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A Comparative Analysis of the Civil and Public Services in Nigeria

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Abstract- Public Service and Civil Service have always been used interchangeably to mean one and the same thing. Consequently, some writers and scholars define the Civil Service to include statutory corporations, the military and paramilitary organizations, local government and public corporations established by Act of the National Assembly the teaching service judicial service. This work therefore seeks to establish whether actually Public Service and Civil Service are one and the same thing. The work adopts the Doctrinal approach. Data/information for the work were sourced from primary sources such as books, library, magazine statutes, the constitution. Findings from the work reveal that the Public Service differs substantially from the Civil Service, however, with some points of convergence. The work recommends that while the Civil Service should be sustained as the service involving the ministries and extra-ministerial departments, under the control of the Civil Service Commission the Public Service should have an umbrella commission called Public Service Commission for all constitutional bodies, military and paramilitary forces, the local government and other corporations established by Act of the National Assembly which also defines its structure, composition, powers, appointment, discipline and control.

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ACOMPARATIVEANALYSISOFTHECIVILANDPUBLICSERVICESINNIGERIA

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I. INTRODUCTION

The term Public Service and Civil Service have always been used interchangeably to mean one and the same thing. Consequently, some scholars and writers define the Civil Service to include not only the Ministries and Extra-Ministerial Departments, but also the military and para-military organizations, public corporations, government owned companies, the National and State Assemblies, Judicial Service Commission, Local Government, teaching Service and many more subvented by the government.

Government globally have come to grip with the reality that impressive growth and socio-economic provision and improvement in the security welfare and wellbeing of its citizens depend substantially on it Public and Civil Services¹. This implies that the effective and efficient performance of the Public Service determines greatly the level of economic stability of a nation².

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¹ Section 14(2) (b) of the 1999 *Constitution of the Federal Republic of Nigeria*. Section 17(1)(2)(3), Section 18(1)(2)(3).

² S. P. Naidu, "*Public Administration: Concepts and Theories*", New Delhi: New Age International Publishers, 2005, p. 217.

The Public and Civil Services are bureaucratic organizations, but the 1999 Constitution³ defines specifically the Public Service to include clerks of the legislature, staff of the Judiciary, Corporation, Local Government and Area Councils, educational institutions, armed forces and other para-military formation including the police.

It is not all these components of the Public Service that are established and regulated by the constitution. For instance, the constitution only provides for the Armed Forces of the Federation⁴, Nigeria Police Force⁵, the National Population Commission, Federal Character Commission, Independent National Electoral Commission (INEC), Civil Service Commission, Police Service Commission, Revenue Mobilization Allocation and Fiscal Commission⁶.

These are all public agencies arms of the government established to provide services which are sufficiently complex to warrant their establishment as separate bodies outside the normal operation of the Civil Service, with attendant guarantees by the law establishing them to be considerably flexible and somehow autonomous but all subject to the general direction of the government and legislation⁷.

Public agencies are established for complex and technical services, for instance, the military, is constitutionally empowered to defend the territorial integrity of Nigeria, suppress insurrection and assist the police in internal security, the Police is meant for maintaining and securing public safety and order, NNPC, INEC, PHCN for making available goods and services, manage Public utilities or resources, implement law, regulate certain sectors and advise the government⁸.

³ Section 318 of the 1999 *Constitution of the Federal Republic of Nigeria*.

⁴ Section 217 of the 1999 *Constitution of the Federal Republic of Nigeria*.

⁵ Section 214 of the 1999 *Constitution of the Federal Republic of Nigeria*.

⁶ Part III, Third Schedule Part I of the 1999 *Constitution of the Federal Republic of Nigeria*.

⁷ B. O. Nwabueze, "*The Presidential Constitution of Nigeria*" (London, C Hurst & Co) 1982, p.381.

