THE EXTREMES, AND THE ABSURDITIES OF IMPEACHMENT THREATS, AND IMPEACHMENT PROCEEDINGS AGAINST THE EXECUTIVE

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Abstract
The principles of separation of powers and checks and balances are enshrined in Section 4 of the 1999 Constitution of the Federal Republic of Nigeria within the context of legislature-executive relations. While constituents can recall their representatives, the Constitution makes provisions for the impeachment of an erring President, Vice-President, Governor or Deputy-Governor. Impeachment is to be carried out by the legislature in collaboration with the judiciary exclusively for acts and omissions amounting to gross misconduct in the performance of the functions of the office. The recurring cases of impeachment fraught with controversies appear to have further enhanced the prominence of the legislature, not essentially as an institution viewed as watchdog over the executive, but an impediment to governance and sustainable democracy. In the highly capital intensive and chaotic Nigerian politics, resources committed to the threats of, and actual impeachment processes are at variance with legislature's representative posture. Impeachment threats have become bargaining chips amidst allegations of financial inducements for legislative loyalty and understanding. Rules of engagement are observed in breach, and the ends to which impeachments are committed have been self-serving, bringing governance to a halt in some cases. This paper interrogates incidences of impeachment in the Nigeria's Fourth Republic and advocates a systemic introspection, with a view to mitigate the declining rating of the legislature in the estimation of the electorates. It charged the executive to avoid committing impeachable offences that could warrant it's seeking to lure or intimidate the legislature or the judiciary to compromise. The legislature is challenged to be more proactive in its oversight responsibilities with utmost decorum. The judiciary should live above board when the intent and processes of impeachment are flawed. The electorates must take elections into the legislature more seriously to ensure quality representation, and checkmate the performance of legislative duties in ways and manners not contemplated by the constitution.

Introduction
The principles of separation of powers and checks and balances are enshrined in Section 4 of the 1999 Constitution of the Federal Republic of Nigeria within the context of legislature-executive relations. The entrenchment of separation of powers between the legislature, which is responsible for lawmaking, representation and oversight; the executive, which is responsible for the interpretation of the law; and the judiciary, which is responsible for adjudication and final arbiter, accounts for the limit on the exercise of powers by each of the arms of government. Separation of powers nonetheless emphasises mutual interdependence or non-subordination of one arm of government to the other in a representative government. It encompasses a relationship of checks and balances between

the legislature and the executive, implying that neither should be in a position to act with impunity. Separation of powers, functions and personnel inherent in a representative regime constitutionally limits executive influence in the legislature. It nonetheless recognises the relative independence of the judicial arm of government in all circumstances for public good (Lijphart, 1992; Hague and Harrop 2004). Going by Sections 69 and 110 of the Nigerian Constitution, while constituents can recall their elected representatives serving in the legislature, Sections 143 and 188 prescribe impeachment of erring officials in the executive arm of government namely, the President, the Vice President, the Governor and the Deputy Governor respectively. Impeachment is to be carried out by the legislature in collaboration with the judiciary exclusively for acts and omissions amounting to gross misconduct in the performance of the functions of the office.

The oversight functions of the legislature are crucial to the representative claim of the system of rule. In furtherance of legislatures' enhancement of public accountability, the 1999 Constitution gives prominence to investigation as a technique of legislative oversight as regards: policies and programmes; the personnel who implement the policies; and the expenditure of public funds. Section 88 of the Constitution authorizes each chamber of the National Assembly power to conduct investigations into a number of matters listed therein. Section 89 also grants the legislature power as to matters of evidence. Similarly, Section 126 empowers the subnational legislature to conduct investigations in line with the extant provisions while section 129 grants power as to matter of evidence. The powers conferred on the legislature under these provisions are exercisable only for the purpose of enabling the legislature to: make laws with respect to any matter within its legislative competence and to correct any defects in existing laws; and 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 (Nyong, 2000).

The recurring cases of impeachment campaign fraught with controversies appear to have further enhanced the prominence of the legislature, not essentially as watchdog institution over the executive, but an impediment to governance and threat institutional stability. In the highly capital intensive and chaotic Nigerian politics, resources committed to threats of, and actual impeachment processes are at variance with the legislature's representative posture. Impeachment threats have become bargaining chips amidst allegations of financial inducements for legislative loyalty and understanding. Rules of engagement are observed in breach, and the ends to which impeachments are committed have occasionally been self-serving, bringing governance to a halt in some cases.

This paper interrogates the incidence of impeachment in Nigeria's Fourth Republic (1999-2015) and advocates a systemic introspection, with a view to mitigating the declining rating of the legislature in the estimation of the electorates. The paper commits itself to the review of the substantive and procedural underpinnings of impeachment campaigns being essential manifestation of the representative content of the system of rule during the period in view. The general goal of this study was to investigate the legislature and legislative practices to uncover the circumstances of political exchanges on which impeachment campaigns thrive. It has the specific objective of undertaking a survey of impeachment campaigns and highlighting how its prevalence hindered intra and inter-institutional relations, and institution building in accountability terms. Leveraging on library and archival searches, it ultimately offers useful insights into avoidable pitfalls in the nation's

renewed bid to engender popular participation through quality representative contents of the legislature at the national and subnational levels.

