budgIT

2014 - 2024

Nigeria’s Lost Decade

Effects and Remedies of the Weakening Separation of Powers

About BudgIT

BudgIT is a civic organisation that uses creative technology to simplify public information, stimulating a community of active citizens and enabling their right to demand accountability, institutional reforms, efficient service delivery and an equitable society.

Country Director: Gabriel Okeowo

Author: Caroline Anintah

Creative Development: Michael Pabiekun

Editor: Vahyala T. Kwaga

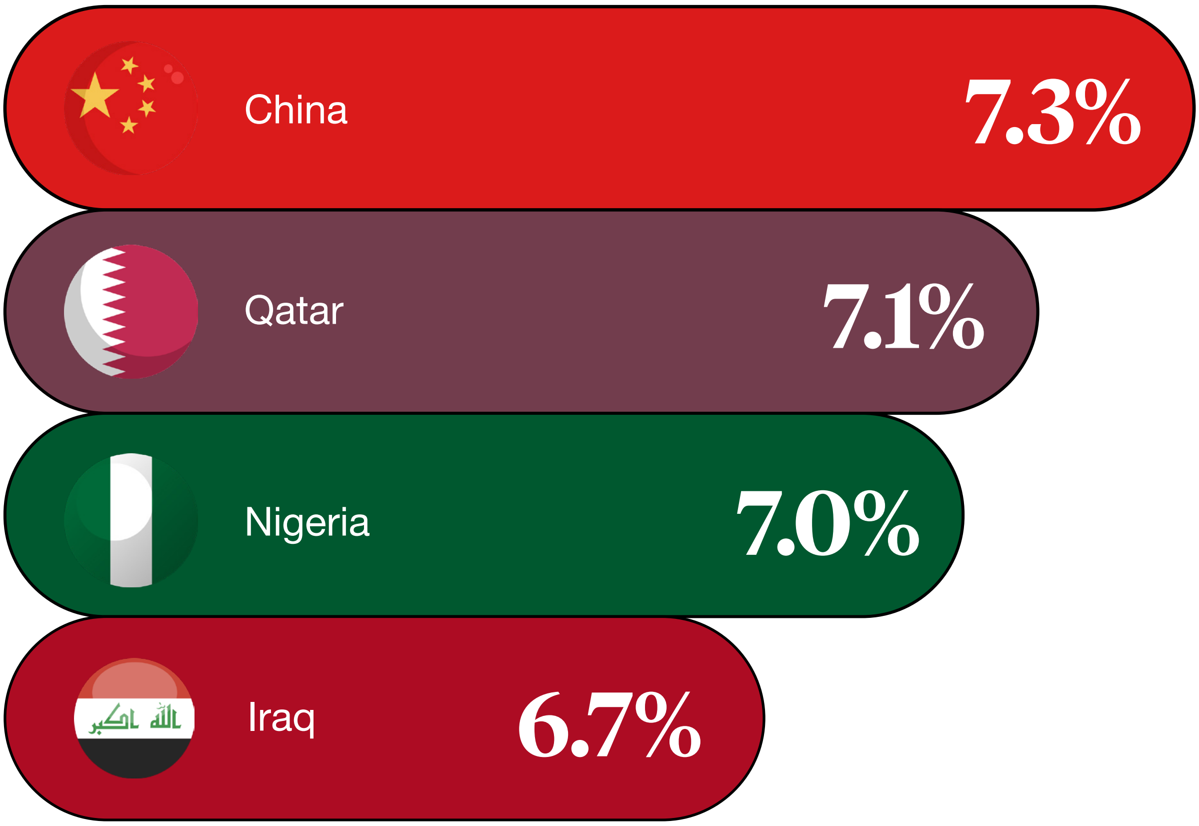
Contact: info@budgit.org +234-803-727-6668, +234-908- 333-1633
Address: 55, Moleye Street, Sabo, Yaba, Lagos, Nigeria.

Table of Content


50
kobo

01
Overview

Nigeria's socio-political and economic landscape has experienced significant shifts over the past two decades. From 2000 to 2014, the country saw commendable economic growth, averaging over 7% annually.[1] In 2013, with a GDP of $503 billion, the giant of Africa overtook South Africa as the largest economy[2] in Africa and was ranked as the third fastest growing economy[3] globally with China and Qatar taking the lead.



Source: CNN Money

Between 2014 and 2023, the country's economic fortunes dwindled dramatically. Its GDP per capita collapsed by nearly 50% from $3,201 in 2014 to $1,621 in 2023; worse than that of war-torn Sudan which stood at $2,272 per capita. By February 2024, inflation had surged to a 24-year high of 31.7%, plunging up to 71 million Nigerians into poverty with an average of two (2) Nigerians falling into poverty per minute according to the World Poverty Clock.[4] The country's currency took a severe beating, collapsing by 958% from N156/$1USD in November 2014 to N1,656/$1USD in November 2024. In what can only be described as a lost decade, the years between 2014 to 2024, have seen the giant of Africa grapple with challenges that have profoundly impacted its economy and society. These forces have blurred the lines of separation of powers that once empowered Nigeria's democratic and economic institutions to keep the wheels of prosperity moving, shield Nigerians from adversity and act as checks. In 2021 a unit of the executive arm of government, Nigerian Police Force (NPF), could not account for 178,000 firearms, including 88,000 AK-47 guns once in its custody.[5] These guns may have now made their ways to the hands of non-state gangs that foment instability, insecurity and internal disasters across the country.

The country's parliament has struggled to assert its independence from the executive, hindering its ability to exercise robust oversight and hold the executive accountable. This weak governance structure has exacerbated systemic challenges, contributing to poor crisis management and governance lapses. Over the past decade, more than 11 million Nigerians have been displaced internally; 8.7 million due to disasters and 3.3 million due to violence,[6] highlighting the severe human impact of governance failures.

