, "The Evolution of Ideal Nigerian Judiciary in the New Millenium" -yusufali.net

⁵¹Yusuf Ali, "The Evolution of Ideal Nigerian Judiciary in the New Millenium" ...

was the brainchild of a Constitutional Drafting Committee set up by the government of the head of state, Murtala Mohammed in October 1975, headed by the Lagos-based lawyer, Rotimi Williams, with the Ahmadu Bello University don, Bala Usman as the secretary. Although, the president of the Second Republic, Alhaji Shehu Shagari of the National Party of Nigeria, has been hailed for being a unifying force for the nation and his contribution to the growth and development of democracy in Nigeria cannot easily be forgotten⁵⁷ particularly when considering the relationship between the executive and the legislature during this time, commentators however believed that this relationship is not as solid as is at times assumed. The attitude of Alhaji Shagari's government was based upon the character of political changes as time unfolds. At the beginning of term in 1979, the ruling National Party of Nigeria (NPN) did not control majority in the National Assembly and had to enter into an alliance with the NPP. Politics in each house of Parliament was characterized by alliance forging in the march towards the 1983 general elections. When the NPN/NPP alliance collapsed, the Second Republic began to witness friction in executive-legislature relations.⁵⁸ With its limited influence in parliament, the NPN-led executive began to face serious opposition in the National Assembly such that many legislative proposals from the executive were blocked.⁵⁹

In the words of Ikoku, it was as if the opposition parties were "committed to a strategy of engineering the political paralysis of the federal legislature in order to render the NPN Government ineffective".⁶⁰ But the dismal potential of sharp separation of powers, especially the combination of powers in the legislature, was borne out in the impeachment of Governor Balarabe Musa of Kaduna State, elected on the platform of the People's Redemption Party (PRP), who was unfortunate to have a legislature that was dominated by a rival party, the NPN. In other states, the dominance of the executive was firmly established. Thus, overall, the danger of executive dictatorship was a major issue of concern to the Political Bureau, even though it was not strong enough to stop the Bureau from toeing the line of the 1976 CA by reconfirming the presidential system on the "need for unity, energy and dispatch at this point in the political history of the country".⁶¹

Although, the integrity of the judiciary in relation to the executive and the legislature was under a great stain, certain commentators are however of the opinion that, the judiciary was active in sustaining the new democracy as the courts were in some instances bent on the protection of the

fundamental human rights of Nigeria citizens, as witnessed in *Shugaba A. Darman v. Federal Ministry of Internal Affairs & Ors.* The Court in pursuant of Section 160 and 191; declared, that the actions of the defendants were unconstitutional, null and void thus, restored the fundamental rights of the plaintiff, which were constitutionally guaranteed. Despite the contradictory stance about the professional integrity of the judiciary in the Second Republic, on the overall, one can however say that, the Judiciary derailed from its constitutionally stipulated role of stabilizing and sustaining Nigerian democracy during that era. There were public outcry and condemnation during the Second Republic in the manner in which the Court handled election petitions of the 1983 general election. In his submission, in *Odumegwu Ojukwu V. Edwin Onwudiwe; Aniogolu, J.S.C.* unequivocally wrote in minority judgment thus:

*This case was in my view, one in which by fraud in the election, the rightful winner was made the loser and the loser was declared the winner. The respondent Dr. Edwin Onwudiwe clearly did not win. This Court should say so emphatically and I say so unmistakably.*⁶²

The summary would be that, in the Second Republic as was the First Republic, the Judiciary failed to play its stabilizing role in Nigerian democratic space and as a result democracy once again truncated. Between 1979 and 1983, Nigerian political system was continuously heated up and Judiciary was also unable to supply the cushioning effect required to avert the imminent collapse of that democratic dispensation. On December 31, 1983, the military Junta took over power from the civilian government. This military era was characterized by coups and counter coups that brought different military generals at the helm of leadership position of the State at various periods from 1983- 1999 (16years).⁶³ The Political Bureau was established by the General Ibrahim Babangida's administration to check the unhealthy rivalry and competition for supremacy between both houses of the national parliament between 1979 and 1983 and recommended a unicameral legislature as a solution to this problem. To ensure that the legislature acted as an effective check on the executive while cooperating with it, the bureau recommended that it should be mandatory for ministers and commissioners to be present when matters affecting their ministries are being discussed in parliament, and that ministers and commissioners (cabinet members at the national and state levels respectively) be made special non-voting members of legislative houses.⁶⁴ These two latter recommendations were however not accepted by the General Babangida regime. Under the Babangida's inconclusive

⁵⁷ Ejikeme Emenazu "Shagari: Life and Times of Nigeria's Second Republic President", Independent, 3rd January, 2019

⁵⁸ R. E. Aiyede, "Legislature-Executive Relations in Nigeria's Democracy" ...

⁵⁹ M. O. Maduagwu, Oche. O. D., "The Legislature", in Imobighe. T. A (ed.), *The Politics of the Second Republic*, Kuru: National Institute for Policy and Strategic Studies, 1992. Pp. 105-137

⁶⁰ S. G. Ikoku, *Nigeria's Fourth Military coup d'état: Option for Modern Statehood*, Enugu: Fourth Dimension Publishers, 1985, p. 85

⁶¹ Federal Republic of Nigeria, Report of the Political Bureau. P. 168

⁶² V. M. Chucks, Grace. O. U, Agbata. I. F., "Judiciary and the Theory of Separation of Powers in Achieving Sustainable Democracy in Nigeria (The Fourth Republic)" ...

⁶³ V. M. Chucks, Grace. O. U, Agbata. I. F., "Judiciary and the Theory of Separation of Powers in Achieving Sustainable Democracy in Nigeria (The Fourth Republic)" ...

⁶⁴ Federal Republic of Nigeria, Report of the Political Bureau. P. 215

transition, the legislature existed side by side with the military at the national level for almost a year before the dissolution of all democratic structures by the Abacha junta on November 17, 1993.