Conceptual Clarifications

The pre-eminence of tools for checking the excesses of political and public office holders and political institutions against possible autocratic disposition is the hallmark of democratic rule. In executive-legislative relationship within the context of separation of powers, impeachment is one of many weapons at the disposal of the legislature to assert its authorities as regards checks and balances to guide against the possible abuse of power by the executive arm of government. Lipset, (1995) defines impeachment as

> "The method by which government officials may be removed from office when they have been formally accused of crimes or misconduct…it is usually initiated by the lower house of a legislature and is followed by trial and sometimes conviction by the upper house."

Impeachment is, "a process that is used to charge, try, and remove public officials for misconduct while in office."[1] Impeachment is a lengthy process with considerable legal instruments to protect a threatened executive from the caprices of the legislature whose motives could be self-serving. Impeachment of any of the occupants of such offices is to be carried out by the legislature with the collaboration of the judiciary. Impeachment must be for acts and omissions amounting to gross misconduct in the performance of the functions of the office. It is essentially a power granted the legislature, acting on behalf of the people, to ensure that the leadership of the executive acts within the ambit of the constitution and in accordance with the established and accepted norms of social conduct (Onyekpere, 2014).

Impeachment is within the ambit of checks and balances to guide against possible abuse of power within the context of separation of powers. Onyekpere stresses further that impeachment viewed either as grave violation or breach, and a misconduct amounting in the opinion of the legislature to gross misconduct, underscores the fact that there must be misconduct, which is not petty prior to impeachment campaign. Considering the fact that the people directly elect the leadership of the executive, the power to remove such office holder must not be trivialised or exercised capriciously, on the basis of subjectivity or against the popular interest. Impeachment was to be deployed sparingly (Onyekpere, 2014).

The constitutional provisions under Section 143 provides for the impeachment of both the President and the Vice President. Section 188 of the same Constitution provides for the removal of Governors and or their Deputies. This latter section is a replica of section 170 of the 1979 Constitution under which former Governor Alhaji Balarabe Musa of the defunct People's Redemption Party (PRP) of the old Kaduna State was impeached by the State House of Assembly dominated by equally defunct National Party of Nigeria (NPN) in the Second Republic, 1979-1983. Balarabe Musa was the only executive Governor so removed under the 1979 constitution (Akinsanya, and Idang 2002). The 1979 and the 1999 Constitutions were not explicit on grounds for impeachment, thereby granting the legislature broad latitude to exercise discretion in the interpretation of 'gross misconduct'.

[1] http://legal-dictionary.thefreedictionary.com/p/Impeachment accessed 23/09/2014

The 1999 Constitution states that the above-mentioned elected officers shall be removed from office if found guilty of "gross misconduct" in the performance of the functions of his or her office, detailed of which shall be specified by the legislature. Section 188 (11) merely defines "gross misconduct," as a grave violation or breach of the provisions of the constitution or a misconduct of such nature as amounts in the opinion of the House of Assembly to gross misconduct. While the legislature has demonstrated strong will in holding executive accountable, exclusive reliance on impeachment has been to the detriment of the system of rule. The legislature at the national and subnational levels had acted in questionable circumstances with their indiscriminate recourse to impeachment campaigns against the executive on the one hand, and the principal officers in the legislature on the other hand.

Inspite of the political and constitutional similarities between Nigeria and the United States of America (USA) for example, the observable loopholes arising from scanty details on impeachment in the Nigerian constitution is in sharp contrast to the American constitution, which highlights the specific grounds for impeaching a public officer.[2] Common articles of impeachment against public official in the United States include false testimony, fabrication of false records, and improper disclosure of confidential law enforcement information. The grounds for impeachment are clearly specified in Article II, Section 4: "The President, Vice President and all civil Officers of the United States, shall be removed from Office on impeachment for, and Conviction of, treason, bribery, or other High Crimes and Misdemeanors." Again, in the United States, impeachment is not limited to the President and Vice-President, Governors and their Deputies but to all civil officers including senators and judges as experience have shown.

The phrase "High Crimes and Misdemeanors" left the exact definition of impeachable offenses open to interpretation by Congress, it is generally interpreted to mean both indictable offenses and other serious non-criminal misconduct, which has included corruption, dereliction of constitutional duty, and violation of limitation on the power of an office. Impeachment campaign is rare at both the Federal and State levels in the US. From the passage of the federal Constitution to the mid-1990s, only 50 impeachment proceedings were initiated. It is sparingly invoked on strong evidence of criminality or substantial abuse of power. Thus far, only fifteen officers have been successfully impeached since 1787 when the United States Constitution became operational in the United States. In retrospect, following Omotola (2006), the first impeachment was recorded in England, which colonised Nigeria. It started with that of Lord Latimer in 1376, followed by those of Francis Bacon, the Lord High Chancellor in 1621; the Earl of Strafford in 1641; Archbishop Land in 1645; Warren Hasting in 1788; and Lord Melville, being the last person so far to be impeached in 1805. The United Kingdom has since developed what is known as "passing a vote of no confidence" on any public officer that committed an offence serious enough to warrant such a fundamental parliamentary decision. This has been sparingly used by the United Kingdom but resorted to only when considered absolutely necessary.

