

**Public Budget Making in Nigeria: A Historical Analysis of its Legal Framework,
1954 – 1999**

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Abstract

This study analyses the legal framework for the prudent management of Nigeria's revenue and expenditure from 1954 up to 1999. It shows and discusses the constitutional and statutory provisions that were enacted for the dispensation and regulation of public finances particularly the federal budget, and how these provisions either changed or continued in the period. In addition, the paper analyses the significant provisions on prudence as they concern federal budget and the due process of public accountability in Nigeria especially since the consolidation of the country into a federation of multiple fiscal powers and responsibilities. The study concludes that constitutional laws on budgeting in Nigeria have always been sufficiently expressive on the requirements of the due process of financial planning and on the prohibition of corrupt acts and imprudent use of public resources; and that if the Nigerian financial system today is still bedevilled by misappropriation of those resources it will not be due to insufficient legal framework but the refusal to sanction its breach.

Key words: Budget; Budgeting; Federation Account; Consolidated Revenue Fund; Constitution; Fiscal System.

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Introduction

Budgeting in Nigeria, especially in recent times, have been bedevilled by legislature-executive rift.¹ The rift has, in most times in the current fourth republic, imperilled the budget process through avoidable delays in its passage and consequently, the frustration of the capital project content in the whole document. The result has been that in the last thirteen years a huge gap in the social contract between the citizen and the government was created through sheer failure to perform the intent and purposes of the budget for the benefit of the citizens. Delays in budget initiation, legitimation and execution processes devalued the fiscal plans of the government and the social and welfare programmes contained in them. The delay was caused by endless feud between the legislature and the executive over power to determine the expenditure size of the budget and the projects that should be included in it. This made almost impossible the enforcement of the infrastructural projects contained in virtually all the budgets passed into law between 1999 and 2007. In most of the years under President Olusegun Obasanjo (1999-2007), the two arms of government –the Legislature and the Executive – spent the better part of their relations on fiscal matters squabbling over which of them had the power of determining maximum and minimum levels of expenditure considered healthy for the Nigerian economy and the statutory accounts in which all federally collected revenue should be paid. They also quarrelled over the power to fix budgeted price per barrel of oil exported by the country. All these created a need to look into and make definitive statements on the extent of powers granted to either organ of government by the constitution and other extant laws of Nigeria. This study describes and analyses the constitutional and statutory bases for budgeting in Nigeria and the extent of the legal powers of the executive and the legislature on the subject since 1954. The objective is to lay bare, the legal framework since the colonial times up to the present, under which each of the two arms of government and other statutory bodies could exercise authority over Nigerian financial matters without having to make their competing struggle for power to negatively affect the passage and implementation of the budget for the benefit of Nigerians.

Conceptual and theoretical underpinnings

The word ‘budget’ derives from the French word, ‘bougette’, which means a small pouch or bag normally associated with women into which they put their personal effects and other necessities.² In the United Kingdom during the 17th century, budgets meant the leather bag in which the Chancellor of the Exchequer conveyed to parliament “the statement of the government’s needs and resources”.³ The early history of public finance in Europe and in the United States shows that public budget gradually evolved as an instrument for checking the excesses of the executive arm of government and ensuring that it was made accountable to the people.⁴ Hence, at its most rudimentary stage, public budgets emerged as a document designed for curtailing executive discretion, by ensuring that its powers in levying taxes were subject to legislative review and, as in the case of the US, by specifying those projects on

¹ For an expository analysis of the nature and extent of legislature-executive rift over Nigerian federal budget under President Olusegun Obasanjo’s government see Ogunyemi, Adetunji “Historicising and Interrogating the Powers of the National Assembly over Nigeria’s Budgetary Processes, 1999-2011”, in Ukase, Patrick, Philip Afaha and Tangshak Larab (eds.), *Studies on the Nigerian Legislature*. Ibadan: Vast Publihsers, 2013: 241-270.

² See, H. L. Bhatia, *Public Finance* (4th Edition), Delhi: Vikas Publishing House, PVT Ltd, 1979, p. 205.

