

THE LEGALITY OF 2014 RIVERS STATE BUDGET OF CONTROVERSY

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Abstract

Governor Rotimi Amaechi of Rivers state recently shocked the people of the state when he presented an estimated N485.524 billion budget for 2014 amidst argument that the state House of Assembly has no constitutional right to sit outside the hallow chambers. Before the passage, the state chapter of the People's Democratic Party, PDP, had raised an alarm that the lawmakers loyal to the governor were planning to sit any time soon, an allegation which government agents denied that there was no such plan. The budget was passed inside the Government House, the Banquet hall, to be specific and the process lasted for less than an hour to the surprise of the populace and local journalists in the state. Defending the allegation by the PDP, the Deputy Speaker of the Rivers State House of Assembly, Hon. Leyii Kwanee on Monday condemned in strong terms the release issued by the special Adviser on Media to the PDP Chairman, Mr. Jerry Needam stating that the House would commence sitting at the Government House with regard to the passage of the 2014 appropriation bill. Speaking to newsmen in Port Harcourt, the Deputy Speaker said as a principal officer he was not aware of such notice and that such was the imagination of PDP and its Adviser on Media. He accused the party of trying to overheat the polity again and to ensure that Rivers people do not benefit from the developmental programmes of governor Amaechi by making unguarded utterances with the intention to disrupt the Assembly in order to appropriate funds for the government. In determining the legal nature and effect of the January 6 sitting of the House, certain issues must be taken into consideration. Sections 90 to 129 of the 1999 Constitution which provide for the composition, powers and operation of a State House of Assembly make absolutely no reference to the building or chambers in which the houses will function. The 1999 Constitution is concerned with the house as a body of legislators, and not a house as a building made of brick and cement. This paper discusses the legality of conducting legislative matters outside the designated area of their operations. The 2014 budget passed by the House and signed into law by the Governor was used as a case study.

Keywords: Appropriation Law, Governance, Political Crisis, Budget, Legality, Constitution and Legislature.

Introduction

The political crisis rocking Rivers State took another dimension recently when members of the State House of Assembly passed the state 2014 Appropriation Bill into law in the Government House, Port Harcourt. The action of the lawmakers, according to sources, was to prevent the police from stopping them from sitting (Akasike, 2013b). It will be recalled that 32 members of the House loyal to Governor Rotimi Amaechi had tried to hold plenary in the past in the assembly complex on Moscow Road but were barred by the state Police Command, which said they were relying on the law.

Presenting the budget, Amaechi told 23 lawmakers present that he proposed to spend N485.5bn this fiscal year. He explained that the budget was 0.98 per cent lower than the N490.32bn he presented in 2013. The governor added that the focus of the budget was the completion of ongoing projects in the health, education, roads, transport, power, water, agriculture and other critical sectors. Amaechi also put the capital and recurrent expenditures at N247.573bn and N237.950bn respectively.

According to him, capital to recurrent ratio is 76.24 for the 2014 as against 70.30 achieved as of September 2013. The governor said:

In the light of the 2014 budget, we will not accommodate new projects. This is in the light of current realities and out of a resolve to guarantee efficient service delivery. The economic realities arising from already dwindling resources since mid 2013 suggest a need for prudence and good sense this year. Government will continue to demonstrate good sense of management by making more money available to complete projects this year. In the process of formulating this budget, we kept our tradition of consulting widely with all relevant stakeholders in the state (Owete, 2013:7).

Reviewing the budget, Amaechi said the state expected to get N241.243bn from the Federation Account; N92.420bn from internal sources; N33.5bn from the sales of assets; N100bn from proposed loans; N6.983bn from the World Bank and N0.660bn as grant from the European Union. He also told the legislators that the state could not meet the 2013 fiscal year target due to the shortfalls from federal allocations (Akasike, 2013a:6)..

Earlier, the Speaker, Mr. Otelemaba Dan-Amachree, had said the assembly took the decision to carry out its legislative functions in a “makeshift chamber” in the Government House. The Deputy House Leader, Mr. Nname Ewor, had moved a motion to designate the place as the chamber of the assembly. The Deputy House Whip, Irene Inimgba, seconded the motion. Dan-Amachree, who adopted the motion, explained that the decision was based on the insecurity in the state, especially the latest attacks on two high courts in the Ahoada and Etche Local Government Areas. He also said that the assembly complex was still undergoing renovation, adding that the development made it impossible for the lawmakers to use it to perform their legislative functions.

