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Issues and Problems Relating to the Passage of the Appropriation Bill in Nigeria

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Abstract

Nigeria's 1999 Constitution (as amended) is unique in many important respects. Among others, it was conceived and expressly written by the military. This no doubt raises quite significant epistemological issues and problems of concern in political and legal theories. The constitution clearly indicates that the responsibility of the legislature is primarily law-making and therefore has contained in it clear provisions and references. There are however, quite polemical issues and problems arising from the passage of the yearly Appropriation Bill into law. The paper concerns itself with these polemical issues and problems. Consequently, what are these issues and problems? Why are, or what and what make the issues and problems polemical? How can these issues and problems be resolved? And what relationships in theory and practice, that can be formulated between the resolution of these issues and problems and democratic political stability in Nigeria? The approach of the paper includes a critical examination and analysis of the contentious arguments and debates in legal and political theories with respect to the role of the military in constitution drafting in transitional societies. It further includes the discussion and evaluation of the aspects of the constitution relating to the control of public funds. Finally, it provides recommendations on the reform of the administrative and political processes and procedures relating to the exercise of power and control of public funds and monies within the framework of the constitution as a way of reducing and eliminating the contentions between and among the organs of government especially between the executive and legislature.

***Keywords**: Constitution; Political and Legal Theories; Control of Public Funds; Monies*

INTRODUCTION

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What are the many issues in legislative activities? How can the issues be articulated and organized for the purpose of research? How can the research help in the understanding of the knowledge of the differences and similarities in the legislative processes and procedures of global parliaments? Notwithstanding the centrality and criticality of the aforementioned questions, the study of the legislature, it is further observed, is not a recent academic exercise. Avalanche of treatises already exist on the subject matter - see Olson (1980), Kornberg (1973), Blondel (1973), Butt (1967), Davidson (1969), Fishel (1973) Campion (1958) Fenno (1966) Herman and Mendel (1976), Keefe and Ogul (1977), Mezey (1979), Wheare (1967), among others. The studies and treatises however, neglect the legislatures of the Third World. Following the "Third Wave" of democratization of the 1990s, the legislature, as an

institution of government, is gradually being established and its independence as well recognized. We might then ask: What can the developing world contribute to the knowledge and understanding of comparative legislatures and legislative studies in general? Comparative legislatures and legislative studies as sub-fields of political science have continued to enjoy the attention of North American and Continental European scholars to the extent that the experiences and practices of established democracies currently dominate extant literature. These experiences and practices, it is important to emphasize further, have become standards of evaluation and assessment of the issues and problems that do constitute the nature and character of scholarship on the subject matter. This is not good enough. It has significant negative impacts on the emerging generalization and standardization of existing procedures and processes of investigation. This further constitutes a gap to be filled and remains the objective and purpose of the current investigation. Gap further exists in the extant examination and analysis of the inquiry into the causes, effects and dimensions of the tensions between the legislative and executive arms of government- see Buck (1972), King (1976), Lee (1975), Riccards (1977). Even though the developing world provides the many cases of examination and analysis of the tensions, the fact still remains that existing efforts are not critical and indepth enough – see Akinsanya and Davies (2002), Isijola (2002). This calls for research using different and complementary perspectives of law, politics and administration to investigate the tensions with the view to developing and formulating informed generalizations about their existence so that appropriate recommendations can be made on how to further ameliorate and reduce the tensions.

Using the experiences and practices of the developing world to expand the scope and subject matter of the study of the legislatures of the world raises quite significant epistemological problems and issues. Among others, what is the level of stability of the developing political systems to warrant their inclusion into the framework of legislative studies? There is the need, it is here being reasoned, for relative degree of stability in these political systems for attention to be focused on their legislatures. A measure of this relative stability is the extent of application of the constitution as both the fundamental legal charter and as well as the mechanism specifying and regulating the allocation of powers and responsibilities between and among the organs of government and especially, in the interpretation of disputes between the legislature and the executive by the courts. The legislatures of the developing world pose other important challenges for the purpose of research. How, for instance, can the extent of their institutionalization be measured and against what indices and parameters? Furthermore, what is the extent of

eISSN 2600-9374

their organization and what amount of differences and distinctions that exists between the normal processes and procedures of bureaucracy and the peculiar processes and procedures of the legislature as being practiced in these legislatures? To what extent do party caucuses exist, and what is the relationship between these caucuses and political parties, both ruling and opposition? What is the degree of the independence of the legislatures and to what extent is this respected by the executive arms of government in the political systems of the Third World? All the questions are critical to the study of the legislatures and the extent to which clear and dependable answers can be provided to them would go a long way in establishing the fact that they deserve study and hence be integrated into the existing international framework of study. The paper's central argument is that the understanding of the workings of global legislatures and parliaments and the emerging generalizations and standardizations are dependent on critical examination and analysis of the issues and problems as here enunciated and from the perspective of the Third World.

The post-independence legislatures of the developing world and their study are very recent, see- Hopkins (1975), Komberg and Pittman (1976), Akinsanya and Davies (2002), Isijola (2002), Agbaje (2001), among others. Where the military took the reign of government and illegally established themselves politically, executive and legislative arms of government were fused into and exercised by either a military, individual authority or by Ruling Councils with the powers of the court greatly reduced. The modern procedures and technicalities inherent in legislative practices were never allowed to determine, shape and influence legislative outcomes. Decrees and Edicts rather than Acts emerged from military incursions into politics. It is further interesting to note that the military as well implemented and supervised the return to civil, democratic rule through the initiation of Political Transition Programmes part of which included the writing of constitutions and the conduct of elections. All of these happened in the 1970s, 1980s, 1990s, and up to year 2000 in most developing world. Most legislatures of the developing world are relatively of age and politically not too strong and stable an institution of government.