³ J. Burkhead, *Government Budgeting*. New York: Wiley, 1956, p. 2.

⁴ C. Tyler and J. Willand, “Public Budgeting in America: A Twentieth Century Perspective.” *Journal of Public Budgeting, Accounting and Financial Management*, vol. 9, No. 2, 1997.

which public moneys might be spent. Thus, the budget evolved as a major instrument for ensuring fiscal accountability.

Budgeting refers to the processes involving the preparation, enactment, implementation and monitoring of the enforcement of the budget document.⁵ In this way budgeting describes the financial conditions of a government or state and how it intends to make those conditions work in favour of the welfare of the citizen. Hence, in strict economic sense, budgeting should describe conditions of a county's revenue, planned expenditure, as well as the fiscal and monetary policies intended to be pursued within a defined period. Such financial descriptions may be prepared on a yearly or multi-year basis.⁶ Unlike an accounting balance-sheet that is retrospective, the budget of a state is customarily prospective. It looks into the future by showing in detail, the layout of expected revenues, proposed expenditure and fundamental economic policies designed for a defined period in the near future. Therefore, budgetary processes of government involve raising revenues and planning for their systematic disbursements in pursuance of the provision of "social" or "public goods".⁷ This is why the ultimate purpose of any budgeting system is the accomplishment of the best possible welfare goods for the citizen while the essence of budgeting itself is accountability and prudence in the use of public resources.

It is for the need to ensure accountability in the use of public monies that budgets are drawn up, first, to delimit the extent of executive discretion in the use of public resources, second to reduce corruption and waste and third, to ensure that those in charge of providing for the use of resources are themselves not the same entrusted with implementing expenditure plans or reporting on how well or otherwise they have been disbursed. Thus, this study describes the conditions of the legal environment of budgeting system in Nigeria and analyses, using historical methods, the extent of the powers of the executive and the legislature in carrying them out from 1954 -1999. It also explains the position of the Auditor-General in the budgeting process and how far its powers over the financial monitoring process is either engendered or endangered by the legal environment of budgeting in Nigeria.

It is important to point out nonetheless that public budgets, all over the world, whether drawn by a central government in a multilevel political structure such as we have in Nigeria or the US or by the national government in a unitary state as exemplified in Ghana's political system, are usually designed to achieve four basic functions, viz: (i) resource mobilization, such as securing revenue through tax and non-tax efforts, (ii) resource allocation, especially among competing eco-social sectors, (iii) economic stabilisation and, (iv) wealth redistribution.⁸ The last function is often carried out through the adjustment of tax regimes, whereby the government exerts more contributions from the resource-surplus sector of the economy in favour of the resource-deficient sector.

However, there are three basic theoretical perspectives from which one may view a state's budget. First, one may see budgets as the political statements of the government and party in power. That way, the budget document embodies the manifesto of the ruling party and the wishes of the dominant elite in the society which is reflected in the types of projects they

⁵ R. D. Lee (Jr.) and R. W. Johnson,

⁶ For different types of budgets see, A. Wildavsky, *Budgeting: A Comparative Theory of Budgetary Processes*. Boston: Little, Brown and Co, 1975.

⁷ For details on the meaning of "Social" and "Public Goods" see, R. A. Musgrave and P. B. Musgrave, *Public Finance in Theory and Practice*. New York: McGraw Hill, 1989.

⁸ R. O. Khalid, "Planning and the Budget Process." *Finance and Development*. (June) 1978, pp. 33-37.

finance and the localisation of such projects, the manner and extent of taxation they levy and what category of citizens they levy most taxes. Second, the budget may be perceived as an economic blue-print of planned receipts and expenditure within a fiscal year, in which case, it will be the instrument for anchoring the developmental objectives of the state in a most objective and scientific manner devoid of any political considerations. Third, budgets may be seen as the legal document empowering the sovereign to levy taxes and exert contributions from citizens for the purposes of national treasury and, at times, for compelling certain expenditure, which the legislature considers to be of utmost priority. In this last instance, the budget becomes the *Annual Appropriation Act*, the provisions of which are binding on the executive and the non-fulfilment of which may amount to a sactionable dereliction of duty. This is the perspective that the 1960, 1963, 1979 and 1999 Constitutions of the Federal Republic of Nigeria (CFRN) codify in their relevant sections.

