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Impeachment and Challenges of Democratic Consolidation in Nigeria's Fourth Republic

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Abstract

The 1999 Constitution of the Federal Republic of Nigeria (as amended) identifies 'gross misconduct' in the performance of the functions of the office as the primary condition that may warrant the impeachment of elected members of the executive. Since the inception of Nigeria's Fourth Republic in 1999, the legislative arm of government at both the federal and state levels have used the power of impeachment on the executive on many occasions. However, most of the impeachment cases have led to controversies regarding their propriety. This study probed the impeachment saga in Nigeria's Fourth Republic with the view of ascertaining their effects on its fledgling democracy. This study utilised data sourced from secondary sources such as textbooks, journals, newspapers, television, and the internet. The study found that the legislature has grossly abused the power of impeachment to promote selfish interests without adhering to the due process of law. It identified, among others, the crisis of confidence between the executive and members of the legislature, the battle for supremacy between the federal and state executives, the crisis between the executive and godfathers mostly at the state level, the intrigue of opposition political parties and the succession crisis as the main reasons for impeachment in Nigeria. Its effects included political violence, bickering among members of the legislature, rising cases of trumped-up charges against political office holders, and leadership crises. The study recommended that apart from the legislature operating strictly by the provisions of the constitution, what constitute "gross misconduct" should be explicitly stated in the constitution. Similarly, there is a need for a judicial review of the impeachment process.

Keywords: democracy, Nigeria's Fourth Republic, gross misconduct, impeachment, legislature

Introduction

Democracy has become the most acceptable system of government all over the world. Most countries are now democratic or claiming to be so except for a few nation-states. Part of the reasons for this global spread and acceptance of democracy can be attributed to its advantages over other systems of government. Though highly desired, democracy contains some paradoxes whose reconciliation is often difficult (Diamond, 1993).

Nigeria's first attempt at democratic rule after the attainment of independence lasted for six years (1960-1966) before the incursion of the military into its political space. The second era, inaugurated in 1979, barely survived four years before it was terminated in 1983 through a military coup. The military that took over the government in 1983 could not return the country to a civilian rule before a palace coup in 1985 that ousted it. The General Ibrahim Badamosi Babangida administration that came into being in 1985 commenced on a transition programme to civilian rule. Unfortunately, the journey to the third attempt at establishing civilian rule collapsed under invidious forces because the military junta of the day annulled the 1993 presidential poll which was considered to be the freest and fairest election ever conducted in the political history of Nigeria (Obi-Ani & Obi-Ani, 2010). The annulment brought another stretch of military rule which, due to much rejection and backlash from the international community, set up a process of transition which brought about another era of democracy which eventually culminated in the return to civilian rule on May 29, 1999.

The euphoria that greeted the restoration of civilian rule in 1999 locally and internationally started waning as a result of a series of issues and challenges which included threats and the impeachment of elected members of the executive and the legislature (Omotoso, 2013). The term 'impeachment' became popular in the political glossary of the Nigerian State by virtue of the 1979 constitution that was adopted in the Second Republic, that is between 1979 and 1983, after jettisoning the bicephalous executive system that was practised in the First Republic, that is between 1960 and 1966. The 1979 constitution was modelled after the American constitution and it made provision for the removal of the president or vice president and the governor or deputy governor. Since 1979, no president or vice president has been successfully impeached. However, the same cannot be said for the governors and deputy governors at the state level. The states have been the epicentres of impeachment, particularly since the commencement of the Fourth Republic in 1999. Many state governors

and many deputy governors have been impeached. Aside from this, impeachment has taken place in the legislative arm of government both at the federal and state levels.

These impeachments, without a doubt, have multiple effects on democracy. This paper examines the impeachments at the state level in Nigeria with the view to ascertaining their effects on the consolidation of democracy. In doing this, apart from this introductory segment, the remaining part of this paper is divided into four sections. The first focuses on conceptual and theoretical issues, while the second focuses on the phenomenon of impeachment in Nigeria. The third section analyses the effects of impeachment on democratic consolidation in Nigeria, while the fourth contains the conclusion.

Conceptual and theoretical issues

This section is dedicated to discussing conceptual and theoretical issues. Hence, impeachment, democracy, and democratic consolidation are reviewed. This section also contains the constitutional framework of impeachment at the state level under the 1999 constitution of the Federal Republic of Nigeria. It is the constitutional framework for the impeachment of the governor and the deputy governor that is used as a framework of analysis in this study.

a. Impeachment

Impeachment is an act by a legislative arm of government calling for the removal of a public elected official from office (Black's Law Dictionary, 1990). It is to accuse a public official of wrongdoing while in office. The process is mostly accomplished by presenting a written charge of the official's alleged misconduct (Lawan, 2010). In the Nigerian context, successive Nigerian constitutions since 1979 see impeachment as the removal of the president or the vice president, the governor or the deputy governor from office based on allegations of gross misconduct. It is usually based on what is commonly referred to as impeachable offences. Section 143 of Nigeria's 1999 constitution makes provision for the impeachment of the president and the vice president and section 188 of the constitution focuses on the impeachment of the state governor and the deputy governor (The 1999 Constitution of the Federal Republic of Nigeria).

