



# FRICION BETWEEN HELMSMEN UNDER CONSTITUTIONAL DEMOCRACY: THE HARSH CONSEQUENCES OF A LACUNA IN THE LAW

By

**Lilian Ifeoma Nwabueze\***

## **Abstract**

*The framers of the Constitution which is the instrument of governance in a constitutional democracy appeared to have good intentions in the creation of a support office to that of the president/governor for an inclusive helmsmen arrangement. A support office that would render the occupant redundant or subject him to unwonted abuses which by extension will mar the functioning of the executive arm may have been excluded in the intention perceived at the time of the creation of the office. The occurrence of the latter may have been overlooked yet, such lacuna has great consequences. This article adopted doctrinal research method in its investigation on the possible causes of friction between executive helmsmen and found that the problem lies in the lacuna created in the constitution. The article concludes that there is a need for the review of constitutional provision on the powers of executive lieutenants. It recommends among others for both dependent and independent duties for the office of deputy governors even as the office is one with that of the governor.*

**Keywords: Constitutional democracy; Friction between helmsmen; Support Office; Executive Lieutenants; Lacuna in the law.**

## **1.0 INTRODUCTION**

The legal instrument which provides authority to governance under constitutional democracy is the constitution also known as the basic law of the nation binding on all authorities and individuals therein.<sup>1</sup> The document is styled in names such as fundamental rules, grundnorm to depict its superiority to all other enacted laws recognized in a nation which purpose is to enshrine the rule of

---

\* PhD, University of Delta, Agbor, Delta State; Email Address: lilian.nwabueze@unidel.edu.ng, liliannwabueze@gmail.com; Tel. No. 08124660496

<sup>1</sup> Section 1(1) of the 1999 Constitution of the Federal Republic of Nigeria (hereinafter referred to as the 1999 Constitution)

<sup>2</sup> F Adaramola *Basic Jurisprudence* (3<sup>rd</sup> edn.; Raymond Kunz Communications, 2004). p. 145



law as a guiding principle for helmsmen and their subjects.<sup>2</sup> The law may be codified as it is the case with the Nigerian Constitution or uncoded which United Kingdom operates.<sup>3</sup> The content of the expressed document tagged as constitution or its parole version as well as the subsequent amendments is presumed to be the product of a referendum which involves the direct participation of persons it is meant for.<sup>4</sup> Thus, constitutional democracy negates the imposition of laws by rulers on the ruled or the arbitrary application of the provisions of the legally recognized fundamental law to undermine the position of the people as the source of all powers in the system of governance described by Abraham Lincoln as government of the people by the people and for the people.<sup>5</sup> The intrinsic nature of the basic or supreme law which seems universal is that other laws enacted for the conduct of the affairs of a nation take their bearing from it.<sup>6</sup> The provisions in the constitution provide the background upon which other laws are formed and where the latter defer from that contained in the constitution, no effect will be given to its content even if well intended and/or properly articulated.<sup>7</sup> In *Youngstown Sheet & Tube Co. v Sawyer*,<sup>8</sup> the Court held inter alia that the constitutional power given to one arm of government cannot be usurped by another arm of the same government through an order even where made to prevent an imminent catastrophe.<sup>9</sup> In that case, the President of the United States perceived a plan by mill owners to stop operation and jeopardize the interest of the State, so; he gave an order which empowered the Secretary of Commerce to take possession of most of the country's mills and operate the same.<sup>10</sup> The order was meant to reduce the powers of mill owners and keep their activities under the check of the executive arm of government. The order was resisted by the mill owners who went to Court for a proper interpretation on its legality. The argument put forward by the mill owners is that the order is a law and by the provisions of the constitution, law making does not fall under the functions of the executive.<sup>11</sup> The order is deemed ineffective since it runs contrary to the provisions of the constitution. The executive on the other hand submitted that the president who functions as chief executive of the State is constitutionally

---

<sup>3</sup> O Wali (SAN) 'We Cannot Produce People's Constitution Without Referendum' The Advocate (Nov. 2012) 1

<sup>4</sup> *ibid*

<sup>5</sup> Hon. Justice T A Oyeyipo 'A Critical Analysis of the Relationship Between the Three Arms of Government under a Civilian Dispensation: The Journey so Far' (being paper delivered at the All Nigerian Judges' Conference, 2001).

<sup>6</sup> *ibid*

<sup>7</sup> Section 3 of the 1999 Constitution

<sup>8</sup> 343 US 579 (1952)

