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CONTROL OF PUBLIC FUND BY THE LEGISLATURE: A COMPARATIVE ANALYSIS OF NIGERIAN NATIONAL ASSEMBLY, AMERICAN CONGRESS AND BRITISH PARLIAMENT

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Abstract

This paper looks at the power of the National Assembly (NASS) to control the purse in Nigeria. It looks at the constitutional establishment of the NASS and the powers conceded to it in the Constitution on appropriation and public funds generally with a view to probing or interrogating the extent, scope and limit of these powers. It looks at other jurisdictions like Britain and America and concludes that the NASS has limitless power with regard to ensuring transparency, probity and accountability in the administration of public funds in Nigeria. The National Economic Council (NEC) is neither an alternative to the NASS nor a rival body to the National Assembly by the tenor of the constitution.

Keywords: Congress, Control, Legislature, Parliament, Public fund.

INTRODUCTION

It is necessary to interrogate the powers of the NASS on control of public funds in Nigeria because of the ragging controversy on whether the NEC can approve spending of money by the federal government without passing through the National Assembly which is the proper institution vested with power of Appropriation and power to control public spending in Nigeria.[1]

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[1] S.M. Abdulmalik, 'The 1999 Constitution and the law making organ of the Government in Nigeria, Topical Issues in Nigerian Law' J.A.M. Agbonika (eds.) Ilorin 2016, p. 715

Since the beginning of this Fourth Republic, the executive arm of government as represented by the federal government has been making extra-budgetary spending, from Excess Crude Account, which is illegal by virtue of the fact that there is no law made by the National Assembly to create the Account.[2] The federal government also granted bailout, including sharing of Paris Club refund without recourse to the National Assembly which is the institution vested with power by the Constitution to appropriate, control public fund, including revenue and contingency fund.[3]

This paper looks at the establishment of the National Assembly, its powers as specified by the Constitution to make law generally, its power on money bills or appropriation bill, control of public fund, contingency fund, public revenue and its power to approve remuneration for public office holders in Nigeria, vis-a-vis the power of the National Economic Council which is also a creation of the Constitution but a mere advisory body.

The National Economic Council

The NEC is an executive body set up by the Constitution of the Federal Republic of Nigeria.[4] The body comprises of the Vice President as the Chairman, the Governor of each state of the federation and the Governor of Central Bank of Nigeria. The Council has power to advise the President concerning the economic affairs of the Federation and in particular on measure necessary for the coordination of the economic planning efforts or economic programmes of the various Government of the federation.[5]

From the above provision of the Constitution, the NEC is a mere advisory body to the President on economic matters and not an alternative body to the National Assembly on approval of public finance, budget, or supplementary budget. Therefore, its approval of withdrawal from Excess Crude Account is illegal and unconstitutional and consequently null and void.[6]

The Excess Crude Account is itself illegal in so far as that account is not approved by the NASS in accordance with the provisions of the Constitution.[7] Any money in the Excess Crude Account ought to be in the

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[2] 'The Excess Crude Account and its Controversies', Available at www.tribuneonline.com>politics

[3] Section 80-83 of the 1999 Constitution of Federal Republic of Nigeria 1999

[4] Section 153

[5] Third Schedule part I (H) of the 1999 Constitution of the FRN as amended.

[6] Section 153 & Third Schedule part I (H) read together

[7] Section 59, 80, 81, 82 & 83 of the 1999 Constitution of Federal Republic of Nigeria