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Executive-Legislature Relations in Nigeria's Emerging Presidential Democracy

E. REMI AIYEDE*

Abstract

This paper investigates the recurrent executive-legislature face-offs in Nigeria in the Fourth Republic. It examines the underlining issues and strategies adopted by each arm in pursuit of its interests and how these strategies fuel and intensify the conflicts, noting the opportunities and challenges for reducing the tendency towards government immobilism. It argues that three factors have been critical to the relentless acrimony between the legislature and the executive. The first is the relative underdevelopment of the legislature in terms of institutional processes, role perception and rules of conduct. The second is the incoherence of the ruling People's Democratic Party (PDP) that rendered it incapable of enforcing discipline among its members in government. The third is the hangover from militarism, which reflects in the strategies adopted by both parties.

Introduction

NIGERIA adopted the British parliamentary model at independence in 1960. This system of government was practised until January 1966 when democratic rule was terminated by a military coup. Before the coup, democratic processes had been abused, reaching its climax in the federal electoral crisis of 1964/65 in which widespread violence occurred in the Western Region. Indeed, 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 civil democracy in 1979. The Murtala/

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Obasanjo military government of the period, mindful of the institutional failures of the First Republic set up a Constitution Drafting Committee (CDC) in 1975 to help produce a new constitution for the country. In declaring the mandate of the CDC, the government challenged the committee to produce a Constitution that would 'discourage institutionalized opposition to the government in power, and instead, develop a consensus in politics and government'. It recommended an executive presidential system of government, a system 'in which the president and vice-president are elected...[and] are brought into office in a manner to reflect the federal character of the country' (Mohammed 1976). Eventually, the CDC's sub-committee on the executive recommended a presidential system that was subsequently acceded to by the CDC plenary session and ratified by the CA. Thus, the Second Republic became a presidential democracy.

Although, the Second Republic also abruptly ended via a military coup, the presidential system was never perceived to be discredited. Hence the Political Bureau of 1987, the 1989 Constitution, the 1994 Constitutional Conference and the 1999 Constitution all supported the retention of the presidential system. This consistency in the support for the presidential system is a sufficient ground to conclude that Nigerians have come to accept the presidential system as the best for the country. But executive-legislature conflicts that have slowed down governance reform and heated the polity since the return to civil rule in 1999 challenge the capacity of the country to manage the executive-legislature gridlock that has been a major characteristic of the American system after which that of the country is modelled.

Indeed, managing executive-legislature relations has been the single most problematic issue since the return to democratic rule in 1999. Even after the conclusion of the second round of general elections in which President Olusegun Obasanjo secured a second mandate to rule from 2003 to 2007, the National Assembly overturned a presidential veto on a new Independent Corrupt Practices and Other Related Offences Commission (ICPC) Bill it earlier submitted to the President for assent on May 8, 2003. This was just a replay of the similar overturning of the presidential veto by means of two-thirds

vote of the two houses of the National Assembly in the Niger Delta Development Commission (NDDC) Bill, Order of Precedence Bill, and the 2002 Electoral Bill. Relentless acrimony over money bills has ensured that national budgets could not come into effect before three months into the fiscal year since 1999. Ten of the 36 bills passed and transmitted to the executive for assent were vetoed by the president (Anyim 2003). A motion for impeachment of the President that was moved in the House of Representatives on August 18, 2002, remains the closest the country has come to a constitutional crisis or a crisis of democracy. The motion symbolized both the dissatisfaction and frustrations of the national legislature with Obasanjo's presidency and its unsuccessful effort to establish its autonomy by asserting its powers. But, more critically, it represents the great challenge that the principle of separation of powers poses for the democratic consolidation and the re-legitimization process of the Nigerian state which had suffered severe legitimacy deficit from military repression and economic failures.