But the state chapter of the Peoples Democratic Party described the presentation and passage of the budget into law on the same day as illegal and criminal.

“The presentation and passage of the 2014 budget outside the hallowed chambers of the Rivers State House of Assembly is criminal. This illegality cannot be allowed to stand,” (Godwin, 2013:15) Mr. Felix Obuah, the state PDP chairman said.

Obuah, who added that he had earlier drawn the attention of the people of the state to the governor’s plan to relocate the assembly to the Government House, said he had been vindicated by the recent development. He claimed that Amaechi was bent on causing confusion in the state, maintaining that the presentation of the budget outside the Assembly complex was unconstitutional. Countering Obuah and his group the State Commissioner for Information and Communications, Mrs. Ibim Semenitari, explained that Wike was planning to carry out the act in connivance with his supporters. Semenitari, who spoke with newsmen in

Port Harcourt said the aim of the minister and his friends in Abuja was to strangle the state. She pointed out that the minister's intention was to get such a court ruling from the backdoor and ensure that Rivers did not get its statutory monthly allocation from the Ministry of Finance. Semenitari said,

We have information that has reached us that Mr Nyesom Wike, in connivance with some of his acolytes, is attempting to purchase a judgement against the Appropriation Bill passed by the Rivers State House of Assembly. We are also aware that the intension with his Abuja friends is to do this and strangle Rivers state, to ensure that we do not receive funds, this is regardless to the fact that we have salaries to be paid in this state, regardless of the fact that there are development projects. They intend to procure this judgement through the back door and serve the Ministry of Finance and make sure that the funds that should accrue to Rivers state do not get to Rivers state every month (Akasike, 2013a:7).

The President General of the Grassroots Development Initiative, a group funded by Wike, Mr. Bright Amaewhule, said it was wrong for the state government to point accusing fingers at the minister each time it (Rivers Government) erred in law. The objective of this paper is to examine the legality taken by the Rivers State Government with a view of ascertaining its implications on governance of the state. to achieve this objective preceding the introductory remarks is conceptualization of concept. Next is the reactions the passage of the budget has generated. Following this section is the legality of the actions of the Rivers State Government and the House Assembly. The next segments offer recommendations and concludes the paper.

Clarification of Concepts Budget

Government budgeting is carried out within an existing legal framework for the management of public Finances as contained in the country's constitution or other statutes. In other words, the constitution occupies a pre-eminent position in the hierarchy of Nigeria laws. It is the grundnorm for the validity of other norms in the legal system. Sure other laws derives their efficacy from the constitution, recourse must perforce be had to constitutional provisions before proceeding to consider legislations impacting a budgeting preparation.

The word, budget, is not used in the sections of the constitution governing collection and disbursement of public funds. Accordingly, we were denied a constitutional definition of the concept. Onuoha (2004:4) quoting Black's Law Dictionary (1990) defines the budget as a statement of estimated revenues and expenses for a specified panned of time, generally a year; and also as a sum of money allocated to a particular purpose or project or for a specified panned of time. It defines the Appropriation bill as measure before a legislative body authorizing the expenditure pf public money and stipulating the amount, manner, and purpose of the various items of expenditure. Legally speaking the former is conceptually under than the latter.

Adamolekun (1983:131) defined it as a financial plan embodying an estimate of proposed expenditures. For a given period and the proposed means of financing them. Bedeian (1986:572) defined 'budgets as plans that deal with the future allocation and utilization of various resources in different activities over a given period. Onuoha (2004:4) defines the budget as financial revenue and expenditure programmers covering specific periods which are necessary for state and local self governance agencies to carry out the functions presented by the constitution and legislation. Government budget is, therefore, a yearly financial plan indicating proposed government expected revenue and expenditure. In order words, a budget

is both a plan and control instruments. It does this by an agency and by establishing standards against which actual performances can be compared (See Adamolekun, 1983:132)

According to Ezeani (2006:352) quoting Anthony et al (1984: 443-444), all budgets; share certain characteristics:

1. *They are stated in numerical terms;*
2. *They cover a specified time period*
3. *They show managed commitment; that is managers agree to utilize resources as allocated;*
4. *They are approved in advance by senior people and*
5. *They can be altered only under previously agreed circumstances.*

Onuoha (2004: 4-5) defines the budgetary process to include the preparation and discussion; and approval and execution of each year's budget as well as the actions of State and community agencies related to the approval annual budget reports as regulated by law. Regulation of budgetary relationships, according to the law, comprises those activities of authorized agencies which, within power prescribed by law are aimed at organizing the budgetary system, defining its structure, allocation revenue among budgets, executive budgets, reporting and controlling, classifying and/or amending budgets.