[2] Only fifteen officers have so far been impeached since 1787 when the American Constitution became operative. This underscores how Americans guard this provision jealously to avoid political instability. It is only resorted to when other avenues have become practically impossible, http://thenationonlineng.net/new/abuse-of-impeachment-under-1999-constitution/ accessed 6/8/2014

Omotola (2006) also noted that, while there had been cases of impeachment of federal judges in the United States, Congress never considered impeachment of any President until 1868 when the House impeached President Andrew Johnson in February 24 1868. In the process, charges of "high crime and misdemeanour" were made against President Johnson, with emphasis on alleged violations of the Tenure of Office Act. It would be recalled that prior to that time, there had been a raging battle over the constitutionality of the power granted to the Congress on Tenure of Office Act. Although, the House impeached President Johnson, the Senate did not convict him, as the vote casts for it was one short of the required two-thirds majority. The impeachment process against President Richard Nixon in 1974 over the Watergate Scandal was to follow. Richard Nixon resigned in the heat of the crisis, abruptly terminating the impeachment process. The third instance was the unsuccessful impeachment proceedings launched against President Bill Clinton over Monica Lewinsky scandal in 1998. Donald Ritchie in his book on American History observes that:

> The US House of Representatives has voted articles of impeachment against fifteen public officials. Twelve of those impeached officials were federal judges. The others are Senator William Blount of Tennessee in 1797, President Andrew Johnson in 1868, and Secretary of War William Belknap in 1876. The Senate has convicted seven of the impeached judges (Donald, Ritchie 1997: 741).

Aiyede (2006) observes that while the legislature has risen up considerably to checking the excesses of the executive, as regards the efficacy of the twin principles of separation of powers and checks and balances, it has often resulted in noticeable gridlocks in executive-legislature relations. The legislature has demonstrated strong will in holding executive accountable using a number of oversight tools chief of which is impeachment, without which the executive would have assumed dictatorial tendencies in certain circumstances. The legislature has however acted in questionable circumstances especially in wielding the ultimate impeachment big stick at both the national and subnational levels. Principal officers in the legislature had been victims of impeachment campaigns at both levels depriving legislatures the benefit of cohesion as well as leadership and institutional stability. In the heat of the overbearing influence of executives, legislatures were unable to maintain their autonomy by managing their affairs independently. A good number of legislatures were characterised with internal crises. At the national level, the executive played a crucial role in producing and removing the principal officers of the National Assembly, particularly the Senate. Between 1999 and 2003, the Senate had three Presidents, just as it had two between 2004 and 2007. In all, while three Senate Presidents had been impeached on different grounds, two Speakers of the Federal House of Representatives and many Speakers, Deputy Speakers, Governors and Deputy Governors at the subnational level had suffered similar fate.

Given the fact that the electorates directly elect the leadership of the executive, the power to remove such elected officials must not be trivialised or exercised on the basis of subjectivity or against the popular interest. In addition to deploying it sparingly, the exercise of impeachment power must meet the parameters of objectivity (Onyekpere, 2014). While Speaker of the House of Representatives, Alhaji Ibrahim Salisu Buhari's removal was necessitated by criminal offences for which he was convicted and sentenced by a court of law (Nyong 2008); the same could not be advanced of several impeachment

campaigns against principal officers of the State Houses of Assembly. Successive Nigerian constitution has put the executive at the mercy of the legislature as the latter could in its estimation and opinion exclusively determine what amounts to "gross misconduct" (Solomon, 2014). Suffice it to stress that pliable and reckless legislatures had feasted on the constitutional lacuna to impeach on frivolous grounds, as cases to be cited in this paper would further illustrate. In specific terms, Section 188 (1-11) of the 1999 Constitution outlines the procedure for the removal of a Governor or Deputy Governor.

Survey of Impeachments in the Fourth Republic 1999-2015

By and large, this author reckons with the observation that the oversight function of the legislature has often been exhibited within the precincts of impeachment threat. Impeachment is thus seen exclusively, as the potent constitutional weapon to extract compliance of the executive with the rules of their official engagement, resulting in the executive accusing the legislature of using blackmail and force rather than conviction to compel the executive to do its biddings in the disguise of oversight (Aiyede 2006). This section highlight identifiable extremes and absurdities of impeachment threats and impeachment proceedings by the legislature during the period (1999-2015).

The controversial deployment of impeachment became a recurring subject during the first decade of Nigeria's Fourth Republic. Following Omotola (2006), threats of impeachment and impeachment proceedings at the National Assembly commenced with the celebrated removal of Salisu Buhari, the pioneer Speaker of the House of Representatives. Buhari's ouster was premised on a media report, which accused the Speaker of false declarations of age and educational qualifications. The attendant process of investigation, which pointed to the direction of culpability, eventually informed his resignation in regret and apology to the nation on July 22 1999. The first Senate President, Evans Enwerem was removed in November 1999 on grounds of falsification of age, name and academic qualifications. Other accusations include poor leadership and alleged inability to maintain relative autonomy. His successor, Dr. Chuba Okadigbo was also impeached on August 8 2000 on charges of "financial misappropriation, rudeness, unstable charter and lack of moral fibre". Okadigbo later claimed to have survived seven impeachment attempts before his eventual removal.