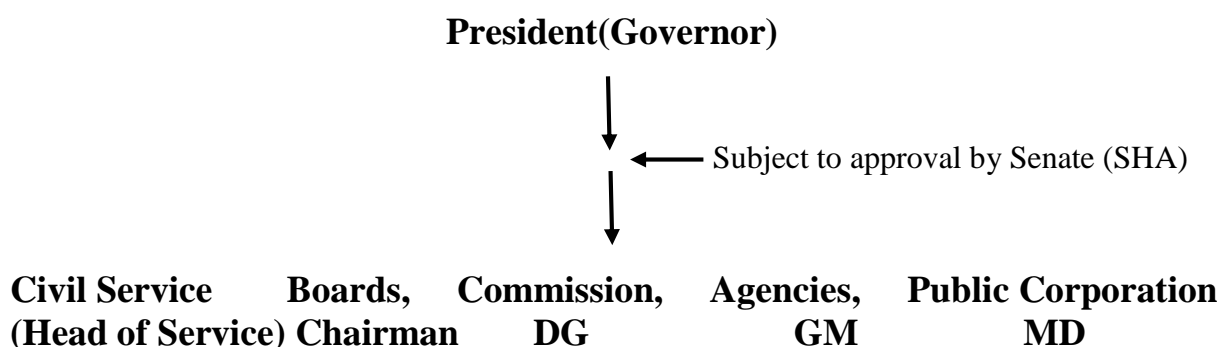
⁸ Ese Malemi, "*Administrative Law*" Lagos, Princeton Publishers, 2013, p.478.

Consequently, most statutory corporations enjoy separate legal identity, perpetual succession, limited liability, contractual capacity and ownership and discretion to dispose of property. For instance in *NEPA v. Alli*⁹.

The defendant/appellant NEPA, now PHCN is a statutory corporation established and owned by the Federal Government of Nigeria, and charged with the generation, distribution and supply of electricity within and outside Nigeria. The appellant was supplying electricity to a sawmill factory of the plaintiff/respondent at Ijebu Ode in Ogun state. Due to negligence of the appellant, its transformer went up in flames. The plaintiff sued claiming damages. On appeal, the Supreme Court held that the appellant NEPA was liable in damage to the plaintiff under the rule in *Rylands v Fletcher* and gave The structure of the Public Service is as shown here under

judgment in favour to the plaintiff on the ground of negligence.

The Public Service, then is an agglomeration of government services including the Civil Service under the direction of the Civil Service Commission, Independent National Electoral Commission (INEC), National Population Commission, the Police, National Judicial Council, Revenue Mobilization Allocation and Fiscal Commission, Federal Character Commission and others¹⁰ as contained in Part I, Third Schedule of the 1999 constitution whose powers are so defined therein and whose membership are appointive¹¹ and can be removed¹² by the president subject, however, to the approval of the Senate at the Federal Level or appointed by the Governor and subject to approval by the state legislature.



The Civil Service, on the other hand, is the main arm of the Executive for translating government policies into concrete action. It involves the Ministries, Departments and Agencies regulated by the Civil Service Commission, headed by the Head of Service and Permanent Secretaries.

II. POWER OF APPOINTMENT BY THE PRESIDENT/GOVERNOR

The Power of appointment and removal of the officials of government from office is vested in the president, in presidential democracy and in the Prime Minister, in the parliamentary system, subject however to approval of the legislature, and specifically the senate in Nigeria¹³.

Accordingly, the president has the power to appoint the Secretary to the Government of the Federation (SGF) or Secretary to the State Government by the State Governor, Head of Civil Service of the Federation or that for the state by the Governor; Ambassadors, High Commissioners or other Principal Representatives of Nigeria abroad; Permanent Secretaries for Ministries and Extra-Ministerial

Departments and any office on the personal staff of the President or Governor¹⁴.

Furthermore, an appointment to the office of the Head of Civil Service shall not be made except from among Permanent Secretaries or equivalent rank in the Civil Service. An appointment to the office of Ambassadors, High Commissioners or other Principal Representatives abroad shall not have effect unless the appointment is confirmed by the senate. The constitution further provides that in exercising his powers of appointment, the president shall have regards to the federal character of Nigeria and the need for national unity and integration¹⁵.

The Ministers, Secretary to Government of the Federation, ambassadors, High Commissioners, personal staff, chairmen and members of Boards and Commission expressly so stated in the constitution shall cease when the president's tenure expires¹⁶. The constitution introduces a caveat however, that provides that where a person has been appointed from a Public

⁹ (1992) 8 NWLR, pt 259, p.279 sc.

