EFFECTING CHECKS AND BALANCES OF POWERS IN THE LOCAL GOVERNMENT SYSTEM IN NIGERIA: A CRITICAL DISCOURSE ON THE EXPERIENCE AND THE IMPLICATIONS FOR GOOD GOVERNANCE

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Abstract
The existence of the doctrine of separation of powers is very much aspired for in contemporary democratic governance Desired even more is the operation of its corollary principle of checks and balances of powers. In Nigeria, there exists separation of powers among the three arms of government. However, the critical concern is on the extent to which the principle of checks and balances is achieved in reality. Against this background, the study generally discussed the need and requirements of the doctrine of separation of powers, critically and specifically examined the practical operation of checks and balances with special focus on the local government system and particularly as it should obtain between the executive and the legislative arms. Following the analysis in the study, the conclusion is that there is no significant operation of checks and balances of powers between the executive and legislative arms in the local government. This situation results to recklessness, abuse of power and general misgovernance characterized by flagrant unaccountability of public resources. The major constraints to the effective operation of checks and balances in the local government system include one party membership of the legislators and the executives, fraudulent election of people into the legislative and executive arms and the pervasive prebendal culture among the legislators and the executives. Key measures recommended to enhance effective checks on the executive powers include strengthening the capacity of the legislators for legislative duties through trainings and workshops, ensuring free and fair election into the legislative and executive political offices and the legislative arm ensuring that it maintains its independence from the executive arm with the latter too being less disinclined to control the former. The study in its method of data collection relied mainly on secondary sources of information and consequently anchored its analysis, findings and conclusion on content analysis technique.

Keywords: Arms of government, checks and balances of powers, executives legislators, local government, separation of powers.
Introduction
In almost all contemporary governmental systems, particularly in democratic climes, there exists separation of powers among the three arms of government. These three arms are the legislative arm that makes the laws, the executive arm that implements the laws and the judiciary arm that interprets the laws. In essence, governmental powers are shared among these three arms. The idea of sharing of powers among these different arms of government is popularly known as the doctrine of separation of powers (Ese, 2008).

Britain introduced the doctrine of separation of powers following the struggle for power in England between the parliament and the monarchy within the period 1642 and 1660 (Moses, 2011; Beetseh and Echikwonye, 2011). Scholars of particular importance in the clarification of this doctrine were John Locke, a British philosopher and Baron de Montesquieu, a French philosopher. For instance, Locke in his “Second Treatise of Civil Government” written in 1690 dwelt on the differentiation between legislative and executive powers and stressed the need for the different powers of government to be kept separate from one another, exercised by distinct arms and for none of the arms to exercise overriding influence on the other (Beetseh and Echikwonye, 2011). Locke further noted, in the work, that it would be foolhardy to give also to the law makers the power executing the law because, in the process, they might exempt themselves from obedience and suit of the law. As quoted in Otobasi (2011: 542), Locke identified the need for separation of powers clearly thus;

It may be too great a temptation of human frailty for the same persons who have the power of making laws to have also in them the power to execute them, whereby they may exempt themselves from obedience to the laws they make and suit of the laws, both in its making and execution, to their own private advantage and thereby come to have distinct interest from the rest of the community contrary to the end of society and government...

Locke’s work, indeed, formed the major theoretical step to the development of the doctrine of separation of powers.

Baron de Montesquieu also articulated the details and fundamentals of the doctrine of separation of powers in his work, “The Spirit of the law” written in 1748 (Appodarai, 1968). Montesquieu linked the separation of powers to liberty and the rule of law (Moses, 2011). He expressed the belief that concentration of powers in one arm of government would render the citizens subject to the arbitrary and capricious will of the rulers, a condition manifestly contrary to the rule of law and, as well, a threat to civil liberty. Montesquieu, in this respect, notes, as quoted in Otobasi (2011:543) thus;

….. Constant experience shows us that every man invested with power is likely to abuse it and carry his authority as far as it will go. To prevent this abuse, it is necessary from the nature of things that one power should be a check on another. When the legislative and executive powers are united in the same person or body, there can be no liberty...