The legislative-executive relationship at the federal level was characterized by threats of impeachment at the slightest provocation. From Omotola's account, the first impeachment threat against the President was recorded with a motion moved by Senator Francis Arthur Nzeribe in May 2000 on a fifteen-count charge against President Obasanjo. In what was to become the second unsuccessful impeachment move, the House of Representatives attempted to pass of Vote of no confidence on the President on the eve of President Bill Clinton's visit to Nigeria. The threats of impeachment came to the climax with the two-week ultimatum issued on August 13 2002 by the House of Representatives for President Obasanjo to either resign or face impeachment on a seventeen-count charge, which in the opinion of the promoters amounted to impeachable offences. Anyaegbunam (2010) corroborated this account and recalled that the Senator Arthur Nzeribe's motion for Obasanjo's impeachment did not follow due process. Again, in clear breach of Section 143(2) (a) and 143(4), the House of Representatives arrogated to itself the constitutional prerogative of the Senate President by proceeding with impeachment charges against the President in 2002. This was repeated in May 2005, when some members of the lower chamber again embarked on impeachment campaign against the President. The House of

Representatives also issued an impeachment threat against President Umaru Yar'Adua for his failure to implement the 2009 budget.

Subnational legislatures recorded high turnovers of leadership through incessant deployment of impeachment. In the South-East and South-South, the first Speaker of Enugu State Assembly, Cletus Eriebe; and his counterpart in Edo State, Okosun, were impeached on charges of inefficiency; and "acts of impropriety and highhandedness" respectively. The Speaker of Abia State House of Assembly was changed twice within the first legislative year May 1999 and June 2000. The situation in Delta State was also not different where the Speaker was initially suspended and later impeached for visiting President Olusegun Obasanjo without the prior approval of the Assembly. The Speaker of the Akwa Ibom State Assembly, Gabriel Ada was impeached on September 6 2000 along with his Deputy, Orak Otu on allegations of "incompetence, insensitivity and high handedness in the conduct of the Assembly affairs." In the Southwest, the first Speaker of the Ekiti House of Assembly, who was on record to have had the shortest stay in office having stayed for only 37 days, resigned on July 7 1999 due to impeachment threats from his colleagues. The first Speaker of the Oyo State House of Assembly, Kehinde Ayoola was impeached on November 24 1999. In Northern Nigeria, Speaker of the Kano State House of Assembly, Ibrahim Gwaramai and his Deputy, Zakari were impeached within the first legislative year. The Deputy Speaker of Sokoto State Assembly, Bello Atto was impeached for alleged incompetence. The Speaker of the Katsina State House of Assembly, Usman Mani Naama, who had earlier been suspended from office however, escaped being impeached following the failure of the principal witness to appear before the House Panel. The first female Speaker in Nigeria, and the Speaker of the Benue State House of Assembly, Margaret Icheen, was impeached in August 2000 for alleged inefficiency. She was however subsequently pardoned and granted conditional reinstatement on the intervention of prominent indigenes of the State, including the State Governor, George Akume.

Subnational executives suffered similar fate within their first year in their respective four-year terms of office. Deputy Governors were the initial victims, as Anyaegbunam observed that impeachment became a potent instrument at the disposal of State Governors to whip uncooperative and recalcitrant Deputies into line. For example, the Abia State House of Assembly's removal of Enyinnaya Abaribe as the State Deputy Governor in 2000 signaled what was to open a barrage of power tussle between Governors and their Deputies. The Deputy Governor of Osun State, Iyiola Omisore, was impeached in 2002. The Anambra State House of Assembly followed suit when it impeached the Deputy Governor, Dr Okey Udeh in 2003. Christopher Stephen Ekpenyong, Deputy Governor of Akwa Ibom State was impeached in 2005. Abiodun Aluko, Deputy Governor of Ekiti State, and Dr. Chima Nwafor, Deputy Governor of Abia State was impeached by their respective State Houses' of Assembly in 2005 respectively (Anyaegbunam 2010).

For the Governors, the Taraba State House of Assembly launched an impeachment campaign against Governor Jolly Nyame on accusation of dictatorial tendencies. The impeachment campaign was dropped on the intervention of Alhaji Atiku Abubakar, the then Vice President. This was however alleged to have cost the State 2.2million Naira graft for each legislator. Similar attempts were also made on Governor Abubakar Audu of Kogi State (Omotola, 2006). The impeachment process was grossly abused as rules of engagement were flouted or observed in breach particularly between 2005 and 2007. During this period, the respective States' House of Assembly impeached no fewer than

five State Governors on sundry charges. Non-adherence to due processes was the only unifying feature of these impeachments (Solomon, 2014). Diepreye Alamieyeseigha, Governor of Bayelsa State, was hurriedly removed from office under heavy deployment of state security forces on allegation of corruption and sundry charges on December 9 2005. Eighteen members of the 32-member Oyo State House of Assembly impeached the Governor of Oyo State, Rashidi Ladoja, also on allegation of corruption on January 12 2006. Ekiti State Governor, Ayodele Fayose, and his Deputy, Abiodun Olujimi were removed by the State Assembly on October 16 2006, amidst dissenting pronouncements of two different Investigative Panels. Twenty-one lawmakers of the Anambra State House of Assembly impeached Governor Peter Obi at 5.30am on November 2 2006. The story was the same in Plateau State, where Governor Joshua Dariye was removed from office by a faction of six legislators of the 24-member Assembly at 6.30am on November 13 2006 (Anyaegbunam 2010). Subsequent legislatures at the subnational level did not fare better in the exercise of power of impeachment.