Nonetheless, whether budgets are seen as economic documents or as political statements, or even, as binding laws on the executive, the fact remains that their ultimate purposes lie in the provision for the advancement of the security and welfare of the citizenry. Any detraction from this will most likely seriously impede the purpose of government itself and lead to a disconnection between the government and the governed. In other words, budgets can be seen as a kind of ‘social contract’ between the government and the governed. The contract imposes on the government the duty to provide for the social welfare and security needs of the governed and, on the citizen, the responsibility of paying taxes to the government. It also imposes on the government the duty of explaining why and how it uses public monies.

In fact, the budget is the document analogous to Jean-Jacques Rousseau’s classical “social contract”⁹ and responsible governments have not failed to see the promises contained in the budget as the terms of such social contract and they consciously try to accomplish them by providing the public goods contained in them. Therefore, it is in the budget that one expects to find the dimensions of this contract, through a systematic presentation of the financial activities and expectations of the government in a financial year, the accounts of the income and purchases of government in the previous financial year, and the financial outlays in the coming year. By so doing, the art of governance benefits from the scientific processes of resource planning, while at the same time avoiding random spending with its attendant imperfections. How both the constitutional and statutory laws of Nigeria have made these possible since 1954 is what we lay out in subsequent sections.

Constitutional and Statutory Foundations for Budgeting in Nigeria, 1954-1989

Constitutional and statutory frameworks for budgeting in Nigeria up to 1989 provided for and regulated the whole of the budget cycle in the period under review. The cycle being: (i) Budget Initiation and Presentation (ii) Budget Legitimation (iii) Budget Implementation and (iv) Budget Monitoring and Reporting. Two categories of legal frameworks were created for Nigeria from the decolonisation period (1954-1960) up to 1989 to anchor all of these stages in the budgeting. The frameworks were designed to guide budget making and implementation, which were key to the raising and disbursement of public funds. The first was the constitutional framework for budgeting. Within the scope of this paper, there were five of such constitutional frameworks embodied in five different constitutions that Nigeria enacted and operated from 1954 to 1989. These were the: (i) Nigeria (Constitution) Order-in-Council,

⁹ Jean J. Rousseau, *The Social Contract and Discourses*, edited by G. D. H. Cole, London: Dent, 1913.

1954¹⁰ (ii) Nigeria (Constitution) Order in-Council, 1960¹¹ (iii) Constitution of the Federation of Nigeria, 1963¹² (iv) Constitution of the Federal Republic of Nigeria, 1979¹³ and, (v) the Constitution of the Federal Republic of Nigeria, 1999.¹⁴

The second category of legal frameworks were the statutory framework. These were the various laws on the fiscal policies for the management of Nigeria's finances between 1914 and 1989. The most significant of these statutes are the (i) Mineral Oil Ordinance of 1914,¹⁵ (ii) Mineral Oil (Amendment and Consolidation) Ordinance of 1946¹⁶ (iii) Audit Act 1956,¹⁷ (iv) Finance (Control and Management) Act, 1958,¹⁸ (v) Financial Year Act, 1980,¹⁹ (vi) Public Accounts Committee Act, 1987,²⁰ and, (vii) the Revenue Mobilisation, Allocation and Fiscal Commission Act, 1989.²¹ In not too distant past, the Federal Government enacted two very potent laws on policing the fiscal activities of the government, as a way of further strengthening the legal framework for budgeting. These were the Public Procurement Act, 2007²² and the Fiscal Responsibility Act, 2007.²³ Both laws are however outside the scope of this study.

