

## AN EXPLORATORY EVALUATION OF LEGISLATIVE LAWLESSNESS IN THE NIGERIAN BUDGET PROCESS

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### ABSTRACT

*The public sector budget in Nigeria, as in any other nation of the world, remains the most important policy thrust instrument or tool for different purposes including: economic, political, social and developmental. The Nigeria Federal budget has been facing a myriad of challenges dispossessing it of the powers to achieve its expected goals. Those problems include institutional, social and leadership dimensions. The unbridled legislative over-bearing role in the Federal budget process is one of the emerging and festering institutional challenges causing budget failure in Nigeria. Such abuse by the legislature includes: tempering with budget benchmarks, agency victimization, inserting foreign projects and late passage. This exploratory paper takes an in-depth look into these lawless legislative practices in the Nigeria budget process, the problems it has added to poor budget impact on the economy such as: delay in budget passage, nitpicking oversight function, executive and legislative imbroglia and distorted budget policy framework. The paper concludes by making impeccable suggestions on how to curtail the monster before it finally ruins the budget process completely. **Key Words: Budget, Legislature, Executive, Lawlessness. Appropriation, National Assembly, Executive.***

### Introduction

The Nigerian Federal Legislative operates the bi-camera system comprising the Senate (109 members) and House of representatives (360 members). As required by the law, that is, the Constitution of the Federal Republic of Nigeria 1999 (as amended) Section 81, the President is mandated to lay before the two houses of the Federal Legislature the budget for forthcoming fiscal year any time before the commencement of the operating fiscal year. It is a matter of the law and that is the legislative culture the world over (Oyewo, 2007, Reid, 1996, Ehigiamusoe and Umar, 2003 and Gbajabiamila, 2014).

Section 88 of the same Constitution empowers the Legislature to conduct investigation into all activities of government. That is where the Legislature derived the power to do oversight function. Section 80 empowers the Legislature to determine the manners in which Fund will be withdrawn from the Consolidated Revenue Fund of the Federation.

The Legislature in pursuance of its Constitutional powers over in the appropriation process over the years is gradually drifting towards lawlessness or for the liberals becoming too

much overbearing and therefore ending the powers of budget in the economic management (Alechenu, 2013, Sagay, 2010 and Gbajabiamila, 2014). This is the main thrust of this paper to look into the excesses of the Legislature, discuss the explicit implications this act and proffer solutions to curtail this abuse in our national life.

### **Importance of Government Budget**

The public sector budget is about the most important instrument of economic management tool law and one of the most popular legislative duties in a modern democracy. (Otiye, 2011 and Gbajabiamila, 2014). The seeming lack of in depth understanding of the role of budget on all facets of a nation life have contributed to the disappointing manner its being handled by the political class (Gbajabiamila, 2014). Some sacrosanct importance of a national budget is discussed below. Budget is the most important economic tool of government which provides a comprehensive statement of the priorities of the nation. It is a tool of stabilizing the economy, distributing income, allocating scarce resources to address competing needs as well as the focal point for the reconciliation of competing visions of the public good.

In addition, national budget is a medium of communicating government policy framework, tool to influence economic direction, financial control document and resources' allocation pact. Esu and Inyang (2009) as well as Metawie (2005) and (Gbajabiamila, 2014) assert that performance evaluation and performance indicators are the critical issues about government budget. As observed by Hensen and Van de Stede (2004), the practical or operational purpose of government budget consists of operational planning, performance evaluation, communication of goals and strategy formation. Furthermore, Omolehinwa (2011) posited that the specific purpose of public sector budgeting includes: provision of a basis for articulating and working towards the achievement of socio-economic vision of government; the instrument of pursuing the objective of macro-economic growth and development, economic stability and economic equity; basis of allocating resources of government to strategic areas of priorities; a tool to promote managerial efficacy in government and a mechanism for legislative control over the executive. Whilst Abdullahi and Angus (2012) describe government budget as the principal tool of financial planning and control. Carreras, Mujtaba, and Cavica *et al* (2011) argued that budget remains the principal tool in the hand of the executives to evaluate the performance of Ministries, Departments and Agencies (MDAs).