Beyond non-compliance with constitutional provisions, the power to impeach was largely exercised, not necessarily as deterrent for gross misconduct, but for the settlement of personal scores or to achieve limited political gains and for financial gratifications. While not exonerating victims of blemish record warranting such drastic legislative action, the incessant deployment of impeachment in a manner suggestive of sinister motives or reasons other than constitutionally envisaged was indicative of an extreme abuse of powers.[3] Instructively, victims of impeachment threats, and impeachment proceedings initiated and executed during the Obasanjo regime, 1999-2007 were Governors and Deputy Governors of the same ruling party, (PDP) as the President, while victims of impeachments during the Jonathan administration were those of the opposition party, the All Progressive Congress (APC). Although the pattern of impeachment varies, the presidency and the ruling party at the national level were often fingered as having undermined not a few duly elected state executives at different instances through impeachment campaigns. A number of such campaigns were also traceable to the vulnerability of State Assemblies to external manipulations on account of their structural inadequacies and palpable weak dispositions of legislators (Ade-Adeleye, 2014).

The supremacy of the Federal government was brought to bear in impeachment campaigns of this nature with the militarisation of the impeachment processes through massive deployment of security forces, huge funding for the plots and support for the default interpretation, and the manipulation of the numerical requirement for, and supremacy in the exercise of impeachment power by the legislature. Contrary to the ideals of representative government, lobbying, bargaining and compromise derivable from exemplary negotiation skills, persuasive talents and power of credible political inducements, have had limited chance of survival often foreclosing political solution (Oladesu, 2014).

[3] For example, one could infer that the misconduct of which the Governor Murtala Nyako was accused and subsequently impeached did not just come to the knowledge of the legislators within the last couple of months preceding the legislative action. However, the legislature wielded the big stick only when the governor parted ways with the legislators politically by pitching his tent with the opposition party prelude to the 2015 election.

Impeachment Campaign on Unsubstantiated Claims

The Governor of Nasarawa State, Alhaji Umar Tanko Al-Makura, 2011-2015 defected from the ruling PDP to the opposition party, the APC with incalculable damage to the stature and chances of the party in the 2015 elections as Governor Nyako. Going by the trajectory of the Nigeria's Fourth Republic politics particularly as regards the deployment of impeachment tool, Governor Al-Makura escaped impeachment by a whisker. He was accused of arbitrary, unguided and sentimental termination of appointments of over 7,000 State and Local Governments' workers in 2011, among other several offences ranging from misappropriation, diversion and misapplication, illegal withdrawals and over-spending of public funds to falsification of the Nassarawa State financial report for 2011, and violations of the Appropriation Law 2012.[4]

The Investigative Panel - set up by the State Chief Judge, Justice Umar Dikko - requested to no avail that the lawmakers appear before it and substantiate allegations made against the governor. Determined to prove his innocence, Governor, Al-Makura, waived off his immunity granted under Section 308[5] of the 1999 Constitution and appeared before the seven-man Investigative Panel. This was inspite of the Governor's earlier insistence that the PDP-controlled State House of Assembly did not personally serve him with the impeachment notice. Conversely, the Panel, in the absence of representation from the lawmakers cleared the Governor of all the allegations of gross misconduct at its public hearing of August 5 2014. The seven-man panel dismissed the sixteen charges for lack of evidence. The Chairman of the panel, Yusuf Usman, during the proceeding made reference to section 7(c) of the panel guideline which stipulated that where the assembly fails to appear and lead evidence on the allegations, the panel, upon proof of service may dismiss the allegations. In his words:

> "The rule of natural justice and our criminal laws put the onus of proof on the complainant and failure to which the accused is deemed innocent. The House has failed to advance evidence on the allegations, therefore the panel agrees with the prayer of the governor's counsel and has decided to dismiss the charges against the governor." (Danjuma, 2014)

[4] http://nationalmirroronline.net/new/impeachment-al-makura-looks-set-to-go/ accessed 28/7/2014

[5] Section 308 of the constitution says: "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 on pursuance of the process of any court or otherwise; and
c) no process of any court requiring of 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 apples, no account shall be taken of his period of office.
"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.
"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."

It was alleged that members of the Nasarawa House of Assembly were probably jittery over the likely stunning revelations on their financial demands on the executive and expenditures outlay, which might be presented to the panel by the executive officials and allied stakeholders who might be sympathetic to the cause of the Governor. This was borne out of the noticeable excitement expressed by the government officials over the decision of the panel to subject the sitting to public hearing in the hope that all facts and documents would be laid bare before the public.

The 'Enugu chicken impeachment'

The Deputy Governor of Enugu State 2007-2011, 2011-2014, Mr. Sunday Onyebuchi was impeached following his indictment by a seven-man panel of enquiry, which investigated allegations of running an illegal poultry in the Deputy Governor's official residence, thus flouting the State Assembly's Resolution prohibiting the operation of commercial livestock and poultry farms within residential neighbourhoods. He was also accused of refusing to represent the Governor at official functions, in spite of a directive from the Governor to that effect.[6] The investigative Panel claimed to have report that the stench from the poultry was causing embarrassment to the state government, which had to expressly relocate the chickens. The Assembly further alleged that the poultry constituted severe health hazards to residents, staff and visitors in the Government House. The lawmakers, in the impeachment notice, held that the Deputy Governor's actions amounted to gross misconduct.