Although the 1989 Constitution that was supposed to be the foundation of the Third republic provided for separation of powers, Decree No. 53 with which the National Assembly was inaugurated eroded its power. The decree subordinated the National Assembly to the National Defense Council that was largely composed of military personnel. Also, it divested the Assembly of legislative powers in twenty out of the thirty-eight items on the exclusive legislative list provided by the 1989 constitution, limiting its power to only cultural and topographical matters. The exchanges between the national parliament and the executive up till the annulment of the June 12, 1993 presidential election and its aftermath epitomized a drama in legislative humiliation.⁶⁵ Experience was not very different at the state level. This was because President Babangida, through Decree 50, empowered state governors to bypass their parliaments in deciding on issues over which there was a clash of interests. This decree, which breached the 1989 Constitution, was a response to unsubstantiated claims by some governors that the legislators were demanding bribes or using blackmail to score cheap political points in performing their constitutional roles. Such as considering and confirming nominees for cabinet positions and passing of budgets. Armed with this decree, many governors constituted their cabinets and developed and implemented their budgets without regards to the legislature.⁶⁶

IV. THE RELATIONSHIP BETWEEN THE EXECUTIVE, LEGISLATURE, AND JUDICIARY IN THE FOURTH REPUBLIC: 1999-2007

The Fourth Republic which kick-started the current democratic dispensation came into force on the May 29, 1999, with a new constitution known as the 1999 Constitution. The Judiciary occupies a significant position in the administration of justice in Nigerian democratic state. Under the 1999 Presidential Constitution, the three powers of government are vested in three different independent and co-equal bodies; the National/State House of Assembly, The President/Governors and the Federal/State Courts.⁶⁷ The 1999 Constitution of the Federal Republic of Nigeria in other words made the theory of separation of powers a fundamental principle of state governance. The 1999 Constitution in different sections vested the powers of government in separate organs of government as follows: Section 4 deals with the Legislative powers; Section 5 deals with the Executive powers, while

Section 6 is concerned with Judicial powers. This kind of separation of powers is known as the horizontal separation of powers.⁶⁸

The adoption of presidentialism as a constitutive principle of government by the architects of 1979, 1989 and 1999 constitutions were a conscious decision to address the specificity of Nigeria's plural social system. In a society with primordial segmentation along ethnic and religious lines, the fusion of executive and the legislature in the Westminster model (Parliamentary system) posed serious problems for constitutional practice. This structural divisiveness could and has been exploited by the opposition in parliamentary setting to either extort unpopular concessions or topple hapless regimes with a rapidity that defies logic or reason as seen in the French and Italian experience. This is so because Westminster model with the near-fusion between the executive and legislature is not only essential, its 'absence brings government to a standstill. The executive needs the judiciary, and the "legislative majority to carry on in government". Democratic governance in a highly politicized and atomized in a positivized multifarious social context such as Nigeria therefore, demands a high level of professionalism and mutual accommodation among its operators. This is the essence of political pluralism which implies that "decisions are founded upon compromise and that various facets of society have a voice in government". Policy automatically "represents a consensus". Each group goes "away with the satisfying feeling that it has got whatever was possible". No group is "completely dominant, and none is shut out and left to smolder with resentment". The upshot of pluralism is thereby, "contentment and stability". The evils of "faction", so feared by the founding fathers of the presidential system, are done away with, not "by abolishing factions but by rejoicing in their multiplicity and their natural tendency to hold each other in check".⁶⁹

While in theory, the above given claim is a truism, but as far as Nigeria's political experiment since 1999 is concerned, this theory has since been proven wrong. The three arms of government hardly get along, with several protracted conflicts particularly between the executive and the legislature almost threatening to tear the democratic edifice apart. The conflict between the executive and legislature was a veritable source of tension.⁷⁰ One does not have to look too deep into political practices in Nigeria to see that the principle of separation of powers and checks and balance have been over the years, mal-applied, perverted and as a matter of fact,

⁶⁵ R E. Aiyede, "Legislature-Executive Relations in Nigeria's Democracy" ...

⁶⁶ A. Olukoshi, "The Legislature" in Oyediran. O; Agbaje. A (eds.), *Nigeria Politics of Transition and Governance, 1986-1996*, Dakar: CODESRIA. 1999. Pp. 177-196; Davies. A. E, *Executive-Legislature Relations and Democratization During the Military Transition Programme*, in Gboyega. A (ed.), *Corruption and Democratization in Nigeria*, Lagos: Friedreich Ebert Foundation. 1996. Pp. 36-46

⁶⁷ The sharing of governmental powers is contained in sections 4, 5, and 6

⁶⁸ V M. Chucks, Grace. O. U, Agbata. I. F, "Judiciary and the Theory of Separation of Powers in Achieving Sustainable Democracy in Nigeria (The Fourth Republic)" ...

⁶⁹ C O. Bassey, "Legislature-Executive Relations and the Future of Democracy in Nigeria", in Ojo. E. O, *Challenges of Sustainable Democracy in Nigeria*, Ibadan: Archers. 2006. Pp. 128-145

⁷⁰ Obiyan. A. S, "Political Party as an Instrument of Managing Conflicts: A Case Study of the People's Democratic Party (PDP) of Nigeria", *Kogi Journal of Politics* Vol. I, No. I, 2010. P. 30

abused in the Nigerian political reality.⁷¹ The Fourth Republic constitution tends to chart the line of conflictual power relationships instead of harmony between the executive and legislature.⁷² Though the constitutional crisis was abated, yet the constitution has not been amended. This conflict has degenerated into severe constitutional issues which have endangered or undermined democratic consolidation and hinder political development.⁷³ The source of conflict between the two arms of government borders on constitutional provisions and their interpretations, appropriation of funds, lack of understanding of the appropriate role of each arm of government by the other arm, institutional excesses, clash of regional interests, lack of adequate adherence to democratic norms and principles, among others.⁷⁴

General Abdusalami's transition to democratic rule in 1999 failed to make adequate provision of infrastructure and other resources required for the effective- functioning of the legislature at the national level. The legislators assumed office only to find to their dismay that they lacked office space, communication equipment and library for their work. The 1999 budget did not involve a provision for the National Assembly. Hence, the immediate preoccupation of the assembly leadership was to provide its own operational environment as part of the effort to establish its status as an important arm of government. In the face of this compromised power structure between the arms of government, from the beginning of 1999, there emerged seven areas of dispute between the executive and the legislature as identified by Obiyan below;

