

THE TRAVESTY OF STATE LEGISLATURE'S INFLUENCE OVER THE EXECUTIVE IN EXERCISE OF GOVERNMENT POWERS: THE NAUSEATING DYNAMICS IN NIGERIA

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Abstract

The legislature is an institution that protects government power from abuse by those elected or appointed into public offices. Its importance lies in ensuring good governance, prudent management of public funds, commitment to selfless service and protection of the terms of social contract between the governors and the governed. The legislature, as symbol of democracy, plays strategic role in this very context. However, situations arise in many instances where the executive disregards the noble intentions of the legislature in the exercise of its powers. This is noticeable in the manner the executive branch implements policies and uses funds assigned thereto discretionally. The consequent abuse of executive powers in the face of legislature tends to trivialize the powers it supposed to exercise over the executive, especially in policy implementation. It poses serious challenge to evolution of government that is responsive in Nigeria and necessitates research interest to unravel the powers that constitution vests in the State House of Assembly, the reciprocal attitudes of executive branch to those powers and the general impact on government approach towards governance. Documentary method provides the data used for the study and content analysis to draw the inferences. Furthermore, structural-functional theory serves as theoretical framework, thus relating functions to structure and the interdependent relationship that sustains their stability, mutual interface and harmonious operations. The findings show gross application of the powers conferred on the state legislature by law to influence how the executive branch exercises government powers. It therefore recommends autonomy for state legislature, enforcement of separation of power and cultivation of political will to exercise its powers without fear or favor.

Keywords: *Travesty, State Legislature, Influence, Executive Branch, Nauseating, Dynamics*

Introduction

The legislature has a constitutional responsibility to carry out oversight visits to project sites and MDAs. The purpose, generally, is to monitor the projects being implemented by the executive and ensure zero infraction of the implementation guidelines as contained in the Appropriation Law. In essence, during oversight visits, the emphasis is on quality assurance, and regular oversight visits, no doubt, facilitate speedy and timely delivery of projects by the contractors and other key project-implementing agencies of the government. The Enugu State House of Assembly constitutes committees for the purposes of carrying out these supervision functions. The 1999 Constitution, Section 103(1) stipulates that,

A House of Assembly may appoint a committee of its members for any special or general purpose as in its opinion would be better regulated and managed by means of such a committee, and may by resolution, regulation or otherwise as it thinks fit delegate any functions exercisable by it to any such committee.

It is not in doubt that the Enugu State House of Assembly constitutes committees, to undertake specific duties, which the House assigns to each of them. Nevertheless, at the inception of the administration, these committees were statutorily required to identify projects that executive initiated and spread across the 2007 – 2015 budgets, which were presented to the House and subsequently passed after routine legislative checks. These were inclusive of some projects inherited from the previous government that encompassed completed, uncompleted, not yet commenced or abandoned projects. Some of the projects were simply recycled in the subsequent budgets by the executive without the House demanding accountability from the responsible MDAs. The House was accused of lagging behind in using oversight to show which projects that the executive awarded, cash backed, and completed. The examination of various sectors that implemented the capital project components in each budget cycle provides insights into the enormity of budget abuse, the glaring negligible nature of legislative oversight, and the implications for efficient service delivery.

THEORETICAL FRAMEWORK

The study considers Structural functionalism as apt for analysis of structures and the functions they perform. David Easton (1957), Talcott Parsons (1959), Almond and Powell (1966), etc are amongst the scholars whose expository intellectual works brought the theory into limelight in political science studies. As a result, structural-functional approach has been a very popular and useful approach to the study of politics as political system, (Urry, 2000). In other words, structural – functional approach espouses “fundamental assumptions that aid in explaining political phenomena”, (Almond and Powell, 1966). Arguably, political governance is a function or activity defined in terms of structures and functions. It manifests in policymaking, the enforcement strategy, the manipulative tendencies that underlie political interaction among the competing forces, and the pattern of responses from the environment, because of the interactive process. It offers premises for identification of the systemic problems that hinder the effectiveness of a system’s structure and the factors responsible for the poor performance. In addition, it brings to fore the causal effects of inherent systemic problems with a view to solving them.

