

Separation of Powers and Constitutional Democracy in Nigeria's Fourth Republic

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Abstract— *The relations between different branches of government are essential for a nation's constitution, particularly in a presidential system of government. To consolidate constitutional democracy, it is crucial to separate the roles, powers and personnel of the different arms of government while ensuring harmonious relations and independence. The separation of powers doctrine provides a theoretical framework for promoting the autonomy of the arms of government in fulfilling their constitutional responsibilities. The principle of checks and balances empowers each arm of government to serve as a check on the others, preventing them from overstepping their constitutionally assigned roles. The Nigerian Constitution of 1999 (as altered) emphasises the separation of powers by dividing the powers of government into three distinct sections: Section 4 pertains to the Legislature, Section 5 to the Executive, and Section 6 to the Judiciary. However, disputes and controversies currently exist in Nigeria regarding the overlapping areas of power assigned to the different arms of government. This paper aims to examine the separation of powers, the meeting points of the powers, their areas of dislocation and how one organ of government usurps the constitutional powers of another organ of government. The study employs the descriptive analytical method, using secondary sources such as textbooks, journals, articles, and newspapers. The paper concludes that while the Constitution guarantees the separation of powers, there is an aberration in its operationality in the Nigerian context, especially in the Fourth Republic. It suggests that while a water-tight application of this doctrine may be impracticable, there are certain areas where the three arms of government must converge or meet to consolidate democracy in Nigeria.*

Indexed Terms— *Separation of Powers, Checks and Balances, Constitutional Democracy and Fourth Republic.*

I. INTRODUCTION

The practice of democracy in Nigeria's Fourth Republic has been shaped by constitutional provisions, historical legacies and evolving political dynamics. Since the country's return to civilian rule in 1999, constitutional democracy has sought to balance the powers of the three arms of government (Legislature, Executive and Judiciary), while ensuring accountability, checks and balances, and adherence to the rule of law. However, challenges persist, including executive overreach, legislative inefficacy, judicial interference and electoral malpractice, which raise critical questions about the effectiveness of democratic governance in the Nigerian context. Democracy, as a concept, originated as the "rule of the people" in opposition to autocratic governance by a single ruler or a privileged aristocracy. However, its practical application has evolved significantly. In its early stages, democracy was cumbersome, requiring unanimous agreement for decision-making, making governance impractical (Bibi-Farouk, 2019). In ancient Greece and Athens, democratic participation was restricted to a select group of elites, excluding a majority of the population from political engagement. Over time, representative democracy emerged, allowing elected individuals to make decisions on behalf of the larger population while the majority remained engaged in other productive activities.

Theoretical perspectives on democracy have varied among scholars. Karl Popper, in *The Open Society and Its Enemies* (2016), critiqued traditional notions of democracy, highlighting differing views from Plato to Marx. Plato, for instance, favoured rule by "the best" or a select few aristocrats rather than governance by

the majority. Despite these philosophical debates, democracy continued to expand, particularly in the 19th and 20th centuries, with the push for universal suffrage and increased citizen participation in governance. In contemporary times, democracy has transitioned from direct citizen participation to a system of representation through electoral processes. As Diamond (2016) highlights, key elements of democracy include free and fair elections, human rights protection, civic participation, and a justice system that applies laws equitably. These principles are enshrined in Nigeria's 1999 Constitution, which defines the framework for democratic governance in the Fourth Republic. Yet, despite these constitutional provisions, the practical implementation of democracy in Nigeria has faced numerous hurdles, including electoral fraud, weak institutions and power struggles among the three arms of government. This study critically examines representative democracy within the Nigerian context, focusing on the separation of powers, checks and balances and institutional cooperation. It explores how the democratic system functions in practice, the extent to which the constitutional framework has facilitated or hindered effective governance, and the gaps that require scholarly attention. By analysing the interaction among the Legislature, Executive and Judiciary, this research aims to contribute to the discourse on governance reforms necessary for strengthening democracy in Nigeria's Fourth Republic.

