**A Disquisition on Constitutional Powers of the National Assembly to Summon Mr. President and to Penalize Noncompliance With The Summons**

(by udems)

1. **A Memory Verse**

*“…the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function… A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information—which not infrequently is true—recourse must be had to others who possess it. Experience has taught that mere requests for such information often are unavailing, and also that information which is volunteered is not always accurate or complete; so some means of compulsion are essential to obtain what is needed. All this was true before and when the Constitution was framed and adopted. In that period the power of inquiry—with enforcing process—was regarded and employed as a necessary and appropriate attribute of the power to legislate—indeed, was treated as inhering in it. Thus, there is ample warrant for thinking, as we do, that the constitutional provisions which commit the legislative function to the two houses are intended to include this attribute to the end that the function may be effectively exercised.[[1]](#endnote-1)”*

1. **Introduction**

I had seen a news item on December 01, 2020, under the headline, ***"Insecurity: Reps summon Buhari over Borno Massacre".***  Guardian Newspapers (Nigeria)[[2]](#endnote-2) had reported, inter alia, thus:

*"Adopting a motion under urgent matters of national importance sponsored by Satomi Ahmed at the plenary presided by Speaker Femi Gbajabiamila, the lawmakers insisted that President Buhari be made to brief them on the true state of the security of the Nation".*

Thereafter, on December 07, 2020, apparently in response to the summons by the House of Representatives, Senior Special Assistant to Mr. President on the Social Media, Ms. Laurette Onochie, tweeted, as reported by the Guardian:[[3]](#endnote-3) *"President @MBuhari will address a joint session of the National Assembly (@nassnigeria) on Thursday, December 10, 2020",* thus, and happily, indicating Mr. President's readiness to honour the House' summons. However, although as of the time of this short opinion, the President has not indicated publicly that he has changed his mind on the matter, yet some controversy has suddenly arisen within Nigeria's legal community as to whether or not the National Assembly or any arm of it, has powers to summon Mr. President. Strictly for purposes only of contributing to the raging intellectual debate, I offer the following legal opinion. My opinion is neither a call on Mr. President nor a call on the National Assembly to commence an impeachment of Mr. President. My opinion as herein-expressed, is just what I have said it is: an intellectual contribution to an interesting legal debate. Besides, it may be useful here to refer to an earlier explanation on why think aloud, legally:

*"a major duty legal researchers and rule of law campaigners owe society in the practice of constitutional democracy for promotion and sustenance of responsible and responsive governance is to constantly offer legal opinions on issues of law to guide our leaders and institutions in the discharge of leadership responsibilities".[[4]](#endnote-4)*

1. **Relevant Provisions of the Constitution**
2. **Sections 88** (1) & (2) of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 provides:

*“(1) Subject to the provisions of this Constitution, each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed investigation into - (a) any matter or thing with respect to which it has power to make laws, and (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for - (i) executing or administering laws enacted by National Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly.****(2)*** *The powers conferred on the National Assembly under the provisions of this section are exercisable only for the purpose of enabling it to – (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it”.*

1. **Section 89 (2)&(2)**then provide:

*“For the purposes of any investigation under section 88 of this Constitution and subject to the provisions thereof, the Senate or the House of Representatives or a committee appointed in accordance with section 62 of this Constitution shall have power to - (a) procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable, and examine all persons as witnesses whose evidence may be material or relevant to the subject matter; (b) require such evidence to be given on oath; (c) summon any person in Nigeria to give evidence at any place or produce any document or other thing in his possession or under his control, and examine him as a witness and require him to produce any document or other thing in his possession or under his control, subject to all just exceptions; and (d) issue a warrant to compel the attendance of any person who, after having been summoned to attend, fails, refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the House or the committee in question, and order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure, refusal or neglect to obey the summons, and also to impose such fine as may be prescribed for any such failure, refused or neglect; and any fine so imposed shall be recoverable in the same manner as a fine imposed by a court of law. (2) A summons or warrant issued under this section may be served or executed by any member of the Nigeria Police Force or by any person authorised in that behalf by the President of the Senate or the Speaker of the House of Representatives, as the case may require”.*

1. **Section 308** provides:

*“(1) Notwithstanding anything to the contrary in this Constitution, but subject to subsection (2) of this section - (a) no civil or criminal proceedings shall be instituted or continued against a person to whom this section applies during his period of office; (b) a person to whom this section applies shall not be arrested or imprisoned during that period either in pursuance of the process of any court or otherwise; and (c) no process of any court requiring or compelling the appearance of a person to whom this section applies, shall be applied for or issued: Provided that in ascertaining whether any period of limitation has expired for the purposes of any proceedings against a person to whom this section applies, no account shall be taken of his period of office. (2) The provisions of subsection (1) of this section shall not apply to civil proceedings against a person to whom this section applies in his official capacity or to civil or criminal proceedings in which such a person is only a nominal party. (3) This section applies to a person holding the office of President or Vice-President, Governor or Deputy Governor; and the reference in this section to "period of office" is a reference to the period during which the person holding such office is required to perform the functions of the office”*.

1. **The Discussion**

As seen above, section 88 empowers the National Assembly or any arm of it, to (as part of its oversight functions) conduct investigations into any matter or thing with respect to which it has power to make laws, and or into the conduct of affairs of **any person**, authority, ministry or government department in Nigeria. It is submitted that “any person”[[5]](#endnote-5) includes all persons and authorities in Government and all members of the executive arm, including the President of the Federal Republic of Nigeria. This is because the President is the leader among the persons or authorities in Nigeria, “*charged, with the duty of or responsibility for executing or administering laws enacted by National Assembly, and of disbursing or administering moneys appropriated or to be appropriated by the National Assembly”,* as envisaged by the Constitution.[[6]](#endnote-6)  Section 89(1)(c) empowers the National Assembly to issue “a summons” to any person in Nigeria for purposes of appearing before the National Assembly to give evidence or to produce any document for purposes of such investigations.  However, some Lawyers have argued that it is an abuse of powers for the National Assembly to summon the President, because, according to them, “sections 88 and 89 of the Constitution do not apply to the President”[[7]](#endnote-7) of the Federal Republic of Nigeria. They argue that the immunity granted to Mr. President under the Constitution[[8]](#endnote-8) forbids the National Assembly from issuing any form of summons against Mr. President, because *“summons is a legal process of compulsion and compellability, disobedience to which can be enforced by the Police and can lead to detention and imprisonment”*,[[9]](#endnote-9) all of which, they say, President is exempt from.  I think the major planks of the submission by this school of thought are that:

1. the summons by the House is in the nature of a court process, from which Mr. President is by virtue of section 308, exempt; and
2. summons is a legal process disobedience to which may lead to arrest and possible detention of the person so summoned and who is disobeying, and since it's legally forbidden to arrest or detain Mr. President, while he's still in office, it therefore follows that the National Assembly is legally incapable of summoning Mr. President especially as there's no means of enforcing Mr. President's compliance with the summons.

I agree that Mr. President cannot be arrested or detained while in office and is not liable to answer to any court summons during the period; more so in the present instance, especially because section 89 of the Constitution applies *“subject to the provisions of the Constitution”* while section 308 applies *“notwithstanding anything to the contrary in this constitution”.*[[10]](#endnote-10) However, with due respect, it is possible that proponents of this idea appear to not have adverted their minds to the fact that there are other ways of killing a rat beside setting a trap for it, and that the present situation may not be as clear-cut or as simple as they have made it to appear, especially because the oversight powers of the National Assembly (as a watchdog of the executive arm, headed by Mr. President) are awesomely enormous and that in a proper democratic setting, disobedience to summons issued in exercise of the powers of the National Assembly under such circumstances is a serious constitutional issue. In the present instance, as an example, the summons by the House of Reps is said to be specifically to get the President to appear before the House “*to brief them on the true state of the security of the Nation*”.[[11]](#endnote-11) Is it not a serious matter if the President decides to shun such an invitation or summons by the National Legislature at such critical time over such a major issue, especially in view of the Constitutional injunction that “*the security and welfare of the people shall be the primary purpose of government"?[[12]](#endnote-12)*

1. **Consequences of Disregard of Summons of the National Assembly**
2. **Impeachment:**