Court judgments are selectively obeyed[7] and the judiciary is being increasingly accused by citizens of engaging in justice for sale and judicial appointments have become compromised.[8] A legislator, Senator Adamu Bulkachuwa, of the APC political party publicly thanked his wife, the president of the Court of Appeal during a Senate session for helping secure favorable judgements for his political party against their opponents.[9] Across the country, political office holders at the federal, state, and local levels, have increasingly exploited security agencies to silence critics, journalists, or individuals involved in personal conflicts; Alex Ikwechegh a legislator from the APGA party, was filmed threatening his delivery man to "make him disappear" when the latter asked for his wages. Members of opposition political parties like the Labour Party at the Federal level and People's Democratic Party were conspicuously silent as legislators engaged in some of the most significant budget misappropriations, given the number of insertions recorded in the 2024 budget process.[10]

Politically, while Nigeria transitioned from military rule to civilian democracy in 1999, significant governance challenges remain. Despite democratic institutions being restored for 25 uninterrupted years, the consolidation of good governance has been hindered by rising corruption, weak rule of law, and policy inconsistencies. Underlying Nigeria's many troubles in the lost decade is a common culprit: the weakening Separation of Powers. The latter was meant to function as the system of checks and balances among the executive, legislative, and judicial branches; ensuring that no one arm of government holds unchecked authority to be enmeshed in misplaced priorities, abuse of powers or dereliction of duty. Historically, Nigeria's implementation of Separation of Powers has been wobbly, particularly following the era of military rule (1966-1999), where power was concentrated in the executive and both the judiciary and legislature were weaker appendages.

In contrast, countries like the United States and Germany demonstrate how effective Separation of Powers can enhance governance. The U.S. maintains a robust system of checks and balances, with Congress holding impeachment powers, oversight over the budget and executive units and the judiciary overseeing the constitutionality of laws. A landmark case in this system is Marbury v. Madison (1803),[11] which established the principle of judicial review, enabling the judiciary to invalidate laws that are unconstitutional. This power ensures that neither the executive nor the legislature can exceed their authority. In Roe v. Wade (1973),[12] for example, the U.S. Supreme Court struck down restrictive state abortion laws, demonstrating the judiciary's ability to protect individual rights from legislative overreach. Similarly, in United States v. Lopez (1995),[13] the Supreme Court ruled that Congress had exceeded its constitutional authority under the Commerce Clause when it passed the Gun-Free School Zones Act, highlighting the judiciary's role in interpreting the limits of federal power.

In addition, the U.S. Congress exercises its oversight function, exemplified by the House Select Committee on Benghazi,[14] which investigated the executive's handling of the 2012 attack on a U.S. diplomatic compound in Libya. Such actions demonstrate the legislative branch's power to scrutinize the executive and hold it accountable for its decisions. These cases collectively illustrate the operational effectiveness of the separation of powers in the U.S., where the branches engage in mutual checks to maintain constitutional governance, in contrast to the challenges Nigeria faces in implementing a similar balance.

Germany's Federal Constitutional Court plays a vital role in ensuring that government actions comply with the Basic Law. These examples highlight how a well-functioning separation of powers can foster accountability, uphold the rule of law, and protect citizens' rights, an area where Nigeria continues to face challenges. On the other hand, countries like China, Qatar and Abu Dhabi that are not known to practice democratic variants of separation of powers have seen commendable economic prosperity.

This policy brief explores how the weak Separation of Powers (SOP) has become a significant driver of Nigeria's political and economic instability. Taking a critical approach, the brief delves into the theories and perspectives of scholars on SOP, offering insights into how breaches of the principle by the executive, legislature, and judiciary contribute to governance challenges. By examining real cases of non-compliance with judicial orders and the concentration of power within certain branches of government, the brief advocates for stronger enforcement of SOP as crucial to restoring effective governance and stability.

02

The Concept of Separation of Power

The rationale of the separation of powers is often confused with the rationale of checks and balances and with the rationale of the dispersal of power, generally in a constitutional system.[15] Therefore, the division of governmental duties into separate branches in order to prevent any one branch from doing the essential duties of another is known as separation of powers. The goal is to provide checks and balances and avoid the concentration of power.

Expanding on the essential arguments for restricting concentrated authority, thinkers such as Montesquieu,[16] John Locke,[17] and James Madison[18] provided detailed frameworks that influenced the lasting idea of dividing powers. They believed that a government organised into separate branches served not only as a safeguard against oppression but also as a crucial framework for maintaining responsibility and protecting freedom. Montesquieu's 'The Spirit of the Laws' famously championed this division as a safeguard for personal freedom, proposing that each branch of government should function autonomously to prevent any one from overpowering the others. Locke's political philosophy echoed this sentiment, seeing the separation as necessary for protecting individual rights. Madison, through The Federalist Papers, further reinforced these ideas, emphasizing a balanced system where each branch acts as a check on the others. These scholars set the stage for an enduring belief that by structurally separating powers, governments could uphold the very essence of democratic integrity and individual liberty.[19]

Despite its widespread influence, the doctrine of separation of powers has faced sharp critique from scholars who view it as a potential barrier to efficient governance. Critics like Carl Schmitt, Woodrow Wilson, and Walter Bagehot argue that a strict division between branches can lead to deadlock, stifle swift decision-making, and dilute accountability. Schmitt, for instance, questioned the doctrine's relevance in times of crisis, advocating instead for a strong executive capable of decisive action; He argues that the sovereign's ability to act outside the law in times of crisis is crucial for maintaining order, rather than adhering strictly to a separation of powers. The executive, in this context, may be seen as the institution through which such decisions are made, but Schmitt is more concerned with the broader concept of sovereignty and the ability to act in times of emergency.[20] Similarly, Bagehot viewed the doctrine as unnecessarily rigid, claiming that intertwining powers fosters cooperation and adaptability.[21] These critiques point to a belief that while separation of powers aims to prevent tyranny, it may, paradoxically, hinder the very democratic principles it seeks to protect by creating inefficiencies and disconnects within governance.