<sup>9</sup> *Ibid* 587-589

<sup>10</sup> *ibid*

<sup>11</sup> *ibid*



empowered to carry out activities that will not put the State in jeopardy and that the order made is one of such activities.<sup>12</sup> The Court agreed with the mill owners that it is unconstitutional for the president to take possession of private property without a legislation from congress to that effect or an order of the Court.<sup>13</sup> The decision reached by the Court underscores the relationship between the three arms of government which is recognized in the constitution as the legislature, the executive and the judiciary.<sup>14</sup> The functions of each arm is also included in the constitution. The legislature has the mandate to make laws for smooth governance in a State, the executive implements the laws while the judiciary interprets the law.<sup>15</sup> The three arms may have their respective functions but each arm must perform its own functions in accordance with constitutional provisions or as specified by any statutory law which is not contrary to constitutional dictates. Thus, in *Senator Victor Akan v Attorney General of Federal Republic of Nigeria*,<sup>16</sup> the Court frowned at the exercise of executive power by a State Governor in a manner not provided for in the constitution. It held that though the executive meant well by setting up a temporary committee to oversee the affairs of local government councils until elections were held, intentions cannot be the basis for the determination of the validity of the act carried out by the executive. The validity of whatever is done under a constitutional democracy is determined by the provisions of the constitution.<sup>17</sup> Again, in *Kagoma v Governor of Kaduna State*,<sup>18</sup> where the State Governor set up a commission to probe into the affairs of the dissolved local government council under the guise of being backed by an enabling provision, the Court found fault with the governor's action because he failed to comply with the provisions of a law that is in consonant with the provisions of the constitution.<sup>19</sup> The Court held thus: that by the provisions of section 3 of the Local Government Law of 1976 which is also captured under section 274 (1) (b) of the 1999 Constitution, the power to set up a commission of inquiry in that case lies on the executive council of the State. The governor is neither the sole executive functionary of the State to exercise the function in question nor is the exercise of his function beyond statutory control.<sup>20</sup> Therefore, the governor's act in the instant case is unconstitutional and of no effect.<sup>21</sup>

---

<sup>12</sup> ibid

<sup>13</sup> ibid

<sup>14</sup> Sections 4, 5 and 6 of the 1999 Constitution

<sup>15</sup> ibid

<sup>16</sup> (1982) 3 NCLR 881

<sup>17</sup> ibid at p. 894

<sup>18</sup> (1981) 2 NLR 529

<sup>19</sup> ibid

<sup>20</sup> ibid at 548

<sup>21</sup> Ibid per Hon. Justice Maman Nasir (PFCA)



The act of one form of government is also subjected to review by the other arms so that at no time will one arm act independently and absolutely on its own. For example, the legislature is allowed through constitutional provisions to approve or disapprove the function intended to be performed by the executive while the judiciary evaluates the performance of the said function through its interpretation which gives validity or otherwise to the act. The case of *Chief Orisakwe v Gov of Imo State*<sup>22</sup> shows how failure to follow legislative pronouncement and the interpretation emanating from the Court can nullify the function purportedly exercised by the executive arm of government. In that case, the recognition of a chief was withdrawn by the State Governor. The latter's action was challenged in Court because it was done in total disregard to legislative provisions. The legal backing for such act is contained in enactment of the State legislature titled "Imo State Chieftaincy Law."<sup>23</sup> Section 9 of Imo Law empowers the State Governor to suspend or withdraw the recognition of a chief.<sup>24</sup> Section 14 however, contains the procedure which must be followed for the former act to be termed legal. The section states that the intervention and advice of the Commissioner for Chieftaincy matters is needed and the office must be consulted before the governor can suspend or withdraw the recognition of a chief. The Court found that the latter independent function missing in the executive act and thus, pronounced it illegal.<sup>25</sup>

Executive functions can only be examined where they are recognized in the constitution which will also determine the manner and degree of performance that will be adjudged legal. Where the constitution fails to spell out the form and nature of functions required from deputy governors as second in command in the executive cadre, friction may always arise in the discharge of their duties thus, violating the intendment for the provision of both offices as tools for proper governance. This article examines the office of the deputy governor under constitutional democracy and its relationship over the years with the office of the governor as the two offices pilot the affairs of a State. It highlights the unhealthy relationship that has existed over the years between the holders of both offices and seeks for a better association that will promote good governance from the executive arm. The content of the article is presented under five parts with this introduction inclusive. Part II presents the evolution of the office designated for secondary role in governance. Part III makes a comparative study of the features of the executive arm of government in selected jurisdictions. Part IV evaluates the application of the provisions of the law for the executive offices and its consequences while Part V concludes the paper.

---

<sup>22</sup> (1982) 3 NCLR 743

<sup>23</sup> No 22 of 1978 (hereinafter referred to as Imo Law)

<sup>24</sup> *ibid*

<sup>25</sup> *Orisakwe v Gov. of Imo State supra* (n. 22)



## 2.0 EVOLUTION OF SECONDARY ROLES IN THE EXERCISE OF EXECUTIVE AUTHORITY

The pre independent Nigeria was ruled by colonial masters whose system of government vested all powers on the executive.<sup>26</sup> The instrument of governance known as the order-in-council bestowed on the Governor-General, the powers to perform on behalf of the Imperial Majesty in England all functions which may be described as legislative, executive and judicial in nature.<sup>27</sup> The above system may have helped the colonial masters to gain absolute control of their colonized territories since the Governor- General was only the tool of Her Majesty.<sup>28</sup> Thus, the system was maintained in the subsequent constitutions which operated before independence.