1. A presidential directive relocating four parastatals (The Nigerian Maritime Agency, NMA, The Nigerian Shipping Council, NSC, The Nigerian Ports Authority, NPA, and the Nigerian Railway Corporation, NRC) from Abuja to Lagos;
2. The scrapping of the Petroleum Trust Fund (PTF) by the President without recourse to the National Assembly. The PTF was established by Decree No. 25 of 1994;
3. The amount of money to be paid to the federal legislators as furniture allowance;
4. The proposal, by the President, to purchase a presidential aircraft;
5. Issues relating to appropriation of public funds;
6. Military deployment to Odi, a village in Bayelsa State, leading to serious bloodshed; and,

⁷¹ C. Ihemeje, Zaid B. A., "Factors Influencing the Executive and Legislative Conflict in Nigeria Political Development", *IOSR Journal of Humanities and Social Science (IOSR-JHSS)* Volume 21, Issue8, Ver. 7, 2016. P. 20

⁷² P. Mbah, "Executive-Legislative Relations in Nigeria: The Presidency and the National Assembly, 1999 -2006", *Nigeria Journal of Social Sciences*. 1. 2007

⁷³ R C. Eze, "An Overview of the Executive, Legislature Relations and the Consolidation of Democracy in Nigeria", *International Journal of Social Sciences and Humanities Review*. 2013

⁷⁴ Obiyan. A. S., "Political Party as an Instrument of Managing Conflicts: A Case Study of the People's Democratic Party (PDP) of Nigeria" ...

⁷⁵ Allegation of disregard for rule of law, aversion to consultation, and lack of respect for the National Assembly and separation of powers on the part of the president.⁷⁵

In the face of the tendency of the executive to subordinate parliament it faced an uphill task, especially as it needed public resources to strengthen its structures. The first conflict came in what came to be celebrated as the "furniture allowance palaver". Members of the National Assembly were paid between 21,000 and 14,000 naira daily as accommodation allowance, because the legislators' quarters were still under renovation. Once the houses were ready, the legislators demanded an allowance of between 3 and 5 million naira to enable each 'legislator furnish his own house according to their respective tastes. The executive felt that it was the responsibility of the federal bureaucracy to furnish the houses but the legislators argued that the sum (8 and 15 million naira) earlier proposed by the executive for furnishing the houses were not only exorbitant, previous renovation by the government at such exorbitant prices were badly done. The president put the issue before the public, arguing that the legislators' demand was a ploy to self-enrichment. The action of the president did not go down well with the members of parliament and it marked the beginning of the disagreement between the legislature and the executive.⁷⁶

In the 1999 constitution, Lewis observes that, there is a conflict of role between the executive and the legislature in respect to budget endorsement, execution and evaluation processes. The executive and legislature under the 1999 constitution were empowered to prepare and approve budgets of the federation respectively.⁷⁷ Consequently, sections 80 and 81 of the constitution further established the mode of approving and implementing the budgets. However, section 81, part 1, reserves the exclusive right to the executive in budget preparations. There are cases in which budget proposals from the executive which have been hampered by the legislature for approval. Also important is the conflict over the distribution and execution of capital Projects in the country. While the executive argued for its exclusive right for ensuring rationalism, national balance and realism in the distribution of projects contained in the budget proposals, the legislature wanted such projects implemented in a way that their roles are reflected in the spread of projects by providing for what they labelled constituency projects. They maintain that they also needed to be identified with specific contribution to their constituencies concerning the promised dividends of democracy. Accordingly, they made provisions for such projects as part of the amendments or adjustments to the budget proposals they received from the executive in

⁷⁵ Obiyan. A. S., "Political Party as an Instrument of Managing Conflicts: A Case Study of the People's Democratic Party (PDP) of Nigeria",

⁷⁶ R E. Aiyede, "Legislature-Executive Relations in Nigeria's Democracy" ...

⁷⁷ P M. Lewis, *Nigeria Country Report*. Cape Town: University of Cape Town Centre for Social Science Report

2001.⁷⁸ A 500-million-naira project for each legislative constituency was built into that budget by the legislators to make a direct impact on their constituencies. But the president felt it was uncalled for. As the years wore on, it became glaring to the legislature that such projects were consistently being disregarded in the process of implementation. The legislature challenged the president and accused him of trying to undermine their political fortunes, by eroding their electoral base.

Even though a clear majority of members of the legislature were members of the ruling Peoples' Democratic Party, they did not perceive a commonality of interest between them and the president. They accused the president of selectively implementing the budget, an action which in the opinion of the National Assembly was a contravention of Section 81(3) of the Constitution.⁷⁹ As such, the National Assembly vowed not to debate the 2002 budget until the President had offered satisfactory explanation on the implementation of the 2001 Supplementary Appropriation Act. The budget sent to the National Assembly for approval was gridlock for five months before it was later passed into law. The proposed budget was a total of N1.06 trillion which has about of N297 billion, capital expenditure and over N588 recurrent expenditure. Instead of passing the budget the legislature, however, increased the capital allocation as well as slashing the current allocation.⁸⁰ This does not go down well with the executive who later revised the budget estimate and proceeds with implementation of the revised version of the 2002 budget. This action prompted the legislature to embark on impeachment process against the president. But for the intervention of the party leaders in this bid, the legislatures would have had their way.⁸¹ What is more, the president was later accused of embarking on several extra-budgetary spending without the knowledge or consent of the legislature. These and other related offences were compiled to form the 15-point instances of constitutional breaches put forward by the House of Representatives to underscore the motion for the impeachment of the president on 18th August, 2002.⁸¹

Additionally, in 2003 similar budget conflict ensued between the executive and the National Assembly. The budget which was sent to the legislature in mid of November 2002 with the hope of passing it into law was eventually stocked and later approved by the legislature eight months later, in May and then signed into law by July 2003.⁸² Of course, the lawmakers concluded that their reason was to have time to study the budget because of its significance to the nation.⁸³

This trend in the relations does not promote political development as government business is mostly affected by this gridlock thereby making the country witness underdevelopment in many aspects of the society. Again, in 2004 budget presented was delayed because its approval was slowed by the National Assembly in order to increase the budget from the initial amount of N1.089 trillion to about N1.3 trillion.⁸⁴ This different role is what experts in executive and legislative relations called functional overlapping.⁸⁵ However, these conflicts between the executive and legislature in the Fourth Republic is identified by disagreements which occurred within the period. Thus, Abiodun, supported this claim when he stated that, conflicts arose when the president demanded huge sums of money in the form of supplementary provision from the legislature, which the National Assembly considered unnecessary and therefore, refused to approve.⁸⁶