In essence, the doctrine of separation of powers requires that the powers or functions of government are separated and carried out by different institutions and personnel. In modern times, the doctrine has come to be regarded as one of the most fundamental tenets of liberal
democracy and a basic condition for good governance. Its existence is also necessary for preserving the liberty of individual, for avoiding tyranny and corruption arising from the opportunities that unseparated powers offer (Ogoloma, 2012).

In Nigeria and as a democracy with a federal governmental arrangement, the doctrine of separation of powers among the three arms of government is a fundamental constitutional principle and applies at both the federal, the state and the local government tiers. Relevant sections of the 1999 Nigeria constitution place each of the basic powers of government in a separate arm. Section 4, 5 and 6 of the constitution highlights the legislative, executive and judicial powers respectively.

However, of very serious importance still is the practical operation of its corollary principle of checks and balances of powers. This principle entails that the three arms act as checks on the powers of each other with the ultimate objective of ensuring a balance in the strength and weight of their powers and their exercise. In this case, each arm has and uses its powers to keep the others from exceeding their powers. This essentially constitutes the real value of the doctrine of separation of powers.

The constitution of the federal republic of Nigeria provides for a system of checks and balances to restrict the powers of each arm of government at both the federal, state and local government tiers. Generally, for instance, the executive arm can veto bills passed by the legislature while the latter can override the veto by the former. Again, the executive can check the judiciary through its power to appoint or remove judges while the judiciary can declare laws made by the legislature and certain executive actions unconstitutional (Ifeanyi, 2005). In these ways, the three arms at the different tiers achieve workable checks and balances with no one branch holding all the governmental powers.

We shall, however, in this study focus on the discussion of the checks and balances as it should obtain at the local government level and the constraints to its effective operation particularly on the required constitutional checks by the legislative arm on the executive arm. We note, however, that even though the operation of the principle of checks and balances at both the state and national government tiers may experience roughly similar constraints as there exists, significantly, similar political behaviours or processes at those levels, we however, feel impelled to take this focus and emphasis because the local government constitutes a veritable base for the development and expression of political liberty and democratic values. Further, we believe that on the executive arm lies the greatest potential and practice of power and with the possibility of its abuse.

In line with the above stated focus, the basic objectives of the study are then to generally discuss the requirements and relevance of the doctrines of separation of powers and checks and balances and to, specifically, discourse the constraints to effective checks on the powers of the executive arm by the legislative arm and the implications for good governance. Our other objective is to explore and suggest ways of improving the operational mechanism of the legislative checks on the executive arm.

**CLARIFICATION OF THE MAJOR CONCEPTS**

1. **LOCAL GOVERNMENT**

Local government is a unit of government below the central, regional or state levels established by law to exercise political authority through a representative council within a defined geographical area (Olise, and Nwabu, 1990). It is, as well, a system of local administration instituted to maintain law and order, provide limited range of social amenities and encourage co-operation and participation of inhabitants towards improvement of their conditions of living (Emezi, 1981). In Nigerian federal structure, local government is popularly regarded as
the third tier of government and its existence is clearly guaranteed by the federal constitution of 1999 as it provides in section 7(1) thus;  

*The system of local government by democratically elected local government councils is under this constitution guaranteed and, accordingly, the government of every state shall, subject to section 8 of this constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils.*

Presently, there are 774 local government areas in Nigeria. These local government areas, following the introduction of 1976 local government reform, are uniform in nature and structure (Ofoeze, 2002).

The local government as a third tier of government in Nigeria is expected to play the role of promoting the democratic ideals of the society and co-ordinating development programs at the local level. Over all, the tier occupies a very strategic position in the overall development process of the nation.

2. Separation of powers: Separation of powers refers to the division of governmental powers and the assignment of their exercise to distinct branches or arms. (Ogoloma, 2012; Torsten, et al, 1997). Specifically, it entails the division of the legislative, executive and judicial functions of government among separate and independent bodies (Ikenga, 2005). The basic purpose of separation of powers is to prevent the concentration of powers in one arm of government and provide for checks and balances among the different arms. Again, and according to John Locke, one of the foremost proponents of the doctrine of separation of powers, the foundation of liberty lay in not only the specialization of government functions but the assignment of their executions to different hands or institutions (Torsten, 1997; Appodarai, 1968). Further, the doctrine, in practice, forstalls the temptation to corruption that exists where, for instance, the same persons who have the powers to make laws also have in their hands, the powers to execute them. Indeed, as noted by Montesquieu and quoted in Moses (2011), the basic justification for the doctrine of separation of powers is that the chances of dictatorship or tyranny are reduced in so far as governmental powers are separated in terms of institutions and personnel. Hence, according to Ikenga (2005), separation of powers is a liberty – sensitive concept. Ogoloma (2012: 129) argues similarly as he notes thus;  