The constitution of the Federal Republic of Nigeria is an embodiment of legal instruments that define the state system, the type of government it adopts, the accompanying institutions (structures); and the functions assigned to each institution (structure) to perform. Since no government operates in a vacuum, the role that constitution plays is to share governmental functions in such ways that jurisdictional boundaries are clearly established and there is consequent reduction in power rivalry resulting in role duplication and conflict of interests. It ensures that no single institution monopolizes government’s power to the detriment of other institutions and justifies the principle of separation of power. By application of power separation, checks and balances, the legislative institution, as a distinct administrative structure for example, plays very important roles in state governance. Accordingly, Odinga (1994) compares between the structures created by the constitution (in terms of institutions) and the functions, which the parliament performs.

If the constitution is the embodiment of the aspirations, ideals and collective will of the people, the parliament is collective defender and watchdog of the aspiration, ideals and collective will of the people. If the constitution is the social contract between the people and their government, the parliament is the advocate for the people and the arbiter of the national interest. Indeed, if the constitution is (like the Bible, the Quran and other religious treaties) the covenant between the people and their leaders, the parliament is the repository and protector of the oracles of the political covenant and social contract between the people and their government.

What the foregoing comparison implies is that the legislature is a structure, which a constitution creates to perform specific functions, for the overall growth, effectiveness and sustenance of a political system. In Nigeria, the 1999 Constitution (as amended), Chapter V, Part 11, from Sections 90 to 129 deal with the substantive and other ancillary matters relating to the State Houses of Assembly, as administrative structure. The same applies to the National Assembly (the Senate and House of Representatives), Chapter V, Part 1, from Sections 47 to 89. The sections indicated above made provisions covering the powers of the legislatures; how they exercise them, and other numerous functions they perform. It is noticeable that these functions, including representation, lawmaking and oversight, have as their ultimate goal, the task of ensuring that the political system operates according to set rules. It ensures that no branch of government is above the law; that the public have unhindered access to contribute their quota in decision-making through their representatives in the parliament, the conducts of public policy implementation to conform to established laws and the management of national resources done in public interests.

It is a common notion that each structure created to perform political functions in most third world countries faces many challenges, and Nigeria's legislature is not an exception. Fundamentally, in every democratic process, the roles of legislature are relative to systems of government practiced and the orientations of its officials, but on a general note, all legislatures share much in common despite the form of political system. Mill (1861) rightly observes that legislative oversight is the key for a meaningful representative body. The proper office of a representative assembly is to watch and control their government; and the duty requires free flow of information from the executive. Since Nigeria returned to democratic rule in 1999, the public looks up to the legislature for performance of these functions and ensures there is accountability in the system. Okanya (2009) notes that,

The National Assembly can only carry them out reasonably and responsibly by knowing what the executive is doing; how programmes are being administered, by whom, and at what cost; and whether officials are obeying the law and complying with legislative intent.

In other words, how well the legislature performs its constitutional roles is a function of many intervening variables, such as institutional capacity in terms of personnel, equipments and resources; the nature of political system and party organization and to what extent they respect role differentiation bordering on the principle of separation of powers. More so, when viewed from the perspective of the level of understanding shared about the legislative and executive roles in the governance process by members of parliament and the executive; and how each branch is prepared to insulate its activities from conducts likely to compromise standards and due process. It thus requires transparency and openness in their activities. Most importantly, the activities of the legislature and the executive in terms of roles and their interdependence borders on mutual interaction between structures and functions and how they shape, influence and impact on policy formulation, execution and accountability. The interaction is tenuous in situations where steady expansion in state bureaucracy and the complexities of roles that the political system performs in sovereign states do not really emphasize many dynamic viewpoints from which many scholars view and discuss it. Eckstein (1963) aptly captures the diverse perspective in an explicit analysis, to show that,

We tend no longer to think of political systems solely as sovereign states and their formal sub-divisions but as any 'collective decision-making structures', or as structures for authoritatively collecting social values or as structures that perform the function of 'maintaining the integration of society or as structures that perform the functions of the integration and adaptation of societies by means of the employment, or threat of employment', of more or less physical compulsion, and in many other ways in a similar vein (Eckstein, 1963).

Based on the foregoing, it requires that the exercise of governmental powers are consistent with legal and institutional norms, thereby, lending credence to the emphasis on legislative oversight. The network of interactions between and among structures in a political system in relation to the functions they perform, typify the focal concerns of this study. It is no doubt appropriate to apply structural-functional analysis for explaining this research theme; hence the parliament as a creation of law has functions assigned to it and which is obligatory on it to perform and ensure prudence in the exercise of governmental powers. Thus, investigating the nature of relationship among legislative oversight, budget implementation and accountability in policy execution by the executive arm of government in Nigeria's political system is synonymous with critically analyzing how legislative functions influence government activities, which explains the interplay of structures and functions. Adopting the analytical method is apt and offers invaluable insights into the connection between structures and the functions they perform. Therefore, it justifies the application of the theory, to explain the legislature and executive as institutions assigned with functions that keep them in constant interface (legislative oversight and budget implementation) in Enugu State.