The first pre-independence constitution gave recognition to the Governor –General as the head of all governmental powers.<sup>29</sup> The constitution did not include a vice, deputy, lieutenant or helpmate who may take his place where there is need for such or who may assist him in the discharge of the functions of making laws, implementing the same or interpreting the laws that have been implemented to meet the objectives of the enacted laws. The one arm system of government was followed at both federal and regional levels.<sup>30</sup> The other constitutions which the colonial masters used to achieve their goals did not also deviate from the sole executive control of government.<sup>31</sup> The trend was still visible in the 1960 Constitution after the country gained independence from the control of the Imperial Majesty.<sup>32</sup>

It would appear that a change in the perception of governance began with the republican constitution of 1963 which ushered in an entirely different system.<sup>33</sup> The latter constitution did not only recognize the need for three arms of government to be vested on different persons whose respective functions are clearly specified but also constituted a broader executive functionary than that

---

<sup>26</sup> Hon. Justice Ibrahim Umar (Chief Judge of Kebbi State) Commentary on Oyeyipo's paper (n. 5)

<sup>27</sup> Order –in- Council of 1922 (Copied from Oyeyipo(n. 5)

<sup>28</sup> *ibid*

<sup>29</sup> The Clifford Constitution of 1922

<sup>30</sup> *ibid*

<sup>31</sup> The Richard Constitution of 1946, the Macpherson Constitution of 1951 and the 1954 Lyttledon Constitution respectively

<sup>32</sup> Section 78 of the 1960 Constitution

<sup>33</sup> K M Mowoe *Constitutional Law in Nigeria* (Mathouse Press Limited, 2008) p. 125



which the colonial masters operated.<sup>34</sup> For example, the executive powers of government at the federal level was shared between the office of the president and the prime minister while at the regional level, the same power was handled by the governors and the premiers.<sup>35</sup> The constitution seemed to have acknowledged the fact that proper governance demand separation of the offices and the roles of the three constituents of government.

The classification of the duties of the executive arm however, did not receive favourable attention as required. The constitution seemed to have lacked clear statements on the specific functions of the two heads of the executive arm named therein. The president is named as the chief of the armed forces.<sup>36</sup> The appointment of the prime minister and other ministers are made by him although the latter is done on the advice of the prime minister.<sup>37</sup> The portfolio of the other ministers is fixed by him and only his office can exercise certain functions namely; give approval before laws can take effect and grant the prerogative of mercy.<sup>38</sup> Yet, he has a lieutenant in the person of the prime minister whose office is created to aid the smooth running of the executive arm of government.<sup>39</sup>

Perhaps, the first intervention of the military in government can be attributed to a dissatisfaction arising from the short fall in constitutional provisions which favoured certain key players and disfavoured others.<sup>40</sup> But the military system of government did not have better offering in terms of roles demarcation for persons charged with the affairs of governance or those who carried out executive functions. The military Head of State performed the executive functions of the nation and merely delegated his powers to State Governors with or without limitations.<sup>41</sup> The Head of State was also the head of the State's law making body, thus; combining executive role with legislative functions.<sup>42</sup> No much gain would have followed military intervention at that time since it provided no answer to what it sought to correct.

---

<sup>34</sup> *ibid*

<sup>35</sup> Sections 34 and 84 of the Constitution of Nigeria, October 1, 1963 for the federal arrangement and sections 33 & 34; 32 & 33 of the 1963 Constitutions of the Northern and Eastern Regions respectively

<sup>36</sup> Section 34 of the 1963 Constitution (hereinafter referred to as the Republican Constitution).

<sup>37</sup> Section 87 of the Republican Constitution

<sup>38</sup> Section 101 of the Republican Constitution

<sup>39</sup> Mowoe (n. 33)

<sup>40</sup> *ibid*

<sup>41</sup> Sections 7 and 6 of Decree No. 1 of 1966 and 1984 respectively (cited in Mowoe (n. 33)

<sup>42</sup> Section 3(2) of 1984 Decree



The country found its way back to the presidential system of government where it operated 1979, 1989 and 1999 constitutions.<sup>43</sup> The above constitutions appear to contain clear statements on the division of the powers of government into three distinct but related arms with limits on their duties.<sup>44</sup> Each arm seem to have its control mechanism to check the activities of the other arm to avoid the exercise of absolute power by one arm which will be a great disadvantage to citizenry.<sup>45</sup> Thus, the provisions of the presidential constitution on the powers of the three arms of government is holistic in terms of check and balance, however; the same position appear not to have been adopted in the specifications for the duties to be performed by the key players in the executive arm of government.

The 1999 Constitution vests executive authority at the federal level on the president to exercise either directly or through the vice president and the ministers of the government of the federation or officers in the public service of the federation.<sup>46</sup> A similar provision is made for executive authority at the State level which the constitution seem to vest on the State Governor to be exercised either directly or through the deputy governor and commissioners of the government of the State or officers in the public service of the State.<sup>47</sup> In the above provisions, the vice president or deputy governor is given a secondary position, so; he is expected to take after the president or governor but before other ministers or commissioners in the hierarchy of the executive arm of government.<sup>48</sup>

At the State level, the constitution recognizes the compulsory nature of the office of the deputy governor hence, it provides for its existence in each State of the federation.<sup>49</sup> The constitution also includes the procedures for the nomination, election and removal from office of persons who occupy the office of deputy governor.<sup>50</sup> The latter seems tie to the coming into being of the office of the governor.<sup>51</sup> The office of the governor appears to give breath to the office of the deputy but the relationship between the two offices as captured by the constitution shows that nomination for the office of the governor will be incomplete and perhaps dishonoured where such nomination does not contain the name of his deputy.<sup>52</sup> Similarly, the election of a governor implies the election