Contemporary legal and political analysts argue that the executive branch may be amassing an undue concentration of authority.[22] The branch is seen as expanding its power to the detriment of the nation. The concept of separation of powers holds substantial theoretical and practical importance, particularly within the realm of political science. The emergence of the theory of separation of powers signifies a pivotal shift from the oppressive application of authority in authoritarian regimes to the implementation of rational governance in democratic frameworks.

The Economic, Institutional, and Sustainability Importance of Separation of Powers

The doctrine of separation of powers is more than a theoretical principle; it is a fundamental mechanism for ensuring stability, economic growth, and institutional resilience. In strong democracies, separation of powers prevents economic mismanagement, ensures investor confidence, and fosters sustainable governance.

Economic Benefits

- **Stable Financial Systems:** Countries with strong separation of powers ensure independent regulatory institutions that prevent unchecked government spending, mismanagement of public resources, and inflationary pressures. The U.S. Federal Reserve, for example, operates independently of the executive branch, preventing politically motivated monetary policies that could destabilize the economy.

- **Investor Confidence and Market Stability:** Judicial independence guarantees property rights and contract enforcement, fostering a secure investment environment. Countries like Germany and Canada attract foreign direct investment due to strong rule of law and institutional stability.

- **Effective Public Finance Management:** Parliamentary oversight of government spending prevents reckless borrowing and budget misappropriation. Countries with robust legislative oversight, such as Sweden, have lower debt-to-GDP ratios due to stringent budgetary discipline.

Institutional Benefits

- **Accountability and Rule of Law:** The ability of each branch to check the other ensures that government decisions are subject to scrutiny. This prevents abuse of power, as seen in the impeachment processes in the U.S. and South Korea.

- **Policy Continuity and Effective Governance:** Independent institutions safeguard policy consistency. In contrast to Nigeria, where frequent political interference disrupts long-term policies, first world democracies maintain stable governance frameworks that outlast political cycles.

Sustainability and Social Stability

- **Trust in Governance:** Citizens' trust in government institutions is higher when no single branch dominates decision-making. Scandinavian countries exhibit high public trust due to transparent governance mechanisms.

- **Resilience Against Authoritarian Drift:** Countries with weak separation of powers, such as Venezuela and Russia, have seen democratic backsliding, economic crises, and suppression of dissent due to unchecked executive dominance.

Separation of Powers and Nations' Economic Success

In examining the relationship between the separation of powers and a nation's economic success, it is important to consider the examples of the United States and China. The U.S. adheres to a system of separation of powers as a core principle of its democratic framework, a structure designed to safeguard liberty and promote accountability. Despite this complex system, the U.S. has fostered a thriving economy, supported by innovation, a strong legal system, and a commitment to individual freedoms. On the other hand, China, operates a system based on the principle of unified state power, in which the legislature, the National People's Congress (NPC), is constitutionally enshrined as "the highest state organ of power." As China's political system has no separation of powers, there is only one branch of government which is represented by the legislature.[23] Despite this, China has experienced rapid economic growth and development.

This contrast raises critical questions about the interplay between political systems and economic outcomes, suggesting that while separation of powers may help sustain democratic institutions, economic prosperity is not solely determined by political structure. In both cases, the relationship between governance and economic growth is influenced by a range of factors, including leadership, policy decisions, and the global economic environment.

> ***In contrast, Nigeria, Africa's fourth largest economy,[24] presents a unique case where economic potential is often hindered by a complex governance system. Despite abundant natural resources and a growing youthful population, Nigeria struggles with political instability, corruption, and a lack of effective implementation of policies, which hinder its ability to achieve consistent and broad-based economic growth. The country's political structure, characterized by a federal system with multiple layers of government, has often led to inefficiencies and power struggles, particularly between the executive, legislative, and judicial branches. This situation underscores the importance of exploring governance reforms to improve the alignment of Nigeria's political framework with its economic aspirations.***

Why Separation of Powers Has Enabled First World Stability and Growth

First world countries have successfully leveraged separation of powers to build stable economies and governance structures. Here’s how:

- **United States:** The U.S. maintains strong checks and balances through congressional oversight, independent judiciary, and impeachment powers. Judicial review (established in Marbury v. Madison) ensures unconstitutional laws are struck down, preventing executive overreach. The separation of powers also ensures financial discipline, preventing reckless government expenditures that could trigger financial crises.

- **Germany:** The German Federal Constitutional Court guarantees legal oversight, ensuring policies align with the nation’s Basic Law. The Bundestag (parliament) exercises strong control over budget approvals, preventing wasteful government spending and maintaining Germany’s economic stability.

- **United Kingdom:** The UK Parliament holds the executive accountable through votes of no confidence and legislative scrutiny, ensuring executive actions align with public interest. Independent regulatory bodies further uphold economic stability.

03

Enabling Laws, Regulations, Policies and Practices In Nigeria

Separation of Powers is constitutionally embedded but faces ongoing challenges due to political pressures, economic constraints, and complex intergovernmental dynamics. Legislative and judicial independence, for instance, often contend with executive dominance and the intertwining of political and ethnic interests, affecting the efficacy of government oversight. Nigeria's federal system adds another layer of complexity, as state and local governments navigate their roles within a national framework that sometimes blurs jurisdictional boundaries. Below are some enabling laws, policies, and practices that define the Separation of Powers in Nigeria, highlighting the ways these legal structures support or, sometimes, challenge its foundational principles.