### **Areas of Legislative Lawlessness in the Nigerian Budgeting Process**

***The Oil Benchmark Crisis.*** The Nigerian economy is a one legged type that gets over 90 percent of its foreign exchange earnings from crude oil sales (Odularu, 2007, and Akinlo, 2012). Every level and arm of government looks to what amount of oil money is coming in to its covers. The crude oil benchmark is product of the Fiscal Responsibility Act (FRA) (2007) which is the expected dollars per barrel of oil upon which government revenue should be based. The provision of the FRA 2007 is that the oil benchmark should not be changed yearly as contained in the Medium Term Expenditure Framework (MTEF) (Gbajabiamila 2014). But the major squabble between the Federal Executive and Legislature over the years on appropriation has been what should be the appropriate oil benchmark. Though, both the Executive and Legislative arms of government may be proved guilty on this ground of tempering which MTEF oil benchmark, but in my candid opinion the Legislative should leave the business of policy making to the purview of the Executive. This is no far-fetched from the fact the Executive has the economic expertise and known-how to determine economic policy direction for the nation

The National Assembly in Nigeria has no consortium of economic experts; they only rely on their institute knowledge of economic management (the Punch, 2012, Gbajabiamila, 2014 and

the Vanguard News, 2014). The economy of a nation can not be managed based on political sentiments and street journal economics but on sound economic principles which is the purview of the Executive arm of government. The Legislature ought to be satisfied with explanations provided by the Budget Office and the Presidential Economic Management Team as led by the Minister of Finance. Our legislature even goes to excess by giving written examination of 50 questions to the Federal Finance Minister (Amela, 2013 and Ovuaporie, 2014).

***The Illegal Insertion of Foreign Projects in the Name of Constituency Projects*** by the members of the Legislature on yearly basis. As defined by Gbajabiamila, (2014) constituency projects are earmarks or pork-barrel legislation. By interpretation, the legislature will on their own volition include in the Federal Budgets projects that the government should execute for them in their constituency. ₦900 billion had so far from 2004 being appropriated constituency projects. (Ndume, 2013, Udefuna and Fadila and Adebayo, 2013 and Arizona-ogwu, 2014). Authors have taken differing looks at the rationality for constituency project. The Legislators have continued to defend the necessity that it endears them to their electorate (Gbajabiamila, 2014). Authors outside the Legislature had seen it as looting, breach of check and balance norm and connivance between the Legislature and the Executive to grease my palm I rub your back strategy to direct public fund to non-productive but self-milled projects.

My line of arrangement is the illegality of the idea. There is no known Nigerian law that supports the constituency project dilemma. It has grown gradually to become a norm as observed by Udefuna et al., 2013 and Gbajabiamila, 2014. If the National Assembly (NASS) wants to live above the fault it should pass a law to legalise the idea and leave the business to a Commission independent of it or rather legalise constituency project and allow the Executive to choose from among the projects submitted by it to the Budget Office of the Federation. Also the amount to be allocated for the constituency project should be a function of appropriation process and not a fixed sum appropriated by fiat every year.

As a result of its power over the pulse, the Legislature determines what its ***own budget should be in a fiscal year***. It determines its allowances while leaving the salary portion to the Revenue Mobilisation Allocation and Fiscal Commission (RMAFC). The former Central Bank of Nigeria Governor, Mallam Sanusi Lamido, accused the National Assembly of spending 25% of the recurrent expenditure of the nation (Eke, 2012). This is pure illegality. Though the National Assembly is an independent arm of government while should it determine its size of the budget? Determines its own allowances? Thereby consuming 25% of the resources of the Nation? (Sagay, 2010 and Brown, 2008 and Saraki, 2014). It currently allocates ₦150billion per annum to itself as against ₦50billion in 1999.

