

## **From Separation of Powers to Fusion of Powers: A Critique of Nigeria's Application of Baron De Montesquieu's Principle of Separation of Powers**

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**Abstract:** Baron de Montesquieu's doctrine of separation of powers is a foundational principle of liberal democracy, advocating the division of governmental functions, legislative, executive, and judicial to prevent tyranny and safeguard liberty. Nigeria, having accepted to practice the presidential system of government, logically adopted this principle of checks and balances in its 1999 Constitution to ensure mutual accountability and limit power abuse among the three arms of government. The motivation for this study stems from the observed practical divergence from this theoretical ideal in Nigeria, which often exhibits a "fusion of powers" rather than a strict separation. The problem that this work seeks to address is the consistent mal-application and abuse of these constitutional provisions. This leads to persistent conflicts and disruptions in governance, marked by partisan interests, perceived executive dominance, and instances of legislative overreach, impacting critical processes like budget approval and appointments. Such constitutional aberrations impede democratic consolidation and foster political instability. This paper's objectives are to critically examine the extent to which separation of powers contributes to democracy in Nigeria, determine the factors affecting its successful application, and ascertain how checks and balances contribute to its effective management. The paper employs the content-analytic method.

**Keywords:** Separation of Powers, Checks and Balances, Nigeria, Democratic Consolidation, and Fusion of Powers

### **Introduction**

The intellectual debate concerning the principle of separation of powers (SOP) is an enduring concern, accepted by scholars and laymen alike as the essential guarantor of citizen liberty and responsible governance. This doctrine which asserts that the functions of government—the legislative, the executive, and the judicial—should be exercised by distinct organs of government, each limited in sphere of operation, yet, all intimately bound up, is in sync with the culture of liberal democracy (Chaturvedi, 2006). The theory was definitively formulated and popularized by the French enlightenment writer, Baron de Montesquieu, primarily in his work, *The Spirit of the Laws*. Montesquieu was driven by a deep dislike for despotism, seeking a remedy for the evil effects of absolutism pervasive in his era. He famously attributed the preservation of liberty in England to the division and mutual balancing of these three organs of government. The core rationale of his theory is encapsulated in the necessity that “power should be a check to power” (Ahmed & Fatima, 2013). Montesquieu warned that when legislative and executive powers are united in the same person or body, liberty vanishes, as the risk arises that the same authority might enact tyrannical laws and

execute them tyrannically. Moreover, he emphasized that there is "no liberty if the judicial power be not separated from the legislative and executive", viewing Separation of Powers as a means to the ultimate end of securing liberty (Mukhi, 2007; Montesquieu, 1748). The entire structure of his philosophy aims to provide a safeguard against the concentration of excessive power in a single entity (Kusamotu, 2001; Krause, 2000).

Nigeria, having adopted the presidential system of government, enshrined the doctrine of separation of powers and checks and balances in the 1999 Constitution. Sections four, five and six (4, 5, and 6) of the Constitution clearly outline the respective powers of the legislative, executive, and judicial arms respectively. After enduring long periods of military regimes where the executive and legislative arms were fused in one person or body, Nigerians came to appreciate the need for the three arms of government to operate independently (Ndema, 2024). However, the spirit behind these constitutional provisions for power separation has suffered tremendously in practice. Despite the theoretical framework, Nigeria's democratic experience, particularly since the return to civil rule in 1999, has been characterized by frequent frictions and standoffs, primarily between the executive and the legislature. These disruptions have led many observers to question whether the doctrine remains a feature of Nigeria's constitutional system or merely an abstract philosophical inheritance lacking relevance in contemporary political practice. Instances of executive dominance—where the executive with power "dictates the tune" in the functions of other arms—are noted abuses of the principle (Beetseh & Echikwonye, 2011). This struggle has manifested as institutional crises, with conflicts ranging from battles over budget endorsement and implementation to executive attempts to influence legislative leadership (Momodu & Ika, 2013; Obidimma & Obidimma, 2015).

This article aims at examining the extent to which Nigeria's application of Montesquieu's principle of the separation of powers has devolved into a functional "fusion of powers," characterized by excessive executive hegemony and encroachment upon the legislative and judicial spheres. By matching the constitutional theory against political practice, this critique investigates the factors influencing this departure and explores the implications for democratic stability and the protection of civil liberty in the Nigerian state. The motivation for this study stems from the observed practical divergence from this theoretical ideal in Nigeria, which often exhibits a "fusion of powers" rather than a strict separation. This paper employs the content-analytic method.