*One condition of liberty is the separation of the legislature from the executive and the existence of an independent and impartial judiciary.*

Again, in modern times, separation of powers is a convenient means of coping with the increasing business of government of the state. This point becomes very understandable if one imagines the law giver (legislature) being the executor (Executive) and the judge (Judiciary) simultaneously. This is why in a government of separated powers, the legislature only makes laws, the executive arm enforces the laws so made while the judiciary arm interprets the laws. This arrangement, no doubt, leads to greater efficiency and effectiveness in public or government administration.

The Nigerian constitution embodies the characteristics of the separation of powers doctrine through its provisions for the three arms of government and its manifest assignment of duties and functions to them at the various tiers of government. Indeed, the constitutional
provisions for the three arms of government each entrusted with its own responsibilities, the provisions against overlap of personnel and functions among the arms and the different modes of selection of members of each arm are clear manifestations of the features of separation of powers in Nigeria.

3. **CHECKS AND BALANCES OF POWERS:**

While separation of powers creates the different arms of government and assigns them responsibilities and powers, checks and balances emphasizes the power of any of the arms to check the activities of the others. For example, the power of the executive, the legislature or judiciary to check the activities of one another (Dibie, 2008). Indeed, the extent to which the separation of powers applies in reality and is useful depends on the ability and willingness of the arms to check and balance the activities and exercise of their respective powers (Appodorai, 1968). Checks in this context referring to the ability and responsibility of each arm to monitor the activities of other arm(s) and balances referring to the ability and responsibility of each arm to use its power to limit the powers of other arm(s) whether at to general scope or in particular cases. It is perhaps for the relevance of the principle of checks and balances that Dibie (2005) argues that the principle is the major argument for the separation of powers and notes specifically that effective operation of checks and balances prevents arbitrary exercise of power by any arm, controls power and ensures orderliness and efficiency in the exercise of governmental powers. Ogoloma (2012) similarly notes that the whole argument in favour of separation of powers is meaningless if the principle of checks and balances does not, in reality, operate as it helps in limiting the powers of each arm and restricting them to operate within their constitutionally assigned duties. It is for the immense importance of checks and balances that Amoda (2011) argues that each arm should not merely be separate but should, as well, act as checks upon each other to maintain the balance of powers between them. In essence, the argument is that even under separated powers, there is the need for the exercise of powers by one arm to be checked by other arms.

Generally, checks and balances is very important because it prevents democracy from becoming a dictatorship or oligarchy as its operation ensures that no one arm can gain absolute power or abuse the powers given to it, ensures that each organ of government is alert and conscious of its functions, ensure that each organ is flexible and accommodating, guarantees effectiveness and efficiency in the performance of government functions, enhances stability of government, helps to identify errors or abuses where and when they occurred minimizes corruption, oppression and abuse of power generally. It is, indeed, a functional and critical tool to maintain a functional democracy.

**THE KEY FUNCTIONS OF THE THREE ARMS OF GOVERNMENT AT THE LOCAL GOVERNMENT LEVEL**

1. **THE EXECUTIVE:** This arm is usually composed of the chairman of the local government, the vice chairman, the secretary, the supervisors and the career officers. The executive arm is the executor of local government policies, projects and programs. The executive normally puts into action all the resolutions and laws of the local government council and as such it is seen to be at the head of the affairs of the local government system (Okolie and Eze, 2006). It is necessary to note, however, that the chairman as the chief executive and accounting officer of the local government pilots the activities/actions of the executive arm.