Whereas relevant provisions in the aforesaid constitutions provided the basic framework and general principles for the creation and allocation of revenues among the levels of government in Nigeria and of expending the federal government share of the revenues on approved federal budgets, the statutes however, set standards, roles and parameters for the prudent management of national funds via guided expenditure activities. The same statutes erected monitoring, auditing, evaluation and policing institutions for all the fiscal activities of government. It is in the statutes for instance that one should expect to see the details of the requirements of accountability on the day-to-day management of federal funds by all the Ministries, Departments and Agencies (MDAs) of government, especially the Ministry of Finance. The statutes also created specific offences and sanctions for every infraction of the laws of Nigeria on fiscal operations and management. But by far the more fundamental of the two legal frameworks for financial accountability in the period of study was the constitutional framework.

The Constitutional Framework

Revenue Generation and Distribution

¹⁰ Federal Republic of Nigeria, *Laws of Nigeria*, CAP 102, 1954. Supplement to Official Gazette Extraordinary No.48, vol. 41, Part B, 3rd September, 1954.

¹¹ Also known as the *Constitution of the Federation of Nigeria*, 1960.

¹² In the Supplement to Official Gazette Extraordinary No. 71, vol 50, Part A, 19th September, 1963.

¹³ Promulgated as Decree No. 25 of 1978.

¹⁴ In the Supplement to Official Gazette Extraordinary No. 24, Vol 86, Part A, 5th May, 1999.

¹⁵ *The Ordinances of Nigeria*, CAP 120, 1914. cf Minerals Act, 1946, *Laws of the Federation of Nigeria*, 1990

¹⁶ This came into effect as Minerals Ordinance on the 25th of February, 1946. See Federal Republic of Nigeria, *Laws of Nigeria and Lagos*, 1958, CAP 121, .

¹⁷ Federal Republic of Nigeria, *Laws of Nigeria and Lagos*, 1958, CAP 17. Lagos: Federal Ministry of Justice.

¹⁸ Federal Republic of Nigeria, *Laws of the Federation of Nigeria*, 1990, CAP 144. Lagos: Federal Ministry of Justice.

¹⁹ Federal Republic of Nigeria, *Laws of the Federation of Nigeria*, 1990CAP 145. Lagos: Federal Ministry of Justice.

²⁰ CAP 375 *Laws of the Federation of Nigeria*, 1990.

²¹ Federal Republic of Nigeria, CAP R7 *Laws of the Federation of Nigeria*, 2004. Abuja: Federal Ministry of Justice.

²² Federal Republic of Nigeria, 2007 Act No. 14

²³ Federal Republic of Nigeria, 2007 Act No. 31.

It was to the Nigerian (Constitution) Order in-council of 1954, commonly called the 1954 Oliver Lyttleton Constitution that the establishment of the general rules and principles which guided revenue generation in Nigeria from 1954 to 1979 owed its origin. The Constitution was the first to lay the ground rules for the identification and delineation of revenue sources between the federal and the constituent governments in Nigeria. Although the revenue sources that were identified and allocated had, in fact, been known before 1954, it was rather the constitution that codified them in a single document by congregating them from the disparate statutes in which they had existed from 1900 up to 1954. The Constitution which was the first federal constitution enacted in Nigeria and as such, it made provisions for and classification of six most important sources of revenue for the Nigerian federation designed to be shared between the central and regional governments. These were the: (i) import duties on all goods except motor spirit and tobacco²⁴ (ii) import duties on tobacco and motor spirit²⁵ (iii) Excise duties²⁶ (iv) Export duties²⁷ (v) Federal Income Tax²⁸ and (vi) Mining Rents and Royalties.²⁹

However, the centre-piece of the 1954 Constitution on the fiscal operations of Nigeria was the creation of different and variegated revenue accounts into which moneys should be paid and from which transfers could be made from one level of government to the other. For instance, the Constitution provided for the quantum and manner of allocation of the revenue derived from import duties on motor spirit and tobacco thus:

Where under any law enacted by the Federal Legislature a duty is levied in respect of the import into Nigeria of motor spirit, or of any particular class, variety or description of motor spirit, there shall be paid by the Federation to the Regions in respect of each quarter, a sum equal to the proceeds of that duty for that quarter.³⁰