---

<sup>43</sup> *ibid*

<sup>44</sup> Part II of the 1999 Constitution

<sup>45</sup> *ibid*

<sup>46</sup> Section 5(1)(a) of the 1999 Constitution

<sup>47</sup> Section 5(2)(a) of the 1999 Constitution

<sup>48</sup> Section 192 of the 1999 Constitution

<sup>49</sup> Section 186 of the 1999 Constitution

<sup>50</sup> Sections 187 & 188 of the 1999 Constitution

<sup>51</sup> *ibid*

<sup>52</sup> Section 187 (n. 49)



of his deputy so that by one single vote cast by an electorate for a governorship candidate, his deputy is included.<sup>53</sup> The implication of this joint ticket syndrome is that what affects one affects the other as seen in the 2019 gubernatorial election in Bayelsa State.<sup>54</sup> The duo of David Lyon and Bio Barakuma Degi Eremienyo ran under the ticket of All Progressives Congress (APC) for the positions of governor and deputy governor for Bayelsa State. The single ticket under which their intentions were made known brought victory which recognized both as governor and deputy governor elect.<sup>55</sup> That was all they earned for their victory. Few hours before their swearing in ceremony- precisely at the swearing in rehearsal, the Supreme Court nullified their victory. The judgment of the apex Court was based on its finding which indicted the deputy governor elect for having submitted fake certificate to the Independent Electoral Commission.<sup>56</sup> Both lost their hopes of exercising executive authority in their State.

The same procedure is put in place in the constitution for the removal of persons who occupy the office of governor and deputy governor to show the importance that is placed on both offices.<sup>57</sup> The constitution also lays down steps to follow in the event that the governor or his deputy becomes permanently incapable of discharging the duties of his office.<sup>58</sup> The above tends to suggest that there are specific responsibilities which each office must carry out and the onus is on the occupant of the office to discharge those responsibilities throughout his tenure. It becomes imperative for the same constitution to spell out the responsibilities of each office so that upon assuming office as governor or deputy governor the powers exercisable by each head will be known just as the limits to such powers and the checks on them will be expressed in the official document of guard.

### **3.0 LEGAL RECOGNITION GIVEN TO EXECUTIVE HELMSMEN IN SELECTED JURISDICTION**

It would appear that in most jurisdictions, the executive arm of government is composed of the ruler and a vicegerent.<sup>59</sup> The two forms a single executive arm of government just as the legislature and the judiciary are each considered as an arm. Thus, there is one executive, one legislature and one judiciary working together to govern a State. The operation of each arm is controlled by the official

---

<sup>53</sup> *ibid*

<sup>54</sup> <[bbc.com/pidgin/tori](http://bbc.com/pidgin/tori)> (13 February 2020) accessed 2 January 2025

<sup>55</sup> Vanguard (Lagos) <[allafrica.com/stories](http://allafrica.com/stories)> accessed 2 January 2025

<sup>56</sup> *ibid*

<sup>57</sup> Section 188 of the 1999 Constitution

<sup>58</sup> Section 189 of the 1999 Constitution

<sup>59</sup> Learn Nigerian Law <<https://www.learnnigerianlaw.com>> accessed 3 January 2025



document of guidance known in most circumstances as the constitution, though; qualified with different adjectives to give names such as parliamentary constitution or presidential constitution.<sup>60</sup> Whilst the former recognizes the legislature as the source through which governance is derived by allowing that arm to choose who the executive head will be, the latter gives the people the power to institute both the legislative and executive arms of government.<sup>61</sup> In both cases, the working tool is still the constitution which also spells out the modus operandi of each arm of government and the legal authority vested on its officers.<sup>62</sup>

### 3.1 India

The Indian Constitution vest the executive power of the central government on the President.<sup>63</sup> He has the authority to exercise the powers given to him by the constitution either directly or through those placed under him named in the same official document as the Vice President, Council of Ministers and the Prime Minister.<sup>64</sup> Thus, only his office can legally carry out certain functions which includes the under listed:

- (i) summon, defer, address or send messages to parliament or dissolve the lower house of parliament;<sup>65</sup>
- (ii) bring into effect laws which are needed when both Houses of parliament are not in session;
- (iii) assent to bills, grant pardons, suspend punishment/sentences in certain cases;
- (iv) declare a state of emergency where the security of the country or part of it is threatened.<sup>66</sup>

In *Sahub Ram Jawaya Kapur v State of Punjab*,<sup>67</sup> the Court held that executive functions comprise both determination of policies as well as well as carrying it into execution. It held further that such function includes the intimation of legislation, the maintenance of order and the promotion of social and economic welfare.<sup>68</sup>

The office of the vice president is recognized as the second highest in the organigram of the executive arm of government.<sup>69</sup> The office is next to that of the

---

<sup>60</sup> Mowoe (n. 33)

<sup>61</sup> *ibid*

<sup>62</sup> *ibid*

<sup>63</sup> Art. 52 of the Constitution of India (as modified up to 1<sup>st</sup> December 2007) <<https://www.india.gov>>

<sup>64</sup> *ibid*

<sup>65</sup> *ibid*

<sup>66</sup> *ibid*

<sup>67</sup> (MANU/SC/0011/1955)