It is respectfully submitted that although the President is not liable to be arrested or detained under any circumstances, yet ignoring the National Assembly under the present circumstances may have some alternative serious lawful consequences. The process of impeachment is one major (alternative) weapon the National Assembly could deploy towards punishing a President who disobeys such summons. For the avoidance of all doubts, as I already have made clear, I do not advocate that Mr. President be impeached; far from it. Such is not even healthy, and thus not advised, in Nigeria especially in view of the brittle nature of Nigeria`s multilanguage-and-multireligion-propelled fledgling democracy.  I am only relying on provisions of the law, to make a contribution towards setting the law straight. The Constitution has set out how the process of removing the President from office (impeachment) is commenced:[[13]](#endnote-13)

*"Whenever a notice of any allegation in writing signed by not less than one-third of the members of the National Assembly: (a) is presented to the President of the Senate; (b)stating that the holder of the office of President... is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified".*

Recall that the exact scope of the nature of the "gross misconduct" for which Mr. President may be removed from office, has not been precisely delineated by the constitution or by the courts. Such has been left entirely to be determined by the "opinion" of the National Assembly. Section 143(11) provides*: ‘gross misconduct’ means a grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct".* In the celebrated case of ***Inakoju v. Adeleke,***[[14]](#endnote-14)the Supreme Court of Nigeria affirmed this definition.

1. **Withholding Proposals for Approval of Funds Submitted by the President**

Beside commencing a process of impeachment against Mr. President, the National Assembly may, in reaction to any disobedience by the President to its summons, withhold its approval to any subsequent fiscal proposals presented to the National Assembly by Mr. President. This is similar to what obtains in the United States of America. In answer to the question, “How strong is Congress' power to oversee the executive branch”, Barrington Wolff of the University of Pennsylvania Law School observed as follows:[[15]](#endnote-15):

*“Congress can issue subpoenas to demand information from executive branch officials about their actions and seek the assistance of the federal courts in enforcing those subpoenas. Congress can, in extraordinary cases, withhold funding from an office of the executive branch that it believes is abusing the public trust. The appropriations power—the power to raise and allocate money—lies with Congress, and that is a powerful tool if Congress chooses to use it. And, in the most extraordinary cases, Congress can open impeachment inquiries. Even when impeachment does not result in removal of an executive or judicial officer—and, of course, a sitting president has never been removed by conviction following impeachment—the impeachment process raises the question of abuse of the public trust in a way that focuses the attention of the nation*”.

What is more? So much resources and funds have been approved[[16]](#endnote-16) by the National Assembly for Mr. President over the past five years or thereabouts towards fighting and containing rising/worsening insecurity in the country. Security sector budget rose from about US$1.44 billion in 2009 to US$2.81 billion in 2018.[[17]](#endnote-17) Is the National Assembly not morally and legally entitled, in exercise of its oversight functions, to decide to conduct an inquiry/investigation into how these funds, appropriated by it, have been disbursed or utilized, especially in view of the fact that there appears to be only little or no sign that insecurity is abating despite the huge funds deployed to fighting same?  Besides, it is no secret that military-led counterinsurgency operation in Nigeria faces some notable challenges, in respect of which the National Assembly may need some explanation from Mr. President during the proposed interface; hence the summons.

1. **Effect of Section 308 on Powers of the National Assembly Under Sections 88 and 89**

Section 88(1) of the Constitution does not mince words: "...each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed investigation into -

(a) any matter or thing with respect to which it has power to make laws, and (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for - (i) executing or administering laws enacted by National Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly."

Section 88(2) CFRN specifies the purposes for which the National Assembly may embark upon such investigations: "...for the purpose of enabling it to (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it." And, for the purpose of exercising its powers under section 88 CFRN, each house of the National Assembly has powers to *"summon* ***any person*** *in Nigeria to give evidence at any place or produce any document or other thing in his possession or under his control, and examine him as a witness and require him to produce any document or other thing in his possession or under his control..."* It is respectfully submitted that "any person" as used here includes Mr. President. And although, one may be right to suggest that the President is not a compellable person generally, and may be shielded by section 308 from the powers of the National Assembly under section 89(1)(d) & s. 89(2) CFRN relating to warrant of arrest, fine, etc., yet the awareness that section 308 cannot and does not protect Mr. President against invocation or exercise of the powers of the National Assembly under section 143 CFRN, should be sufficient warning to Mr. President that he cannot toy with any invitation or summons of the National Assembly given pursuant to sections 88 and 89 CFRN, 1999.