COMPASS OF CONSTITUTIONAL POWERS GRANTED STATE HOUSE OF ASSEMBLY

The legislature, in virtually all political systems, performs three basic functions: making laws for the good governance of the state or any part thereof, representation of the constituents from which the members are elected and conducting oversight over government activities that relates to management of public funds and policy implementation. These functions are dependent on the type of constitutional and institutional legal frameworks put in place to facilitate and support their performances, and there exist two major sources of powers ascribed to the legislature. They include the constitutional provisions (as contained in the 1999 Constitution, as amended - in the case of Nigeria) and the internal rules applied in the business of the House (commonly referred to as the Standing Orders of the House). Both legal structures (Constitution and the Standing Orders of the House) govern the conducts, operation and activities of the legislature in Enugu State.

The Standing Orders of the Enugu State House of Assembly (2012) in particular encapsulate its internal rules, while the Constitution made uniform provisions, which are of general application in each of the 36 State's Houses of Assembly in Nigeria. Therefore, the nature of the legal powers the House wields over the executive branch and the matters covered therein, form the concern of this hypothesis. The essence is to establish that the legal provisions promote the performance of legislative functions without executive censorship or that they hinder its operations. Listed and discussed below are the relevant provisions.

Powers of the Legislature over the Modification, Amendment, Rejection and Passage of Bills

Firstly, the power of a House of Assembly to make laws is exercised by bills passed by the House (1999 Constitution as amended, Section 100). On the other hand, the Standing Orders of the Enugu State House of Assembly (2012) also provided for bills and powers relating thereto, as instruments for lawmaking. Accordingly, a bill could originate from the executive and from amongst members of the House. This is usually classified as "Executive Bill" and "Private Bill". A bill that is introduced into the House passes through rigorous processes before it becomes a law. There is the first reading stage, the second reading stage and the third reading stage.

Each stage has requirements that determine how it progresses to the next stage. Moreover, "any committee to which a bill is committed may invite members of the public to testify and may entertain representations from any interested parties (Standing Orders, Section 57). After the House passes the third reading of a bill and it, the bill is thereafter forwarded to the Governor for his assent to become a law. A Governor is granted thirty days to signify that he assents or that he withholds assent to a bill passed and forwarded for his assent. Where he withholds assent and the bill is again passed by two-thirds majority of the members of the House of Assembly, the bill becomes law and the assent of the Governor is no longer required (1999 Constitution as

amended, Section 100: subsections 4 and 5). Generally, the major roles of the committees assigned with each bill are to examine them thoroughly. On that score, they engage in exhaustive debate and report their observations, proposed amendments or recommendations to the Committee of the Whole House (Standing Orders, Section 60:2-5). In consonance, Section 47 of the Standing Orders provides that

Any committee to which a bill is committed has power to make such amendments therein as they think fit, provided that every amendment shall be relevant to the subject matter of the bill and to the subject matter of the clause to which it relates; but if any such amendments shall not be within the title of the bill, they shall amend the title accordingly, and shall report the same specially to the House.

The legislature, therefore, has power to modify, amend, reject or pass any bill. The power exercised by the legislature over bills ensures that unpopular laws are blocked while the existing obnoxious laws could either be amended or repealed. With bills, perhaps, the legislature has enormous power to influence and shape the type and nature of laws passed by it that the executive implements in a State. These powers are vested in the legislature by existing laws and not subject to executive dictates but solely dependent on the perspicacity of the legislators to determine the forms they take.

Committee System in the House of Assembly and the Powers Conferred on them by Law

The components of the executive branch are large and their areas of operation vast for a House of Assembly with few elected membership to oversee all their activities as a collective. This accounts for division of the House into Committees. The rationale is to ensure that there is effective supervision of activities of the executive and therefore, reduction in likely incidences of avoidable relapse in the demand of their oversight responsibilities. In that regard, the Constitution provides in Section 103 (1) that a House of Assembly may appoint a committee of its members for any special or general purpose as in its opinion would be better regulated and managed by means of such a committee. It also states that, by resolution, regulation or otherwise as it thinks fit, the House may delegate any functions exercisable by it to any such committee.