2. **THE LEGISLATURE:** Members of the local government legislature are called councilors and they are democratically elected for a specific period of time usually ranging between 2 to 4 years (Sabisu, 2011). These councilors represent the political wards which make
up the local government area. From the Handbook on Local Government Administration (1999),
the legislative arm of the local government formulates the bye-laws and the guiding principles
for an effective and efficient local government administration. Other very important functions of
the legislative arm are the ones relating to the exercise of checks on the powers of the executive
arm. These functions, as articulated in the works of West (2011), Ugwu (2010), Okolie, and Eze
(2006), Moses (2011) Ofoeze (2002) and others include the following:-

1. Debating, approving or amending the budget of the local government: The legislature has
to approve the budget prepared by the executive before it becomes operational. This is
done to ensure that each project contained therein is feasible, desirable and likely to
facilitate the meaningful development of the local government area. The scrutiny too
ensures that adequate provision is made for the execution of each project such that it is
not likely to be abandoned and also that development projects are not unduly
concentrated in particular sections of the local government.

2. Monitoring the implementation of projects and programmes: This oversight function is
required to ensure that projects are executed according to approvals given to them by the
legislature. In cases of any observed discrepancy in the course of implementation, the
legislature can summon (by means of motion) the local government chairman or any
other relevant official of the executive arm of the local government to explain the
observed discrepancy.

3. Examining the local government statement of income and expenditure: The legislature is
expected to examine, periodically, the statement of income and expenditure rendered by
the chairman of the local government to ensure accountability and adherence to
performance ethics and standards.

4. Amending or repealing obnoxious bye-laws made by the executive: This is done to
ensure that bye-laws are not arbitrarily made and enforced.

5. Ensuring that all accounting officers account to the Public Accounts Committee: This is
done to ensure that all monies voted for each department is actually spent and to
ultimately hold the heads of departments liable if such monies are misappropriated.
Indeed, the public accounts committee is one of the most powerful standing committees
in the legislature whose main responsibility is to monitor and scrutinize government
expenditure and income.

6. Impeachment of the chairman: The legislative arm has the power to impeach the local
government chairman if he is found guilty of gross misconduct within the context of the
existing laws of the federation. Impeachment is, however, an instrument of last resort
designed to enhance public probity and accountability and need not to be employed
frivolously, selfishly or as a tool for personal vendetta or political victimization.

7. Ratifying the appointment of supervisors and other political appointees: The supervisors
appointed by the chairman shall have to be ratified by the legislature through a simple
majority vote of the councilors in session. The ratification is essentially aimed at ensuring
that competent men and women are appointed by the executive to manage the affairs of
the local government area.

3. THE JUDICIARY: The judiciary is the arm of government that interprets the bye-laws
and dispenses justice. However, the judiciary, arm of government is non-existing at local
government level (Imo State Laws No. 15 of 2000; Nworji, 2004; Nworji, 2010). The
judicial activities at local government level are performed under the state judicial system
and hence controlled from outside the local government. For instance, the magistrates
derive their authority and power by virtue of their appointment by the state Judicial Service Commission (Okolie and Eze, 2006). For this, the executive and the legislature are seen to constitute the major arms of government in the local government (Otobasi, 2011; Okolie and Eze, 2006).

CONSTRAINTS TO EFFECTIVE CHECKS ON THE EXERCISE OF EXECUTIVE POWERS BY THE LEGISLATURE

Statutorily, the legislature is required to exercise checks on the activities and powers of the executive. However, in practice, the legislative arm has been observed not to exercise significant checks on the exercise of executive powers as a result of the following factors:

1. **The Councilors’ and executives’ membership of the same political party:** Varied political party membership of the councilors and the executives encourages freedom of opinion that is essential to a liberal democratic system as the opposition in ideas among them is usually a factor in controlling the exercise of executive powers. Indeed, the strength of the opposition in the legislature is one factor that determines the degree and extent of checks on the executive. Where the opposition is weak, the system of checks is likely to be undermined or eroded owing to the immense leverage that the executive enjoys in dominating and influencing the legislature. Unfortunately, in most local governments in Nigeria, members of the legislature and, as well as, the executive belong to the same political party. In such cases, there is, very commonly, “an unholy” consensus by the councilors to allow the executive exercise its powers without significant checks as they see themselves as members of one family. Onyishi and Okeke (2012:203) in this respect observes specifically thus:

   *In most local governments in Nigeria, the executives and the legislatures are from the same political background, share the same philosophy and as such see themselves as a family.*

The implication of this is that there are, often times, no criticism of executive actions particularly when such actions are perceived to be in the overall interest of the party (Omenma, 2011). This scenario obtains in most states and local government areas being controlled by the Peoples Democratic Party (PDP) or the All Progressive Congress (APC) in Nigeria. In such places there is apparent executive dominance due partly to the ruling party’s majoritarian influence and the weakness, fragmentation or even absence of opposition parties. This, in extreme cases, could lead to the total subordination of the legislature to the executive arm. In such areas too, any conflict arising from the legislature’s attempt to check the powers of the executives is usually intervened in and “suppressed” by the party executive, concerned political godfathers and even the governor of the state to the overall detriment of effective checks and balances.

2. **Manipulated/fraudulent elections:** Elections in Nigeria are usually characterized by manipulation and pervasive fraud (Yakubu, 1999; Ogundiya and Babal, 2004). Such fraud that is pervasive in the Nigerian electoral process, often times, leads to situations where people without the natural zeal to serve and are not versed in the act of debate and constructive criticisms are elected into the legislative arm. Likely too is that the local government chairmen elected through the same fraudulent process may be intolerant to opposition, checks and criticism and may lack, as well, a sense of accountability, integrity and humility to subject themselves to scrutiny and control by the legislature. Of greater implication is a situation where the local government chairman is the political godfather of the councilors and who, as such, has been instrumental to
their election into the legislative council. This is because the chairman usually by virtue of that status controls the leadership of the legislative council and consequently could easily cajole the councilors to “feel better and secured” serving his particularistic interests (Onyishi and Okeke, 2012). In this case, the legislators will cease to have the courage and the inclination to challenge and check the power abuses by the chairman. Thus, sacrificing the noble role of checking the exercise of executive powers in preference to the protection of the personal interests of the chairman who is their political godfather (Ofoeze, 2002). It is frequently observed in local governments where there is extreme control of the leadership of the legislature by the executive that legislative sessions are not usually convened without intimating the chairman and briefing him on the issues to be discussed. In some cases, the chairman may, where he understands that such a session would be used to discuss checks on his power, uses his “authority” to stop such a session from holding.

Further in this respect of manipulation of election is that the chairmen of local governments elected fraudulently through the active assistance by the state governors, principally through the use of state electoral commission, are, in most cases, assured of their respective governor’s protection. For this, such chairmen disregard or resist checks by the legislators with impunity. Onyishi and Okeke (2012: 212) in this respect specifically observe that;

...... due to the bond existing between the executive chairmen and the state governors, the former can afford to initiate and implement projects without reference to the local government legislative council in as much they have the backing of their respective state governors.

The legislators on the other hand, in realization of the “secured” or “protected” position of the chairman given the governor’s support behind him may become less willing and eager to attempt exercising checks on the powers of the executive particularly in financial matters (Omenma, 2011). What, generally, the councilors would prefer to do in such circumstance is to serve, with greater might, the chairman on the anticipation of a better chance to gain financially or through other corrupt reciprocal exchanges like gaining a higher political elevation (Omenma, 2011). It is necessary to observe that a state governor would always want not only to ensure that his party controls all the local governments areas in the state but to also install his preferred chairmanship candidate in all the local government areas in the state for purposes of ensuring their loyalty and control and for strengthening his political support base particularly and that of his party generally.

Another aspect of the problem associated with the manipulation of elections into the local government council is that politicians at higher levels (the Senators, members of House of Representative, Ministers etc) who see election of stooges into their respective local government councils as an opportunity to control and consolidate their “political home base” desperately manipulate elections to ensure that such caliber of politicians are elected into political offices (Eme, 2011). This, explains the poor and wrong membership input into the legislative and the executive arms of the local government which makes checks on the executive a herculean task. This is because such legislators, for instance, cannot exercise any meaningful check on the executive as they are easily inclined to act the script of their political godfathers which is usually geared towards “peace, stability and continuity”. Such executives too are likely to be impenetrable to criticism and control from the legislature and would be inclined more to allowing controls or checks from their political godfathers.