<sup>68</sup> *ibid*

<sup>69</sup> Art. 63 of the Constitution of India (as modified in 2007) (hereinafter referred to as The Constitution of India)



president who is only a nominal head as the prime minister is the de facto ruler. The authority given to the office of the vice president is specified in the constitution and the same seems replicated at the state level through the office of the chief minister who is also ranked second after the governor.<sup>70</sup> For example, the former is the ex-officio chairman of the upper house of parliament and gives advice to the president in conjunction with the council of ministers with the prime minister as the head of the team.<sup>71</sup> He is only allowed to perform any of the executive functions tied to the office of the president where the holder of the office is unable to carry out the duties for reasons specified under the constitution.<sup>72</sup>

The chief minister on the other hand participates and communicates to the governor of the state, the decisions of the council of ministers upon which the governor must act.<sup>73</sup> The chief minister seems to have a clearly defined and recognized role which cannot be ignored as the governor's role is tied to the function assigned to the former. The Court highlighted the above fact in *Samsher Singh v State of Punjab*.<sup>74</sup> In that case, the Court held that the president and governor are only constitutional formal heads.<sup>75</sup> The performance of the duties of their respective offices outlined in the constitution is made possible through the advice of the council of ministers which include that of the chief minister at the state level.<sup>76</sup> The type of advice given is immaterial in the consideration of the constitutionality of the power exercised by any of them.<sup>77</sup> What is important is that the power and function carried out by the nominal number one executive head is traceable to the advice from the body which the constitution has given the power to do so.<sup>78</sup> The above shows how the constitution has made the number two executive office an indispensable one for the carrying out of executive role at the state level.

### 3.2 The United States of America

The duties outlined for the executive branch in the government of United States of America includes:

- (i) implementation and enforcement of laws made by congress;<sup>79</sup>

---

<sup>70</sup> ibid

<sup>71</sup> *India Book 2020 – A Reference Annual* <<https://owindia.india.gov>>

<sup>72</sup> ibid

<sup>73</sup> ibid

<sup>74</sup> MANU/SC/0073/1974; AIR 1974 SC 2192

<sup>75</sup> ibid

<sup>76</sup> ibid

<sup>77</sup> *Bommai v Union of India* MANU/SC/0444/1994; AIR 1994 SC 1918

<sup>78</sup> ibid

<sup>79</sup> <<https://www.whitehouse.gov>> accessed 21 December 2024



- (ii) negotiation of treaties with other nations and the validation of the same through endorsement
- (iii) issuance of executive orders;
- (iv) extension of pardons and clemencies for certain categories of crime;<sup>80</sup>
- (v) the power to preside over senate deliberations and cast a tie breaking vote;
- (vi) enforcement and administration of federal laws on a day to day basis.<sup>81</sup>

The first four functions identified above as (i)-(iv) are exclusively carried out by the office of the president.<sup>82</sup> The vice president labelled as the second ranking officer in the executive branch takes up the role of the president where the latter is unable to discharge the duties of his office and also exercises the legislative power contained in (v) above.<sup>83</sup> The function listed under (vi) is carried out by cabinet and independent federal agencies.<sup>84</sup>

The office of American vice president has transcended its initial conception described by John Adams, the first American Vice President as the most insignificant office ever conceived by man's imagination.<sup>85</sup> The 12<sup>th</sup> Amendment to the constitution did not only change the process through which the office holders were elected but also created a better appreciation of the functions of the office. For example, the amendment allowed the vice president to share the political party's ticket with the presidential candidate who would have chosen him as his running mate after his nomination.<sup>86</sup> Thus, the election of the president by the electoral college also included that of the vice president so described by the same body.<sup>87</sup> The aforementioned was a great departure from the process adopted hitherto the amendment where election was conducted only for the office of the president and whoever ranked second was automatically made the vice president.<sup>88</sup>

Perhaps, the above change in the electoral process was perceived by the vice presidents who emerged afterwards as an indication that the office may be

---

<sup>80</sup> ibid

<sup>81</sup> ibid

<sup>82</sup> <study.com/academy> accessed 28 November 2024

<sup>83</sup> ibid

<sup>84</sup> ibid

<sup>85</sup> <<https://www.senate.gov>> accessed 9 January 2025

<sup>86</sup> ibid

<sup>87</sup> ibid

<sup>88</sup> ibid



secondary but it is an important avenue through which remarkable governance can be achieved. Again, the constitutional provisions which gave the office both executive and legislative powers (though exercisable under certain conditions) may have also added to the increased level of participation in governance by vice presidents who came after John Adams.<sup>89</sup> Vice President Cheney exhibited so much power during the administration of President Bush that he could publicly oppose the president on certain issues supported by the latter without fear of being thrown out of office.<sup>90</sup> The relationship between American Presidents and Vice Presidents has been cordial over the years such that some vice presidents have emerged as presidential candidates in subsequent elections.