1. **Section 308 Does Not Extend to Summons Issued by The National Assembly Pursuant to Section 89 (1)(c) of the Constitution**

Section 308(1)(c) of the Constitution exempting Mr. President from any "process" (including summons) requiring or compelling Mr. President's appearance, does not apply to a summons issued by the National Assembly or an arm of it; section 308(1)(c) relates to only a "process of any court requiring nor compelling" Mr. President's appearance. The National Assembly is not a court. And conduct of an investigation[[18]](#endnote-18) by the National Assembly is not synonymous with exercise of judicial powers of a Court of Law. By virtue of Section 6(6)(b) of the Constitution of the Federal Republic of Nigeria, the Judicial Powers vested in Courts shall extend to all matters between persons in Nigeria, and to all actions and proceedings between government or authority and to any person in Nigeria for the determination of any question as to the civil rights and obligations of that person.[[19]](#endnote-19) Accordingly, as was held per Karibi-Whyte JSC in the ***Attorney-General of the Federation v. the Guardian Newspapers Ltd,***[[20]](#endnote-20) *“the Legislature had no business to veer into the sphere of influence exclusive to the Court as Constitutionally guaranteed without breaching the concept of separation of powers as equally guaranteed by the Constitution”.[[21]](#endnote-21) Although* the Legislature, by Section 129 of the Constitution may sometimes exercise judicial powers, it is only when it acts in accordance with the dictates of Section 168 of the Constitution, which is not the case herein.[[22]](#endnote-22) The National Assembly can only exercise oversight functions of investigating or inquiring into any matter within its legislative competence and can only exercise such powers for purposes of making a law correcting some mistakes in an existing law or exposing corruption inefficiency or waste in the execution or administration of laws enacted within its Legislative competence and in the disbursement of funds appropriated or to be appropriated.[[23]](#endnote-23) See ***House of Reps v. SPDC (Nig)[[24]](#endnote-24)*** where the Court of Appeal observed as follows:

*“In McGvain v. Daugherty 273 U.S. (1927) the United State Supreme Court settled the question of the right of the U.S. Congress to conduct investigations when it said that: "The power of Congressional inquiry with the process to enforce it is an essential and appropriate ancillary to the legislative function." Also in Walkins v. United States, (1957) U.S. 17, the United States Supreme Court said that: "The power of the Congress to conduct investigations is inherent in the legislative process." See also Anderson v. Dunn 19 U.S. 204 (1821). Under the 1999 Constitution of the Federal Republic of Nigeria, Section 88(1)(a) & (b) confer on the National Assembly the power to conduct investigation into any matter or thing with respect to which it has power to make laws as well as into the conduct or affairs of any person, authority, ministry or government department charged or intended to be charged with the execution or administering such laws made by the National Assembly as well as disbursement or administering moneys appropriated or to be appropriated by the National Assembly.”*

Finally, on this, it appears the makers of the Constitution had, in drafting the provisions of section 308, wisely refrained from extending the coverage of such processes to summons issued by the National Assembly so as to not frustrate the oversight functions of the National Assembly (under to sections 88 and 89 of the Constitution) aimed partly at checking the conduct of the affairs of the nation by Mr. President.

1. **Are Summons Issued Pursuant to Section 89 In the nature of Court Summons?**

For the following reasons, in addition to the aforesaid, I respectfully disagree with the view that the summons issued by the House of Representatives pursuant to section 88 and 89 of the CFRN, 1999, is in the nature of a court/judicial summons. First, the national Assembly is not a Court of law. The constitution creates courts of law which fall within the judicial arm of the government; the National Assembly represents the legislature, not the judiciary and their powers are not judicial powers. Second, the makers of the Constitution had deliberately inserted section 89(1)(c) CFRN to empower the National Assembly to summon any person; “any person” excludes no one. Third, section 308(1)(c) CFRN which exempts Mr. President from “processes”, specifically and strictly covers only processes of *"any court requiring or compelling the appearance of"* Mr. President; it doesn't extend to a process (say, a summons) issued by the National Assembly. Further, in **A.G** **Federation V. Abubakar,[[25]](#endnote-25)** the Court of Appeal took time to explain the scope and limits of the immunity afforded to the President of the Federal Republic under the Constitution. It is obvious from the court`s pronouncement that summons issued by the National Assembly pursuant to its investigative powers under sections 88 and 89 of the Constitution are excluded. The words of sections 308(1)(c) leave no on one in doubt that section 308 does not extend beyond summons from courts and other judicial bodies. The court said:[[26]](#endnote-26)