The architects of the 1999 constitution considered the rule of impeachment necessary because legal proceedings cannot be instituted against the president, vice president,

governor or the deputy governor because they enjoy immunity as provided by section 308 (1 a-c), (2), (3) which is collectively referred to as the "The Immunity Clause". The essence of the Immunity Clause is to prevent distraction of the executive by unnecessary litigations. In both sections of 143 and 188 of the 1999 constitution, the procedure for the removal of the executive at the federal level (president and vice president) and state level (governor and deputy governor) is exclusively stated. However, the astounding reason for impeachment is "gross misconduct" which, according to section 143 subsections 1-11 and section 188 of the 1999 constitution of Nigeria, refers to a grave violation of the provisions of the constitution or any act of misconduct which, in the view of members of the legislature either at national or state level, amounts to gross misconduct (The 1999 Constitution of the Federal Republic of Nigeria).

Impeachment is one of the primary means available to the legislature to check the executives. It is the process of formal charge of wrongdoing and not the actual conviction of the wrongdoing. It is merely the formal process for charging the president or vice president, governor, or the deputy governor for possible official wrongdoing. After the conviction, the executive could be removed from office and could face separate criminal charges, if warranted. Usually, the impeachment process comprises two stages -the stage of development of a formal charge (accusations are heard and investigated at this stage) and the stage of formal consideration of the article of impeachment (this stage is more or less a trial stage with all parties concerned calling witnesses) (National Conference of State Legislatures, n.d).

b. Consolidation of democracy

Before delving into a discussion on the consolidation of democracy, it is necessary to have a clear understanding of what is meant by democracy. We need to state as a point of departure that there is a rich literature on democracy, particularly those stressing on its essential features such as participation, rule of law, transparency, and accountability. For instance, Joseph Schumpeter (as cited in McElhenny, 2004) sees it in terms of the institutional arrangements for the political decision-making process which involves the active participation of individuals through a competitive struggle for the people's vote. Schumpeter's definition suggests that no individual in society or state can lay claim to being a representative of the people without passing through the test of elections. Similarly,

Pogoson's views on democracy corroborate that of Schumpeter. She advances the view that democracy is based on the principle that public decision making is carried out by the citizens (Pogoson, 2010). This means that the citizens must not just be entitled to, but must also be enabled to participate in public decision making.

Martin Lipset sees democracy as a form of government that stipulates how leadership should be designated at the highest national level in a nation-state (Lipset, 1960). Lipset's definition not only summarises what democracy is but lists its basic features such as a minimum level of freedom of speech, freedom of the press, freedom of organisation and assembly. Over the years, various writers have relied on the minimalist conception of democracy articulated by Robert Dahl who sees democracy as being characterised by free, fair and frequently conducted elections, universal adult suffrage, freedom of association as well as expression, access to alternative sources of information and the control of government decision by elected officials (Dahl, 1971). The freedom of organisation option of democracy is articulated by Robert Dahl. He sees democracy as characteristic of organisation and assembly.

Despite the multiplicity of the conceptions of democracy, there is an agreement amongst scholars that the features of democracy include the following: participation of the citizens in the governance process, rule of law, transparency, and accountability (Schmitter & Karl, 1991; Mezey, 2008). In a democracy, the method for attaining power is usually through an election. Moreover, the power, duties, and responsibilities of each arm of government are spelt out in the constitution. Succinctly put, in a democracy, it is the constitution that stipulates the functions of each organ of government and equally defines the relationships that exist among them.

c. Democratic consolidation

Having explored what democracy entails, it is important to discuss what is meant by democratic consolidation. Democratic consolidation is the process of securing new democracies, making them withstand dictatorial tendencies as well as building mechanisms against their reversal (Schedler, 1998). In the literature, different parameters have been outlined as indicators of a consolidated democracy. One such influential parameter is

longevity. Democracy is seen to have been consolidated if it remains uninterrupted over an extended period and, as argued by Przeworski, is the “only game in town” (Linz & Stepan, 1996:5). Thus, as argued by Ojo (2006), democracy is strengthened when it becomes so clearly, broadly, and profoundly legitimated among its citizens that it is unlikely to break down. The views expressed by the Schedler (1998) suggest that democratic consolidation transcends the longevity of political regimes. It encompasses political concerns such as its acceptance as the best form of government and the recognition of civilian authority over the military. Democratic consolidation also entails economic concerns such as poverty alleviation and stabilisation of the economy (Schedler, 1998).