Specifically, the budgetary process starts with the identification of goods and objectives that the government seeks to attain within a specified period and in accordance with its overall socio-economic policy. The process involves the determination of resources and their uses for the attainment of the government's aims. The budgetary process involves four distinct activities: budget preparation, budget authorization, budget execution and budget monitoring.

Section 81 (a) of the 1999 Constitution provides:

- a. The president shall cause to be prepared and laid before each House of the National Assembly at anytime in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.
- b. The heads of expenditure contained in the estimates other than expenditure charged upon the Consolidated Revenue Fund of the Federation by this constitution shall be in under in a bill to be known. As an Appropriations Bill, providing for the issue from the Consolidated Revenue Fund of the Sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.
- c. If in respect of any financial year it is found that-
 1. the amount appropriated by the Appropriations Act for any purpose is insufficient; or
 2. a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act;a supplementary estimate showing the sums required shall be laid before each house of the National Assembly and the heads of any such expenditure shall be include in a supplementary Appropriation Bill.

By using the word "shall" Section 81(ii) imposes a positive constitutional duty on the president to cause the budget to be prepared aid laid before the National Assembly. However, the constitution did not go beyond this terse and cryptic declaration to offer further guidance as to how the president should go about the arduous task of budget making. No particular procedure is recommended nor outlawed; the constitution is only interested in the end product; Estimates of revenue and expenditure. Regrettably, there is no legislation or regulation having the force of law that corrects this perceived oversight on the part of the frames of the constitution. The upshot of this is that budget preparation is a domestic affair of the Executive branch of government.

While the duty of presenting the budget before the legislature is one of the presidency, cannot shirk because of constitutional and political ramification; in practice technical aspects of the budget preparation are usually delegated to the Minister of Finance who in turn would pass the buck of the chore to Budget Office of the Federation. It is the latter that calls for proposals from Ministers, Agencies and departments according to stated guidelines and general

objectives of the government. The call circular is usually accompanied by specimen forms to be completed by sending units, time-table for budget discussions indicating the dates allocated for Minister/Agencies and an outline of operative economic policy of the Federal Government including its guiding principles, objectives, instruments targets and macro economic policies as well as guidelines for preparation of the budget stressing the likely cycling to their respective overall expenditure. The revenue projections that would inform the expenditure estimates are also included to enable the Ministers/Agencies to make returns on revenues collectable by them in the form of fees, charges and levies among others.

The proposals from Ministers, Agencies and Departments are collected and analyzed by the budget office of the Federation, which will subsequently invite the Ministers, Agencies and Departments to defend their proposals. The Minister of Finance will thereafter meet with other ministers before briefing the President on the aggregate proposals which will later be presented to the Federal Executive Council for final deliberations. It is after the adoption by the Federal Executive Council that the budget is presented to the National Assembly by the president.

The process of budget preparation and authorization has been described by Oshisami and Dean (1985:42) thus:

1. The president decides upon broad budget strategy on the basis of his own policies and a view of the macroeconomic environment. He provides the budget department with implementing the strategy.
2. The budget department devises a more detailed version of the plan and issues a call circular to ministries requesting estimates to be prepared according to budget guidelines.
3. The ministries submit their estimates to the budget department, which reviews them, and adjust them when necessary.
4. The budget department aggregates the budget in the form of a consolidated estimate of revenue and expenditure (CERE), which is passed to the president for his approval.
5. The president lays the CERE before the National Assembly in the form of an Appropriation Bill.
6. The House of the National Assembly debates the bill and makes modifications to it, before passing it. They return it to the president for his approval.
7. The president gives his assent to the Appropriation Bill, which becomes an Act.
8. The Minister of finance is now empowered to issue funds to the ministries. This is done by the issue of warrants.

The Passage of Rivers State 2014 Budget: The Reactions

The Rivers State Governor, Chibuike Amaechi, recently defied the raging crisis in the Rivers State House of Assembly and threats from political foes to present the state's 2014 budget proposal of N485.524 billion to the Assembly at the old auditorium within the Government House, Port Harcourt. However, the group of six lawmakers, led by Evans Bipi, was absent from the event, which was presided over by the Speaker, Otelemaba Amachree. Mr. Bipi had been parading himself as the Speaker until last December when he was restrained by the state High Court, Ahoada, which was due to continue hearing on the matter before its premises was rocked by explosion.