## **The Concept of Separation of Powers**

Separation of Powers is a fundamental constitutional doctrine designed to safeguard liberty by preventing any individual or group from amassing absolute authority and governing tyrannically (Klassen, 2011; Mbah, 2007). This principle functionally divides governmental responsibilities among three independent institutions: the legislature, executive, and judiciary. In this model, the legislature creates laws, the executive enforces them, and the judiciary interprets them. Although the concept is traced back to the ancient Greek intellectuals, such as Aristotle (Nidhi Singh & Vijay Anurag, 2013), it was the French philosopher Baron de Montesquieu who provided the definitive modern framework for this theory, inspiring its implementation as a genuine safeguard against the misuse of power. Montesquieu famously argued that there could be "no liberty" if the power to judge was not separated from the power to make or enforce laws (Baron de Montesquieu, 1948). The effective implementation of the separation of powers is generally reinforced by a complementary system of checks and balances, ensuring that each branch can effectively counter and restrain the influence of the others, protecting human freedom and preventing the rise of a dictatorship (Klassen, 2011; Mbah, 2007).

## **Doctrine of Checks and Balances**

The doctrine of Checks and Balances (C&B) is the crucial mechanism that makes the theory of Separation of Powers (SOP) functional in modern governance. SOP prescribes the parcelling out of functions to separate arms—Legislature, Executive, and Judiciary—to prevent tyranny. C&B then

evolved to ensure that these different arms do not perform their duties outside the scope of their powers (Nwankwo, 2021). This structure, generally credited to Montesquieu, gives each branch some control over the actions of the others, requiring cooperation among the branches. James Madison famously articulated the core political reasoning: the structure of government must furnish the means to keep each other in their "proper places," because "ambition must be made to counteract ambition" (Madison, 1961; Nwankwo, 2021; Da Ros & Taylor, 2021). The goal is to minimize the risk of one arm completely taking over the government, assuring evolution rather than revolution. In practice, C&B includes tools such as the power of the legislature to remove a despotic executive via impeachment, or the power of the courts to overturn blatantly unconstitutional laws through judicial review. However, C&B is not always synonymous with SOP; it is a specific outcome that depends heavily on "hard" factors, like political force balances, and "soft" factors, like the adherence of elites to behavioral norms (Da Ros & Taylor, 2021).

### **Separation of Powers vs. Fusion of Powers**

The choice between systems emphasizing the Separation of Powers (SOP) and those leaning toward the Fusion of Powers represents a fundamental divide in constitutional design, dictated by the enduring pursuit of liberty and avoidance of tyranny. Nigeria's adoption of the presidential system, governed by the 1999 Constitution, marks its explicit commitment to the SOP model, a deliberate choice intended to reverse the centralized power dynamics of its military past. The theory of SOP, famously formulated by Baron de Montesquieu in *The Spirit of the Laws* (1748), contends that liberty vanishes when the three powers of government—the legislative, executive, and judicial—are united in the same person or body. Montesquieu's foundational maxim that "power should be a check to power" necessitates that these functions be assigned to distinct bodies of persons to safeguard citizens from "tyranny, oppression, and dictatorship" (Ndema, 2024.; Agu, 2024; Ezeodili, Madunzimu, & Madubuko, 2023).

In contrast, the Fusion of Powers is characteristic of parliamentary systems, such as the Westminster model, where the executive leadership is drawn directly from the legislature, leading to a "close union, the nearly complete fusion of the executive and legislative powers" (Akhtar, 2023; Bagehot, 1964, cited in Akhtar, 2023). Critics argue that in systems where powers are concentrated, such as despotic military regimes, the concept of SOP is abused and becomes meaningless. Nigeria's constitutional framework (Sections 4, 5, and 6) unequivocally mandates the horizontal separation of these functions, buttressed by the principle of Checks and Balances (C&B). C&B is considered an essential "constitutional tool" that, while preventing absolute separation, ensures each arm monitors the others against the abuse of powers, thereby protecting liberty (Oyediran et al., 2005; Ndema, 2025; Anyim-Ben, Okereke, & Chijioke, 2017). Despite this constitutional commitment to separation, Nigeria's political reality frequently exhibits an "aberration" that functionally mirrors power fusion, leading to governance crises. The persistent challenge is "perceived executive dominance," a dictatorial tendency rooted in the legacy of military rule. This concentration of power allows the executive to "dictate the tune" for the other arms, undermining their independence (Ndema, 2024).

