

Exploring the politics of impeachment in Nigeria's presidential system: Insights from selected states in the Fourth Republic, 1999-2007

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A dissertation submitted in fulfilment of the requirements for the award of degree of Doctor of Philosophy in Political Science, University of KwaZulu-Natal, 2016.


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Supervisor: Professor Suzanne Francis

Declaration

I, Omololu Michael Fagbadebo, declare that this study is my original work and that it has not been submitted for the award of any degree or examination at any other university. All the sources that I have used have been fully acknowledged and referenced. The dissertation is submitted in fulfilment of the requirements for the award of degree of Doctor of Philosophy in Political Science, University of KwaZulu-Natal, 2016.

Signature. 

Date. March 16, 2016

Dedication

To the glory of the Almighty God;
and, my wife, Funke, children, Dominion, Victor and Marvellous

Acknowledgments

A doctoral dissertation is a culmination of a long period of journey in education and training; God is the Creator of the path divinely designed for His own specific purpose. To Him alone I give the glory, honour, praise and adoration.

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Abbreviations

AD	Alliance for Democracy
AG	Action Group
APC	All Progressive Congress
APGA	All Progressive Grand Alliance
CDC	Constitution Drafting Committee
CRF	Consolidated Revenue Fund
EFCC	Economic and Financial Crime Commission
GNPP	Great Nigeria People's Party
ICPC	Independent Corrupt Practices and other related offences Commission
LP	Labour Party
NCNC	National Convention of Nigerian Citizens
NEPU	Northern Elements Progressive Union
NNDP	Nigerian National Democratic Party
NPC	Northern People's Congress
NPN	National Party of Nigeria
NPN	National Party of Nigeria
NPP	Nigeria's People's Party
PDP	People's Democratic Party
PPA	Progressive Party Alliance
PRP	Peoples' Redemption Party
PRP	Peoples' Redemption Party
UPN	Unity Party of Nigeria
UPP	United People's Party

Abstract

This study, through extensive empirical fieldwork research through interviews, interrogates the politics associated with the exercise of the power by the legislature to remove heads of the executive branch of government in the Nigerian presidential system. The study draws insights from the cases of impeachment in some selected states from 1999-2007. Through the frameworks of structural functionalism, elite and legislative role theories, the study analyzed the behaviors, attitudes and dispositions of the Nigerian political elite towards the exercise of requisite constitutional powers. The findings of the study show that external influence weakens the institutional capacity of the legislature to effectively exercise its oversight power over the executive. The prevalence of patron-client politics encouraged a selective application of impeachment provisions as an instrument of political vendetta and harassment. This has weakened the oversight power of the legislature thereby engendering accountability problems. It also deepens the crisis of governance because of the failure of the relevant institutional framework to tame unethical behaviour exercised by the political elite. Additionally, the Nigerian presidential system is unable to deliver public goods through an integrated institutional process. Policy outputs run contrary to the institutional framework that is supposed to provide the requisite capacity for the promotion of good governance in their exercise of political power, the political elite exploit institutional structures and processes at the expense of the public. This has evolved into a political culture that undermines good governance. The study therefore recommends the need for multiple measures of accountability, a truly independent judiciary, legislative independence and a reorientation of the people's perception of political power.

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Introduction to the Study

The central focus of the political scientists in the study of the state is power. With ‘a legitimate monopoly of coercive power’ exercised within a defined territory, the state is concerned with how to generate and employ power (Fukuyama, 2015, p.12). The exercise of power, therefore, is directed towards the promotion of the public interest. Harold Lasswell’s definition of politics as ‘who gets what, when and how’, as well David Easton’s (1957) conception of politics as the ‘authoritative allocation of values for the society’, centers on the exercise of power for the community. These definitions were reechoed by Heywood (2013). The focus of political scientists, therefore, is to investigate how the ‘actions and beliefs, social profiles, and overall configurations’ (Higley, 2011, p.760) of the actors that comprise the elite ‘affect political regimes and policies’ (Higley, 2011, p.760).

Essentially, the preoccupation of political scientists is to interrogate and monitor the exercise of power in society (Francis, 2011). The general perception of the activities of the political elite is the ability to impose limits on the possibilities in the political process. According to Francis, political scientists could define power through the lens of the institutional framework upon which it is exercised. Thus, ‘studies of the way in which power is exercised, accumulated and tempered by a multiplicity of actors in a variety of institutional settings provides the substance from which political scientists can define and recognize the nature of power’ (Francis, 2011, p.2). This development often means that politics becomes ‘fierce power struggles between ambitious, blinkered, and insecure elites’ (Higley, 2011, p.760). Ivar Kolstad and Arne Wiig (2015), attribute this to the self-serving character associated with the elites in most political systems.

The exercise of power is subjected to control in order ‘to ensure that the government acts in the interests of the whole community, rather than simply in the self-interest of the rulers’ (Fukuyama, 2015, p.12). Within this, the rule of law is of paramount importance.

The rule of law is a set of rules, reflecting community values that are binding not just on citizens, but also on the elites who wield coercive power. If law does not constrain the powerful, it amounts to commands of the executive and constitutes merely rule *by* law (Fukuyama, 2015, p.12).

Societies are governed by a set of binding rules that reflect their values. Ideally, in any democratic state, the exercise of power is to promote the public good. In other words, political elites that are entrusted with power by the public are expected to exercise the same

in a manner that would provide more benefits to the people. Francis Fukuyama (2015) explains this from the liberal democratic principle where the state exercises power within the confine of the rule of law with a view to promoting accountability. He defines the state as ‘a legitimate monopoly of coercive power that exercises its authority over a defined territory’ (Fukuyama, 2015, p.12). The primary concern of the state, therefore, is to employ and deploy power for the provision of the basic public goods that enhance human development.

The exercise of this power is not absolute: it is sandwiched by legitimate and binding constraints placed upon those who hold power by certain rules that reflect the values of the community (Fukuyama, 2015). In Europe, power constraining institutions define the behavior of the members of the executive (Moller 2015; Fukuyama 2010). This countervailing power was designed to act as a restraint against the excessive use of power against the citizens. In essence, the consciousness of political accountability pervaded the process of state building. And the culture of the rule of law was a norm in the society. Thus, adherence to the rule of law in the exercise of power is a design to make the political elites responsible to the public. The essence of democratic accountability, therefore, is ‘to ensure that government acts in the interests of the whole community, rather than simply in the self-interest of the rulers’ (Fukuyama, 2015, p.12).

Francis (2011) in her study of the provincial legislature of KwaZulu-Natal identifies the legitimate relationship of elected government officials to institutions of power as a distinguishing feature of the political elite who operate within the confine of constitutional and institutional constraints. She defines the political elite ‘as a group of individuals whose legitimate relationship to the institutions of power enables them to possess the key political influence or take the most important political decisions about that environment’ (Francis, 2011, p.2). The political elite, as conceptualized in this study, is a group of individuals who exercise a large amount of influence, authority and power within the political system. They are a set of people whose sphere of operation within the formal and informal institutions of government impact governance. In Nigeria, the political elite extend beyond the confine of the legislative, executive and judicial structures, to include individuals in the external environments of these government institutions, who exert considerable influence on the process of government.

In a presidential system, power is a central focus in the relationships between and among the various institutions of government. The concept of separation of powers and the doctrine of

checks and balances are institutional designs to control power relations among the three major branches of government: the legislature, the executive and the judiciary. This presupposes that power in a presidential system is considered as a vital instrument that needs to be controlled in a bid to achieve the purpose of the government. As a governing system, a presidential system encourages a decentralized exercise of controlled power with a view to servicing a common purpose (Oyewole, 1980; Anise, 1980).

Government institutions and structures operate upon the strength of the individuals occupying available positions. As locus of state power, these institutions function within the confine of the law. Effective application of the law depends largely on the dispositional character of the individuals in position of authority. This study considers the exercise of the constitutional power of the legislature to monitor the policy process through a disciplined and responsible executive. The constitutional capacity of the legislature to remove head of the executive branch is a control measure to instill discipline in the exercise of power.

Extant provisions of the Nigerian constitution empower the legislature to control public policy with a view to ensuring good governance. The drafters of the constitution constructed the statutory oversight responsibilities of the legislature with a view to guaranteeing transparency and accountability. The constitution empowers the legislature to exert maximum weapons of political discipline of impeachment against members of the executive found guilty of “gross misconduct” in the course of the discharge of assigned responsibilities. Sections 143 and 188 of the constitution stipulate a procedural process for the removal of the leadership of the executive at the federal and state levels respectively. This is necessary in view of the provisions of section 308 that bars institution of any civil or criminal proceedings against the leadership of the executive while in office. The impeachment provision is a constitutional measure designed to discipline erring members of the executive in cases of abuse of office.

This study explores the interplay of power in the governing institutions in Nigeria’s political system. It involves the understanding of a web of interactions among political elites both within and outside a political structure. Thus, analysis of the politics associated with impeachment requires the examination of the activities of different political actors operating in different political structures assigned to perform certain statutory roles in the political system. The study focuses on the power relation between the legislature and the executive drawing insights from the state.

The relative power imbalance between the governors and the legislature in Nigeria is not peculiar. In the United States, legislative scholars have noted that many citizens perceive state governors as the 'face of the government' (Joaquin & Myers, 2014; Carpenter & Hughes, 2011). The annual speech at the legislature where state issues are put on the agenda for policy direction as well as the authority in fiscal policy presents them as chief legislators in their domains. To this end, 'they tend to be more visible and seen as being out front in the development of the legislative agenda' (Joaquin & Myers, 2014, p.3).

Nevertheless, in a true presidential democracy, gubernatorial leadership and prominence do not guarantee stability. As Hale (2013) has noted, the governor needs the legislature for fiscal responsibility. In other words, a bipartisan political environment is a necessity for fiscal accountability and good governance because policy process is not exclusive to the gubernatorial domain. Late Rotimi Williams, one of the architects of presidential system in Nigeria, noted that the political elites operating the Nigerian presidential system lack the necessary experience and knowledge (Soyinka, 1999). To him, the political elite in the legislature, executive, and, the public, require proper education on the workings of the Nigerian presidential system.

In 2006, Chief Richard Akinjide noted that it had been difficult for the Nigerian leadership to exert its constitutional power to convert the nation's oil resources into wealth for public good (Akinjide, 2006)¹. According to him, the abundant resources exacerbated greed with unreasonably high expectations of private appropriation of the state. The outcome is the erosion of personal ethical and social values, a development that contribute greatly to the dislocation of the country's cohesiveness. In one of his monographs in 2011, Chief Akinjide identified the repeated mismanagement of resources and corruption as the major obstacles to economic development of Nigeria (Akinjide, 2011). This ought not to be if the political elites in the legislature and the executive branches of the Nigerian government adhered to the principle of separated but shared power. The Nigerian political elites, of which Chief Akinjide is one, often act in the contrary.

¹Chief Akinjide is a Nigerian politician whose participation in Nigerian politics spanned from the immediate post-independence parliamentary system of the First Republic, 1960-1966, through the presidential system of the Second Republic, 1979-1983, and the Fourth Republic presidential system since May 29, 1999.

Similarly, in 2007, another prominent Nigerian lawyer, Chief Afe Babalola, lamented the fizzling out of the bite of law in the Nigerian anti-corruption crusade castigating the judiciary and the nation's security agencies for complicity.

If a criminal or fraudster knows that after embezzling state funds or defrauding other people or institutions he could employ part of his spoil to pay his way, would he relent? If he knows that he has the political alliance [with the legislature and the executive] that could make state pardon available to him...then he can afford as many fake certificates as possible... If a 419 kingpin knows that he could meander through the judicial process by sheer advocacy- skilled lawyers, why would he not swindle every country of the world and hire the most proficient defence lawyers amidst celebrations by a society that is totally bereft of moral values (Babalola, 2007, p.17).

The above submission negatively impacts on the image of the country. 'Nigerians are subjected to degrading and inhuman treatment and treated as pariahs on the ground that they are Nigerians, who hail from the most corrupt country in the world' (Babalola, 2007, p.28). Events and developments in the Nigerian presidential system since 1999 continually validate this claim.

The Corruption Perception Index of Transparency International since 1999, as shown in Table 1, categorises Nigeria as one of the most corrupt countries in the world. The *Daily Trust*, a Nigerian newspaper, in its editorial on the ranking of Nigeria in the 2010 report of the Corruption Perception Index of the Transparency International (TI), states that fight against corruption in Nigeria 'has remained a problematic one, with sloganeering by successive governments and very little else to show for it'.²

² Daily Trust, November 1, 2010.

Table 1 - Nigeria's position in the Corruption Perception Index, 1999-2014

Year	Score	Rank	Total
1999	1.6	98	99
2000	1.2	90	90
2001	1.0	90	91
2002	1.6	101	102
2003	1.4	132	133
2004	1.6	144	145
2005	1.9	152	158
2006	2.2	142	163
2007	2.2	147	179
2008	2.7	121	180
2009	2.5	130	180
2010	2.4	134	178
2011	2.4	143	177
2012	2.7	139	174
2013	2.5	164	177
2014	2.7	136	175

Source: Compiled by the author from Transparency International Reports on the Corruption Perception Index, 1999-2014.

There are empirical cases that justify this ranking. For instance, at the time of the arrest of a former governor of Bayelsa State, late Diepreye Alamieyeseigha, by the London Metropolitan Police in 2005, a reporter of *The New York Times*, Lydia Polgreen, said the following.

Precisely where in the rogue's gallery of corrupt Nigerian leaders Diepreye Alamieyeseigha will fall is a matter for history to judge. Gen. Sani Abacha³, the military dictator who helped himself to at least \$3 billion and salted it away in foreign bank accounts, doubtless stole far more. But General Abacha - who ruled the country from 1993 to 1998 - never fled money-laundering charges in a foreign land by donning a dress and a wig to match forged travel documents, as Mr. Alamieyeseigha, the governor of a small oil-producing state in the Niger Delta, did last week, government officials said. For their sheer audacity, his antics are likely to earn him a prominent place among the leaders who in the past four decades are believed to have stolen or misspent \$400 billion in government money, most of it the profits from Nigeria's oil reserves (Polgreen, 2005).

Alamieyeseigha was the elected governor of Bayelsa State, 1999-2005. He was arrested by the London Metropolitan Police (LMP) in 2005 over allegations of money laundering running into millions of British Pounds Sterling. He was charged in a London court and remanded in prison custody before he was granted bail (Eze and Ighodaro, 2005; Polgreen, 2005). He however jumped bail. It was rumored⁴ that he disguised as a woman to escape identification by the British immigration authority and absconded to Nigeria. This account of his escape remains a mystery. The BBC News presents the account thus:

Diepreye Alamieyeseigha, governor of Nigeria's Bayelsa state, has an official CV that boasts awards including Best Governor on Security and the Golden Trophy for Good Governance. British prosecutors argue that his achievements also include money laundering to the tune of £1.8m (\$3.2m). The governor denies this charge - but responded to it by developing a new talent as an escapologist as he jumped bail and fled the UK, eventually reappearing back in Bayelsa. Nigeria's anti-corruption agents also say he is a master of disguise, donning women's clothing as he fled - though the governor denies this. But he told the BBC that he does not remember any other details of the long journey home (BBC News, 6/12/2005).

Section 308 of the Nigerian constitution precludes a governor from being arrested or charged in court for any criminal or civil offence while in office.

Presenting Abacha as a decent “rogue” in looting, in comparison to the case of Alamieyeseigha depicts the debasement of the tenets and practice of the Nigerian presidentialism, a system that exhibits the culture of checks and balances. The difference between these two characters is the method of accountability. A military leader has his constituency restricted to the barracks with a regimented hierarchical order of operation. Thus, late Abacha could rule with impunity; he was neither elected nor selected by the people. But an elected civilian leader, like late Alamieyeseigha, operated under the dictum of constitutionalism requiring accountability to the people. He operated in an environment sandwiched by rules and procedures and a system of checks and balances. If he fails the accountability test, he risks punishment.

³Abacha was Nigeria's military ruler from November 1993 until his death in June 1998. His regime was noted for its brutality and looting of the public treasury with impunity.

⁴ It is yet to be established how he escaped to Nigeria.

The Nigerian presidential system offers the legislature the power to remove such an elected leader through the process of impeachment. As a former legislator said, 'If you have the governor of the state misappropriating funds, or executing any projects outside the budget or misuse of power by the governor, it might lead to impeachment' (Personal Interview I, May 3, 2014). The principle of separation of powers among interdependent, but co-equal, institutions of government in a presidential system compels leaders to be accountable. The central accountability measure is the decentralised structure of the policy process.

The three branches of government - the legislature, the executive and the judiciary - operate as checks on the application and exercise of state power with a view to ensuring the promotion of the public good. Extant constitutional provisions provide the legislature with a measure of power to control the expenditure of the government. The Nigerian constitution emphasises the balance of power through a power sharing practice among the three branches of government. Unlike the previous military regimes, where there is concentration of power in one individual, presidential system offers a decentralise power structure. The legislative power of control over the execution of policy includes sanction and punishment in order to enforce correction.

My examination of the key issues relating to impeachment in the Nigerian presidential system is divided into eight chapters. In chapter one, I provide the context of my arguments and analysis from a general overview of presidential systems. This is essential in order to locate the rationale for the study of an aspect of the Nigerian presidential system. Here, I consider, in a comparative manner, the general principles of presidential systems and the initial empirical evidence of the disposition of the Nigerian political elite. This provides the basis for my argument that the inability of the legislature to perform its statutory oversight function constitutes a great challenge to accountability in Nigeria.

In chapter two, I examine the perspectives on the study of presidential systems. I engage in the review of extant literature on presidential systems with a view to identifying the parameters of the theory and practice. I discover two broad perspectives on the study of presidential systems: the traditional and developmental. I present the position of the traditional school that defines the operation of presidential systems by the institutional and structural design. On the contrary, the developmental perspective is more interested in the outcome of the operation of the institutions and structures. I discover that the two perspectives draw their strengths from the need for disciplinary measure but differ on the

methods and outcomes. The exercise of the power to remove elected officials in the executive branch is a common focus. Since the electoral process provides a specific term of mandate, a mid-term failure is better addressed by constitutional means to avert political gridlock.

I make a series of claims out of these perspectives. Firstly, the general expectation in presidential systems is that the political elite would exercise power to cater for the interests of the public. Nevertheless, this is lacking in some of the developing presidential systems, especially in Nigeria. Secondly, the attainment of this goal requires a flexible and purposeful cooperation among the political elite. This includes the exercise of power within the confines of constitutional requisites for the promotion of good governance. Lastly, the impeachment provision is a measure to promote transparency and accountability. As such, the focus of the institutional properties of a presidential system is to promote the public good.

In the third chapter, I explore extant literature and empirical data to explain the foundation of the presidential system in the Nigerian political system. My account presents two but periodic epochs. First is the practice of the Westminster parliamentary system in the First Republic, 1960-1966, and, second, the adaptation of the American-modeled presidential system in the Second Republic, 1979-1983. The claims that the practice of a parliamentary system was responsible for the political instability that led to the military coup of January 15 1966, gave rise to the preference of the latter⁵. In comparing the two periods, I demonstrate that the flaws that truncated the practice of the two systems are located not within the institutional characteristics of the systems but in the attitudinal disposition of the political elite. Based on empirical evidence, I illustrate this in the examination of the exercise of the power of impeachment in the two periods and discover behavioural traits common to the conduct of the political elite who practiced in the two different governing systems. I examine the issues involved in the removal of the premier of the Western Region, Chief S. L. Akintola, in the First Republic and compared it with the impeachment of Governor Balarabe Musa of Kaduna State in the Second Republic. I demonstrate that the abuse of power, for the promotion of personal gains, is the bedrock of the crisis. My examination of the issues provides the basis

⁵ The political crisis that emanated from the nature of the relationship among the political elites created the environment for military rule from January 1966 to October, 1979. The subsequent political transition programme opted for a different system that guaranteed institutional checks on the exercise of power. Nevertheless, the new found system did not last for more than four years when the military took over on December 31, 1983.

for my claim that the Nigerian public is enslaved by the political elite who exploit their mandate which further results in poverty and a poor quality of life among the population.