At the State level, the executive helmsmen are the governors and their lieutenants where the constitution allows a secondary office and admits the use of such nomenclature. In the state of Oregon and Wyoming, the governor has no lieutenant, rather; he is followed by the secretary of state who takes his position where it becomes impossible for him to discharge the duties of his office.<sup>91</sup> States where a lieutenant is named as part of the executive branch, the office is recognized as one that is next to the office of the governor.<sup>92</sup> He stands in for the governor when he is absent from office.<sup>93</sup> The office of the governor seems vested with all executive powers with his lieutenant performing complimentary roles in the state either as members of the same party as it is the case in Ohio or as candidates from different political parties in which case the governor and his lieutenant could be elected separately as done in California or with the appointment of the latter left in the hands of the state senate as practiced in Tennessee.<sup>94</sup>

### 3.3 Nigeria

The Nigerian constitution recognizes the dual offices of the executive arm of government at both federal and state levels.<sup>95</sup> At each level, the president/governor is the primary head with authority to exercise powers which includes inter alia:

- (i) preparing budget;<sup>96</sup>

<sup>89</sup> *ibid*

<sup>90</sup> 'Cheney at Odds with Bush on Gay Marriage-Politics' *NBC News* August 25 2009 Archived from the original on October 30 2020 retrieved December 29 2016<<https://share.america.gov/what-do-the-vice-presidents-do> accessed 5 January 2025

<sup>91</sup> 'Executive Function in States of America' Quora- <quora. Com.> 28 November 2024

<sup>92</sup> *ibid*

<sup>93</sup> *ibid*

<sup>94</sup> *ibid*

<sup>95</sup> Sections 130 & 141; 176 & 186 of the 1999 Constitution respectively.

<sup>96</sup> C J Igbokwe-Ibeto & R O Anazodo 'Managing Executive legislative Working Relationship for Good Governance and Service Delivery in Nigeria (2015) *Review of Public Admin. & Management* Vol 4:18



- (ii) introducing development projects and financing the same to completion;
- (iii) maintaining all laws through which the country/ state is governed;
- (iv) protecting and defending the territories of the country/state;
- (v) maintaining inter and intra relationships with other nations and states;<sup>97</sup>
- (vi) granting pardons at different levels in respect of criminal offences.

The vice president and deputy governor appear not to have specific duties tied to their offices other than that outlined in the constitution.<sup>98</sup> Thus, the vice president/deputy governor will constitutionally take the position of the primary head only where the office of the latter is declared to be either temporary or permanently vacant.<sup>99</sup> In all other situations, the authorities exercised by the number two executive officer tend to be limited to only what the primary head is willing to assign to him at a specific time which must not be termed as a master-servant relationship as held by the Court in *Atiku Abubakar v A G Federation*.<sup>100</sup> In that case, the Court gave a detailed interpretation of the type of relationship which the framers of the constitution envisaged to exist between helmsmen under the executive branch. The issues raised for the Court to pronounce on in that case include:

- (i) whether having regard to be combined provisions of sections 135 and 142(2) of the 1999 Constitution, the plaintiff's term of office as Vice President of Federal Republic of Nigeria commenced on 29/5/2003;
- (ii) whether having regard to the provisions of sections 142, 143, 144 and 146 of the 1999 Constitution or any law, the President of Nigeria can declare vacant the office of the plaintiff as vice president;<sup>101</sup>
- (iii) whether the union between the two which the constitution established in their mode of election is suggestive of a master servant relationship.

The Court held thus:

- (i) that the plaintiff's term of office which commenced from 29<sup>th</sup>

---

<sup>97</sup> ibid

<sup>98</sup> Sections 145 & 146; 190 & 191 of the 1999 Constitution.

<sup>99</sup> ibid

<sup>100</sup> (2007) 10 NWLR (Pt. 1041)1 @ 121

<sup>101</sup> ibid

<sup>102</sup> ibid



- May, 2004 is deemed to subsist until 29<sup>th</sup> May, 2007 which is four years of the joint mandate given to the two helmsmen;<sup>102</sup>
- (ii) that the president is not empowered by the constitution to declare vacant the office of the vice president and where that is done such declaration is unconstitutional, void and of no effect;<sup>103</sup>
  - (iii) that the constitution in the union between the helmsmen envisages a single executive which does not place the vice president under the same cadre as the ministers or that the vice president should be a slave to the president such that he is denied his will or opinion where the need arises or one in which the vice president's individuality or personality is put out of sight throughout their tenure in office. Rather, the constitution contemplates a unity in which they will work hand in hand throughout their joint term with one person giving out orders and the other accepting though with the right to disagree only in a private meeting with the president.<sup>104</sup>

The Court concludes that the constitutional arrangement between the two helmsmen completely subordinates the vice president to the president.<sup>105</sup> The same arrangement exists between the governors and their deputies. Thus, even where the nomination of a candidate for the office of a governor will be rejected where he fails to mention his running mate who is his deputy and where a running mate is named, both may either succeed or fail together so that neither of them gets a win which the other is deprived of nor a loss which is suffered alone, indicating that both offices are important; the constitution still finds one office more relevant than the other as soon as their respective occupants assume duty.<sup>106</sup> The situation has led to so many unhealthy relationships at both the state and federal executive arms of government in the country which is not witnessed in other jurisdictions highlighted above.

