

## **POLITICS OF IMPEACHMENT: A CRITIQUE OF THE NIGERIA EXAMPLE**

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### **Abstract**

*The act of impeachment has been used by the Nigeria Legislature as a tool to remove political office holders who are found wanting constitutionally. Thus, the concept of impeachment, in common law, is a proceeding instituted by a legislative body to address serious misconduct by a public official. However, the application of impeachment and its process in the Nigerian context has repeatedly shown to be misapplied or abused, and has continuously remained a misnomer in the Nigerian political space. This work, therefore, looks critically at the abuse of the impeachment process in the political history of Nigeria, which is an impediment to national development, and how to proffer solution to it. It sees the indiscriminate cases of impeachment permeating the political scene as an obstruction to good governance, and thus, misused to foster narrow political affiliations, instead of serving to ameliorate a major problem in the Presidential system, which is to remove poorly performing chief executives. The study made use of the case study approach and documentary method thereby relying on secondary sources to critically examine the eventual reoccurrence of the ugly trend of politics of impeachment in the Nigeria democratic journey with its associated irrational and unreasonable abuse of the process by the stakeholders. The paper makes some recommendations to forestall such unbecoming tirade in Nigeria political arena. Students of law profession, the legislature, the judiciary, historians, and political scientists have a lot to benefit from this study towards the realization of good governance and sustainable democracy in Nigeria.*

**Keywords:** *Impeachment, Politics, Nigeria, Legislature, Office holders, Constitution*

### **Introduction**

Impeachment is regarded as an integral part of the system of checks and balances in a democratic government. In Great Britain the House of Commons serves as prosecutor and the House of Lords as a judge in an impeachment proceeding.<sup>1</sup> In Great Britain conviction on impeachment has resulted in fines and imprisonment and even execution. In the federal government of the United States, the House of Representatives institutes impeachment proceedings by authorizing a formal inquiry by the House Judiciary Committee, which may then recommend articles of impeachment (an impeachment resolution) for a vote by the full House (articles of impeachment may also be introduced in the House without a formal inquiry). If the articles are approved, a trial is held in the Senate, and conviction is obtained by a vote of at least two-thirds of the senators present. In the United States the penalties extend no further than removal and disqualification from office.<sup>2</sup>

A cursory look at the two leading democracies of the world shows that, in England impeachment originated in the 14th century, when it became a means of initiating criminal proceedings based on “clamor,” or outcry. The Good Parliament of 1376 produced the first recognized cases of impeachment, the most important being that of William, 4th Baron Latimer, who had been closely associated with the government of Edward III. Subsequent subjects of impeachment have often been political figures, usually royal

ministers. Latimer's case also marks the point at which impeachment became not merely a means of initiating criminal proceedings but also a method of trial.<sup>3</sup> For the United States of America, Andrew Johnson was the first U.S. president to be impeached. In 1868 he was charged with attempting to remove, contrary to statute, the secretary of war, Edwin McMasters Stanton, with inducing a general of the army to violate an act of Congress, and with contempt of Congress. Johnson was acquitted by a margin of a single vote, the key votes (May 16 and 26, 1868) fell one short of the necessary two-thirds for conviction.<sup>4</sup> In the United States impeachment of public officials is provided for in the federal government and most states. In federal matters, the U.S. Constitution gives the House of Representatives the power to impeach civil officers of the United States, including the President and Vice President, but not including members of congress.

From the study, the Constitution of the United States of America just like its Nigerian counterpart did not define what impeachment means. However, impeachment can be seen as a formal accusation issued by a legislature against a public official charged with crime or other serious misconduct. This implies that impeachment is a means of trial of a public official suspected to have been involved in any act of misconduct. Thus, Nigerian authors, jurists and writer have not been able to reach a consensus on what the word entail, but Oyinloye quoted the attempted definition of impeachment by Mike Ozekhome SAN thus: The word impeachment connotes the practice and procedure by which politically elected person are (sic) constitutionally removed from office by the legislature before the expiration of the tenure of office of such person. It is the modality adopted by the legislative arm of government to bring to an end or prematurely determine the tenure of a person's term of office before its due expiration. It is the most powerful weapon in the hands of the legislature, which stands as a sword of Damocles over other members of the Judiciary and executive.<sup>5</sup>