This paper investigates the executive-legislature relations in Nigeria in the first term of the Fourth Republic. It explores the nature of, and identifies the underlining issues in the recurrent face-offs between these two arms of government. The paper examines the strategies adopted by each arm in pursuit of its interests and how these strategies fuel and intensify the conflicts, noting the opportunities and challenges for reducing the tendency towards government *immobilisme*. It argues that three factors have been critical to the relentless acrimony between the legislature and the executive. The first is the relative underdevelopment of the legislature in terms of institutional processes, role perception and rules of conduct. These made the legislature unable to rise up to the intrigues and manoeuvres of the executive, and thereby rendered it a weak competitor for influence and prestige vis-à-vis the executive. These ultimately pushed it into the politics of frustration. The second is the incoherence of the ruling People's Democratic Party (PDP) that rendered it incapable of enforcing discipline among its members in government. The third is the hangover from militarism, which reflects in the strategies adopted by both parties. The hallmarks of these strategies include impatience with due process, a preference to assert power rather than negotiate,

bargain and build consensus; a tendency to use threat, arm twisting and blackmail in place of seeking judicial intervention where democratic processes have not proved useful on the part of both the presidency and the legislature.

Executive-Legislature Gridlock in Presidential Systems

The challenge of constructive executive-legislature relations, until recently, was considered to be particularly pronounced in a presidential system erected on the principle of separation of powers in the comparative literature. The high degree of power separation, whose essence is to prevent dictatorship by enabling elected officials to monitor one another's performance and call one another to order, was assumed to lead to executive-legislature gridlocks. Such gridlocks are often assumed to arise whenever different parties control the presidency and congress, although such gridlocks are not assumed to be limited to situations of divided governments alone. Even in instances where a party in government simultaneously enjoys dominance in parliament, executive-legislature gridlocks could become a problem. Considering the challenge that an executive-legislature gridlock is considered to hold for democratic stability, a lot of effort has been put into investigating the factors that account for divided government. Some ideas have even been put forward to help deal with gridlocks when they arise.

Linz, who based his study largely on the Latin-American experience, argues that this problem is the offshoot of 'dual democratic legitimacy' of two popularly elected independent organs. The entire country elects the president, as chief executive, while different constituencies elect the members of the Parliament, who together represent the entire country. The proximity of members of the legislature to the grass roots gives impetus to their claim to first-hand knowledge of the feelings and aspirations of the people. Consequently, either the executive or the legislature may choose to be so assertive that it denies the other the requisite complement for an effective functioning of democratic processes. The absence of legislative confidence, which keeps the legislature and the executive in tune with each other under the parliamentary system, raises the probability of disagreement. Unlike the

parliamentary system, the executive and legislative arms do not rise or fall together. Those who compose them are elected largely on the strength of their individual recognition. Thus, they are not strictly tied to their party position in the discharge of their responsibilities so that it may make no difference if the same party controls the two arms (Linz 1993). Laski (1992:76) describes the situation in the United States in this way: 'Each house of congress has a separate prestige, their common prestige is, by their nature, inherently anti-presidential in character. To be something, Congress is forced to take a stand against the president; it cannot be anything if it merely follows his (president's) lead'.

Linz argues further that the fixed term of the president might generate anxiety in the president as he/she tries to deliver within the limited time provided for his/her stay in office. This may lead to 'ill-conceived policy initiative, overly hasty stabs at implementation, and unwarranted anger at the lawful opposition'. When this is coupled with a false 'sense of being the only elected representative of the entire country and a tendency to conflate his supporters with the people as a whole', which is likely to be the case where the president is made through direct election, the room for negotiation, mutual respect and trust is seriously abridged (Linz 1993:119-123). The situation is worsened by the fact that the president cannot be discharged by parliamentary votes of no confidence (Riggs 1997).

Wilson (1992:74), who considered that such gridlocks in the US were linked to the disjunction between the interests of the two arms, suggests that the challenge is how to find a way of linking together the interests of the executive and the legislature. So long as these two branches are isolated, he argues, they must be ineffective to the extent of the isolation. His solution is the introduction of some elements of the parliamentary system through constitutional amendment that would allow some members of Congress to become members of cabinet.

The Committee on the Constitutional System of the US (1992:77-89) attributes gridlock to the diffuse structure of the executive-legislature process and the decline in party loyalty. The inherently conflictual relations arising from the nature of separation of

powers needed to be mitigated by party cohesion; hence the weakening of the party in the electoral arena has rendered it incapable of drawing the separated parts of the government into cohesion. It recommends electoral reforms, adoption of new party rules, constitutional amendments to enable presidents to appoint leading legislators to cabinet positions, and call for elections in the event of a deadlock or government failure.