The Rivers State House of Assembly had been in crisis since July last year prompting the National Assembly to pass a resolution the following month taking over its functions in accordance with Section 11 (4) of the 1999 Constitution. A court, however, nullified the action of the National Assembly. At the budget presentation day, the Deputy Leader of the House moved a motion requesting the Speaker to designate the Old Auditorium located close to the Deputy Governor's Office as the chamber of the House for the purpose of the presentation. The motion was seconded by the Deputy Whip.

The governor and his entourage, which comprised mostly commissioners and advisers, were admitted to the auditorium after the motion was unanimously passed. Mr. Amaechi, who apparently relied on last month's judgment of the Federal High Court, Abuja voiding of the resolution of the National Assembly to take over the functions of the state legislature, said the

2014 budget estimate was N4.79 billion (0.98%) lower than the 2013 budget, which was N490.32 billion. A breakdown of the proposed budget, which the governor said would focus on the completion of ongoing projects in about eight key sectors, showed that a total of N247.573 billion was allocated for capital expenditure while N237.950 would be for recurrent expenditure (Owete, 2014:7).

Mr. Amaechi said the proposal was arrived at after due consultations with relevant stakeholders within and outside the public service. According to him,

Rt. Honourable Speaker, with due consultations with relevant stakeholders within and outside the public service, we are proposing an aggregate Budget of N485.524 billion for the year 2014. This is N4.797 billion (0.98%) lower than the 2013 budget of N490.320 billion. The focus of the budget will be on completing ongoing projects in Health, Education, Roads, Transport, power, Water and Agriculture and other critical infrastructure. Capital and Recurrent provisions are N247.573 billion and N237.950 billion, respectively. Our Capital to Recurrent ratio is 76:24 for the financial year 2014 as against 70:30 achieved as at September, in this outgoing year (Owete, 2014:7).

He said the 2014 budget would be funded by FAAC allocation of N241.243 billion and Internally Generated Revenue, IGR, of N92.420 billion; prior year balance of N10.717 billion; proposed loans of N100 billion; credit from World Bank-N6.983 billion; European Union grant of N0.660 billion; and sale of asset of N33 billion. The sectoral allocations show that the Ministry of Works got the highest with N60 billion budgeted for its activities; Education, N30 billion; Greater Port Harcourt City Authority 20 billion; Office of the Secretary to the Government N11 billion; Rivers State Sustainable Agency N10 billion; and Transport N10 billion; Others are Sports N8 billion; Water Resources N8 billion; Power N7 billion; Water Resources Management Agency N6.5 billion; Rivers State House of Assembly N6.1 billion. The Rivers State Urban Beautification, Parks and Garden got the lowest with N80 million (Owete, 2014:7).

On the performance of the 2013 Budget, Mr. Amaechi said, Combined actual total expenditure (recurrent plus capital) is (N314.871 billion) for the period ending September showing a performance rate of N64.22 per cent. Reviewing the 2013 budget, Amaechi posited that:

In 2013, the country lost substantial revenue because of oil theft and pipeline vandalism. Average production has been 2.3mbpd against 2.5mbpd projected in the 2013 budget. This affected revenue inflows. The projected budget revenues were not realised due to the significant production shortfall. With politics dominating in 2014, we are less likely to make progress in tracking oil theft. The expected dwindling of oil revenue is likely to affect the 2014 Federation Account Allocation Committee, FAAC, allocation to the states, as the country may not meet its production targets in 2014. The funding of the budget, according to the governor, would come from sources, including expected federal allocation of N241.243 billion, Internally Generated Revenue expected to climb from N80 billion in 2013 to N90.92 billion in the current year, a N100 billion proposed loans, and assets sales in excess of N35.500 billion and N9.984 billion credit from World Bank SEEFOR/Ministry of Water Resources (Yafugborhi, 2014:6).

Immediately after the governor's exit, the House went into debate on the presented spending proposals, during which House members expressed satisfaction with the appropriations as presented as well as the performance level of the last budget. Following a

voice vote in which all members present said 'yes' to its passage, Speaker of the House, Otelemaba Dan Amachree, closed the sitting on the budget with the declaration, "The 2014 Budget of N485.524 billion is hereby, approved and passed into law.