In yet another provision of the constitution, the Regions were required to pay to the Federal Government some percentages of their income derivable from the Department of Customs and Excise. The constitution provided:

The prescribed authority shall in respect of each financial year, declare the amount of the expenditure incurred by the Federation during that year in respect of the Department of Customs and Excise that is reasonably attributable to the Regions having regard to the shares of the proceeds of the duties referred to in Section 155, 156, 157 and 158 of this order, received by the Regions under those sections in respect of that year; and each Region shall pay to the Federation a sum equal to such part of the amount so declared . . .³¹ (underlining mine)

The different provisions for payment and receipt of revenue by and from the Regions to the Federal Government was however abolished under the 1963 Republican Constitution. In that year, a single account or fund was created as a joint account for the Regions and the Federal Government. The two levels of government became joint or coordinate owners of the account

²⁴ Federal Government of Nigeria, *The Nigeria Constitution Order in-Council*, 1954. *Supplement to Nigeria Gazette Extraordinary No. 48*, vol. 41, 3rd December, 1954, Part B, section 155(1).

²⁵ Ibid, section 156(1) (a)(b) and section 2(a) and (b).

²⁶ Ibid, section 157(1-5).

²⁷ Ibid, section 158(1-4).

²⁸ Ibid, section 160(1) and (2).

²⁹ Ibid, sections 161(1).

³⁰ Ibid section 156(1)(a).

³¹ Section 149.

and it was from the account that allocations were made to each of the levels, severally and jointly. That account, as shown earlier, was given the name Distributable Pool Account (DPA). Under the 1979 and 1999 Constitutions however, the DPA was renamed “Federation Account”.³² Thus, the 1963 Constitution ended the confusion which the multiplicity of revenue accounts created in the intergovernmental relations of the Federal and Regional Governments. But this did not in any significant way, detract from the highly salutary pioneering efforts of the 1954 Constitution in providing the ground rules for Nigeria’s federal finance. In fact, all other constitutions after it, except for some two or three additional provisions, took their cues from the 1954 Constitution.

Budget Initiation and Presentation

All over the world, it is conventional for the executive to initiate, articulate and present financial estimates in the form of an annual budget to the legislature for scrutiny and approval. Nigeria’s constitutional framework for the regulation of financial matters before and after independence, has affirmed this global convention. But the 1954 Constitution failed to create the ground rules for budgetary initiation legitimation and reporting processes in all of its fiscal frameworks. For example it did not stipulate whether it was mandatory for annual budgets to be brought before the Nigerian legislature for approval or not. The practice before that time was that the Colonial Secretary responsible for finance prepared estimates, which Nigeria’s Governor-General brought to the Legislative Council for noting and discussion but not for approval.

Approvals were usually sought and got from the Colonial Secretary of State for the Colonies in London. But in 1957, following a constitutional amendment³³ which followed on the heels of the recommendations of the London and Lagos Constitutional Conferences of 1953 and 1954 respectively, it became a legal imperative that the Nigerian national legislature approved the annual budget. In addition to this amendment, the position of a Prime Minister upon whose shoulders the full weight of Nigeria’s fiscal responsibility was placed was created. Thus, the decolonisation processes in Nigeria became consolidated when in September, 1954 Alhaji Abubakar Tafawa Balewa was appointed Nigeria’s First Prime Minister and the chief accounting officer for Nigeria’s finances.

Furthermore, whereas under the 1951 Constitution the colonial Governor of Nigeria bore the budget document which he sent to the Secretary of State for the Colonies for approval by the British Parliament, under the 1957 constitutional amendment however, the role was performed by the Nigerian Minister of Finance who submitted the same document to Nigeria’s House of Representatives in Lagos, for passage. The amended constitution thus provided that the Minister responsible for finance lay the budget document before the Federal House of Representatives. The first time that a Nigerian performed this duty was in 1958 when the Rt. Honourable Festus Okotie-Eboh, Nigeria’s first indigenous Finance Minister laid before the Federal House of Representatives in Lagos, the 1958/59 Budget document which

³² Section 149, *Constitution of the Federal Republic of Nigeria*, 1979 also, section 162, *Constitution of the Federal Republic of Nigeria*, 1999.