As noted earlier, democratic consolidation is not limited to the enthronement of a civilian in the position of leadership through elections. Instead, it is about its institutionalisation, that it becomes a way of life in such a way that political actors consider it better than other forms of government and are ready to fight against its diminution (Linz & Stepan, 1996; Schedler 1998; Schedler, 2001). It involves all elements that would allow democracy to flourish.

Schedler (2001) provides parameters that can be used to identify a consolidated democracy. These include, first, the behavioural disposition of political actors in which political actors and players conform to the game of democracy and refrain from anti-democratic behaviour. This invariably means that once they deviate from the rule of the game, there is a danger to democracy. Some of the undemocratic behaviour listed included the use of violence in settling political grievances, the assassination of political competitors, and attacks against liberty, physical integrity, and property of political adversaries (Schedler, 2001). Others are the rejection of election results and the transgression of authority, that is, not adhering to the rule of law. The implication of this view expressed by Schedler (2001) is that the degree to which the citizens refrain from aforementioned undemocratic behaviour measures the degree at which democracy is being consolidated.

Secondly, Schedler (2001) identifies the attitudinal foundation of democracy which measures the attitude the political elite and citizens have towards the survival of democracy. The third is the structural foundation of democracy. These measure the degree to which socioeconomic factors may affect democracy. In this sense, the economic wellbeing of a country becomes the deciding factor of the consolidation of democracy. In simple terms,

democracy cannot flourish in a society suffering from abject poverty. Thus, socio-economic conditions, social inequality and poverty may destabilize the minimum requirements necessary to exercise the equal rights that are constitutive to democratic citizenship. Also, institutional factors influence democratic consolidation to a considerable extent. Institutions refer to a set of rules that may promote or diminish democracy (Schedler, 2001).

Framework of analysis

To fully understand the dynamics of impeachment in Nigeria's Fourth Republic, this study relies on the provisions of the 1999 constitution of the Federal Republic of Nigeria on impeachment as a framework of analysis. As noted earlier, the various successful impeachment exercises under consideration occurred at the state level. Hence, the focus is on the provisions relating to the impeachment of the governor and the deputy governor of a state.

Section 188 (1) - (11) stipulates steps for the removal of the governor or the deputy governor of a state. These steps are as follows. There must be an allegation in writing against the governor or deputy governor. Such an allegation which must be signed by at least one-third of the members of the House of Assembly must be addressed to the speaker stating that the holder of office in question is guilty of misconducts while performing the functions of his or her office. The speaker, within seven days of receiving such a notice, shall ensure that the officeholder and other members of the House are served with such a notice. The reply to the allegation shall also be served to all members of the House.

Within fourteen days of serving the notice of allegation against the officeholder, the House shall resolve by a motion whether to investigate the allegation or not. The allegation shall be investigated if at least two-thirds of the members support the motion. Within seven days of passing a motion to investigate the allegation against the officeholder, the Speaker of the House Assembly shall request the Chief Judge of the state to set up a panel of seven persons who are not public servants and are not members of a political party, but who in his opinion are of unquestionable integrity. The officeholder has the right to defend himself or herself or be represented by a legal practitioner.

The panel is expected to submit its reports within three months to the House of Assembly. If in the report, the allegation is not proven, then the House of Assembly will discontinue the proceedings, but if the holder of office is indicted by the report of the panel, then within fourteen days, the House shall consider the report. If, by a resolution of the House, the report of the panel is supported and adopted by at least two-thirds of its members, then the office-holder shall stand removed from office from the date the report was adopted.

The constitution in section 188, subsection 10 stipulates that no proceedings of the panel or the House of Assembly shall be entertained or questioned by the court. The 1999 constitution, in section 188 subsection 11, defines gross misconduct as a grave violation or breach of the provisions of the 1999 constitution or a misconduct of such nature which amounts, in the opinion in the House of Assembly, to gross misconduct (The 1999 Constitution of the Federal Republic of Nigeria).

From the preceding provisions, the foremost reason for impeachment must be based on gross misconduct which must be signed by at least one-third of members of the State Assembly. Second, the necessary steps to be taken by Speaker of the House of Assembly are clearly stated. Third, the task of impeaching the governor or deputy governor is assigned to the legislature. Hence, it is one of the oversight functions of the legislature designed to curb the excesses of the executive and to ensure good governance. Fourth, the judiciary is not assigned any role in the process. The constitution expressly states that the courts shall entertain no proceedings or determination of the panel (Oni, 2013). However, this provision does not foreclose legal proceedings regarding whether due process was followed or not. As seen in some of the impeachment cases reviewed in this paper, non-adherence to due process has led to the nullification of some impeachment cases and the subsequent reinstatement of the impeached governors in Nigeria's Fourth Republic.

