

EXECUTIVE/LEGISLATIVE RELATIONS: ROLE COMPLEMENTABILITY AT THE LOCAL GOVERNMENT, LAGOS STATE OF NIGERIA IN FOCUS*

Abstract

There are three main arms of government in every State. These arms of government are always constitutionally empowered to carry out certain functions alone while they may also be empowered to oversee certain functions being carried out by another with power to take certain overriding powers or report to another organ of the government for a corresponding action. In most cases there is need for the Legislative organ to cooperate with the Executive organ for overall better performance of the government in delivering the dividend of good governance to the people. At other times, there may be conflict between these two organs especially where there is struggle for supremacy. This paper sets out to analyse the relationship between the Executive and the Legislative arms and the possible relationship in roles between them in the management of the administration of government business. Our conclusion will expose the problems and also offer solutions to any probable conflicts between them.

Keywords: Government, Legislative, Executive, complementary in roles.

1. Introduction

Nigeria being a federation shows that the country is politically organised in such a way that there exist different tiers of government. There is the federal government at the centre of the political organisation of the country. There are also state governments that supposedly contributed part of their powers to constitute the federal government at the centre. Apart from the two tiers of government mentioned above, there exists the third tier of government which is the local government. The local government is the government at the grassroots. This is the people's government meaning that it is the closest to the people amongst the three tiers of government. The political organisation of state powers into governments at different tiers presupposes that each tier of government is called upon to fulfill certain functions in the society. For a government at any level to carry out any function, it has to be properly organised in such a way that state powers are not concentrated in the hands of only one person or a group of persons or persons from one part or region of the country. Thus, according to Montesquieu¹, the principle of separation of state powers must be upheld. This should be so because power corrupts, absolute power corrupts absolutely. Here Montesquieu is not strictly speaking about tiers of government *per se* but about the three major organs of government at the same level of governance. There are the Legislative arm, Executive arm and the Judicial arm as the organs of government at each level of the three tiers of government in a federal State as presently obtained in Nigeria as in most countries that run the federal system of government.

At the local government level, the two prominent arms of government are the executive and the legislature popularly referred to as the Council and its members called Councilors. The Judiciary of the state serves the Local Government Areas in the area of interpretation of statutes and resolution of conflicts if and when they arise. There is no imputation here that federal courts are excluded. Federal courts administer federal laws and laws of other tiers of government on appeal and their decisions are binding on lower courts. The question of role complementability between the executive and the legislature in a military dispensation does not exist in a military regime these roles, functions and powers are fused into the executive arm of the government which among other things makes laws in form of Decrees, Edicts and Orders as the case may be. We shall now look at how there can be synergy and cooperation in the roles of the Legislature and the Executive in the governance of a State without much animosity and rancour.

2. The Legislature at the Local Government

In the present dispensation, where functions and powers are distinct between the executive and the legislature, role complementability becomes the key word if the democratic system of government is to survive in Nigeria. In the former Soviet Union, there are many tiers of government below what we now know as the State Government. Concerning these tiers of government, the 1977 constitution of the Soviet Union declared that the bodies of state authority in Territories, Regions, Autonomous Area, Districts, Cities, City Districts, Settlements and Rural Communities shall be the corresponding Soviet of People's Deputies². The phrase 'Soviet of People's Deputies' means the 'council' in our context while 'People's Deputies' means 'councilors'. The Soviet

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¹ Quoted in: David Walker, *The Oxford Companion to Law*, Clarendon Press, Oxford, 1980, p. 854

² The Constitution of the USSR, 1977, Article 145.

constitution further provides that Local Soviet of People's Deputies shall decide matters within the powers accorded them by the legislation of the USSR, the appropriate Union Republic and Autonomous Republic. Their decisions shall be binding on all enterprises, institutions and organisations located in their area and on officials and citizens³. The Nigerian 1999 constitution does not specifically provide for different arms of government at local level and as such do not see the essence of specifying who should do what. What it did was to list a host of functions to be carried out by the Local Government Council⁴. However, the Local Governments themselves are to be created by a law of the state government⁵. If we have to compare our present Nigerian 1999 constitution vis-à-vis its provisions for the local government with the USSR constitution of 1977, it will be shown clearer that the Nigeria has only succeeded in enthrone a sort of confusion as a system at the local government level. The role of the Council emanated from the exercise of legislative powers and functions of a Local Government Council as provided for by the state's law on local government⁶. According to the Lagos State Local Government (Administration) Law 1999, the Council is declared to be the legislature of a Local Government Area and the Council shall exercise legislative powers in the Local Government Area⁷.