³³ The amendment was essentially because of the creation of the post of Prime Minister for the Government of the Federation and the planned transfer of power from the British colonial authorities to Nigerian indigenous elite. See, Akande, Jadesola “Constitutional Development”. In: Aguda, Akinola (ed.), *The Challenge of the Nigerian Nation: An Examination of its Legal Development, 1960-1985*. Lagos: Heinemann for NIALS, 1985: 1-26.

the Minister named “The Peoples Budget”.³⁴ Meanwhile, the amendment to the 1954 Constitution which changed the practice of sending Nigeria’s budget for approval in England to its being approved by Nigeria’s House of Representatives in Lagos was later affirmed in section 126 of the 1960 Constitution and in section 130(1) of the 1963 Constitution. The latter section stipulated:

The Minister of the Government of the Federation responsible for finance shall cause to be prepared and laid before both Houses of Parliament in each financial year, estimates of the revenues and expenditure of the Federation for the next following financial year.³⁵

And yet, the picture painted by the above provision however changed under the 1979 and 1999 Constitutions. The personality that laid the budget before the legislature was no longer the Minister responsible for Finance, but the President of the Federal Republic. Two reasons accounted for the change. First, Nigeria switched from a parliamentary system of government with its principle of collective responsibility to a presidential system which had the principle of individual ministerial responsibility. The Head of the Nigerian State was also head of its government and as such, became the person with the highest executive authority to lay money bills before Nigeria’s legislature. The second reason was that the budget, being the most crucial instrument of planning and allocation of resources had to be personally laid before the legislature by the President. This had, since 1979, been the practice in Nigeria. In fact, the specific provision that the President “cause” the budget document to be “prepared and laid before each House of the National Assembly”³⁶ and embodied in an Appropriation bill, underscored the importance attached to the document by the constitution drafters. The specific constitutional provision which made the change imperative, stipulated:

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 following financial year.³⁷

Although, by the strictest construction and interpretation of the above section of the constitution does not absolutely require that the President personally lay the budget before the legislature, because by virtue of section 136(1) of the Constitution of the Federal Republic of Nigeria, 1979,³⁸ for instance, it should be possible for the President to delegate this duty, but Nigeria’s legislative practices and conventions since 1979 have compelled the practice of making the President appear personally before a joint session of the National Assembly to present or lay the budget. In fact, even between 1957 and 1965 during which Nigeria had a parliamentary system, the then Minister of finance, Chief F.S. Okotie-Eboh did personally lay the budget before the legislature. Chief Okotie-Eboh’s highly flowery language, elaborate and elevated diction as contained in his *Six Budget Speeches*³⁹ has remained the most eloquent chronicle and testimony of how the legal provision was fulfilled. Chief Okotie-Eboh anchored his duty with great erudition. It was partly for this reason of conventional practice rather than the strict dictate of the law that accounted for the disappointment and disgust with

³⁴ Federal Ministry of Information, *The Six Budget Speeches of the Hon. Festus S. Okotie-Eboh*. Lagos: Federal Ministry of Finance, 1963: 1-16.

³⁵ Section 130(1), Constitution of the Federation of Nigeria, 1960.

³⁶ Section 75(1), Constitution of the Federal Republic of Nigeria, 1979

³⁷ Section 75(1), Constitution of the Federal Republic of Nigeria, 1979.

³⁸ Similar provision is also made in section 148(1) of the *Constitution of the Federal Republic of Nigeria, 1999*.