A lot on impeachment and its associated politics have been written. An article by Offor Maculay Arinze, Eze Christopher and Nwaeze Oliver, entitled, "Politics of Impeachment in Nigeria; A Discourse on Causes and Implications for Democratic Consolidation",<sup>6</sup> narrates in detail the history of impeachment in Nigeria and some of the political causes. Its emphasis and highlights were on the need for reforms of the laws governing impeachment in Nigeria. In another article by Imo Udofa, "The Impeachment Power of the Legislature under the Nigerian and American Constitutions Compared",<sup>7</sup> where he critically examines the nature, procedure and offenses for impeachment under the Nigerian and the American Constitution. An article by Patrick N Oche, "The President and Vice President: Loss of Office because of Removal: Analytical Discourse of Procedure",<sup>8</sup> analytically examines the concept of impeachment, the procedure and the implication of any breach in the procedure of impeachment. However, the work dwells on the impeachment of the President and the Vice President of Nigeria alone. The book by Omololu Fagbadebo, *Impeachment in the Nigerian Presidential System: Challenges, Successes and the Way Forward*,<sup>9</sup> presents a detailed analysis on impeachment in Nigeria, with a comprehensive eyewitness account of impeachment episodes in Osun State in particular. It provides a systematic analysis of the failure of impeachment as an instrument of accountability in Nigeria. Mamman Lawan in the article, "Abuse of powers of impeachment in Nigeria",<sup>10</sup> published in the *Journal of Modern African Studies*,48,(2), examines the powers of impeachment as provided under the Nigerian constitution, which checkmates the excesses of certain executive officers who enjoy the privilege of constitutional immunity against civil or criminal proceedings while they remain in office. The article opines that instead of being invoked in appropriate circumstances, the impeachment processes have been abused. It examines cases of impeachment at the state level during the Obasanjo administration and shows

how constitutional provisions were flagrantly breached. It provides evidence that the federal government was complicit in such cases, even though under the federal structure by which Nigeria operates, impeachment at the state level is exclusively a state business. It argues that the abuses are a symptom of imbalance of power between the executive and the legislature as well as evidence of the limits of constitutionalism in the face of politics. However, while these literatures under review harps on the inadequacy and abuse of the impeachment procedures, this study went further to critically argue for the need to streamline the process and procedure of impeachment and removal of erring public office holders from office and to ensure the autonomy of the legislature in the process free from judicial and executive interference and meddlesomeness. To achieve a credible process of impeachment, real autonomy of the Legislature is paramount and a sine quo non.

### **Concept of Impeachment and Removal from Office in Nigeria**

Impeachment as provided under the Nigerian constitution is a means of checking the excesses of certain executive officers who enjoy the privilege of constitutional immunity against civil or criminal proceedings while they remain in office. The concept of removal from office was first introduced in Nigeria under the provisions of the Constitution of the Federal Republic of Nigeria of 1963, under the parliamentary system of government with the President as the Head of State and the Prime Minister as the Head of Government. The Constitution of 1963 required that before a President is removed from office, a motion for his removal must have been passed by the provisions of Section 38 of the Constitution of 1963.<sup>11</sup> However, in Nigeria, under the 1999 Constitution, what we practice is the concept of ‘removal from office’ and not ‘impeachment’. Although the word impeachment appeared in sections 146, and 191, the main sections which provides for the removal of the President (section 143) and Governor (section 188) did not in any way mention the word impeachment.<sup>12</sup> The concept of removal from offices in Nigeria was distinguished from impeachment by the Supreme Court in the case of *Inakoju and ors v Adeleke and ors*,<sup>13</sup> where the Apex Court held thus: “It is the use of the word “impeachment”. The word is used freely and indiscriminately by the parties. The two courts below also used the expression freely, though not indiscriminately. Where do they get the word in section 183 of the Constitution, I ask? It is clear from the section I have stated above that there is no such word in the section. And so ask once again, where do all counsel and the courts get the word? Section 188 is not so worded. The section covers both civil and criminal conduct. Therefore, the word should not be used as a substitute for the removal provision of section 188 and section 188 procedures should simply be referred to as one for removal of Governor, not impeachment.”<sup>14</sup> The honorable Justice queried and opined.