Mixed reactions have continued to trail the passage of N485.5 billion 2014 budget by the Rivers State lawmakers in Government House. While the state chapter of All Progressives Congress (APC), described the presentation of the budget as very successful and commended the state Governor Chibuike Amaechi for coming up with a realistic budget for the fiscal year, the state Peoples Democratic Party, (PDP) says the presentation of the appropriation bill was criminal and unconstitutional. The state Interim Chairman of APC, Davies Ibiamu Ikanya, said in Port Harcourt yesterday that the budget estimate of N485.5 billion is a good example to the Federal Government and other state governors to emulate, stressing that it is realistic. He added that, there is no need deceiving the public by making unrealistic promises.

Ikanya said:

The 2014 budget is lower than the 2013 budget, which shows a lot of wisdom in view of the reality of steadily declining revenue to the state due to the wicked ceding of some of the oil wells of Rivers State to neighbouring states of Bayelsa, Abia and Akwa-Ibom by the PDP led Federal Government and mismanagement of the oil sector by the Federal Government and the massive corruption that has drastically cut what is available to be shared by the federating states (Godwin, 2014:8).

The state APC boss commended Amaechi's decision to focus on completing ongoing projects rather than embarking on new projects that may never be completed due to unavailability of resources. Meanwhile, factional leadership of Rivers State chapter of Peoples Democratic Party, PDP, which had warned against the sitting has faulted and rejected the budget.

Chairman of the state PDP, Mr. Felix Obuah, said: "*The presentation and passage of the 2014 budget of Rivers State outside the chambers of the state Assembly is criminal, illegal and cannot be allowed to stand. PDP will explore all legal means to stop the implementation of the controversial budget*" (Godwin, 2014:8).

Also, leader of the anti-Amaechi lawmakers in the state Assembly, Evans Bipi, rejected the state's 2014 budget as presented and passed, yesterday, saying that the budget imposed no duty of responsibility on Rivers people. But, PDP in a statement signed by Jerry Needam, Media Adviser to the state chairman, said the passage of the 2014 budget and ascent same day, in less than one hour, in spite of repeated denials by the Deputy Speaker, Leyii Kwane, that few lawmakers loyal to Amaechi are not contemplating sitting in Government House, outside the hallowed chamber of the Assembly, to receive, deliberate and pass the 2014 budget, has exposed him and the governor as the real enemies of Rivers State. Needam said: "*Both Governor Amaechi and Kwane are pathological liars, lacking in character and credibility. They owe Rivers people and indeed Nigerians an apology*" (Godwin, 2014:8). The party called on Governor Amaechi and Kwane to apologise to Rivers people for deceiving them over the presentation of the 2014 budget. Meanwhile, the state APC chairman has described Felix Obuah-led PDP in the state as a bunch of ignoramuses who expose their total ignorance of lawmaking shamelessly.

He said:

With the stand of Rivers State PDP on the budget presentation, it once again exposes their hatred for the development of Rivers State knowing very well that without budget, the government can't finance most of its

projects or pay salaries. What PDP does not understand is that first, it is the Speaker that designates where the House sits as far as the mace, which is the symbol of authority is present. The Speaker, Otelemaba Amachree, as the Head of Legislature in Rivers State designated the venue of sitting in line with his powers. In other words, based on the fact the Rivers State House of Assembly is under siege coupled with the fact that it is still under renovation, the House did the proper thing, besides the House has powers under the rules and with necessary quorum and number to designate any place as its chambers as in this case. He argued that the lawmakers acted within the confines and contours of the law and the powers vested on them (Godwin, 2014:8).

He continued:

The PDP fellows failed to understand that they (PDP) went to court and got judgment invalidating the takeover of the Rivers State House of Assembly by the National Assembly after complaining bitterly that the House was not seating. Now the House is sitting and sadly they are again complaining. The party is surprised that PDP is complaining that a budget that will benefit the people is passed into law (Godwin, 2014:8).