The mode of exercising legislative power at the Local Government Area is by Bye-Laws passed by the council and assented to by the Chairman. The Chairman may refuse to assent to a Bye-law presented to him for assent⁸. His refusal means that the Bye-law is not passed. This can however be cured if the same Bye-law which the Chairman refused to sign into Bye-law is again passed by the Council by two-third (2/3) majority. If this happens, the Bye-law shall become law and the assent of the chairman shall not be required⁹. If the above procedure is resorted to it means that the relationship between the Council and the Local Government Chairman is not cordial especially if majority of the Council members are of the same political party with the Chairman. If this situation is not quickly resolved, it may lead to the removal procedure particularly if the Chairman is accused of misconduct¹⁰.

According to the Lagos State Law on Local Government (Administration) 1999, '*misconduct*' includes breach of the Oath of Allegiance or Oath of Office of the Chairman or the Vice-Chairman or a breach of the provisions of this law or a misconduct of such nature as to bribery or corruption or false declaration of assets and liabilities or conviction for treasonable felony¹¹. It is pertinent to note that misconduct includes the breach of Oath of allegiance or Oath of office. The Oath of office and Oath of allegiance of the Chairman or that of the Vice-Chairman as contained in the Lagos State Local Government (Administration) Law is the same as that of the Governor of a State and the President of Nigeria¹². By the Oath of allegiance and Oath of office the Chairman is to preserve and defend the constitution. By the Oath of office, the Chairman is to abide by the code of conduct contained in the fifth schedule to the constitution FRN 1999. These provisions have validly put the Chairman of a Local Government in a position in which the constitution is brought to bear on his activities and functions. The organ directly in charge of overseeing the Chairman is the Council. If there is no understanding in the running of affairs of a Local Government Area there will not be peace and the target of such situation is the electorate as such situation will hamper the execution of the programmes of the Local Government Administration. The disagreement between the councilors and their chairman can be predicated on party policies. This may be because there is no councilor without being a member of a political party and sponsored by the political party¹³. It is a normal phenomenon that a party sponsored councilor will want to uphold the policy of his party in the Council. This party policy will inform his contributions when a Bye-law is being debated in the Council. It is equally on this same point that a chairman may refuse to give assent to a draft bill.

3. The Executive at the Local Government

The Executive arm of the Local Government is the Executive Chairman supported by the Executive Vice-Chairman. One of the crucial qualifications of a chairman is that he must be a member of a political party and sponsored by that party¹⁴. The Executive powers of a Local Government shall be vested in the Chairman of the Local Government. The executive powers vested in the Chairman shall be exercised by him directly and where

³ Ibid. Article 148,

⁴ The 1999 constitution FRN, fourth schedules,

⁵ Ibid. S.7

⁶ Ibid

⁷ S. 38(1), (2,)

⁸ Ibid. S.38

⁹ Ibid.

¹⁰ Ibid. S.24 (1 0)

¹¹ See Schedule 2, Local Government (Administration) Law 1999, Lagos State and Schedule 7, Constitution FRN 1999.

¹² See Schedule 2, Local Government (Administration) Law 1999, Lagos State and Schedule 7, Constitution FRN 1999

¹³ Local Government Administration Law, 1999, Lagos State, S. 14(d)

¹⁴ Ibid. S. 20(d)

necessary through: i) The Vice-Chairman or Supervisors of the Local Government and ii) The officers in the service of the Local Government. These are the civil servants of all categories¹⁵. The Executive powers vested in the chairman include the execution and maintenance of this law, all Bye-laws made by the Council and extend to all matters with respect to which the Council has for the time being power to make Bye-laws. The Chairman may attend a session of the Local Government Council either to deliver an address on the Local Government Affairs or to make such statement on the policy of the Local Government as he may consider to be of importance to the Local Government. The Council may invite any of the supervisors of the Local Government to explain the conduct of his department and in particular when the affairs of that department are under discussion. The job of the executive arm of the Local Government where the Chairman is the head is synonymous with the functions of the Local Government Area. As such, it is the chairman or the executive as the case may be that is always in focus if the Local government succeeds or not. That is why the executive should work in close contact with the legislature at the Local Government level,