From the decision of the Supreme Court, it is clear that the word impeachment is not to be used interchangeably with removal from office as they mean different things. This interpretation given to section 188 of the Constitution by the Apex Court, which provides for the removal of the Governor or Deputy Governor, will also apply to section 143 of the Constitution which provides for the removal of the President or Vice President. In other words, the word impeachment should not be confused with removal from office under the Nigerian Constitution, since they are not the same thing. According to Jide Ogunsakin ‘while they are frequently used interchangeably in academic commentaries and legal publications, “impeachment” and “Removal” are(sic) not exactly same’ He went further to quote the dictum of Niki Tobi (as he then was) in *Inakoju v Adeleke*, thus: The word “impeachment” should not be used as a substitute for the removal provision of section 188. The analogy here is that we should call section 188 procedure one of the removals of the Governor, not impeachment. Accordingly, impeachment should not be seen as synonymous with removal from office.

Impeachment is only a process by which a public officer is removed from office.<sup>15</sup> Therefore, constitutionally, the term removal from office applies in the Nigerian context, while impeachment is used in the context of the United States of America.

Impeachment clause was enshrined in Sections 170, [1-11] and 132 (1-11) and Section 143 (1-11) and 188 (1-11) of the 1999 constitutions. These sections state the procedure for the removal of the chief executives at both the federal and state levels. The 1999 Constitution empowers the Chief Justice of the federation and Chief Judge of the state to constitute a seven-man panel of investigation. However, unlike in the Second Republic, the 1999 constitution now assigns a role to the judiciary in the impeachment procedure in the Fourth Republic. This is why impeachment is now regarded as quasi-judicial and political instruments designed to prevent the violation of the Constitution by political office holders. Prior to the recent period and in the Second Republic, the removal of the President or Vice President and state Governor or Deputy was restricted to the business of the legislature. Sections 170(5) and 132(5) of the constitution before its amendment empower the Senate President and Speaker of the House of Representatives to constitute a seven-man committee who in his opinion are of unquestionable integrity to investigate the allegations of gross misconduct level against the President, Vice President, Governor and Deputy Governor.<sup>16</sup>

Impeachment proceedings in the 1999 constitution are not subject to judicial intervention, in order not to prolong the process. However, consequent upon this legal immunity, the legislative arm that is constitutionally saddled with the responsibility has become reckless because of legal preclusion. Without regard to due process, some Governors like, Balarabe Musa (Kaduna State) on May 8, 1981, Rasheed Ladoja (Oyo State), and Peter Obi (Anambra State) States were impeached. Some other states have had riotous attempts to impeach their Governors or Leaders of the Legislature, and some have succeeded in the impeachment (removal) process. Despite legal immunity enjoyed by the legislature in the impeachment proceedings, the two Governors, Rasheed Ladoja and Peter Obi challenged their impeachments in courts and were reinstated.

### **Concept of Politics**

Politics in Nigeria as elsewhere refers to the struggle and quest for power; it is that process of controlling the authority to distribute the values of society as the supreme arbiter, and the process and institutions for seeing “who gets what, how and when”<sup>17</sup>, from Nigeria resources and assets. Therefore in political Nigeria, one expects the presence of conflict, some pursuit of the common good, conflict of group interest, use of power, and struggle for power, all within the dictates of fairness and justice. According to E.C Banfield, politics, always involves the use of, or struggle for power. Politics denotes “those considered process of human action by which conflict concerning on the one hand, the common good, and on the other hand, the interest of the group, is carried on or settled”.<sup>18</sup>

Politics of impeachment becomes necessary since the electorate also needs to check the powers given to those they have elected into positions of authority. Also, the concept of checks and balances made it possible for different arms of government to check the others from misuse of governmental powers. This ensures that public officers do not perform their duties according to their whims and caprices but rather according to the laid down responsibility within the ambit of the law. Thus, the idea of impeachment developed in many democratic societies of the world due to the desire to abolish the absolute power of man and also to checkmate his arbitrariness. According to Professor Ben Nwabueze, ‘concentration of government powers in

the hands of one individual is the very definition of dictatorship and absolute power is by its very nature capricious and despotic.’<sup>19</sup>