The impeachment was the climax of a thirty-six (36) day face-off that commenced with 22 of the 24 House of Assembly members in a resolution accusing Onyebuchi of gross misconduct and flagrant disobedience of the directives of Governor Sullivan Chime.[7] The Deputy Governor denied all the allegations. He alleged witch-hunt following his expression of interest in the Enugu East Senatorial Seat at the National Assembly, a slot that was alleged to have been reserved for the Governor's Chief of Staff and preferred candidate, Mrs. Ifeoma Nwobodo. Onyebuchi who had resisted pressure to resign from office, accused members of the panel of bias, and subservience to the executive alleged that the governor also operated an official poultry and piggery in the Government House.[8] He made reference to budgetary allocation to the poultry and piggery in question in the state's budget to justify his claim. In denying Onyebuchi's allegation, the prosecution team[9], argued that the poultry under reference by the Deputy Governor was part of the

[6] The lawmakers specifically accused the deputy governor of flouting the assembly's resolution prohibiting the operation of commercial livestock and poultry farms within residential neighbourhoods, refusal to represent the governor on March 11, 2014 at the takeoff of the construction of the second Niger bridge, Onitsha as well as refusal to represent the governor at the South East governors forum

http://www.ngrguardiannews.com/news/national-news/176636-enugu-lawmakers-impeach-deputy-governor accessed 27/8/2014

[7] ibid

[8] "Members of the state House of Assembly signed my impeachment notice before the allegations were made known to them. I have had an opportunity of going through the report and I want to say it is as watery and frivolous as the allegations."

[9] Led by Chime's Chief Press Secretary, Mr Chukwudi Achife

'Agriculture Unit' in the Government House, which served both the Governor's and the Deputy Governor's official residences, as well as the needs of the staff.[10]

Onyebuchi advanced an eight-page defence with several annexures to the House to back his claim. He claimed not to be aware of any resolution of the State Assembly that banned the operation of commercial poultry farming in residential premises in the state. He pointed out that the poultry in his official residence predated the regime and had been operated by several predecessors of his, more so that similar facility exists within the Governor's official residence as well. He claimed to be at the flag off of the second Niger Bridge in Onitsha by President Goodluck Jonathan to represent Governor Sullivan Chime, from inception of the event to the end as shown in the live television coverage of the event.[11] On the allegation that he turned down the directive to represent Governor Chime at the meeting of the South East Governor's Forum held at the Lion Building, Enugu, Onyebuchi explained that the Governor did not mandate him to act on his behalf while he was away on vacation, adding that no manifest of the event was made available to him. He recalled that he had worked closely with the Governor, who at a time described him as "reliable and loyal deputy who understands the working of government" insisting that it was shameful that allegation of disobedience could be leveled against him few months to the end of their second tenure inspite of the governor's earlier commendation.

Apparently not satisfied by the Deputy Governor's defence, the lawmakers mandated the State Chief Judge, Justice Innocent Umezulike to set up an impeachment panel, which was complied with immediately.[12] The proceeding of the panel commenced with the testimonies of the prosecution witnesses who were mainly serving Commissioners and the Governor's aides. The Deputy Governor's resolve to make the reasons for his impeachment public irked the prosecution team and the government as it clamoured for the ban on press coverage of the panel's proceedings. The panel thereafter barred press coverage of proceedings in spite of repeated protests by the Deputy Governor.

Onyebuchi consistently maintained his innocence insisting that his greatest offence was his decision to seek election into the Senate in the 2015 general elections to represent Nkanu East, a seat the Governor had reserved for one of his loyal female aides as noted earlier. Onyebuchi was impeached without allegation of financial impropriety, which was central to each of the previous cases of impeachment. The alleged partisan disposition of the investigative panel, especially its insistence, against medical advice, that Onyebuchi be brought to the hearing, even if in a wheelchair or stretcher underscores the Deputy Governor's loss of faith in the panel. Again, the unusual hurry with which the panel that had a constitutional period of three months to complete its work submitted its report robbed off on it as a body constituted to act out a script. The impeachment was to be later christened by the State's residents as the 'Enugu Chicken Impeachment' as most of the testimonies presented before the impeachment panel centred on the poultry farm.

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[10] http://www.vanguardngr.com/2014/08/enugu-story-chicken-impeachment/#sthash.ul2FCAkH.dpuf accessed 27/8/2014

[11] ibid

[12] Mr. Franklyn Uche Oraeke headed the seven-man panel with Pastor Uluakanwa Okoh, Elder Nnamdi Martin Onyenwuru, Barr Marcel Ebele Eze, Mrs Praise Mercy Anyim, Aroh Okechukwu Perfectis and Dr. Anthony Iguh as members. http://www.vanguardngr.com/2014/08/enugu-story-chicken-impeachment/#sthash.ul2FCAkH.dpuf

Implications for the Consolidation of Popular Government

Incompatibility of Oversight and Constitutional Breaches: In spite of the noticeable shortcomings in the administration of the subnational governments under reference, the impeachment processes activated in the affected States were more than local affairs. The motives of impeachment, which were designed to create favourable dynamics for the ruling party in those states as well as to settle some personal scores, show a cynical disregard for the constitution and due process. Identifiable irregularities in each of the identified cases almost always invalidated the processes notwithstanding the spirit and essence of the provision. Irregularities in Panel membership composition as witnessed in Ekiti, flagrant disregard for the constitutional provisions particularly as regards what figure constitute a quorum in an impeachment proceeding as experienced in Plateau and Oyo State, the hasty manner of impeachment exhibited in Adamawa as well as the commando-like operation of lawmakers in a number of States among others are worthy of note. They were all indicative of the susceptibility of subnational legislatures to manipulation as the ends of all the cases suggested. The Adamawa Assembly display of double standard in the deployment of oversight tools, and the failure of the Nassarawa lawmakers to appear before the Investigative Panel to substantiate their claims cast doubt on the motive of the impeachment campaigns against the Governors.