Explaining the phenomenon of Impeachment in Nigeria

The history of impeachment in Nigeria is traceable to the Second Republic when Governor Abdulkabir Balarabe Musa of Kaduna State was removed from office. Alhaji Balarabe Musa won the election under the Peoples' Redemption Party (PRP) but had only 12 members of the PRP in the State House of Assembly against the National Party of Nigeria (NPN) that had 68 members (Akinsanya, 2002, Omotola, 2006, Ogunsakin, 2015). The impeachment process commenced on the ground of the governor's failure to appoint commissioners for

his cabinet for almost two years. His impeachment has been described as the most successful and incontestable impeachment in the history of the Nigerian democratic process (Lawan, 2010).

From 1999 to date, some state governors and their deputies have faced many threats of impeachment. Various writers have documented cases of some of the governors and deputy governors who have been victims of successful impeachments. The list of the impeached governors includes: Diepreye Alamiyesigha (Bayelsa State), Ayo Fayose (Ekiti State), Rasheed Ladoja (Oyo State), Joshua Dariye (Plateau), Murtala Nyako (Adamawa) and Peter Obi (Anambra State) (Oni, 2013; Fagbadebo & Francis, 2014; Ogunsakin, 2015; Omoregie, 2017). The impeached deputy governors include: Abubakar Argungu (Kebbi state), Iyiola Omisore (Osun state), Eyinnaya Abaribe, Ebere Udeau, Chima Nwafor (all from Abia State), Abiodun Aluko, Abiodun Olujimi (both from Ekiti State), Okey Udeli (Anambra state), Eze Maduemere (Imo State), and Olufemi Pedro (Lagos State). Some deputy governors were threatened with impeachment, and this led to their resignation. Such deputy governors include: Kofoworola Akerele (Lagos), Obong Christopher Ekpenyong (Akwa Ibom), Paul Alabi (Ekiti State), and Segun Adesegun (Ogun State) (Fagbadebo & Francis, 2014; Oni, 2013; Ogunsakin, 2015).

It is noteworthy that not even the legislature at the federal level and at some states were spared from attempts of impeachment. At the federal level, the Speaker of the House of Representatives, Salisu Buhari was impeached in the early days of the Fourth Republic having been found guilty of providing false information regarding his age and academic qualifications (Oni, 2013). Later, Evans Enwerem, Chuba Okadigbo, and Adolphus Wabara were impeached from being the president of the upper chamber, i.e., the Senate. In the states of Abia, Oyo, Delta, Edo, and Enugu, the speaker and the deputy were removed at the same time. In Plateau and Cross Rivers, the speakers were removed once, but in Bayelsa, Borno, Kano and Sokoto, the speakers were impeached several times (Arinze, Eze & Nwaeze, 2016). Between 1999 and 2018, more than 20 speakers, ten deputy speakers, five governors, ten deputy governors, two senate presidents, and two Speakers of the House of Representatives have been impeached (Oni, 2013).

The 1999 Constitution (as amended) stipulates that impeachment can only be embarked upon on the grounds of "gross misconduct", which is ambiguous. Furthermore, the

constitution gives the legislators the sole right to determine what constitutes gross misconduct (Omotola, 2006). Consequently, gross misconduct has been given different interpretations. For pro-impeachment senators against President Goodluck Jonathan, gross misconduct was his refusal to sign some bills into laws (Igbokwe, 2014). To those who impeached the deputy governor of Enugu State, gross misconduct referred to maintaining a poultry farm in Government property (Owete, 2014).

Nevertheless, most of the aborted and successful impeachment cases resulted from accusations expounded in the following paragraphs. First, is the breach of confidence between governors, Speakers of Houses of Assembly, and their godfathers. This played out in the impeachment case of Governor Ladoja of Oyo State which was orchestrated by Chief Lamidi Adedibu who worked assiduously for the victory of Senator Ladoja (Human Rights Watch 2007; Ayokunle & Akinpelu, 2007; Oni, 2013, Omotoso, 2013; Ogunsakin, 2015).

Having the patron-client relationship in the Nigerian political landscape is not uncommon. This phenomenon in Nigeria's parlance is referred to as "godfatherism". The "godfather" (the patron) provides all that is required to ensure the client wins the election. The provision is not limited to sponsorship through funding and includes intimidation of opponents, use of hoodlums to manipulate elections results, and many such anomalies (Shirbon, 2007). There is usually a written or an unwritten agreement between the patron and the client on how the proceeds accruable to the position sought by the client would be shared. (Ayokunle & Akinpelu, 2007; Shirbon, 2007). Oftentimes, the agreement relates to sharing positions in the administration selected by the 'godfather' (patron) with those nominated by the patron. At other times, the godfather's interest may only concern monetary returns, usually a certain percentage of the total allocation from the federation account (Human Rights Watch, 2007; Shirbon, 2007).