In chapter four, I examine the theories and concepts that anchor my analysis. I identify the usefulness of the structural functionalist, the elite and the legislative role theories for the analysis of the study. I evaluate their strengths in providing insights into the general analysis of the exercise of power in a presidential system. I discover, from the literature, that none of these theories is independently capable of providing explanation for the exercise of power in the Nigerian presidential system. In applying this to the Nigerian presidential system, I illustrate, with empirical data, that there is a wide gap between the behaviour of the political elite and the theoretical postulations that defines their roles and responsibilities within the institutional parameters. Theoretically, the concept of a regime of separated and shared power assumes a synergy among political elites to promote public goods. I found that in practice in Nigeria, separated power is an avenue for the reification of political intimidation and harassment. Rather than explore the institutional characteristics to improve the lots of the public, Nigerian political elites exercise power in contradiction with the expectations of the people.

In chapter five, I present empirical data in an examination of the exercise of legislative power in removing state governors, and, the judicial review of the legislative actions in selected states. First, I explore the requisite legal rules that guide the exercise of the legislature to remove specified elected officials. Empirical evidence from judicial interpretations demonstrates that the extant rules and procedure are adequate to fulfill the intents of the constitution relating to impeachment. Second, I identify these constitutional intents as including the monitoring of the exercise of executive power, guarantees of good governance, strengthening of legislative responsibility and adherence to the rule of law. I claim that the use of impeachment as a weapon of political vendetta is responsible for governance crises in the Nigerian presidential system. I justify this claim by presenting data that indicates evidence of the abuse of power by a number of former state governors. I find that intra-elite crises facilitate the resort to constitutional breaches in the exercise of the legislative power of impeachment.

In chapter six, I explore how internal and external factors influence the exercise of the legislative power of impeachment in selected cases. I locate this within the confine of the concept of patron-client politics or what Richard Joseph (1991) call prebendal politics. I

discover that informal relationships between elected political elites and their patrons are based, mostly, on the understanding of personal service. I present empirical data to illustrate how the political elite external to the formal legislative institution facilitate the abuse of power. In Oyo and Anambra States, for instance, godfathers with no formal authority lay claims over the administration of the state. I also present empirical data that indicates the provision of a series of measures to shield some state governors against any possibility of impeachment.

In chapter seven, I explore a series of cases to analyse the disparate use of impeachment in Nigeria. I begin the chapter with the analysis of the impeachment of some former deputy governors. I find that these impeachment cases were prompted by the governors because of personal feuds and rift with their deputies. My claim here is that deputy governors suffer more from the disparate use of impeachment as a weapon of political victimisation and intimidation. I also explore the cases of former governors who were investigated and indicted, by the EFCC, over the misappropriation of funds while in office. Indeed, some of the properties of these former governors have been seized and confiscated on the order of the court. I also examine the case of a former governor of Delta State, James Ibori, whose 8 years' rule was riddled with evidence of his abuse of power but without any legislative consequences. I claim that the nature of patronage politics in Nigeria impacts severely upon political accountability. I support this claim with empirical evidence from a series of cases of the misappropriation of public funds involving former governors who occupy positions of authority in the government. In most cases, these political elites are strategically placed to exploit institutional shields. I therefore claim that the institutions of government in Nigeria are ineffective to improve the quality of life of the people.

I conclude the study with chapter eight where I interrogate the plausibility of impeachment as an instrument designed to promote good governance in Nigeria. I explore the level of corruption that characterises the exercise of power in a system of checks and balances and how the behaviour of the political elite incapacitates the institutions of government. I argue that corruption, as an instrument of statecraft in the Nigerian presidential system, frustrates political accountability. I claim that weak institutions of government, and especially the legislature, exposes the public to the reckless use of executive power which is against the public interest.

Chapter One

Problem statement, context and methodology

1.1 Background information

By constitutional design, the legislative institution in Nigeria occupies a prominent position as a vanguard of good governance. In other words, drafters of the constitution constructed the statutory responsibilities of this political branch with a view to guaranteeing transparency and accountability⁶. To be sure, this governmental structure, as in other presidential systems (Huneus et al, 2006; Hochstetler, 2011), is a principal actor in controlling the powers of the executive branch to achieve the desired objectives of the state⁷. The essence of legislative oversight function is to scrutinize the activities of government in order to promote good governance and safeguard the interests of the people (Oleszek, 2014). The legislature has the authority to represent and protect the interests of the public.

The arena of the policy process in the presidential system is not an exclusive preserve of the executive branch (Lindsay & Ripley, 1994). In other words, the presidential system promotes a system of government that recognizes multiple governance institutions with a measure of interdependence designed to stimulate cooperation and collaboration. Presidential constitutions often stipulate the limits of presidential and legislative powers in the conduct of state affairs. These limitations place checks on the exercise of the powers of each institutional structure. This is the beauty of presidential democracy (Hinojosa & Perez-Linan 2006/2007; Hochstetler & Edwards, 2009; Hochstetler, 2011).

This principle of separation of powers became a modern practice in Nigeria's political system in 1979 with the adoption of a presidential system of government. For the first time, after independence in 1960, the legislative institution, constitutionally, assumed a more clearly and unique status as an organ separated from the executive branch (The Political Bureau 1987).

⁶Section 4 of the Constitution of the Federal Republic of Nigeria, 1999 vests the legislative powers of the federal and state governments in the legislative institutions.. Aside from this, sections 80-89 and 120-129, empower the legislatures at the federal and state levels, respectively, to authorize and monitor the disbursement of all funds for government expenditures.

⁷Sections 13-24 of the Constitution of the Federal Republic of Nigeria 1999, as amended, codify the fundamental objectives and direct principles of state policy. Section 16(i) mandates the Nigerian state to 'harness the resources of the nation and promote national prosperity and an efficient, dynamic and self-reliant economy' with a view to securing the maximization of welfare, freedom and happiness of every citizen based on social justice and the equality of status and opportunity'. Section 16 (2) specifically mandates the Nigerian state to promote 'a planned and balanced economic development' by harnessing the nation's material resources and distributes it 'as best as possible to serve the common good.'

Thus, its role became more specific in the policy process. The constitution exhibited a clearly defined separation between its roles and those of the executive branch.

The 1979 presidential constitution is an attempt to remove some of the identifiable constitutional teething problems that militated against the entrenchment of accountability in the First Republic (The Political Bureau 1987). Thus, the advent of the presidential system in Nigeria is a response to the divisive politics that characterized the polity in the First Republic. It is a design to rid the political system of the acrimonious relationship among the political elites in an ethnically diverse polity. However, the Nigerian political elite discovered later that the system was fraught with difficulties in terms of the conduct of state affairs and the maintenance of effective relationships among the three separate institutions for the promotion of good governance (National Assembly Debates 1980; Ogunbadejo, 1980; Ayo-Adeyemi, 2000; Usman, 2010). The late Senate Leader in the Second Republic, Dr. Olusola Saraki, expressed this much when he said:

We have just started to practice the presidential system of government, but little did we know at the time we were adopting this system that it was fraught with difficulties and that the road to success in the system is very rough and rugged (National Assembly Debate, 1980).

In sum, there is the need for the practitioners, as well as the political system, to blend with the demands of the presidential system in the conduct of state affairs and the regulation of interactions among the three basic institutions.

Evidently, this ignorance still pervades the practice of the presidential system in the Fourth Republic. A former Speaker told me that his members had little or no knowledge of the workings of the Nigerian presidential system especially when it comes to the issue of impeachment.

From the benefit of hindsight, it occurs to me that at the commencement of the process, members did not appreciate fully the import of impeachment...It occurs to me that those who genuinely wanted the governor to go, did not ask themselves what happened after the impeachment of the governor. I think it was in the process that they now begin to ask themselves what happens after the removal of the governor. By the time the import began to dawn on them, it was very difficult to get consensus on what happened (Personal Interview VI, May 13, 2014).

The outcome of this incident jeopardised the stability of the state with consequences for the relationships among the legislators.

However, another military interregnum, which lasted for almost sixteen years, truncated this learning process, which would have provided a template for the institutionalization of the culture and practice of the presidential system (Ayo-Adeyemi, 2000). This development once again denied the political system of the necessary opportunity to entrench the culture of accountability under a democratically elected government. For years, the praetorian nature of the Nigeria's political system subjected the conduct of state affairs to a fashion of military fiat. This orientation impaired the democratic ethos in the conduct of the political elites and the structures of government. Hence, constant frictions between the two political branches in the conduct of state affairs characterized the Fourth Republic.⁸

The parliamentary structure of the First Republic did not incorporate the culture of a separation of powers among the branches of government. Instead, it did encourage the fusion of powers between the executive and the legislature (Almond, et al, 2004). Thus, there was a minimal culture of legislative relevance, as an independent governmental structure in the conduct of state affairs in Nigeria. Apart from this, structural inhibitions in the parliament constrained the expected vibrancy in legislative debates. As Gordon Idang (1973) has noted, the structural deficiency of the parliament obstructed its ability to participate effectively and intelligently in the conduct of state affairs. In fact, analysts described the parliament in 1963 as an 'expensive and irrelevant talking shop' (The Political Bureau 1987 p.94). Indeed, one of the high points that prompted the recommendation of a presidential system for the Second Republic was the need to reverse this trend and strengthened the legislature as an independent institution (The Political Bureau 1987).

However, the Bureau observed that the attitudinal dispositions of the political elites, rather than the institutional structures, are responsible for abuse of power in the First and Second Republics⁹. The Bureau states that 'only a politically conscious society, that is aware and jealous of its rights to choose those who direct public affairs, is capable of stopping such abuses' (The Political Bureau 1987, p.78). The onus of this observation is the need for an

⁸The aborted Third Republic did not take off fully before another military engagement occasioned by the aftermath of the annulment of the results of the June 12, 1993 presidential elections. Unfortunately, most of the actors in the Fourth Republic politics were former military officers and civilians who participated in the previous military regimes.

⁹ One of the political elites who spoke with me reechoed this observation about human nature. He said: 'A lot has to do with the propensity towards corruption that is very high in the public sector in Nigeria. There is no question about that: my argument has always been that it is a question of attitude mainly whether one form of system of government is susceptible to corruption or not' (Personal Interview VIII, May 19, 2014).

informed public to demand accountability and transparency as the twin instruments for the promotion of good governance.

In a presidential system, members of the two political branches 'are chosen in separate elections, and there is a clear separation of powers between the executive branch and the legislature' (Kesselman, Krieger and Joseph, 1996, p.14). The functions and responsibilities assigned to each branch define the level of this separation of power and their responsibilities (Candelaria, 2012). The two institutions guard their autonomies and freedom. The legislative institution is constitutionally entitled to set its own agenda, initiate policy proposals, and defy presidential directives contrary to legislative proposals. Thus, the executive does not have a pre-eminent control over the legislature.

Perez-Linan (2005) has contended that in more consolidated democracies, the inability of the executive branch to challenge the legislature ensures the development of a more balanced relationship. Such political systems disable the executive from circumventing constitutional processes and procedures in policy matters. The legislature is equipped with the power to carry out its statutory oversight functions, and take active part in the policy process. Even if presidents want to resort to executive orders as a means of circumventing legislative processes, they have to defer to the legislature in the conduct of some affairs of the state (Ogunbadejo, 1980). One of the devices of the executive to circumvent the legislature in the policy process is the exercise of the power of dissolution (Shugart and Carey, 1992). In most presidential systems, the power of the legislature outweighs that of the president as far as dissolution is concerned. While the legislature has the power to remove the president, the president typically lacks the legal resources to dissolve the legislature.

In presidential systems, especially in developing democracies, legislative power to remove sitting heads of the executive branch most often heightens conflict situations because of the frequency of its application (Olson, 2002). With the global abhorrence of the military as an agent of change in the politics of the developing democracies, legislatures in new presidential democracies have realized that the impeachment process is the main constitutional tool for sanctioning the leaders of the executive branch who are involved in corruption or abuse of power (Hinojosa and Perez-Linan, 2007). Lawmakers would not therefore, hesitate to exercise their constitutional powers to hold erring members of the executive accountable.

The legislative institution plays a vital role in governance because it performs important functions that are necessary to sustain democracy in complex and diverse societies (Huneus

et al, 2006; Alabi, 2009; Schleiter and Morgan, 2009; Franchino and Hoyland, 2009). The legislature is a political arena where citizens passionately plead their various interests and shades of opinion through their representatives. Thus, the legislature combines diverse opinions to present a common viewpoint on pertinent public issues.

The legislative arena, therefore, is a *sine qua non* for the expression and understanding of the supports and demands of the people to the system in democratic societies. Societal differences find their ways into the governmental processes through the representative assemblies with vital ties to the populace (Johnson & Nakamura, 1999). This institutional structure is a design meant to function as a vital instrument for the promotion of good governance through statutes that ensure a smooth operation for service delivery. Exactly how the structures perform these functions, vary with a system's political architecture, the state of its party and electoral system, and the preferences of those who run it.

The leadership of the executive branches at the state and national levels in Nigeria are usually sworn to oaths to discharge their duties faithfully, and, in accordance with the provisions of the constitution (Seventh Schedule, The Constitution of the Federal Republic of Nigeria 1999, as amended). The oaths of allegiance bound political office holders to be faithful and bear true allegiance to the Federal Republic of Nigeria and preserve, protect and defend the Constitution. Specifically, the president and the state governors, by the virtue of the Seventh Schedule of the Constitution, have sworn to preserve the Fundamental Objectives and Directive Principles of the State Policy (The Constitution of the Federal Republic of Nigeria, 1999 as amended). Aside, they are also bound to abide by the Code of Conduct and be devoted to the service and well-being of the people.¹⁰ These oaths, when pieced together, are the guiding principles for their conducts in directing the affairs of the Nigerian state with a view to ensuring accountability¹¹.

Indeed, several provisions of Nigeria's presidential constitution display the statutory will to achieve this objective within the rubrics of the governmental structures. Aside from the various provisions to scrutinise government policies, the constitution empowers the

¹⁰The Code of Conduct in Nigeria's constitution is the guidelines that stipulate the ethics associated with the behaviours of public officials. Violation of these rules attracts sanction by the Code of Conduct Tribunal. For the details, see the Fifth Schedule of the Constitution of the Federal Republic of Nigeria, 1999.

¹¹Apart from the pledge 'to preserve the fundamental Objectives and Directive Principles of State Policy'[sections 13-24], which spells out the blueprint for the promotion of good governance, they also affirmed that they would not allow their personal interest to influence their official conducts and decisions (Seventh Schedule, constitution of the Federal Republic of Nigeria, 1999).

legislature to exert the maximum sanction of political discipline, impeachment, against the executive found guilty of ‘gross misconduct’ in the course of the discharge of assigned responsibilities¹². The impeachment power, in presidential constitutions, is a constitutional measure designed to discipline erring executive in cases of abuse of office (Plucknett, 1942; Nwabueze, 1985; Baumgartner and Kada, 2003; Perez-Linan, 2007; Nichols, 2011; Kim, 2013).

1.2 Issues and Contentions

This study explores the exercise of legislative power to remove governors/deputy governors in some selected states in Nigeria’s Fourth Republic. There are 36 states in Nigeria each with a unicameral legislature. Cases of impeachment took place in eleven states between 1999 and 2007¹³. This study focuses on four out of these cases- Oyo, Plateau, Anambra and Bayelsa States. There is a trend common to these four cases: the legislatures breached the constitutional procedure (Taiwo, 2010). Judicial intervention upturned the decisions of the legislative assemblies in Oyo, Anambra and Plateau States (Oni, 2013). Bayelsa presented a similar but exceptional situation¹⁴. The governor challenged his removal but the court declined jurisdiction (Lawan, 2010). Lawan (2010) has noted that the governor would have been restored by the court if he had proceeded to appeal the judgment of the state high court that declined jurisdiction.

In three of the selected cases (Oyo, Plateau and Bayelsa), the PDP members had majority control of the legislatures. The governors and the majority of the legislature were from the same political party that was controlling the federal government. This is an indication that intra-party crisis rather than the gross misconduct of the governors informed the decision of

¹²Sections 143 and 188 of the constitution stipulate a procedural process for the removal of the leadership of the executive at the federal and state levels respectively. This is necessary in view of the provisions of section 308 that bars institutions of any civil or criminal proceedings against the leadership of the executive while in office.

¹³Out of the eleven cases, six deputy governors lost their positions through impeachment not because of acts envisaged as ‘gross misconduct’ but primarily because of the irreconcilable differences between them and their governors over ambition for succession. In these cases, the governor influenced the legislatures to press charges against their deputies. This trend of manipulation of the impeachment process for personal political ends is a common pattern to all the cases of impeachment in the country. In Osun State, the legislators could not garner the required two-third votes to remove governor Bisi Akande while the removal of the governor of Ekiti State and his deputy generated a constitutional crisis that compelled the federal government to declare a state of emergency. In Adamawa State, judicial intervention based on precedence, halted the attempt to remove the governor through legislative breach of the constitution.

¹⁴Though the legislature breached the constitutional procedure, there was no judicial intervention because of the public outcry against the immoral conduct of the governor. For details, see Polgreen 2005; Eze & Ighodaro, 2005.

the legislatures. Similarly, the case of Anambra State indicated the problem associated with divided government because while the PDP had the majority control of the legislature, the governor was elected on the platform of an opposition party, the All Progressive Grand Alliance (APGA).

The focal point of the judgments of the courts was on the breaches of the rules of the legislatures rather than the offense committed by the governor. My claim here is that the governors were restored to their position not because they were transparent, but because of the inability of the legislature to follow the prescribed rules. Indeed, I present empirical data to indicate that the charges of abuse of power against three of the governors were valid. In particular, the governor of Plateau State, Joshua Dariye, did confess that he unlawfully abused with the resources of the state.

Responsible legislative institutions should be able to carry out its constitutionally prescribed functions without the request to do so by a government agency, or by the involvement of such an agency to compel it to do so. In Bayelsa and Plateau States, the Economic and Financial Crime Commission (EFCC) was deeply involved in the investigation and coordination of the impeachment of the governors (Lawan 2010). The involvement of the (EFCC)¹⁵ in the abuse of constitutional procedure for impeachment is an indictment on the capacity of the legislative institution to check the executive arm against corruption and profligacy. Ordinarily, the involvement of EFCC in the impeachment cases in Plateau and Bayelsa (Lawan, 2010), is unconstitutional; it amounts to usurpation of the legislative oversight functions.

Section 128 of the 1999 constitution empowers the state legislature to exercise its oversight function. The section states:

¹⁵ The EFCC was established by law in 2004 to investigate all financial crimes and coordinate the enforcement of laws relating to economic and financial crimes. Its involvement in the impeachment cases in Bayelsa and Plateau States were glaring because its officials provided security for the minority legislators that were forced to commence the procedure.

(1) Subject to the provisions of this Constitution, a House of Assembly shall have power by resolution published in its journal or in the Office Gazette of the Government of the State to direct or cause to be directed an inquiry or investigation into - (a) any matter or thing with respect to which it has power to make laws; and (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for - (i) executing or administering laws enacted by that House of Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by such House. (2) The powers conferred on a House of Assembly under the provisions of this section are exercisable only for the purpose of enabling the House to - (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it (Constitution of the Federal Republic of Nigeria, 1999, as amended).

More importantly, the constitution empowers the legislature to exert a measure of control on public spending. Section 120 (1 and 2) specifies that all the resources of the state should be pooled together as the Consolidated Revenue Fund (CRF)¹⁶. Section 120 (3 and 4) stipulates that withdrawal from the CRF requires the authorisation of the legislature. Such authorisation is tied to specific projects as reflected in the appropriation law. Section 124 empowers the legislature to fix the remuneration of all political office holders including the governor and his deputy. As a measure to ensure legislative control of the finances of the state, section 125 stipulates the annual audit of the accounts of the state by the Auditor-General, who is directly responsible to the legislature. Above all, the legislature has the power to remove the governor if involved in any act that amounts to gross misconduct.

The focus of this study is the exploration of the politics behind the exercise of this power of impeachment in the selected states. These cases bring into the fore certain postulations over the exercise of the power of impeachment by the legislature in the Nigerian presidential system. The abuse of judicial process added a fundamental dimension into the cases of Plateau and Anambra states¹⁷. My findings show that impeachment as contemplated by the drafters of the Nigerian constitution, is a political instrument to promote accountability and transparency in government.