Poor Perception of roles and Responsibilities: The ease with which impeachment was deployed affirmed the view that in Nigeria's 'cash-and-carry' and winner-takes-all politics as being practice, only a handful of elected officials genuinely understand the different and varied roles attached to their respective positions. Elective offices are merely seen by elected officials, prospective public office seekers, politicians and the entire citizenry as executive offices. This perhaps underscores the desperation with which legislators at both national and subnational levels take pride in the public display of 'empowerment projects' particularly at the twilight of every election. The essential responsibilities of being lobbyists for their constituencies and conveyors of their preferences, performing oversight functions on the executive and law making are often secondary. Worse still, little time is spared to learn the rudiment of productive engagement and sundry legislative responsibilities in a democracy. This therefore undermined the broad latitude granted the legislature to interpret gross misconduct, which has been subject to abuse, and often times on the at the instance of political expediency.

Impeachment as Inhibition: Impeachment is almost becoming a burden and a cog in the wheel of furthering the consolidation of representative government and ideology-based politics. Impeachments and impeachment proceedings either of the executive or Speakers or their Deputies have brought about gridlocks on a number of occasion, and as fallout of chaotic politics, impeachment campaigns have had huge political cost on the people, exerts enormous strain on the system and stultifies the growth of democracy (Ogaziechi, 2014).[13] It has led to the dissolutions of legitimately constituted governmental institutions including the legislature in the affected States through the declaration of state of emergency as witnessed in Plateau and Ekiti States in 2005 and 2006 respectively. Electorate had also been shortchanged in the ensuing scenarios in these and other cases as their respective choice of representatives undermined rather than advance their preferences.

[13] Ogaziechi, Nnedi (2014), 'As impeachment whirlwind blows', http://dailyindependentnig.com/2014/08/impeachment-whirlwind-blows/accessed 7/8/2014

Costly Bargaining Chips: The 'impeachment' threats have become bargaining chips. There were allegations that legislators received financial inducement, to set the machinery of impeachment in motion in virtually all the identified impeachment proceedings as the case of Taraba State under Governor Jolly Nyame attests. Although the veracity of some of these claims, which lies with the anti-graft agencies of government could not be established; this however, does not take away from the fact that governance was brought to halt in a number of States, as legislators wielded the impeachment big stick on their Governors for what they interpreted to mean 'impeachable offences'.[14] Developments such as these had led to a growing feeling among political actors particularly victims of impeachment campaigns that, the legislative arm speaks up only when there are 'impeachable offences'; and such actions were at unimaginable cost to the electorates and to the system of rule. More worrisome is the fact that the rating of the legislature is being lowered in the estimation of discerning Nigerians.

Compromised Institution and Monetisation of Impeachment: On the other hand, some of those in the executive often display provocative sense of superiority over the legislators to the extent of demanding undue loyalty as a prerequisite for mutually beneficial relationship. Thus, in a veiled scare of impeachment, some executives had been forced to bend over backwards to negotiate for 'legislative loyalty and understanding' in the capital intensive and chaotic political system. The level of energy on display during impeachment campaigns and impeachment processes is often not comparable to the energy applied to the core democratic duties of the legislature (Ogaziechi, 2014).[15] Similarly, in Adamawa state, a new gubernatorial election had to be organized following the impeachment of Murtala Nyako less than one year to the end of his tenure in line with Section 191 of the Constitution. The provision provides for a new election to be held within three months from the date of impeachment to elect a new governor who will be in office for the unexpired residue of the impeached governor's tenure.

Thus, two gubernatorial elections had to be held within a period of six months in Adamawa state notwithstanding the cost of organising the repeat exercise on public resources as well as the individual purse of the contestants.[16] It has therefore brought about huge monetary strain on the government and aspirants to public office particularly with the repeated gubernatorial elections in Adamawa State in quick succession. For example, it would be recall that, following the impeachment of Governor Murtala Nyako of Adamawa State in July 2014, less than ten months to the end of his tenure, a new election was midwifed by the Independent National Electoral Commission (INEC) to usher-in another executive that would have to statutorily complete Nyako's tenure in May 2015 after which another Governor would be inaugurated for the 2015-2019 term following the outcome of the 2015 general elections.