II. THE DOCTRINE OF SEPARATION OF POWERS

The debate on the doctrine of Separation of Powers has a long antecedent with some scholars preferring to date it as far back as to the English practice of Government. It is a principle against arbitrary exercise of powers amongst the arms of government because, in the words of Thomas Jefferson, power tends to corrupt and absolute power corrupts absolutely. Inherent in the principle of Separation of Powers is the idea of checks and balances, which means that the arms of government should check and balance their respective powers against each other. According to Black's Law Dictionary (Garner, 2014), Separation of Powers is defined as; "The division of governmental authority into three branches of government – Legislative, Executive and Judicial – each with

specific duties to which neither of the other branches can encroach; the constitutional doctrine of checks and balances by which the people are protected against tyranny." The modern theory of the Separation of Powers is demonstrated in the writings of John Locke (1690), Baron de Montesquieu (1748) and James Madison (1788); The US model is demonstrated by Madison in the Federalist Papers; Locke's Separation of Powers, in his book *Two Treatises of Government*, attempted to limit absolute monarchical powers under the British model, by separating the legislature and executive power; de Montesquieu, who was heavily influenced by the writings of Aristotle and Polybius (Alvey, 2005), on the other hand limited himself to the Legislature, Executive and Judiciary. In his work *L'Esprit des Lois* (*The Spirit of Laws*), he says; "Political theory is to be found only when there is no abuse of power. But constant experience shows us that every man invested with power is liable to abuse it, and to carry his authority as far as it will go. To prevent this abuse, it is necessary from the nature of things that one power should be a check on another. When the legislative and the executive power are united in the same person or body, there can be no liberty. Again there is no liberty, if the judicial power is not separated from the legislature and executive." Alabi (2022) opined that, although de Montesquieu (1748) has taken the glory of elevating the idea to the status of a constitutional doctrine, the notion that the exercise of governmental power be divided among the arms of government is traceable to Locke (1690) in his four-fold classification of governmental power into the legislative, executive, adjudicative and federative.

According to Garner & Jones (1985), the doctrine further advocates that to avoid oppressive government, the three types of governmental functions (i.e., legislature, the executive and the judiciary) should be kept separate. The ideal constitution would be one under which only the legislature legislates (i.e., makes rules), only the judges adjudicate (i.e., decide disputes on the basis of rules) and only the executive formulates and, through administrators, executes policy. Furthermore, each of these arms of government should be made up of entirely separate personnel; No individual should be involved in more than one branch. Chand (1994) also stipulates this principle as meaning that; "There must be no interference into the affairs of one organ by the other; No person shall

discharge more than one function; and No organ shall exercise the functions of another organ.” Many national constitutions today have the principles of the separation of powers with different degrees of application inserted within them. Because some systems of governments have greater similarities with others, separation of powers has tended to take very different trajectories depending on the constitution, the nation, the people and the history that make up the people.

III. IMPORTANCE OF SEPARATION OF POWERS

The importance of the separation of powers as a political concept and constitutional doctrine on any polity cannot be overemphasised. Below are some of the specific benefits;

- **Checks and Balances of Powers in Governance:** The principle of checks and balances is fundamental in Nigeria’s constitutional framework, ensuring that the three branches of government, executive, legislative and judicial, maintain distinct powers while providing oversight over each other to prevent abuse. For instance, the President has the authority to appoint justices of the Supreme Court and ministers. However, these appointments require Senate approval. Specifically, Section 231(1) of the Nigerian Constitution states: “The appointment of a person to the office of Chief Justice of Nigeria shall be made by the President on the recommendation of the National Judicial Council subject to confirmation of such appointment by the Senate.” Similarly, while the National Assembly is responsible for enacting laws, a bill only becomes law after receiving the President's assent. The President can exercise a veto by refusing assent, but the National Assembly can override this veto with a two-thirds majority in both chambers. This process is outlined in Section 58 of the Constitution. Additionally, the judiciary holds the power to declare laws passed by the legislature unconstitutional, thereby nullifying them. This judicial review function is implicit in the courts’ role to interpret the Constitution and ensure that all laws align with its provisions. Conversely, although the judiciary can convict individuals in civil and criminal cases, the President possesses the power to grant pardons. Section 175(1) of the Constitution provides: “The President may grant any person concerned with or

convicted of any offence created by an Act of the National Assembly a pardon, either free or subject to lawful conditions.” These mechanisms exemplify the system of checks and balances embedded in Nigeria’s governance structure.