Nevertheless, the lawmakers selectively exercise the power in a manner that is not in keeping with this original intent. The constitution provides a uniform rule, but there are some states

¹⁶The CRF is a pool created by the constitution to contain all the resources of the state from where government could draw resources to fund all projects contained in the fiscal policy as directed by the legislature for implementation. Withdrawal from the fund should be authorised by the legislature. This measure is a constitutional means to prevent indiscriminate access to the public treasury by the executive.

¹⁷The constitutional provision in respect of the impeachment procedure clearly spelt out the role of the judiciary in the process. Nevertheless, the political elites in the legislatures and the executive branches of government of these two states abused their power of control over the judiciary while some judicial officers trampled upon the sacredness of the law. For the details, see Lawan, 2010.

where there is evidence of the abuse of office by the governors without any legislative or judicial actions being taken against them¹⁸ I examine empirical data on these findings. I found that the weakness of the legislature in this regard is a function of incapacity occasioned by the lack of an independent political base of a majority of the lawmakers. They are mostly clients to powerful political elites and the leadership of their respective political parties.

I therefore contend that that the incapacity of the legislature to effectively exercise its oversight power in policy process partly contributes to the prevailing crisis of governance in Nigeria's Fourth Republic. As such the semblances of legislative activism towards enforcing the intent of the impeachment provision are a mere demonstration. Nevertheless, the zeal waned as legislators' initial eagerness was an invitation to the executive to negotiate on the welfare of the lawmakers at the expense of the dwindling hope of a responsible civilian administration¹⁹.

There is no doubt that the practice of the presidential system in Nigeria's political system has been fraught with certain political hiccups. Of importance in this regard is the problem of accountability and the promotion of good governance *vis a vis* the failure of the legislature to appropriate its constitutional power of oversight over the executive branch. The exercise of this power has been in abeyance of its manifest purpose. The exercise of legislative oversight power in this regard has not been able to stimulate the environment necessary for the institutionalization of responsible executive in Nigeria's presidential system. Consequently, there is the failure of the Nigerian state to promote good governance. In the absence of effective institutional checks, systemic corruption retards growth and development (Fagbadebo, 2007; Fagbadebo, 2009; Ogundiya, 2010; Adebani and Obadare, 2011).

Ordinarily in a presidential system, the exercise of impeachment power as a political weapon to discipline certain categories of public officials is dependent on the strength of the legislature. It is the only institution saddled with the responsibility of exercising such power. In addition, since discipline is a necessity for stability and productivity in a presidential

¹⁸There were indications that the EFCC had records of the fund mismanagement pandemic by the state governors at the time. In fact, some former governors had confessed to have misappropriated the funds of their states during their tenures. For details, see: Tran 2012; Adewole 2008.

¹⁹From personal experience as the Press Secretary to the Speaker of the state legislature, it is evident that most of the gridlocks created in the legislature-executive relationships were measures to seek for enhanced welfare packages since state legislatures depends on the executive for funding. Unlike the funding of the judiciary charged on the Consolidated Revenue Fund, state legislatures are like an extension of the executive in terms of funding where all requests require the approval of the governor.

system, the legislature thus has a consequential effect on democratic advancement and governance. The presence of a powerful legislature is an unmixed blessing for democratization and the promotion of good governance (Fish, 2006).

The Constitution of the Federal Republic of Nigeria, 1999, places the legislature at a vantage position to exert its influence in ensuring accountability. One of the vital instruments designed to achieving this is the legislative oversight function. Section 4 (2 and 7) of the constitution empowers the legislature 'to make laws for the peace, order, and good government of the State or any part thereof'. By extension, the constitution also links the exercise of the executive powers vested in the President and the State Governors respectively, to the legislative actions of the legislature at the national and state levels.

Section 4 (1) of the Constitution vests the legislative powers of the country in the National Assembly (The Constitution of the Federal Republic of Nigeria 1999, as amended). Specifically, section 4 (2) of the constitution stipulates that the legislative power is to be exercised with a view to making laws for the peace, order and good government of the nation. In a similar version, sections 6-7 of the constitution vest the House of Assembly of each state with the legislative powers to make laws, for the peace, order and good, governance of the state or any part thereof.

In the spirit of the principles of separation of power and the doctrine of checks and balances, these legislative powers are not absolute; they are subject to judicial review. Indeed, section 4 (8) states that the exercise of legislative powers should be subject to the jurisdiction of courts of law. It firmly entrenches the feasible presence of the judiciary as a formidable institutional actor in Nigeria's presidential democracy. The constitution vests the executive powers of the federation and the states on the president and governors of the states, respectively. Section 5 (1-2) affirms that these powers are meant for the execution and maintenance of the constitution and laws passed by the legislature. In the same token, it vests the judicial powers of both the federal and state governments in the established judicial institutions. In the exercise of these powers, the judiciary should play the role of an impartial arbiter with a view to controlling the excesses of the two political branches.

The essence of the fragmentation of these powers is to promote the culture of responsible government (Perez-Linan, 2007). The fundamental objectives and directive principles of the Nigerian government as contained in chapter II of the constitution espouses this postulation.

One of such is the constitutional responsibility in section 15 (5) of the constitution which mandates the State to ‘abolish all corrupt practices and abuse of power’ (The Constitution Federal Republic of Nigeria, 1999). A combination of the legislative, executive and judicial powers is the statutory instrument needed to make this provision effective.

A presidential system has requisite institutional checks and controls to cope effectively with the challenges associated with accountability. Section 13 of the Nigerian constitution, for instance, mandates the authorities and persons in the legislative, executive and judicial branches ‘to conform to, observe and apply the provisions’ of chapter two of the constitution, including the mandate of the Nigerian state to abolish all corrupt practices and abuses of power (The Constitution of the Federal Republic of Nigeria, 1999, as amended). The provisions of this chapter set out the blueprint of the policies of the government as well as the philosophical foundations of the governmental process. This framework defines the boundaries of the functions of the three branches of government. More importantly, the legislature and executive activities are the driving forces for the realization of the import of these provisions.

Chapter two of the Nigerian constitution provides for the socio-economic rights of the citizens. These are rights ‘designed to provide certain entitlements and protections for the interests of individuals in having access to certain socio-economic resources’ (Bilchitz 2014). Protection of these rights by the government is a test of its legitimacy (Michelman 2008). They are obligations of the government that require the commitment of the various organs of the state. The Nigerian constitution provides a series of measures to ensure the realisation of these rights. This is necessary because difficulties often arise concerning their justiciability and enforcement (Bilchitz, 2014).

As important as chapter two of the constitution is, its successful implementation is dependent on strict adherence to section 15(5). Corruption and the abuse of power are the two main challenges which the structure of the presidential system seeks to overcome (Kada, 2003; Hochstetler, 2006; Perez-Linan, 2007; Kim and Bahry, 2008; Hochstetler and Edwards, 2009; Kim, 2013). They are formidable among the factors that engender governance problems (The World Bank, 2010; MO Ibrahim Foundation, 2011). The concept of separation of power and the doctrine of checks and balances are instruments to ensure responsible governance structures in the presidential system.

The drafters of the constitution were aware of the possibility that political elites could abuse their power. To this end, there are requisite provisions regulating the activities of the political elites in the institutions of government. Sections 80-83 and 120-123 of the constitution empower the National Assembly and the State Houses of Assembly, to control public funds of the federation and the states, respectively. Specifically, governments at these levels cannot withdraw any money from the Consolidated Revenue Fund without the authorization of the legislatures. By implication, the executive branch does not have the power to expend any fund not appropriated by the legislative assemblies. Besides this, the legislature also has an oversight over the administration of the appropriated funds.

Sections 88-89 and 128-129 provide the necessary instruments for the national and state legislatures to discharge their responsibilities of curbing corruption.²⁰ The provisions of these sections are sufficient for the legislature to effectively monitor and control the appropriated funds for each fiscal year. These provisions provide the Nigerian legislature with the ability to promote accelerated development and service delivery.

Of relevance to this study is section 88 (2) and 128 (2) where the investigative power of the legislature is aimed at exposing corruption, inefficiency or waste in the execution or administration of the relevant laws of the federation (The Constitution of the Federal Republic of Nigeria, 1999, as amended). In essence, these provisions are the instruments for the execution of section 15(5)²¹ of the constitution. Violation of any of the letters of the constitution is a criminal offence. Thus, it is the responsibility of the holders of the legislative, executive and judicial powers to uphold integrity and transparency in the exercise of their powers.

However, the constitution provides a shield for the holders of executive powers at the National and State levels against criminal prosecution in any court of law. Popularly known

²⁰ Section 128 (1&2) states: (1) Subject to the provisions of this Constitution, a House of Assembly shall have power by resolution published in its journal or in the Office Gazette of the Government of the State to direct or cause to be directed an inquiry or investigation into -(a) any matter or thing with respect to which it has power to make laws; and (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for (i) executing or administering laws enacted by that House of Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by such House. (2) The powers conferred on a House of Assembly under the provisions of this section are exercisable only for the purpose of enabling the House to -(a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and

(b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

²¹Section 15 (5) states: (5) The State shall abolish all corrupt practices and abuse of power.

as the immunity clause, section 308 of the 1999 Constitution specifically prohibits civil or criminal proceedings against them (The Constitution of the Federal Republic of Nigeria 1999, as amended). By virtue of section 308(3)²², the President and his deputy, Governors of the States and their deputies, enjoy immunity during their period of office. The Nigerian Supreme Court elaborates on the potency and implications of the provisions of this section in *Tinubu vs. I. M. B. Securities plc*. Thus:

The immunity granted to the incumbent of the relevant office under Section 308(1)(a) of the Constitution prescribes an absolute prohibition on the courts from entertaining any proceedings, civil or criminal, in respect of any claim or relief against a person to whom that section of the Constitution applies during the period he holds such office. No question of waiver of the relevant immunity by the incumbent of the offices concerned or, indeed, by the courts may therefore arise.²³

Regardless of the provisions of section 308, the drafters of the constitution recognised the possibility of the abuse of power. In this regards, the constitution places at the corridor of the legislature, the power to control the executive in matters bothering on abuse of power. Sections 143 and 188 of the Constitution provide rigorous procedures for removing any erring officeholders shielded from judicial prosecution while in office. Thus, the possibility of impeachment remains the only measure to provide adequate caution against the abuse of power by the executive while in office (Flynn, 1993; Kada, 2003; Hochstetler, 2011; David, 2012).

I argue in this study that the inability of the legislature to perform its statutory oversight function constitutes a great challenge to accountability in Nigeria. The quantum of funds and resources lost to corrupt practices by government officials are sufficient to arrest the failure of governance that litters the polity. For instance, between 2000 and 2008, Nigeria lost 130 billion US dollars to illicit financial flows. The Global Financial Integrity (GFI) in its report 'Illicit Financial Flows from Developing Countries: 2000-2009,' indicates that Nigeria was

²² Section 308 states: (1) Notwithstanding anything to the contrary in this Constitution, but subject to subsection (2) of this section (a) no civil or criminal proceedings shall be instituted or continued against a person to whom this section applies during his period of office; (b) a person to whom this section applies shall not be arrested or imprisoned during that period either in pursuance of the process of any court or otherwise; and (c) no process of any court requiring or compelling the appearance of a person to whom this section applies, shall be applied for or issued: Provided that in ascertaining whether any period of limitation has expired for the purposes of any proceedings against a person to whom this section applies, no account shall be taken of his period of office. (2) The provisions of subsection (1) of this section shall not apply to civil proceedings against a person to whom this section applies in his official capacity or to civil or criminal proceedings in which such a person is only a nominal party. (3) This section applies to a person holding the office of President or Vice-President, Governor or Deputy Governor; and the reference in this section to "period of office" is a reference to the period during which the person holding such office is required to perform the functions of the office.

²³ *Tinubu vs. I. M. B. Securities plc*. ([2001] 16 NWLR (pt 740) 670 at 695).

the 10th highest in terms of illicit outflows in the developing world, an average of 15 billion US dollars per year (GFI 2010). In 2012, British Prime Minister, David Cameron, and a former American president, Bill Clinton, accused the Nigerian government of lack of transparency in the handling of the nation's oil revenues (Coffie-Gyamfi, 2012; Ujah and Kalu, 2013). Kickbacks, bribes, embezzlement, and other forms of official corruption are responsible for this phenomenon.

The manifest function of executive-legislature collaboration in a presidential system is to promote public goods. The concept of separation of power, for instance, is to avert executive tyranny (Qvortrup, 2000). Likewise, the idea of interdependent relationships among the three organs of government seeks to promote good governance. I discover in this study that in Nigeria, this sort of relationship is an avenue for the reification of the *vested interests* of the political elites. Empirical data from the fieldwork shows that Nigerian political elites collaborate to secure self-interested positions.

1.3 Context and Objectives of the Study

My readings on presidentialism as a governing system propelled me to undertake a study of the practice of the system in Nigeria. I was particularly interested in the exercise of the impeachment power of the legislature in the face of the prevailing crisis of governance that is a feature of the Nigerian political system. The constitution stipulates the necessary steps to ensure that political leaders are accountable to the population. But in practice the system is far from meeting these expectations. My primary objective was to understand the workings of the Nigerian presidential system as it directly relates to the implementation of the constitutional provisions of impeachment of the executive. This I found to be a critical undertaking because as the study progressed it became clear that the political elites in the legislature are aware of the importance of the provisions. From the empirical data that I gathered, the intent of the drafters of the provisions is clear. I explore the judicial review of the cases for deeper insights through a judicial interpretation of the statutes. Indeed, the elaborate but procedural rules for the removal of the political heads of the executive branch of government are a design to ensure compliance with the rule of law.

My observations of breaches in the exercise of this legislative power further aroused my interest with the specific objective to unravel the factors responsible for the manner of implementation of the constitutional provisions of this power. What are the explanations for

the behavioural patterns of the legislative political elite in the exercise of this power? While the Nigerian legislature has the power to control the policy process, how can one explain the cases of corruption among state governors in Nigeria? Does the Nigerian presidential system engender good governance? The answers to these questions, as shown in this study, are found in the behaviour of the political elites, which in turn is influenced by their political and economic environments.

The central claim of this study, based on my findings, is that the failure of the legislature to adhere to the principles associated with the exercise of the power of impeachment as an instrument of oversight engenders the prevailing governance crisis in the Nigerian presidential system. I argue, based upon empirical evidence, that in this political system where systemic corruption prevails, impeachment is rendered as a mere instrument of political victimization and competition. The political elites in the legislature lack the capacity to implement the constitutional provisions of impeachment in cases where this is warranted. Selective application of the provisions validates the claim that the exercise of the power to impeach has become a political instrument.

1.4 Methodology of the Study

I worked as the head of the media unit of a Nigerian state legislature from June 1999 to May 2003. This provided me with the rare opportunity of observing the gap in the way standardized texts sometimes discuss research activities and the reality of social phenomenon, as experienced in the political process. Much of the existing ethical guidelines on research are not adequate for the analysis of social phenomenon until such are applied through the observation of the activities of the actors. Most of the guidelines in political science present a broad approach to how social research should be conducted without specific reference to the particularistic nature of some specific social phenomenon. Thus, my direct observation of the legislative process provided me with the opportunity to observe behavior and processes, and this background exposure to the legislature enabled me to conduct my research interviews from an informed perspective.

I thus consider my *insiderness* (Labaree, 2002) as a legislative aide to the presiding officer of a state legislature, as a key feature of my ability to analyse the legislative process in impeachment episodes. This assisted me to develop a deeper understanding of the complex dynamics of socio-cultural, economic and political factors on impeachment procedures and

processes. This was further assisted by the person of the presiding officer in term of his willingness to incorporate one into his “kitchen cabinet”. I was offered a rare opportunity to gain in-depth insider’s knowledge of the actual operations and practice of the legislative processes beyond the confine of the legislative chambers, especially, during the processes of impeachment. This informed my choice of the methodological approach to the study.

1.4.1 Methodological Approach to the Study

In the choice of the appropriate design for this study, I considered the concepts of methods, methodology and epistemology. Methods refer to the techniques adopted for the collection of data. Methodology represents the appropriate approach to systematic inquiry. In other words, it refers ‘to a broad, theoretically informed, framework that guided the choice of methods and interpretation of data appropriate to the study’ (Francis, 2008, p.34). Epistemology refers to ‘the nature of knowledge and the relationship between the knower and that which would be known’ (Mertens, 2010, p.470). Epistemological assumptions, according to Donna Mertens (2010, p.471), raises the following questions:

What should my relationship as a researcher be with the people in the study? How should I interact with the people in the study? Should I be distant and removed so as to prevent bias or should I be close and involved so as to prevent bias? What makes it better so I can determine what is real in this context? If I am to genuinely know the reality of something, how do I need to relate to the people from whom I am collecting data? (Mertens, 2010, p.471)

An interpretive meta-theory of the social sciences guided this study. The subject matter of the study comprises the attitudinal dispositions and preferences of the political elites and their actions in the exercise of power. Thus, it would have been inappropriate to approach the study from a positivist perspective. Neither is a quantitative method of data collection useful for the understanding of the nuances and perceptions of the political elite. However, an understanding of these perceptions and dispositions is feasible through personal observation, interaction and deep field work and data collection (Creswell, 2009; Castro et al, 2010). The outcomes depend on the interpretations of the researcher, working within a clearly defined framework. My background exposure in legislative practice contributes further to my ability to interpret information and to ascribe meaning to it.

I approach the study from the interpretive tradition of knowledge, which is concerned with creating meaning out of the understanding of the interviewees (Creswell, 2009; Castro et al, 2010). The emphasis of this tradition is in an examination of the whole person within the

milieu of the social environment. It focuses on 'human and social constructs that are often formed on the basis of actions and within cultural and social frameworks' (Francis 2008, p.34). The concern of the approach is to explore detailed accounts of 'how participants are making sense of their personal and social world' (Smith et al, 2009, p.53).

In correlation with this approach, I adopted a qualitative methodology and qualitative methods for the purposes of data collection. A qualitative methodology is a research strategy that 'usually emphasizes words rather than quantification in the collection and analysis of data' (Bryman, 2001, p.264). A qualitative approach to research, according to Hesse-Biber (2010 p.455), 'aims to understand how individuals make meaning of their social world'. He notes that the social world is dependent on individual perceptions and is 'created through social interactions of individuals with the world around them' (Hesse-Biber, 2010, p.455). In other words, the use of qualitative research methods affords researchers with the ability to adopt 'an interpretive, naturalistic approach to the world' under study (Denzin and Lincoln, 2011, p.3). It privileges the exploration of the process of human meaning making.

Qualitative researchers study things in their natural settings, with a view to making sense of or interpreting phenomena in terms of the meanings people bring to them. This method is useful in delineating some of the essential qualities of complex social phenomena (Dougherty, 2002, p.894). Institutional issues like power, authority, conflict, 'involve intricate webs of causes, effects, processes, and dynamics: they are about qualities' (Dougherty, 2002, p.894). 'Qualitative analysis characterizes these webs so we can appreciate what the phenomenon is really like in practice, how it works, and how it is affected by other patterns in the organization' (Dougherty, 2002, p.894). It is a flexible method to explore phenomenon in a natural setting. The objective of a qualitative researcher is to gain an in-depth understanding of human behaviour in decision-making processes. It involves an interpretive, naturalistic approach to its subject matter and gives priority to what the data contributes to important research questions or existing information.

A study of the disposition of the Nigerian political elites toward Nigerian constitutional provisions is better understood through in-depth interaction and engagement. This study explores the interplay of power dynamics in the governing institutions in the Nigerian political system. It involved the understanding of a web of interactions among the political elites. Considering the research questions, the interpretive approach and the methodology it was appropriate to adopt qualitative methods of data collection.

1.4.2 Methods of Data Collection

I derive the data for this study from extensive interviews of key informants. This technique affords the researcher the opportunity to elicit direct information on the subject under investigation (Wimmer and Dominick, 1997), and provides eye witness accounts of legislative politics²⁴. Interviews generally allow researchers the freedom to deal with topics of interest and afford them the opportunity ‘to probe deeper into the initial responses of the respondent to gain a more detailed answer to the question’ (Wimmer and Dominick, 1997, p.156). It provides a “mirror reflection” of the reality that exists in the social world’ (Miller and Glassner, 2011, p.131). Thus, it enables the researcher to access the ‘evidence of the nature of the phenomena under investigation’ (Miller and Glassner, 2011, p.131). In-depth interviews, in particular, elicit information and provide a means for exploring the points of view of research subjects (Miller and Glassner, 2011, p.133).