The paper's case study is Nigeria. The various British Colonial Constitutions introduced the legislative arm of government until the attainment of independence in 1960. She had the opportunity of full operation of the legislative arm of government under the First and Second Republican Constitutions of 1963 and 1979 within parliamentary and presidential political and administrative practices. Military rule

eISSN 2600-9374

occupied the greater part of Nigeria's fifty-eight years post-independence existence. There was however, a return to democracy in 1999 and between then and now, there has never been another military coup. The present constitution, the 1999 Constitution (as amended) clearly has contained in it the distribution and allocation of powers between and among the organs of government.

The legislature makes the law, the executive executes and implements it, and the judiciary is assigned with the responsibility of interpretation. In part two of the Constitution, sections 4, 5 and 6 describe these responsibilities as powers and so labelled them as legislative, executive and judicial powers. What the constitution has done is in line with global best practices given the fact that the constitution is ever the fundamental legal charter of any country. There are however, problems and issues in the exercise of these powers especially in relation to the passage of yearly Appropriation Bill. The paper concerns itself with a critical discussion, examination and analysis of these problem and issues. What really are they and why do they occur? What are the consequences and effects of these problems and issues especially in relation to the administration and management of public resources? Furthermore, how can these problems and issues help in the understanding of the political and legal theories involved in the explanation and analysis of constitution writing and its consequent implementation? How, it can still be asked, do the problems and issues help in the understanding and explanation of governance as a political project? What other framework of analytical disquisition apart from the constitution that can provide critical and indepth knowledge and understanding of these problems and issues? How are the problems and issues embodiments of the traditional political science discussion and analysis of budgeting as a procedure and practice of government? Again, what is the relationship between these problems and issues and the attainment of political stability? Using the knowledge and understanding of the relationship, how can the powers of the organs of government especially the legislature and the executive be gauged and measured with respect to the control of public funds? What should be reformed and how? In addition, how can the study of the relationships between the legislature and executive help in the expansion of the existing knowledge and understanding of the workings of government? All the questions are critical to the paper and are of importance in the advancement of the knowledge of the subject matter of the passage of yearly Appropriation Bill into law. The paper is divided into eight sections. Section one engages itself with the conceptual and analytical framework in which the paper is embedded. Section two discusses the entailed research methodology. Section three links

eISSN 2600-9374

the theoretical discourse on contemporary budgeting with the age-long essence and purpose of government. Section four places the subject matter of engagement within the provisions of the 1999 Constitution (as amended). Section five critically examines and analyzes the issues and problems relating to the passage of the Appropriation Bill in Nigeria. Section six situates contemporary budgeting within the context of the Nigerian political nuances and typicality of politics. Section seven suggests solutions to the problems and issues, while section eight provides the conclusion to the paper.

CONCEPTUAL AND ANALYTICAL FRAMEWORK

The understanding of the paper no doubt rests on the clarification of associated concepts and situating it further within the body of knowledge on the subject matter. It is therefore important to ask: what are the concepts that have influenced and shaped the intellectual foundation and direction of the paper? These are: constitution, political and legal theories and control of public funds and monies. First, what is the paper's understanding of constitution? Constitution and constitutions do not, technically speaking, refer to the same thing. In fact, they should not be confused and mistake of knowledge and understanding should not be made between the two. When we say constitutions, we refer to two things i.e. (1) its forms and varieties, and (2) the nature and character of political systems. The forms and varieties of constitutions can be further defined and described as written and unwritten, and rigid and flexible. On the other hand and especially in relation to the description and characterization of political systems, we talk of constitutions in terms of presidential and parliamentary, unitary and federal. We consequently have a framework with which to study, examine and analyze how societies and countries of the world are politically organized and patterned. The significance of the knowledge and understanding of constitution and constitutions in political science is to draw attention to the fact that the term/concept: constitution has both legal and political connotations.

The knowledge and understanding of the constitution, it is important to emphasize have insights drawn from both the study of law and political science and consequently have its foundation of meaning rooted in how political societies are governed. This further explains the many definitions and perspectives to its understanding. The definitions and perspectives do not necessarily speak of the existence of divergent debates and arguments over its meaning and understanding.

eISSN 2600-9374

There is, one should again emphasize, a unity of purpose with respect to what the constitution is. This section of the paper shall hence seek the many definitions of it.

According to the Webster's Collegiate Dictionary, there are five meaning and understanding of the constitution. First, it is: "an established law or custom: ordinance". Second, it is: "the act of establishing, making, or setting up". Third, it is: "the physical makeup of the individual comprising inherited qualities modified by the environment i.e. the structure, composition, physical makeup, or nature of something". Fourth, constitution is: "the mode in which a state or society is organized especially the manner in which sovereign power is distributed". Fifth and final, constitution, according to the Dictionary is: "the basic principles and laws of a nation, state or social group that determine the powers and duties of the government and guarantee certain rights to the people i.e. a written instrument embodying the rules of a political or social organization". Important to the understanding of this definition of the constitution is the need to individually examine them to both determine their validity and contributions to the understanding of the subject matter. The attendant question then becomes: how have the definitions enhanced our knowledge of the subject matter? The answer to the question obviously depends on raising further questions that are relevant to the understanding of the individual definition. Therefore, to what extent is, or can we say that the constitution encompasses "an established law or custom: ordinance", the first definition? Again, the answer to the question involves first explaining the phrase: "an established law or custom: ordinance". An established law means a law that is either written and reference can be made to it, or a law arising from traditions and customs that now constitute a practice defining, determining, influencing and shaping our approach to the organization of societies. From the definition emerges the fact further that constitution, whether existing as a written law or tradition or practice has contained in it the element of sanctions for its breaches. The definition is relevant to the discipline of political science in the sense that it provides information with respect to its purpose in the organization and management of societies.