#### **4.0 THE APPLICATION OF CONSTITUTIONAL PROVISIONS FOR THE EXECUTIVE OFFICES AND ITS CONSEQUENCES.**

The constitutional provisions for the office of the governor of a State and that of the deputy governor appear to set the two offices aside as major channels through which the execution and enforcement of laws that are needed for effective

---

<sup>103</sup> *ibid*

<sup>104</sup> *ibid*

<sup>105</sup> *ibid*

<sup>106</sup> Section 193 of the 1999 Constitution

<sup>107</sup> A Ben el ta 'The Doctrine of Separation of Powers and Checks and Balances in the Nigerian Executive and Legislative Relationships' *Nnamdi Azikiwe Journal of Philosophy* Vol. 9:1



governance can be achieved.<sup>107</sup> Both offices seem to enjoy certain degree of importance as the same procedures must be followed to fill the vacancy that may exist in the stated offices where the need arises. For example, the constitution outlines the same requirements for the legal removal of the occupant of the office of a governor or that of a deputy governor.<sup>108</sup> Also, a governor or deputy governor will be deemed unfit to continue to occupy the office he/she holds in the circumstances which the constitution has made to apply to both offices.<sup>109</sup> Again, by the provisions of the constitution, the office of the governor will be occupied by the deputy governor where the former dies after being successfully elected but before taking the oath of allegiance and oath of office.<sup>110</sup> The above situation offers the latter an opportunity to name a deputy governor to work with him just as the demised governor had to choose a deputy in order to secure his nomination ticket.<sup>111</sup> The constitution provides further that where the occupants of both offices pass on before their inauguration, the offices will not be occupied by other persons except through an election organized by the Independent National Electoral Commission.<sup>112</sup>

The aforementioned is supposed to suggest that a harmonious working relationship will exist between a governor and his deputy throughout their tenure in office. The presumed position is however not depicted in their association which in some cases begin on a sour note shortly after their swearing-in ceremony and in other cases towards the end of their first tenure in office. No fewer than sixteen States of the federation have witnessed bitter disagreements between their governors and deputy governors elected under a single ticket for a four year term.<sup>113</sup> The disagreements have negative consequences on the occupants of both offices, the party through which they secured their election and the State where their exemplary leadership is supposed to foster unity and bring about development that will positively affect the citizenry.

The one time Deputy Governor of Zamfara State Mahdi Aliyu Mohammed Gusau was removed from office by the State lawmakers whose loyalty was to the State governor instead of the State.<sup>114</sup> His offence which led to his removal in 2022 after being sworn-in in 2019 was that he had the effrontery to publicly express an independent political opinion which differ from that canvassed for by Governor Bello Metawalli.<sup>115</sup> The Constitution may be the basis for the denial of such

<sup>108</sup> Section 188 of the 1999 Constitution

<sup>109</sup> Section 189 of the 1999 Constitution

<sup>110</sup> Section 181 of the 1999 Constitution

<sup>111</sup> *ibid*

<sup>112</sup> *ibid*

<sup>113</sup> C Okocha 'This Day Live' <[www.thisdaylive.com](http://www.thisdaylive.com)> accessed 10 October 2024

<sup>114</sup> <[channelstv.com](http://channelstv.com)> accessed 27 January 2025

<sup>115</sup> *ibid*



powers to lieutenants as noted by the Court in *AtikuAbubakar v A G Federation*.<sup>116</sup> The Court emphasized in that case that opinions held by the vice which defer from that maintained by the President even where it falls under criticism emanating from the number two man can only be exercised privately in a meeting with the President alone. Thus, the vice president cannot be held responsible by the citizenry for any positive or negative policies of the executive or show in any obvious way that he disagrees with the president on certain policies.<sup>117</sup> The above applies equally to the relationship existing between the helmsmen at the State level which is an aberration in jurisdictions such as the United States of America.<sup>118</sup> Vice President Cheney of the United States of America exercised powers befitting of his office during the administration of President Bush that he was not only criticized for being behind some policies of that administration namely, the campaign against terrorism, the introduction of enhanced interrogation torture mechanism but also for openly condemning the President's view over some pertinent issues such as his opposition to same sex marriage which the former added was the prerogative of the State to decide.<sup>119</sup> The latter seems to exemplify true democratic relationship between helmsmen.

Deputy Governor Rauf Aderemi Olaniyan of Oyo was also impeached in 2022. The Oyo State House of Assembly found it necessary to remove him because of the series of allegations against him among which were, disloyalty, financial recklessness and abuse of office.<sup>120</sup> The deputy governor who before exercising executive authority in the State with Governor Seyi Makinde under whose administration he was impeached, had worked with twelve (12) governors both under the military and civilian administrations and none of them queried his loyalty.<sup>121</sup> His past experience would have taught him what respect to the governor meant which he recounted as going to the latter's office every day in the morning to enquire from him what he has assigned to the office of the deputy governor.<sup>122</sup> The implication of the above is that the office of the deputy governor exists at the governor's pleasure and depending on how he perceives the attitude of his deputy or on the report he gets about him, he may elect to do any of the under listed:

- (i) keep him idle and insignificant;

---

<sup>116</sup> supra (n. 100)

<sup>117</sup> ibid

<sup>118</sup> *NBC NEWS* (n. 90)

<sup>119</sup> ibid

<sup>120</sup> W Akinselure *Punch Newspaper* <punchng.com> accessed 28 January 2025

<sup>121</sup> ibid

<sup>122</sup> ibid



- (ii) get him impeached by the lawmakers under whatever allegations that fit into the constitutional provisions so that his place can be taken by another who may suffer a similar fate as his predecessor;
- (iii) ruin his political career so that his chances of moving forward will be truncated;
- (iv) make him to resign in order to save his face from the shame of being removed from office.<sup>123</sup>