The Legality of the Rivers State Budget of Controversy

In addition to the raging political crisis which has kept the oil rich Rivers State constantly in the news since last year, a new set of controversy has encircled the state. The latest has to do with the 2014 budget prepared by Chibuike Amaechi, the State Governor. It all started when Governor Chibuike Amaechi presented the state budget of N485.524 billion at the Banquet Hall of the Government House in Port-Harcourt, on January 7. On the same day, he received the approval for the budget and also signed the appropriation bill into law. The act drew condemnation from his political opponents in the state who accused him of not following due process to get the budget passed into law. Among those who have opposed the controversial budget is the state chapter of the Peoples Democratic Party, PDP, which has vowed that it would challenge the passage of the budget by the Assembly in court. Felix Obuah, state chairman of the party who spoke to journalists shortly after the budget was passed, described the governor's action as an act of illegality. According to the PDP chairman, the passage of the 2014 budget outside the hallowed chambers is illegal and we in Rivers state PDP will use every legal means to challenge the implementation of such budget. Amaechi is creating a criminal record in the state. This is the first time a budget is passed outside the state house of assembly since the creation of the state. We reject the budget. It is illegal and criminal. We will follow every legal means to stop the implementation of the budget (Abia, 2014:8).

Bipi, representative of Ogu/Bolo constituency at the State House of Assembly equally vowed to resist any attempt by Governor Amaechi to spend kobo from the 2014 budget. He said since the governor decided to present the budget outside the hallowed chamber of the Assembly, any action on it would be null and void. Bipi is the arrow head of the five members of the house who have been opposed to Governor Amaechi. He emerged factional Speaker of the house of assembly after the free for all fight at the hallowed chambers last year. The fracas in the house led to its closure. It was because the assembly had remained under lock and key ever since, that the governor, in collaboration with majority of the legislators loyal to him, presented and passed the budget at the government House. Twenty four of the 31-Member Rivers State House of Assembly are loyal to the governor.

Bipi described the legislators loyal to the governor, who defiled all procedures if the house rule to present and pass the budget at the government house, as liars whose attitude was

deceiving the rivers people. Prior to the budget presentation, Bipi had raised alarm over moves to present the budget outside the House of Assembly.

But Leyii Kwanee, the Deputy Speaker, denied any such move and urged the people to discountenance the allegation. Denying the PDP's allegation, Kwanee condemned the statement issued by the special adviser on media to the PDP chairman, Jerry Needam, that the assembly was about to sit at the government house over the 2014 appropriation bill. He descried the allegation as a figment of the imagination of the PDP and its members.

Recalling his earlier alarm, Bipi said; *"I want to let Rivers people know that they are liars. I pre-empted them that they want to sit outside the Assembly; they denied and said they don't know what I was talking. Why are they deceiving rivers people?"* he described them as drowning men looking for what to lay hands on (Owete, 2014: 7).

Ibim Semenitari, the state commissioner for information and communication, however said the passage of the budget followed the rules. *"there was nothing illegal about the whole process as much as I know. What is being questioned is morality, but legality overrides morality in this situation"* (Abia, 2014:8), she stressed. The commissioner revealed that contrary to claims in some quarters, the bill was done in accordance to the law. *"Necessary things were done before the chambers as used. Besides, the speaker can designate where the house can use"* (Abia, 2014:8).

Semenitari also raised fresh alarm over alleged plans by the opposition to stop the implementation of the budget. She alleged that Nyesom Wike, the supervising minister of education, plans to obtain a court judgment in order to halt the implementation of the budget. Such judgement, she said would enable them stop the federal allocation accruing to the state, and urged rivers people to rise and challenge what she described as an action of a tiny set of people aimed at plunging the state into fresh crisis. The fact that the house met outside its designated chambers, has resulted in a strident condemnation by the state's branch of the Peoples Democratic Party (PDP), that the Assembly session was null and void. The PDP has even gone so far as to call on banks not to honour the cheques of the state government.

In determining the legal nature and effect of the January 6 sitting of the House, certain issues must be taken into consideration.

Sections 90 to 129 of the 1999 Constitution which provide for the composition, powers and operation of a state house of assembly make absolutely no reference to the building or chambers in which the houses will function. The constitution is concerned with the house as a body of legislators, and not a house as a building made of brick and cement.

Although there is a designated house of assembly complex in Port Harcourt, the River State police command has made it physically impossible for the house to meet there. This is in spite of a court ruling that the house was free and entitled to resume its legislative duties. Every attempt by the Law Makers to resume their work in the state house of assembly building has been violently repelled by the state police command under Paul Mbu.

For there to be governance and economic activity in the state, the Legislators must carry out their legislative duties. According to Sagay (2014:72) before resorting to the use of the state government auditorium for legislative activity, the government first officially declared that auditorium as a temporary legislative venue and this declaration was formally gazetted. In the light of the above factors, no one, can in good faith, challenge the legitimacy of the house sitting in the temporary venue. It is clear that the strategy of economic strangulation of rivers state is the objective of those challenging the validity of the house 2014 budget session.