### **Selected Examples of Impeachment Cases in Nigeria**

The first formal impeachment case recorded in Nigeria was in the Second Republic. On June 23, 1981, when Governor Abdulkadir Balarebe Musa of Kaduna State of Peoples Redemption Party (PRP) was impeached. The Governor was impeached under section 170 (3) of the Constitution of the Federal Republic of Nigeria 1979. Musa later said he was impeached because he planned to have the state open small- and medium-sized industries, and this would deny the NPN members the opportunity of establishing their enterprises.<sup>20</sup> However, he was unable to form a cabinet before he was impeached and eventually handed over to Alhaji Abba Musa Rimi.

The period 2003-2007, during the second tenure of President Olusegun Obasanjo witnessed the highest rate of impeachment in the history of Nigeria as a nation. It was characterized by the impeachment of many Governors and Deputy Governors as well as the leadership of both the National and State Houses of Assemblies. The then Governor of Bayelsa State, Diepreye Alamieyeseigha was impeached as the Executive Governor on December 9, 2005 on alleged corruption which includes, theft of public funds, abuse of office, and money laundering.<sup>21</sup> The Executive Governor of Oyo State, Rashidi Adewolu Ladoja was impeached on January 12, 2006 by 18 Lawmakers of the State House of Assembly. However, he was reinstated on December 12, 2006, after the Court of Appeal sitting in Ibadan nullified the impeachment on November 1, 2006.<sup>22</sup> Elected in April, 2003, by August 2004, Ladoja and Adedibu, his sponsor were locked in a fierce struggle over allocation of government appointees, and also as he said that he was impeached because he told former President Olusegun Obasanjo that he was not qualified for a third term in office, all these culminated to his impeachment. Governor Ayo Fayose of Ekiti State was also impeached on October 16, 2006, on alleged mismanagement of public funds and serial killings.<sup>23</sup> Peter Gregory Obi of Anambra State was impeached as the Executive Governor on November 2, 2006 on alleged gross misconduct. Peter Obi said he was impeached for refusing to inflate the state budget.<sup>24</sup>

Joshua Dariye, in turn was impeached as the Executive Governor of Plateau State on November 13, 2006 on alleged siphon of public fund and money laundering in Overseas (London).<sup>25</sup> While on August 14, 2009, Garba Gadi, was impeached as the Deputy Governor of Bauchi State. This was as a result of the lingering face-off between Bauchi State Deputy Governor, Alhaji Mohammed Garba Gadi and Governor Isa Yuguda over the blunt refusal of the deputy to decamp with the governor to Peoples Democratic Party (PDP) from the AllNigeria Peoples Party (ANPP).<sup>26</sup>

The impeachment of the Deputy Governor of Bayelsa State, Mr. Peremobowei Ebebi in 2010, who had been involved in the politics of impeachment three times before he was himself impeached made his case remarkable because he had previously on three occasions been a beneficiary of impeachments. There were ten count charges among which he was convicted on nine by the State House of Assembly, which one was that Rt. Hon. Ebebi without regard to the dignity of his exalted office, openly fought with the then caretaker committee chairman of Ekeremor Local Government Council, Chief Ben Robert Eyorokumoh and shot him with a gun thereby causing him grievous bodily harm.<sup>27</sup> Murtala Nyako, then the Executive Governor of Adamawa State was impeached on July 15,

2014 on alleged corruption which included theft of public funds, abuse of office and money laundering.<sup>28</sup> The Deputy Governor of Enugu State, Sunday Onyebuchi was on Tuesday August 26, 2014, impeached. The Assembly accused Mr. Onyebuchi of operating a commercial poultry at his official residence and of disobeying Governor Chime, charges that, under the law, do not qualify as impeachment offenses.<sup>29</sup>