***Allegations Financial Inducement*** by agencies of government in order to allow their budgets have easy ride to approval before their relevant Committees. Cases of allegation of financial inducement or outright demand for financial support by Committees of the Legislature have been replete since the return of democracy in 1999 (Vanguard, 2012, and AbdulRasheed, 2010). Popular among those allegations of financial impropriety act the hallowed chambers of the National Assembly are:

- ₦54m bribery saga against Adolpus Wabara Vs Ministry of Education under Prof. Osuji Phabian.
- ₦628m scam against Patricia Ete as the Speaker House of Representative in 2007
- The former Speaker Dimeji Bankole was ammeshed in a contract scam of ₦894m.

- Honourable Member Herman Hembe of the House of Representative Committee on Capital Market and three others were alleged of collecting ₦44m bribe from Security and Exchange Commission.
  - Honourable Farouk Lawan House of Representative Chairman House Committee on probe of oil subsidy scam fell to the strong wave of bribery to the tune of \$620,000.
- (Onwka, 2011. Vanguard, 2012. Levi, 2014. Guardian, 2011, Oladidpupo, 2012. Erik, 2014)

A few of the above allegations arose as a result of appropriate in process, for example the Adulphus Wabara and Hember Herman cases. These are just the case that came to the public domain only consciences know so much of such abuses that are not known to the public.

***The NASS has also Degenerated to the Extent of Using the Appropriation Process as a Witch-hunt Tool to Fight its Perceived Political Enemy.*** It was used to fight Arumah Oteh, the DG of Security and Exchange Commission. Budget was used to fight the CBN because the former Governor of the CBN, Lamido Sanusi had confronted the NASS for gulping 25% of the Nation's recurrent expenditure yearly. It has been used repeatedly to fight the Executive arm of government over the years. (Saraki, 2014, Ejike, 2014, Brown, 2008 and Gbajabiamila 2014). Witch-hunted Ministers have been questioned, probed and invited beyond what the Legislative oversight demands for.

#### **Implications of the Excesses of the Legislature.**

First among equals is delay and lateness in the passage of national budget every year. The first democratic budget in the year 2000 was passed into law by May, what a bad start we had. The 2004 Federal Budget was passed by the NASS into law in May. The 2002 budget was passed into law in March, 2005 in April and 2014 budget in May. Since year 2000 to 2014 no Federal budget was ready for implementation at the appropriate legal time which is December, 31 (Ata, 2013; Olusola-Obasa, 2011 and Eme, 2010). In other nations of the world like the USA, the Federal budget would always be ready months before the commencement of fiscal year.

Secondly, the distortions and foreign projects being introduced at will by the NASS always lead to conflict between it and Executive arm. The President will always withheld assent to the document. No budget since 2000 in Nigeria has been signed by president one week after passage by the NASS. It would always take weeks, months at times to get it signed into law (Ata, 2013 and Olusola-Obasa, 2011). The action of the NASS in distorting figures in the budget is more than mere re-allocation of fund it is a matter of policy distortion. It will go root down to affect budget impact on the economy.

A third serious implication is in the area larger than life altitude of the Legislature. Now, when an act of the NASS is illegal or not back-up by any law, they suppose to set a law in place to back it up. Since the commencement of the constitution project idea in 2004, the National Assembly has not deemed it fit to legalise it and subject it to the normal budget procedure like every other expenditure of government (Udefuma, et al., 2013 and Ndume, 2013).

Fourth in the line of implications is the cat and mouse Executive/Legislature relation and the press war that usually herald the annual budget process in Nigeria. Every year there is always this battle over the pulse. Though this may be normal in every democracy but only if it leads development in our National life. Fifteen years of budget debacle should be long enough for both arms of government to be matured and developed good pulse relationship. It is only the Law Court they have not resulted, they have used every other political weapon to fight each other and settle scores on budget matters (Gbajabiamila, 2014).