The removal of deputy governors through impeachment procedures appears to be the commonest weapon of chastisement employed by principal executive officers namely presidents and governors over their lieutenants whom they personally approached and perhaps, engaged persons of substance to plead and convince them to form part of the single ticket election. The constitutional provision on the basis for the removal of a deputy governor seems to be the engine of fraud at the disposal of governors. Thus, it is easy for a governor to concoct anything against his deputy provided it can be labelled as an instance of gross misconduct which will satisfy the requirement stated in the constitution for such removal.<sup>124</sup> The removal of a deputy governor is assured once he is found guilty of that allegation.<sup>125</sup> The above was employed to remove Deputy Governor Iyiola Omisore of Osun State under Governor Bisi Akande's administration, Akwa Ibom State Deputy Governor Chris Ekpenyong while working with Governor Victor Attah, Deputy Governor Abiodun Aluko when he served together with Governor Ayo Fayose of Ekiti State, Deputy Governor Sani Abubakar of Taraba State in 2012, Deputy Governor Peremobowei Ebebi of Bayelsa State and two Deputy Governors- Senator Koforowola Bucknor-Akerele and Femi Pedro under Governor Asiwaju Tinubu of Lagos State.<sup>126</sup>

The strong determination by governors to disgrace their deputies out of office through impeachment processes is seen in how Deputy Governor Enyinnaya Abaribe was removed relieved of his position as the number two helmsman under Governor Orji Uzor Kalu.<sup>127</sup> The deputy governor who perceived that the law could be used against him, tendered his resignation letter seven days prior to his impeachment proceedings in which he was found guilty of allegations of gross misconduct. Members of the State House of Assembly still impeached him on a vote of 18 out of 24 despite the fact that he had resigned from office.<sup>128</sup> The two deputy governors who succeeded him under Governor

---

<sup>123</sup> *NBC NEWS* (n. 90)

<sup>124</sup> Section 188 of the 1999 Constitution

<sup>125</sup> *ibid*

<sup>126</sup> Okocha (n. 113)

<sup>127</sup> *ibid*

<sup>128</sup> *ibid*



UzorKalu were equally impeached before the end of that administration.<sup>129</sup> The case of Deputy Governor Alhaji Garba Gadi who served together with Governor Isa Yuguda of Bauchi State in 2009 shows that doubt may be cast on the impeachment allegations found against deputy governors.<sup>130</sup> Governor Isa Yuguda defected to another political party different from that on which he got into power. He wanted his deputy to do the same but the latter refused and this angered him.<sup>131</sup> He used the State House of Assembly and got him impeached. The impeached deputy governor was reinstated a year later by a High Court in the State and his entitlements were paid to him.<sup>132</sup> Kangaroo impeachments are the ploys of governors under democratic dispensation.

Perhaps, resignation from the office of the deputy governor may be a more honourable way of leaving office. The Deputy Governor of Kano State in 2018 – Prof. Hafiz Abubakar was fortunate to adopt that option. He described the allegations of his loyalty to Senator Rabi'u Musa Kwankwaso who was poles apart with Abdullahi Ganduje- the Governor of the State as the reason for his resignation and described the same in the letter dated 5<sup>th</sup> August, 2018 conveying his intention to leave office as 'irreconcilable differences on matters relating to governance and government operations'.<sup>133</sup> The above would have been couched as misconduct and resulted in him being impeached and disgraced from office. The Deputy Governor of Jigawa State in 2001 took the same honourable step to vacate his office. In a news conference in Dutse, Deputy Governor Alhaji Ibrahim Kwatalo announced to his people that he resigned because remaining in office was against his moral dictates.<sup>134</sup> Deputy Governor Alhaji Aliyo Wamakko of Sokoto Stated bluntly that he resigned from office because of the misunderstanding he had with Governor Attahiru Bafarawa. The Deputy Governor who resigns would not have foreseen that resignation at the time he got into office thus, he had to personally shorten what he had hoped to enjoy for a definite period of time and keep on hold whatever plans of development he would have conceived for his State.

## 5.0 CONCLUSION

The office of an executive lieutenant appears debased in the constitutional scheme of governance whereas as a vice or deputy, the constitution considers him as an indispensable partner in the nomination and subsequent emergence of the

---

<sup>129</sup> ibid

<sup>130</sup> ibid

<sup>131</sup> ibid

<sup>132</sup> ibid

<sup>133</sup> ibid

<sup>134</sup> ibid



executive arm of government. He is sought after at the onset just like a special commodity because his resume has an incredible positive impact on the outcome of an election. Thus, many factors are put into consideration during the selection process of an executive lieutenant which in most cases is not hastily done.

However, the importance given to the office of an executive lieutenant and the priceless value that is attached to the person of the occupant is not demonstrated in the legal authority given to that office. An executive lieutenant is constitutionally recognized as an appendix to the president or governor so has no independent primary roles to be held responsible for except in the absence of the head and as the latter deems fit. The constitution seems to have made his contributions in governance very insignificant which creates no room for competition in political growth. The gap created by the constitution has resulted in negative consequences and may still continue if not addressed legally.

The time is ripe for the review of the constitutional provisions for the office of an executive lieutenant so that it will include a more detailed pronouncement on the authorities exercisable by the occupant of the office while the president/governor is in office, on vacation and unable to carry out the duties of his office. The one sided dependent authority given to the office has marred development in the nation and growth in career for the occupants. It is important for the executive lieutenant to be held responsible for specific duties upon which his performance can be judged and reviewed in anticipation for higher positions. This article has established that equal importance should be given to the features of an executive lieutenant and the powers of the office.