The second definition of the constitution as: "the act of establishing, making, or setting up" has a lot of unanswered questions and queries. What is being established, made or set up? The Dictionary provides not any answer. However, what can be inferred is that the constitution is a framework that helps in the establishment, making and setting up the organization and management of societies. The failure of the Dictionary to directly and specifically spell out what is being established or setup

eISSN 2600-9374

derides the definition of its value and utility for the purpose of research. The importance and relevance of the definition to political science as a discipline of study is not well served. Notwithstanding, this definition of the constitution is linked to a component of the analytical framework of which the current section of the paper is trying to address. "The act of establishing, making, or setting up" is no doubt linked to a critical point in the discourse on constitution-writing especially when perceived from the experiences of the developing world where the military took it upon themselves to write constitutions. For instance, who and who should be involved in the "act of establishing, making, or setting up" the constitution as a fundamental legal charter? What orientation that should guide the processes and procedures of involvement? And how can the constitution accommodate for instance the orientation of the military by permanently subjugating it to the authority and control of civil groups and institutions?

The third definition emphasizing the knowledge and understanding of the constitution as comprising "the structure, composition, physical, makeup or nature of something" only provides a broad view of it. This further means that the knowledge and understanding of the constitution need not be applicable only to the organization and management of societies. Structure, composition, and physical makeup can be used to cover diverse subject matter. The fact that the definition is broad in scope limits its usefulness and application to the subject matter of political science.

The fourth definition declares clearly a meaning and understanding that remain useful to the substance of the discipline of political science. The emphasis on "the mode in which a state or society is organized", and on "the manner in which sovereign power is distributed" are critical to the discipline. "The mode in which a state or society is organized provides information with respect to the knowledge and understanding of the structure and organization of government in politically patterned societies. "Mode" tells us about whether a system of government is unitary or federal, among others. Furthermore, it provides information with respect to the distribution and allocation of powers, duties and responsibilities between and among the tiers of government especially in federal political systems, and between and among the organs of government: legislature, executive and judiciary. The pieces of information are relevant to the understanding of the framework of government and hence useful to the discipline.

The fifth and final definition of the Constitution by the Dictionary as: "the basic principles and laws of a nation, state or social group…" captures the whole essence and

eISSN 2600-9374

significance of the need to politically organize societies, in particular contemporary societies characterized as it were by gargantuan complexities and complications. Principles and laws are critical and important to the organization of societies and as well to the achievement of the primary and secondary objectives of government. The knowledge and accompanying understanding of the expression of fundamental rights and freedoms especially with respect to the relationships between citizens and the state are again critical to the fundamental existence and purpose of government. No doubt, the discipline of political science preoccupies itself with these matters.

Relying on a Dictionary which he fails to mention, Harris (1979:87) defines the constitution as: "a frame of political society, organized through and by law; that is to say, one in which law has been established and permanent institution with recognized functions and definite rights". Again, what is the importance and significance of the definition especially to the understanding of the body of the paper and of the argument that is contained therein? The answer to the question urgently requires that we should explain the definition. The starting point is for us to break the understanding and explanation into pieces and three results emanate from the exercise. They are: (1) that the constitution is a "frame" put in place in politically organized societies; (2) that the constitution is law purposely established to achieve critical goals and objectives; and (3) that the constitution makes provisions for the existence of permanent institutions and confers on these institutions clearly specified duties, responsibilities and functions. Emerging from the above is that the constitution defines and describes the framework of government. In the words of Harris himself: "…a constitution defines how a country is governed, if those in power govern according to the constitution" (Ibid:87). It is consequently important to emphasize that critical and important to the knowledge and understanding of the constitution is that it does not only define the framework of government, it as well command obedience that those who govern must do so according to its specifications and provisions.

In the opinion of Ayeni-Akeke (2008:239), "…constitution refers to the body of rules, principles, traditions, conventions and, especially, laws on the basis of which a state is established and the political institutions that are vested with the authority to govern the affairs of the people are created". Three things/points are clear from the definition. They are: (1) that constitution is a body of rules, principles, traditions and conventions forming the basis for the establishment of state/country; (2) that the constitution vests in political institutions the authority to govern the affairs of the

eISSN 2600-9374

citizens; and (3) that the constitution has the rationale for its existence. And the main rationale, in the opinion of Ayeni-Akeke (2008) "… is the need to ensure certainty and due process i.e. to guarantee that political power will not be wielded arbitrarily, based on the whim of either the rulers or the citizens" (Ibid:23). Important for consideration, examination and analysis in the discourse on the knowledge and understanding of the constitution is what Ayeni-Akeke (2008) refers to as the "basic functions" of the constitution. What does the idea of "basic functions" represent? And what are these "basic functions"? From the thinking of Ayeni-Akeke (2008) the idea of "basic functions" is an intellectual idea formulated to determine the fundamental existence of the constitution. It does form a collection of criteria for the evaluation and assessment of the purposes and intentions of the constitution. These functions, according to him, include the need to prevent anarchy arising from uncertainty, as to where authority lies and what the duties and limits of the rights of individual citizens are (Ibid: 239). He continues: A constitution sets out the basic rights and obligations of citizens and defines the nature of political power. It creates authority out of power by outlining those who can legitimately exercise it, the conditions that those who aspire to positions of political leadership must satisfy, the kinds of decisions they can make and the processes by which justifiable and binding laws and decisions can be made (Ibid: 239).