³⁹ See the *Six Budget Speeches of the Hon. Festus Okotie-Eboh*.

which the failure of President Umar Musa Yar'Adua to personally lay the 2010 budget before the National Assembly before he travelled abroad for medical attention in December 2009, was treated.⁴⁰

Budget Legitimation

Various Constitutions of Nigeria before 1999 established the framework for the legitimation of all federal budgets. Without legitimation i.e. legislative approval and passage into law, budget documents howsoever feasible and useful would remain as only mere estimates or executive intentions lacking in any legal backing. A legitimated budget thus appears as an Appropriation Act. The Constitution of 1963 for example, made it mandatory for all expenditure, without exception, to be embarked upon made only from the approved budget otherwise known as the Appropriation Act. The relevant section of the constitution stipulated that the executive should not withdraw any money in pursuance of any expenditure except when such expenditure was contained in an Appropriation Act. It provided:

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 any Act of Parliament or where the issue of those moneys has been authorised by an Appropriation Act or an Act passed in pursuance of section 131 of this constitution⁴¹

And, in an attempt to further the reinforcement of the need for and significance of legislative approval of every expenditure activity, the same Constitution stipulated: “No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation except in the manner prescribed by Parliament”.⁴² In other words, the framework for permitting expenditure activities of government as shown in the above provisions was unambiguously and firmly constructed in such a way that an expenditure activity was legitimate only when it was “authorised by an Appropriation Act”. Hence, if the government spent money outside of the provisions of the Act, it would be illegal even if it had been put to use for the right purposes. Subsequent constitutions, such as those of 1979 and the current 1999 Constitution have followed the framework laid by the 1963 Constitution for the legitimation of government expenditure activities. For example, the 1979 constitution provided:

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 issue of those moneys has been authorised by an Appropriation Act, Supplementary Appropriation Act or an Act passed in pursuance of section 74 of this Constitution⁴³

Again, the Constitution emphasised that,

No moneys shall be withdrawn from the consolidated Revenue Fund or any public fund of the Federation, except in the manner prescribed by the National Assembly⁴⁴

⁴⁰ *The Nation* (Lagos), 28 November, 2009: 1 and 2

⁴¹ Section 129(2), *Constitution of the Federation of Nigeria*, 1960

⁴² *Ibid*, Section 129(4)

⁴³ Section 74(2), *Constitution of the Federal Republic of Nigeria*, 1979.

⁴⁴ *Ibid*, section 74(4).

Similar provisions as those in the 1979 Constitution shown above are also contained in section 80(2) and (4) of the 1999 Constitution. But the 1979 Constitution did recognise that not all expenditure items could be listed, at all times in the budget document due to human error or unforeseen circumstances. Whenever this happened, a framework for a supplementary budget was provided to accommodate any expenditure that had not been so accommodated. Yet, even in the processes of making the substantive budget, dilatoriness and political circumstances might cause a situation where the budget was not ready by the start of a fiscal year. The 1979 Constitution recognised this possibility and made provisions for an executive authority to be issued by the President to the effect that any reasonable and particularly, recurrent and emergency expenditure might be permitted in default of a budget. Thus, the Constitution provided that:

If the Appropriation Bill in respect of any financial year has not been passed into law by the beginning of the financial year. the President may authorise the 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 6 months or, until the coming into operation of the Appropriation Act, whichever is the earlier.⁴⁵

Budgetary Monitoring and Reporting

However, by far the most significant legal framework for federal budgets, which had the strongest institutional backing during the period under review was budget monitoring, auditing and reporting. The laws and the constitutions of Nigeria not only created the need and duty for accountability but they also established institutions to enforce it. One of the most important offices so created was that of the Federal Director of Audit. This office enjoyed its first indigenous statutory recognition under the Audit Ordinance (now Act) of 1956. Specific constitutional provision for it was made under the 1960 Constitution and sustained by all other subsequent constitutions that were made from that time up to 1999. Under the 1979 Constitution however, the nomenclature, “Director of Federal Audit” was changed to “Auditor-General for the Federation.”⁴⁶