- **Prevention of Tyranny:** The separation of powers is a fundamental principle designed to prevent tyranny by ensuring that absolute power is not vested in a single organ or individual. When unchecked authority is concentrated in one entity, there is a high risk of misuse, oppression, and abuse of power. The separation of powers serves as a safeguard against this by distributing governmental functions among distinct branches, the Executive, Legislature and Judiciary, each with its own defined roles and mechanisms to check and balance the others. This dispersion of power fosters accountability, transparency, and fairness within governance. By preventing any one branch from becoming too dominant, the system protects the rights and freedoms of citizens and ensures that the rule of law prevails. The importance of this principle is echoed in de Montesquieu’s *The Spirit of Laws* (1748), where he warns, “There can be no liberty if the judiciary power is not separated from the legislative and executive.” In the context of Nigeria’s 1999 Constitution (as amended), the separation of powers is firmly embedded, ensuring that no single arm of government can exercise unchecked control, thus safeguarding democratic values and preventing tyranny.

- **Specialisation and Efficiency:** Several scholars have posited that the separation of powers functions as a political analogue to the economic theory of division of labour, enhancing specialisation and efficiency within governance. By assigning distinct responsibilities to each governmental branch, this framework fosters expertise and proficiency in their respective domains. Smith (1776), in his seminal work *The Wealth of Nations*, introduced the concept of division of labour, illustrating how task specialisation leads to increased productivity. He observed that when workers focus on specific tasks, their efficiency and skill improve markedly. This principle, when applied to governance, suggests that: “The legislature, dedicated to law-making, enables legislators to develop expertise in drafting and enacting laws.” The executive, responsible for policy formulation and implementation, becomes more adept at

administration and governance. The judiciary, focused on interpreting laws and resolving disputes, gains deeper insight and precision in legal reasoning. This specialisation not only enhances efficiency but also reinforces a system of checks and balances, as each branch operates within its area of expertise, reducing the potential for overreach or abuse of power. In the context of the United States, Flaherty (2004) has argued that the Constitution's tripartite design aims to ensure that the division and occasional blending of powers serve fundamental goals: maintaining balance among branches, extending accountability and enhancing governmental efficiency. He notes that this structure was intended to create a more balanced and accountable government, improving upon previous systems. By concentrating on their respective functions, each branch not only achieves greater proficiency but also contributes to a more effective and balanced governance system, embodying the maxim "practice makes perfect."

- **Enhancement of Effective Government:** The concept of separation of powers not only prevents the concentration of authority but also enhances the viability and effectiveness of government by clearly delineating the roles and responsibilities of each arm. By dividing governmental functions among the Legislature, Executive, and Judiciary, the workload is distributed, allowing each branch to focus on its specific duties, leading to greater efficiency and improved governance. With specialised roles, each branch can operate with precision and expertise: The Legislature is responsible for debating, drafting, and enacting laws, approving treaties, originating spending bills, and exercising oversight functions such as impeaching officials, including the President when necessary. The Executive focuses on policy formulation, implementation, and the day-to-day administration of government activities. The Judiciary interprets laws, resolves disputes, and ensures that all government actions comply with the constitution. This clear division reduces overlap, minimises conflicts between branches, and promotes a system of checks and balances, ensuring that no single arm becomes too powerful. Scholars like Montesquieu (1748) emphasised that dividing powers among different bodies not only safeguards liberty but also enhances governmental efficiency by assigning clear, manageable tasks to each branch. Similarly, Locke

(1690) in *Two Treatises of Government* argued for a system where separate entities handle legislative and executive functions to prevent misuse of power and to streamline governance. In the Nigerian context, the 1999 Constitution (as amended) reflects this structure, empowering the National Assembly to handle legislative functions, the Executive to manage governance, and the Judiciary to uphold the rule of law. This separation fosters accountability, efficiency, and overall effectiveness in the government's operations.