The next concept that requires explanation and analysis in the paper is political and legal theories. Consequently, what are the political and legal theories in which the paper is based and influenced by? First, what is the paper's understanding of political and legal theories, and why is the understanding considered important to it? Theory is used here largely from the perspective of idea. In other words, it is considered necessary that the thrust of the paper is built around existing ideas on the subject matter of how bills become law. The existing ideas are important because they help in the development of the necessary intellectual basis for the examination and analysis of the problems and issues involved in the passage of the Appropriation Bill into law. Political and legal theories are hence not used in terms of the specific identification of particular theories in political science and law that help in the examination and analysis of the pre-occupation of the paper. The paper therefore conceives of political and legal theories of the passage of a bill into law as the summation of the whole discourse and detailed examination and analysis of the procedures and processes of law-making as already discussed in extant literature. Political and legal theories within the context of the paper further refer to the conscious attempt to rigorously develop and formulate parameters and indices for the knowledge and understanding of the various arguments, debates,

eISSN 2600-9374

emotions and sentiments characterizing the passage of bills into law in global parliaments, see- Sinclair (1976a), Sinclair (1976b) . The paper considers it necessary to emphasize this because of the relationship that exists between the body of arguments, emotions, etc., on the one hand, and the articulation and presentation of the specific problems and issues involved when discussing, examining and analyzing the passage of the Appropriation Bill into law on the other hand.

The last of the concept to be operationalized in the paper is the idea of control of public funds. For the purpose of building and expanding the scope and knowledge of the paper, its understanding of control of public funds is limited to the provisions of the constitution and in this case the 1999 Constitution (as amended) of the Federal Republic of Nigeria. The specific understanding of the concept is as contained in what the referred to Constitution captions: "Powers and Control over Public Funds" and expressly stated and contained in sections 80, 81, 82, 83, 84, 85, 86, 87, 88 and their various subsections. Within the understanding and knowledge of this section of the paper, it is important to emphasize further that the significance of the concepts come to limelight only when they are examined within the broad meaning and understanding of the constitution. Therefore, it is only within a thorough understanding and knowledge of what the constitution is that the other concepts can be understood. This particularly explains why the paper gave earlier a comprehensive interpretation, examination and analysis of the constitution as both terminological and operational concept serving as the intellectual umbrella harbouring other discussions that are contained in it.

RESEARCH METHODOLOGY

The knowledge of the issues and problems relating to the passage of the Appropriation Bill in Nigeria requires careful statement and process of accomplishment within the encapsulating qualitative methodological genre. The methodology entails the following processes and procedures relating to information gathering on the subject matter: (1) clear study of the nature and character of the context of politics in Nigeria, (2) specific and detailed study of the processes and procedures of constitution writing in Nigeria, (3) specific and detailed study of the histories of the legislature in the political development of Nigeria, (4) specific and detailed study of the provisions of the 1999 Constitution (as amended) in relation to the passage of the Appropriation Bill in Nigeria, (5) observing the processes and procedures of passing the Appropriation Bill,

eISSN 2600-9374

(6) undertaking a critical study and analysis of the reports on the subject matter, and (7) using the knowledge of the relationships arising from the above activities to formulate and develop the understanding of the issues and problems.

Budgeting and the Purpose of Government

Government is perhaps the greatest invention ever made by man. When men formed themselves into government, they possibly did so to protect and provide for their existence. Human civilization and the increasing sophistication emerging from the search by men to improve their knowledge and understanding of the environment in which they live, jointly compel the need to regularly discuss, examine and analyze the various regulatory frameworks institutionalized for the purpose of ensuring that men are protected and provided for in perpetuity. Furthermore, improvements in both the mode and social relations of production created for men the tasks and responsibilities of ensuring the organization of resources most effectively and efficiently. Men further thought of the need to organize the earthly resources effectively and efficiently within a patterned arrangement that allows for the opportunity to be able to make projections about resources and how to as well expend and apply them. This probably explains the origin of a budget and the processes and procedures of politics, administration and law responsible for its formulation and legislation into existence. The history of the organization of earthly resources is no doubt further influenced by the emerging political, administrative and legal systems. Democracies, irrespective of their varieties and brands, usually have incorporated and integrated into them, the constitution. And because constitutions are critical to democracies, they therefore help in the shaping of its practices especially in relation to the achievement of the primary and secondary purposes of government. This further explains the reference to "constitutional democracies "as an important idea in the knowledge and understanding of the organization of political societies.