I interviewed key informants from among the political elites in the legislature, the executive and the judicial branches of the Nigerian government. I had face-to-face interviews with two former speakers of state legislatures who presided over impeachment processes. I did not have difficulty in approaching them because I had established a friendly relationship with them while I was serving as a media aide to a speaker. This rapport afforded me the opportunity of interacting with them from the point of view of an informed researcher.

Aside from the speakers, I also interviewed seven former principal officers of the state legislatures where impeachment processes took place. The initial difficulty of accessing a number of them was occasioned by their inability to comprehend the primary purpose of the interview in spite of all ethical documents indicating that it was meant for academic research²⁵. My persistency and their independent checks on my activities eventually led to an invitation to interview them. This later became an opportunity to elicit deep revelations from these key informants on the motivations for the conduct of the political elites in political

²⁴I was the Press Secretary to the Speaker, of a state legislature between June 1999 and May 2003. During this period, I was privileged to witness legislative politics especially during the two cases of impeachment in the state. My position as a principal legislative aide to the speaker afforded me the opportunity of observing the activities of the legislators. Aside from this, there were opportunities to interact with legislators from other state assemblies mostly at informal levels.

²⁵At first, the former principal officers were apprehensive that the interviews were a clandestine ploy to spy on them in favour of their opponents. This is indicative of the climate of political competition in the legislatures.

processes²⁶. The friendly atmosphere generated during the interviews served as a link to informal interactions with other political elites who were involved in the politics associated with the impeachment procedures.

I interviewed one of the former deputy governors of a state who was impeached by the legislature. He had wanted to speak about his experience²⁷. The account of his experience, spurred me to seek further insights from his associates. This was beneficial because they supplied the lacunae in his account. The informal discussion, which he facilitated, created an atmosphere where free discussion with these associates led to much detail on the hidden factors that usually prompt legislative action in the Nigerian presidential system.

I considered an interview with one serving judge as very important to this study. I had thought that access to retired chief judges who presided over impeachment cases would be easier since they no longer serve in government. However, they refused to grant access because of different reasons. For some, it was a memory that should not be remembered. A particular retired judge I met declined to entertain any questions because he was angry with the practice of the presidential system in Nigeria due to the failure of the political elites to allow unfettered judicial intervention. He did, however, refer and introduce me to a serving judge of a state high court whom he said would be willing to share his experience. My interview with the service judge provided some necessary insights on the politics associated with judicial shield in the process of impeachment.

Beside the key informants from the legislature, executive and the judiciary, I also interviewed two individuals in the law profession, particularly constitutional law experts. I also interviewed a former Chairman of the Independent Corrupt Practices and other related offences Commission (ICPC)²⁸ and one official the Economic and Financial Crime Commission (EFCC). In negotiating access with these key informants, I booked appointments. One official of the EFCC and a chairman of one of the panels that investigated the allegations of gross misconduct leveled against a governor preferred telephonic rather

²⁶There was a particular interview I conducted at the residence of a legislator who was with his friend who served as a commissioner during the period of an impeachment episode. Constant interjections by the commissioner revealed how the governor and the legislators negotiated the removal of the deputy governor and provided useful insights into the politics associated with the exercise of the power of impeachment.

²⁷He told me during the interview that he was already compiling his own account of his experience having waited for a long time to recount his experience.

²⁸The ICPC is an anti-corruption agency that investigates allegations of corruption against public officials and prosecutes.

than in-person conversations. All these respondents provided key information and insights necessary for the analysis in the study.

In a bid to further cross-validate information gathered from the interviews, I sourced data primarily from archival materials such as law reports, records of legislative proceedings and government publications. Johnson and Reynolds (2006) have justified the use of archival materials by political scientists when personal interviews and other primary sources could not elicit all the necessary information needed to analyse the political phenomena under study. I relied on these written records to validate data sourced from interviews as far as possible and to place such data in context.

In this chapter, I discussed the context of the study as well as the methods of data collection. I provided a brief survey of the general principles associated with the practice of the presidential system of government. I now proceed to chapter two where I discuss the extant literature on the features of the presidential system.

Chapter Two

Presidential Systems: Comparative Features and Characteristics

2.1 Introduction

This chapter presents a variety of perspectives on presidential systems, of which, impeachment is just one of the components. Thus, an inquiry into the role and purpose of impeachment in presidential systems requires an analysis of the nature and characteristics of presidential democracy. The rationale of the tripartite institutional structure in a presidential system is the need for political synergy to ensure probity and accountability. Thus, to understand impeachment as an institutional instrument of transparency and accountability, there is a need to grasp the structural design of a presidential system through the lens of its origin and practice over the years.

I present this chapter in five sections. First, I review the different scholarly perspectives on presidentialism as a governing system. This incorporates the traditional/classical and new generation/developmental perspectives. I identify and appraise the major characteristics of the presidential systems. I then present a general overview of impeachment in presidential systems followed by the issue of impeachment as an instrument of accountability and good governance. I explore the exercise of impeachment power by the legislative institutions in developing presidential systems. I further identify comparative typologies of impeachment episodes in developing presidential systems, especially in Latin America and Asia.

The central focus in this chapter is the identification of the features and characteristics of presidentialism as a governing system. I discover that the various perspectives advanced by scholars centre on the exercise of power, and particularly the power of the legislature to remove the political heads of the executive. The practice of presidentialism in the countries I examine is dependent on the nature of politics within those countries. There is no uniformity in the ways in which each legislature exercises power. Each political system adapted specific ideals and principles to suit their domestic political system

2.2 Perspectives on the presidential system

Scholarly works abound on presidentialism, a governing system adopted by the American Constitutional Convention of 1787. These works address the system from different perspectives that suggest a comparative analysis of, and debate over, its desirability for

democratic stability *vis-à-vis* parliamentary systems. Scholars with similar viewpoints have succeeded in defining presidentialism by its features and attributes. When viewed from the perspectives of its practice in the United States and Latin America, presidentialism is a governing system that celebrates independence of origin and survival of the president and members of the legislature (Mainwaring, 1993; Mainwaring & Shugart, 1997; Linz, 1994; 2010; Sartori, 1994; Lijphart, 1994; Stepan and Skach, 1994; Elgie, 2005; Hochstetler, 2006; Marsteintredet & Bermtzen, 2008; Hochstetler, 2011; Hochstetler & Samuels, 2011; Marsteintredet et al, 2013; Oleszek, 2014; Lee, 2014; Cheibub & Limongi, 2014). In this governing system, the president and members of the legislature enjoy separate electoral mandates by popular vote with fixed terms of office. The executive power of the government as well as the symbolic status of head of state resides with the president who has a fixed tenure except if the legislature removes him or her from office before the expiration of his term through impeachment²⁹. This mutual independence exemplifies a balance of shared power between the legislature and the executive in the policy process (Linz, 1994; 2010³⁰).

The concern of the framers of the American presidential constitution, the progenitor of presidential systems³¹, is how to devise a governing system capable of averting the dangers inherent in the absolute exercise of power by an individual. William Scheuerman (2005) notes the anxieties of the American people about the dangers associated with monarchy and the need to reform it to conform to democratic principles.

[T]he eighteenth-century revolutionaries jettisoned hereditary monarchy for an elected executive accountable to the people and their elected representatives. They also discarded notions of divine rule, paving the way for the principle that any citizen, as long as he (and ultimately she) meets certain minimal tests (for example, having reached the age of 35 years) hypothetically might come to occupy the office of the executive (Scheuerman, 2005, p.28).

In other words, the people abhorred the notion of an absolute ascription of superior divinely-based wisdom and moral prudence attributed to monarchs and expressed their preference for

²⁹ Aside from impeachment, the president could resign or be declared incapacitated by the legislature on the grounds of ill health. In all, the process of removing a president before the expiration of his term has constitutional backing.

³⁰ Linz's first published work, *The perils of presidentialism*, was published in the maiden edition of *Journal of Democracy* in 1990. It was republished in a volume of essays edited by Larry Diamond et al in 2010. This is the version used in this study. Other earlier works cited in this study included in the volume are Donald Horowitz *Comparing democratic systems*; Seymour Lipset *The centrality of political culture*; and Robert Elgie *Variations on a theme*.

³¹ Presidentialism is the governing system adopted by the US Constitutional Convention of 1787. It was a departure from the British constitutional monarchy when America was still a colony.. Thus, an independent America is the first historical practitioner of the presidential system of government. For the details see Scheuerman 2005; Turley 1999; Nichols 2011; Farrand 1911; Ahrens 2001 and The Federalist Papers.

structured political institutions capable of generating ‘competent and intelligent holders of executive power’ (Scheuerman, 2005, p.28), outside the ‘bloodlines of the royal family or could be established via acts of consecration’ (Scheuerman, 2005, p. 28). This abhorrence was a direct consequence of the fate of the American colonist during the reign of King George III (Ahrens 2001). The American experience with monarchy inspired Thomas Paine to declare

let a day be solemnly set apart for proclaiming the charter; let it be brought forth placed on the divine law, the word of God; let a crown be placed thereon, by which the world may know, that so far as we approve of monarchy, that in America THE LAW IS KING (Ahrens, 2001, p.2)³².

James Madison and Alexander Hamilton, in the *Federalist Papers*, dispel the notion that the presidential system in America was the equivalent of the British monarchical system. According to Hamilton,

It is impossible not to bestow the imputation of deliberate imposture and deception upon the gross pretense of a similitude between a king of Great Britain and a magistrate of the character marked out for that of the President of the United States. It is still more impossible to withhold that imputation from the rash and barefaced expedients which have been employed to give success to the attempted imposition. In one instance, which I cite as a sample of the general spirit, the temerity has proceeded so far as to ascribe to the President of the United States a power which by the instrument reported is EXPRESSLY allotted to the Executives of the individual States (Hamilton 2008, *Federalist paper* No. 67).

Significantly, the principles of political and legal equality rather than hereditary power became part of the virtues of a constitutional order.

Most modern presidential constitutions epitomize the notion of the separation of powers and the doctrine of checks and balances (Lijphart, 1994; Fukuyama et al, 2005; Hochstetler, 2011). In this system, branches of government share powers with measures to checkmate the exercise of these powers by the other branch (Ackerman, 2000). In essence, a shared power is a design to overcome the danger of concentration of power in an individual.³³ The hallmark of a presidential system is the fragmented level of authority. Structural arrangements in the system institutionalize the culture and practice of checks and balances. With separated

³² One of the members of the Constitutional Convention, Mr. Morris, re-echoed this assertion during the debates on impeachment that ‘This Magistrate [President] is not the King but...the people are the King’ (Farrand, 1911, Vol. II, p 59). In spite of this, there were instances during the Constitutional Convention when delegates mooted the idea of monarchy as the preferred governing system. Indeed, debates at the Convention and the contents of some of the *Federalist Papers* document the frequent references to monarchy in the consideration of the future of the American state. For the details, see Farrand, 1911; *Federalist Papers*, No. 67; Ahrens 2001).

³³ The fear of the danger associated with monarchy informed the adoption of presidential system at the American Constitutional Convention of 1787. For the details, see (Scheuerman 2005; Ahrens 2001; Turley 1999; Persson et al 1997; Farrand 1911).

powers, the three principal branches of government - the legislature, the executive and the judiciary- operate within their constitutional boundaries, cooperating with each other as equal partners to avert dictatorship, tyranny and arbitrariness in government for the promotion of public good (Ndulo, 2000; Kada, 2002).

These general features dominate the studies on presidential democracy. Nevertheless, the desirability of these features has generated a series of debates³⁴. The early debate was over the desirability of the institutional and structural designs of the American presidential system and the British Westminster system (Laski, 1944). Harold Laski notes that the argument 'is built upon a series of unexplored and unstated assumptions' about the operations and features of the two governing systems (Laski, 1944, p.347). Subsequent works include the developments in post World War II presidential democracies in Latin America, Africa and Asia. I discuss these perspectives under two broad categories: the traditional and the new generation/developmental schools of presidential system. This classification is based on issues raised by scholars at different times in the debates rather than the chronological period of their research.

2.2.1 The traditional conception of presidentialism

The central focus of the traditional school is on the impact of the institutional and structural design of the presidential system on democratic stability. Juan Linz (1994; 2010) revives this debate over the most desirable governing system conducive for democratic stability between presidentialism and parliamentarism. He identifies two principal institutional characters of the presidential system, which he regards as inimical to stability.

1. Both the president, who controls the executive and is elected by the people (or an electoral college elected by the people for that purpose), and an elected legislature (unicameral or bicameral) enjoy democratic legitimacy. It is a system of "dual democratic legitimacy." 2. Both the president and the congress are elected for a fixed term, the president's tenure in office is independent of the legislature, and the survival of the legislature is independent of the

³⁴ Robert Elgie (2005) undertakes a review of these debates in three 'waves'. The *first wave* comprises of the works of Juan Linz and others who used one explanatory variable (regime type) and one dependent variable (democratic consolidation) to justify their *perils of presidentialism*, thereby promoting the merits of parliamentary system. The *second wave* consists of the works of scholars who used 'more than one explanatory variable (the regime type, usually, plus the party system and/or leadership powers) and often a different dependent variable (good governance as opposed to democratic consolidation) (Elgie 2005, p.106) to demonstrate the merits of presidential system. The *third wave* represents works on the general theories of political science seeking for neither the merits nor demerits of the two systems but focuses more on the outcome of power politics on policy outputs (Elgie, 2005).

president. This leads to what we characterize as the “rigidity” of the presidential system (Linz, 1994, p.6).

Out of these two principal features, Linz identifies four major pitfalls, which he regards as the ‘perils of presidentialism’. These pitfalls are inherent in a winner-takes-all electoral process; rigidity of presidential terms and independent origin and survival of the president and the legislature; gridlock arising from the dual legitimacy of the president and the legislature; and the proclivity towards personality politics (Linz, 1994; 2010; Fukuyama et al, 2005, Hochstetler, 2011). Generally, different works classified in this group critique presidentialism in six major ways.³⁵

Linz posits that the dual democratic legitimacy and rigidity of the term encompasses ‘the characteristics and problems of presidential systems’ (Linz, 1994, p.6)³⁶. His concern is the implication of the unipersonal nature of the office of the president, especially in case of divided government, when the legislature ‘represents[s] cohesive, disciplined parties that offer clear ideological and political alternatives’ (Linz, 2010, p.257). His focus, based on developments in Latin America, is the consequences of gridlock and immobility in presidential systems.

Since both derive their power from the votes of the people in a free competition among well-defined alternatives, a conflict is always possible and at times may erupt dramatically; there is no democratic principle to resolve it, and the mechanisms that might exist in the constitution are generally complex, highly technical, legalistic, and, therefore, of doubtful democratic legitimacy for the electorate. It is therefore no accident that in some of those situations the military intervenes as ‘*poder moderador*’ (Linz, 1994, p.7).

Linz assumes that in the case of a confrontation with the legislature on policy issues, the president could mobilize the support of the public with a view to claiming valid democratic legitimacy. This development, he reasons, might lead to further conflict capable of degenerating into the collapse of the government because there are ‘no democratic principles [that] can decide who represents the will of the people in principle’ (Linz, 1994, p.7).

³⁵Firstly, that presidential system is characterized by a zero-sum game (Linz 1994, Lijphart 2004). Second, presidentialism lacks incentives for coalition formation (Mainwaring and Scully 1995; Linz and Stepan 1996; Valenzuela 2004; Lijphart 2004; Mainwaring 1993; Stepan and Skach 1993; Linz and Stepan 1996; Niño 1996; Huang 1997) and, third, that it encourages undisciplined political parties, which could make coalition formation fragile (Hartlyn 1994; Huang 1997; Linz 1994)³⁵. The others are that the presidential system engenders minority government (Mainwaring 1993; Jones 1995; Valenzuela 2004); deadlocks and legislative ineffectiveness (Linz 1994; 2010 Stepan and Skach 1993; Mainwaring 1993, O’Donnell 1994; Jones 1995; Valenzuela 2004); and encourages a breakdown of democracy (Stepan and Skach 1993; Linz 1994; 2010; González and Gillespie 1994; Mainwaring and Scully 1995; Riggs 1988; Ackerman 2000; Valenzuela 2004).

³⁶ Arend Lijphart (1994, p.91) agrees with this position saying that the rigidity and immobilism associated with the presidential system ‘are its serious weaknesses’.

Shugart and Haggard (2001) view this position as an invitation to the pursuit of dual purposes in the political system. To them, separate elections associated with a presidential system ‘has the potential of guaranteeing separate purpose’ (Shugart and Haggard, 2001, p.64). Their argument is that because of the independent origin and survival of the president and the legislature, the principle of the separation of powers has consequences for policy-making and outcomes.

While the president should be interested in providing public goods at the national level as a result of his nationwide constituency, legislators’ separation from the executive typically makes them less interested in providing national policy than in parliamentary systems (Shugart & Haggard, 2001, p. 66).

They insist that even if the president’s party controls the majority in the legislature, ‘a separation of purpose remains a real possibility’ (Shugart and Haggard, 2001, p.66).

On the problem of a fixed term, Linz (2010 p.257) argues that the feature ‘breaks the political process into discontinuous readjustments that events may demand’. He considers as paradoxical the personalization of power in the presidential system, noting that in the event of a sudden midterm succession, the constitutional mechanism for transition of power could lead ‘to the emergence of someone whom the ordinary electoral process would never have made the chief of the state’ (Linz, 2010, p.258). Rather than see impeachment as a feasible mechanism of intervention against descent to arbitrariness and impunity, Linz assumes that the gridlock in the process could engender military intervention. Though he identifies certain positive attributes of this feature³⁷, Linz insists that in the face of an error of judgment or a changing situation, ‘uncertainties of a period of regime transition and consolidation no doubt make the rigidities of a presidential constitution more problematic’ (Linz, 1994, p.9).

Alexander Hamilton, writing about the adoption of term limits in the American presidential system, first spearheaded this criticism of the rigidity of a fixed term in a presidential system in the *Federalist Paper* No 72³⁸. Hamilton³⁹ has identified five “ill effects” of the fixed term

³⁷ He admits that presidential system ‘reduces some of the incertitude and unpredictability inherent in parliamentarism’ and that ‘it assures the stability of the executive’ (Linz 1994, p.9).

³⁸The idea of a fixed term is not an original design of the American presidential system. Indeed, delegates at the Constitutional Convention rejected the proposed seven-year single term for the president and ‘proposed a four-year presidential term capable of indefinite renewal. This shorter term guaranteed greater public oversight of the president and indefinite renewal allowed him time to bring his project to fruition’ (Engeman, 2014, p 17).The 22nd Amendment of the American Constitution limited the presidential term to two. While Hamilton, as the Secretary of State, encouraged George Washington to retire after two terms of four years, Franklin Roosevelt however spent four terms of four years each (Engeman, 2014).

which he considers “pernicious” (Hamilton, 2008 *Federalist Paper* No.72). First, he notes that that exclusion from re-election ‘would be a diminution of inducements to good behavior’ (Hamilton, 2008 *Federalist Paper* No. 72). The second has to do with what he calls ‘the temptation to sordid views, to speculation, and, in some instances, to usurpation’ capable of leading to corruption and the abuse of opportunities (Hamilton, 2008, *Federalist Paper* No. 72).

An ambitious man, too, when he found himself seated on the summit of his country's honors, when he looked forward to the time at which he must descend from the exalted eminence forever, and reflected that no exertion of merit on his part could save him from the unwelcome reverse; such a man, in such a situation, would be much more violently tempted to embrace a favorable conjuncture for attempting the prolongation of his power, at every personal hazard, than if he had the probability of answering the same end by doing his duty (Hamilton 2008, *Federalist Paper* No. 72).