4. Role Complementability in the Local Government Administration

The reason for the creation of the Local Government is to bring the government nearer to the people and meet their aspirations. By direct or indirect implication, there is nobody in Nigeria that does not have business with a local government. Even the federal capital territory is sub-divided into seven (7) area councils¹⁶. This fact raises point of law and fact that the existence of Local Government Areas in Nigeria is not the fulfillment of political promise but a fundamental tier of government. It is therefore a must that the Local Government must function in such a way that the provisions of the constitution in relation to the provision of social amenities to the people are fulfilled. To do this effectively, one arm of the Local Government must complement the other. In complementing the role of the other organ of government, an arm of the government of the Local Government should not compromise in its controlling functions. The problem here is not the exercise of power vested in the legislative or the executive arm of the Local Government but a call to duty from both the Chairman and the Council as it was earlier mentioned that the Chairman and councilors are not only members of political parties, but sponsored by the parties. Having been elected, different interests will directly or indirectly display their conflicting nature. These interests may be many but suffice to mention (1) A call to duty i.e. to do the job for which a person is elected to do (2) The compliance with party policy either as a member of the executive or legislature (3) Personal interest i.e. to strive to become a speaker, the deputy speaker, leader or any other position within the Local Government. These interests are the bane between the executive and the legislative arm of the Local Government. A Chairman is not qualified to contest for the position of Chairman if he is not a member of and sponsored by a political party. Having been elected and assumed office, he ought to become a chairman of everybody in the Local Government, but this seemed not to be the case. He cannot resign from the party that sponsored his election or decamp to another party. If he does, his tenure as Chairman or the Vice-Chairman is determined by that action¹⁷. This means that a chairman who disagrees with his party will be swimming in troubled waters. The disagreement either in policy or otherwise with the party may set the legislative arm against the Chairman. However, the position is not clear if the Chairman and more than two-third (2/3) members of the Local Government Council disagree with the party. This is not clear because the party itself is incapacitated if the disagreeing members are still '*Party loyalists*'. It is presumed that if an elected member of the party do not resign or do not become a member of another party, the law may not be invoked against such a member, This in effect seems to open the veil by which the Local Government System is not accountable directly to the state or the Federal Government The only apparent control is from the council and the party. It therefore follows that if the Chairman concentrates on satisfying the councilors and the party that sponsored him, his position may be formidably secured even in the face of stiff opposition from the electorates on the account or allegation of non-performance or non-fulfillment of election promises. In the USSR, the executive arms of the Local Soviets of People's Deputies are directly accountable both to the Soviet that elected them and to the higher executive and administrative body¹⁸. It may be ideal to borrow from the experience of the Soviets by making the people (the electorate), the Council and the State Governments higher bodies to which the Local Government System is accountable.

5. Conclusion

The Local Government System is one of the things that the people should enjoy under a democratic dispensation like ours. Our analysis of the role complementability in the executive and legislative relations shows that all is not too well with the Local Government System as it is presently constituted. It has been discovered that party politics has been enthroned as a business in the hands of the party and one of the commission agents of the

¹⁵ Ibid. S. 33

¹⁶ Schedule II Part 11, Constitution FRN 1999

¹⁷ Local Government (Administration,) Law, Lagos State, 1999; S. 27(c)

¹⁸ The Constitution of the USSR, 1977; Art. 150

party is the local government. It has also been discovered that the preoccupation of most governments at the local government level is not to be removed and to be able to secure a second ticket. To do this nothing matters except the party and the council. This position should be changed to a situation by which the enjoyment of amenities to be provided by the local governments should be fundamental rights of the electorate. The breach of which can be contested in the law courts. It has also been discovered that the control of the state is not felt at the local level. If the laws establishing the local governments are enacted by the state government, it is not enough for the local government to respect all laws and institutions of the state and federal government. There should be quarterly or yearly report to be presented to the state governments by the local government authorities. It is good to be a member and be sponsored by a political party but once a man is elected to a position, he should cease to officially be a member of that party. The attention of political office holders at all levels should be divorced from the party and directed to the yearnings and needs of the people. This is the only way the common man on the street will feel that the military is no more in power and that there is a new democratic wind blowing in Nigeria. The common man is not interested in whether the politician or the soldier is in control of political power in his society. All he cares about is how to get job, food, shelter and especially some other social amenities without which the enjoyment of life will not be complete. The local governments have been established in main to address these problems. It is only when these are addressed in part or in whole that the common man can listen to the preaching of a democratic government. Let us join hands with the local government in order to achieve the dreams of the Nigerian common man and for him to enjoy the gains of democracy.