Arising from these disagreement between the executive and the legislature were acts of political witch-hunting despite the leadership of both the executive and legislature belonging to the then ruling Peoples' Democratic Party (PDP), the executive led by President Olusegun Obasanjo, displeased with the way the parliament was querying its submissions to the parliament; the President therefore, sponsored his loyalists within the parliament and they succeeded in impeaching three consecutive Senate Presidents namely, Senators' Evans Enwerem, Chuka Okadigbo and Adolphus Wabara including the Speaker of the Federal House of Assembly, Honorable Salisu Buhari, who was impeached for forgery of certificate. Clearly, the conflict-ridden relationship that exist between the executive and legislature slowed down the process of governance, thereby having debilitating effects on good governance in the country.⁸⁷ The legislature and the executive have also disagreed over certain bills proposed by the executive. The most outstanding among these are; Independent Corrupt Practices and Other Related Offences (ICPC) Bill, and Niger Delta Development Commission (NDDC) Bill. The President vetoed the bills but the legislature turned them into law by two-thirds majority votes of the Senate and the House of Representatives, as stipulated by the Constitution.

On the NDDC Bill, the President wrote to the National Assembly objecting Sub-section 14(b), 12(1) (c) and 2(2a) of the Bill as passed. These sections concerned; funding of the proposed Commission, designation of its chief executive and, confirmation of the appointment of its chief executive officers. The President wanted the Assembly to

⁷⁸ C. Ihemeje, Zaid B. A, "Factors Influencing the Executive and Legislative Conflict in Nigeria Political Development" ...

⁷⁹ R E. Aiyede, "Legislature-Executive Relations in Nigeria's Democracy" ...

⁸⁰ C. Ihemeje, Zaid B. A, "Factors Influencing the Executive and Legislative Conflict in Nigeria Political Development" ...

⁸¹ The Guardian, 22 August, 2002

⁸² R E. Aiyede, "Executive-Legislature Relations in Nigeria's Emerging Presidential Democracy." UNILAG Journal of Politics. Vol. 2.No. 1. pp. 65 – 87. 2005

⁸³ Oni, Samuel Olorunmaiye (2013). Legislature-Executive Relations in the Presidential System: A Study of Lagos and Ogun States, Nigeria, 1999-2011

⁸⁴ C. Ihemeje, Zaid B. A, "Factors Influencing the Executive and Legislative Conflict in Nigeria Political Development" ...

⁸⁵ J Y. Fasagba, "De-Constitutionalizing? Democratic Governance in Nigeria: Assessing Executive-Legislative Handling of Executive Power Vacuum in the Fourth Republic". Africana. 2010. Pp. 7 - 44

⁸⁶ Abiodun, "Budget War", Newswatch, May 2000. No 14. Vol. 13

⁸⁷ A J. Momodu, Matuidi, G. I, "The Implications of Executive-Legislative Conflicts on Good Governance in Nigeria", Public Policy and Administration Research, Vol.3, No.8, 2013

remove the clause that requires that 15 per cent of the base revenue in the Federation Account be contributed yearly into 4 Commission's funds. He wanted the oil-producing states to contribute 50 percent of their 13 per cent derivation revenue accruing from the Federation Account, a provision that the assembly had removed from the original proposal. The President did not also want the appointment of the Commission chief executive to be subject to the approval of the Senate. He also wanted chief executive officer to be designated secretary as against managing directors preferred by the legislators. On this score, the President refused to sign after the 30-day delay in assenting the Bill, the two houses passed it with 4 required two-thirds stipulated by s. 59 of the constitution.

The president was accused of using financial inducement to influence the legislature to stall his impeachment and to also influence chief Obasanjo's Third Term Agenda. Reported cases of money being openly displayed on the floor of both Senate and House of Representatives as bribes being distributed by the executive to divide the house or enforce its will on the parliament rang through the air between 1999-2003. The third senate president had insisted during his valedictory address that the "notorious Ghana-Must-Go bags only came to the National Assembly from outside whenever there was an effort to impeach the leadership of the National Assembly". The president in turn accused the legislature of being corrupt, and of using blackmail and impeachment threats to force the executive to do its biddings.⁸⁸ It seemed that many legislators think impeachment is the only constitutional weapon against the President in a situation where appropriation laws made by them are not implemented to the letter. Senator Idris Abubakar had said in his reaction to the Appropriation Committee's suggestion that the Senate write to the executive seeking explanations on the failure to implement some sections of the 1999 Appropriation Bill that, "the only sanction we have against a President who breaches the constitution is impeachment. If there is no intention to comply with the appropriation, I submit that impeachment be considered . . ." Senator Mamman Ali, then Chairman Public Accounts Committee, expressed the same view: a "violation of the National Assembly Act is an impeachable offence".⁸⁹

In 2006 for example, the legislature instituted a committee to investigate the alleged illegal use of the public fund for personal use. Before then, both the president and his vice have been accusing one another of illicit use of money from the petroleum trust fund account. The Senate in its oversight investigated these allegations from both principal officers of the executive organ with the sole aim of punishing the offenders. However, the investigation revealed that it was the President who withdrew the fund and therefore indicted

him.⁹⁰ The President was not satisfied with the indictment as he alleged the Vice President manipulated the result of the investigative panel. As a result, another panel was set up, which later conducted afresh inquiry. The new panel, therefore, sort evidence from various parties and then found the Vice President guilty and recommend for his impeachment.⁹¹ While the issue of oversight power of the legislature is constitutional, through its investigative committee, the legislatures can indict the executive and recommend his impeachment if found wanting of misuse of powers. However, the constitutional immunity of the executive also protects him from facing criminal or civil actions, section 308 (1) of the 1999 constitution.⁹²

The resultant threats of impeachment of President Obasanjo by the National Assembly, for constitutional violations and "unconstitutional actions"⁹³ can be seen as desperate responses by the legislature to assert its independence and oversight the executive. The Senate of the National Assembly conducted investigations into the Presidency's handling of the Petroleum Trust Development Fund (PTDF) thereby exposing several corrupt dealings of the President and the Vice President⁹⁴ that scandalized the polity and threw the whole nation into a turmoil, which was only constitutionally managed by the judiciary in several litigations.⁹⁵ In 2007, closed-circuit monitoring cameras were discovered to have been secretly planted in the Senate Chambers. The planting of such devices was an infringement on the privacy of the senators as well as a reflection of dictatorship. The impetus and desperation of the perpetrator of such act to know how the senators conduct their affairs did not augur well with the tenets of democracy, especially as the cameras had earlier been discovered and removed from the Senate Chambers a year earlier. The idea of separation of powers being to prevent one arm of government from lording it over another, the act was a clear case of the executive arm acting as if the legislature was to exist at its pleasure. In the words of Nwabueze³⁸ surely, to bug the Senate in order to protect the security of the Presidency is a preposterous act of

⁹⁰ C. Ihemeje, Zaid B. A, "Factors Influencing the Executive and Legislative Conflict in Nigeria Political Development" ...