Key examples of this practical fusion include:

**Executive Usurpation:** Instances where the executive attempts to interfere with the legislature, such as influencing the selection of its leadership, or when the legislature uses its checking powers (like impeachment threats) for "political vendetta" rather than objective oversight. Political party leaders in Nigeria who are mostly drawn from the executive arm (serving President, and Governors, where the party is in power) often impose their loyalists and cronies on the people by ensuring their "selective election" or "elective selection" into the legislative arm of Government. Similarly, The President is responsible for the appointment of the Chief Justice of the Federation while the Governors appoint the Chief Judges of their respective States. The consequence of this is that both the legislature and judiciary end up taking instructions from the executives, even while pretending to be independent.

Disregard for the Judiciary: The executive's frequent flouting of court orders is a "clear testimony" that the separation doctrine is being ignored, endangering citizens' fundamental rights and the rule of law (Umezurike, 2017; Agu, 2024; Ndema, 2024). The most troubling part of this is that oftentimes when political actors in power jostle for more power or higher offices, they indirectly turn the judiciary to a market place where they go to purchase court orders and injunctions to help perpetuate themselves in power. As a result, judges begin to issue different orders/injunctions and counter orders and injunctions.

Ultimately, while Montesquieu noted that the moderate government based on separated and tempered powers is a "masterpiece of legislation," its opposite—despotism (or the fusion of powers)—"leaps to view" because it is simple and only requires ambition and passion to establish (Montesquieu, 1752, cited in Felice, 2017). For Nigeria to achieve lasting democratic consolidation, the adherence to SOP and C&B must move beyond abstract theory and be strictly applied in practice, demanding flexibility, understanding, and cooperation guided by the national interest.

### **Constitutionalism and Governance**

Constitutionalism, in its essence, represents the crucial intellectual and practical effort to contain the arbitrary exercise of power within a State. It is the conceptual ground-rule for establishing a liberal democratic order and ensuring governance is conducted without tyranny. This framework, often formalized as a written or unwritten body of laws, aims to regulate state power by defining the roles of the legislature, the executive and the judiciary. The history of liberal constitutionalism is deeply intertwined with the thought of the French jurist and philosopher, Baron de Montesquieu, a leading figure of the moderate Enlightenment (Carolan, 2009; Murkens, 2009).

The central philosophical current guiding Montesquieu's vision for governance was moderation, an ideal designed to support liberty while tempering earlier rationalist extremes. His greatest achievement lies in defining a constitutionalism of liberty, one which avoids despotic political structures that inherently lack the self-restraint required to secure individual freedom and tranquility. Montesquieu advocated for a system consciously designed to "actively promote liberty, not just prevent abuse", rather than relying solely on the moral disposition of the rulers. This moderate ideal finds its structural relevance in the doctrine of the separation of powers (SOP), complemented by a system of checks and balances. SOP mandates that the three fundamental functions of the government—making, executing, and interpreting laws—must be performed by distinct arms/organs. This division is necessary because, as Montesquieu famously argues, "power should be a check to power". Montesquieu observed that when legislative and executive powers are united in the same person or body, liberty vanishes, leading to the risk of the same authority enacting and administering tyrannical laws. The political liberty of the subject arises from a tranquility of mind based on the opinion each person has of their safety, which requires the government to be constituted so that "one man need not be afraid of another" (Montesquieu, 1748; Mukhi, 2007; Vile, 1967).

The pursuit of constitutional governance demands more than mere separation. For democracy and good governance to be sustained, the relationship between the governing arms must be one of "cooperation and partnership". This is achieved through the complementary mechanism of checks and balances, which enables each arm of government to supervise and monitor the others against possible abuse of powers. Checks and balances provide a "constitutional tool" enabling resistance to any illegitimate expansion of power by other branches. This structure guards against a "broad spectrum of the ills" of governance, including avaricious behavior and inefficient performance (Oyediran et al., 2005).

Montesquieu recognized that forming a moderate government—one that combines, regulates, and tempers powers—is a "masterpiece of legislation" that "chance rarely produces and prudence is rarely allowed to produce" (Montesquieu, 1748). Constitutionalism, therefore, is not merely an abstract philosophical inheritance; it provides the fundamental justification for adopting specific measures and controls intended to protect the liberty of the people and democratic institutions.