However, Shugart and Carey (1992) have argued that the problems identified with presidential systems such as problems of temporal rigidity (fixed terms), majoritarianism and dual legitimacy are overstated. After an elaborate examination of the various institutional designs of presidential systems across the world (such as vetoes, budgetary prerogatives and decree authority), they conclude that the real reasons for regime breakdowns are the particular configuration of power in the hands of the president and incoherent party systems. In other words, institutional designs rather than the presidential system per se, account for regime breakdown.

Recent studies have questioned the empirical basis of the association of deadlock with divided government and both with poor performance of presidential regimes as well (see Cheibub 2002). Research on executive-legislature relations are now focused on explaining different contexts and institutional designs and their implications for governmental effectiveness, inter-branch cooperation and democratic survival (Cheibub and Limongi 2002, Carey and Shugart 1998). Finally, the transition literature has emphasized the significant effect of the duration and type of authoritarian rule on the challenges facing new democratic states (Linz and Stepan 1996:55-65). It also reminds us that the actual institutional forms adopted by new democracies are sometimes dictated by departing authoritarian rulers with an eye on returning to government (O'donnell and Schmitter 1986). Also worthy of note are the effects of the quality of leadership, perception of the executive and legislative actors of governance and its purpose, the power game in the larger society, historical legacies and political culture on the tone of executive-legislature relations (Lipset 1993).

Executive-Legislature Relations during the Second and Third Republics

Historically, the experience of Nigeria has been one of executive dominance. In the first republic, the executive dominated policy-making. Indeed, a national daily newspaper in 1963 referred to the federal legislature as an expensive irrelevant talking shop (Federal Government of Nigeria (FGN) 1987:208).

When the parliamentary system was to be replaced with a presidential system in 1979, the major issue was how to strengthen the legislature so that it can function as an effective check on the executive as well as an active, vigorous partner in the making of public policy.

In fact, the Constituent Assembly had envisaged a legislature that would be empowered to make laws, an institution that would play the role of a protector and watchdog of the people's right against any encroachment from any quarters – be such quarters other branches of government or external interests' (FGN 1987:209). It was in this light that the 1979 Constitution (FGN 1979:, section 135) empowered the legislature to impeach the president on the grounds of gross misconduct, and forbade the courts to entertain any action brought before them on impeachment. It also left it to the legislature to determine what constituted gross misconduct. The danger of this combination of powers in the legislature did not fulfil its dismal potential in the national government, as it was never utilized by the National Assembly. This was because of the overwhelming influence of the leadership of the parties in government that ensured party cohesion through the subordination of the individual aspirations of the members of parliament to the presidential ambitions of party leaders like Dr Nnamdi Azikiwe of the Nigerian People's Party (NPP) and Chief Obafemi Awolowo of the Unity Party of Nigeria (UPN) (Dudley 1982, Chapters 5 & 6).

The ruling National Party of Nigeria (NPN) did not control majority in the National Assembly, and had 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. 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 (Maduagwu and Uche 1992). 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' (Ikoku 1985:85). Even so, the constant confrontation and threat of impeachment that has characterized executive-legislature relations since the return to civil rule in 1999 were never witnessed.

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 of 1987, even though it was not strong enough to stop the Bureau from toeing the line of the 1977-78 CA by reconfirming the presidential system on the 'need for unity, energy and despatch at this point in our political history' (FGN 1987:168).

The Bureau was more concerned with 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 the legislature acted as an effective check on the executive while co-operating with it, the bureau recommended that it should be mandatory for ministers and commissioners to be present when matters affecting their ministries were 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 (FGN 1987:215). These two latter recommendations were however not accepted by the Babangida regime.

Under the General Ibrahim Babangida's inconclusive 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 Defence 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.

The 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 regard to the legislature (Olukoshi 1999, Davies 1996).