- **Preservation and Protection of Liberty:** The concept also guarantees the rights and liberty of the citizens, if the powers of the three arms of government are placed under one authority, there is likelihood that arbitrariness may ensue. Men by nature will always push whatever powers they have to the limit and if for example those who make laws are to enforce them, they can tyrannise their fellow men. It is also noteworthy that the concept is a useful mechanism to protect the liberty and rights of minorities because powers are not concentrated in one organ of government.

- **Safeguards Independence of Each Organ [Especially Protection of the Judicial Independence]:** One of the fundamental principles of constitutional democracy is the independence of the judiciary, which serves as a safeguard for the rule of law. This principle ensures that courts operate without undue influence, maintaining their integrity and impartiality (Dicey, 1885). The doctrine of separation of powers, as outlined in the 1999 Constitution of Nigeria, establishes the autonomy of each branch of government, allowing them to function effectively within their respective domains (Section 4, 5, and 6 of the 1999 Constitution). This framework fosters a harmonious working relationship among the Executive, Legislature and Judiciary by clearly delineating their roles and responsibilities. When each governmental unit respects its constitutional mandate, institutional conflicts are minimised, promoting stability and good governance (Montesquieu, 1748).

- **Decentralisation of Power:** The concept also provides for the decentralisation of power which paves way for effective monitoring of the system by each of the organs of government. This means that the organs of government will check on the activities of each

other and by doing this accountability is ensured too. To corroborate this, retired Nigerian Supreme Court Justice Chukwudifu Oputa eloquently stated in his book, *Independence of Judiciary in a Democratic Society*, that the concept of separation of powers arose from the need to ensure the restraint of governmental powers, by dividing the power without carrying that division to an extreme. It is in fact the checks and balances that explain the overlapping among three organs of government in actual practice.

Despite all these unique importance of separation of powers highlighted above, suffice to say that in practice the implementation of the concept has not been a bed of roses. While the implementation of the theory and the principle vary from one country to another, there is no country that has complete compartmentalisation of governmental powers (Alabi, 2022). According to Bibi-Farouk (2018), under the US Presidential system, the concept has not been practiced in pristine or pure form as there has been series of friction most especially in the relationship between the executive and the legislature but such friction is usually based on principles and institutionalised and in the overriding interest of the Americans.

In Nigeria, despite the clear constitutional provisions supporting the separation of powers as a mechanism for checks and balances, there have been numerous instances where the Executive has deliberately usurped the powers of the Legislature and Judiciary, thereby undermining democratic governance. This pattern is particularly evident at the state level, where governors often exert undue influence over the other arms of government. A notable example is the 2014 crisis in Rivers State, where the Executive arm, under then-Governor Rotimi Amaechi, clashed with the State House of Assembly. The crisis escalated when five out of 32 lawmakers attempted to impeach the Speaker, allegedly with the backing of the Executive and federal authorities. The police, under federal control, were accused of taking sides, further compromising the independence of the Legislature (Premium Times, 2014). Similarly, in 2019, former Governor Seyi Makinde of Oyo State unilaterally dissolved democratically elected local government councils, citing irregularities in their elections. The dismissed council officials challenged the decision in court, and the Supreme Court ruled in their favour, reaffirming the constitutional autonomy of local

governments (Punch, 2021). Despite this ruling, the initial action by the Executive disrupted local governance and demonstrated the tendency of state executives to undermine other tiers of government. Another case highlighting executive overreach is the prolonged refusal of some governors to grant financial autonomy to state judiciaries and legislatures, contrary to Section 121(3) of the 1999 Constitution and a presidential executive order signed in 2020. The Judiciary Staff Union of Nigeria (JUSUN) staged a nationwide strike in 2021, demanding compliance with the constitutional mandate for financial independence, which many governors had ignored (Punch, 2021). This situation underscores the persistent attempts by state executives to weaken the Judiciary's independence. These examples illustrate how the Executive, especially at the state level, often encroaches on the powers of the Legislature and Judiciary, thereby weakening democratic institutions. While constitutional provisions exist to ensure separation of powers, enforcement remains a challenge due to systemic executive dominance and institutional weaknesses.