The case of the former governor of Oyo State- Senator Ladoja (client) and the Chief Lamidi Adedibu falls within this category. Like Ladoja, the majority of the members of the State House of Assembly were beneficiaries of the political structure, and the resources and goodwill of Chief Adedibu (Ayokunle & Akinpelu, 2007). A disagreement between Governor Ladoja and Chief Lamidi Adedibu arose over what the latter referred to as renegeing on the agreement entered into by both parties. At the same time, the former felt that a large percentage of state resources could not be used to please one citizen (Human Rights Watch, 2007; Popoola, 2014). The 'godfather' (patron) therefore used his political

influence to initiate action to ouster the client (Governor Ladoja) from office in a controversial manner (Popoola, 2014).

The second cause for impeachments is the battle for supremacy between the federal and state executives. Nigeria has witnessed cases of impeachment proceedings against state governors, particularly those who came to power at the instance of the federal executive in a circumstance that can best be described as a show of power. Such was the case between Chief Olusegun Obasanjo (President of Nigeria) and Mr Ayo Fayose (governor of Ekiti State) in 2006 (Sahara Reporters, 2006). The duo were members of the same political party (the PDP). The relationship was cordial between the two until the issue of the poultry scam emerged. One of the anti-graft agencies, the Economic and Financial Crimes Commission (EFCC) accused Governor Ayo Fayose of corrupt practices during the Ekiti State Poultry Project (Ogundele, 2016). It was alleged that the money earmarked for the project was diverted to other personal purposes. This act was not acceptable to the chief executive at the federal level. Hence, the president allegedly mobilised people and resources to ensure the governor was impeached (Sahara Reporters, 2006). The Supreme Court, however later declared that Mr Ayodele Fayose was “not validly impeached” (Inochiri, 2015).

Thirdly, the intrigues of opposition political parties have become causes of impeachment. The opposition party had orchestrated the impeachment of executives and legislators alike both at the federal and state levels. This was the case of the impeachment of Mr. Peter Obi of Anambra state on November 2, 2006. Mr. Peter Obi had reclaimed the mandate given to him and his political party- All Peoples Grand Alliance (APGA) from the People’s Democratic Party (PDP) through a Federal Court of Appeal’s judgement that declared the gubernatorial election that brought in Dr. Chris Ngige in the 2003 as fraudulent and therefore null and void (Human Rights Watch, 2007). Subsequently, Mr. Peter Obi was inaugurated as the governor of Anambra state. The People’s Democratic Party-led government at the Federal level was not comfortable with the situation (Human Rights Watch, 2007). The PDP, through elected legislators on the platform of the PDP who were in the majority, impeached the Mr. Peter Obi APGA led government after seven months. According to the 2007 report by the Human Rights Watch, legislators on the platform of the PDP revealed that they resorted to the impeachment due to a combination of factors which included bribes and coercion of the PDP legislators which, in their opinion, was tacitly supported by the presidency in Abuja (Human Rights Watch, 2007).

Fourthly, political rivalries in the ruling party between the chief executive (president/governor) and his deputy (vice president/ deputy governor) especially when the latter showed interest in contesting an election has resulted in impeachments. Most of these impeachments were orchestrated by the chief executive at the federal and state levels. For instance, Alhaji Atiku Abubakar- the former vice president during the administration of Chief Olusegun Obasanjo survived an impeachment scare allegedly sponsored by Obasanjo in 2007. The impeachment arose when the former showed interest in succeeding the latter as president of the Federal Republic of Nigeria and implied that he would not support the third term bid of Obasanjo as president.

Unlike Atiku Abubakar, Chief Femi Pedro- the former deputy governor of Lagos state could not escape impeachment (Gabriel, Matthew & Akoni, 2007; Okeke, 2007). The relationship between Femi Pedro (deputy governor) and Senator Bola Tinubu (governor) soured when the former realised that the governor was not likely to choose him as the next candidate to become governor. He, therefore, colluded with another political party- Labour Party to realise the ambition of becoming the governor. Such a move proved to be political suicide as Senator Ahmed Tinubu allegedly mobilised the 4th Lagos House of Assembly to impeach Mr. Femi Pedro. Mr. Pedro tendered his resignation letter, which the governor and the legislators rejected. On May 10, 2007, the Lagos legislators impeached Otunba Femi Pedro. The reasons given included grave misconduct, insubordination (Gabriel et al.2007; Okeke, 2007) as well as 'betrayal of trust and confidence' (Okeke, 2007, para. 6).