⁹¹ J. Y. Fasagba, "Legislative Oversight under the Nigerian Presidential System". The Journal of Legislative Studies. 2009

⁹² J. Y. Fasagba, "Legislative Oversight under the Nigerian Presidential System" ...

⁹³ On August 14, 2002, Motion for the impeachment of President Obasanjo was passed on allegations of misrule and constitutional violations, subsequent to the President's order for a probe of the National Assembly, the Senators and the Representatives. See Newswatch Magazine, September 2, 2002 Cover Story, pp. 12 – 19

⁹⁴ See the following Newspaper reports on the PTDF Scandal. Daily Trust, Editorial March 30, 2007, "Nigeria: On that PTDF Report" @: <http://allafrica.com/stories/20070330056.html>. Vanguard Newspaper reports of March 26, 2007 titled "Nigeria: PTDF: Group Urges National Assembly to Impeach Obasanjo

⁹⁵ Atiku Abubakar v A-G Federation [2007] 3 NWLR (Pt 1022) 601 at 646 and 648; A-G Federation & Ors v Atiku Abubakar [2007] 8 NWLR (Pt 1035) 117 at 155

⁸⁸ Yusuf Ali, "The Evolution of Ideal Nigerian Judiciary in the New Millennium" ...

⁸⁹ C. Ihemeje, Zaid B. A, "Factors Influencing the Executive and Legislative Conflict in Nigeria Political Development" ...

subversion of the autonomy of the National Assembly, that symbol of parliamentary democracy in Nigeria.⁹⁶

These developments had negative implications for the Presidential elections of May 21 2007, and the transition of power from a civilian government, (that had successfully governed for two terms) to another civilian government.⁹⁷ At the State level Governors Alamesieagha of Bayelsa State, Ladoja of Oyo State, Dariye of Plateau State, and Fayose of Ekiti were impeached by the their State Houses of Assembly. However, the Supreme Court invalidated these impeachment proceedings of the State legislatures for non-compliance with the constitutional provisions on removal of Governor, though it was not possible for Governors Alamesieagha and Fayose to return back to office. One of the early issues of discord between these two arms of government was the scrapping by President Obasanjo, of the Petroleum Trust Fund (PTF) established under Decree No. 25 of 1994. The National Assembly viewed this act as a usurpation of its constitutional responsibility of making and repealing laws. Thus, the conflicting relationship between the executive and legislature in Nigeria is always resulting in cases where either of the two ends using more powers than it has the constitutional rights to. This amounts to tyranny and abuse of power, which creates the possibility that the liberty of the people, the very purpose, and essence of government would be violated. This amounts to the possible abuse of fundamental human rights.⁹⁸ There is a gamut of supervision performed by the legislature in the Nigerian Fourth Republic. And these oversights sometimes clash with the perception of the executive which later results in conflicts of both institutional relationships.⁹⁹

By the provision of Section 6 of the 1999 Constitution of the Federal Republic of Nigeria, the judicial powers in all their amplitude are vested in the Courts. In modern democracy, the characteristics of democracy are free and fair election, judicial independence, free press, majority rule and protection of minority rights. The judgment of an Anambra State high court which nullified Governor Peter Obi's impeachment in some ways enhanced consolidation of Nigerian democracy. In the judgment, Nri-Ezeadi, J. held that the legislators acted in flagrant abuse of section 188(1) - (9) of the 1999 Constitution, which prescribes the mode of impeachment. The verdict was in line with the landmark judgment of the Court of Appeal in Adeleke V. Oyo State

House of Assembly (2006) 16NWLR (pt. 1006) 608. Also, in Vanguard April 19th, 2007, "the Supreme Court's verdict on Monday, April 16, which effectively returned to the ballot all candidates that INEC had disqualified" is a clear manifestation of the role of Judiciary in stabilizing Nigerian political system and sustaining Nigerian democracy.¹⁰⁰

V. RELATIONSHIP BETWEEN THE NIGERIAN ARMS OF GOVERNMENT: 2007-2015

The change of administration in 2007 opened the way to new legislature-executive relations in Nigeria's Fourth Republic. President Yar'Adua's different leadership style contrasted with Obasanjo's assertive personal control of many aspects of government.¹⁰¹ One area of conflict between the executive and the legislature during President Umar Musa Yar'Adua's government was the controversy generated by the president's ill-health. There was a lack of information about the president's health as he had not been seen in public since November 2009. The president failed to tender a letter of transfer of responsibility through the approval of the legislature to his vice-president Goodluck Jonathan before travelling abroad for treatment, in fulfilment of section 145 of the 1999 constitution of Nigeria. This was viewed by the lawmakers as absurd and awkward.¹⁰² Thus, this crisis that emanated from the deliberate refusal of President Yar'Adua to transmit a written declaration to the National Assembly to inform it that it was proceeding on health vacation once again, revealed the continued acrimonious relationship between the executive and the legislature in the Fourth Republic of the Nigeria's presidential model of democratic governance.¹⁰³ In December 2009, the members of the Nigerian parliament tactically avoided deliberations on motions raised on the constitutionality of the president's absence before the lawmakers embarked on recess that year. But, on return from this break, the chairman of the House Committee on Rules and Business, Honorable Ita Enang was quoted to have said;

The debate on Yar'Adua would come in the form of a motion and would be deliberated upon to allow lawmakers most of whom have been uncomfortable with the situation to air their views on the matter... the proposed debate would dwell largely on the constitutional and national security implications of the prolonged absence of the president and not necessarily on the state of his health since only his personal physician and the medical team in Jeddah are

⁹⁶ A E. Obidimma, "The Legislative-Executive Relations in Nigeria's Presidential Democracy" ...