IV. SEPARATION OF POWERS IN NIGERIA UNDER THE 1999 CONSTITUTION

Nigeria operates a constitutional democracy based on a written constitution and anchored on the rule of law, due process and the separation of powers among the executive, the legislature and the judiciary. The 1999 Constitution employed the principle of separation of powers as a cardinal feature for the operation of constitutional democracy in the country (Okoye, 2004:15).

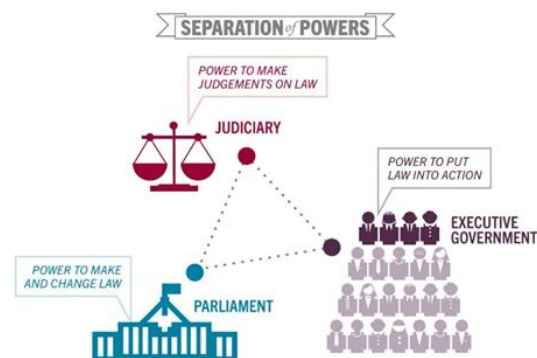


Figure 1. Illustration Of Separation Of Powers (Mizgin Yildirim).

The concept of separation of powers within the democratic process in Nigeria is enshrined in the 1999 Constitution of the Federal Republic. Section 4 of the Nigerian Constitution generally speaks about Legislative Powers of the Country, as vested in a National Assembly for the Federation. Section 4 (2), Part II (Powers of the Federal Republic of Nigeria) of Chapter 1 (General Provisions) of the constitution specifically provides that; *“The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.”* (Section 4 (2)). The state level has similar empowerment from the constitution. Section 4 (6) states that the legislative power of the state of the federation shall be vested in the House of Assembly of the state. The Executive powers of the federation are vested in the President by virtue of section 5. That is why section 5 (1) states that; *“The executive powers of the Federation shall be vested in the President and may, subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President - and ministers - of the government of the Federation or officers in the public service of the Federation, and Shall extend to the execution and maintenance of this constitution, all laws made by the National Assembly and to all matters with respect to which the 'National Assembly has, for the time being, power to make laws.”* The constitution also provides the same executive powers in the States, as in section 5 (2). The constitution makes very clear and robust provisions for the Judiciary under Section 6, where it is stated that; *“The judicial powers of a state shall be vested in the courts to which this section, being courts established, subject as provided by this constitution, for a state. The judicial powers vested in accordance with the foregoing provisions of this - section Shall extend, notwithstanding anything to the contrary in this constitution, to all inherent powers and sanctions of a court of law; Shall extend to all matters between persons, or between government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person.”* The same power is replicated in section 6 (2) for the states of the federation. Without any ambiguity, the Nigerian

constitution could be said to have adequate and very generous provisions for the separation of powers. In essence, every arm has stipulated responsibilities in relations to the others. In any case, separation of power does not mean conflict or even competition between the arms of the government; it means there is a relationship that will ensure seamless processes of discharging the responsibilities of governance mandated by the people (Bibi-Farouk, 2018).

V. THE INTERPLAY OF POWER BETWEEN THE THREE ARMS OF GOVERNMENT IN NIGERIA

The government of Nigeria operates under a tripartite system, comprising the Executive, the Legislature, and the Judiciary. These three arms function independently but are interdependent, ensuring a system of checks and balances at the Federal, State, and Local Government levels. This structure prevents the concentration of power in a single authority and promotes democratic governance.

At the federal level, the Nigerian Constitution of 1999 (as amended) delineates the roles and powers of the three arms:

- Executive: Headed by the President, the Executive enforces laws, formulates policies, and oversees the administration of government affairs (Section 5 of the 1999 Constitution).
- Legislature: The National Assembly, comprising the Senate and House of Representatives, is responsible for making laws, approving budgets, and overseeing executive actions (Sections 4 and 88).
- Judiciary: The Supreme Court, Court of Appeal, and other federal courts interpret laws, ensuring justice and constitutional compliance (Section 6).