¹³ Section 171(1) of the 1999 constitution of Nigeria

¹⁰ Section 153 of the 1999 Constitution.

¹¹ Section 154 of the 1999 constitution.

¹² Section 157 of the 1999 constitution.

¹⁴ Section 171(2)(a)(b)(c)(d)(e) of the 1999 constitution.

¹⁵ Section 171(3)(4)(5) of the 1999 constitution.

¹⁶ Section 171(6) of the 1999 constitution.

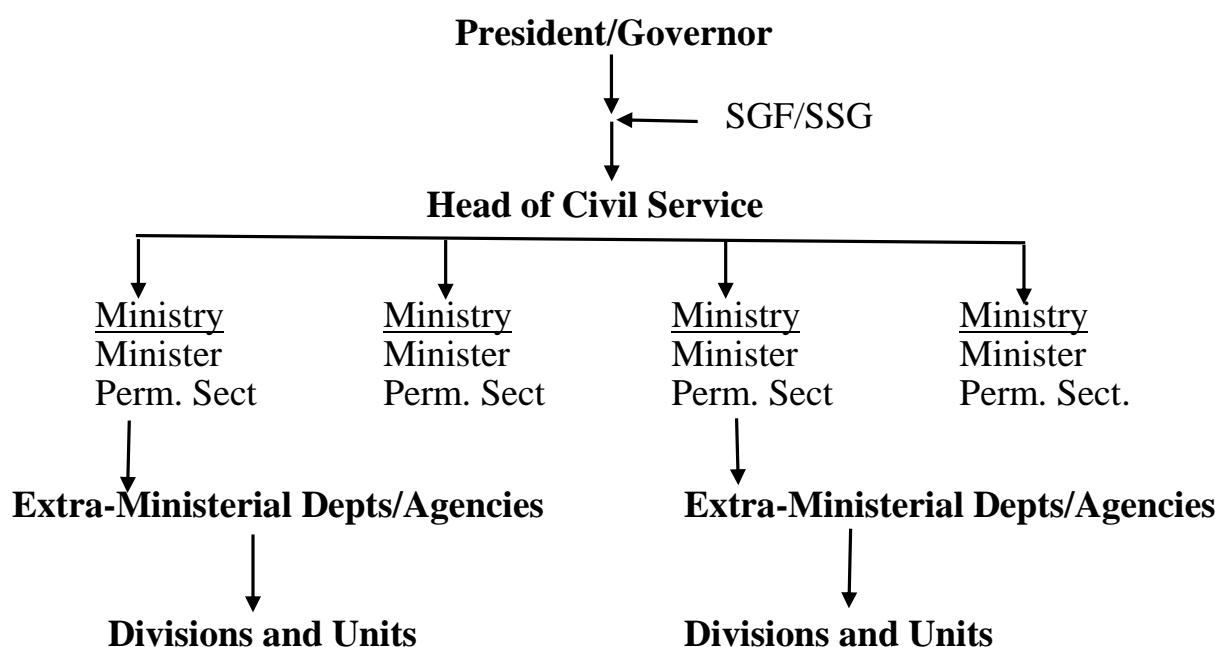
Service either of the federation or state, he shall be entitled to return to the Public Service when the president or governor ceases to hold office¹⁷.

Inferably, while all other appointees go with the president or governor at the end of his tenure, the Head of Service and Permanent Secretaries remain in office to ensure general supervision of the ministries and continuity in the administration of government business.

A minister or commissioner once appointed becomes the political head of the ministry, exercising general control over the ministry. The Civil Service is usually a non-political body, relatively stable, rigid, following laid down conventions and rules, non-partisan and loyal to each successive government¹⁸. Thus, a career of Civil Servants is not affected by political vagaries and changes in government. However, the president or governor may remove a civil servant from office on such grounds as old age, inefficiency, corruption, abuse of office, embezzlement, misappropriation, disobedience, sabotage or in public interest¹⁹.