⁹⁷ Based on Administrative Panel Report on the PTDF saga, the Independent National Electoral Commission (INEC) disqualified the Vice President from standing for election to succeed President Olusegun Obasanjo, the challenge of INEC's decision by the Vice President, Atiku Abubakar, in several litigations now pending before the Federal High Court, the Court of Appeal and the Supreme Court has raised some cloud of uncertainty on the Presidential election

⁹⁸ Oni, Samuel Olorunmaiye (2013). Legislature-Executive Relations in the Presidential System: A Study of Lagos and Ogun States, Nigeria, 1999-2011

⁹⁹ Ahmadu, R.A; Ajiboye, N, A Handbook on Legislative Practice and Procedure of the National Assembly, Abuja: National Secretariat of Nigerian Legislatures. 2004

¹⁰⁰ Vanguard April 19th. 2007. P. 17

¹⁰¹ P M. Lewis, "Nigeria Country Report", Cape Town: University of Cape Town Centre for Social Science Report. 2011. P. 188

¹⁰² P O. Mbah, "The President can Rule from anywhere: The Politics of President Yar'Adua's Health and Executive Instability in Nigeria", Journal of the Social Sciences and Humanities, Vol. 2, No.2. June 2017

¹⁰³ J Y. Fasagba, "De-Constitutionalizing? Democratic Governance in Nigeria: Assessing Executive-Legislative Handling of Executive Power Vacuum in the Fourth Republic".

*competent to discuss the nature of his ailment and to what extent he is recuperating.*¹⁰⁴

On the judicial side, it was one of its arms, the Nigerian Bar Association which was most vociferous on this issue. Nigerian Bar Association (NBA) was among the groups that called for resignation of Mr. President arguing that his health condition no longer allows him to perform his duties. NBA therefore declared their stand stressing that for the country and the present administration to go on smoothly, there was urgent need for Yar'Adua to resign and attend to his personal health problems instead of compounding things with activities of his busy office.¹⁰⁵ Nigerians were taken aback to note that on the corruption case between the people of Delta state and their former governor James Ibori was compromised by the judiciary when an Asaba Federal High Court, on 17th December 2009, cleared Ibori of the 170-count money laundering charge preferred against him by the Economic and Financial Crimes Commission (EFCC).¹⁰⁶ After much pressure from all walks of life, the Nigerian senate was on February 9, 2010, controversially used the "doctrine of necessity" to transfer presidential powers to Jonathan, and declared him Acting President until Yar'Adua returned to full health. For this decision, a number of opposition politicians accused the legislature of bringing party interest before national interest. This sense of reaction was well echoed in the statement by the then leader of the opposition, Muhammadu Buhari of the All Nigerian Peoples' Party (ANPP), who was quoted as saying;

*Political expediency won't remedy this kind of problem because if the Executive Council of the Federation had acted in accordance with the constitution, by invoking the necessary sections to declare the President incapacitated, we would not have found ourselves in this present situation... As you can see, adopting extra-constitutional measures have not addressed the problem. If it had, we would not have been subjected to the raging debates and controversy going on... So, we must go back to the constitution. The Executive Council of the Federation must do the right thing because once we start moving away from the constitution, then we are inviting anarchy.*¹⁰⁷

On the whole, during Yar'Adua's term as Nigeria's president, the sort of political horse trading that existed between the executive and the legislature as encountered during the government of president Olusegun Obasanjo between 1999-2007 somewhat pulverized. Yar'Adua cultivated a working relationship with the then senate president, David Mark, which explained why he was perhaps not subjected to any corruption inducing bait. Apart from the

premature termination of the appointment of Mrs Patricia Etteh as the speaker of the house of representative just about five months into her induction in October 2007 over an alleged spending of ₦628 million (\$4.8m)¹⁰⁸ on home renovation and automobiles of which she was forced to resign on 30th October, 2007,¹⁰⁹ both the then senate president, Mark and Etteh's replacement at the lower house enjoyed smooth sails respectively at the helm of their affairs until the unfortunate death of president Yar'Adua on 5th May 2010.¹¹⁰

Hardly had President Jonathan settled down in Aso-Rock than his administration began to get in conflict with the legislature. One of these conflicts was the legal battle on the validity of the amendment of the 1999 Constitution by the National Assembly without the signature of the President.¹¹¹ The legislature-executive disagreement was on whether or not constitutional amendment required presidential assent in order to become operational.¹¹² The position of the National Assembly was that the amendment, having passed through public hearings and passed by more than even the two thirds of the state houses of assembly made up of representatives of the people, the assent of President Goodluck Jonathan was not needed. It is pertinent to note that according to the provisions of Section 9 of the 1999 Constitution, amendment of the Constitution is within the purview of the National Assembly which must be supported by two-thirds majority of its members and approved by not less than two-thirds majority of members of the States House of Assembly in the Federation. Conversely however, Section 58 of the Constitution provides that a bill of the National Assembly shall not become law until it is assented to by the President. By Section 58 (5), it is only when the President exercises his veto power by refuses 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 to law by the support of two-third majority of the whole members, the President's assent no longer required (CFRN, 1999).¹¹³

Another manifestation of legislature-executive rivalry was on the removal of fuel subsidy by President Jonathan, on January 1, 2012 leading to increase in the pump price of PMS (petrol) from ₦65.00 to ₦141.00 per liter.¹¹⁴ Following the nationwide strike and mass protests that greeted the decision, the House of Representatives in an extraordinary

¹⁰⁸ "Nigerian MPs brawl over speaker", BBC News. 20 September 2007

¹⁰⁹ Sanni, Olusola, "N628m: Who Blinks First?", Nigerian Tribune, 5th October, 2007

¹¹⁰ "Today, I celebrate Yar'Adua for the work that he did – Jonathan", vanguard, 5th May, 2019

¹¹¹ O. S. Olorunmaiye, "Legislature-Executive Relations in the Presidential System: A Study of Lagos and Ogun States, Nigeria, 1999-2011", being a Ph.D Thesis Submitted to the Department of Political Science and International Relations, School of Social Sciences, College of Development Studies, Covenant University, Ota, May 2003

¹¹² U. Okorie, "Constitution Amendment: Presidential Right of Assent vs. Legislative Obduracy." Nigerian Tribune. Monday, September, 2010, p. 13

¹¹³ O. S. Olorunmaiye, "Legislature-Executive Relations in the Presidential System: A Study of Lagos and Ogun States, Nigeria, 1999-2011" ...