*“The immunity under Section 308 of the Constitution prohibits every civil and criminal proceeding against the President, Vice-President, Governor and Deputy Governor notwithstanding and/or regardless of the Court where the prosecution takes place, whether it is before a Court of law established by Section 6(5) of the Constitution or a Tribunal established by Paragraph 15(1) of the Fifth Schedule to the Constitution, with the features of a Court and performing the duties of a Court.”*

Moreover, it appears, the *“Expressio unius est exclusio alterius”* Rule of Statutory Interpretation is relevant here; the rule states that the express mention of one thing in a statute excludes all other things not mentioned therein. This is illustrated by the case of ***R v Inhabitants of Sedgely***.[[27]](#endnote-27) The *“Noscitur a sociis”* Rule appears also relevant; it postulates that “words (used in a statute) have no meaning except in the context they are used".[[28]](#endnote-28) The meaning of an enactment must be ascertained from its text, in light of its purpose and in its context. The legislature must be taken in a statute to have said exactly what it means, and also to mean in a statute exactly what it has said therein. It therefore goes without saying that interpretation of a word or expression must depend on the text and the context. In ***People v. Jefferson***,[[29]](#endnote-29) the California Court of Appeals, 4th District, USA, observed that the role of the courts in construing a statute is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. Also, according to the Court of Appeal of the US state of Indiana,[[30]](#endnote-30) “the first and often last step in interpreting a statute is to examine the language of the statute”.

Indeed, the statutory test should be both the ending point as well as the starting point for interpretation.[[31]](#endnote-31) This is because, words are the skin of the language, while language is the medium of expressing the object that a particular provision or the Act seeks to achieve. Accordingly, to find the real intentions of the drafters of a statute, regard must be had to the context, subject-matter and object of the statutory provision in question. Courts and jurists achieve this by carefully analyzing the whole scope and provisions of the statute or section relating to the word or phrase under consideration.[[32]](#endnote-32) All in all, all approaches to statutory interpretation start (if not necessarily end) with the language and structure of the statute itself.[[33]](#endnote-33) This is because the language and provisions of a statute are the most reliable indicator of the intent of the makers of the statute.[[34]](#endnote-34) Then comes **Thomas Jefferson`s counsel:** “On every question of construction [of the Constitution] let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or intended against it, conform to the probable one in which it was passed.”*[[35]](#endnote-35)*  As pointed out by Oputa, JSC,[[36]](#endnote-36) “here in Nigeria, even under a Military Government, the law is no respecter of person, principalities, government or powers…” The rule of law requires that every person is subject to the ordinary law within the jurisdiction.[[37]](#endnote-37) Rule of law is the predominance that is absolute of an ordinary law over every citizen and institution regardless of status, position, power; the people (including the President of the Federal Republic) must be subject to, ruled by, obey and be accountable to, the ordinary laws of the land.[[38]](#endnote-38)

1. **The Proper Course Open Mr. President Where Mr. President Thinks the National Assembly Lacks Powers to Issue Summons Against Him?**

There must be some mutual respect among the various arms of Government. Although I hold the respectful view that the President is obliged to honour a summons properly issued by the National Assembly pursuant to sections 88 and 89, nevertheless, where the President or his advisers think that the National Assembly has acted ultra vires in issuing summons on Mr. President to appear before, and or to come and address, the National Assembly, on the security situation in the country, the proper course of action open to the President is not to shun the National Assembly or to disregard the invitation/summons. The proper course under such circumstances is to approach a court of law with a request that such actions of the National Assembly or an arm of the National Assembly, be struck down for being an abuse of the powers of the National Assembly under the Constitution. This would show that the Mr. President treats the National Assembly with the respect the latter deserves. In ***INEC v. Musa***,[[39]](#endnote-39) the Supreme Court counselled thus:

*"The supremacy of the National Assembly is subject to the overall supremacy of the Constitution. Accordingly, the National Assembly which the Constitution vests powers cannot go outside or beyond the Constitution. Where such a situation arises, the courts will, in an action by an aggrieved party, pronounce the Act unconstitutional, null and void. See A.-G., Abia State v. A.-G Federation (2002) 6 NWLR (Pt. 763) 264."*

1. **Would Mr. President`s Honouring House Summons Lead to Public Exposure of Classified Security Information**

May I start this segment by respectfully submitting that there appear to be no reasons for us to pre-emptively suppose or conclude that the President honouring the summons issued by the House of Representatives might involve Mr. President in exposing any classified information relating to public security, public defense, public safety or of any matter in respect of which it would not be in the interest of the public to publicly disclose. From publicly available information since December 01, 2020, it appears the sole purpose of the House Summons was/is to get Mr. President to address the House of Representatives on the worsening security situation in Nigeria. I humbly do not see how that would involve Mr. President in publicly disclosing any classified public information. Besides, the House of Representatives asked Mr. President to come and address it, and not to come and take questions from it. So, with due respect, it may be interpreted as speculative and pre-mature for anyone to already conclude that the purpose of the summons is to get the President to publicly disclose classified security information. And, from the President`s response on December 07, 2020, it appears that Mr. President perfectly understood why he was being summoned, and also that it had little or nothing to do with public disclosure of classified security matters; hence, in his acceptance speech, he had gladly offered to address a joint session of the two Houses of the National Assembly, instead of only the House of Representative.[[40]](#endnote-40) Besides, when (that is, if) the President honours the summons/invitation, and after delivering his address to the National Assembly, Mr. President is not under any obligation to answer any questions from any Senator or Honourable Member, if he (the President) thinks such might lead to his disclosing any classified security information. Further, assuming, but not conceding, that honouring the summons would lead to public disclosure of classified security information, one may choose to borrow a leaf from the provisions of section 36 (4) (b) of the CFRN, 1999 relating to how to deal with such a scenario in a court proceeding:

*“if in any proceedings before a court or such a tribunal, a Minister of the Government of the Federation or a commissioner of the government of a State satisfies the court or tribunal that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard in private and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter”.*

Although the National Assembly is not a court of law, there is no harm in borrowing a leaf under such circumstances to exclude members of the public from its proceeding if there is need to take any document or information from Mr. President that may involve public disclosure of such sensitive matters. And just as a court of law reserves powers to exclude members of the public from its proceeding in deserving circumstances,[[41]](#endnote-41) the national Assembly, at the request of the President of the Federal Republic, may just borrow a leaf and do the needful to secure any such sensitive material. The bottom-line is that, the National Assembly members, accredited representatives of the Nigerian people, representatives of the 360 Federal Constituencies and the 109 Senatorial Districts, in Nigeria, are entitled, at their request, to be addressed by Mr. President, and to have detailed/comprehensive updates from the horse`s mouth on the currently worsening security situation in the country. This would additionally place the National Assembly in a better stead to (1) offer explanations to the various constituencies and senatorial districts they represent; and (2) to help the National Assembly to fashion out a better approach to adopt in taming the monster called insecurity in Nigeria: is to make new laws, or to amend existing ones; is it to appropriate more revenue to cut down on amount of revenue being pumped into the crusade against insecurity; is it to create more institutions or to enable or otherwise increase the powers of existing ones; or is it to cover noticed loopholes (if any), including maybe an overhaul of the security apparatus, in order to reinvigorate the war against terror and insecurity.

In summary, therefore it is respectfully submitted that neither the provisions of section 308 of the Constitution nor fear of possibility that classified security information may be publicly disclosed, nor any other fear of the unknown entitles Mr. President to ignore or otherwise disobey a summons validly issued by the National Assembly under sections 88 and 89, CFRN. The Constitution has armed the National Assembly with sufficient (alternative) routes through which any noncompliance with such summons could be punished. But I am happy Mr. President (as reported) accepted to honour the invitation/summons. All in all, it boils down to this famous wise saying: “a place for everything and everything in its place.”[[42]](#endnote-42) In the meantime, speaking generally, and borrowing from Alan Watts, “By replacing fear of the unknown with curiosity we open ourselves up to an infinite stream of possibility. We can let fear of the unknown rule over our lives or we can become childlike with curiosity, pushing our boundaries, leaping out of our comfort zones, and accepting what life puts before us”. Following the counsel that we should learn to do the very thing we are afraid of,[[43]](#endnote-43) Lilian Russel once declared that what one does with that fear is what will make all the difference in the world.