In April 27, 2015, on a Monday, the Deputy Governor of Ondo state, Ali Olanusi was impeached exactly one month after he defected from the People's Democratic Party (PDP) to the All Progressives' Congress (APC). In the world of Ondo politics as it was made to understand, leaving the party of the governor amounted to gross misconduct.<sup>30</sup> However, on Friday March 17, 2017, the Appeal Court sitting in Akure, the Ondo State capital nullified the impeachment. Eze Madumere, the Deputy Governor of Imo State was impeached in 2018. The impeachment of the Deputy Governor of the state, Eze Madumere, which was carried out by the members of the state House of Assembly on July 31, 2018, however, was later in Tuesday September 25, 2018 declared illegal, inconsequential and of no constitutional backing by Justice Benjamin Iheaka in a landmark ruling.<sup>31</sup> The jurist flayed the then Chief Judge of the state, Paschal Nnadi, and the Attorney-General of the state, Militus Nlemadim, for not adhering to the provisions of Section 188 (5) of the 1999 Constitution as amended in the impeachment proceedings against Madumere. According to Madumere, "My crime was that I said no to anti-people's policies and it has been intimidation and threats all this while". However, he was accused of abandoning his duties and refusing to carry out assignment given to him by Governor Rochas Okorocho.<sup>32</sup>

The Deputy Governor of Kano State Prof. Hafiz Abubakar on August 6, 2018 sudden resigned as a result of the planned commencement of impeachment process against him on that same day by 31 members of the state house of assembly.<sup>33</sup> In the letter he explained to the Governor that he had made all efforts by drawing the Governor's attention to issues that would avoid drifting into unnecessary crises the state was facing but all to no avail. Prof Abubakar claimed as part of his reason for resigning that the state governor was disrespectful of the office of the Deputy Governor, as well as several injustices against him. In the resignation letter dated August 5, 2018 and addressed to Abdullahi Ganduje, the State Governor, he said he was resigning as a result of "irreconcilable differences" between them.<sup>34</sup> This came to play out because Prof. Abubakar was seen as an ally of Rabiu Musa Kwankwaso, the former governor of the state who as at that time dumped the All Progressives Congress (APC), and returned to the Peoples Democratic Party (PDP). In Kogi State, the Deputy Governor, Simon Achuba, who had fallen out with Governor Yahaya Bello was also impeached on Friday October 18, 2019 by state lawmakers. Years into the Bello's administration, Achuba was reported to be engulfed in a disagreement with the governor, an issue which escalated with both sides trading blames. Earlier in August 2019, Achuba raised an alarm of an alleged threat to his life and accused his principal of intolerance of contrary views. He also criticized the administration for non-performance, claiming that was the reason for the rift between him and Governor Bello. Consequently, the issue got worsened days later as the State Assembly announced that it had commenced impeachment proceedings against the Deputy Governor for criticizing the governor.<sup>35</sup>

In February 2022, Mahdi Aliyu Gusau, the Deputy Governor of Zamfara State was impeached by the state Assembly after refusing to decamp to the APC with Governor Bello Matawalle. His refusal of to join the Governor to become APC member was his offence, and to the Governor and the state lawmakers it was an impeachable offence.<sup>36</sup>

In July 18, 2022, members of the Oyo State House of Assembly impeached the deputy governor of the state, Rauf Olaniyan, who defected from the PDP, the ruling party in the state, to the APC. Olaniyan defected just when the governor, Seyi Makinde, was trying to ward off the challenge of the APC in his bid for a second term. For Governor Makinde, what his deputy did was nothing short of gross misconduct and therefore an impeachable offence despite the glaring selfish political attachment the impeachment move connotes.<sup>37</sup> We also recall in September, 2023 the ordeal of the Deputy Governor of Edo state, Phillip Shaibu, who had to be disgraced publicly and thrown out of his office for just daring to dream to be governor. His offence why an impeachment move was muted against him was his intention to contest the governorship election of next year 2024 in the state, though the impeachment never happened.

The Deputy Governor of Ondo State, Lucky Aiyedatiwa, was on the verge of being impeached if not for various interventions from the APC party hierarchy including mediation from President Bola Tinubu in November, 2023. However, despite all the various levels of APC party mediation, the speaker of the Ondo House of Assembly went on again and asked the Chief Judge of Ondo State, Olusegun Odusola, to set up a panel to investigate the deputy governor for 14 offences, which the lawmakers believe amount to gross misconduct. These include speaking ill about the governor's health and causing division among the state executive members. It was the court that stopped Ondo Lawmakers from removing Ajayi from office and finally the intervention of President Tinubu that struck the armistice truce that finally brought the impeachment matter closed with the withdrawal of the impeachment charges by the Lawmakers.<sup>38</sup>

Obviously, the constitutional provision detailing especially why and how Governors or Deputy Governors can be removed from office has been abused by State Assemblies over the years. Without doubt impeachment has been used to settle political scores, which is not the objective of the constitution with reference to Section 188 of the 1999 constitution as stated earlier and above, which is clear on the impeachment procedures and process. This suggests that gross misconduct is whatever the Lawmakers say it is. This is exactly why the process has been abused over the years by various State House of Assemblies, while the country watched helplessly.