The procedures and processes of law relating to the passage of the yearly Appropriation Bill into law, the paper contends, can be better examined, analyzed and evaluated within the existing perspective on budgeting as already discussed in extant literature, see- Wildavsky (1975). Budgeting as a procedure, one should not fail to note, exists in two forms. These are the executive and legislative components of it. Within the executive component, it commences usually when a Call Circular is issued to all agencies of government by the Budget Office and co-ordinated by the Ministry of

eISSN 2600-9374

Finance until it gets to the Executive Council at the national level of a political system. It becomes a budget for the following year immediately the National Executive Council approves of it in line with established bureaucratic traditions and practices. The legislative component of it surfaces immediately it is presented to the legislature and this turns it from a budget into an Appropriation Bill.

The idea of budgeting and its relationship with the fundamental purpose of government distinctly compels that the examination, discussion and analysis of the yearly passage of the Appropriation of Bill be linked with the constitution and the practice of democracy. Furthermore, the idea props up the constitutional context of budgeting and the argument is here made that it is only in this context can budgeting be understood as a procedure of government. The attendant question then becomes: what is this context like with particular regard to Nigeria? This leads to the next section of the paper.

Aspects of the 1999 Constitution (as amended) Relating to the Passage of the Appropriation Bill

The 1999 Constitution (as amended) is presidential. The point has become important to emphasize at the beginning of this section of the paper. Because the constitution is presidential, it has incorporated in it the idea and principle of separation of powers and checks and balances. This represents a fundamental departure from the 1963 First Republican Constitution and a further continuation and sustenance of the 1979 Second Republican Constitution that came to an abrupt end in December, 1983. The fact that the military wrote and prepared the political and administrative frameworks for the emergence and implementation of the 1979 and 1999 Constitutions created for the context of the passage of Appropriation Bill a "political culture" unknown and alien to the inherited British colonial machinery of government. We shall however, come to the discussion and analysis of this later.

The 1999 Constitutions (as amended) clearly confers on the legislative and executive arms of government the yearly passage into law of the Appropriation Bill. In what the Constitution describes and labels as: "powers and control over public funds", sections 80, 81, 82, 83 and 84 individually and jointly describe the circumstance in which public money can be spent. Section 80 (1) provides unambiguously that: "All revenues or other moneys raised or received by the Federation (not being revenues or

eISSN 2600-9374

other moneys payable under this Constitution or any Act of the National Assembly into any other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund of the Federation". In sub-sections 2 and 3 of the same section 80, the Constitution further has it enshrined that: "No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the fund by this Constitution or where the issues of those moneys has been authorized by an Appropriation Act, Supplementary Appropriation Act, or an Act passed in pursuance of section 81 of this Constitution"; and: "No moneys shall be withdrawn from any public fund of the Federation, other than the Consolidated Revenue Fund of the Federation, unless the issue of these moneys has been authorized by an Act of the National Assembly". Section 80 (4) further provides that: "No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation, except in the manner prescribed by the National Assembly". Three clear points emerge from section 80 (1, 2, 3, and 4) and they deserve cogent examination and analysis. First, because Nigeria operates a federal system of government, distinction is made between federation and other accounts being owned by the three tiers of government. Federation Account is therefore the account that belongs to all the three levels and tiers of government. Unless as specified by the Constitution the Federation Account is the Consolidated Revenue Fund. Second, under no circumstance can any withdrawal be made from this Consolidated Revenue Fund unless as prescribed and legislated by the legislative arm of government, the National Assembly of Nigeria. Third and final, only the National Assembly has the power under the Constitution to authorize withdrawal from the Consolidated Revenue Fund.

The role of the executive arm of government in relation to the control over public funds is as provided in Section 81 and its four sub-sections. Section 81 (1) provides that: "The President shall cause to be prepared and laid before each House of the Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year". Section 80 (2) further provides that: "The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund of the Federation by the Constitution) shall be included in a bill to be known as an Appropriation Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein". These two sub-sections have contained in them very clear points. First, the sub-sections bring out the fact that the appropriation bill is different from other bills. Other bills can be introduced

eISSN 2600-9374

for the purpose of legislation into the National Assembly by either the executive or legislative arms of government acting independently. But for the Appropriation Bill, it can only be prepared by the executive arm of government and laid before each House of the National Assembly and that this responsibility is squarely that of the President. Second, there is the emphasis further that the Appropriation Bill shall be laid before each House of the National Assembly by either the President or any other representative of his within the executive arm of government. This means further that the Appropriation Bill cannot through other means be communicated to the National Assembly except by being laid before it.

Issues and Problems in Relation to the Passage of the Appropriation Bill in Nigeria

What are the issues and problems that are contained in aspects of the 1999 Constitution (as amended) in relation to the passage of the Appropriation Bill into law in Nigeria? These issues and problems are here addressed from three important perspectives. These are the perspectives of law, administration and politics.

The Perspective of Law

A written law is advantageous to an unwritten one. The fact that it is written provides the inherent opportunity for easy referencing. The fact further that it can be easily referred to, means that ambiguities about what it is and source of existence can be easily resolved and determined properly and appropriately.

Now, what are the problems and issues of law emanating from aspects of the constitution in relation to the passage of the Appropriation of Bill into law? First, the constitution fails to specify the role, function and duty of the legislature in relation to the passage into law of the Appropriation Bill. The argument can be advanced that the Constitution needs not specify these given the fact that the duty and responsibility of the legislature is law-making. However, the Nigerian experience in relation to the power and control over public funds is quite peculiar. Public funds in Nigeria derive largely from oil and this is almost ninety per cent (90%) of yearly expected revenues and incomes of government. The fact that the oil-producing areas are neglected in the framework of national development, the problem of corruption and the idea further that public service is an opportunity to benefit oneself and immediate members of one's clan

eISSN 2600-9374

and community tend to build emotions and sentiments around the application and utilization of public funds. In addition, the lack of clear legal provision in the Constitution relating to the understanding and meaning of "constituency project" creates problem of law relating to how the legislature should tinker with the Appropriation Bill as submitted to it by the executive arm of government.