Citizens' loss of trust in the government is a primary reason for impeachment in Nigeria. Recent developments aptly show that the Nigerian citizens increasingly find it necessary to influence the impeachment proceedings against executives both at the national and state levels. For instance, Kanmi Ajibloa (a lawyer) and Sulaiman Adeniyi (civil activist) approached the Court to compel the National Assembly to impeach the incumbent Nigerian President-Muhammadu Buhari after the legislators had refused to commence impeachment proceedings earlier. Ajibola and Adeniyi (as cited by Omofoye, 2018) alleged that the president violated the 1999 Nigerian constitution in the following instances:

- i. He failed in meeting the fundamental constitutional requirement for contesting the election.
- ii. He violated section 137 (1) (j) of the 1999 constitution when he presented a questionable certificate to contest the 2015 presidential election.

- iii. He treated court orders with disdain and abused the provisions of section 14 of the 1999 constitution (amended) which concerns the implementation of the Federal Character Principle (Omofoye, 2018).

Dangers of impeachment on democratic consolidation in Nigeria

As noted earlier, the objective of this study is to ascertain the implications of impeachment on the consolidation of democracy in Nigeria. Generally, impeachment is exclusively meant to deter executives from irresponsible acts that are not in conformity with the sworn oath of office. However, as practised in Nigeria since 1999, impeachment and its threats have been retrogressive as the procedures for impeachment have been abused (Arinze et al, 2016; Osumah, 2015). Most impeachment cases so far resulted largely from the interests of few-political lobbyists and their cohorts. The argument of this study is that the practice of impeachment in Nigeria has had a destabilising effect on governance and democracy. Though the intention of the 1999 Constitution was to promote democracy and good governance, the practice has so far proven to have contrary effects. Some of the negative effects of impeachment on democratic consolidation in Nigeria are discussed in the following session.

Impeachment or threats of impeachment are used in other countries to bring sanity into governance. In the United States of America (USA), for example, impeachment is a tool used to ensure good governance. According to Murse (2018), impeachment is a very rare phenomenon because of its potential damage to the nation as well as the reaction of the citizens. Murse (2018) thus suggests that members of the legislature usually consider the electorates when taking action. This shows that the citizens matter in U.S politics unlike in Nigeria where the legislature at the state and federal levels act arbitrarily against the wishes of those they claim to represent.

Impeachment has been described as an assault on the constitution and the rule of law, and in the Nigerian context, most of the successful impeachment cases were done disregarding constitutional provisions. Criticisms of the impeachment processes of some governors and deputy governors included non-adherence to due process (Osumah, 2015; Arinze et al., 2016). Some of them were carried out without meeting the constitutional requirement for a sitting, some of them took place outside the chamber of the legislature, and some took place outside the state (Lawan, 2010; Ogunsakin, 2015). An example was the impeachment of

Peter Obi of Anambra State carried out outside the state (Human Rights Watch, 2007). As the constitution only mentions "gross misconduct", the legislature has the liberty to concoct false allegations (Omotola, 2006). This has led to legislators impeaching elected officers on frivolous grounds. Additionally, impeachments have been carried out in a charged atmosphere not ideal for democracy. An example of this was the impeachment of Rasheed Ladoja of Oyo State in 2006, which took place in a war-like situation (Emmanuel & Abimbola, 2010). Impeachment has been a form of political warfare among the various organs of government vying for superiority (Arinze et al., 2016).

Third, threats of impeachment and actual impeachment have often raised doubts about the political legitimacy of both the executive and the legislators. As impeachment has become a tool that is frequently abused, it leaves the electorates uncertain of the electoral process and poses challenges for governance.

Fourth, impeachments endanger Nigeria's budding democratic governance. Frequent impeachment cases and threats of impeachment unsettle the body polity of the Nigerian State (Osumah, 2015). This, in turn, affects not only the relationship between the political elites and the institutional and structural fragility, but also the Nigerian economy. Persistent cases of impeachment suggest that there is a lack of economic direction which is damaging to the Nigerian economy. The frequent use of impeachment proceedings against political enemies puts Nigeria's budding democracy in jeopardy.

Fifth, impeachment and its constant threats have been carried out in the interest of the political elite. Going by the utilitarian school of thought advocated by Jeremy Bentham, politics should be directed to serve the more significant number of people in the society. Jeremy Bentham stated that governance which entails legal, economic, or political activities of the state, should aim at the greatest happiness of the greatest number of people and that the basis of government should be the satisfaction of human needs (as cited in Sabine & Thorson, 1973). Thus, the protection and fulfilment of the people's interests should be the goal of the governing class. Contrary to this recommendation, in Nigeria, constant impeachment and its threats have resulted in political gang ups, chaos, violence and loss of lives (Human Rights Watch, 2007).