It will be most futile for those who are hostile to the normal functioning of government in Rivers State to rely on the case of Adeleke v. Oyo State House of Assembly (2006) 52 WRN 22 to justify their stand. In that case, the court of appeal at Ibadan did not just declare the purported sitting of a rump of the Oyo State House of Assembly, invalid, null and void

merely because their sitting took place outside their designated chambers. That sitting was declared null and void for far more than that, namely:

- It was held in a private hotel room.
- No principal officer (Speaker or Deputy Speaker) was present.
- The clerk of the house was absent.
- The meeting was not plenary and open to all members, but was exclusive and held in an atmosphere of intimidation and violence.
- The 18 members who participated in that 'session' were less than two-thirds of the 32 member house, and therefore did not meet the mandatory requirements of section 188 of the 1999 Constitution (Sagay, 2014: 72).

The above five factors were responsible for the invalidity of the Oyo State House of Assembly Session in De Rovans Hotel. In the present case of Rivers State, the session took place in a government facility, duly gazetted for that purpose; the Speaker presided at the sitting; the Clerk of the House was present; the meeting was plenary, open to all members and free from intimidation and violence. Finally, 23 out of the 31 members of the house were present at that session.

In the light of above, no one can question the validity and legitimacy of the Rivers State 2014 Budget Session.

Recommendations

Recent developments in some parts of the country concerning civil liberties and the safety of lives and properties of citizens is a matter for serious concern. The two incidences in Rivers State, the one in Ogun and the other in Borno bear all the trappings of impunity which must be eschewed at all cost if we hope to continue to deepen our democracy.

On the part of government, it is imperative to be constantly reminded that the security and welfare of the people is the primary purpose of government. accordingly, governance must be subject to the strict observance of the Rule of Law and good conscience, therefore civility rather than impunity should be our guide at all times and in all situations.

The incidences in question exhibit an unacceptable level of either failure of government or abdication of responsibility neither of which should be encouraged in our polity. The situation in Rivers State is lamentable because the joint resolutions of the Senate and House of Representatives aimed at dousing the tensed political atmosphere have been ignored and today we are having a situation of gradual relapse into anarchy.

On the part of politicians, I urge that we avoid recourse to unlawful and violent means of projecting our political interest and ambitions, rather let us adopt peaceful advocacy and networking. It has worked in other jurisdictions and it can work here if we give it a chance.

We congratulate His Excellency, Gov. Chibuike Rotimi Amaechi for the courageous and successful presentation, and signing into law the 2014 Appropriation Bill.

The budget presentation and passage in Government House amounted to adopting the Doctrine of Necessity, which the National Assembly employed in making Dr. Goodluck Jonathan President, stressing that the legislature and the judiciary were being frustrated, but "the executive must not be frustrated".

We know that without the passage of the budget and the power to appropriate, every sector of the economy would strangulate and finally crash. There would be no salaries for the teeming Rivers State civil servants. This would translate into our children and wards withdrawing from schools due to failure to meet our parental obligation to pay the necessary school fees; this would reduce life expectancy. If the budget is not passed, the various road projects undertaken by this administration would halt.

Without funds arising from passage of the budget, the Health sector would collapse; doctors and health workers won't be paid their salaries. The education sector would crash; teachers and lecturers won't be paid their salaries; the scholarship programmes which our children are enjoying would discontinue and the 13,000 teachers recently employed would be

sent home and pressure the already saturated job market; the security sector would collapse and citizens and residents would sleep with eyes open. All on-going projects would halt (the main thrust of the budget), degeneration would arise, the sports and power sectors would fail, youth development would suffer; our teeming youths would again hover between hope and anxiety, leading to avoidable crimes, criminality and desperation.

Women and Housing development would wobble and crumble. The average trader on pepper and groundnut would suffer and the people would wander helplessly and wonder what inheritance they have in the leadership.

Conclusion

Budgeting in a democratic setting is one major task a responsible leader, whether president, governor or council chairman must pay serious attention to inasmuch as he is willing to deliver service to his constituents in terms of executing projects that will impact positively on the people. No developmental project can be executed to the satisfaction of the masses without funds being budgeted for that particular project.