Executive-Legislature Relations and the 1999 Constitution

At the abortion of the Third Republic, executive-legislature antagonism was becoming a major challenge for presidentialism in Nigeria, hence the 1999 Constitution made some provisions that tried to rectify some of the problems identified with legislature-executive relations in the preceding republics. This is noted in two areas: money bills and impeachment of the president.

The 1999 Constitution, like all presidential constitutions, provided for a clear separation of functions and powers between the three arms of government. Section 5 (1) vests executive powers on the president and the powers extend to the execution and maintenance of the constitution as well as all laws made by the National Assembly. But the president cannot declare a state of war between the Federation and another country except with the sanction of the National Assembly sitting in a joint session. Nor can the president deploy the armed forces on combat duty outside Nigeria except with the prior approval of the Senate. But, in the case of imminent threat or danger, the president in consultation with the National Defence Council may deploy members of the armed forces of the Federation on a limited combat duty outside Nigeria (FGN 1999).

Section 4 (2) of the 1999 Constitution confers on the National Assembly the power to "make laws for peace, order and good government of the Federation, or any part thereof, with respect to any matter included in the Exclusive Legislative List" of the Constitution. For this purpose of law-making, Sections 88 and 89 grant the assembly the powers to conduct investigation as well as to take evidence and summon any person in Nigeria to give evidence. It can also issue a warrant to compel the attendance of any person, and failure to comply with such a summon may lead to his/her compulsion. This also includes the power to order such a person to pay the "cost" of such compulsion or impose fine for such failure or neglect. The Senate also has the power to approve the appointment of persons by the president to such positions as ministers, ambassadors and the like.

Section 6 of the Constitution provides that the judicial powers are vested in the courts. This section empowers the courts to determine the legality and constitutionality of the other two organs of government. Section 315 (3), in conjunction with Section 6 (d), specifically confer on the courts or any tribunal established by law power to declare invalid any provisions of any existing law on the grounds of inconsistency with the Constitution or Act of the National Assembly. By virtue of Section 4 (8) of the Constitution, the National Assembly is forbidden from passing laws that oust

the jurisdiction of the court. Thus, the combined effect of Sections 4 (8), 6 (6), 251 and 315 (3) of the Constitution is to make acts of the National Assembly and the President subject to judicial review.

Concerning money bills, Sections 80-83 under *Powers and Control over Public Funds*, provide a budget process that is typical of a presidential system of government where the executive and the legislative arms of government are at once autonomous and interdependent. Section 81(1) of the Constitution clearly gives the responsibility for budget proposals to the executive. However, Section 80 (4) suggests that the executive cannot discountenance the input of the legislature. This is emphasized by the clause, *except in the manner prescribed by the National Assembly*. But Section 82 provides a way out for the executive for a period of six months in the event of a deadlock between it and the legislature. These overlapping powers over the budget have proved to be a source of strain in executive-legislature relations since May 29, 1999.

Sections 143(1-11) and 144 (1) of the 1999 Constitution specify the circumstances under which the president may be removed from office. Section 143 talks about 'gross misconduct' which means 'a grave violation of the Constitution' or 'a misconduct of such nature as amounts, in the opinion of the National Assembly, to gross misconduct.'

For the purpose of impeachment, Section 143 (2) requires that a notice of allegation in writing should be signed by not less than one-third of the members of the National Assembly. Section 143 (2b) also requires that the notice of allegation be presented to the President of the Senate, outlining the details of the gross misconduct so specified. Within seven days, the senate president will serve notice on the president and each member of the National Assembly. Within 14 days, the National Assembly will then resolve, 'without any debate, whether or not the allegation should be investigated and this requires the support of two-thirds majority of all members of each house of the National Assembly'.

Furthermore, Section 143 (5) states that, within seven days of passing the motion under Section 143 (4), the Chief Justice of

Nigeria would then appoint 'a panel of seven persons who, in his opinion, are of unquestionable integrity, and not politicians, who would then investigate the allegations.'²

The panel of seven wise men is then required to sit for three months. The president is allowed to defend himself in person and be represented by his own lawyers. Then, if the panel finds the president guilty, the National Assembly is to adopt the panel's report within 14 days. Adoption of the report is not subject to appeal in a court of law.