Sixth, an instance of the abuse of impeachment was seen in the ordeal of the deputy governor of Imo State who was served with impeachment notice on July 10, 2018. The details of his

'gross misconduct' included absconding from office for more than three months without permission, refusing to carry out official duties assigned to him by the governor, not attending State Executive Meetings and refusing to hold meetings with the governor and commissioners in the state (Omilana, 2018). These charges were however not unconnected to the interest he showed in becoming the state governor after the Chief Executive Rochas Okorochoa who had anointed his son-in-law as the next governor of the state. The court, however, nullified the impeachment on the ground that the exercise did not follow due process.

Conclusion

It has been challenging to impeach the president or the vice president at the federal level owing to the bicameral nature of the legislature which suggests that impeachment procedures have to be approved by the two houses: The Senate and the House of Representatives. However, the same cannot be said at the state level, which operates a unicameral legislature. This is one of the reasons why, since 1999 till date, no president or vice president has been successfully impeached despite the heightened threats of impeachment during the second term of former President Olusegun Obasanjo and towards the end of President Jonathan's administration.

Conversely, the unicameral nature of the legislature at the state level has permitted the Houses of Assembly of States to impeach governors and deputy governors in some states of the federation. The ouster clause in the constitution has not been equally helpful. It makes sure that irrespective of the decision of the state legislature, such is not subjected to judicial review. Hence, there is a tendency for power to be arbitrarily used on the part of the legislature.

To ensure that democracy is consolidated and buffered against the threat of unnecessary impeachment, Nigeria's 1999 constitution should be reviewed. For instance, what constitutes 'gross misconduct' should be clearly stated. There is also a need to establish an independent body to investigate the impeachment process at the state level. Finally, the courts and judges should assess impeachment proceedings that do not follow the provisions of the constitution.

References

- Akinsanya, A. A. (2002). Impeachment of Abdulkabir Balarabe Musa of Kaduna State. In *Nigerian government and politics* (pp. 203–239). Wusen publishers.
- Black, H. C. (1991). *Black's Law Dictionary, 1st Edition*. Lawbook Exchange Ltd.
- Dahl, R. A. (1972). *Polyarchy: Participation and Opposition* (Illustrated ed.). Yale University Press.
- Diamond, L. (1993). Three paradoxes of democracy. In *The global resurgence of democracy* (pp. 95–107). The Johns Hopkins University Press.
- Fagbadebo, O., & Francis, S. (2014). Impeachment as an accountability measure in a presidential system: View from Nigeria's Fourth Republic. *African Journal of Governance and Development*, 3(2), 16–34.
- Federal Government of Nigeria. (1999). *The Constitution of the Federal Republic of Nigeria*. <https://www.wipo.int/edocs/lexdocs/laws/en/ng/ng014en.pdf>
- Human Rights Watch. (2007). *Criminal politics: Violence, "Godfather" and corruption in Nigeria*. <https://www.hrw.org/report/2007/10/11/criminal-politics/violence-godfathers-and-corruption-nigeria>
- Igbokwe, C. (2014). *Nigeria's old impeachment games: Why are Nigerian lawmakers threatening President Goodluck Jonathan with impeachment?* AlJazeera. <https://www.aljazeera.com/opinions/2014/12/15/nigerias-old-impeachment-games>
- Inochiri, I. (2015, April 14). *Breaking news: Fayose's impeachment in 2006 not valid – Supreme Court*. Vanguard News. <https://www.vanguardngr.com/2015/04/breaking-news-supreme-court-affirms-fayoses-victory/>
- Lawan, M. (2010). Abuse of powers of impeachment in Nigeria. *The Journal of Modern African Studies*, 48(2), 311–338. <https://doi.org/10.1017/s0022278x10000212>
- Linz, J. J., & Stepan, A. C. (1996). Toward Consolidated Democracies. *Journal of Democracy*, 7(2), 14–33. <https://doi.org/10.1353/jod.1996.0031>
- Lipset, S. M. (1960). *Political Man: The Social Bases of Politics* (First Edition). Doubleday.
- McElhenny, S. (2004). *The minimalist conception of democracy: A normative analysis*. <https://as.nyu.edu/sociology/search.html?query=The+minimalist+conception+of+d+emocracy%3A+A+normative+analysis>
- Mezey, M. L. (2008). *Representative Democracy: Legislators and their Constituents*. Rowman & Littlefield Publishers.
- Murse, T. (2018). *Impeached Presidents of the United States*. ThoughtCo. <https://www.thoughtco.com/presidents-who-were-impeached-3368130>