Constitutional change may be slow compared to parliamentary politics, but the constitution must remain the framework for political action. Ultimately, Montesquieu's theory of SOP is regarded as the very "essence of constitutionalism", underscoring the necessity of institutional design for upholding the rule of law and securing the dignity of the human person.

### **Democratic Consolidation**

Democratic consolidation, the process of establishing a resilient, free political system unlikely to revert to arbitrary rule—is inherently a struggle against the perennial human tendency to abuse authority. This effort rests on the necessity of restraining power through constitutional design, a philosophical tradition heavily influenced by Baron de Montesquieu, who deemed the division of state functions essential for securing liberty (Agu, 2024; Montesquieu, 1752). Montesquieu's doctrine of Separation of Powers (SOP) is summarized by the maxim that "power should be a check to power" (Ndema, 2024; Agu, 2024). However, Nigeria's democratic consolidation is continually challenged by significant deviations in practice. The political history of the Fourth Republic is marked by "frictions and disruptions in governance" and frequent standoffs, fueled largely by party and personal interests overriding public interest. The gravest threat is the perceived executive dominance and usurpation of powers, which reflects a "dictatorial tendency" and constitutes an abuse contrary to SOP. This struggle manifests acutely in conflicts over budget scrutiny and legislative oversight functions. Furthermore, the pivotal judicial arm, whose independence is foundational to liberty, is frequently mistreated, with the executive demonstrating a lack of regard for the rule of law through the flouting of court orders—a clear sign that the separation doctrine is being ignored (Ndema, 2024; Ezeodili, Madunezim, & Madubuko, 2023; Ihomeje, Godswalth, & Jawan, 2022). These persistent conflicts, driven by factors like partisan politics, greed, and quest for power among politicians, jeopardize Nigeria's democratic development and lead to governance crisis. For consolidation to succeed, the Nigerian State must rigorously adhere to the theory of separation of powers, as it provides the fundamental justification for all measures intended to protect the people's liberty and secure a stable political environment.

### **Power Dynamics in Nigeria**

The enduring vitality of any democratic system hinges on the successful management of power dynamics, specifically through institutional mechanisms designed to prevent the arbitrary exercise of authority. The intellectual foundation for this restraint was laid by Baron de Montesquieu, who, driven by a profound opposition to despotism, established the doctrine of the Separation of Powers (SOP). His central maxim, "power should be a check to power," necessitates that the legislative, executive, and judicial functions must be distinct to ensure liberty. Nigeria, having suffered through extended military dictatorships characterized by fused and arbitrary power, adopted the presidential system and formally enshrined the Separation of Powers and its critical component, Checks and Balances (C&B), within the 1999 Constitution (Sections 4, 5, and 6). The goal was to establish a stable environment where C&B operates as a "constitutional tool" that allows each branch to monitor the others and resist illegitimate expansion. However, the power dynamics characterizing Nigeria's Fourth Republic often present a severe "aberration" of this constitutional blueprint. The relationship among the arms of government is frequently marked by "frictions and disruptions in governance" and destructive standoffs, driven less by constructive constitutional engagement and more by personal and partisan interests overriding the common good (Ndema, 2024.; Anyim-Ben, Okereke, & Chijioke, 2017; Agu, 2024). The most persistent threat to the intended equilibrium is perceived executive dominance. Due partly to Nigeria's history of prolonged military rule, the executive arm has, in practice, acquired the tendency to "dictate the tune" for the other arms, usurping powers contrary to the doctrine of SOP. This dysfunction manifests acutely in executive-legislative conflicts over budgetary scrutiny, implementation, and attempts by the executive to influence legislative leadership. The friction points, fueled by factors such as partisan politics and inexperience among politicians, often cause legislative delays and supremacy battles, thereby undermining democratic

consolidation.

The judiciary, whose independence Montesquieu viewed as essential for liberty, is frequently subject to executive manipulation and, sometimes, disregard. There are clear cases of manipulation of court rulings, either through corruption or partisan interest. The public statement by Senator Adamu Mohamed Bulkachuwa, husband of former president of Nigeria's Court of Appeal (2014-2020), Justice Zeinab Bulkachuwa, on June 9, 2023 during the valedictory session of the 9th Senate of the Federal Republic of Nigeria speaks so much of the corruption inherent in the judiciary which also smacks of the fusion of powers between the arms of government. His words are:

...many of us here, we have met informally, and we had some confidential dealings, of one sought or the other between us, and they sought for my help and I did my best, and in most cases I succeeded and they have thanked me for what I have done, with words of mouth, that was all. But I am very happy that since that time we became good friends and we remain good friends.