Part of the functions involves oversight activities over the functions and duties of the executive branch, especially with regard to budgetary provisions and fund utilization for projects and policy implementation. The numbers of the committees vary, but usually reflect the numbers of government ministries, departments and agencies whose functions are subject to legislative oversight. For instance, the Standing Orders of the Enugu State House of Assembly (2012) categorized the committee into two types - **Special Committees** (Sections 53 to 57) and **Standing and Select Committees** (Sections 60 & 61). Their membership, powers and functions are also stipulated therein. Each type of the Committees consists of the following:

Special Committees Comprise:

- Committee of Selection (Section 53)
- Standing Orders Committee (Section 54)
- House Committee (Section 55)
- Business Committee (Section 56)
- Public Petition Committee (Section 57)

Standing and Select Committees

- Standing Committee (Section 60)
- Select Committee (Section 61)

Whereas the Special Committees, with the exception of Public Petition Committee are basically committed to addressing the internal affairs of the House, the Standing and Select Committees, essentially focus on consideration of bills and such other matters that may be referred to them (Standing Orders, Section 60:1). On matters relating to or bordering on investigation, which the House may be conducting, any Select Committee for that purpose or other roles for which it is assigned, has power to send for persons, papers and records and shall have leave to report its opinion and observations, together with the minutes of evidence taken before it, to the House. In that case, any person required by a select committee to attend before them as a witness shall be summoned by the Clerk of the Committee (Standing Orders, Section 61:9). This is termed “**power of summon**”. With it, both the government officials and members of the public are subject to the influence of the legislature, hence the power to summon anyone, as it thinks fit, to appear before it.

Powers and Control over Public Funds conferred on the Legislature by the 1999 Constitution

The 1999 Constitution (as amended), from Sections 120 to 124, vest enormous powers and control over Public Funds, Appropriation and Bills relating thereto, in the House of Assembly. These are broadly classified into five key areas and consisted of the following:

1. Establishment of Consolidated Revenue (Section 120: 1-4)
2. Authorization of Expenditure from Consolidated Revenue Fund (Section 121: 1-4)
3. Authorization of Expenditure in Default of Appropriation (Section 122)
4. Contingencies Fund (Section 123: 1-2)
5. Remuneration, etc, of the Governor and certain other Officers (Section 124: 1-5)

To ensure proper monitoring of all withdrawals from the payments into the Consolidated Revenue Fund, the 1999 Constitution in Section 120, subsections 1 to 4 states inter alia:

1. All revenues or other moneys raised or received by a State (not being revenues or other moneys payable under this Constitution or any Law of a House of Assembly into any other public fund of the State established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund of the State.

2. No moneys shall be withdrawn from the Consolidated Revenue Fund of the State except to meet expenditure that is charged upon the Fund by this Constitution or where the issue of those moneys has been authorised by an Appropriation Law, Supplementary Appropriation Law or Law passed in pursuance of Section 121 of this Constitution.
1. No moneys shall be withdrawn from any public fund of the State, other than the Consolidated Revenue Fund of the State, unless the issue of those moneys has been authorised by a Law of the House of Assembly of the State.
3. No moneys shall be withdrawn from the Consolidated Revenue Fund of the State or any other public fund of the State except in the manner prescribed by the House of Assembly.

These provisions are clear indications of how the power of Authorization of Expenditure from Consolidated Revenue Fund is exercised; including the allied obligations or responsibility of the executive branch in the management of public funds of a State. For example, section 121, subsections 1 to 4, specified the duties of state executive in each financial year and states that:

- 1) The Governor shall cause to be prepared and laid before the House of Assembly at any time before the commencement of each financial year estimates of the revenues and expenditure of the State for the next following financial year.
- 2) The heads of expenditure contained in the estimates, other than expenditure charged upon the Consolidated Revenue Fund of the State by this Constitution, shall be included in a bill, to be known as an Appropriation Bill, providing for the issue from the Consolidated Revenue Fund of the State of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.
- 3) Any amount standing to the credit of the judiciary in the Consolidated Revenue Fund of the State shall be paid directly to the heads of the courts concerned.
- 4) If in respect of any financial year, it is found that -
 - a. The amount appropriated by the Appropriation Law for any purpose is insufficient; or
 - b. A need has arisen for expenditure for a purpose for which no amount has been appropriated by the Law, a supplementary estimate showing the sums required shall be laid before the House of Assembly and the heads of any such expenditure shall be included in a Supplementary Appropriation Bill.