Furthermore, the provision of law as contained in section 81(1) that the: "President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the federation for the next year following financial year", has embodied in it problems of law and of legal interpretation and analysis. That the "President shall cause to be prepared and laid before each House of the National Assembly…" is very clear. But the provision further that: "…at any time in each financial year…" has in it elements of laxity. The failure of the Constitution to define what constitutes a "financial year" and the length of time involved creates problem of understanding and meaning which can be interpreted and explained either way and particularly to suit any interest, be that of the legislature or executive. This is because the under-development of Nigeria and the fact that government is business place unnecessary value on the budget. If a year in the traditional/ordinary sense starts from January to December, a financial year might not necessarily be. And if further by June an Appropriation Bill has not reached the legislative arm of government, any point of law cannot be raised because the Constitution is silent on this. The tendency of making the Appropriation Bill available to the legislature as the year is being rounded-off places unnecessary tension and panic to the extent that a thorough scrutiny of it cannot be achieved due to the pressure and constraint of time and the fact that other bills are simultaneously being examined for the purpose of legislating them into law.

Again, section 81 (1) is a cumbersome and complex procedure of law and hence encourages abuse of understanding and implementation. That the President "shall cause to be prepared and laid before each House of the National Assembly" the Appropriation Bill raises quite fundamental points of law that are of serious consequences and implications. The referred to section fails to stipulate the order and mode of presenting the Appropriation Bill as a requirement of law beyond simply that the: "President shall cause to be prepared and laid before each House of the National Assembly…". Order and mode of presentation in relation to a legal examination and analysis of the procedures and processes in which the Appropriation Bill becomes law are critical and

eISSN 2600-9374

vital components of the scholarly discourse on the subject matter. The criticality of the point is further hinged on the absence of a consistent pattern in the informed discussion and analysis of the subject matter. In Nigeria, convenience seems to take precedence over a matter of law.

Understanding the problems and issues of law in the provisions of the Constitution in relation to the passage of the Appropriation Bill into law in Nigeria further requires a critical and objective analysis of emergencies and special circumstances as anticipated by the drafters and framers of the 1999 Constitution (as amended). According to section 82 of the Constitution: "if the Appropriation Bill in respect of any financial year has not been passed into law by the beginning of the financial year, the President may authorize withdrawal of moneys from the Consolidated Revenue Fund of the Federation for the purpose of meeting expenditure necessary to carry on the services of the Government of the Federation for a period not exceeding six months or until the coming into operation of the Appropriation Act, whichever is earlier". This section of the Constitution further clarifies that: "provided …the withdrawal in respect of any such period shall not exceed the amount authorized to be withdrawn from the Consolidated Revenue Fund of the Federation under the provisions of the Appropriation Act passed by the National Assembly for the corresponding period in the immediately preceding financial year, being an amount proportionate to the total amount so authorized for the immediately preceding financial year". The Constitution continues further particularly in section 83 (1) that: "The National Assembly may by law make provisions for the establishment of …Contingencies Fund for the Federation and for authorizing the President, 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 the need". The Constitution in section 83 (2) clarifies finally that: "Where an 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 advanced".

What are the matters of law constituting problems and issues on the subject matter of the passage of the Appropriation Bill into law? Recognized that emergencies are emergencies and least anticipated in the procedures and processes of government, the fact remains that the Constitution is silent on how the President is expected to make the advance without turning into impeachable offence in the future. The fact further that

eISSN 2600-9374

the National Assembly has not deemed if fit since 1999 to establish into law Contingencies Fund speaks volume about the practicability of the provision existing side-by-side with yearly Appropriation Act. In addition, there is the absence of a provision in the Constitution or an enabling law defining emergencies and circumstances in which there is the possibility of an Appropriation Act not existing in a year for example. Accepted that Nigeria is not prone to national disasters, calamities and persistent wars that could provide justifiable basis for the declaration of emergencies, emergencies that could in turn make difficult the operation of the legislative arm of government, the fact remains that the mode of operation of politics at the national level gives indication about the possibility of an emergency least anticipated by the drafters and framers of the 1999 Constitution (as amended).

The fact that the Appropriation Bill is a bill raises other important issues and problems of law. Not defining and describing what emergencies are, not clearly specifying the role of the legislature on the Appropriation Bill when it comes to considering it, not defining and detailing the idea of "constituency project" as an element of consideration and examination of the Appropriation Bill, not clearly stipulating how the Appropriation Bill should be laid before the National Assembly, jointly raise another important problem and issue of intellectualism which has contained in it some consequences and effects of law. For instance, given the Nigerian peculiarity, the question can again be asked, what kind of cooperation that should exist between the legislative and executive arms of government on the passage of the Appropriation Bill? The question has become important to emphasize given the circumstances in which the various Appropriation Bills were passed into law since 1999. The point of interest in law that needs be highlighted is whether or not separation of powers and the principle of checks and balances amount to tactically building by both the executive and legislative arms of government hiccups in the understanding and interpretation of relevant constitutional provisions on the subject matter. The Nigerian case is particularly important to emphasize given the unpredictability of court decisions on clear matters of law.