Constitutional Provisions (1999 Constitution of Nigeria, as amended)

- **Executive Powers:** The Executive branch, led by the President at the federal level and Governors at the state level, is granted powers under Section 5 to implement and enforce laws. Executive powers are extensive, covering appointments, law enforcement, budget implementation, and foreign relations.
- **Legislative Powers:** The National Assembly (Senate and House of Representatives) is granted law-making powers in Sections 4 and 58, including legislative authority over exclusive and concurrent lists.
- **Judicial Powers:** The judiciary's role is defined in Section 6, which vests it with the power to interpret laws and adjudicate disputes. This section also outlines the judiciary's role in enforcing constitutional rights and interpreting statutory provisions.
- **Checks and Balances:**
- *Impeachment (Section 143): Allows the Legislature to remove the President or Vice President for gross misconduct.*
- *Budget Approval (Section 81): Grants the National Assembly the authority to approve budgets proposed by the Executive.*
- *Judicial Review: Empowers the judiciary to review legislative and executive actions for compliance with the Constitution.*

Federal-State Relations (Sections 4, 7, and 162)

The Constitution establishes a federal structure with defined powers for federal and state governments. Section 7 guarantees local government autonomy and administration under state governments, while Section 162 mandates federal revenue allocation to states and local governments. These provisions seek to preserve local and state autonomy, although the federal government occasionally exert influence in state matters, especially through policy directives and project funding.

Press Freedom and the Role of Media as the Fourth Estate

- **Freedom of the Press:** The Nigerian Constitution, in Section 39, guarantees freedom of expression and the press, allowing journalists and media outlets to operate as watchdogs over the government. This freedom enables the media to investigate and report on the actions of the Executive, Legislature, and Judiciary, providing an additional check on all branches of government.

Legislative Oversight Powers and Regulations

- **Power of Investigation (Section 88):** Grants the National Assembly the power to investigate matters within its legislative competence or anything concerning the conduct of the Executive or any government agency.
- **Approval of Appointments (Sections 147 & 171):** Senate approval is required for several key executive appointments, such as ministers and heads of certain federal agencies. This practice enables legislative oversight over the Executive's personnel decisions.
- **Appropriations Act:** Annual budget legislation passed by the National Assembly, which determines the spending power of the Executive, serving as a financial check on executive authority.

Judicial Autonomy and Financial Independence Policies

- **Judicial Financial Autonomy:** This law mandates financial independence for the judiciary by requiring direct allocation of funds from the consolidated revenue to the judiciary at the state levels. The aim is to reduce executive interference and strengthen judicial independence.[25]
- **National Judicial Council (NJC):** Established under Section 153 of the Constitution, the NJC oversees the judiciary's activities, appointments, and discipline, enhancing self-regulation and shielding the judiciary from executive influence.

Executive Orders and Regulatory Mechanisms

- **Executive Order 5:** Encourages the use of local expertise in public procurement, indirectly supporting a balanced economic ecosystem where different arms of government are encouraged to collaborate and independently validate projects.
- **Executive Order 6:** Grants the President authority to seize assets linked to corruption. While controversial, it reflects executive initiatives to enforce laws while remaining subject to judicial review.

Checks on Legislative Powers

- **Presidential Veto (Section 58):** The President has the power to veto bills passed by the National Assembly, subject to a legislative override by a two-thirds majority.
- **Judicial Review:** The judiciary can invalidate legislation that contradicts the Constitution, serving as a check on the legislature's law-making powers. Notable cases (such as Attorney General of Lagos State v. Attorney General of the Federation) have reinforced the judiciary's role in interpreting constitutional limitations on legislative actions. In the AG of Lagos State v. AG of the Federation (2003) case, Lagos State sued the Federal Government, claiming that the federal authorities were granting permits for buildings and structures in Lagos without the state's consent. The Supreme Court ruled that such actions by the federal government infringed on the rights of the state to control land and urban development within its jurisdiction. The court reaffirmed the principle of state autonomy in managing its affairs, including urban planning.[26]

Accountability and Transparency Mechanisms

- **Freedom of Information Act (2011):** Mandates transparency by giving citizens access to government records, enhancing oversight of executive and legislative actions.
- **Public Procurement Act (2007):** Establishes regulatory frameworks for government procurement processes, encouraging transparency and accountability in executive spending.