On the issue of Supplementary Appropriation Bill, section 122 provides that, if the Appropriation Bill in respect of any financial year has not been passed into Law by the beginning of the financial year, the Governor may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the State for the purpose of meeting expenditure necessary to

carry on the services of the government for a period not exceeding six months or until the coming into operation of the Law, whichever is the earlier. Nonetheless, a caveat defines the terms, circumstances of the withdrawal, and provides that:

The withdrawal in respect of any such period shall not exceed the amount authorised to be withdrawn from the Consolidated Revenue Fund of the State under the provisions of the Appropriation Law passed by the House of Assembly for the corresponding period in the immediately preceding financial year, being an amount proportionate to the total amount so authorised for the immediately preceding financial year.

The above caveat is intended to restrain the executive from reckless withdrawals for baseless expenditure, thereby putting serious checks on its activities. Nevertheless, the legislature is granted additional power to use its discretion in determining how certain emergent expenditures are met by the executive and the accompanying proviso thereto. Accordingly, section 123: 1 & 2 provides that:

- 1) A House of Assembly may by Law make provisions for the establishment of a Contingencies Fund for the State and for authorising the Governor, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.
- 2) Where any advance is made in accordance with the provisions of this section, a Supplementary Estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

In other words, the powers of the legislature over public funds, to determine when and how the executive branch withdraws from it seek to ensure fiscal discipline, proper husbanding of resources and provide a safeguard against the tendency to misappropriate public funds through unregulated withdrawals.

Powers Conferred on the Legislature by the Standing Orders of the House over Money Bills

The budget is an embodiment of money bills. An Appropriation Bill contains the estimated financial requirements for the expenditure on revenue account on all the services of the Government for the succeeding financial year. The details of these financial requirements are contained in the Estimates, which are presented at the same time (Standing Orders, Section 64:1). Upon presentation of Annual Budget Estimates (Appropriation Bill) for each financial

year, the legislature is by the dictates of the Standing Orders of the Enugu State House of Assembly, required to:

- 1) Debate the Appropriation Bill, focusing at inception on the financial and economic state of Enugu State and the Government's financial policy (Standing Orders, Section 64:3).
- 2) Deliberate on the bill in the public when the bill is committed to the Committee of the Whole House, called the "Committee of Supply" (Standing Orders, 64:5).
- 3) Move an amendment to reduce or increase the sum to be allotted for any Head of Expenditure or in respect of any such sub-head included in the Head or of any item included in the sub-head (Standing Orders, 64:10).

Other rules governing the procedures for such increase or decrease are further listed in the Standing Orders, section 64, from subsections 11 to 19. Nevertheless, the exercise of powers over money bills by the House has a caveat, which according to Section 67 of the Standing Orders of the House provides that:

The House shall not, except on the recommendation of the Finance Committee, proceed upon any bill, motion, amendment or petition which makes provision or requests that provision should be made for imposing or increasing any charge on the Consolidated Revenue Fund or other public fund of the State or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt to the State.

Most issues relating to examination of Expenditures from the Appropriation Law are usually referred to and majorly handled by the Public Accounts Committee, which the Standing Orders of the House vests with varying powers. These powers denote oversight of expenditures from the Appropriation Law passed by the legislature, and seek to ensure fidelity of public officials in the spending of public funds, accountability in the exercise of executive powers and performance of government functions. Accordingly and in specific terms, the Public Accounts Committee of the House has the power to:

1. Examine the accounts showing the appropriation of the sums granted by the House to meet the public expenditure, together with the auditor's reports thereon. The committee, for the purpose of discharging that duty, shall have power to send for persons, papers, and records, to report from time to time to the House and to sit notwithstanding any adjournment of the House (Standing Orders, 66:1).

2. Examine any accounts or reports of statutory corporations and boards after they have been laid on the Table of the House, and to report thereon from time to time, to the House and to sit notwithstanding any adjournment of the House (Standing Orders, 66:2).