A well-articulated budget assures no sector is neglected or abandoned. A budget helps the government to allocate resources to all sectors of the economy, especially the critical areas. Any keen observer of unfolding political events in Rivers State can attest to the fact that, Governor Amaechi has taken the gauntlet by coming up with a clearly defined budget blue print that he has promised to implement.

On Monday, January 6, 2014, the Rivers State House of Assembly met and sat at the Rivers State House of Assembly met and sat at the Rivers State Government House Auditorium, to receive the 2014 Budget of the state from the governor and thereafter approved the budget. The Appropriation Bill has since been signed into law by the governor.

The fact that the house met outside its designated chambers, has resulted in a strident condemnation by the state's branch of the Peoples Democratic Party (PDP), that the assembly session was null and void. The PDP has even gone so far as to call on banks not to honour the cheques of the state government.

In determining the legal nature and effect of the January 6 sitting of the House, certain issues must be taken into consideration. Sections 90 to 129 of the constitution which provide for the composition, powers and operation of a state house of assembly make absolutely no reference to the building or chambers in which the houses will function. The constitution is concerned with the house as a body of legislators, and not a house as a building made of brick and cement.

Although there is a designated House of Assembly complex in Port Harcourt, the River State police command has made it physically impossible for the house to meet there. This is in spite of a court ruling that the house was free and entitled to resume its legislative duties. Every attempt by the Law Makers to resume their work in the State House of Assembly building has been violently repelled by the state police command under Paul Mbu.

For there to be governance and economic activity in the state, the Legislators must carry out their legislative duties. It is worthy note that before resorting to the use of the state government auditorium for legislative activity, the government first officially declared that auditorium as a temporary legislative venue and this declaration was formally gazetted.

In the light of the above factors, no one, can in good faith, challenge the legitimacy of the house sitting in the temporary venue. It is clear that the strategy of economic strangulation of Rivers State is the objective of those challenging the validity of the House 2014 budget session.

References

- Abia, D. (2014), "Rivers Assembly passes N485B 2014 budget in Govt. House," *Daily Independent*, Wednesday, January 8, P. 8.
- Adamolekun, L (1983) *Public Administration: A Nigerian and Comparative perspective*, New York: Longman.
- Akasike, C. (2014a), "Rivers lawmakers pass 2014 budget in Govt House", *The Punch*, January 8, P. 8
- Akasike , C. (2014b), "Wike plotting to frustrate 2014 budget –Rivers", *The Punch*, January 9, P. 7
- Akinjide, R (2000) Nigeria's obstacles to progress" *Tell*, September 4.
- Bedeian, A. G (1986) *Management*, Chicago: The Dryden Press.
- Burkhead, J (1956) *Government budgeting*, London, John Wiley and Sons.
- Ezeani, E. O (2006) *Fundamentals of Public Administration*, Enugu: SNAAP Press Ltd.
- Federal Republic of Nigeria (1979 Constitution) (1979), Lagos: Government Printers.
- Federal Republic of Nigeria (1999 Constitution) (1999), Abuja: Government Printers.
- Godwin, A. (2014), "Rivers APC, PDP bicker over 2014 budget", *The Guardian*, Wednesday, 08 January, P. 8.
- Nwabueze, B (2000) "The constitutional parameters of the budget process", paper developed at a workshop on redefining the Nigerian budget process at Abuja; May 16th-18th.
- Omolehinwa, E (2001) *Government budgeting in Nigeria*, Lagos: Primark Publishers.
- Onuoha, K (2004) "Legal regulation of Budgeting" in John Onyeukwu (ed) *Manual for budget advocates and monitors*, Lagos: Concerned Professionals.
- Oshisanmi, K (1992) "Government accounting and financial control: principles and practice Ibadan, Spectrum.
- Oshisanmi, K and Dean, P. N (1984) *Financial management in the Nigerian public sector*, London: Pitman publishing Inc.
- Owete, F. (2014), "Ameachi defies Rivers crisis, presents N485 billion budget for 2014", *Premium Times*, Tuesday, January 7, P. 8
- Sagay, I. (2014), "Legal validity of 2104 Budget Session of Rivers House of Assembly", *The Guardian*, Friday, January 24, P. 72.
- Utomwen, D (2008) "Budget of Controversy" *The News*, February 04, 2008.

Yafugborhi, E. (2014), "Rivers Assembly passes N485.524bn 2014 budget", *The Vanguard*, Wednesday January 08, P.12.