04

Effect of Weak Separation of Power In Nigeria

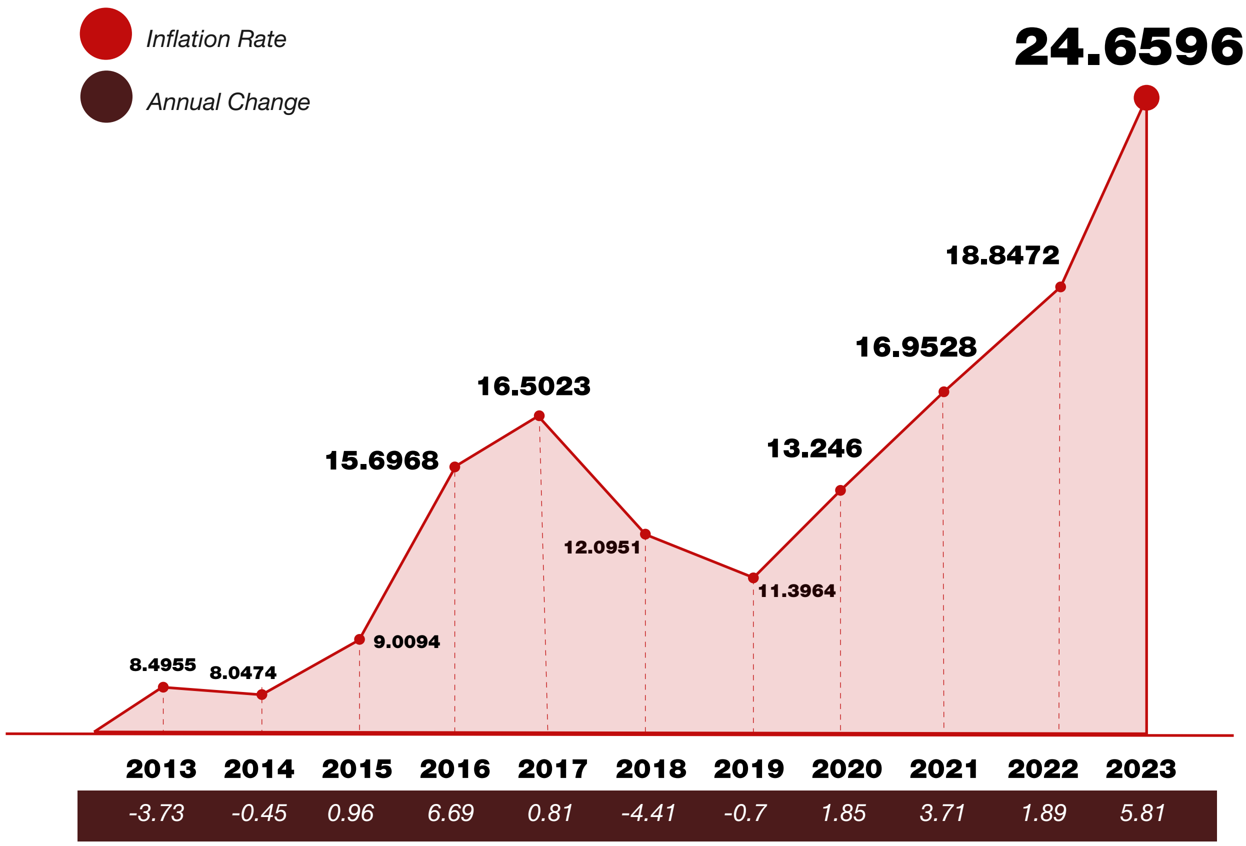
Weak separation of powers in Nigeria can be traced to a confluence of historical, structural, and systemic challenges that have deepened over time and have caused an epileptic economy. Historically, Nigeria's prolonged military rule concentrated power in the executive, which undermined the role of the legislature and judiciary. Following our return to democracy, this centralization of power persisted, with weak institutional frameworks that prevent effective checks and balances. Over time, this has led to unrestrained executive authority, such as bypassing legislative approval processes, ignoring court rulings, and undermining fiscal responsibility, all of which have eroded governance quality and public trust.

Economic Collapse

As stated in the overview of this brief, from 2000 to 2014, Nigeria's economy saw consistent and significant growth, averaging over 7% annually, driven by advantageous global conditions and initial macroeconomic and structural reforms. Between 2015 and 2022, growth rates experienced a decline, and GDP per capita stagnated.[27] This trend was influenced by distortions in monetary and exchange rate policies, rising fiscal deficits stemming from reduced oil production and an expensive fuel subsidy program, heightened trade protectionism, and external shocks, notably the COVID-19 pandemic. The deterioration of economic fundamentals has resulted in the country experiencing its highest inflation rate in 24 years, reaching 31.7% in February 2024. This, coupled with stagnant growth, has driven millions of Nigerians into poverty.[28]

The data provided below shows a 10 year (2013-2023) inflation rate trend of Nigeria and it is clear that over the past decade, the inflation rates have reflected fluctuating economic stability, underscoring a need for a balanced governance system with robust separation of powers. From a Separation of Powers perspective, legislative oversight is critical in scrutinizing the executive's fiscal policies, particularly those contributing to inflation. For instance, Nigeria's rising inflation, which reached a notable 24.66% in 2023, points to unchecked fiscal decisions such as unrestrained government spending and external borrowing. These practices, often executed without stringent parliamentary review, have fueled inflationary pressures. A well-functioning separation of powers could mitigate this trend by enforcing stronger legislative oversight over executive economic policies. This would ensure a sustainable fiscal trajectory that prioritizes economic stability, protects citizens from the adverse impacts of inflation, and fosters accountability.

Inflation Rate in Nigeria from 2013-2023



Source: Macrotrends

Section 38, subsections (1) and (2), of the Central Bank of Nigeria (CBN) Act of 2007 grants the CBN authority to provide temporary advances to the federal government to address budget revenue shortfalls. However, it stipulates that the total outstanding advances should not exceed 5% of the federal government's actual revenue from the preceding year. Between 2015 and 2022, the Central Bank of Nigeria's loans to the Buhari administration surged by 2,900%, frequently breaching fiscal laws that restrict central bank lending to the government.[29] This dramatic increase reflects a weak separation of powers, as the Executive relied on Central Bank financing instead of pursuing standard budget approvals through the National Assembly. By circumventing legislative oversight, this approach effectively bypassed checks and balances designed to control executive spending and ensure fiscal accountability.

The CBN's decision to provide a total of 2.15 million bags of fertilizers, worth over N100 billion to the Ministry of Agriculture[30] raises concerns about its expanding role beyond monetary policy into agricultural resource distribution, a domain traditionally managed by the Ministry of Agriculture. This shift highlights potential governance imbalances where the central bank's involvement in fiscal activities circumvents established government structures. Such practices may reduce effective oversight and

diminish the intended balance between governmental functions, as the CBN's resources and influence extend into areas beyond its core financial mandate.