Thirdly, Hamilton argues that an exclusion from re-election would deprive the community of the advantage of the experience the president gained while in office. Another ill effect related to the above is that exclusion from re-election would deny the society the valuable worth of such a president because ‘in certain emergencies of the state, their presence might be of the greatest moment to the public interest or safety’ (Hamilton, 2008, *Federalist Paper* No. 72). The fifth consequence Hamilton points out is that exclusion from re-election ‘would operate as a constitutional interdiction of stability in the administration’ (Hamilton, 2008, *Federalist Paper* No.72).

Scott Mainwaring (1993) sees a multiparty presidential system as more problematic in terms of stability. He contends that, ‘the combination of presidentialism and multipartism makes stable democracy difficult to sustain’ (Mainwaring, 1993, p. 199). Presidentialism to him ‘compounds the difficulties created by multipartism’ because the system lacks ‘mechanisms intended to ensure legislative majorities (Mainwaring, 1993, p.200). He argues that this development was inimical to stability and purposeful policy outcomes since the president, when his party is not in control of the majority in the legislature, will have to build new legislative coalitions on each policy issue. Mainwaring prefers *de facto* two party systems as the best arrangement for a presidential system because the likelihood of ideological differences would be minimal while the nature of competition is conducive for stability.

³⁹ Hamilton was a delegate at the American constitutional Convention. He played an active role in the campaign for the adoption of the American constitution as one of the principal authors of the *Federalist Papers*, a compendium of letters written to support the American presidential constitution amidst fear of rejection by the core component units.

Unlike the parliamentary system, he argues that coalition formation in a multiparty presidential system is not a guarantee for support from the opposing parties.

Fred Riggs (1988), writing from the background of the American political system, sees the presidential system as an inherently fragile scheme of government. As an unusual form of liberal democracy with its origin in the monarchical system of Great Britain, (Turley, 1999; Ahrens 2001; Scheuerman 2005), Riggs is of the view that American presidentialism is exceptional. He attributes this to the three principal factors that shaped the form of the American presidential system: institutional features of presidential system, the inherent problematic associated with the presidential system and the unique American practices and tradition (Riggs, 1988; 1994). He explains that the failure of presidential systems outside the United States is a function of deep structural problems with the institutional design.

Arturo Valenzuela (2004) blames presidential institutions for the recurring phenomenon of failed presidencies in Latin America, while Arend Lijphart (2000, p.21) sees presidential governments as inimical to democratic consolidation. O'Donnell (1994) argues that presidential institutions contribute largely to the descent of many Latin American countries to what he calls 'delegative democracy'. In Africa, Van de Walle (2003) is of the view that the characteristic features of presidentialism explain the weak political parties on the continent.

Not all scholars in the classical school agree with the position of Juan Linz on the perils of the presidential system. Nevertheless, they share similar view on the problematic of the institutional framework and the structural design of the system. Mainwaring and Shugart (1997) in their appraisal of the issues raised by Juan Linz against the presidential system argue that the 'consequence of dual democratic legitimacy is not exclusively a problem of presidentialism' though they agree that it is more pronounced in presidential systems (Mainwaring & Shugart 1997, p.451).

If both houses have the power of confidence over the cabinet, the most likely outcome when the houses are controlled by different majorities is a compromise coalition cabinet. In this case, dual legitimacy exists, not between executive and assembly, but between the two chambers of the assembly (Mainwaring and Shugart 1997, p.451).

They note that Linz 'overlooked potential source of conflicting legitimacy' between the head of state and the head of government in a parliamentary system (Mainwaring and Shugart, 1997, p.451). They argue that a parliamentary system with role specification for the president is more debilitating in Third World countries because 'the more authority the head of state is

given, the greater is the potential for conflict, especially in newer democracies where roles have not yet been clearly defined by precedent' (Mainwaring and Shugart, 1997, p.452).

On the rigidity of the fixed term provision, Mainwaring and Shugart (1997) agree with Linz only that the 'provisions against re-election have been introduced primarily to reduce the president's incentives to abuse executive powers to secure re-election' (Mainwaring and Shugart, 1997, p.452). While they support re-election, 'despite the potential for abuse', they are of the view that such could only be permitted 'in countries where reliable institutions safeguard elections from egregious manipulation by incumbents' (Mainwaring and Shugart, 1997, p.452). On the issue of the winner-takes-all approach associated with presidential systems, they aver:

The degree to which democracies promote winner-takes-all rules depends mostly on the electoral and party system and on the federal or unitary nature of the system. Parliamentary systems with disciplined parties and a majority party offer the fewest checks on executive power, and hence promote a winner-takes-all approach more than presidential systems (Mainwaring and Shugart, 1997, p.453).

They argue that the system of checks and balances associated with presidential system 'usually inhibit winner-takes-all tendencies' (Mainwaring and Shugart, 1997, pp.453-544). They note that this safeguard mechanism is indeed 'to limit the possibility that the winner would take all' and if 'it loses the presidency, a party or coalition may still control congress, allowing it to block some presidential initiatives' (Mainwaring and Shugart 1997, pp.453-544).

Aside from the identified lapses in the structural composition of the presidential system, Mainwaring and Shugart identify three positive aspects that conform to democratic principles. First, the principle of dual legitimacy provides voters with greater electoral choices among party candidates. They note that voters have an opportunity 'to support one party or candidate at the legislative level but another for the head of government' (Mainwaring and Shugart, 1997, p.460). Beside this, a presidential system encourages what they refer to as electoral accountability and identification.

Electoral accountability describes the degree and means by which elected policymakers are electorally responsible to citizens, while identifiability refers to voters' ability to make an informed choice prior to elections based on their ability to assess the likely range of postelection governments (Mainwaring and Shugart, 1997, pp.461-462).

The third positive aspect of a presidential system has to do with the benefit of the mutual independence of origin and survival of the legislature and the president. They argue that the

legislature in a presidential system ‘can act on legislation without worrying about immediate consequences for the survival of the government’ (Mainwaring and Shugart, 1997, pp.462-463) and as such, they consider policy issues irrespective of the differing interests of the leadership of the ruling party or coalition (Mainwaring and Shugart, 1997, pp.462-463). They aver that

where presidents enjoy substantial assembly support, congressional opposition to executive initiatives can promote consensus building and can avoid the passage of ill-considered legislation simply to prevent a crisis of confidence. The immobilism feared by presidentialism's detractors is the flip side of the checks and balances desired by the United States' founding fathers (Mainwaring and Shugart, 1997, p.463)⁴⁰.

Donald Horowitz (2010) agrees with the submission of Mainwaring and Shugart (1997) on electoral choices available to the people. He opines that the Westminster democracy (which Linz prefers) with its electoral arrangement is prone to stifling the electoral choice of the people. Furthermore, he submits that there is insufficient evidence that a parliamentary system guards against the problem of rigidity and exclusion capable of engendering instability. Horowitz avers that the practice of the parliamentary system in the developing democracies in Latin America, Asia and Africa, depicts a descent to authoritarianism and political instability. He concludes that rather than dissipate energy on the structural flaws in governing systems, it would be more politically expedient to seek redemption in the electoral rules and governing system to accommodate features of both presidential and parliamentary systems⁴¹.

Giovanni Sartori (1994) argues that while a “pure”⁴² presidential system is bad, government by parliamentary support alone cannot guarantee stability. He avers that government by the parliament is not sufficient to explain its durability or effectiveness. Unlike Linz, Sartori

⁴⁰ Scholars of presidential systems in developing countries draw substantially from the American experience and the institutional structures of its practice over time. Indeed, scholarly works on the presidential system generally use the American origin as the benchmark for comparative analysis. Even in practice, the US model inspired all presidential systems (Linz 2007).

⁴¹ Scholarly works on the appraisal of presidential and parliamentary systems in the developing democracies often propose a fusion of the features of the two systems to avert the inherent problems associated with their practice. To this end, terminologies such as *semi-presidentialism*, *semi-parliamentary*, *presidential-parliamentary*, pervade literature on presidential systems.

⁴² Sartori (1994) defines ‘pure’ presidentialism as the system whereby the president, as the head of state, and, at the same time, government that he appoints, is elected by popular votes, with a pre-established tenure that cannot be discharged by parliamentary votes. Similarly, Sartori notes three varieties of a parliamentary system: the British Westminster Cabinet system, the unstable French parliamentary system of the Third and Fourth Republics and the party-controlled parliamentary system.

contends that advocacy for parliamentary systems require specificity because both have the tendency to fail. According to him

Parliamentarism may fail us just as much and as easily presidentialism. if we wish the alternative to presidentialism to be parliamentary system, we still have to decide *which parliamentarism* and to make sure that the exit from pure presidentialism does not simply lead, along a path of least resistance to parliamentarism, that is, to assembly government and misgovernment (Sartori 1994, p.108) (emphasis in the original).

Sartori (1994) notes that with the exception of the United States, ‘the record of the presidentially governed countries is quite dismal and prompts us to wonder whether their political problem might not be presidentialism itself’ (p.107). He submits that presidentialism does not provide effective government because of its defective structural arrangement that encourages divided power and divided government.

Robert Elgie (2010) in his proposal for a hybrid system to avert the inherent problematic of the presidential system, agrees with Linz’s submission on the danger of a dual executive. According to him, if the president and the Prime Minister belong to different political parties, the division in the executive branch is capable of engendering gridlock and thus, a proclivity towards instability. Elgie’s solution to this problem is a semi-presidential arrangement with a ceremonial president as a dignified actor in a constitutional democracy while the parliament chooses the premier as the head of the efficient component of the government exercising real power⁴³.

The cultural dimension introduced by Seymour Lipset (2010) further strengthens this submission. He contends that a governing system should consider the significance of the habitual attitudes of the people towards government. He agrees that cultures do change and, as such, in redesigning institutional structures of government, there is a need to ensure conformity to the prevailing cultural norms.

The position of Arendt Lijphart (1994) differs markedly from the others. While he concurs on the problematic of the institutional and structural design of presidential systems, his major criticism is ‘its inclination toward majoritarian democracy, especially in the many countries where, because a natural consensus is lacking, a consensual instead of majoritarian form of

⁴³ This arrangement needs to be qualified within the specific political culture. Nigeria’s post-independent parliamentary system was fashioned along this line (as will be seen later in the study); yet, the political instability it generated, due partly to the behavioural disposition of the political elites towards power, could not be abated until the time the military intervened in January 1966. For the details, see Ojiako 1980; Ademoyega 1980; Ejimofor 1987.

democracy is needed' (Lijphart, 1994, p.91). His concern is the feasibility of consensual arrangements in plural societies with a view to guaranteeing stability, which he notes is not possible in the institutions and structures of a presidential system. To him, presidentialism is not conducive to 'the kind of consociational compromises and pacts' necessary to foster democratic process in plural societies besieged by acute ethno-religious divisions (Lijphart 1994, p. 97). Nevertheless, he appreciates the regime of separation of powers in presidential systems though he regards this as a paradox because the system also promotes a concentration of power not only in a political party but also in an individual.

Alston and Mueller (2005) in their study of the Brazilian presidential system support the notion of a strong executive. They argue that when Brazil returned to democracy in 1985, the structures of the federal institutions of governance retained strong powers for the president. The country's transition from a military dictatorship to a civilian government, like Nigeria in 1999, was gradual and peaceful rather than revolutionary. As a result, the presidential system retained many institutional structures of the military regime along with their inherent culture. Most notable of these structures and culture is the institution of autocratic executive power. This enables the president to navigate through the legislature with ease of bargaining and pork barreling (Alston & Mueller, 2005; Golden and Picci, 2008)⁴⁴.

Indeed, literature is replete with factors that are responsible for the fragility of presidential systems compared to parliamentary systems. Przeworski et al (2000) have noted economic factors, arguing that parliamentary systems are common in countries with high rates of economic growth while most presidential democracies are concentrated in the developing countries with low rates of economic growth and development. Shugart and Mainwaring (1997) proffer a different factor, arguing that fragility in a presidential system is a function of the location of power.

⁴⁴Pork-Barrel is a terminology used to describe strategic political calculations by the political elites in the distribution of public goods in a manner that would boost their electoral strength. Its use in the context of the Nigerian political system is a measure not to distribute public goods to the constituents but to the elected representatives by the executive in order to ease legislative authorisation of pertinent issues. Another language for pork-barrel politics in Nigeria is bribery of the legislature to provide necessary shields for the executive. The Nigerian case is more worrisome as the president elected in 1999 is a former military head of state while most other elected and appointed civilian officials at the national and state levels had, at one time or the other, served with the military government as either military governors/administrators, ministers or commissioners. To worsen the matter, the bureaucratic structures at all levels lack the requisite democratic culture (Fagbadebo, 2011).

Traditional studies on presidentialism pick holes in the institutional and structural design rather than in the policy outcomes of the governing system. It is noteworthy that there are divisions among scholars of this persuasion on some key issues; nevertheless, there is consensus over the desirability of the institutional and structural features of the system to promote democratic consolidation. Cheibub and Limongi (2014, p.136) have noted that the traditional school assumes that ‘interests generated at (sic) the electoral arena ultimately define relations between the legislature and the executive’. Scholars choose to adopt different explanatory variables and dependent variables to explain these institutional and structural flaws. While some, notably Juan Linz, use regime type as an explanatory variable, others such as Mainwaring (1993), Mainwaring and Shugart (1997), and Carey (2005), prefer multiple explanatory variables.

The choice of good governance as one of the dependent variables by the latter studies of this school (Shugart and Haggard, 2001, Przeworski et al 2000) provides the window for a move beyond the institutional/structural design to the outcome of their impact on public policy. In other words, the concern here is not limited to the operation of the institutions and structures but their influence on the capacity of government to promote good governance. Studies of the presidential system involve the interplay of institutions and political roles. In doing this, there is a need to pay attention to the interplay of the content and contexts of constitutional rules, public expectations, and opinions, political roles of the structures of government and the behavioural pattern of the political elites. The informal institutional mechanisms interacting with the formal structural designs often provide the leeway for policy outcomes. This is the focus of the new generation school of the presidential system.

2.2.2 The new generation/developmental⁴⁵ school of presidential systems

The developmental school of presidential systems originates from Harold Laski, according to whom

[a] system of government is very like a pair of shoes; it grows to the use of the feet to which it is fitted. But it is well to remember of governments what is true, also, of foot-wear-that the shoes must be suited to the journey it is proposed to take (Laski, 1944, p.358).

⁴⁵ The two phrases, new generation, and developmental school are used here interchangeably to denote the new perspective and orientation beyond the traditional persuasion.

In other words, it is fruitless arguing over the desirability of a system in terms of institutional structure when the outcome is at variance with the expectations of the people. He contends that for any governing system to conform to a democratic ethos, it must

set out to conquer mass unemployment. It is no less certain that democracy will lose the spirit that gives it meaning unless our citizens have that sense of hope and exhilaration which is born only of an economy that, by its power to expand, is capable of raising the standard of life for all our citizens (Laski, 1944, p.358).

Thus, the central issue that dominates the new generation school is how best a governing system should operate within the institutional structures to ensure policy outcomes that promote the public good. The early works of this school critique the traditional school's focus on the "perils of presidentialism".

Jose Antonio Cheibub (2002; 2007) dismisses the traditional school's argument that presidential systems are susceptible to instability. According to him, 'instability of presidential democracies...lies in the fact that presidential institutions tend to exist in countries that are also more likely to suffer from dictatorships led by the military' (Cheibub, 2007, p.3). He argues that 'there is nothing wrong with presidential institutions' as such; rather, 'the conditions under which it [institution] exists that leads to the instability of presidential democracies' (Cheibub, 2007, p.7). Authoritarian legacies, especially in post-military presidential democracies, engender instability in presidential systems as evidenced in the Latin American cases cited by the traditional school.

To scholars in the new generation school, both presidential and parliamentary systems are *modus operandi* 'with their own baggage' (Moe and Caldwell 1994, p.172).

Choices about institutional form have pervasive consequences for virtually all the building blocks of democratic government. When nations choose a presidential or parliamentary form, they are choosing a whole system, whose various properties arise endogenously - whether they like it or not - out of the political dynamics that their adopted form sets in motion (Moe and Caldwell, 1994, p.172).

George Albert (2009) does not see much functional differentiation between presidential and parliamentary systems. Though the two systems 'exhibit distinguishable structural features...the structural differences between them do not necessarily give rise to functional differences' (Albert, 2009, p.531). He notes three principal factors that engender the similarities between the two governing systems: purposeful constitutional design, political culture, and unintended consequences. In other words, the barrage of criticisms against presidential systems *vis-à-vis* parliamentary systems is not necessary because each of the

defects in presidential systems is inherent in parliamentary systems as well. According to him,

Presidential and parliamentary systems exhibit many more functional parallels than their distinctive structural features might otherwise suggest. This observation underscores the limitations of existing constitutional theory and makes plain that conventional constitutional conceptions of presidentialism and parliamentarism are not only limited but quite often mistaken (Albert, 2009, p. 577).

In a presidential system, there is no strict adherence to the theory of the separation power but the conventional practice of separated but shared power (Cheibub & Limongi 2014). In this sense, there is no watertight separation of functions⁴⁶. In fact, a contemporary trend shows that interactions among institutional actors within and outside the legislature and the executive characterize the functioning of modern presidential systems. As Cheibub and Limongi (2014, p. 124) have noted, ‘the question is not so much of what triggers conflict or cooperation between the executive and the legislature, but about institutions and the struggles that allow government to obtain the support of a majority’.

Thus, the practice of power sharing within the framework of independent institutions is a necessary component of the effective governance needed to achieve the purpose of the state. The recognition accorded the opposition party as an alternative government (Albert, 2009), though numerically inferior with no power to modify legislation, serves as a counter-veiling force, thereby challenging the incumbent regime to practice good governance (Awotokun, 1998; Fashagba, 2010). Mutual interaction, bargaining and compromise characterize the arenas of decision-making and the policy processes in presidential systems (Fashagba 2010; Keefer & Khemani, 2009; Golden & Lucio, 2008; Lyne, 2008; Alston & Mueller, 2005). The ultimate goal of this arrangement, though with varying modifications as the system progresses, is to safeguard the interests of the public with a view to ensuring the promotion of the common good.

Cheibub and Limongi (2014) identify two features of this school. Firstly, inter-branch relation exhibits cooperation and coordination rather than conflict. In other words, a bargaining game replaces a zero-sum game. Secondly, the cooperation and coordination

⁴⁶James Madison has averred that ‘the legislative, executive, and judiciary departments ought to be separate and distinct’ but that this ‘does not require that they should be wholly unconnected with each other’ (Madison, 2008, *Federalist* No. 47). ‘The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny’ (Madison, 2008 *Federalist* No 47).

character of the interaction between the political branches of government revolves around policy. In a presidential system, the policy arena requires synergy among the actors in the legislature and the executive. This is essential because their policy preferences only become a reality 'through the continuous existence of a majority that controls both the executive and the legislature' (Cheibub & Limongi, 2014, p. 136).

The analysis of Cheibub and Limongi is compatible with the views expressed earlier by Chaisty et al (2012, p.1), that the focus should be more on 'the capacity of the president to overcome the conflict-inducing nature of the separation of powers through successful formation of a coalition'. The outcome of this is the formulation and implementation of policies that emanate from a wider spectrum of bargaining necessary for optimum satisfaction of a larger section of the public. They argue in support of the position of Harold Laski (1944) that rather than focusing attention on the properties of the institutional structures, it is more appropriate to assess the governing system based on how best it navigates through the structural features for effective policy outcomes. As Oleg Zaznaev (2014) has noted, what defines a governing system is not only its constitutional and legal characteristics of power, but also 'a set of informal practices that characterise the relationships' between the legislature and the executive, which 'depends not only on legal regulations but also on informal political practices' (Zaznaev, 2014, p.196). Other factors to be considered include the process of institutionalization in new democracies and the necessity for the 'creation of the mechanism of its functioning in practice' (Zaznaev, 2014, p.196).