Based on the foregoing, the House by the provisions of the Standing Orders has the powers to modify or amend the budget as presented by the executive. It also has power, as well, to override the veto of the Governor by two-thirds majority vote, in any events of disagreement or stalemate on decisions, with two-third votes of its members. The powers conferred on the legislature by the Constitution on financial control also extend to determining the pay packages (remuneration, salaries and allowances) of the Governor and other classified officers of the government. It also exercises additional power to grant or refuse the grant of gratuity or pension to the Governor and the Deputy Governor. The essence is to prevent the use of executive fiat in allocating funds disproportionately. According to Section 124: 1 to 5:

- 1) There shall be paid to the holders of the offices mentioned in this section such remuneration and salaries as may be prescribed by a House of Assembly, but not exceeding the amount as shall have been determined by the Revenue Mobilisation Allocation and Fiscal Commission.
- 2) The remuneration, salaries and allowances payable to the holders of the offices so mentioned shall be charged upon the Consolidated Revenue Fund of the State.
- 3) The remuneration and salaries payable to the holders of the said offices and their conditions of service, other than allowances, shall not be altered to their disadvantage after their appointment.
- 4) The offices aforesaid are the offices of Governor, Deputy Governor, Auditor-General for a State and the Chairman and members of the following bodies, that is to say, the State Civil Service Commission, the State Independent Electoral Commission and the State Judicial Service Commission.

In a similar development, it further states that provisions may be made by a Law of a House of Assembly for the grant of a pension or gratuity to or in respect of a person who had held office as Governor or Deputy Governor and was not removed from office as a result of impeachment; and any pension granted by virtue of any provisions made in pursuance of this subsection shall be a charge upon the Consolidated Revenue Fund of the State, (Section 124, subsection 5).

Powers of the Legislature to Review the Accounts of Public Funds Allocated to the Executive

As part of safety nets to proper utilization and accountability on all withdrawals from any public fund of the State, section 125, subsection 1 of the 1999 Constitution (as amended) states that “there shall be an Auditor-General for each State who shall be appointed in accordance with the provisions of section 126 of the Constitution”. Subsection 2 provides for the powers and duties of the Auditor-General:

The public account of a State and of all offices and courts of the State shall be audited by the Auditor-General for the State who shall submit his reports to the House of Assembly of the State concerned, and for that purpose the Auditor-General or any person authorized by him in that behalf shall have access to all the books, records, returns and other documents relating to those accounts.

In addition, “the Auditor-General for the State is empowered to conduct periodic checks of all government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by a law of the House of Assembly of the State” (Section 125: 4). Furthermore, “the Auditor-General for a State shall, within ninety days of receipt of the Accountant-General’s financial statement and annual accounts of the State, submit his reports to the House of Assembly of the State and the House shall cause the reports to be considered by a committee of the House responsible for public accounts” (Section 125: 5).

Remarkably, the Auditor-General for a State shall not be subject to the direction or control of any other authority or person (Section 125: 6), in the exercise of his functions under this Constitution. The motives are to prevent undue influences in the auditing of the revenue and expenditure profiles of the State government and to ensure there is compliance with the Appropriation law, public procurement laws, guidelines on financial regulation and accountability in the management of funds allocated for various purposes relating to policy implementation. The summary, therefore, is that the Appropriation Law is a law, which authorizes the budget estimates passed by the House of Assembly, and the Executive is duly required to implement and accounts for them. Since it involves financial estimates relating to proposed projects, the House of Assembly is obligated to ensure that the Executive complies with the provisions, and that is the essence of legislative oversight.

Powers of the Legislature to investigate the activities of the Executive on Policy Execution

Section 128, subsections 1 & 2, categorically lists the roles and powers of the House of Assembly, in this regard. Essentially, Section 128 (1) empowers the House of Assembly to direct or cause to be directed an inquiry or investigation into,

- a) *Any matter or thing with respect to which it has power to make laws; and*
- b) *The conduct of affairs of any person, authority, Ministry or government department charged, or intended to be charged, with the duty of or responsibility for;*

- i. *Executing or administering laws enacted by that House of Assembly, and*
- ii. *Disbursing or administering moneys appropriated or to be appropriated by that House.*

Subsection 2 of Section 128 elucidates further by stating that the powers conferred on the House of Assembly under the provisions of this section are exercisable only for the purpose of enabling the House to:

1. *Make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and*
2. *Expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement, or administration of funds appropriated by it.*

Based on the foregoing provisions, the legislature does not claim responsibility for oversight of the executive in a vacuum, nor would executive feign ignorance of the constitutional provisions compelling it to account. In adhering to this power, the constitution provides in section 108 (1) for the “Right of attendance of Governor” to the meeting of a House of Assembly of a State. The purposes are either to deliver an address on State affairs or to make such statement on the policy of government as he may consider of importance to the State. Apart from the Governor, subsection 2 of section 108 concerns the office and a person of Commissioners in the service of the State. It focuses on the discharge of their official duties and the consequent developments deserving of clarification. It thus makes it a matter of writ, that:

A Commissioner of the Government of a State shall attend the House of Assembly of the State if invited to explain to the House of Assembly the conduct of his Ministry, and in particular when the affairs of that Ministry are under discussion.