The Perspective of Administration

Administration is critical to the realization of the goal and purpose of government/state. It is considered critical because it provides the framework for both the conceptualization and implementation of the will of the state. Budget or

eISSN 2600-9374

Appropriation Act is embedded in the administrative apparatuses of the state and therefore remains defined by these apparatuses. Consequently, what are the problems and issues of administration put forward by the passage of the Appropriation Bill into law? Even though the Constitution is clear about which arm of government exercises what power/function/role/duty/responsibility in the arrangement and organization of government, the fact remains that the organs of government, notwithstanding the requirement of operating in line with the principles of separation of powers and checks and balances, are still bounded together by administration. Public administration and management, from the angles of both theory and practice, still remain the yardsticks and parameters in which the organs of government conduct their activities.

Implied in section 81 (1) of the 1999 Constitution (as amended) is the administrative consequence and effect of: "The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next financial year". Before the examination and analysis of the consequence and effect of the provision from the perspective of administration, let us first seek the understanding and meaning of it from the angle of semantic interpretation. The phrase- "The President shall cause to be prepared and laid before each House of the National Assembly…" means what in administration? First, that the President has the sole authority to prepare the Appropriation Bill, or second, that the sole authority of the President is to be exercised in conjunction with the National Assembly, or third, that the President, after preparing the Appropriation Bill, communicates or transmits same to the National Assembly? Which, amongst the three, is the correct interpretation and understanding?

The executive arm of government no doubt supervises and controls both the Budget Office and the Ministry of Finance, critical political and administrative institutions responsible for the preparation of the budget. Holistic administration, a requirement in the preparation of the budget and the consequent passage of it into law, is further hampered given the principles of separation of powers and checks and balances. Problems and issues further exist in the determination of the necessary administrative boundaries that are required for the purpose of passing the Appropriation Bill into law. The responsibility of government is generally the protection of lives and properties, maintenance of law and order, and the provision of essential services. This understanding of the purpose of government does not distinguish between and among the organs of government. The practice of government with respect to the realization of

eISSN 2600-9374

this objective/purpose however distinguishes between and among the organs of government. This creates the problem of how well to develop the necessary administrative nexus between and among the organs of government.

The Perspective of Politics

Political parties are internal elements of the legislative process. Olson (1980) already has a rigorous documentation on this. Agbaje (2001) in relation to the case study, Nigeria, equally has a highly organized idea on this. Notwithstanding, it needs be emphasized that politics, especially in relation to the study of the Nigerian experience, plays dominant role in the passage of the yearly Appropriation Bill into law since 1999. It is hence apt to ask: what are the problems and issues of politics inherent in the passage of the Appropriation Bill into law in Nigeria?

Nigeria, it is appropriate to observe, is highly plural, multi-ethnically segmented, religious even though God-less society. It is both politically and ethnically diverse to the extent that Nigerians are first and foremost members of their immediate families and clans, state of origin before accepting to have possessed the feeling of any national identity. A Nigerian is first of his home-town before any consideration of being seen as a national citizen. This is the context of politics and the practice of democracy and constitutional rule. The preamble of the constitution: "We the people of the Federal Republic of Nigeria… do hereby make and give to ourselves the following constitution" is entirely false and dubious. A rider, who and who met, and on whose behalf, and where? Budget/Appropriation Act provides opportunity for the expression of primordial emotions, sentiments and attachments by Nigerian leaders at local, state and federal level of governmental operations. Budget, in the Nigerian context, is not really an economic instrument that is politically clothed and anchored in legal terminological expressions, it is as well a political instrument written and expressed in law for the purpose of aggrandizement of the leader. Because leaders are lacking in clear ideologies and morally bankrupt, politics remains the only instrument of corruption, oppression and denial. For not voting the executive leaders, electorate can be denied of the provision of basic amenities and social services.

The political problems and issues involved in the passage of Appropriation Bill revolve around how to allocate and distribute resources between and among communities, and between and among ministries, departments and the agencies of

eISSN 2600-9374

government. Even though the 1999 Constitution (as amended) in chapter two speaks of the Fundamental Objectives of Government and the Directive Principles of State Policy, this only exists on paper. The lack of coordinated focus of government coupled with the perception of politics by leaders as an opportunity for personal enrichment prevented or curtailed the development and formulation of indices and parameters (in the face of the constraints arising from the negative impacts of mono-culturalism and the reliance on oil as a means of foreign exchange earnings) on how resources can be judiciously allocated between and among competing demands and priorities.

Budget Padding in Nigeria

There is, in Nigeria, what is referred to as "budget padding". What is this phenomenon, and how does it constitute an issue in the passage of the Appropriation Bill? The discourse on budgeting in Nigeria with the return to civil, democratic and constitutional rule has meaning of understanding within the context of helping us to understand "budget padding" as a bureaucratic phenomenon within the framework of law-making. This no doubt represents what Nigeria has to contribute to the understanding of the series of permutations and politics involved in the global discussion and analysis of budgeting as a bureaucratic phenomenon.

"Budget padding" is a figure depicting the difference between what the executive arm of government proposed and what the legislature eventually approved. When the difference is lesser, this is not usually considered as a problem. However, when it is higher and the circumstance informing this cannot be properly understood, it is seen as a problem especially in public and media discussions to the extent that the legality or illegality of the action comes to public domain. The legality or otherwise of "budget padding" is no doubt beyond the scope of the paper. It however, raises an important issue in the intellectual discussion and analysis of budgeting as a procedure and process of government. An urgent issue is the understanding and meaning of budgeting. A related issue or problem is the answer to the question: what is the ideal/appropriate framework of budgeting in a democracy for instance?