Studies by the new generation school find that most of the structural defects identified as inimical to stability in a presidential system are instruments for the promotion of a cohesive governing structure that towers above primordial interest in policy process. For instance, a combination of multipartism and presidentialism provides opportunities for bipartisan strategies to overcome the 'perils of presidentialism' and gridlock (Chaisty et al 2012; Cheibub & Limongi, 2014; Hiroi & Renno, 2014). Rather than evolving into what Mainwaring (1993) calls a difficult combination, the structural composition of a multiparty presidential system provides key governing tools for the president to navigate through gridlock barriers in the legislative process for result-oriented policy outcomes. These tools are 'agenda power, budgetary authority, cabinet management, partisan powers, and informal institutions' (Chaisty et al, 2012, p.2). The scholars argue further:

In order to win support for the legislative agenda of the executive, presidents must behave much like prime ministers in the multiparty democracies of Western Europe: they must first assemble and then cultivate interparty coalitions on the floor of the assembly. The objective of the president is to foster the emergence of a legislative cartel which will reliably defend the preferences of the executive branch (Chaisty et al, 2012, p.3).

Thus, presidents in multiparty presidential systems have the capacity to construct 'effective and stable coalitions' to avert the 'perils of presidentialism' (Chaisty et al, 2012, p.3). In spite of the variations in the application of these tools and the decline 'in the values of partisan and agenda setting powers' (Chaisty et al, 2012, p.3), they discover that their successful application depends largely on the capacity of the president to harness the windows of opportunity created by the inherent structural features of a multiparty system (Chaisty et al, 2012, p.3). In essence, this 'coalitional presidentialism' (Chaisty et al, 2012, p.3) enables the president to negotiate 'coexistence of a presidential executive with a fragmented multiparty legislature' (Chaisty et al, 2012, p.3).

Hiroi and Renno (2014) and Zucco Jr. (2014) aver that legislative processes and outcomes depend on the internal cohesion of the coalitions because members could agree or disagree on their motives and objectives. Similarly, George Tsebelis, in his analysis of the veto powers in the two major governing systems, alludes to this theme of governance and the mode of policy outcomes as the major distinguishing factor between presidential and parliamentary systems. He observes that in

parliamentary systems, the executive (government) controls the agenda, and the legislature (parliament) accepts or rejects proposals, while in presidential systems the legislature makes the proposals and the executive (president) signs or vetoes them (Tsebelis 1995, p.325).

To him, the focus should be on the capacity of the institutional and structural features of the governing systems 'for policy change' (Tsebelis, 1995, p.292). Thus, a governing system finds its importance in the policy outcomes of its decision-making properties. He submits that 'parliament will be more significant in presidential than in parliamentary systems and presidents will be less significant than government' (Tsebelis, 1995, p. 325). In other words, the peril of personalization of power would have no effect on policy outcomes.

Veto is an instrument frequently used in presidential system for checks and balances. This constitutional instrument allows presidents and the legislators to react to policy proposals. The president can veto the passage of the proposal of the legislature but at the same time, following constitutional procedure, the lawmakers could override such veto having satisfied the voting requirements. The essence of this mechanism is to provide enough checks and

balances with a view to averting dictatorship. Indeed, Shugart and Carey (1992) and Indridason (2011) see veto as an attribute of a presidential system. Indridason (2011, p.377) notes that veto provides the ‘most consistent and direct connection of the president with the legislative process’. Palanza and Sin (2014, p. 767) see veto powers as ‘a crucial bargaining element in a system of separation of power, influencing the complex relationship between the president and congress’.

It is instructive to note that developing presidential democracies incorporate different variants of the exercise of power by the various branches of government (Ginsburg et al, 2013). The scholars added:

Our analysis suggests a surprising collection of findings and, by implication, pronounced skepticism regarding the classical typology of presidentialism, *parliamentarism* and semi-presidentialism. Many countries, it seems, are veritable hybrids, showing absolutely no resemblance to the classic types across a long list of constitutional provisions concerning the power of executives and legislatures (Ginsburg et al, 2013, p.37) (emphasis in the original).

To this end, they define parliamentary and presidential systems as an ‘assembly confidence executive’ and ‘directly elected executive’, respectively (Ginsburg et al 2013, p.37). They warn against the generalization of rules in a bid to explain policy outcomes. ‘We ought to then encourage more precise categorizations based on particular attributes of legislative-executive relations that are believed to contribute to the outcome of interest’ (Ginsburg et al, 2013, p.38).

The developmental school incorporates the views expressed by scholars on the role of informal institutional characteristics of presidential systems. Kwasi Prempeh (2008) identifies contextual variables such as the electoral calendar, economic performance, the quality of presidential leadership, the relevance of actors exogenous to the executive-legislative relationship and the cultural heritage of the political system. Richard Neustadt (1990) demonstrates the roles of the informal institutions in the molding of presidential power over the years. He notes that American presidents derive their power from their popularity, evolving from their standing with the public, and from their professional prestige representing their reputations within the political class.

Allen Hicken and Heather Stoll (2011; 2013) have noted the primacy of power in shaping competition in the various electoral constituents of presidential systems. In politics, the location of power is important as an instrument to influence policy outcomes. Thus, informal institutional variables like popularity are essential in a presidential system. Though Hicken

and Stroll (2013) identify variations in presidential power, they contend that the importance attached to the power equation between the president and the legislature is imperative in the arena of decision-making. In the United States, the real power of the president 'comes from his ability to bargain and persuade effectively' with the legislature (Lasser 2008, p.296).

Chaisty et al (2012) acknowledge that the debate on the desirability of presidentialism and parliamentarism as governing systems 'has increased our understanding of the role of institutional variables in the study of democratic sustainability' but that 'the existing literature suffers from four key deficiencies' Chaisty et al (2012, p.2). The scholars opine that the

debate has too often been univariate (looking at one institutional variable to the exclusion of others); it has too frequently been divorced from local context (ignoring national histories, cultures, and trajectories); it has unwisely ignored the role of informal institutions; and it has often tried to stake grand comparative generalizations on the experience of a single world region (Chaisty et al, 2012, p.2).

They argue that a presidential system fosters bipartisan relationships through negotiation and cooperation with a view to ensuring the promotion of the public good. Gridlock is part of the expectations in presidential system as a measure to ensure bipartisan conclusion on matters of national interest. In the United States, cases of divided government have contributed largely to a united front exhibited by Congress on national issues. For instance, the Republican dominated US Congress passed a debt-ceiling bill to allow the president to finance the country's fiscal needs in spite of the gridlock that led to the shutdown of the government (Dinan and Sherfinsk 2014).

Presidentialism does presage divided government but because of weak party discipline, it is a measure to encourage the president to foster consensus building and cooperation among legislators whose unity is necessary for the promotion of public good in a system of separated powers. In other words, the weak party discipline regarded as one of the perils of the presidential system is actually a necessary feature to enable the system to foster national unity in the midst of contending and fragmented interests. The majority leader of the Senate of the United States of America, Harry Reid, recently expressed this much, saying

Congress should be striding from accomplishment to accomplishment, not staggering from crisis to crisis. If we spent more time working together and less time running out the clock on procedural hurdles and Republican filibusters, we might actually get things done around here (cf. Dinan 2014)⁴⁷.

This underscores the importance of leadership in a presidential system. Marsteintredet et al (2013) have noted that leadership failings in presidential systems mostly occur when legislative support is deficient. Where this is prevalent, the president would find it difficult to survive and govern effectively. This difficulty is more prevalent in multi-party presidential democracies where the president's political party requires the support of the opposition groups to maintain a controlling majority in the legislature.

We believe that this pattern of governmental instability increases the importance of presidential leadership in the construction and maintenance of a governing coalition, preferably based on a negotiated political agenda...a governing coalition is imperative not only to implement the president's agenda but also, perhaps, to keep the president in office (Marsteintredet et al 2013, p. 122).

The central theme of the concept of separation of power and the doctrine of checks and balances is the inducement of control over the exercise of power (Oleszek 2014). In a presidential system, the concern is how to ensure efficient governance through careful attention by the legislature to the administration of laws passed. Legislative decision-making process requires effective monitoring of the activities of the executive by the legislature to ensure the implementation of the authorized legislations on government policies (Oleszek 2014).

Essentially, legislative oversight is continuous monitoring by the appropriate committees of the legislature 'of how effectively, efficiently and frugally the executive branch is carrying out congressional mandates' (Oleszek 2014, p. 382). The importance of this exercise cannot be overemphasized. Referring to the presidential system in the USA, Oleszek (2014, p.382) contends that 'oversight enables Congress to challenge unwarranted assertion of executive power, to raise and ask the tough fiscal and policy questions of public officials, and to help administrative leaders fix (or avoid) mistakes'. In all, the fundamental objective of legislative oversight is 'to hold executive officials accountable for the implementation of delegated authority' (Oleszek 2014, p.382). Although a presidential system encourages separate governmental institutions, it nevertheless promotes cooperation and coordination (Cheibub & Limongi 2014) since all the branches of government work for the same government because,

⁴⁷ Reid made this comment after a bipartisan vote in a divided US Congress paved the way for the Senate to give final approval for an increased debt ceiling that would enable President Barack Obama to borrow enough money to cover federal obligations for a period of time.

as Lee (2014 p.2), has noted in the context of the American system, ‘the president and Congress share responsibility for policy outcomes’. This is the general expectation of the policy process in presidential systems. Thus, oversight is an instrument designed for the promotion of good governance with a view to preventing tyranny.

Both the traditional and new generation schools emphasise the need for discipline in, and control of, the exercise of power. While the former school sees impeachment as an instrument of gridlock and invitation to anarchy, the latter school considers it a democratic measure to ensure compliance and accountability. An offshoot of the legislative monitoring role is the power of the legislature to ‘challenge the unwarranted assertion of executive power’(Oleszek 2014, p.408) and sanction misconduct arising thereof. This power, which Oleszek (2014, p.408) describes as the ‘ultimate check on the executive,’ enables the legislature to determine the desirability or otherwise of the president to continue as the head of the executive branch. Indeed, studies of the various cases of impeachment in Latin America and Asia have shown promising degrees of flexibility in ensuring leadership accountability (Hochstetler 2006; Perez-Linan 2007; 2014; Marsteintredet and Berntzen 2008; Hochstetler and Samuels 2011; Taylor-Robinson and Ura 2013; Marsteintredet et al 2013).

The next section discusses the exercise of this power in presidential systems.

2.3 Impeachment in presidential systems

One of the major criticisms of a presidential system is the absence of a constitutional measure to discipline the elected head of the executive branch. Juan Linz in particular has argued that the constitutional provisions relating to the removal of the president before the expiration of his term are not feasible (Linz 1994). Nevertheless, others see the measure as the best option to ensure accountability rather than gridlock. Cheibub and Limongi (2014) have argued that the same factors that engender the fall of parliamentary government usually account for impeachment in presidential systems. They aver that in the face of constitutional provisions, ‘presidential systems too can display flexibility of removing government in a situation of crisis without at the same time abolishing democracy’ (Cheibub & Limongi 2014, p. 131). Young Hun Kim (2013) in particular has noted the flexibility provided by impeachment in resolving crisis in new presidential democracies. According to him, impeachment attempts in presidential systems have provided ‘a better picture of how executive-legislative conflicts play out as legislators seem to actively engage in resolving political crisis without resorting to

extra constitutional means’ whenever they face challenges with the presidents (Kim 2013, p.17).

Scholars have expressed diverse views on impeachment. Alexander Hamilton (2008) in the *Federalist Paper No.65* sees the practice of impeachment as ‘a bridle in the hands of the legislative body upon the executive servants of the government’. Since leadership in democracy is a function of trust, Turley (1999, p. 7) notes that presidents secure people’s votes on trust and as such should conform to ‘certain minimal standards’ because impeachment questions the consent given by the people. Marsteintredet and Bertzen (2008, p.88) consider impeachment as a democratic legal procedure ‘in which the legislature, in some cases together with the Supreme Court, through a vote that requires a supermajority, removes the president’. To Richard Albert (2009), an impeachment trial incorporates both legislative and judicial functions. While it allows the legislature to encroach on the duty of the judiciary as interpreters of the law, it also permits the legislature to exert its duties as the conscience of the people.

In sum, impeachment is a constitutional instrument designed to guard against the violation of the institutional and structural requirements of the presidential system. These requirements portend the desire of the governing system to pursue policies aimed at promoting the interests of the public and safeguard their welfare in an arrangement of multi-level control mechanisms. As a correcting measure, impeachment is a drastic last resort remedy rather than a frivolous instrument simply to send a message (Bloch 2006). It is a measure to forestall ‘the possibility that a sitting president could so abuse[s] the powers of his office as to threaten the welfare of the nation’ (Eisgruber and Sager 1999, p.223).

With global abhorrence of military intervention as a solution to political instability in developing democracies, legislatures in new presidential democracies have realized that the impeachment process is the main constitutional tool for sanctioning presidents who are involved in corruption or abuse of power (Hinojosa and Perez-Linan 2007). Lawmakers should not therefore, hesitate to exercise their constitutional powers to hold the president accountable. In the absence of electoral accountability, there is the possibility that elected public officials might wish to indulge in the abuse of power with a view to maximizing personal gain while in office (Kada 2003a). As such, when electoral accountability becomes ineffective, removal from office remains the only legitimate method to terminate presidential tenure before the expiration of their term.

2.4 The purpose of impeachment in presidential systems

A peep into the arguments of James Madison and the supporters of impeachment at the American Constitutional Convention⁴⁸ indicates that there is the need for a controlling mechanism to safeguard the interests of the people against arbitrary rule by the leadership of the executive branch⁴⁹. By virtue of the requisite constitutional provisions regarding the exercise of the power of the president as the chief executive of the state, it is necessary to set a limitation with a view to controlling it and holding the executive responsible for breaches of the public trust reposed in them (Davies 2014). Thus, the original purpose is to ensure a responsible executive.

Impeachment in its original meaning as considered by the America Constitutional Convention is a device to enforce accountability by public officers (Nichols 2011). James Madison's address at the Convention as well as the position of Alexander Hamilton in the *Federalist Paper 65* agrees with this notion. Madison for one has argued that the impeachment provision is an 'indispensable' item 'for defending the American endeavor' (cf. Nichols, 2011, p. 2). His argument is that periodic elections are not sufficient to remove an executive involved in wrongdoing while in office. James Madison explained his position further:

The limitation of the period of his service was not a sufficient security... He might lose his capacity after his appointment. He might pervert his administration into a scheme of speculation or oppression. He might betray his trust to foreign powers...In the case of the Executive Magistracy which was to be administered by a single man, loss of capacity or corruption was more within the compass of probable events, and either of them might be fatal to the Republic (Madison, cf. Nichols, 2011, p.2).

Nichols describes impeachment as 'Congressional opposition, motivated by the imprecise mix of partisanship and sincere concern for the nation that has always been essential to making change in a [presidential] democracy...' (Nichols 2011, p.52). Where there are established charges of breaches of the constitution by the executive and the need to hold it to

⁴⁸ Discussion on impeachment in presidential systems cannot be devoid of its roots at the Convention. A true understanding of its purpose as one of the distinguished generic features of presidential systems is traceable to the mood of the debates at the convention, though it has its origin, as a governing disciplinary measure, in the British parliament. Subsequent presidential systems are models, in parts, of the American system. For the details, see Plucknett 1942; Morgan Jr. et al 1974; Turley 1999; Cammisa and Manuel 2014.

⁴⁹ Indeed, James Madison had argued vigorously at the Convention that impeachment was the only instrument to defend the '[c]ommunity against the incapacity, negligence or perfidy of the Chief Magistrate' (cf. Farrand 1911, p. 57).

a standard of accountability, impeachment remains the motivation for the legislature to assert its status as the representative of the people.

Florin Hilbay (2012, p.1) defines impeachment as an extraordinary ‘mechanism of accountability to determine whether or not certain high-ranking public officials should be removed from office’. He identifies three reasons that make it a special political rather than strictly legal instrument:

[F]irst, the proceedings are not lodged in traditional institutions of law but are conducted by elected representatives of the people; *second*, not all grounds for removal are defined in criminal statutes but are instead couched in such broad terms as betrayal of public trust and culpable violation of the constitution; *third*, impeachable public officers share an important characteristic: beyond being protected by a term, they are vulnerable to removal from office only by way of impeachment (Hilbay, 2012, p.1).

Implicitly, impeachment is a constitutional measure to get rid of an unaccountable leader with a view to ensuring transparency. In other words, a leader whose conduct infringes or hampers the welfare and well-being of the people is liable for removal. This means that the essence of impeachment in the constitution is to serve as warning signal to leaders of the consequences of their actions while in office. In the American political system, the essence of impeachment is to ensure that people entrusted with executive powers do not behave as kings in their domains (David 2012)⁵⁰. Thus, as a political process, impeachment in its original conception represents an expression of the power of the people in a system of government besieged by elitist activities. Naoko Kada (2003b, p. 113) has argued that impeachment serves ‘as proof that democratic institutions [in presidential systems] could effectively check abuse of power by executives’.

The set of people affected by this procedure ‘are generally entitled to security of tenure, [that ensures] that they are able to perform their functions without the contingencies and hassles occasioned by politics’ (Hilbay 2012, p.1). Thus, the idea of an immunity clause in the constitution, as in the case of Nigeria⁵¹, is part of the assumption that members of the political executive would operate as statesmen, and, as such, should be accorded the status and instruments necessary for them to act without being subjected to political intricacies.

⁵⁰ President Estrada of the Philippine was charged and prosecuted after his impeachment (Fukuyama et al 2005), and was subsequently convicted but later pardoned by President Macapagal-Arroyo.

⁵¹Section 308 of the Constitution of the Federal Republic of Nigeria, 1999, as amended, states that ‘no civil or criminal proceedings shall be instituted or continued against’ the president and his deputy; state governors and their deputies during their period in office.

Impeachment therefore is a counter measure to ensure that such protection does not degenerate into impunity.

From cases in Latin America and Asia, it is evident that the intent of impeachment provisions is to encourage the institutionalization of a constitutional means to resolve issues capable of endangering democratic regimes (Kasuya 2003; Fukuyama et al 2005; Perez-Linan 2007). Young Hun Kim (2008; 2013) argues that in the face of a constitutionally guaranteed term, impeachment provisions are motivations for performance. The intention of impeachment as an instrument in the legislative domain is to stimulate good governance through the promotion of the culture of a responsible executive. Legislatures could also invoke the power to pressurize the president to step down from power. In some cases, its initiation might reduce 'the president's willingness to cooperate on issues of policy or patronage' (Kim 2013, p.17).

Critics of presidential systems often cite impeachment or presidential interruption as a manifestation of regime instability or democratic breakdown. Indeed, Eisgruber and Sager (1999) have contended that politics and controversy surround the definitional property of impeachment. They note that 'there is an enormous behavioral gap between acts which merely render the President politically unpopular with the Congress and acts which comprise a blatant misuse of office and put the nation at risk' (Eisgruber & Sager 1999, p.223). Nevertheless, by virtue of the structural design of the system, it is a stabilizing factor for the promotion of good governance (Perez-Linan 2007; 2014; Carey 2005). In other words, it is a warning that the sprawling power ascribed to the executive is not a license for lawlessness. Thus, impeachment is nothing other than 'democratic removal of a chief executive and installation of a new chief executive' (Marsteintredet & Bertzen 2008, p.87).

Presidential democracy incorporates principles and practices that enable the people to reassess their trust in their elected officers of the state. Florin Hilbay sees impeachment as one of the instruments 'by which ordinary people, through their representatives, and on grounds that they themselves define, re-evaluate the terms of contract between them and those privileged few who man the ship of state' (Hilbay 2012, p.3). Hilbay reiterates the importance of the trust of the people in governance, arguing that constitutional fixed term is not sufficient to sustain the tenure of the elected officials, because the 'guarantee can be breached once the people are convinced that their trust has been betrayed' (Hilbay 2012, p.2). Legislative oversight of the executive is a major component of the 'system of checks and

balances that is often embedded in separation-of-powers constitutions' (Ginsburg et al 2013, p.9). Impeachment in presidential systems, 'is meant to be used infrequently to correct grave abuses by the executive, and not as a routine means of unseating presidents' (Fukuyama et al 2005, p.110). In other words, an impeachment provision serves as a reminder of the presence of a gatekeeper to correct and punish misdeeds inimical to transparency, accountability, and good governance.