At the state level, the interplay of power mirrors that at the federal level but with governors, state legislatures, and state judiciaries playing similar roles.

- Executive: The Governor oversees the administration of the state, implementing laws and policies.
- Legislature: The State House of Assembly enacts state laws and supervises the executive branch.
- Judiciary: The State High Courts and subordinate courts handle legal interpretations and disputes.

At the grassroots level, local governments have executive, legislative and limited judicial powers.

- Executive: The Local Government Chairman administers policies and projects.
- Legislature: The Local Government Council passes by-laws and monitors executive activities.
- Judiciary: Customary and magistrate courts handle minor disputes.

There are presently in Nigeria disputes and controversies amongst scholars concerning the meeting points of the powers allotted to the various organs of government. A common feature with separation of powers is the constant desire of the different arms of government to attempt to expand their powers and influence with every given opportunity. Often the main culprit in this instance is the Executive arm which often controversially attempts to exert authority over the Legislature and the Judiciary (Agbakwuru, 2018). Kalu (2018), further argues that the legislative and judicial arms of government appear to be at the receiving end in the endless erosion of their powers by a blossoming state bureaucracy or executive expediency. Some of the experiences from the inception of the Fourth Republic in the relationship between the Legislature, the Executive and the Judiciary in Nigeria, have shown many areas of friction. Examples that can be cited and elaborated upon at the federal level include:

- Obasanjo and the National Assembly Constituency Development Bill: In 2001, President Olusegun Obasanjo exercised his veto power by rejecting the National Assembly Constituency Development Bill, which sought to allocate the sum of N500 million to each Senator for constituency projects. Obasanjo's decision was based on constitutional grounds, as he viewed the bill as an overreach by the legislature into the executive's domain. He argued that, in line with Section 5 of the 1999 Constitution of Nigeria, executive powers are vested in the President and his administration, and thus, lawmakers are not permitted to directly execute laws they have passed. This position reinforced the doctrine of separation of powers and underscored the importance of maintaining distinct roles for each branch of government to prevent legislative encroachment on executive functions (Orimogunje, 2015).
- Tambuwalisation of the House of Representatives: In Nigeria, both at the national and state levels, the

executive branch often exerts significant influence over the legislature, leading to perceptions of legislators as “rubber stamps.” This dynamic was evident during President Umaru Yar'Adua's tenure and took a distinctive turn in 2011 under President Goodluck Jonathan with the emergence of Aminu Tambuwal as Speaker of the House of Representatives. Against the preferences of the presidency and the People's Democratic Party (PDP) leadership, who favoured Hon. Mulikat Akande-Adeola from the Southwest for the Speaker position, Hon. Aminu Tambuwal, with support from some PDP members and the then-opposition Action Congress of Nigeria (ACN), secured the speakership. This move defied the directives of both the presidency and PDP leaders. The ACN leadership hailed the event as “democracy in action,” while the PDP expressed dissatisfaction but eventually accepted the outcome. Throughout Tambuwal's tenure, despite being a PDP member, the House leadership often adopted a stance more aligned with the opposition than the ruling party. (TheCable, 2014.) Prior to the inauguration of the 8th National Assembly on June 9, 2015, the All Progressives Congress (APC) did not clearly articulate its position on the election of principal officers. This ambiguity led to internal manipulations, rivalries, and intrigues among various factions within the party. (NewsDigest, 2019). These instances highlight the complex interplay between executive preferences and legislative independence in Nigeria's political landscape.