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[14] ibid

[15] ibid

[16] Needless to stress that the elections will impoverish the contestants. It costs a fortune to run a governorship campaign and to run two campaigns in six months has long and short term implications for the contestants and the treasury of the state. Essentially, whoever wins will recoup his expenses from the treasury of Adamawa State. Onyekpere, Eze (2014), 'Matters arising from the impeachment gale', http://www.punchng.com/opinion/matters-arising-from-the-impeachment-gale/ accessed 28/7/2014

Impeachment in lieu of election: Impeachment has been used as shortcut to ascension to power and access to legitimate authority over the control of state resources as was the case in Adamawa when the Speaker assumed the executive power first as acting Governor and subsequently won his party, the PDP's nomination as gubernatorial candidate in the subsequent election. Similarly, the impeachment of Ayodele Fayose in Ekiti State also paved the way for the declaration of state of emergency, which was subsequently followed by the appointment of an administrator by the national executive to oversee the affairs of the state for an interim period of six months in the first instance. The attendant feud between Fayose's Deputy, Abiodun Olujimi, and the Speaker, Friday Aderemi over who between them was the legitimate 'heir' to the throne following the ouster of Fayose speak volume of the desperate quest for power in this manner. The impeachment of Governor Ladoja in Oyo State afforded his Deputy, Adebayo Alao Akala opportunity to become the substantive Governor with the support of his supposed political godfather, and the acclaimed political gladiator in Oyo State at the time, Alhaji Lamidi Adedibu

Crude Manifestation of a Distorted Federal System: Bugaje (2003) observed and rightly too that the prevailing political system has remained a captive of the primordial sentiments and base values of Nigerians. The military background of the governmental structure and extant political system has tainted the understanding and essence of Nigeria's federal arrangement.[17] While the constitution vested the presidency with wide-ranging powers, the exercise of such presidential powers, much more than what the constitution envisages, have become even more pronounced and counterproductive with the preponderance of weak institutions most of which are susceptible to inducement. Thus, Ade-Adeleye's (2014) position suffices that successive occupant of the office of the President since the commencement of the Fourth Republic beginning 1999 has wielded enormous power, deploying such power at will. Beyond constitutional provisions that nourish the president's appetite to deploy power arbitrarily are other religious and cultural factors that manifest primarily in traditional subservience to authority. This has manifested itself in series of alleged federal executive instigated intrusion into state affairs particularly as regards impeachment of virtually all the affected state executives.[18].

Concluding Remarks

Above all, this author aligns with Ade-Adeleye (2014), observation that, although nearly all the states suffer from either incompetent executives or misrule, there may be no end to the subversion of the nation's constitution. In spite of the noticeable shortcomings in the administration of the affected states, the impeachment processes activated in those states was not quite the local affair the promoters and their allies would have observers believe. Most impeachment proceedings initiated between 1999 and 2007 were fraught with substantive and procedural inadequacies laying bad precedence which subsequent governments exploited thereby endangering democracy and laying the groundwork for distortions. Impeachment could be politically motivated as it is both a legal and a political weapon. Impeachment is also a constitutional duty that must be carried out in accordance

[17] *"The Evolution of the Legislature and the Challenges for Democracy in Nigeria: an Overview."* Hon. Dr Usman Bugaje, Chairman, House Committee on Foreign Affairs, at the Seminar on Strengthening Democratic Values through Parliamentary Co-operation, organised by the National Assembly in collaboration with the Canadian Parliament, held at Abuja, Nigeria, from 23rd – 26th August, 2003. *http://www.webstar.co.uk/~ubugaje/evolutionlegislature.html*

[18] Ade-Adeleye Adekunle (2014): "Nyako's Impeachment", Lagos Nigeria: The Nation Newspaper July 16, 2014, p2-3

with due processes and after affording the affected officer adequate time and opportunity for self-defence. A court could nullify the impeachment process if it is found not to have complied with constitutional provisions. The court will not interfere with the process as long as the constitutional provisions are complied with. However, where the section of the constitution is subverted, the court could interfere with, and declare the process illegal. In the identified cases, victims could not challenge their respective impeachments in court on identifiable constitutional lapses due to palpable malfeasances for which they were probably culpable.

One could safely argue that the victim-governors were not given fair hearing in view of the speed with which investigative panels concluded their assignments vis-à-vis the period the respective governors were allegedly impeached. These impeachments, from all indications, were not exclusive acts of the states Houses of Assembly, but rather, some externally conceived scripts acted out by the legislatures. Victims were punished for holding views considered subversive and against vested interests and for other political considerations. It is also safe to infer that due process was disregarded for personal aggrandizement by the legislators and other key actors on each and every occasion. Above all, reckless use of impeachment to settle scores was a negation of the intention of the framers of the Constitution. It is deplorable to use financial inducements to influence the removal of perceived opponents that was popularly elected from office in a manner that is antithetical to democracy.

While those who commit impeachable offences should not be spared, impeachment campaign should not be to the detriment of the entire process of good governance. As required of credible representative government, the three arms of government, the executive, the legislature, and the judiciary have statutory roles to play in the process of impeachment. This therefore calls for collective institutional introspection on the statutory and contextual conception, and deployment of impeachment in the legislative-executive relations. The political players at the executive level should desist from committing impeachable offences. Executives should also desist from intimidating or luring the legislature or the judiciary into doing its bidding through unhealthy compromises. The legislature at all levels should be more proactive in holding the executive accountable through active and unbiased oversight functions and law making. The judiciary on the other hand should bring its professional ethics to bear by been upright and not pliable when the processes and intentions of an impeachment campaign are flawed. Legislators must resist the temptation to abdicate their statutory roles and representative calling for damaging political expediency. More importantly, electorates must rise up to the reality of the dictate of representative government by taking elections into the legislative houses more seriously. The idea of legislators being persons of low integrity, legislative terms characterized by unending allegations of bribery, in-fighting in the legislative chamber; and the recurring performance of legislative duties in ways and manners not contemplated by the constitution calls for change.

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