A second ground of impeachment, as provided in Section 144, is 'permanent incapacity'. Unlike the 1979 Constitution, the 1999 Constitution did not leave impeachment solely to the discretion of the Legislature. The Judiciary also has a role to play. The sheer time and rigour involved in the process of impeachment render it a difficult exercise.

Executive-Legislature Antagonisms in the Fourth Republic

Three forms of conflict can be identified in the interactions between the executive and the legislature at the national level in Nigeria since 1999. The first is underlined by a struggle for prestige and influence by each arm of government. The second relates to the conflicts arising from the opposing perception of powers and roles by each arm in the functioning of separation of powers under the presidential system. The third arises from disagreement over issues of policy and the effort by each arm to enforce its preference.

The legislature has been a major victim of military intervention in politics in Nigeria, as it was usually shut down and abolished after each overthrow of an elected government. The military regimes did not only fuse legislative and executive functions; they also institutionalized a system and culture of government that was extremely executive-centred.

General Abdusalami Abubakar's transition to democratic rule in 1999 failed to make adequate provision for infrastructure and 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. Their situation was further aggravated by the absence of legislative tradition, the last effective national parliament being the one sacked in 1983 by the General Muhammadu Buhari military regime. 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 its bid to subordinate the parliament, the executive faced an uphill task, especially, as it needed public resources to strengthen its structures. The first conflict arose in what came to be celebrated as the "furniture allowance palaver." Members of the National Assembly were paid between 14,000 and 21,000 naira daily as accommodation allowance, because their official quarters were still under renovation. Once the houses were ready, the legislators demanded an allowance of between three and five million naira to enable each of them furnish his/her 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 for each Senator and House of Representatives member respectively) earlier proposed by the executive for furnishing the houses were not only exorbitant, but that previous renovations 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 MPs and it marked the beginning of the disagreement between the legislature and the executive.

Before the controversy over furniture allowance was laid to rest, the legislature became embroiled in another conflict with the president over the budgetary provision made by parliament for the accelerated development of legislative infrastructure. Sensing that the executive was not committed to strengthening the parliament, the legislators tried to use powers of appropriation to enhance the financial and infrastructural situation of the National Assembly. But, these efforts, as we shall see presently, only further deepened its conflicts with the executive over the limits and extent of legislative powers. Thus, the effort of the National Assembly

to position itself in order to effectively play its role became a source of conflict because, even the procedure for carrying out this repositioning exercise, was not clear. In fact, the Senate leadership became involved in contract award scandals that further diminished the public image of parliament (Ogbodo 2001:8-9, **Tell** 2000a:16-23).

Also important is the conflict over the distribution and execution of capital projects in the country. While the executive argue 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 maintained 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 2001. 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 People's 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. 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. 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 allegations of constitutional breach

put forward by the House of Representatives to underscore the motion for the impeachment of the president on August 18 2002.³

Key actors in the series of internal conflicts in the legislature have attributed them to an effort of the executive to weaken the legislature or to cause a change of leadership in the effort to make the legislature pliant and beholding to the President. The House of Representatives had two speakers and the Senate three presidents within the first four-year term of the Republic. The first leaders of both houses were believed to have ascended the office with the influence of the presidency in place of more popular candidates from the ruling People's Democratic Party. However, both candidates lost their offices on allegation of falsification of their bio-data. The first Speaker of the House of Representatives, Alhaji Buhari resigned after owning up to perjury and forgery. The first Senate President, Chief Evan Enwerem, was impeached after failing to clear himself of allegations of fraud and perjury levelled against him by Tell magazine.

The second Senate President, Dr Chuba Okadigbo, faced at least six publicly known moves by his colleagues to unseat him over allegations of corruption and arrogance. On one occasion, the Senate President hurriedly sent the Senate on recess and made away with the two maces to prevent opposing senators, led by his deputy, from reconvening!! He was eventually unseated after the Idris Kuta - led probe panel that investigated contracts in the Senate, following an Auditor General's report, indicted him of corruption in contract awards. According to the Auditor-General's report, an investigation of, and subsequent report on the national parliament were done at the instance of the president. The report was published and sent to the National Assembly with a letter with which President Obasanjo expressed concern about disregard of statutory procedures for tenders and about the 'self-approved allowances that the National Assembly is paying its members' (*The Guardian* 2000:2). Thus, members of parliament considered the role of the president in triggering the process that led to the change of leadership as an affront.