He continues: "Particularly, my wife whose freedom and independence I encroached upon while she was in office... and she has been very tolerant and accepted my encroachment and extended her help to my colleagues" (The Cable). The point here is that the legislature, executive and judiciary in Nigeria have cemented an unholy agreement which defeats the principle of separation of power and entrenches fusion of power. This agreement is about "give me, I give you". The executive nominates their cronies into the Independent National Electoral Commission (INEC) to the Senate for screening, and the Senate quickly approve. INEC, in return, rig elections in favour of them. Where the matter is litigated in court, the judiciary which is also appointed by the executive and screened by the Senate validates the election. There is no more checks and balances. Rather, what exist now is fusion of power. Where the judiciary attempts to check the excesses of the executive, it results in friction which most times results in flouting court orders which amounts to exhibiting dictatorial tendencies. The same thing manifests in the relationship between the executive and the legislature. For example, when the Appropriation Bill is brought before the National Assembly for debate and approval, what they simply do is to pad the budget to take care of their interests. All these are clear signs that the separation doctrine is being ignored, endangering the security of citizens. For Nigeria to secure genuine democratic consolidation and escape the shadow of despotism, the state must adhere rigorously to the foundational theory of separation of powers and ensure C&B is firmly established, respected, and protected. Montesquieu's principles provide the "yardstick" for assessing constitutional health and guarantee that power serves liberty rather than tyranny. These disruptions and conflicts between the three arms of government have now been resolved and as a result Nigeria could now be said to be practicing a fusion of powers rather than separation of powers. The "situationship" between these three arms of government is now what we may refer to as "rob my hand, I rob your hand"

### **Checks and Balances in Nigeria**

The ideal of securing political liberty and preventing despotism does not rely on the mere division of governmental duties, but on the subsequent institutional arrangements known as Checks and Balances (C&B). C&B serves as the indispensable mechanism necessary for the Separation of Powers (SOP) to operate in reality, providing the practical means by which Montesquieu's dictum—that "power should be a check to power"—is enforced. Without C&B, the argument for SOP is considered "meaningless," as it helps in limiting the powers of each arm to their constitutionally assigned duties. C&B functions as a necessary "constitutional tool" that enables each branch to supervise and monitor the others against the possible abuse of powers, guarding against a "broad spectrum of the ills" of governance, including avaricious behavior and inefficient performance (Agu, 2024; Oyediran et al., 2005; Ndema, 2024; Anyim-Ben, Okereke, & Chijioke, 2017).

Nigeria, through the 1999 Constitution, explicitly incorporated C&B alongside SOP, recognizing that the three arms of government must operate in cooperation and partnership for good governance.

Sections 4, 5, and 6 delineate the functions of the legislative, executive, and judicial branches, outlining key reciprocal checks:

**Legislative Checks:** The National Assembly possesses significant powers over the executive. These include approving the budget (controlling public expenditure), ratifying appointments of ministers and ambassadors, conducting oversight functions to scrutinize the executive's activities and budget implementation, invalidating ultra vires executive actions, and wielding the ultimate power of impeachment. Furthermore, the legislature can override the President's veto on bills with a two-thirds majority.

**Executive Checks:** The executive checks the legislature primarily by the power to veto bills and checks the judiciary through the authority to appoint or remove judges. The President can also exercise the prerogative of mercy via pardons.

**Judicial Checks:** The judiciary's primary check is judicial review, the constitutional authority to interpret the law and declare legislative acts or executive actions unconstitutional and, therefore, null and void (Ezeodili, Madunezim, & Madubuko, 2023; Ndema, 2024).

### **Executive-Legislative Relations**

The health and stability of any modern democracy rely heavily on the dynamic—and often contentious—relationship between its executive and legislative branches. Nigeria's adoption of the presidential system, which is fundamentally predicated on the Separation of Powers (SOP) and Checks and Balances (C&B), established a theoretical framework for cordial, yet independent, interaction. The 1999 Constitution clearly outlines the duties of these two organs, leaving no doubt that it adheres to the doctrine designed to guarantee citizen liberty and prevent despotism.