The staff and offices in the Civil Service are organized into Ministries, Departments and Agencies and their structures, functions defined by the president or governor. In presidential democracy, the President exercises executive powers directly by himself or indirectly through the process of delegation of powers. Delegation here is the power by the President to another to act in an office on his behalf or the transfer of authority by one person to another to empower the delegate to perform some task on behalf of the donor of the power and such powers so delegated should be executed fairly, responsibly and in accordance with the provisions of the law. It has been argued that delegation of power is prone to abuse, encourages arbitrariness, but it reduces legislative workload, sort out easily technical issues in legislation, saves time and cost, allows flexibility in administration, reflect local needs and quickens legislative process.

III. THE STRUCTURE OF THE CIVIL SERVICE



In Nigeria, the president has a wide spectrum of powers over execution of laws particularly in the area of declaration of war²⁰ and appointment of armed forces chiefs (Chief of Defence Staff, Chief of Army Staff, Chief of Naval Staff and Chief of Air Staff) as he is himself the president and Commander-in-Chief of the armed forces²¹, powers to make treaties²², powers to grant

pardon²³, security and public order²⁴, powers to appoint judges and Justices²⁵, power over revenue²⁶.

IV. COMMON FEATURES OF PUBLIC AND CIVIL SERVICES

Both Public and Civil Services have some duties and obligations to the citizenry. Such obligations range from transparency and accountability; Public/Civil

¹⁷ *Ibid*

¹⁸ *PHMB v. Ejitaga* (2001) 11 (NWLR) pt 677, p.154, SC.

¹⁹ *Opp cite* pp.460-461

²⁰ Section 5(4)(a)(b)(c)

²¹ Section 218(1)(2)(3)(4)

²² Section 175(1)(b)

²³ Section 215(3)

²⁴ Section 213

²⁵ Section 162(2)

²⁶ Section 39 of the constitution.

Servants owe the populace the duty of accountability and transparency. All individuals working in service of government must be accountable to the people for their actions.

The constitution guarantees individuals right of speech²⁷ who can also ask their leaders questions or criticize government. It behoves the government or public officials to provide explanations to such questions to justify their conduct and action. Unsatisfactory explanations usually attract sanctions. It is therefore the duty of public servants to justify at all times the fairness and propriety of their decisions or action before an independent body.

The followings are the features of Public/Civil Service

a) *Fairness in Execution of Law*

The Public/Civil Service serves both the government and the entire citizenry as their actions affect the individuals in the society. Consequently, Public/Civil servant must be seen to be impartial, fair and without bias of any kind whether based on personal or political interest. They should be open to all sheds of opinions and tolerate positive criticism and be prepared to give an aggrieved member of the public fair hearing.

b) *Probity*

Honesty, integrity and incorruptibility are the foundations on which the Public/Civil Service strives. Public servants should eschew corruption, abuse of office and high handedness in the execution of policies and programmes and other forms of impropriety.

c) *Impartiality*

Public servants have to do justice to all manner of people irrespective of ethnic group, religion, race. In serving the public, public interest comes first. In the light of the above, all advice and input into policy-making and implementation should be devoid of political partiality.

d) *Political Neutrality*

One of the features of the Public/Civil service is that workers there in should stay aloof of political interaction so as to maintain the Public confidence, objectivity and integrity of the Service and check corruption and politicization of the Service. Administration may come and go, but the Civil Service remains, providing continuity between the out-going administration and the incoming government²⁸. This does not imply that Public servants are denied their democratic rights to vote for whatever candidate or political party they may choose to rule them. The Import of this is that they should not be seen to be partisan.

Ban on private business or drawing salaries from two or more different employments concurrently. The Public/Civil Service operates within rules which should not be flouted under any circumstance and should not allow his personal interest to conflict with his official duty.