It is evident that the primary purpose of impeachment is to serve as an instrument for the enforcement of good governance. Governance connotes the pursuit of collective interest, a task that requires the state to interact with the other actors in the political system (Pierre 2011). Central to the issue of governance is government responsiveness to popular demands and expectations. Good governance, therefore 'generally refers to a standard or model for how states or other political entities should govern and be governed' (Teorell 2011, p.1017). This quality of government presupposes the existence and persistence of developmental outcomes that enhance the welfare of the citizens. Good governance, therefore, has to do with the management of available resources of the nation for the promotion of the public good (World Bank 1992; Annan 1999; Nanda 2006; Salvaris 2009; Ogundiya 2010; Akomolede and Akomolede 2012). This entails transparency, accountability and good management practices. Thus, good governance occurs when the state achieves its desired end 'defined in terms of justice, equity, protection of life and property, enhanced participation, preservation of the rule of law and improved living standards of the populace' (Ogundiya 2010, p.204).

Policy analysts have identified the absence of good governance as a critical factor detrimental to the consolidation of democracy in developing countries (Converse and Kapstein 2008). Other factors that draw their relevance from the crisis of governance are unfavourable conditions emanating from geographical location, control of natural resources, levels of poverty and inequality, and degree of ethnic fragmentation. Poor economic performance due to unethical management practices and the impact of economic reforms such as price liberalisation and privatization 'that generates lots of losers and high levels of unemployment' impinge on the quality of governance in developing democracies especially in countries where stronger presidential regimes facilitate authoritarian rule (Converse and Kapstein 2008, p.127).

2.5. Impeachment in the developing presidential systems

Aside from the United States of America, Latin American countries and a few Asian and African countries practice presidentialism. Early studies of presidential regimes in these regions, especially in Latin America, indicate proclivity towards a breakdown of government with incessant political upheaval (Baumgartner & Kada, 2003; Fukuyama et al 2005; Hochstetler 2006; 2011; Perez-Linan 2007; Kim 2008; 2013; Hochstetler and Edwards 2009). As already noted, this development attracted a series of criticisms dubbed the 'perils of presidentialism' (Linz 1994; 2010). Kathryn Hochstetler (2006, p.401) highlights a number of contentious issues such as divided government, fragmented party system, power relations between the president and the legislature, a parlous economy, corruption and scandals, and the 'presence or absence of street protests [which] played a central role in determining which presidents actually fell'. Additionally, Perez-Linan (2007) highlights the end of the Cold War, changes in the foreign policy of the United States of America, political lessons derived from the military dictatorship in Latin America in the 1960s and 1970s and the new roles of international institutions in the democratisation project, as the motivating factors for the frequency of impeachment episodes in Latin American presidential systems.

Hochstetler (2006), for example, has discovered that 23% of elected presidents in Latin America were forced to leave office before the expiration of their terms between 1978 and 2003. Out of forty presidents whose terms were over by the end of 2003, sixteen of them (40%), faced challenges of completing their term, while nine (23%), left office before the expiration of their fixed terms. Kim (2008) has discovered that presidential impeachment attempts were common, showing that about 45% of developing presidential democracies experienced presidential impeachment attempts and about 60% of interrupted presidencies faced some form of impeachment charges.

Various studies on impeachment have identified a series of institutional and non-institutional variables responsible for the crisis of presidential removals through impeachment processes (Baumgartner & Kada 2003; Fukuyama et al 2005; Perez-Linan 2007; 2014; Llanos & Marsteintredet 2010; Kim 2013). Central to this is the power relationship between the legislature and the executive (O'Donnell 1994; Shugart and Carey 1994; Baumgartner 2003; Baumgartner and Kada 2003; Fish 2006; Valenzuela 2004). This power dynamic is often reflected in the legal provisions for impeachment, the structure of party politics, the voting threshold for impeachment, and the partisan composition of the legislature. For instance,

where the legislature secures the confidence of a majority of members in case of confrontation with the executive, the voting threshold could work against the leadership of the executive. This happened in Ecuador and Guatemala when Presidents Jamil Mahuad and Jorge Serrano resigned in 2000 and 1993, respectively, after confrontation with their legislators (Valenzuela 2004, pp.9-10).

Hochstetler (2006) identifies parlous economic policies, corruption and minority presidents, or divided government, as the major factors that facilitated impeachment in Latin America. She notes that most of the countries in the region adopted neoliberal economic policies, which generated 'intense political and economic conflicts' (Hochstetler 2006, p.405). The outcome of this development is the prevailing parlous state of the economy with its attendant implications for the general well being of the people. In most cases, prolonged protests against economic policies often resulted in demands for the removal of the presidents, as in the case of Paraguay in 1998/1999, which culminated in the resignation of President Raul Cubas, and Chile in 2000 (Hochstetler 2006; Perez-Linan 2007; Kim 2013; Marsteintredet et al 2013). In 2012, the aftermath of the clash between the police and landless peasants in Paraguay created the impetus for the legislature to impeach and remove President Fernando Lugo (Marsteintredet et al 2013; Perez-Linan 2014).

Another factor is allegations of corruption that involve the president. Hochstetler (2006) has noted the difficulty involved in determining the level of culpability of presidents in the rising tide of allegations of corruption. According to her, it is difficult 'to assess the overall incidence of corruption and scandal among the region's [Latin America] presidents' even when 'accusations are nearly constant,' because 'court action against a president is neither necessary nor sufficient to prove wrongdoing' (Hochstetler 2006, p.407). Nevertheless, this variable becomes potent when the media sensitize the public by publicizing the scandals. Thus, a free press is a formidable actor in determining the survival or non-survival of presidents (Perez-Linan 2007; 2014; Kim 2013).

Moreover, the success of legislative action against the president in this regard depends on the position of his or her political party in the legislature. Hochstetler (2006) and Kim (2008; 2013) have noted that minority presidents face more challenges of removal in the face of scandal and corruption. Hochstetler asserts that the opposition members of the legislature would be 'eager to bring corruption charges against presidents who were personally implicated' (Hochstetler 2006, p. 408). In other words, divided government often motivates

the opposition to exploit socio-economic and political situations to move against the president (Hochstetler 2006; Kim 2013; Perez-Linan 2014). The second causal factor is a set of non-institutional variables. These variables are the unintended consequences developed from the operation of the institutional attributes of a presidential system. They comprise mass protest against the government (mostly against economic hardship), performance of the president, and scandals which the legislature could not address (Hochstetler 2006; 2011; Perez-Linan 2007; 2014; Kim 2008; 2013; Kim and Bahry 2008; Hochstetler and Edwards 2009). This is not limited to presidential systems except that it often provides an opportunity for the hitherto unwilling legislature to commence a constitutional procedure of removing the president. The alternative is for the military to intervene as moderator. Indeed, most of the presidents who left office before the expiration of their terms were targets of sustained mass protests against their continuing stay in office.

However, there are cases of presidents who survived such scandals because of their popularity ratings by the public. Lee (2014, p.2) argues that ‘a popular president can garner broader political support to stave off accusations of wrongdoing because of favorable public opinion toward the president’. Conversely, presidents with poor public ratings are vulnerable to rejection even if their parties have a parliamentary majority (Lee 2014). Thus, the popularity of the president would determine his or her level of protection from the legislature and his or her political party. Lee posits that

The president’s party may want to change its relationship with the president if cooperation is expected to damage its electoral goals. Similarly, by signaling distance from an unpopular president or demonstrating an amicable relationship with a popular one, non-presidential parties can also increase their electoral payoffs (Lee 2014, p3).

Palanza and Sin (2014) note that the strength of the president’s party does not determine his or her success and tenure in multiparty presidential systems. They argue that ‘the nature of conflict surrounding the legislative process in multiparty presidential systems may be better understood if partisan considerations, which have dominated the literature, are left aside’ (Palanza and Sin 2014, p.768). Llanos and Marsteintredet (2013) and Perez-Linan (2014) in their respective analyses of the 2012 impeachment of President Fernando Lugo of Paraguay, conclude that the successful removal of a president is often a result of long causal chains and causal conclusions. They argue that a frosty and failing relationship between the president and the legislature is the primary factor, but that the protest appeared as the last factor in a chain of events.

Judging by the cases in Latin America and Asia, whenever there are accusations of any act of wrongdoing against a president, three things are likely to happen. First, the legislature might decide never to give impeachment serious consideration. Second, the fact that the legislature initiates the process does not mean the removal of the accused from office. The third possibility is when the legislature commences the process, it might lead to the removal of the president either through conviction or resignation in anticipation of a successful conviction (Hinojosa and Perez-Linan, 2007; Perez-Linan 2007).

I identify four typologies of the removal process⁵². The first is that of presidents removed from office through the impeachment process on charges of corruption. The Brazilian Chamber of Deputies voted to impeach President Fernando Collor de Mello ‘over his involvement in embezzlement and corruption’ in 1992 (Kim 2013, p.2). However, he resigned in anticipation that he would be convicted by the Upper House and subsequently removed. Similarly, the Paraguay Chamber of Deputies impeached President Raul Cubai Gran on the charges of negligence and abuse of power in 1999, but he also resigned before the Senate voted on the charges (Perez-Linan 2007). In 1993 and 2004, the legislatures in Venezuela and Ecuador impeached Presidents Carlos Andres Perez of Venezuela and Lucio Gutierrez of Ecuador, respectively. The second typology is the case of a president accused of corrupt practices who survived the impeachment process either mostly because the president had majority control of the legislature and/ or the allegations were not sufficient to warrant his or her removal. In these cases, Presidents Ernesto Samper of Colombia and Luis Gonzalez Macchi of Paraguay survived impeachment processes in 1996 and 2003 respectively.

The third typology is the president who resigns in anticipation of an imminent removal through an impeachment process. Presidents Raul Cubai Gran of Paraguay and Alberto Fujimori of Peru resigned in 1999 and 2000 respectively because of this. The other category of this typology is a president forced to resign because of popular protests by the opposition and the public against harsh economic policies and allegations of governance crisis. President Fernando de la Rúa of Argentina in 2001, and Bolivian presidents Gonzalo Sanchez de

⁵² Hochstetler and Samuels (2011) discuss this under two broad categories-successful removal and failed attempts. In all, they identify 15 successful removals prompted by street protests (Bolivia 1985; 2003 and 2005; Ecuador 1999/2000; 2004/2005; Argentina 1989; 2001; 2002/2003; Guatemala 1993) and a combination of street protests and legislative action (Peru 2000; Paraguay 1998/1999; Ecuador 1997; Dominican republic 1994/1996; Venezuela 1992/1993; Brazil 1992; 1987/1989) and 10 failed attempts (Nicaragua 2004/2005; Peru 2005; Paraguay 1997; 2000/2003; Colombia 1995/1996; Ecuador 1987; El Salvador 1987; Venezuela 2002/2004; Honduras 2003 and Brazil 1999).

Lozada and Carlos Mesa in 2003 and 2005 respectively, fall into this category. The fourth typology is the case where the legislature removes the president ‘through a declaration that the president is either physically or mentally unable to rule the country’ or that the lawmakers ‘declare that the president has abandoned his or her office’ (Marsteintredet and Berntzen 2008, p.88). Cases like this occur when the president has lost the confidence of the people while the legislature is determined to avoid the institutional intricacies of impeachment⁵³. Marsteintredet and Berntzen (2008, p.86) describe this as part of the innovations associated with flexibility in removing presidents permitted by their constitutions⁵⁴. One such example is that of February 1997, wherein the Ecuadorian legislature voted President Abdala Bucaram out of office on the charge of mental incapacity (Marsteintredet and Berntzen 2008).

Table 2 sets out the typologies and the various causal factors of impeachment in Latin America.

⁵³ Removal on the charges of ‘mental incapacity’ and ‘abandonment of office’ as in the cases of Presidents Abdala Bucaram and Lucio Gutierrez, respectively, are not through impeachment procedures common to presidential systems (Marsteintredet and Berntzen 2008, p. 88). These cases were feasible in Ecuador because the charges require only a majority vote of the legislature. They require no established crime, and there are no requirements to level such charges against the president.

⁵⁴ The 1979 and 1998 constitutions of Chile, Costa Rica and Ecuador and 1979 and 1983 constitutions of Peru, stipulate that the legislature ‘can declare that the president either has abandoned office or is physically or mentally unfit to rule’ without any stipulated majority (Marsteintredet and Berntzen, 2008, p. 87). In Ecuador, such votes require only an absolute majority. Whereas the legislatures in Colombia, El Salvador, Guatemala and Venezuela have the same constitutional power but require a stipulated two thirds majority of members vote (Marsteintredet & Berntzen, 2008, p.99, foot note 24).

Table 2: Typologies and the various causal factors of impeachment in Latin America

Impeachment	Factors
Brazil (Fernando Collor de Mello 1992)	Worsening economy; rent-seeking scandals; media publications of scandals; minority president; cabinet withdrew support; mounted public pressure and public demonstrations; president impeached. ⁵⁵
Venezuela (Carlos Andres Perez 1993)	Worsening economy aggravated deadly riots and protests; general labour strike; media exposes corruption scandals; fractured cabinet and political party; two failed coup attempts; majority president lost partisan support; adverse judicial pronouncement on corruption allegations propelled the legislature to force him to proceed on “permanent leave”.
Paraguay (Raul Cubas Grau 1999)	Divisive political environment; majority president but fragmented ruling party; release of godfather from prison ⁵⁶ ; conflict with the Supreme Court over Oviedo’s release; assassination of his deputy, Luis Argana; impeached by Chamber of Deputies; public protests; resigned in anticipation of Senate trial.
The Philippines (Joseph Estrada 2001)	Corruption scandals; adverse economy; public uprising, street protests and demonstrations; military and police withdrew support for the president
Paraguay (Fernando Lugo 2012)	Minority government; clash between police and landless peasants; public demonstration
Failed Impeachment	Factors
Colombia Ernesto Samper (1996)	Scandals on support from drug cartel to fund Samper’s election; president denied knowledge or consent; campaign manager resigned, prosecuted and jailed; implicated Samper; majority president; high public rating/support; shielded by members of the congress and acquitted by the legislature.
Paraguay (Gonzalez Macchi (2003)	Lack of electoral legitimacy ⁵⁷ ; fractured ruling party; economic recession; adverse coalition; three attempted impeachment failed.
The Philippines (Gloria Macapagal-Arroyo	Lack of political legitimacy ⁵⁸ ; corruption scandals; popular uprisings; failed coup attempts (2003 and 2006), bribery scandals; allegations of electoral frauds; media harassments; fractured ruling party; fractured cabinet; extrajudicial killings; three failed

⁵⁵ The Chamber of Deputies impeached him by 441-38 votes on September 29, 1992; the Senate voted 73-8 three months after to remove him and subsequently authorized his prosecution for corruption charges. The president resigned in anticipation of the Senate decision (Perez-Linan 2007).

⁵⁶ General Lino Oviedo was the original presidential candidate but was barred from contesting elections and jailed for sedition. Cubas Rau manipulated his power to secure the release of his godfather, as part of his campaign promises, a decision that set him against the opposition (Perez-Linan 2007).

⁵⁷ Macchi was the Speaker of the Senate, representing a faction of the ruling party, but became president upon the removal of Cubas Rau.

⁵⁸ Macapagal-Arroyo succeeded Estrada (as his deputy). This weak political mandate coupled with the worsening political environment affected her presidency in the first four years to complete Estrada’s term (Hutchcroft 2008).

	impeachment attempts (2005, 2006, 2007) but strong presidency with enormous power for patronage ⁵⁹ ; strong support from the Speaker of the legislature.
Resignation	Factors
Argentina (Raul Alfonsi 1989)	Minority president; plummeting economy; public protests; killing of demonstrators; loss support of the legislature.
Argentina (Fernando de la Rúa)	Plummeting economic situation; public uprising; civilian deaths, corruption scandals; minority government Adolfo Rodríguez Saa was also forced to resign in 2001.
Bolivia (Hernán Siles Zuazo 1985)	Plummeting economic situation with hyperinflation; public demonstrations, civilian deaths; corruption scandals; minority government
Bolivia	Gonzalo Sánchez de Lozada resigned because of popular pressure in 2003; public demonstrations and deaths of civilian protesters; minority government; disintegrated coalition. Mass protests forced Mesa Gilbert to resign in 2005.
Ecuador (Jamil Mahuad 2000)	Corruption scandals; minority government; adverse economic policy; public demonstrations; split in the ranks of the armed forces over austerity measure
Peru (Alberto Fujimori 2000)	Corruption scandals; fractured ruling party; opposition candidate became president of the Congress; demonstrations; loss of legislative support; forced to resign while in Spain.
Guatemala (Jorge Serrano 1993)	Minority government; confrontation with the legislature and judiciary; economic crisis; domestic and international pressures against his administration.
Dominican Republic (Joaquín Batiguer 1996)	Majority president; allegations of electoral fraud; public protests and uprising;
Incapacity	Factors
Ecuador (Abdala Bucaram 1997) and Lucio Gutiérrez (2005)	Minority president; antagonism of opposition; scandals on corruption, and abuse of power; low approval rates; labour protests; adverse media; adverse neoliberal economic measures; public demonstrations demanding his removal; declared 'mentally incapacitated' by the congress.
Peru (Alberto Fujimori 1991)	The Senate declared him moral incapacity but the vote failed at the House of Deputies.

Source: Data for the table was generated by the author from Kasuya 2003; Van de Loo 2004; Valenzuela 2004; Fukuyama et al 2005; Coronel 2007; Pérez-Linan 2007; 2014; Hochstetler and Samuels 2011; Hutchcroft 2008; Kim 2008; 2013; Marsteintredet and Berntzen 2008; Marsteintredet et al 2013; Magno 2001.

On April 20, 2005, the legislature also voted to remove President Lucio Gutiérrez from office having been found guilty of “abandonment of office” and named his deputy, Alfredo Palacio,

⁵⁹The Philippines political system provides the president with institutional shields with available instruments for pork barrel politics. For the details, see Magno 2001; Hutchcroft and Rocamora 2003; Fukuyama et al 2005; Kasuya 2003; Hutchcroft 2008; Kawanaka 2010; Davids 2012.

as his successor (Marsteintredet and Bertzen 2008; Basabe-Serrano and Polga-Hecimovich 2013). This kind of constitutional innovation for the purpose of national interest and accountability is necessary in developing presidential systems to achieve the primary objective of a presidential system. Thus, social and popular movements have become the moderating powers⁶⁰ in removing presidents through popular impeachments in presidential systems (Hochstetler 2006; Marsteintredet and Berntzen, 2008; Hochstetler and Samuels 2011; Zamosc 2012; Perez-Linan 2014).

All these cases and typologies have shown the potency of peoples' power in demanding accountability and good governance as a determinant of the survival of the presidents without leading to breakdown of government. Thus, beyond the 'perils of a presidential system' is a flexible measure to ensure that impeachment is not an instrument of political vendetta but a weapon to actualize accountability. A successful impeachment process requires interaction between the institutional and the non-institutional variables. In his recent study of the 2012 impeachment of President Lugo of Paraguay, Anibal Perez-Linan proposed a two-level theory of impeachment. Perez-Linan (2014, p.34) emphasises that 'the interaction between legislatures and the streets' is the most formidable causal factor that facilitates the removal of a president, even if there was no legislative justification for the action. He identifies 'a primary level involving causal statements and a secondary level involving concept formation' to explain the successful impeachment of President Lugo (Perez-Linan 2014, p.38). He argues that certain political forces could create conditions capable of facilitating the termination of a presidential administration while other forces could shield the president from such hostile threats.

While legislators who share the same political orientation with the president might shield him against impeachment, the same social forces could mobilize pressure to thwart legislature's recourse to impeaching a president with high public rating. Perez-Linan insists that the ease with which the legislature removed President Lugo was not the function of the violent clash between the police and the peasant landowners, as claimed by Llanos and Marsteintredet (2013). He opines that the clash only provided an opportunity for the legislators to get rid of an unpopular president who lacked the majority control of the legislature. Nevertheless, he

⁶⁰ The traditional school does not envisage such flexibility in leadership removal without necessarily precipitating military intervention. Linz (1994; 2010) in particular has argued that such a gridlock situation is a direct invitation for military intervention.

notes, ‘[w]hen opponents constitute a challenge and supporters fail to articulate a political shield, the president is exposed and the administration confronts a high risk of failure’ (Perez-Linan 2014, p.38). Perez-Linan argues further that

Actors pose threats and constitute shields in multiple ways, activating alternative causal mechanisms to affect the administration’s survival. Popular protests challenge the administration—even if they do not explicitly call for the president’s resignation—by signaling mass discontent with the government and by undermining public order. Popular discontent will embolden opposition leaders willing to openly demand the ousting of the president. Violent protests that compromise public order present incumbents with the choice of repressing demonstrators or relinquishing power (Perez-Linan 2014, p.38).