### **Critical Issues Surrounding Politics of Impeachment in the Nigeria Context**

In the absence of a concrete precedent of the judicial review of impeachment proceedings, the Nigeria politicians especially, the Fourth Republic continued to indulge in the abuse of the constitutional provisions that stipulate the removal of the heads of the executive branch of government by the legislature. Sections 143(1–11) and 188(1–11) of the 1999 Constitution of the Federal Republic of Nigeria, clearly stipulate the procedures for the impeachment of the President/Vice-President and the State Governor/Deputy-Governor, respectively. However, in brazen disregard of adherence to the procedure set out by the provision, the legislature has removed some governors. However, recourse to the court for adjudication reaffirmed the intendment of the drafter of the constitution with profound judicial pronouncements. The judicial review of the various cases strengthened the provisions of the constitution relating to the exercise of legislative oversight power of impeachment. The judiciary laid to rest the misinterpretation of the ouster clause in the provision and set out the due process for the removal of the political heads of the executive branch. Through judicial review, the court nullified different cases of impeachments that were carried out in the breach of the extant provisions of the constitution. One of the characteristic features of patron-client politics is the

promotion of personalized interests and desires of the political elite, with its consequential effects on the respect for the rule of law. This is the bedrock of the incessant breaches of the constitution by the people empowered to uphold it. Nevertheless, active judicial intervention in the impeachment cases in Nigeria has increased the level of system affect, a necessary ingredient for democratic stability.<sup>39</sup>

Politics in Nigeria is still associated with the Hobbesian state of nature, where might is right; and consequentially, instability and restlessness are the two distinguishing features of the Nigerian state. Oppression and the use of brutal force have remained instruments of political coercion in a democratic system that should guarantee equality and respect for human dignity. The powerful people in society often have their ways to access political patronage at the expense of the public interest. Godfatherism or patron-client politics, to all intents and purposes, has remained a formidable political instrument of domination by a few individuals who, through the manipulation of rules, seek to advance personal interests at the expense of the public. The overbearing influence of few powerful political elites, who have dominated the control of the process of government or the machinery of government, especially in the exercise of legislative power of impeachment has become worrisome and detrimental to the brand of democracy practiced in Nigeria. Accordingly these powerful few have inverted the rules associated with the practice of the presidential system.<sup>40</sup>

Some Appellate Courts in Nigeria have tried to restore sanity by upturning the decisions that arose from the abuse of impeachment process in the Legislature. For instance, as noted above an Appeal Court sitting in Ibadan, Oyo State on November 1, 2006 ruled that former Governor of Oyo State, Rasheed Ladoja's removal from office via impeachment was unconstitutional, null and void and ordered immediate return to status quo. By the ruling, Rasheed Ladoja was restored as governor of Oyo State. This highlighted the shoddiness of impeachment proceedings in Nigeria. Likewise the Appeal Court sitting in Akure, the Ondo State capital nullified the impeachment of the former deputy governor of the state, Alhaji Ali Olanusi, citing abuse of the impeachment process. The court held that the impeachment of Olanusi was not by the provisions of the 1999 Constitution and he was not given a fair hearing. In the same vein, H.E Peter Obi (Anambra) also challenged his impeachment in court and was reinstated by the Supreme Court in February 2007. Others like, Joshua Dariye (Plateau) was reinstated by the Supreme Court in April 27, 2007; In December 16, 2016, Murtala Nyako's (Adamawa) removal was reversed by the Supreme Court but not reinstatement but all his entitlements asked to be paid to him from time of removal till date; Eze Madumere's (Imo) removal was also declared null and void on September 25, 2018, though no reinstatement, but all his entitlements were to be paid.<sup>41</sup>