Through clearly stipulated constitutional provisions, the Auditor General held, literally speaking, the accountability gate. The Auditor General occupied a position that can be validly described as that of a “budget ombudsman” or budget police officer who had the duty to ensure that proper books of accounts were kept and all that expenditure were made strictly in accordance with the provisions of extant fiscal laws and, particularly, the relevant Appropriation Acts. The Auditor General’s duty compelled holding any Minister and departmental head to account for the use of public money. The relevant portion of the 1960 constitution, which required that the Director of Federal Audit served as the budget ombudsman stipulated that:

There shall be a Director of Audit for the Federation, whose office shall be an office in the public service of the Federation⁴⁷. The public accounts of the Federation and of all offices, courts and authorities of the Federation shall be audited and reported on by the Director of Audit of the Federation and for that

⁴⁵ Ibid, section 76. See also, section 131, *Constitution of the Federation of Nigeria*, 1963 and section 82, *Constitution of the Federal Republic of Nigeria*, 1999.

⁴⁶ See Section 80(1)(2), *Constitution of the Federal Republic of Nigeria*, 1979, section 85(1)(2) *Constitution of the Federal Republic of Nigeria*, 1999.

⁴⁷ Section 128(1), *Constitution of the Federation of Nigeria*, 1960

purpose, the Director or any person authorised by him in that behalf shall have access to all books records, returns and other documents relating to these accounts.⁴⁸

In addition, the Constitution stipulated that:

The Director of Audit shall submit his reports to the Minister of the Government of the Federation responsible for finance, who shall cause them to be laid before both Houses of Parliament.⁴⁹

Thus, the Director of Audit, was not only expected to examine the books of accounts of all authorities in the Federation, but to report to the legislature through the Minister of Finance, on his findings. The office of the Director of Audit was therefore a pillar of accountability in the whole gamut of Nigeria's budgetary processes. The Auditor was saddled with a onerous responsibility of making the Nigerian public know (via their representatives in parliament) how the finances of government were managed by the executive arm of government. And, in order to insulate the Director of Audit from any form of victimisation or control, the same constitution provided a safety valve for the Audit office by providing that, "in the exercise of his functions under this constitution, the Director of Audit of the Federation shall not be subject to the direction or control of any other person or authority."⁵⁰ The Audit Director's salary was also charged to the Consolidated Revenue Fund as a compulsory payment, thus completely insulating him/her from any form of pecuniary influence or executive control.

Yet, the 1979 and 1999 Constitutions took the reach of fiscal accountability even further afield than was contemplated and codified under the 1954, 1960 and 1963 Constitutions. In fact, the 1979 Constitution made accountability and the prohibition of any form of corruption a constitutional duty of the executive and the judicial arms of government under the directive principles of the Nigerian State enshrined in it. The extant 1999 Constitution also contains similar directive principle when it provides that: "The State shall abolish all corrupt practices and abuse of power".⁵¹

Conclusion

The Nigerian federation, just like in other and similar climes in the world, have, since the colonial period, constructed legal frameworks for its fiscal operations. The foundations for such constructions were laid in the period 1954-1989 on two grounds: constitutional law and statutory law. The frameworks established the ground-rules for the collection of revenues and the release of funds for government expenditure. The federal budget, being the most fundamental instrument of fiscal planning and development were made and laid during the period on the legal frameworks for the purposes first, to legalise approved fiscal operations and second, to prohibit corrupt dealings with the assets of the Nigerian State. The legal frameworks were laid to ensure that public servants showed and conformed to the rules of prudence and accountability in the discharge of their duties. The first attempt at enacting the legal framework for Nigeria federal budget was made in the promulgation of the first federal constitution in 1954 and, from that time up till 1989, the frameworks criminalised corruption, misappropriation and criminal breach of trust in matters pertaining to revenue and expenditure

⁴⁸ Ibid, section 128(2)

⁴⁹ Ibid, section 128(3)

⁵⁰ Ibid, section 128(4)

⁵¹ Section 15(5), *Constitution of the Federal Republic of Nigeria*, 1999

functions of government. Thus, the legal basis of budget initiation, legitimation, implementation, monitoring and auditing were firmly established to discourage corrupt acts and to guarantee good returns on every unit of money spent on the provision of social goods and services in Nigeria.