The second major source of antagonism has been the differing perception of roles and powers in the operation of the principles of separation of powers and checks and balances. This has manifested chiefly in matters relating to money bills. The budget proposal that

was prepared and submitted by the executive to the National Assembly in December 1999 included a provision of 2.6 billion naira out of a budget total of about 500 billion naira for the running of the National Assembly during 2000 fiscal year. But the National Assembly objected to the inclusion of its own budget by the executive in the proposal. According to statements made by the leadership of the legislature, it amounted to a violation of the principle of separation of powers and its independence. The legislature argued that, as an autonomous body, it reserves the right to prepare its own budget. It therefore went ahead to prepare its own budget without consulting with the executive. Thereafter, the Appropriation Committee of each house of the National Assembly considered the aggregate budget as different segments of the Appropriation Bill as they did the budgets of the executive and the judiciary. In the end, the legislature appropriated 22.7 billion naira for the running of the National Assembly. The huge sum was predicated on the need to remedy parliament's poor state of infrastructure, which the executive was not seen to be concerned about. Its leadership even awarded contracts in pursuit of this objective.⁴

However, the president perceived the actions of the legislature as an encroachment on executive functions. In a letter to the President of the Senate, President Olusegun Obasanjo queried the action of the National Assembly, arguing that its budget should pass through the executive for inclusion in the Appropriation Bill. He declared that there was a difference between power of appropriation and the power of allocation. In his opinion, it was part of the responsibility of the executive to provide for the needs of the National Assembly. Furthermore, he queried the massive adjustments in the budget that saw the expansion of the total size of the budget, insisting that the legislature had no amendment powers that extend to allocation of funds or translate into redrawing the budget. Thirdly, he requested the National Assembly to justify the 22.7 billion naira it appropriated for itself.

The Assembly contested the position of the president on the issue, saying that it was contrary to the constitutional principle of separation of powers. In the words of the Chairman, Senate Public Accounts Committee, Idris Abubakar, 'the constitutional thing is

for him (the president) to prepare the executive budget, we in the assembly prepare ours and the judiciary does the same. The Constitution also says that the National Assembly vets these budgets to see how they relate to the wishes of the people' (*Tell* 2000:18). The contention over the allocation of funds reoccurred again on the 2001 and 2002 budgets.

The legislature and the executive have also disagreed over certain clauses in bills proposed by the executive. The most outstanding among these are the Independent Corrupt Practices and Other Related Offences (ICPC) Bill, and the Niger-Delta Development Commission (NDDC) Bill. The president vetoed the two bills but the legislature turned them into law by two-thirds majority votes of both the Senate and the House of Representatives, as stipulated by the Constitution.

On the NDDC Bill, the President wrote to the National Assembly objecting to Sections 14(b), 12(1) (c) and 2(2a) of the Bill as passed. These sections concerned the funding of the proposed Commission, designation of its chief executive and the confirmation of the appointment of its chief executive officers. The president wanted the Assembly to remove the clause that requires that 15 per cent of the oil-based revenue in the Federation Account be contributed yearly into the Commission's fund. He wanted the oil-producing states to contribute 50 per cent of their 13 per cent derivation revenue accruing from the Federation Account to the Commission; a provision that the assembly had removed from the original proposal (Uganwa 2000:1-2). The president did not also want the appointment of the Commission's chief executive to be subject to the approval of the Senate. He also wanted the chief executive officer to be designated secretary as against managing director preferred by the legislators. On this score, the president refused to sign the bill. After the 30 day's delay in assenting the bill, the two houses passed it with the required two-thirds stipulated by Section 59 of the constitution.