In addition to the foregoing, the Standing Orders of the Enugu State House of Assembly (2012) in section 13, subsection 1 also discussed “Questions” as instrument for legislative oversight. It, however, authorizes that questions may be put to Commissioners relevant to the public affairs for which they are officially responsible. The question could require that the Commissioner to which it is addressed shall either appear in person to provide oral answers to them or send an answer to the Clerk for printing in the Official Report (Section 14: 5 & 6). Moreover, the House could also exercise oversight through “Public Hearing” (Section 46). It thus provides for Public Petition Committee (Section 57).

Powers of the Legislature to Obtain Evidence during Investigation

Section 129 (1) provides that for the purposes of any investigation under section 128 of this Constitution, and subject to the provisions thereof, a House of Assembly or a committee appointed in accordance with section 103 of the Constitution shall have power to –

- a) Procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable, and examine all persons as witnesses whose evidence may be material or relevant to the subject matter;
- b) Require such evidence to be given on oath;
- c) Summon any person in Nigeria to give evidence at any place or produce any document or other thing in his possession or under his control, and examine him as a witness and require him to produce any document or other thing in his possession or under his control, subject to all just exceptions; and
- d) Issue a warrant to compel the attendance of any person who, after having been summoned to attend, fails, refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the House of Assembly or the committee, and order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure, refusal or neglect to obey the summons and also to impose such fine as may be prescribed for any such failure, refusal or neglect; and any fine so imposed shall be recoverable in the same manner as a fine imposed by a court of law.

According to subsection 2, a summons or warrant issued under this section may be served or executed by any member of the Nigeria Police Force or by any person authorized in that behalf by the Speaker of the House of Assembly of the State.

Powers of Legislature over Confirmation of Government Nominations for Appointment

In addition, the House of Assembly has power over confirmation of some government appointments and can withhold confirmation of executive nominations for appointment, etc. This is among other salient powers it exercises over the activities of executive branch of government. In particular, the exercise of approval authority over the finances of the State by the legislature is considered very crucial in holding government officials accountable for all actions and inactions relating to management of public funds. In this power rests the supremacy of the legislature over the executive branch since there is no government action that does not involve spending public fund, thus necessitating transparency and accountability as necessary conditions for provision of obligatory services and enthronement of good governance in the system.

HOW THE STATE HOUSE OF ASSEMBLY USE THESE CONSTITUTIONAL POWERS

The State House of Assembly rarely enforces its powers except where the chief executive secretly accedes to the action. Some examples suffice and Enugu State House of Assembly serves the purpose.

A. Investigation/Public Hearing by the House Committee

The House Committees investigated few numbers of government institutions and functionaries to substantiate the allegations of financial impropriety, poor handling of project and abuse of office leveled against them. These included a Special Ad-hoc Committee that investigated the sabotage on the execution of contracts awarded on the 2010 TETFUND Special Intervention at the Institute of Management and Technology (IMT). At the end, some members were indicted and subsequently removed from office, (Fourth Session, No. 8, Order Paper, Tuesday 22nd July 2014). The House, in that order, investigated the Chairman of ENSUBEB and the recommendation resulted in the abrupt removal of the Chairman from office. It also investigated and impeached the Deputy Governor, Mr. Sunday Onyebuchi (Fourth Session, No. 8, Order Paper, Tuesday 22nd July 2014). The Chairman of ESWAMA was removed and replaced after investigation conducted by the House.