¹¹⁴ Akpan. M, "The President's Misadvisers", Newswatch, 25th May, 2014.

¹⁰⁴ "Nigeria: House to debate Yar'Adua's Long Absence" -thisdayonline.com

¹⁰⁵ Chris Oluoh "Yar'Adua's Ill Health: A National Disquiet", The Tide, 6th December 2006

¹⁰⁶ T. M. Ubochi, "December 17, 2009: A Black Thursday for Nigeria" -nigeriaworld.com

¹⁰⁷ "How Buhari called for impeachment of sick, absent Yar'Adua in 2010"-Pulsetv, 2nd September, 2017

session on Sunday, January 8, 2012 passed a motion in the House, demanding that the Federal Government rescinds its decision. Though the Senate did not adopt a formal resolution on the issue, Senators were alleged to have during a closed-door session on January 10, 2012 mandated the President of the Senate, Senator David Mark to convey the position of members that the hike should be rescinded.¹¹⁵ The legislators argued that the nation could not bear the full deregulation of the downstream sector of the oil industry at that moment. The President in a swift reaction however, described the House resolution as mere advisory which had no substantial effect. The executive argued that not even in the budget do the powers of the legislature go as far as dictating what should be the content and claim that the resolution of the House was tantamount to inciting the people of Nigeria against the government.¹¹⁶ 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.¹¹⁷ Such resolutions however, are persuasive and do not require the agreement of the president and therefore does not have the force of law but only an expression of the sentiments of the legislature.¹¹⁸

In this regard therefore, the decision of the legislature to pass a resolution on an issue that threw the nation into a weeklong chaos need not to have warranted such resentful reaction from the executive since the former was merely performing its role of expressing the will of the Nigerian people over the fuel price hike. The threats of impeachment of President Goodluck Jonathan by the National Assembly over poor implementation of the 2012 budget and non-implementation of some resolutions of the assembly particularly the recommendations on the Bureau for Public Enterprises (BPE) and the recall of the suspended Director-General of the Securities and Exchange Commission, Ms Aruma Oteh, contrary to the decision of the Lower House constitute another instance of legislature-executive face-off under the present administration.¹¹⁹ The nation's legislative assembly argued that the President was negligent in his primary duty in that the budget particularly, the capital expenditure, as reported by the MDAs, was abysmally implemented. The legislature asserted that a proper implementation of the budget would have addressed the nation's poor infrastructure. The legislature hinged its impeachment warning on section 143 of the 1999 constitution threatened to impeach him if the 2012 budget was not fully implemented by 8th September, 2012.¹²⁰ The executive however, contended that the serial impeachment threat against

it by the legislature was not in the interest of democracy in Nigeria.¹²¹

While the National Assembly hinged their impeachment threat on non-implementation of the 2012 budget however, the real bone of contention between it and the executive was failure of the President to execute all the constituency projects of lawmakers built into the 2012 Appropriation Act.¹²² Their grouse followed a breakdown of the projects in the budget, which allegedly indicated that some ministers had more projects than members of the National Assembly in their constituencies. Funding for projects was also discovered to have been skewed in favour of the projects initiated by the appointees of government, as against those put in the budget by the elected representatives of the people.¹²³ The impeachment threat therefore was a reminder to the President of the legislature's constitutional power, should the President continued to ignore their entreaties.¹²⁴ The persistent cat and mouse relationship between the House and the Presidency during this dispensation is however worrisome. The National Assembly and, indeed, the House of Representative is dominated by the PDP, the government party. One would have expected that this majority government, in which the President's party has overwhelming majority in the National Assembly, should have been a source of strength and not constant legislature-executive bickering. Conversely however, as averred by Olorunmaiye,¹²⁵ the cancer of prebendal politics and culture of settlement, mediocrity and opportunism continue to dictate political behaviour of these public officers.

More also, in October 2012, law makers had serious difficulty in allowing the president the chance to present his 2013 budget for the reason that the president and members of his executive cabinet were in fragrant abuse of the implementation of the previous year's budget. In fact, it took the spirited intervention of many respected members of the society and the leadership of the ruling party to appease the lawmakers to let go of their earlier insistence before the president could be given the opportunity to present the budget.¹²⁶ A similar controversy also trailed the budget presentation of the 2014 budget, as the request to admit the president on the floor of the House of Representative to lay the bill met very serious controversy at the floor of the House.¹²⁷

¹¹⁵ B H. Agande, and Inalegwu. S, "Senators, Reps React to Fuel Price Hike", Vanguard, January 21, 2012. p.1

¹¹⁶ Ajaero. Chris, "Paralysis", Newswatch. 23rd January, 2012

¹¹⁷ O. Oyediran, *Nigerian Legislative House: Which Way* (ed), Ibadan: Ibadan Consultancy Unit. 1980

¹¹⁸ O S. Olorunmaiye, "Legislature-Executive Relations in the Presidential System: A Study of Lagos and Ogun States, Nigeria, 1999-2011" ...

¹¹⁹ "Reps, FG on war path over Oteh's recall"- vanguardngr.com

¹²⁰ J. Ameh, "Reps May Soon Drop Impeachment Threat -Investigation", Punch, August 4, 2012

¹²¹ C. Okocha, Dele. O, "Presidency Cautions against Impeachment Threats," Thisday, 24th September, 2012

¹²² J. Ameh, "Reps May Soon Drop Impeachment Threat -Investigation" ...

¹²³ C. Okocha, "Impeachment Threat: President Jonathan Ready to Work with House." Thisday, July 22, 2012

¹²⁴ J. Ameh, "Reps May Soon Drop Impeachment Threat -Investigation" ...

¹²⁵ O S. Olorunmaiye, "Legislature-Executive Relations in the Presidential System: A Study of Lagos and Ogun States, Nigeria, 1999-2011" ...