Reasons for the Intensity and Relentlessness in the Executive-Legislature Acrimony in Nigeria

Three factors account for the intensity and relentlessness of executive-legislature acrimony in Nigeria. These are: the unequal development

of the two arms, the incoherence or weaknesses of political parties, and the quasi-coercive or militarized strategies preferred by both the president and parliament. In the first instance, the Nigerian case has shown that the executive-legislature co-operation is likely to be difficult in a context where two unequally developed arms of government are made to stand side by side as autonomous and competing arms of government. The legislative houses were immediately shut down after each overthrow of an elected government. Legislative and executive functions were then fused, thereby institutionalizing a system and culture of government that was extremely executive-centred. Thus, over the years, the executive function became overdeveloped, especially in its authoritarian elements, in relation to the legislative function.

The robust powers and established machinery at the disposal of the president has enabled him to treat the legislature with disdain. The legislature sought to bring the president from his Olympian height through the assertion of parliamentary autonomy. However, the effort to assert this autonomy was drowned in the perceived irresponsibility of parliament that has been created in the mind of the public by the president's frequent resort to plebiscitary appeals in his many conflicts with parliament, especially in instances when the legislature sought to strengthen its structures through public resources as in the furniture allowance saga. This has in several ways generated distrust and suspicion of the president's intentions, foreclosing negotiations while attracting confrontation. Parliament became increasingly frustrated by the president's pontificating style. When the country returned to civil rule in 1999, its burgeoning legislative tradition had been virtually eroded. The legislature is still in its infancy in terms of structures, functions and rules of conduct. It was not until two years into the four-year term that the administrative arm of the legislature, the National Assembly Commission, was established. As the second National Assembly was being inaugurated, the rules of both House of Representatives and the Senate were being contested. Thus, while the parliament was struggling to establish a framework for its operations, it had to contend with a president who preferred it to be beholding to the executive. These simultaneous challenges proved to be too much for the limited experience and skills of the leadership of the national parliament.

The second relates to the incoherence of the ruling People's Democratic Party (PDP), which, unlike the NPN of the Second Republic, has a clear majority in the National Assembly. This has been buttressed by the sudden withdrawal from the party of some of its founding fathers like Chief Sunday Awoniyi, Chief Edwin Ume-Ezeoke, and Alhaji Bamanga Tukur, as well as other party stalwarts. They had observed that 'the party has failed to give the positive and much-needed leadership because it is ridden of self-inflicted crises; lacks the stature, integrity and moral authority to lead, and to exercise any salutary influence on the executive arm of government and the legislature' (*ThisDay* 2000:1). The inability of political parties to mediate distributional contestation partly accounts for the frosty relations between the executive and the legislature.

For instance, the heightened conflicts, which characterized the relations between the executive and the legislature under Okadigbo's tenure as President of the Senate, was traced to Obasanjo's overt support for Evan Enwerem, the first impeached Senate President. Thus, the PDP was not able to reconcile the preferences of two powerful blocs concerning the leadership of parliament and other issues. The former Chairman of the ruling People's Democratic Party (PDP), Chief Barnabas Gemade, affirmed this failure when he lamented that its members in both houses failed to adhere to the directive issued by the party's caucus on the Niger Delta Development Commission (NDDC) Bill (*ThisDay* 2000a:1). As noted earlier, both houses went ahead to overturn the executive veto by a two-thirds majority vote. It was not until the scandalous display of sacks of money in the House of Representative by house members, who alleged that the executive provided the money to bribe members of the House of Representatives to impeach Ghali Na'Abba, that the party rose up to the occasion. It then set up a panel chaired by the Chairman of its Board of trustees, Dr Alex Ekwueme, to resolve the differences between the executive and the legislature.

The third explanation for the frosty relations between the president and parliament is impatience with due process. Every opportunity is used to emphasize the issue of independence and power. Instead of display of democratic qualities of negotiation, bargaining and consensus building, the public has been treated

to wild display of rabid disregard for due process and preference for political manoeuvres, quick fixes, arm-twisting and blackmail. Presidential liaison officers, who are supposed to smoothen relations between the legislature and the executive, have themselves become implicated in executive-legislature conflicts. Some have held press conferences where they made allegations against the National Assembly. On one occasion, the legislature declared a presidential liaison officer *persona non grata* in the National Assembly. The two organs have preferred press wars and mud-slinging to inviting the judiciary to adjudicate. The Chief Justice of the Federation, Muhammad Uwais, has decried this trend, warning that if the executive and the legislature continued to resort to extra-judicial measures in the rift between them, the judiciary may be redundant in its constitutional role of checking the activities of the two arms of government (*The Guardian* 2000a:1-2).