Just thinking aloud, legally.

Respectfully,

Sylvester Udemezue (udems)

08109024556, mrudems@yahoo.com.

**End Notes**

1. *per* Justice Van Devanter, in McGrain v. Daugherty, 273 U.S. 135, 174–175 (1927), cited in [↑](#endnote-ref-1)
2. <<https://guardian.ng/news/insecurity-reps-summon-buhari-over-borno-massacre/> accessed 10 December 2020 [↑](#endnote-ref-2)
3. <<https://guardian.ng/news/buhari-to-address-national-assembly-on-thursday/>> accessed 10 December 2020 [↑](#endnote-ref-3)
4. see: Udemezue, Sylvester, 'The Place For “Kick-Backs” & “Bribes” In Our Efforts To Kick Back Corruption & Kick-Start Responsible Governance In Nigeria (A Legal Opinion)' (The Nigeria Lawyer, 23 October 2018) <https://thenigerialawyer.com/the-place-for-kick-backs-bribes-in-our-efforts-to-kick-back-corruption-kick-start-responsible-governance-in-nigeria-a-legal-opinion-by-sylvester-udemezue/> accessed 10 December 2020.  [↑](#endnote-ref-4)
5. as used in section 88(1)(b) (supra) [↑](#endnote-ref-5)
6. section 88 (1)(b)(i)&(ii) of the Constitution [↑](#endnote-ref-6)
7. See for example, Ojukwu, Ernest Prof., ‘House of Reps has no powers to summon President Buhari under sections 88 and 89 of the Constitution- Prof. Ojukwu’ (BarristerNG, 10 December 2020) < <https://www.barristerng.com/house-of-reps-has-no-powers-to-summon-president-buhari-under-sections-88-and-89-of-the-constitution-prof-ojukwu/>> accessed 10 December 2020. [↑](#endnote-ref-7)
8. S.308 [↑](#endnote-ref-8)
9. Ojukwu, *Op. Cit.* [↑](#endnote-ref-9)
10. See section 308(1) and section 88(1) [↑](#endnote-ref-10)
11. The Guardian, *Op Cit (n ii)* [↑](#endnote-ref-11)
12. section 14(2)(b) CFRN, 1999. [↑](#endnote-ref-12)
13. Section 143(1) (a)&(b) of the CFRN, 1999 [↑](#endnote-ref-13)
14. See also the case of *Inakoju & Ors V. Adeleke* (2007) LPELR-1510(SC), per Musdapher, J.S.C (p. 176, paras. C-E [↑](#endnote-ref-14)
15. Udemezue, Sylvester, ' U.S. president vs. congressional investigators: How the battle of the branches could play out' (University of Pennsylvania) <https://link.springer.com/article/10.1057/s41284-020-00234-6 > accessed 10 December 2020 [↑](#endnote-ref-15)
16. See for example