Given these rules no Public/Civil servant should engage in more than one paid employment or practice a profession or transaction of any form of business or trade while in employ of the Public/Civil Service, receive salary, wages, overtime, leave allowance from any other office of same or similar government; accept, after retirement from service and should not receive pension from pensionfund, more than the one of his remunerative position or take up fresh employment of any kind.

e) *Prohibition of Corruption*

Public/Civil servants are prohibited from taking and giving bribe as an inducement for discharge of his duties or to do any arbitrary act prejudicial to the rights of any other person knowing that such act is unlawful or contrary to government policy²⁹ or public interest. This implies that Public/Civil servants should not ask for or receive any property or benefits, gifts, donation except those from relatives and friends; should not accept loans from the government or approved financial institutions; should not operate foreign account.

f) *Declaration of Assets*

There is a constitutional requirement that all Public/Civil servants should observe and conform with the code of conduct which prohibits and deals with complaints arising from corruption, embezzlement, abuse of office³⁰. The essence is to ensure that people entrusted with public office and trust do not abuse it. Under this provision, Public officials are required to declare their assets, properties and liabilities and those of their spouses within three months of assumption of public office, at the end of every 4 years and at the end of their tenure. Such submission is made to the code of conduct Bureau. It is a breach of the code to make false declaration. The purpose of the declaration is to place a check on acquisition of illicit practice by the civil servants, with a view to checking those who are corrupt. To this end, any property acquired after a declaration which is in excess of what might be fairly attributable to legitimate income, gift or loan is deemed to have been acquired in breach of the code.

For avoidance of doubt, Public officers here denote any person occupying the office of the president, vice president, president and deputy president of the Senate, speaker and deputy speaker of the House of

²⁷ Ben O. Nwabueze, "The Presidential Constitution of Nigeria" (London, C Hurst & Co) 1982, p.383.

²⁸ Ben O. Nwabueze, "The Presidential Constitution of Nigeria" (London, C Hurst & Co) 1982, P.389

²⁹ Section 172 of the 1999 constitution.

³⁰ Part II, Public officers for the purpose of Code of Conduct, 1999 constitution of the FRN.

Representatives, speaker and deputy speaker in State Houses of Assembly, all legislative and judicial staff in the senior cadre, the military, para-military, Police, Secretary to Government, Head of Service, Permanent Secretaries, Directors-General and Senior Officers, Ambassadors, High Commissioners, Chairmen and staff of Boards, Commissions and Local Government Council³¹.

g) *Prohibition for Holding Elective Office*

No public/civil servant is required to seek elective office, unless such officer resigns his appointment. This is to maintain integrity of the Service and build confidence and trust.

h) *Security of Tenure*

Public/Civil servants, unlike political appointees, are career officers and have rights to receive pension and gratuity as regulated in law. Public officers in the Executive, Legislative and Judicial arms of government retire after putting in 35 years of service and/or when they attain the age of 60 years or whichever comes first³².

There is security of tenure; no worker can be removed arbitrarily. All alleged misconduct are investigated and addressed in accordance with prescribed rules and procedures after granting the officer an opportunity for fair hearing.

V. DUTIES AND FUNCTIONS OF THE PUBLIC/CIVIL SERVICE

The duties of the Public/Civil service are not spelt out in the constitution, but from its very nature, the service plays pivotal role in policy formulation and implementation, provides input into decision, maintenance of records and document. According to Nwabueze³³, the main functions of the Public/Civil Service include but not limited to:

- i. The initiation of policy and advising the government on policy option opened to it.
- ii. Execution of policy after it has been decided by the government.
- iii. Administration of the laws enacted by the legislature.
- iv. Provision of security and continuity, serving as a store of knowledge of past government decisions and procedures.
- v. Serves as a factor of unity and stability in the nation.

- vi. Serves as an embodiment of government in the day-to-day life of the people and help to preserve the mystique and authority of the government through daily contact of officials at all levels with the public.
- vii. As part of the elite, to play leadership role both within the service and in the community.

The public service has always been the tool for the implementation of development goals and objectives. It is the pivot of socio-economic growth and is responsible for the creation of appropriate conducive environment in which all sectors of the economy can operate maximally. Besides, it plays catalytic role in the economic sector by providing the enabling policies for all sectors of the economy.