Budgetary Abuse

Budget abuse in Nigeria has become a significant issue, as shown by data on project insertions in the 2024 budget. The National Assembly had 7,447 insertions in the 2024 budget amounting to N2.24 trillion and many of the projects fell outside the mandate of the ministries involved.[31] This problem reflects both executive and legislative failures, where the budget process has been shaped by personal interests rather than strategic economic priorities.

From the executive side, there has been insufficient oversight in preventing projects that do not align with national development goals from making it into the budget proposal. This lack of scrutiny not only undermines ministerial mandates but also leads to resource misallocation and a distortion of government priorities. Ministries that should be focusing on specific areas of development end up managing projects that fall outside their expertise, which dilutes effectiveness and accountability.

Meanwhile, legislators have contributed significantly to budget bloat. As highlighted by Senator Abdul Ningi, indiscriminate insertions[32] have become commonplace, allowing individual lawmakers to secure funds for localized projects that often lack strategic value.

This approach effectively turns the national budget into a tool for political patronage, as legislators push for projects that will benefit their constituencies or align with personal interests. The issue of budget abuse underscores a fundamental flaw in the balance and oversight roles of the legislative and executive branches in Nigeria. While legislators are entrusted with reviewing and approving the executive's proposed budget, their actions have often extended beyond this mandate, leading to the insertion of thousands of projects that lack alignment with national goals or fall outside the scope of responsible ministries

Trust Deficit

Trust deficit in Nigeria impedes national development by eroding public confidence in government institutions and policies. This lack of trust results from widespread corruption, inefficiencies, and poor service delivery, which discourage investment and hinder social cohesion. Restoring trust requires transparency, accountability, and systemic reforms to ensure the effective and fair functioning of government. Without rebuilding this trust, sustainable economic growth and social progress will remain challenging.[33]

Miscarriage of Justice

In Nigeria, the principle of the rule of law has faced significant challenges, particularly with the repeated disobedience of court orders by the executive branch. Under former President Muhammadu Buhari's administration, numerous cases surfaced where court rulings were ignored. For instance, Omoyele Sowore, a journalist and political activist, was held by the Department of State Services (DSS) despite multiple orders for his release.[34] Another notable example is that of Sambo Dasuki, a former National Security Adviser, who was detained for years even after several courts granted him bail.[35]

Additionally, Sheikh Ibrahim El-Zakzaky, the leader of the Islamic Movement of Nigeria, remained in custody with his wife despite a court ruling demanding their release on health grounds.[36] Beyond these cases, research from legal scholars highlights how such executive defiance of court orders has implications for Nigeria's democratic framework and international reputation. These repeated incidents of non-compliance undermine public trust in judicial authority and threaten societal stability. These cases illustrate how executive defiance not only breaches the rule of law but also creates a concerning precedent that places the power of the judiciary into question.[37]

Despite constitutional protections, the press often faces constraints, including harassment and arbitrary arrests of journalists. A typical example is that of Daniel Ojukwu. On May 1, Ojukwu, a journalist affiliated with the Foundation for Investigative Journalism (FIJ), went missing. Later, his family confirmed he was held at the Lagos State Criminal Investigation Department in Panti, accused of violating cybercrime laws. FIJ reported that Ojukwu's arrest followed his investigation revealing a suspicious N147.1 million transfer by former presidential aide Ms. Orelope-Adefulire to a restaurant, intended for classroom and skill centre construction. This investigation was part of the GovSpend Media Fellowship, supported by BudgIT, the International Centre for Investigative Reporting (ICIR), and MacArthur Foundation, promoting transparency in government spending.[38]

05

Notable Reforms and Progress Till Date

There have been notable reforms to strengthen Separation of powers in Nigeria, especially to counterbalance the influence of the executive, which historically overshadowed the legislature and judiciary. Key reforms include the adoption of constitutional amendments and structural changes aimed at enhancing the independence of these branches.

01

1999 Constitution: Democracy was restored in 1999, defining the executive, legislative, and judicial departments. This constitution guarantees checks and balances by stating that no branch should interfere with others. Executive influence typically makes implementation difficult.

02

The bill signed by President Muhammadu Buhari into law,[39] which grants financial autonomy to state judiciaries, is a notable reform for Nigeria's separation of powers. By allowing state judiciaries to manage their finances independently, this law reduces executive control over judicial budgets and operations, helping to safeguard judicial independence. This move aligns with efforts to ensure that each branch of government operates without undue influence from the others, reinforcing checks and balances essential for a balanced governance framework.

03

Civil society organisations (CSOs) in Nigeria, play a vital role in strengthening the separation of powers by advocating for judicial independence, enhancing legislative transparency, and curbing executive overreach. They educate the public on governance and actively track government spending to improve accountability. Through these efforts, CSOs empower citizens and reinforce the checks and balances essential for balanced governance in Nigeria. BudgIT for instance advocates for government transparency and accountability, enabling citizens and institutions to track budget allocations and government spending. Through its tools like Tracka, it empowers the public to monitor constituency projects and promotes that legislative and executive branches are held accountable for their decisions. By increasing transparency, BudgIT aims to strengthen the checks and balances between branches of government, fostering a more effective and accountable governance system.