The argument revolves around the fact that the abuses are a symptom of imbalance of power between the executive and the legislature, hence the Legislature invariably do the biddings of the Governor (Executive) by coercion or compulsion. Of course the Legislature receives its monetary allocation through the approval of the Executive and so could be denied or starved as a punishment for refusing to do the Executive want. Again, the Nigeria example is an evidence of the limits of constitutionalism in the face of politics. Section 188 of the constitution is flawed, particularly those clauses that define 'gross misconduct', because these clauses are not well streamlined which allowed the use of legislative power to flout and breach the constitutional provisions. Many a times, the judiciary pronounced that these clauses are mischievously misconstrued by the political elite as well as their accomplices in the judiciary, in order to enable the application of the law for selfish political purposes.



The various institutions established to check-mate corruption, the Economic and Financial Crime Commission (EFCC), and the Independent Crime Practices Commission (ICPC), are not helping matters. The EFCC especially are reported to be selective in their fight against purported corrupt politicians, which made them close eyes on certain politicians leveled with corruption allegation, while some others who were not in the good book of the ruling government were subjected to scrutiny. The lopsidedness with political connotations in fighting corruption is an absurdity which was referred to as 'EFCC fast-track impeachment'.<sup>42</sup> Purported offences used against one politician, who is not in government good book, are turned blind-eyes to when favored politicians are found committing same or more grievous offences. Thus, the constitutional provision of impeachment is not used, in practice, to promote good governance in Nigeria.

### **Summary and Conclusion**

The study explores the politics associated with the exercise of the legislative power of impeachment as intended by the drafters of the Constitution in Nigeria. It tries to interrogate the exercise of the power of impeachment regarding the intended purpose and examines its failures in the cases of impeachment in Nigeria. It notes the interplay of power in the governing institutions in Nigeria's political system among the elites within a political structure and otherwise. Thus, the process of impeachment in Nigeria is marked with political oddities.

The concept of Impeachment or Removal from office of any public officer should strictly serve as a penalty for failure and incompetence and nothing more. It should not be shrouded with political connotations that smacks of scoring cheap selfish political gains of unscrupulous Patron-client and political gladiators, to the detriment of the society at large, who doesn't benefit from such shenanigans. Impeachment proceedings as experienced in Nigeria could lead to serious Constitutional crises, because trends and events that surrounded the various impeachment saga seemed to erode the efficacy of Nigeria's foundational democratic institutions, like her judiciary, legislature, and the ground norm. Therefore, the use of impeachment as a veritable tool for control or change, to check-mate under-performing or autocratic political executives has been rendered ineffectual in the Nigerian case. This has also helped in making the Nigeria President and Governors, among the most powerful chief executives in any political setting. Practically, they seem to enjoy unlimited power as against what was theoretically and constitutionally written as democratic safeguard for checks and balance among the three arms of government.

Undemocratic political activities in Nigeria have not helped in creating an enabling environment for enlightenment and education for democratic citizenship to the benefit of all, especially to students of law profession, historians, social and political scientists, who have called for strengthening of the impeachment process. Thus, apart from the Fundamental Human Rights and Privileges, which most Nigerians in the rural areas have come to know about, education for democratic citizenship, which focus on democratic rights and responsibilities, and active participation in other aspects of life, has evidently not received proper attention in Nigeria, especially in the area of political participation. Most citizens see the impeachment process as a charade, considering the process and outcome of such in the past. Despite committing what was considered as a tangible impeachable constitutional offense by some of the chief executives, they were not removed due to lacuna in the impeachment process or in the extant law. This calls for streamlining the enabling laws to remove any atom of ambiguity in the process.

For example, President Buhari neglected the Principle of the Federal Character as enshrined in the Nigeria Constitution all through his eight years tenure (2015-2023), in the appointment of federal officials, Buhari was not challenged. Buhari did not bother despite acting against the provisions of the Constitution, because as President he could maneuver impeachment proceedings initiated against him with ease through political highhandedness. Therefore, Nigerians were not allowed to freely participate in the political process. Instead of pursuing the wishes of majority of the electorate, the Legislators were rather after their own selfish gains. What becomes an impeachable offense is only what suits the Legislators, not minding what the Constitution stipulates.