- National Conference on State Legislature. (n.d.). *Separation of Powers: Impeachment*.
<https://www.ncsl.org/research/about-state-legislatures/impeachment.aspx>
- Obi-Ani, P., & Obi-Ani, N. A. (2010). Annulment of June 12, 1993, Presidential Election: A Reappraisal. *International Journal on Communication, 12*, 1–11.
- Ogundele, K. (2016). *Fayose not free from #1.3bn poultry fund*. Punch Newspapers.
<https://punchng.com/fayose-not-free-n1-3bn-poultry-fraud/>
- Ogunsakin, J. (2015). Evaluation of Impeachment proceedings under the constitution of the Federal Republic of Nigeria. *Journal of Law, Policy and Globalization, 34*, 130–142.
- Ojo, E. O. (2006). Imperatives of sustaining democratic values. In *Challenges of Sustainable Democracy in Nigeria* (pp. 3–24). John Archers Publishers Ltd.
- Okeke, C. (2007). *Nigeriaworld Feature Article - Femi Pedro: When impeachment becomes a must*. Nigeriaworld. <https://nigeriaworld.com/articles/2007/may/131.html>
- Oliver, N., O., E. C., & Arinze, O. M. (2016). Politics of Impeachment in Nigeria: A Discourse on Causes and Implications for Democratic Consolidation. *Journal of Policy and Development Studies, 10*(1), 48–56. <https://doi.org/10.12816/0027290>
- Omilana, T. (2018, July 30). *Imo deputy governor impeached*. The Guardian Nigeria News - Nigeria and World News. <https://guardian.ng/news/imo-deputy-governor-impeached/>
- Omobowale, A. O., & Olutayo, A. O. (2007). Chief Lamidi Adedibu and patronage politics in Nigeria. *The Journal of Modern African Studies, 45*(3), 425–446.
<https://doi.org/10.1017/s0022278x07002698>
- Omofoye, T. (2018, July 5). *Court orders National Assembly to begin impeachment of Buhari*. The Guardian Nigeria News - Nigeria and World News.
<https://guardian.ng/news/court-orders-national-assembly-to-begin-impeachment-of-buhari/>
- Omoregie, O. (2017). Impeachment procedure and practice under Nigerian law: Contemporary developments. In *Democracy in Nigeria* (pp. 269–278). Ambrose Alli University press.
- Omotola, J. S. (2006). Impeachment threats and Nigeria's democracy. In *Challenges of sustainable democracy in Nigeria* (pp. 183–208). John Archers Publishers Ltd.

- Omotoso, F. (2013). Governance Crisis and Democracy in Nigeria, 1999 - 2012. *Mediterranean Journal of Social Sciences*. Published. <https://doi.org/10.5901/mjss.2013.v4n14p125>
- Oni, M. A. (2013). Judicial Reivew of Governors' Ladoja and Obi Impeachment In Nigeria's Fourth Republic. *Singaporean Journal of Business, Economics and Management Studies*, 1(6), 117–131. <https://doi.org/10.12816/0003783>
- Osumah, O. (2015). Democracy and disorder: Impeachment of governors and political development in Nigeria's Fourth Republic. *Taiwan Journal of Democracy*, 11(2), 163–183.
- Owete, F. (2014, July 23). *Enugu Assembly Says Deputy Governor Must Go For Raising Chickens in Govt. House*. Premium Times Nigeria. <https://www.premiumtimesng.com/news/165400-enugu-assembly-says-deputy-governor-must-go-for-raising-chickens-in-govt-house.html>
- Pogoso, A. I. (2010). Rethinking Governance in Africa's Measuring Performance. *The Ibrahim Index of African Governance*. Departmental Seminar, Department of Political Science, University of Ibadan, Nigeria.
- Popoola, M. (2014). Political Godfather-Son Conflict in South-Western Nigeria, 2004–2006: The Role of the Press. *Journal of Mass Communication & Journalism*, 04(07). <https://doi.org/10.4172/2165-7912.1000205>
- Rotimi, E. O., & Adesoji, A. O. (2010). Mediating an Intra-Elite Struggle for Power and Privilege in Nigeria: The Police and the Oyo State Political Crisis, 2005–2007. *International Journal of Police Science & Management*, 12(4), 487–502. <https://doi.org/10.1350/ijps.2010.12.4.192>
- Sabine, G. H., & Thorson, T. L. (1973). *A History of Political Theory, 4th Edition* (4th ed.). Dryden Press.
- Schedler, A. (1998). What is Democratic Consolidation? *Journal of Democracy*, 9(2), 91–107. <https://doi.org/10.1353/jod.1998.0030>
- Schedler, A. (2001). Measuring Democratic Consolidation. *Studies in Comparative International Development*, 36(1), 66–92. <https://doi.org/10.1007/bf02687585>
- Schmitter, P. C., & Karl, T. N. (1991). What Democracy is and is Not. *Journal of Democracy*, 2(3), 75–88.
- Shirbon, E. (2007, April 2). *Democracy in Nigeria: godfathers, guns and graft*. U.S. <https://www.reuters.com/article/us-nigeria-democracy-idUSL0220010720070402?edition-redirect=in>