- The Executive's Refusal to Obey Court Orders: In the case of Colonel Sambo Dasuki (Rtd), the Executive demonstrated disregard for the principles of separation of powers by refusing to comply with multiple court orders issued by competent judicial authorities. On at least six occasions, courts granted bail to Dasuki, who was accused by the Directorate of State Services (DSS) of misappropriating \$2.1 billion while serving as the National Security Adviser. Justices Ademola Adeniyi, Ahmed Mohammed, Hussein Baba-Yusuf, and Peter Affen, presiding over different cases at the Federal High Court and the High Court of the Federal Capital Territory, ordered his release on bail (Enuma, 2018). However, the Executive arm of government justified his continued detention under the claim of “protective custody,” despite the judicial rulings. While this defiance raised

concerns over the violation of Dasuki's fundamental human rights, it is also important to note that the Executive's actions were not entirely without legal contestation. Some of the court rulings were challenged on appeal, further complicating the legal dynamics of the case. This highlights the broader tension between the Executive and the Judiciary in Nigeria's constitutional democracy, where enforcement of judicial decisions is sometimes influenced by political and security considerations.

At the state level, an example of power interplay at the state level can be illustrated by;

- The Political Crisis in Rivers State between the Governor and the State House of Assembly (2014): In 2014, the then-Governor of Rivers State, Rotimi Amaechi, faced impeachment threats from the State House of Assembly. The impeachment attempt was widely perceived to have been politically motivated and allegedly influenced by the presidency due to Amaechi's strained relationship with the federal government at the time. The crisis escalated into violent clashes during legislative sessions, drawing widespread public attention. The judiciary intervened by issuing court rulings aimed at maintaining democratic order and preventing unconstitutional actions. This episode highlighted the ongoing struggle for dominance between the executive and legislative arms of government at the state level, while also emphasising the judiciary's crucial role in safeguarding democratic principles (Premium Times, 2014).

Power interplay at the local government level can be sited in the following example;

- The 2019 Dissolution of Local Government Councils in Oyo State: In 2019, the former Governor of Oyo State, Seyi Makinde, dissolved elected local government councils shortly after assuming office. The governor cited irregularities and lack of due process in the conduct of the council elections organised by the previous administration. The decision sparked significant controversy, as the dismissed local government officials argued that their removal violated the constitutional guarantee of local government autonomy. The affected officials challenged the action in court, leading to a prolonged legal battle. In 2021, the Supreme Court ruled in favour of the dismissed council officials, declaring the

dissolution unconstitutional and emphasising the constitutional independence of local governments. The ruling reaffirmed the legal protection of local government structures from arbitrary interference by the executive, underscoring the principle of separation of powers and the need to uphold democratic governance at all levels (Punch, 2021).

VI. CONCLUSION: EVALUATING THE PRACTICAL IMPLEMENTATION OF SEPARATION OF POWERS IN NIGERIA'S FOURTH REPUBLIC

The concept of separation of powers, which gained global prominence through Montesquieu's work, is a fundamental principle of constitutional governance designed to prevent the concentration of authority in a single branch of government. It decries arbitrariness and tyranny by dividing power among the three arms of government: the legislative, executive and judiciary. Nwabueze (2003) affirmed the functions of these arms as enshrined in sections 4, 5, and 6 of the Constitution of the Federal Republic of Nigeria 1999 (as altered). In theory, the Nigerian Constitution provides a structured separation of powers; however, empirical evidence suggests that the practical application of this doctrine has been inconsistent. Executive overreach, judicial inefficacy and legislative inertia often undermine the balance of governance. While the constitutional framework establishes a clear division of roles, the reality of political power dynamics in Nigeria reveals institutional conflicts, power struggles and strategic alliances that complicate the intended balance of powers.

- Constitutional Provisions vs. Practical Implementation: A critical examination of the Nigerian system shows that, while the 1999 Constitution enshrines the principle of separation of powers (Sections 4, 5, and 6), the practical implementation often deviates due to weak institutions, patronage politics, and the centralization of executive power. The study highlights multiple cases, such as executive disobedience to court orders (e.g., the Dasuki case), interference in legislative affairs (e.g., the Rivers State House of Assembly crisis) and dissolution of local government councils (e.g., the Oyo State incident), which suggest that, rather than fostering democratic stability, the practical

implementation of separation of powers often results in political rivalry and institutional power struggles. International comparisons indicate that while no country practices a pure form of separation of powers, successful democracies like the United States maintain stronger institutional checks that mitigate executive encroachment. The Nigerian model, in contrast, exhibits a more fragile application, where the Executive often exerts control over both the Legislature and Judiciary, weakening institutional independence.