As succinctly captured by Marshall and Murtala³⁴, the Public Service performs such functions as:

- i. Implementing and enforcing economic, political and social policies of the government.
- ii. Designing and implementing Public Service Rules
- iii. Raising revenue for the government.
- iv. Ensuring managerial, political and financial accountability.
- v. Serving the people.
- vi. Monitoring and evaluating the performance of organizations (public, private, non-governmental) that are rendering services on behalf of government.
- vii. Driving all development initiatives.
- viii. Delivering quality public service (education, health, power, water, transportation, environment). Indeed, the Civil service is crucial to the overall efforts towards nation-building and socio-economic development.

³¹ Michael J. Eyo, "Groundwork of Political Science" (Port Harcourt: Nimelias Press, 2017), p.228.

³² B. O. Nwabueze, "The Presidential Constitution of Nigeria" (London, C Hurst & Co) 1982, p.380.

³³ Junaidu B. Marshall and Aminu M. Murtala, "Public Service and Productivity in Journal of Politics and Law Research" Vol.3, No.1, pp. 63-64.

³⁴ Section 169 of the 1999 constitution of the Federal Republic of Nigeria.

Fundamental Similarities and Differences Between Public Service and Civil Service

S/N	Public Service	Civil Service
1.	Public service is made up of statutory and non-statutory bodies e.g. the military, police, corporation, parastatal, government owned companies.	Made up of the Ministries, Extra- Ministerial Departments and Agencies under the Ministries.
2.	Most organization in the Public service have board headed by Director-General or managing Director.	Headed by the Head of Civil Service and Minister/ Commissioner and Permanent Secretary.
3.	Some have their own different conditions of service.	Operated with Civil Service conditions, Rules, Financial Regulations circulars.
4.	Carries out specific technical services	Carries out general administration and provision of input for decision making.
5.	Some are under the supervision of relevant ministries.	supervised by the Head of Service.
6.	Possesses flexibility.	Rigid
7.	Have individual regulatory bodies	Is regulated by the Civil Service Commission.
8.	Some created by the legislature and few by the constitution.	Provided entirely by the constitution.
9.	Entitled to pension right.	Entitled to pension right.
10.	Officials declare assets and subscribe to code of conduct.	Official declare assets and subscribe to code of conduct.
11.	Generate budget for approval by the legislature.	Generate budget for approval by the legislature.
12.	Usually, some may be wound up or changed.	Usually stable and succeed successive administrations.
13.	Individual staff are personally liable for their action in tort and contract.	Individual staff are personally liable for their action in tort and contract.
14.	Appointment based on qualification, experience and expertise	Appointment based on qualification, experience and expertise.

VI. CONCLUSION

Public service³⁵ is said to encompass the Civil Service, statutory corporation, judiciary and legislature, educational institutions owned by government, the armed forces and the police and other organization in which the federal or state government owns controlling share or interest. On the other hand, the Civil Service is an organ of the executive created to ensure that policies and programmes of any government are carried out. It does not die because of its perpetual nature, non-partisanship, with qualified, and experienced personnel. It is indispensable as it continues the traditional role of keeping the functions of government running no

matter what changes occur in the administration. It operates within rules which guide conduct³⁶.

The civil service is broken into ministries with political heads called Ministers at the national level and commissioners at the state levels. Members of the armed forces, police and other security organization, public corporations and public agencies are not part of the Civil Service, but in the Public Service.

However, it is not the categorization that really matters, but the ability of Public/Civil Service to properly direct their aspirations towards improving the general welfare of the citizens. The Public/Civil Service should indeed be the bridge between the government and the governed for an inefficient Public/Civil Service constitutes a barrier between the government and the people.

³⁵ Junaidu B. Marshall and Aminu M. Murtala, "Public Service in Nigeria: An Overview of Function and Code of Conduct in Global Journal of Politics and Law Research", Vol.3, No.1, pp.61-69, March, 2015.

³⁶ S. Oronsaye, "The Challenges of the Public Service, in the *Nation Newspaper*" Friday September 28, 2010.

VII. RECOMMENDATION

This paper recommends the creation of two Public Service Commissions, one for the armed forces, police and other security agencies and another for all corporations or parastatals and agencies that are not in the Civil Service of either the Federal or State as a way of making the Public/Civil Service the engine room of the government.

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