## Recommendations

Having outlined the excesses of the Legislature in budget process and the noticeable implications on the national life, it is necessary to also proffer possible solutions to these avoidable issues.

One, the principal starting point on the issue of curbing excesses by the Legislative arm is the urgent need to make amendment provisions in the Nigeria Constitution. Currently Section 80 of the Constitution with the title “Establishment of the Consolidated Revenue Fund” does not state exactly the extent of the powers of the Legislature on the budget any proposals submitted by the Executive. The Section 81 with the title “Authorisation of Expenditure from the Consolidated Revenue Fund” also failed to dictate explicitly the extent of the powers the Legislature can exercise on the estimates submitted to it by the Executive Omolehinwa (2001) is of the opinion that the extent of the powers of the law makers should either be to reduce or disallow an expenditure item and not to either introduce extraneous items or increase any figure.

Sagay (2010) is also of the opinion that the constitution should state explicitly and in clear terms the extent of what the Legislature can do with budget proposals. He suggested 3 possible options namely:

- Power to amend without restriction
- Power to amend with restriction
- Power not to amend at all.

Another necessary amendment to the Constitution is the need to include budget timetable or cycle in the Constitution. The provision of Section 81 of the Constitution which requires the President to lay before the NASS estimates of revenue and expenditure for the next fiscal year at **any time** of the outgoing is not only absurd, undemocratic but also unthinkable. As recommended by Omolehinwa (2001) and the proposal being made by the on-going National Conference, a budget cycle commencing from September presentation by the Executive to the Law makers and that the job of the Legislature should be complete by December is sacrosanct.

Two, the Legislative arm should be dispossessed of its power to fix its own budget and determine its own allowances. As argued earlier, the NASS cannot be a judge in its own court. The power to determine all emoluments of the Law makers should be transferred to the RMAFC. The budget of the National Assembly should be transferred to a separate Commission where the NASS too will defend its own budget (Sagay, 2010; Brown, 2008 and Saraki, 2014). The situation where the NASS just allocates or apportions and not appropriate whatever it wants to itself is totally unacceptable.

Three, there should be clear demarcation of the role of the Executive from that of the NASS in the budget process. There is a serious overlap and confusion as it is currently observable. The Legislature is not satisfied with its role of approval, oversight and audit of public account approval. It is going back and has assumed part of the role of the Executive to determine policy direction and prepare fresh budget or its own budget (Oyewo, 2007, Ahmadu, 2001, Sagay, 2010, Wehner, 2002 and Eme, 2010).

Four, the constituency project or barrel legislation should have a framework and not just a tradition. There should be a Committee in the Budget Office of the Federation to oversee this. The Law makers should send their proposals to that Committee for scrutiny and value for money audit which includes efficiency, economy and effectiveness (Gbajabiamila, 2014; Eme, 2010 and Ndume, 2013).

Five, our Legislature needs international benchmarking in legislative practices as far as budget process is concerned. Nigeria does not exist in isolation. The best democracy of the world should be benchmarked with our own (Sagay, 2010; Wehner, 2002 and Oyewo, 2007).

Six, the NASS should set up a Budget Advisory Commission. Body of experts in public finance, economics and administration. The Commission will always offer expert advice on budget matters, organise training and assist the Law makers in their oversight functions. Even it will assist them in understanding the rudiments of audit procedure in project management (Gbajabiamila, 2014 and Oyewo, 2007).

## **Conclusion**

This paper has taken a critical look at the observed culture of excesses and lawlessness habit of the Legislature in the Nigeria Federal Budget process. It went further to discuss the perceived implications on the effective working of a national budget. It concludes by making sharp shooting recommendations to ameliorate the problems. It must however be added that the Legislature is not the only institutional factor inhibiting effective budgeting in Nigeria. The Executive has its town share of the myriad of problems. This paper only focuses on the Legislature.

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