The two issues and problems of epistemology of budgeting are important and critical to the disciplines of political science and public administration. Budgeting in constitutional democracy, it should be reminded, is a procedure of law and public administration. Important to the understanding and explanation of this procedure of law

eISSN 2600-9374

and administration is for us to specify the role of the legislature. The Appropriation Bill is not a private member bill and it could not have been. Consequently, how should the role and function of the legislature on it be comprehended given the fact that the Appropriation Bill is like any other bill with clearly defined processes and procedures of passage into law? If the executive arm of government expects that what is presented is what should be approved, the question then becomes: what should be the purpose of the presentation and what further explains (aside from constitutional stipulation) the need for the presentation of the Appropriation Bill to the legislature? The fundamentality of having powers separated between and among the organs of government is squarely to guide against despotism and absoluteness in the exercise of political power.

Since 1999 in Nigeria, the passage of the Appropriation Bill is one that involves blackmail and arm-twisting between the legislative and executive arms of government. On the average, the procedure takes between four and six months and revelations of all kinds come up in the media especially print media. Given the fact further that every Nigerian including the educated ones remains shaped by media reports, the social space of budgeting becomes corrupted and tainted with largely and grossly unsubstantiated claims, arguments and debates about the performance of the economy and the intentions of proposed budgets. Commentators are generally deficient in objective and informed commentaries, and analysts corrupted by extremely subjective analytical instruments and tools to the extent that everybody becomes poorly guided by the emotions and sentiments characterizing the passage of the Appropriation Bill. While the legislature is not expected to be a rubber stamp, legislators should however be guided by objective principles and senses of national patriotism as they tinker with budget figures and estimates. They are expected to give equal attention to every detail of the proposed budget and dutifully pursue the passage of the Appropriation Bill into law without having to wait to be blackmailed by the executive arm of government.

"Budget padding" as called in Nigeria is a further demonstration of the failure of the role of political parties in the legislative process and of the fact that what drives government are the policies and manifestos of political parties. Budgeting as a procedure of government is fundamentally related to the management and operations of political parties. The unfortunate situation that political parties are not ideologically defined and based compounds the understanding of what political parties are capable of doing in the series of events leading to the passage of the Appropriation Bill. This is

eISSN 2600-9374

because at the level of political parties, a lot of outstanding issues and problems would have been resolved remaining only the strategic alliances and accords between and among legislators, between and among members of political party caucuses, and between and among the series of groups in the legislature as propositions and counter-propositions are made in relation to the Appropriation Bill.

Solutions to the Problems and Issues

How can budgeting and the passage of the Appropriation Bill into law be done without the usual delay and unnecessary rancours? The answer to the question is particularly important within the context of the political experience of Nigeria. Regular workshops and talk discussions would help the organs of government to deeply appreciate their roles in a constitutional democracy. There is no organ of government that is superior to the other. They all derive their powers, duties and functions from the constitution which remains supreme. Political parties should assume responsibilities of political administration beyond presenting candidates for elections. It is expected that budget priorities, policies, goals and objectives should have been extensively discussed and agreement reached on critical aspects of the priorities and objectives at the party level before budgets are presented to the legislative arm of government for approval and legislation into law. In addition, the Budget Office and the Legislative Institute should regularly interact and this should not be limited or confined to the periods of the passage of the Appropriation Bill into law. There should be developed and formulated between the two Institutions a framework of research cooperation for the understanding of the critical indices defining the workings and performance of the economy and the sharing of information related thereto. Finally, political, administrative and constitutional reforms such as the re-organization for efficiency and effectiveness of the Liaison Offices coordinating communication functions and duties between the executive and legislative arms of government, the specific amendments of sections of the Constitution that still remain ambiguous with respect to actual interpretation of the roles and responsibilities of the arms of government in relation to the passage of the Appropriation Bill, the clear specification in the Constitution of the roles and functions of political parties in the organization of government beyond presenting candidates for elections alone, etc., need be made and incorporated into all areas relating to budgeting. Both the legislative and executive arms of government must have a common understanding and meaning of the beginning and end of a financial year for example. There must as well be further understanding on the duration of the passage of the

eISSN 2600-9374

Appropriation Bill into law. Initiatives need be made in the Constitution stipulating the beginning and end of a financial year and the number of months that an Appropriation Bill should spend in the National Assembly.

CONCLUSION

With the defined goal and objective of making use of the Nigerian political experience to advance the study and knowledge of comparative legislatures and legislative studies generally, the paper sets for itself the responsibility of understanding a critical study of the issues and problems in politics, administration and law that do influence, shape and mar the quick passage of the Appropriation Bill into law. The intertwined connections and relationships between and among the perspectives of law, politics and administration in the explanation and analysis of the problems and issues further demonstrate the complexities in which these problems and issues are expressed. The nature and character of the Nigerian political structure and process in particular, the extreme plurality of interests and groups shaping and influencing the understanding of the way and manner in which demands and sectoral allocations are made within the budgeting framework, constitute in themselves matters of worries and concerns and hence additional problems and issues. The issues and problems, though worthy of note, do not on their own amount to permanent limitations and everlasting impediments to the quick passage of the Appropriation Bill into law if only the arms of government in particular, the legislature and executive, can, within the ambit of the law, know their duties, functions and responsibilities and their limitations as well.

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