In theory, C&B provides the mechanism for mutual monitoring: the executive checks the legislature by vetoing bills, while the legislature checks the executive through impeachment, ratification of appointments, approval of the budget, and oversight functions. This interplay is meant to ensure that leaders do not allow their "selfish interest to override public interest and common good". In practice, however, the executive-legislative relationship in Nigeria's Fourth Republic (since 1999) has frequently suffered an "aberration" characterized by frictions and disruptions in governance and persistent standoffs. Nigeria has "never had good implementation of the principle of checks and balances" in its democratic history.

A significant challenge is perceived executive dominance, where the executive attempts to "dictate the tune" in the functions of other arms, exhibiting a dictatorial tendency rooted partly in the legacy of prolonged military rule. This struggle often involves clear instances of interference and usurpation of power by the executive, which peaked in the first eight years of the Fourth Republic (Obidimma & Obidimma, 2015; Abdulyakeen, 2021).

The friction points are concrete and recurring:

**Budget Conflicts:** Disputes over budget endorsement and implementation are common. The legislature sometimes alters estimates presented by the executive, causing conflict, such as the cold war between the Buhari government and the legislature that delayed the passage of the 2016 budget.

**Leadership Interference:** The executive has repeatedly attempted to choose the legislature's leadership, viewing the National Assembly as subordinate rather than an independent arm. This conflict produced five Senate Presidents between 1999 and 2007.

**Oversight and Impeachment:** While the legislature attempts to check executive activities through oversight, this often leads to misunderstandings or is met with threats of impeachment used as political tools rather than objective constitutional instruments (Anyim-Ben, Okereke, & Chijioke, 2017; Ndema, 2024).

These conflicts demonstrate that the friction often has "little to do with constitutional misunderstanding" but is rather a "fallout of the politics of struggle for prestige, influence and control" driven by partisan politics and the inexperience of emerging politicians. Ultimately, while

absolute separation is not feasible, the lesson for Nigeria's democracy is that both arms must uphold constitutional principles through collaboration and adherence to the rule of law to ensure democratic stability (Anyim-Ben, Okereke, & Chijioke, 2017; Abdulyakeen, 2021).

### **Constitutional Abuse and Mal-application**

The foundation of a functional, free political system, known as constitutionalism, lies in the commitment to constrain the arbitrary exercise of power, securing liberty and preventing the government from acting based on the "whim and caprice" of its leaders. Following decades of military rule, characterized by concentrated authority, Nigeria adopted the presidential system, explicitly embracing Montesquieu's doctrine of the Separation of Powers (SOP), complemented by Checks and Balances (C&B), within the 1999 Constitution. As stated earlier, the history of Nigeria's Fourth Republic is consistently marked by an "aberration" in the constitutional provisions and their practical application, leading to a de facto "fusion of powers" often dominated by the executive. This widespread constitutional abuse and mal-application undermine democratic consolidation and demonstrate a significant gap between theoretical commitment and political reality.

This mal-application is acutely felt in the executive-legislative arena, which is plagued by "frictions and disruptions in governance" fueled by "party and personal interests" over the common good. Nigeria has consequently "never had good implementation of the principle of checks and balances" in its democratic history. Specific abuses include:

**Budgetary and Policy Disputes:** Conflicts over budget endorsement and implementation are frequent. Disputes arise when the legislature attempts to check the executive by altering budget estimates, or when the executive refuses to sign necessary bills into law, demonstrating a failure of cooperation. For example, the cold war between the Buhari government and the legislature delayed the passage of the 2016 budget.

**Abuse of Checks:** Constitutional tools meant to maintain mutual restraint are often weaponized. The legislature has used the threat of impeachment as an instrument of political vendetta rather than objective oversight. Furthermore, executive attempts to influence legislative leadership have frequently led to institutional crises, producing five Senate Presidents in eight years (1999–2007).

**Disregard for the Judiciary:** A critical abuse is the executive's flouting of court orders, which serves as a "clear testimony" that the separation doctrine is being ignored. This disregard for the rule of law, as seen in cases involving high-profile political figures, endangers the fundamental liberty and rights of citizens. Executive actions like the suspension of the Chief Justice of Nigeria have also generated widespread constitutional debate (Anyim-Ben, Okereke, & Chijioke, 2017; Ihemeje, Godswalth, & Jawan, 2022).

These chronic failures confirm that the principles of SOP and C&B, intended to guide governance, are often ignored in practice, leading to a persistent governance crisis. The principles need "flexibility, understanding and cooperation" among the arms, alongside a political class whose intentions align with the general interest of society, rather than ill-intentioned individuals guided by ambition and personal gain (Carolan, 2009).