06
Conclusion

The separation of powers in Nigeria, which is intended to safeguard democracy, is hampered by systemic issues that undermine effective governance and the realization of public policy goals. The challenges of weak legislative oversight, executive overreach, and a judiciary constrained by political interference must be addressed to strengthen the country's democratic framework. This policy brief advocates for a reimagined separation of powers; one that balances the roles of each branch of government to ensure greater accountability, promote transparency, and enable more efficient governance. To achieve this, Nigeria must prioritize the reform of existing structures, improve institutional capacity, and foster a culture of civic engagement to hold all branches of government accountable to the people. Addressing these concerns will ensure that the principles of justice, equality, and sustainable development are fully realised, securing a more prosperous future for all Nigerians.

07 Recommendations

Immediate Priority		
What	How	Who Should Act
Strengthen Separation of Powers	There is a need for a national referendum on the decline of the separation of powers in Nigeria, its impact on governance, and how legislators and stakeholders can strengthen this vital framework.	All The Major Stakeholders (Three Arms of Government, Active Citizens, CSOs, Media)
Reinforce Executive Budget Control	Establish clearer regulations that ensure the executive branch retains full control over the formulation and presentation of the national budget, limiting external insertions by legislators. This includes enforcing stricter guidelines on project insertions and aligning them with ministerial mandates.	The National Assembly and the Executive (especially the Ministry of Finance and the Budget Office).
Enhance Judicial Independence and Accountability	Strengthen the National Judicial Council (NJC) by Enhancing the operational independence and transparency through robust reforms, including a public-facing appointment and promotion process, regular citizen's audits, and open accountability mechanisms. Ensure that its membership is diverse, impartial, and free from political affiliations to foster public confidence in judicial integrity Establish a Judicial Ombudsman Office that will serve as an independent body tasked with receiving and investigating public complaints about judicial misconduct, operating alongside the NJC to reinforce oversight and accountability.	The Judiciary, with support from reform advocacy groups and international organisations focused on rule of law.

Medium-Term Recommendations		
What	How	Who Should Act
Strengthen the Institutionalization of Budget Transparency and Public Participation	Strengthen existing mechanisms for citizens and civil society organisations to provide input and feedback on the national budget before it is approved, ensuring that public spending reflects national development priorities.	The Ministry of Finance, National Assembly, and CSOs working on fiscal transparency and accountability (e.g., PLSI, CSJ, BudgIT).
Enhance Cross-Branch Collaboration on Policy Review	Establish regular joint committees involving the executive, legislative, and judicial branches to review key national policies and ensure that SOP principles are upheld in the decision-making process.	Joint Planning Board, National Assembly, Secretary General of the Federation , Judiciary, with support from CSOs for monitoring and accountability.

Steps for CSOs		
What	How	Who Should Act
Collaboration Amongst CSOs	CSOs should continue to work collaboratively to invest in public programs that inform citizens about the importance of separation of powers and their role in holding each branch of government accountable, enhancing civic engagement and scrutiny.	Key CSOs such as BudgIT, Electoral College, SERAP, PLAC, CSJ, and others in the transparency and accountability space.

Endnotes

1. The Southern Examiner. (2024, October 2). Pains of Tinubu's reform policies won't ease before 2025 - World Bank. The Southern Examiner. https://thesouthernexaminer.com/pains-of-tinubus-reform-policies-wont-ease-before-world-bank-econom-p12787-186.ht

2. The Southern Examiner. (2024, October 2). Pains of Tinubu's reform policies won't ease before 2025 - World Bank. The Southern Examiner.

3. Vanguard. (2016, April 6). From world's 3rd fastest growing economy, Nigeria drops out of top 15 in Africa. Vanguard. https://www.vanguardngr.com/2016/04/from-world-3rd-fastest-growing-economy-nigeria-drops-out-of-top-15-in-africa

4. World Poverty. (n.d.). World poverty. https://worldpoverty.io/

5. Sahara Reporters. (2022, January 3). 88,000 AK-47 rifles, other firearms missing from Nigerian police custody – Audit report. Sahara Reporters. https://saharareporters.com/2022/01/03/88000-ak-47-rifles-other-firearms-missing-nigerian-police-custody-%E2%80%93-audit-report

6. Internal Displacement Monitoring Centre. (n.d.). Nigeria. https://www.internal-displacement.org/countries/nigeria/

7. Gavel Nigeria. (n.d.). Rule of law and disobedience of court orders in Nigeria. Open Justice. https://open-justice.gavel.ng/assets/publication/RULE-OF-LAW-AND-DISOBEDIENCE-OF-COURT-ORDERS-IN-NIGERIA-.pdf

8. Odinkalu, C. (2024, May). In Nigeria, judicial appointments have become a network of corruption. Vanguard. https://www.vanguardngr.com/2024/05/in-nigeria-judicial-appointments-have-become-network-of-corruption-by-chidi-odinkalu/

9. Premium Times. (2024, November 21). Ex-senator under fire after confessing to influencing wife's decisions as appeal court judge. Premium Times. https://www.premiumtimesng.com/news/604233-ex-senator-under-fire-after-confessing-to-influencing-wifes-decisions-as-appeal-court-judge.html

10. BudgIT. (2024, October 30). National Assembly insertions in the 2024 budget. https://budgit.org/post_publications/national-assembly-insertions-in-the-2024-budget/

11. Marbury v. Madison (Britannica): Britannica. (n.d.). Marbury v. Madison. Encyclopedia Britannica. https://www.britannica.com/event/Marbury-v-Madison/Impact

12. Roe v. Wade (Reproductive Rights): Reproductive Rights. (n.d.). Roe v. Wade. Center for Reproductive Rights. https://reproductiverights.org/roe-v-wade/#:~:text=The%20landmark%20U.S.%20Supreme%20Court,the%20individual%2C%20not%20the%20government

13. Supreme Court Case (Justia): Justia. (1995). United States v. Lopez, 514 U.S. 549. https://supreme.justia.com/cases/federal/us/514/549/

14. House Select Committee on Benghazi (Wikipedia): Wikipedia contributors. (n.d.). United States House Select Committee on Benghazi. Wikipedia. https://en.wikipedia.org/wiki/United_States_House_Select_Committee_on_Benghazi#:~:text=Security%20decisions%20and%20military%20posture,the%20perpetrators%20of%20the%20attack

15. Waldron, J. (2013). Separation of powers in thought and practice. BCL Rev., 54, 433.

16. De Montesquieu, C. (1989). The spirit of the laws. Cambridge University Press.

17. Locke, J. (2014). Second treatise of government: An essay concerning the true original, extent and end of civil government. John Wiley & Sons.