### **Recommendations**

The study recommends the need to amend Sections 143 (1-11) and 188 (1- 11) of the 1999 constitution to strengthen due process in order to avoid frivolous impeachment. The constitution needs to be amended to narrow down what amounts to gross misconduct as it relates to the impeachment of public officers. So that that gross misconduct should not be whatever the Governor or Lawmakers say it is. There have been wide spread abuse of impeachment powers given to the legislature, if not that in most circumstances the judiciary intervened to nullify their verdict. Therefore, the independence of the Judiciary should be maintained, both in practice and theory. Likewise the independence of the Legislature seems to be hijacked already by the Executive, but must be restored to ensure proper checks and balance as the constitution stipulates.

Nigeria should have a rethink on the Presidential system of government being operated now. If we were to be operating the Parliamentary system, a simple motion of no confidence alone could remove a government from power. The Parliamentary system promotes good governance, it also operates with few personnel, costs less, with faster and quicker decision making process. The Parliamentary system of government reduces friction and creates friendship and cooperation within the polity. Whereas, the Presidential system of government protects and hides the incompetency of the President and acts of divisiveness, witnessed mostly under Buhari's Presidency. Thus, the Presidency became personified and took over the work of the President, where any member of the Presidency, Special Assistants included could give out order and directives, which the President himself have no clue of as it turned out to be later. Education for democratic citizenship must be encouraged in Nigeria, as it is all encompassing in the civic, legal, cultural, social, economic, and political aspects of human life. This will enable Nigerians to have the understanding, skill, knowledge and help in shaping their attitudes and behavior towards exercising and defending their democratic rights and responsibilities in a diverse society. In other words, Nigerian citizens could actively participate in the growth, promotion and protection of democracy and the rule of law. Their nonchalance in political affairs has encouraged the political elite to continue to operate with impunity. As a popular saying opines, the spirit of democracy cannot be imposed from without. It has to come from within. If Nigerians should look on and do nothing, it will rather worsen the bad situation, hence the need for all to get involved and participate actively to get the political system right, because unjust impeachment process is a threat to democracy.

Nigeria is evidently lacking in the aspect of education for democratic citizenship. As a result many Nigerians have lost interest in what they see as "politics" and in elections. They felt shortchanged by political parties and their political representatives, who are only interested in selfish gains. But many Nigerians are very interested in the world around them, for example, many follows political trends and events in the countries of Europe and U.S.A, while they

remain nonchalant towards politics and governance in Nigeria. Therefore, deliberate promotion of education for democratic citizenship can help to return people's interest and influence in the society. This will rekindle massive participation in politics and democracy by citizens, especially women who do not have the chance to vote or get involved in society because they come from a background where men dominate. With appropriate enlightenment, people with disability and older people may no longer be impeded because it is harder to get their voices heard. This will return confidence in governance and create an enabling environment for national development.

Sanitizing the impeachment process in Nigeria's political system will help to checkmate corruption and economic crime in the polity. Money laundering and that of carrying money in Ghana-must-go bags to influence or buy-over legislators will be reduced and subsequently eradicated, if due process is followed in the impeachment proceedings. Adherence to due process will also make the chief executives to know that it is no longer business as usual, and therefore, keep to the rule of law. Thus, money laundering and other corrupt practices are threat to the rule of law, their reduction or eradication will strengthen the rule of law, to ensure that "nobody is above the law", which will enhance equity, fairness, and justice for all.

This work notes that legislators often manipulate the impeachment process to further their self-interest and undermine elected chief executives, however, the most common threat to democratic survival in Nigeria does not originate in legislatures, but in the executive branch. The concentration of power in the hands of the executive has undermined democracy and national unity in Nigeria. That has led to the subjugation of both the legislature and judiciary by the executive. Therefore, there is urgent need to maintain practical separation of power among the three arms of government. Results also shows that not even political party ideological struggles, rather strong personalities' ideological struggles often prevail above legal considerations during the impeachment process in Nigeria. Hence, a basic tension between law and politics in impeachment efforts. This work therefore, recommends that relevant institutions should be assigned institutional roles to balance those pressures. This will strengthen national institutions rather than creating strong individuals.

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