### **Nigeria's Presidential System**

The adoption and retention of the presidential system of government in Nigeria, particularly since the inception of the Fourth Republic in 1999, has been a source of continuous, often fiery, debate among observers and political scholars. This system, rooted in the American model, was embraced with high hopes for stability and unity, yet it has become inextricably linked to some of the country's most persistent governance challenges, sparking an increasing clamour for Nigeria to revert to the parliamentary model used during the First Republic (Aytogo, 2018; Karrem, 2018).

Nigeria gained independence in 1960, operating the Westminster parliamentary system inherited from colonial rule, a system that functioned for just six years before military intervention. When

civil rule was set to be restored, the Constitution Drafting Committee (CDC) and the Constituent Assembly (CA) advocated for a presidential system, believing it was better suited to the country's needs (Tobi, 2023). The framers of the 1979 Constitution were keen to avoid the constitutional crises of 1964-1965, which resulted from the conflict between the ceremonial President and the Head of Government (Akinsanya, 2002; Akinsanya & Davies, 2002). The presidential system, by vesting both the ceremonial and executive functions in one person—the President—was intended to resolve this conflict and reduce friction in governance. The core aspiration was the emergence of a strong executive which would act as a symbol of national unity and integration, capable of driving the task of nation-building (Tobi, 2023).

However, the practice of the presidential system in Nigeria has yielded profound contradictions, transforming initial hopes into widespread dissatisfaction, which started as early as the Second Republic (Agi, 1984). One of the most glaring discontents is the high cost of governance. Nigeria's economy struggles to sustain the array of personnel required for a presidential federal polity (Teniola, 2014). The practice of appointing cabinet ministers and commissioners outside the legislature, while theoretically allowing the executive to enlist competent experts, contributes significantly to the financial burden (Tobi, 2023). The substantial salaries and allowances enjoyed by public officeholders have made politics a "matter of life and death" (Ake, 1996), exacerbating inequality and diverting huge resources away from crucial capital expenditure and public services (Emejuiwe, 2017; Ikpoto, 2022).

Furthermore, the enormous powers constitutionally vested in the executive have often paved the way for dictatorial tendencies. While the system is built on the separation of powers and the principle of checks and balances, the reality since 1999 has frequently been executive dominance, making other arms of government subservient to the leadership's wishes (Tobi, 2023). This imbalance also manifests as strained legislative-executive relations, where supremacy tussles frequently consume the time and energy that should be dedicated to addressing national issues, often grounding governance activities to a halt (Tobi & Adegbami, 2020).

The widespread consensus among scholars and activists is that the presidential system is not inherently flawed, but its operation in the Nigerian context has spawned these negative consequences. To address this deficit, experts argue for a reformative path: first, whoever occupies the office must act as a platform of unity, resisting the temptation to allow partisan politics to taint ministerial appointments and rob the nation of necessary expertise. Secondly, the cost of governance must be cut to make the system economically sustainable. Crucially, the strengthening of democratic governance requires strict adherence to constitutionalism and the rule of law, ensuring that leaders operate under the law, thereby limiting their powers and reducing dictatorial impulses (Tobi, 2023).

## **Conclusion and Recommendations**

Nigeria's journey with the presidential system, underpinned by Montesquieu's Separation of Powers (SOP) doctrine, was a deliberate constitutional choice meant to secure liberty and unity after periods of centralized military rule. Theoretically, the system employs robust checks and balances (C&B) to ensure mutual restraint and prevent despotism. Yet, the practical reality of the Fourth Republic is one of profound constitutional "aberration," where the ideal SOP has often devolved into a functional "fusion of powers." This dysfunction is driven primarily by perceived executive dominance, which allows the leadership to "dictate the tune" for other arms, and frequent disregard for the judiciary through the flouting of court orders. Furthermore, the inherent structure contributes to an economically unsustainable high cost of governance, making politics a desperate "matter of life and death". For Nigeria to transition from abstract constitutional theory to true democratic stability, the political class must replace personal and partisan ambition with strict adherence to the rule of law and cooperation guided by the national interest. The study recommends that there must be strict adherence to constitutionalism and the rule of law. Consequently, leaders must operate strictly under the law, ensuring that the enormous powers constitutionally vested in the executive are limited. Also, national interest and cooperation over partisan ambition should be prioritized.

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