Buhari ‘Withdraws $462 Million From Excess Crude Account Without National Assembly Approval’ (<https://www.premiumtimesng.com/news/top-news/265969-buhari-withdraws-462-million-from-excess-crude-account-without-national-assembly-approval.html> accessed 10 December 2020) [↑](#endnote-ref-16)
17. Onuoha, F.C. *et al.*, ' Counterinsurgency operations of the Nigerian military and Boko Haram insurgency: expounding the viscid manacle' (Springer Nature Switzerland, 17 February 2020) < https://link.springer.com/article/10.1057/s41284-020-00234-6> accessed 10 December 2020 [↑](#endnote-ref-17)
18. pursuant to section 88 CFRN [↑](#endnote-ref-18)
19. Ogunmokun v. Mil. Admin Ogun State (1999) 5 NWLR (594) 251 and P.P.M.C. Ltd V. Delphi Pet (2005) 8 NWLR (Pt 928) at 458. [↑](#endnote-ref-19)
20. (1999) 9 NWLR (Pt.618) at 187 particularly at 237 para. H [↑](#endnote-ref-20)
21. See also Chevron (Nig) Ltd V. Imo State House of Assembly (2016) LPELR-41563(CA) [↑](#endnote-ref-21)
22. *Ibid* [↑](#endnote-ref-22)
23. *Ibid.* See also Olafisoye V. Federal Republic of Nigeria (2004) 4 NWLR (Pt. 864) 580 at 597; Ogunmokun V. Mil. Admin Osun State (supra), P.P.M.C. Ltd V. Delphi Pet. (supra); SPDC V. Isaiah (2001) 11 NWLR (Pt.723) 179 paras, E- H and 180 - 181 paras, A- E Per Mohammed, Belgore and Wali, JSC (as they were); who held on the authorities of Barry & 2 Ors. v. Obi A. Eric & 3 Ors. (1998) 8 NWLR (Pt. 562) 404 at 416; The SPDCN Ltd. V. Otelemaba Maxon & Ors. (2001) 9 NWLR (Pt. 719) 541, Uwaifo v. A-G. Bendel State (1982) 7 S.C. 124; (1983) NCLR 1; Din V. A-G. Federation (1986) 4 NWLR (pt. 87) 147 and A-G. Lagos State V. Dosunmu (1989) ALL NLR 504 (1989) 3 NWLR (Pt. 111) 352 [↑](#endnote-ref-23)
24. (2010) LPELR-5016(CA) [↑](#endnote-ref-24)
25. (2007) LPELR-8995(CA) [↑](#endnote-ref-25)
26. *Ibid,* Per ABOKI, J.C.A (pp. 22-44, paras. B-D ) [↑](#endnote-ref-26)
27. (1831) 2 B & Ad 65 (UK) [↑](#endnote-ref-27)
28. See Inland Revenue v Frere [1964] 3 All ER 796 [↑](#endnote-ref-28)
29. (1999) 21 Cal.4th 86, 94 [86 Cal.Rptr.2d 893, 980 P.2d 44 [↑](#endnote-ref-29)
30. In Ashley v. State, 757 N.E.2d 1037, 1039 , 1040 (2001) [↑](#endnote-ref-30)
31. See <see:https://www.everycrsreport.com/reports/97-589.html> accessed 10 December 2020 [↑](#endnote-ref-31)
32. Rao, S., “External Aids to Interpretation of Statutes: A Critical Appraisal,” published on ww.ssrn.com, accessed 10 December 2020 [↑](#endnote-ref-32)
33. everycrsreport, Op Cit [↑](#endnote-ref-33)
34. see: People v. Lawrence (2000) (US) 24 Cal.4th 219, 230 [99 Cal.Rptr.2d 570, 6 P.3d 228]; See also Barnhart v. Sigmon Coal Co., 534 U.S. 438, 450 (2002)). See also: Udemezue, Sylvester, 'Role of Internal & External Aids In Statutory Interpretation: A Disquisition On Legitimateness Of “Jurisdictive Discretion”' [↑](#endnote-ref-34)
35. Finkelman, Paul, ‘Encyclopedia of American Civil Liberties’ (Routledge, 2006) <https://books.google.com.ng/books?id> accessed 10 December 20220 [↑](#endnote-ref-35)
36. In Military Governor of Lagos State v. Ojukwu (1986) LPELR-3186(SC) [↑](#endnote-ref-36)
37. Garner, B, In: Black’s Law Dictionary (9th ed., Thomson Reuters, 2009) 1148 [↑](#endnote-ref-37)
38. Geoffrey de Q. Walker, The rule of law: foundation of constitutional democracy, (1st Ed., 1988 [↑](#endnote-ref-38)
39. (2003) LPELR-24927(SC), per Tobi, J.S.C (p. 100, paras. A-C) [↑](#endnote-ref-39)
40. See endnote iii (supra) [↑](#endnote-ref-40)
41. See the CFRN, 1999, s. 36(4)(a). [↑](#endnote-ref-41)
42. Per Benjamin Franklin [↑](#endnote-ref-42)
43. Raph Waldo Emerson [↑](#endnote-ref-43)