18. Madison, J. (1788). Federalist No. 51.

19. Madison, J. (1788, February 8). Federalist No. 51. National Constitution Center. https://constitutioncenter.org/the-constitution/historic-document-library/detail/james-madison-federalist-no-51-1788

20. Schmitt, C. (2005). Political theology: Four chapters on the concept of sovereignty. University of Chicago Press.

21. Thompson, G. (2011, September 12). The monarch's role in the UK Parliament (House of Commons Library Research Briefing SN06053). https://researchbriefings.files.parliament.uk/documents/SN06053/SN06053.pdf.

22. Kalu, U. C. (2018). Separation of powers in Nigeria: An anatomy of power convergences and divergences. Nnamdi Azikiwe University Journal of International Law and Jurisprudence, 9(1), 116-126.

23. Wikipedia. (2024, October 31). Government of China. https://en.wikipedia.org/wiki/Government_of_China

24. Statista. (n.d.). GDP of African countries by country. Statista. https://www.statista.com/statistics/gdp-of-african-countries

25. Political and Legislative Advocacy Centre. (n.d.). President assents to new constitution bills. Political and Legislative Advocacy Centre. https://placng.org/Legist/president-assents-to-new-constitution-bills/

26. HBriefs. (n.d.). AG of Lagos State v. The AG of the Federation (2003). https://www.hbriefs.com/sc/ag-of-lagos-state-v-the-ag-of-the-federation-2003

27. The Southern Examiner. (2024, October 2). Pains of Tinubu's reform policies won't ease before 2025 - World Bank. The Southern Examiner. https://thesouthernexaminer.com/pains-of-tinubus-reform-policies-wont-ease-before-world-bank-econom-p12787-186.ht

28. The Southern Examiner. (2024, October 2). Pains of Tinubu's reform policies won't ease

before 2025 - World Bank. The Southern Examiner.
https://thesouthernexaminer.com/pains-of-tinubus-reform-policies-wont-ease-before-world-bank-econom-p12787-186.ht

29. Premium Times. (2022, December 27). How CBN loans to Buhari govt climbed 2,900% in seven years in violation of law.
https://www.premiumtimesng.com/business/business-news/573152-how-cbn-loans-to-buhari-govt-climbed-2900-in-seven-years-in-violation-of-law.

30. Tribune Online. (2024, October 31). CBN awards N100bn worth of fertiliser to Agric Ministry.
https://tribuneonlineng.com/cbn-awards-n100bn-worth-of-fertiliser-to-agric-ministry/#:~:text=The%20Central%20Bank%20of%20Nigeria,of%20Agriculture%20and%20Food%20Security.

31. BudgIT. (2024, October 30). National Assembly insertions in the 2024 budget
.https://budgit.org/post_publications/national-assembly-insertions-in-the-2024-budget/.

32. BudgIT. (2024, October 25). Senator Ningi's allegations and indiscriminate insertions in the 2024 budget.
https://budgit.org/post_publications/senator-ningis-allegations-and-indiscriminate-insertions-in-the-2024-budget/.

33. Isola, A. (2024, September 23). Trust deficit hindering Nigeria's national development. Nigerian Tribune.
https://tribuneonlineng.com/trust-deficit-hindering-nigerias-national-devt-amb-isola/.

34. Human Rights Watch. (2019, November 15). Nigeria: Despite court order, activist still held. Human Rights Watch.
https://www.hrw.org/news/2019/11/15/nigeria-despite-court-order-activist-still-held

35. Channel Television. (2019, December 24). Breaking: Sambo Dasuki released after over four years in detention. Channel Television.
https://www.channelstv.com/2019/12/24/breaking-sambo-dasuki-released-after-over-four-years-in-detention/

36. Punch. (2024, October 31). Six times Buhari has disobeyed court orders. Punch.
https://punchng.com/six-times-buhari-has-disobeyed-court-orders/.

37. Mudiaga, W. E. (2023). Legal frameworks and access to environmental justice in Nigeria. Nigerian Bar Association Journal, 1(1), 25–40.
https://www.ajol.info/index.php/nba/article/view/254189/240177.

38. HumAngle Media. (2024, October 31). Nigerian journalists demand release of Daniel Ojukwu, colleague detained by police. HumAngle Media.
https://humanglemedia.com/nigerian-journalists-demand-release-of-daniel-ojukwu-colleague-detained-by-police/.

39. Edo State Judiciary. (n.d.). President Muhammadu Buhari signs bill granting financial autonomy to state judiciary. Edo State Judiciary.
https://edojudiciary.gov.ng/news/president-muhammadu-buhari-signs-bill-granting-financial-autonomy-to-states-judiciary/.

Want to know where the money goes?

Discover payments to personal accounts and to contractors through...

govspend

Track and Analyze Federal Government Spending over time

Discover who is being paid, what they are getting paid for, and when they were paid

Explore | Learn More

govspend.ng

www.govspend.ng