It is worthy to note that manipulation of election in the local government system even extends to the election of the principal officers of the legislative house like the speaker, the chief
whip and the majority leader. Such manipulation, most often, results to the emergence of weak leadership of the legislature. Such a weak leadership usually lacks the vibrancy and dynamism and will power to effectively check the power abuses of the executive and would easily be turned into a rubber stamp for executive actions.

3. **Undue informal closeness between the executives and the legislators:** Most often, the personal closeness of the legislators to the chairman is such that the former almost pay visits to the personal house of the latter or daily basis. In some cases too, the legislators even pay homage to the chairman before moving into the legislative chamber for a parliamentary session. Such visits, most often, are used to peddle rumors of alleged antiparty or “anti-chairman” activities of fellow councilors that do often result to victimization of the affected persons by the executive. All such extreme informal relationships are done in the attempt to show loyalty and “good boy” stuff and to curry favour. The ultimate effect of such acts is the weakening of the solidarity of the legislators and their zeal and commitment to exercise checks on the executive arm.

4. **Prebendalism:** Basically, prebendalism refers to the pattern of political behaviour which reflects as its justifying principle that the offices of the state may be competed for and used for the personal benefit of the office holders as well as that of their reference or support groups (Joseph, 1987). In Nigeria, state offices are primarily regarded as prebends that can be used by office holders to generate material benefits or personal wealth and less for state service (Joseph, 1987; Egbo, 2003; Eme and Anyakide, 2012; Dike, 2001). Following the entrenched prebendal culture in Nigeria, the legislators and the executives have come to see their elections into offices as essentially an invitation or selection to come and share for themselves the national cake (Amujiri, 2012; Halidu, 2012). This orientation, no doubt, incumbrates no effective zeal on the legislators to act as watch dog over the exercise of executive powers and for the executive arm too to subject its actions to legislative checks. For instance, in most situations, the prevalent orientation is for the legislators to play down the normal or constitutional legislative processes and duties and to engage more in “co-operation” or “understanding” with the executive arm as such will give them the greater opportunity to amass wealth or get a greater share of the “national cake” (Ofoeze, 2002). Indeed, as Ogbuene (2011) observes, the legislators are more preoccupied with lining their personal pockets than engaging in the more urgent legislative duties. For instance, when impeachment proceedings are initiated against the chairman for acts bordering on power abuse, the executive chairman will resort to, and successfully so, in assuaging the councilors by bribing them with large chunks of money (Ofoeze, 2002). On acceptance of such financial gratification, the impeachment efforts or proceeding will, “fizzle out naturally”. In most cases, such proceedings is not initiated at all even in the circumstance of glaring or apparent power abuses as a result of regular and substantial financial gratifications from the executive.

Another manifestation of the prebendal culture is a situation where the councilors approve the budget of their local government without debating or vetting the content because they have been given reasonable amounts of money as bribes. Indeed, in very many cases, once the councilors get the expected gratification, the budget, any how it is, would be approved and the chairman would be left free and unfettered to even further inflate, manipulate and twist the budget as he wishes to the utter neglect of prudent appropriation of the tax payers money. In essence, the prebendal instinct among the legislatures does not allow for effective scrutiny of the budget and other financial appropriation by the executive arm. Ofoeze (2002) notes that due to this inadequate checks on the expenditure level, pattern and focus of the executive arm, the chairmen have the opportunity to award contracts to themselves, their companies and their fellow-party stalwarts in total disregard of the due process for contract awards. Omenma (2011)
observes too that, following the prebendal orientation, most council members see their membership of the council as an opportunity for self enrichment and are, therefore, very willing to condone the aberrations or abuses in the exercise of executive powers. Thus, once the chairman “plays ball” or “co-operates”, all his actions or decisions gets automatic endorsement. This substantially explains, for instance, why appointments of supervisors by the chairman are ratified without proper scrutiny and why there is usually no insistence for the chairman to render periodic statement of income and expenditure and why there is no thorough examination of such where it is even given at all. Onyishi and Okeke (2012) in this respect observe that generally before any executive action or decision gets councilors’ official stamp, the executive chairmen must “play ball”. Indeed, according to them, this has become the rule rather than the exception.