¹²⁶ George Oji "Executive, Legislature in Cat and Mouse Relationship" NationalMirror, May 29, 2013

¹²⁷ A E. Obidimma, "The Legislative-Executive Relations in Nigeria's Presidential Democracy",

VI. RELATIONSHIP BETWEEN THE NIGERIAN ARMS O GOVERNMENT: 2015-2017

As we perhaps know, this period covered here is the current political dispensation in Nigeria. It begins with the emergence of president Muhammadu Buhari, which follows the defeat of the then incumbent Peoples Democratic Party led by Goodluck Jonathan by his currently ruling All Progressives Congress in the 2015 General Elections. Ever since president Buhari's emergence, the relationship between Nigeria's arms of government has not so much degenerated from what it has been since the dawn of the Fourth Republic in 1999. There was a lack of compromise between the president and the leaders of both houses of the legislative assembly in the 8th assembly. There was also the corruption allegation that led to the suspension (26th January, 2019), and later, resignation of the former Chief Justice of Nigeria (CJN) Walter Onnoghen 28th May, 2019, in what some analyst believed to be an orchestrated underhand ploy to nail him.

Whatever reason that might gone under the rug leading to the CJN's travails, is at this point no longer relevant, since he was tried and found guilty of the purported allegation by a court of competent jurisdiction. Onnoghen's trials started when a petition was filed by the civil rights group at the Code of Conduct Bureau (CCB) alleging that he owns "sundry accounts primarily funded through cash deposits made by himself up to as recently as 10 August 2016, which appear to have been run in a manner inconsistent with financial transparency and the code of conduct for public officials".¹²⁸ Walter Onnoghen was convicted by the Code of Conduct Tribunal (CCT) on Thursday April 18, 2019 for false assets declaration, With over 5 account undeclared¹²⁹ and he was unable to account for them. CCT rules that his banned from holding public office for 10 years.¹³⁰ President Buhari received Onnoghen's voluntary resignation letter which is effective from May 28, 2019.¹³¹ When president Muhammadu Buhari suspend Onnoghen and appointed Justice Tanko Ibrahim Mohammed as acting CJN, there were outcries across the federation that, the new CJN would end up serving as the mouthpiece of the executive, but the judiciary has ever since then maintained its independence going through a number of electoral malpractice litigations that were part of the fall-out of the 2019 general election. A recent report by Thisday newspaper captures this resolve in the following word;

...after the unfortunate events that shook the Nigerian judiciary to its foundation," he was determined to leave behind a justice system that would be the pride of all. The Nigerian judiciary, to a large extent, is independent in conducting its affairs and taking

*decisions on matters before it without any extraneous influence. At the Supreme Court, like I have always said, we are totally independent in the way we conduct our affairs, especially judgments. We don't pander to anybody's whims and caprices. If there is any deity to be feared, it is Almighty God.*¹³²

As regards the relationship between the Executive and the legislature, from the blast of the gun on the 29th May, 2015, when the 8th Assembly assumed office, the Senate President, Bukola Saraki, perhaps due to the then undisclosed intention to contest the 2019 presidential election, made himself symbolically a cog in the wheel of a free-flowing progress of executive proceedings in aspects where there exists a common frontier between the executive and the legislature. As faith would have it, he deceived the then speaker of the house of representatives, Yakubu Dogara into sipping some douse out of this self-deluding journey into the abyss. This conflict continued into the eve of the 2019 general election, where fate once again took its course with the voting out of Mr Saraki, although the speaker was re-elected, but loss his place as the head of the house in the 9th Assembly. There was allegation of budget padding labelled against the leadership of the legislature by the media and a number of well-meaning Nigerians as contained in the statement credited to the former governor of Lagos state and leader of the ruling Apc, Senator Bola Ahmed Tinubu below;

*National budgets were delayed and distorted as these actors repeatedly sought to pad budgets with pet projects that would profit them, Tinubu claimed in the statement. Even worse, they cut funds intended to prosper projects that would have benefited the average person. After four years of their antics, halting the progress of government, we should do all we can to prevent a repeat of their malign control of the National Assembly. He (Saraki) planted himself at the apex of legislative power. But his actions as Senate President showed a man devoid of compassion for the average Nigerian. All he cared for was power and position.*¹³³

It was as such not surprising that as the term of the legislature came to an end that Buhari in an interview with NTA zeroed in on the Saraki-Dogara legislature as one of the major encumbrances to the realization of his 2015 Change Agenda.¹³⁴ There was also the accusation and counter accusation between the leadership of the legislature and the executive over delay in approving the INEC budget for Nigeria's 2019 general election.¹³⁵ Certain allegations has

¹³² A. Enumah, "Supreme Court Won't be Subservient to Anybody, Says CJN", Thisday, 24th September, 2019

¹³³ B. Leke, "Your budget-padding allegation irresponsible, Saraki tells Tinubu", Punch, April 23, 2019

¹³⁴ Emmanuel Aziken, "What if Saraki, Dogara had not emerged?", Vanguard, 8th June, 2019

¹³⁵ "INEC budget delay: Hold Saraki, Senate Responsible-Presidency"-pmnewsnigeria.com

¹²⁸ "Justice Walter Onnoghen, at the Code of Conduct Bureau (CCB)", Oak TV Newstrack. 26 January 2019

¹²⁹ "CCT convicts Onnoghen of false assets declaration", Premium Times Nigeria. 18th April 2019

¹³⁰ Television, Oak, 23 April 2019

¹³¹ "Onnoghen convicted, ordered to forfeit over N46m to FG". OAK TV. oak tv

also been brought forth by the legislature against the executive such as the non-acceptance of some bills passed by the legislature which the executive turned down such as the Petroleum Industry Bill, the Electoral Act Amendment Bill, etc.

VII. CONCLUSION

As scholars have pointed out, there is a need for a harmonious relationship between the various arms of government especially in a poly-ethnic country like Nigeria, in order for society to achieve positive transformation. While

co-existence is necessary, there ought to be some caveat regarding what sort of co-operation that the arms of government needs because of the fear that, any form of co-operation taking place within the clique of a corrupt oligarchs is dangerous in all sense for the society. While it is reasonable at times for the various arms of government to disagree on several issues concerning the society for without this societal change is impossible, opposition among these arms have to be constructive in order not to lead society to a state of disharmony.