- **Does Separation of Powers Breed Rivalry or Strengthen Governance?:** Theoretically, separation of powers is meant to ensure accountability and prevent tyranny. However, this study finds that in Nigeria, the principle has often led to conflict rather than cooperation. The rivalry between arms of government, especially between the Executive and Legislature, stems not from the doctrine itself but from how it is applied. The Executive has frequently sought to dominate the Legislature (as seen in the National Assembly's struggles under different administrations) and has disregarded judicial rulings, undermining the Judiciary's authority. This suggests that the problem is less about the constitutional design and more about its enforcement and political culture. Empirical evidence from legislative-executive conflicts, presidential vetoes, and judicial disregard in Nigeria suggests that separation of powers has not functioned optimally as a check-and-balance mechanism. Instead, executive dominance remains a persistent issue, raising concerns about the true extent of institutional autonomy.

- **Concurrent Powers and the Reality of Power Overlap:** Nigeria's Constitution does not establish an absolute separation of powers but instead allows for concurrent powers, where functions sometimes overlap between branches. For instance, the Executive can veto legislative bills, the Legislature can override a presidential veto, and the Judiciary has the power to check both branches through judicial review. These overlapping functions are meant to promote checks and balances, but in Nigeria, they have often been exploited for political manoeuvring rather than democratic strengthening. Data from previous government interactions suggest that power struggles are most pronounced at the state level, where governors exert disproportionate influence over state legislatures and judiciaries. The reluctance of

governors to grant financial autonomy to state judiciaries and legislatures, despite constitutional provisions, underscores the persistent imbalance in power relations.

This study makes several contributions to the academic discourse on governance and democracy in Nigeria by addressing the interplay between constitutional provisions and practical realities of separation of powers. Through an empirical analysis of executive interference, legislative inefficacy, and judicial weaknesses, the study provides concrete, data-driven insights into how separation of powers functions in practice. It clarifies the gap between Nigeria's constitutional framework, which theoretically supports separation of powers, and the inconsistent enforcement and institutional compliance that contribute to governance inefficiencies. Additionally, the research offers comparative insights by contrasting Nigeria's model with more stable democracies, demonstrating how institutional strengthening can enhance the balance of powers. By systematically evaluating whether Nigeria's model of separation of powers effectively promotes accountability or merely fuels political conflict, the study highlights the urgent need for deeper institutional reforms and stricter enforcement mechanisms to ensure that each arm of government functions within its constitutional mandate.

VII. RECOMMENDATIONS FOR STRENGTHENING SEPARATION OF POWERS IN NIGERIA

To address the practical challenges identified, the following measures are recommended:

- **Judicial and Legislative Financial Autonomy:** Ensuring full financial independence for both the Judiciary and Legislature will reduce executive interference and strengthen their ability to function independently.
- **Stronger Judicial Enforcement Mechanisms:** The Judiciary should have more power to enforce compliance with its rulings, particularly against executive disobedience.
- **Legislative Oversight and Strengthening:** The National Assembly should assert its authority by actively exercising its oversight functions, including

budget scrutiny, impeachment processes, and investigative hearings.

- **Public Awareness and Civil Society Engagement:** Strengthening democratic accountability requires greater public engagement. Civil society organizations should actively monitor and report executive overreach and legislative inefficiencies.
- **Comparative Institutional Learning:** Nigeria should study and adapt best practices from other democratic nations, particularly in maintaining a functional and independent Judiciary and Legislature.

Separation of powers remains a critical principle in Nigeria's constitutional democracy. However, its effective implementation requires not just constitutional provisions but also institutional commitment, political will, and active civic engagement. The study concludes that while Nigeria's constitutional framework provides for checks and balances, the real challenge lies in the enforcement and adherence to these principles. Strengthening institutions, ensuring financial autonomy, and fostering a culture of accountability are crucial steps toward realizing the true intent of democratic governance in Nigeria's Fourth Republic.

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