B. Summon/Invitation as Legislative Tools

The Enugu State House of Assembly equally used this tool in its oversight. For example, it summoned the Hon. Commissioner for Lands and Urban Development, Enugu State – Dr. Chukwuemeka Ujam and Hon. Commissioner for Enugu Capital Territory Development – Hon. Engr. Ikechukwu Ugwuegede and questions posed to them for oral answers (Third Session, No. 22, Order Paper). It also summoned the Hon. Commissioner, Ministry of Education – Prof. Okoro Uchechukwu Chris; Chairman, Enugu State Universal Basic Education Board (ENSUBEB); M/s Nneka Onuora and Managing Director, Emenite Ltd, Emene Enugu to clarify issues relating to projects executed by the Board. Similar invitation was extended to the Hon. Commissioner, Ministry of Water Resources – Engr. M.C. Nwachukwu PhD and the Managing Director Water Corporation, Engr. Chinedu Aka, over suspension of concession of Water to any private company in the State (Fourth Session, No. 27, Order Paper).

C. Resolutions/Orders made by the House of Assembly

The House through a motion passed a resolution to set up a Special Ad-hoc Committee to investigate the sabotage on the execution of contracts awarded on the 2010 TETFUND Special Intervention at the Institute of Management and Technology (IMT) Enugu (Third Session, No. 20, Order Paper). It also made an Order of Notice of Impeachment on His Excellency, the Deputy Governor of Enugu State – Sunday Onyebuchi on allegations of gross misconduct in the performance of the functions of the office of the Deputy Governor of the State (Fourth Session, No. 8, Order Paper). Additionally, it passed a resolution requesting the State Government to participate in the N220 billion Central Bank of Nigeria Micro, Small and Medium Enterprises Development Fund (MSMEDF) HM/07/2014 (Fourth Session, No. 18, Order Paper).

Remarkably, some of the investigations conducted by the House committees, in Enugu State, were politically motivated. For example, the investigation and subsequent impeachment of the Deputy Governor, Mr. Sunday Onyebuchi and the ouster of Chief Mrs. Ethel Ezeabasi from ENSUBEB fell under

the category. Both challenged their removal in the court, and got judgment in their favour. By the similar political reasons, the State House of Assembly in Nigeria is a weapon in the hands of governor in prosecution of political wars. The State Assembly has removed many deputy governors from office and the person behind the mask is usually the governor. It is in extreme cases that State House of Assembly invokes its powers. It has not been prominent and sometimes used for political reasons and not by any genuine intention to entrench sanity in the conducts of the executive. It shows that State House of Assembly plays insignificant roles in influencing executive activities, which it has legal powers (enshrined in the 1999 Constitution (as amended) and the Standing Orders of the House) to review, modify, and amend or restructure the intended policy/programmes of the executive.

Nonetheless, virtually the State Houses of Assembly in Nigeria paint a picture that qualifies for a rubberstamp tag. They demonstrate this in several ways, in their official and unofficial conducts. Besides the fact that they do not have control over their internal affairs, they frequently divide along distinguishable interests, by the promptings of the executive and it makes each legislator becomes weary of conducts that spot him/her as an opposition. It makes the House play the role of clearing agents for executive projects and programmes with attached meager commission paid as bounty. The powers of the House decline once it relegates its premier position in state administration and especially when the individual legislators de-market the authority and significance of the institution.

CONCLUSION AND RECOMMENDATIONS

The summary of the foregoing discussions and issues clinically examined, provide insights on the inability of the State House of Assembly to live up to the call of its duty. This is despite the public perception that the legislature is strategic in achieving executive compliance with provisions of laws, and for accountability in governance. There are many powers that the existing constitutional and institutional legal frameworks confer on the legislature to perform its functions. These functions relate to lawmaking, representation and oversight. Based on the foregoing analysis, the consequent inference is that the State House of Assembly has sufficient powers to be independent and perform functions allotted to it but prefers to vacillate in applying them when it matters most in governance process and in its relationship with the executive branch. In fact, rather than the executive depends on the legislature, the reverse is always the case and the phenomenon is a misnomer in democracy.

Profoundly, the power over appropriation practically implies this dependence. This is because no government functions without financial appropriation. Except for few caveats that permit, spending of public funds that legislature did not appropriate when passage of budget is delayed, any withdrawal and spending from the consolidated revenue fund is impeachable offense. The State legislature does not leverage on this power and advance its cause. In other words, it attaches insignificant meaning to the power of control over public funds, which is the critical weapon it possesses to cause executive to submit to its dictates. It demands that each State House of Assembly should go back to the drawingboard and reinvent its mission in the service to the

state. Constitution does not operate itself but the people it has empowered to do so. There should be commitment to the practice of constitutional government and it starts to make meaning when lawmakers abide by the dictates of law they make.

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