The National Assembly has accused the president of behaving like a civilian dictator by abrogating or merging institutions set up by law under previous regimes without submitting relevant bills for consideration by the National Assembly, or even informally consulting with the legislature. The president has also been accused of unduly using the mass media to incite citizens against their representatives, thereby smearing the image of the National Assembly.⁵

The president has been accused of using financial inducement to influence the legislature. Money has been openly displayed on the floor of both the Senate and the House of Representatives as bribes being distributed by the executive to divide the house or enforce its will on the parliament. 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' (Anyim 2003).³³

The president has, in turn, accused the legislature of being corrupt, and of using blackmail and impeachment threats to force the executive to do its biddings (Obasanjo 2003:10). It seems 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 Maman Ali, then Chairman, Public Accounts Committee, expressed the same view: a 'violation of the National Assembly Act is an impeachable offence' (*The Guardian* 2003:1-2).

Conclusion

In presidential systems, friction between the executive and the legislature is inevitable. A cordial relationship between the two arms of government poses difficult leadership challenges to the occupants of these offices, which the Nigerian political elite has not been able to effectively manage. Only in very few instances did we see the two arms disagree on fine points of policy in the period under review. The resort to extra-legal means of pursuing their separate positions has not proved to be very effective. The understandably weak nature of the political parties has worsened the situation.

The political elite will do well to the cause of democratic sustenance by keeping to the limits of power and by having greater recourse to judicial intervention where negotiations fail. Even so, constant consultation and dialogue should surmount the disposition to assert power and the tendency to give full vent to the arrogance and intolerance of power, if the democratic process and procedures are to be institutionalized. Happily, the president has expressed commitment to dialogue, and members of parliament seem to agree that the last four years has been a learning process. Unlike in the first term of the Obasanjo presidency, the ruling PDP was proactive in the process of electing the leadership of the National Assembly in the second term. And, in the closing months of the first term, the presidency resorted to the courts in its challenge of

the action of amending the ICPC Act by a two-thirds majority of the national parliament. It is therefore no surprising that executive-legislature friction has reduced considerably in the second half of Obasanjo's presidency. Anyhow, judicial intervention will be very useful to defining contending interpretations of roles and powers, especially concerning money bills.

End Notes

- ¹ The potential mutual antipathy and antagonisms between the president and Congress that characterises the US presidential system, and the dismal results of presidential systems in Latin America with a different political culture, were noted by the Nigerian constitution drafters but they did not consider these critical enough to render the system unworkable in a Nigerian context.
- ² The 1979 Constitution gave this power to the Senate President.
- ³ The 15-point allegations contained in Resolution No. HR 22 passed by the House of Representatives on April 13, 2002, and the response of the Executive Arm of Government is published in *The Guardian* (Lagos: August 22 2002), pp. 8-9. The allegations include non-implementation of budgets for 1999, 2000 and 2001, non-implementation of the capital aspect of the 2002 budget, extra-budgetary expenditure on certain capital projects and rampant overseas trips by Mr. President that are unbudgeted for, delayed release of funds to state governments and deduction of Debt Service Obligations at source, alleged use of Central Bank of Nigeria (CBN) as an institution for committing all sorts of fraud and illegalities, and running of the Nigerian National Petroleum Corporation (NNPC) as a private enterprise by Mr. President.
- ⁴ It is important to note that the preparation of the budget of the National Assembly by itself was not unique to it. The judiciary had prepared its own budget and sent it to the National Assembly for inclusion in the budget presented by the president.
- ⁵ For example, he was accused of taking advantage of a public forum, the 'International Seminar on Fostering Positive Relationship between the Executive and Legislative Arms of Government,' organised by the House of Representatives at the NICON-Hilton Hotel, Abuja, in August 2000, to castigate the National Assembly. The legislators viewed such action as an affront on their prestige. In the words of Idris Abubakar: '...the President has not handled the National Assembly with the respect it deserves' (See Tell 2000: 19).

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