Infact, the prependal interest among the councilors is such that on “satisfactory financial gratification” the councilors, for instance, do even go to the personal house of the local government chairman to approve a bill or even a budget without any formal debate and in total disregard of the basic parliamentary procedures as it should be carried out in the legislative chamber. Onyishi and Okeke (2012:210) specifically in this respect observes thus;

……even some council speakers mobilize their council members to go to the executive chairman’s offices or personal house to approve a bill or budget without mere introduction in the council floor for debate”

At such occasions, as described above, lavish entertainment replaces the normal house business of debate, criticism and amendment of a budget or a bill as may be found necessary.

In all, the prebendal attitude weakens the development of the legislative arm into a strong institution that can effectively check the exercise of powers of the executive and, as well, nurtures and reinforces the zeal and tendency by the executive to resist checks and control by the legislature.

5. Lack of Mastery of Legislative Proceedings: In most local government areas in Nigeria, the councilors lack adequate knowledge of the basic parliamentary procedures of originating a debate, motions, bills or amendments (Omenma, 2011; Onyishi and Okeke, 2012). Ogbuene (2010) in the same vein observes that the legislators appear not to have proper idea of their statutory functions or roles in the local government system. The consequence of this poor knowledge of legislative proceedings is that the councilors are not confident to initiate or participate in proceedings particularly the ones relating to criticizing, scrutinizing and checking executive actions. The poor knowledge of the parliamentary procedures is, in most cases, a result of low level of educational background of most of the councilors (Eme, 2011; Onyishi and Okeke, 2012).

ENHANCING EFFECTIVE CHECKS OF THE EXECUTIVE POWERS BY THE LEGISLATIVE ARM: THE IMPERATIVE MEASURES:

1. The legislative arm should maintain its independence from the executive arm by not getting into unnecessary closeness and co-operation with the executives and the executive arm too should not induce the legislative arm to have such close and subordinate relationship to it as such would vitiate independent status of the legislature arm. Doing this effectively, however, depends on the extent to which political office holders are willing and actually eschew prebendal tendencies. In this case, therefore, there is the need for a change in the mind set of the legislators and the executives from prebendalism to the ideal practice of using public office to serve the people.

2. There is the need for government to ensure that there is both intra-party and inter-party democracy to ensure free and fair election of the members of the executive and the
legislature. Such free and fair election will, to a reasonable extent, guarantee the election of credible and committed people into the legislative and the executives arms of the local government.

3. There is the need to strengthen the legislative capacity for undertaking the rigorous legislative duties particularly as it relates to its functions of checking the exercise of executive powers. This could be achieved through organizing trainings, workshops and conferences for the legislators. Very importantly, such training should aim at building in the legislators a spirit of community service and effective representation of the electorates. In respect of the regularity of such training, at least one training programme or workshop is recommended for the councilors yearly. Such will enrich their knowledge of the legislative procedures and proceedings.

4. There is the need for the existence of varied political party membership among the political office holders in the local government as such creates room for opposition and criticism that is necessary for effective checks on the powers of the executive by the legislature. Such varied political party membership can only evolve and exist naturally in the atmosphere of free and fair electoral conducts in multi-party election.

5. Very importantly, the tendency to hijack and control the legislative leadership by the executive need to be resisted by the former and equally seriously eschewed by the latter. Indeed, in the interest of the overall good governance of the local government areas, the political leadership, particularly the executive leadership, must be committed towards ensuring that it keeps to its constitutionally assigned functions while still subjecting the exercise of its powers to the required constitutional checks and scrutiny by the legislature.

Conclusion: Power corrupts and absolute power corrupts absolutely. Hence the requirement of the doctrine of separation of powers in all governmental systems, particularly in modern democratic governance. This is because it prevents power from being overly concentrated in one arm of government and its consequent likely abuse. However, forestalling abuse of powers even in a government of separated powers depends essentially on the extent to which the principle of checks and balances obtain among the different arms of government. Unfortunately, the operation of this principle in the local government system in Nigeria particularly as it concerns the legislature and executive is seriously constrained by some factors. The possibility of enhancing the operation of the principle is, therefore, dependent on the extent to which the identified constraints are tackled or surmounted. Indeed, it is only the extent to which this can be done that we shall have less abuse of power by the executive and more of overall good governance.

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