He avers that adverse legislative action by the opposition would be fruitless if social forces against impeachment shield the president.

On the conceptual level, Perez-Linan argues that the shields, whether a product the legislature or the public, need qualification. For him, protest movements will be effective against the president if they address broad interests that cut across the various sections of the community. On the other hand, social protests will becomes ineffective when they represent narrow ‘interests or when they fail to incorporate important social sectors’ (Perez-Linan 2014, p.38). However, legislative shields will be ineffective in a fragmented ruling party, given that internal fractures in the party incapacitate its ability to provide the necessary votes needed to ward off opposition parties’ threats of impeachment.

Table 3: Likely shields and threats to presidential terms

	Configuration 1	Configuration 2
Threat	Social movements: Broad social coalition (popular sectors and middle class) take to the streets to protest against the government or its policies	Legislators: Legislature has constitutional authority to remove the president; opposition controls a majority and is willing to take control of the government
Shield	Legislators: Government coalition controls a majority in the legislature and avoids divisions	Social movements: High presidential approval rates; broad coalition take to the streets to support the president

Source: Adapted from Perez-Linan 2014, p. 41

Perez-Linan (2014) identifies two major threats and shields, as shown in Table 3 above, detailing the interaction between institutional and non-institutional variables. The first threat is the presence of mobilized protest movements (non-institutional) with broad interests

incorporating popular sectors of the community, protesting against the government and /or its policies. However, the president will enjoy a legislative shield provided the governing party controls a cohesive majority required to thwart impeachment votes in the legislature (institutional). In other words, a divided government or fragmented governing party (institutional) provide a loophole for the opposition to mobilize sufficient votes in the legislature to remove the president facing social protest movements (non-institutional) (Perez-Linan 2014).

Secondly, a legislature where the opposition has the required majority (institutional) will be a threat to the tenure of a president. At the same time, public protests (non-institutional) can shield him/her against a legislature dominated by the opposition provided he or she enjoys a high public approval rating. Perez-Linan submits that: 'It is possible that high approval rates will be sufficient to discourage legislative conspiracies, but if they occur, demonstrators can shield the administration by taking to the streets to defend the government' (Perez-Linan 2014, p.41). Strategically, political elites in the legislature would not venture to initiate impeachment against presidents with high approval ratings (Perez-Linan 2014; Taylor-Robinson and Ura 2013).

2.7 Accountability in presidential systems

Principal architects of presidentialism as a governing system were concerned about the prospect of taming the power of the executive. Since the system was a derivative of the monarchical system, most delegates at the American Convention of 1787 were cautious in recommending a governing system that would encourage impunity (Turley 1999; Scheuerman 2005; Aberbach and Peterson 2010). The concern of the framers of the American presidential constitution was how to devise a governing system capable of averting the dangers inherent in the absolute exercise of power by an individual. William Scheuerman (2005) in his work has noted the anxieties of the American people on the dangers associated with monarchy and the need to reform its contents to conform to democratic principles. According to him,

the eighteenth-century revolutionaries jettisoned hereditary monarchy for an elected executive accountable to the people and their elected representatives. They also discarded notions of divine rule, paving the way for the principle that any citizen, as long as he (and ultimately she) meets certain minimal tests (for example, having reached the age of 35 years) hypothetically might come to occupy the office of the executive (Scheuerman 2005, p.28).

In other words, the people abhorred the notion of an absolute ascription of superior divinely-based wisdom and moral prudence attributed to monarchs and expressed their preferences for structured political institutions capable of generating ‘competent and intelligent holders of executive power’, outside the ‘bloodlines of the royal family or could be established via acts of consecration’ (Scheuerman 2005, p.28).

This abhorrence is a direct consequence of the fates of the American colonists during the reign of King George III (Ahrens 2001). The American experience with monarchy inspired Thomas Paine to declare,

let a day be solemnly set apart for proclaiming the charter; let it be brought forth placed on the divine law, the word of God; let a crown be placed thereon, by which the world may know, that so far as we approve of monarchy, that in America THE LAW IS KING (emphasis in the original)(Ahrens 2001, p.2)⁶¹.

Accountability means the ‘obligation to answer for the performance of duties’ (Mulgan 2011, p.1). This goes beyond mere information; it includes the capacity to impose sanctions for the failure or abuse of responsibilities as a measure of remedy with a view to rectifying the governance failure through deterrence (Mulgan 2011). Central to accountability are the measures for correction to avert adverse consequences. Thus, accountability mechanisms such as parliamentary oversight and media investigations require the capacity to impose sanctions by the relevant agencies in a transparent manner. Accountability is not rhetoric of self appraisal but ‘a relationship between two or more parties, in which one party is subject to external scrutiny from others’ (Mulgan 2011, p.2).

Guillermo O’Donnell (2008) identifies two types of accountability: horizontal and vertical. Vertical accountability represents the exercise of the voting power of the citizens in order to change leaders through the electoral process. Jacobson (1989) has argued that a prevailing culture of free and competitive elections is sufficient to motivate political leaders to govern responsibly. Since the public holds the key to determine their fate in elections, service delivery for the promotion of the interest of the public should be the priority of political leaders. Nevertheless, when the outcomes of elections might seem to have little relationship

⁶¹ One of the members of the Constitutional Convention, Mr. Morris, re-echoed this assertion during the debates on impeachment that ‘This Magistrate [President] is not the King but...the people are the King’ (Farrand 1911, Vol. II, p.59). In spite of this, there were instances during the Constitutional Convention when delegates mooted the idea of monarchy as the preferred governing system. Indeed, debates at the Convention and the contents of some of the *Federalist Papers* document the frequent references to monarchy in the consideration of the future of the American state. For the details, see Farrand 1911; *Federalist Papers*, No. 67; Ahrens 2001.

to the performance of political actors while in office, then the executive and legislative elites might choose to act irresponsibly (Jacobson 1989).

Horizontal accountability, on the other hand occurs in-between elections through institutional measures and mechanisms (Mulgan 2011; O'Donnell 2008). State institutions, such as the legislature as well as other bodies and agencies, charged with the responsibility of conducting oversight activities over government administrations exercise horizontal accountability. Such institutions have the requisite powers and authority 'to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other institutions of the state that may be qualified as unlawful' (O'Donnell 2008, p.31).

Adamolekun (2010) identifies diagonal and society-drawn horizontal accountability. Diagonal accountability, according to him, connotes the involvement of the citizens in enforcing horizontal accountability. Since the legislature is the symbolic representation of the public, the citizens, as in the cases of impeachments in some Latin American countries (Perez-Linan 2007; Kada 2003; Hochstetler 2011), mount pressures on their representatives to enforce accountability when the government seems to be working against the public interest.

The society-horizontal accountability occurs when the citizens in conjunction with the civil society organizations seeks to directly enforce accountability (Perez-Linan 2007; 2014; Adamolekun 2010). This is feasible in societies where collaboration between the executive and the legislature leads to a crisis of governance. In the midst of legislative docility and executive recklessness, the public might decide to organize public protests against the entire government as was the cases in some Latin American countries (Mainwaring and Welna 2003; Perez-Linan 2007; 2014).

In presidential systems, the legislature has the constitutional requisites to hold the executive accountable (Perez-Linan 2014; Hochstetler 2011; Adamolekun 2010). Indeed, the concept of the separation of powers and the doctrine of checks and balances are structural designs to ensure the promotion of transparency and accountability in government. With the exercise of oversight power in a system of separated but shared powers, the legislature as the conscience of the public, seeks to scrutinise government policies with a view to ensuring effective service delivery. In essence, a shared power is a design to overcome the danger of

concentration of power in an individual.⁶²The Nigerian presidential constitution recognises the legislature as the principal institution responsible for enforcing the accountability of the executive branch.

2.8 Summary

Literature on presidentialism points to the eagerness of scholars to seek a governing system that is conducive to stability and good governance. Different studies have shown a continuous search for a system of accountability within the premises of democratic culture. Positive and purposeful interactions between the structural properties and the political actors within and outside the institutional boundaries in accordance with the law guarantee this expectation. Thus, the institutional characteristics of a governing system require the necessary flexibility created by the interactions between the institutional and non-institutional actors to fulfill the original intent and purposes of the designers of the system.

Traditional and new generation scholars of presidential systems appreciate the need for accountability with appropriate measures to control the exercise of the sprawling executive power in a system of separated but shared powers. Thus, impeachment remains the ultimate and appropriate constitutional instrument to discipline any abuse of power through removal of the culprits. In other words, the essence of impeachment provisions in a presidential constitution is to ensure transparency and accountability with a view to promoting good governance in the face of widespread powers at the disposal of the three principal institutions of government. Beyond the classical and developmental perspectives on presidentialism, the onus of any governing system is to promote the public good. The focus of the institutional and structural design of government is a direct response to the need of the people.

From the empirical data of impeachment cases in Latin America, I discovered that the exercise of legislative power in a presidential system depends largely on the behavioural disposition of the political elites. I therefore claim that the study of the presidential system should be issue specific and analysed within the rubrics of the prevailing political culture in each of the political systems. The rationale for the presidential system is to instill a responsible executive that is checked by the legislature. Nevertheless, this task depends on

⁶² The fear of the danger associated with monarchy informed the adoption of a presidential system at the American Constitutional Convention of 1787. For the details see Scheuerman 2005; Ahrens 2001; Turley 1999; Persson et al 1997; Farrand 1911.

the perceptions and capacity of the legislators within the various institutional features of the political system. In developing presidential systems, where power is central to the career advancement of the political elite, the manipulation of rules often limits the extent to which the rationale and intent of the presidential system could be achieved. This is a common feature in the cases of impeachment in the Nigerian political system, as will be shown in the subsequent chapters.

In the next chapter, I examine the evolution and development of the presidential system in Nigeria. In doing this, I trace the political history of Nigeria's political system from the parliamentary and presidential systems of the First and Second Republics and examine the politics associated with leadership removal in the two Republics.

Chapter Three

The Evolution and Development of the Presidential System in Nigeria:

Practice and Problems

3.1 Introduction

The Westminster parliamentary system characterized the British colonial administration under an indirect rule policy in Nigeria (Ejimofofor 1987). The indirect rule policy where British officials ruled the local communities by proxy using loyal traditional rulers and warrant officers⁶³ was the first administrative format in the early days of colonial rule in Nigeria. Further constitutional development occasioned by the amalgamation of the Northern Protectorate with the two Southern Protectorates and the Colony of Lagos in 1914 gave rise to the institutionalisation of legislative bodies. Independent Nigeria adopted the Westminster parliamentary governing system and its principles. In this system, the Prime Minister, who is the head of the government, is also a member of the legislature and usually the leader of the party with the majority members. Membership of the Cabinet is usually drawn from among the parliamentarians. Thus, the system fuses both the executive and legislative power.

Literature on the legislative institutions in Nigeria varies with the country's historical and political development. The earliest works dwelt on the development of the colonial legislative legacy (Tamuno 1960; Adamolekun 1975; Okafor 1981; Ojo 1997a). These studies centered on the development of the legislative institution during the British colonial period. The dominant aspect of these works is the use of the legislature as a facade instrument of political development by the British colonial government in Nigeria. The colonial government established the Nigerian Council in 1922 and Lagos Legislative Council in 1923 to legislate for Lagos, the colonial seat of government (Lafenwa 2006). There was no legislative assembly in the Northern Province.

The Richards Constitution of 1945 provided for the establishment of a central legislature comprising members from the three regions, the Northern, Western, and Eastern Regions

⁶³ The British colonial government administered the Nigerian territories through the existing traditional political institutions of *Obaship*/kings and Emirs in the Western and Northern parts respectively but used appointed warrant officers in the Eastern part because of the absence of institutionalized traditional political systems in the area.

(Lafenwa 2006; Ojo 1997a). The constitution also provided for the establishment of a House of Assembly for each region and a House of Chiefs in the Northern and Western regions. These legislative assemblies had no legislative powers. The colonial administration appointed majority members of the legislature at the central and regional levels with mere advisory powers. Indeed, the regional assemblies lacked independent power from the central parliament until 1954 when the Lyttelton Constitution divested the central parliament of its power to approve regional legislation (Lafenwa 2006; Fagbadebo 2000, Ojo 1997a). In all, these colonial legislatures lacked the power to influence or determine public policy.

The outcome of this was the failure of the colonial government to 'encourage the emergence of strong and virile legislatures that could play a surveillance role over the executive which was preserved exclusively for the British' (Awotokun 1998, p.8). Selected members of the legislature appointed by the colonial government were expected to operate within the parameter set by the government. In other words, they were accountable to the colonial government. Thus, it was difficult to develop a legislative culture beyond the colonial mentality. Even when the colonial policy approved the election of Nigerians into the legislature shortly before independence, the legislative structure lacked the required independence to function as a true representative body of the people (Awotokun 1998; Ojo 1997a).

In this chapter, I examine the governing systems in the First and Second Republics of Nigeria. Although the governing systems differ, the patterns of the exercise of legislative power are the same. The focus is the behavioural disposition of the Nigerian political elite towards the exercise of power in the legislature where external factors largely determine the action of the legislators, especially in the exercise of the legislative oversight functions. I then turn to an examination in section two of the exercise of the legislative power of removal of the Premier of the defunct Western Region during the First Republic and the problem that arose thereof. In section three, I examine the political history of the presidential system and the recognition of the legislative power to remove the political heads of the executive branch of government at the state and federal levels. The content of the governing system is adapted from the American presidential system. In the fourth section, I explore the cases of removal and threats of removal of the political heads of the executive branch in a number of state governments. The recurring pattern of behaviour of the political elite is the use of the

legislative removal process to settle political scores rising from intra-party and inter-party rivalry.

3.2 The politics of leadership removal in the First Republic, 1960-1966: The case of the Western Region⁶⁴

Studies on the legislative process of the immediate post-independence Westminster parliamentary system dominate the second phase of scholarly works on the Nigerian legislature (Mackintosh 1966; Tansey and Kermode 1968; Kermode 1968; Abayomi 1970; Adamolekun 1975; 1986; Graff 1988; Ojo 1997b; Lafenwa 2006). At independence in 1960, Nigeria adopted the Westminster Model of parliamentary democracy comprising a bicameral legislature at the centre. For the first time in the political history of the country, the December 1959 general election produced an all-Nigerian legislature inaugurated in May 1960 (Lafenwa 2006). The Western and Northern Regions each had a House of Assembly and a House of Chiefs while the Eastern Region had only a House of Assembly. As pioneer indigenous legislative bodies, the activities of the legislature at the central and regional levels reflected the nature of intra and inter party contestation in the immediate period preceding independence⁶⁵. Emblematic of this development was the Western Regional crisis, engendered by the rift in the leadership cadre of the Action Group (AG) that culminated in the declaration of a state of emergency in 1962. The removal of the Premier of the Region, Chief Samuel Ladoke Akintola sparked off a general political upheaval in the region and in the country.

Governing leadership in a parliamentary system follows the principle of collective responsibility (Linz 1994; 2010; Perez-Linan 2007; 2014). According to this principle, the failure of the leadership is a collective failure of the government. Since the leader of the party with the majority seats in the parliament usually emerges as the Prime Minister or Premier (or the name designated for such a post), a vote of no confidence is sufficient to lead to the fall of

⁶⁴ This development is germane to this study, though it took place under the Westminster model of parliamentary democracy. The nature of the process and the actors involved are useful in the analysis of subsequent removal episodes under the presidential system.

⁶⁵ Bitter rivalry and acrimonious relationships existed among the leadership of the three major political parties in the immediate period preceding independence and after. Besides, the three political parties had their core supporters in their respective regions- Northern Progressive Congress (NPC), led by Alhaji Ahmadu Bello was domiciled in the Northern Region, Action Group (AG) led by Chief Obafemi Awolowo dominated the Western Region and the National Council for Nigerian Citizens (NCNC), led by Dr. Nnamdi Azikiwe held sway in the Eastern Region.

the government. The Prime Minister or Premier as the head of the executive is also a member of parliament. In specific terms, there is no separation of powers between the executive and legislative arms of the government as is the case in a presidential system. By extension, members of the executive and the legislature take collective responsibility for the failure or success of the government.

The Action Group (AG) was the political party in control of the defunct Western Region in the political build up to the country's independence. Nevertheless, the crisis in the leadership cadres of the party affected its electoral fortunes and weakened its structure (Famoroti 2011; Ojiako 1980). The division was primarily a reflection of the cleavages within the Yoruba society, the dominant ethnic group in the region (Diamond 1982; Joseph 1991). Aside from controlling the government of the Western Region, the AG was the arrowhead of the official opposition in the Federal Parliament. Chief Obafemi Awolowo, the leader of the party, was also the official leader of the opposition in the Federal Parliament, while his deputy, Chief Samuel Ladoke Akintola, was the Premier of the Western Region (Akintola 1982; Lafenwa 2006; Famoroti 2011). This separation of the office of the leader of the party and that of the premier of the region deepened the rift between the duo of Awolowo and Akintola, a development that eventually polarised the rank and file of the political party⁶⁶. Moreover, this development marked the beginning of acute political divisions and bitter rivalry among the politicians in the region. The die was cast when the Regional Governor removed the Premier in May 1962.

Section 33 (10) of the Constitution of Western Nigeria, 1960, provided that

Subject to the provisions of sub-sections (8) and (9) of this Section, the Ministers of the Government of the Region shall hold office during the Governor's pleasure: Provided that- (a) the Governor shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support. (b) the Governor shall not remove a Minister other than the Premier from office except in accordance with the advice of the Premier (Constitution of Western Nigeria, 1960).

When the Governor of the region, Oba Adesoji Aderemi, removed the Premier, Chief S. L. Akintola, he, Akintola, took the case to the Western Region judiciary for redress claiming that

⁶⁶ With Akintola as the Premier of the region, informal contacts with the ruling NPC through the Premier of the Northern Region, Alhaji Ahmadu Bello who also was the leader of the party, gradually became known to the leadership of the AG.

the Governor had no right to relieve the Premier from office in the absence of a prior resolution of the House of Assembly reached on the floor of the House to the effect that the Premier no longer commands the support of the House⁶⁷ (The Privy Council).

The claim of Akintola is that valid removal of the Premier should take place in the Parliament by the virtue of the system of government in operation. This attempt to validate the removal through parliamentary vote led to an unprecedented political fracas within the Chambers of the House of Assembly that preceded the popular *operation wetie*⁶⁸ in 1964. The parties in the suit agreed to refer the case to the Federal Supreme Court for the interpretation of the power of the governor to remove the Premier in Section 33 (10) of the Western Region Constitution⁶⁹. Specifically, they sought the Supreme Court to provide answers to two questions with a view to interpreting the Section 33 (10) of the Constitution of the Western Region.

(1) Can the Governor validly exercise power to remove the Premier from office under section 33 sub-section 10 of the Constitution of Western Nigeria without prior decision or resolution on the floor of the House of Assembly, showing that the Premier no longer commands the support of a majority of the House?

(2) Can the Governor validly exercise power to remove the Premier from office under section 33 (10) of the Constitution of Western Nigeria on the basis of any materials or information extraneous to the proceedings of the House of Assembly? (cf. The Privy Council, p.100)

The pronouncement of the Supreme Court nullified the action of the governor.

The answer to the first question therefore is that the Governor cannot validly exercise power to remove the Premier from office under section 33 sub-section 10 of the Constitution of Western Nigeria except in consequence of proceedings on the floor of the House whether in the shape of a vote of no-confidence or of a defeat on a major measure or of a series of defeats on measures of some importance showing that the Premier no longer commands the support of a majority of the members of the House of Assembly (cf. The Privy Council, p. 100).

⁶⁷ At the extraordinary meeting of the Action Group (AG), the ruling party in the region, on May 20, 1962, the leadership of the party passed a vote of no confidence in Akintola. Subsequently, 66 members out of the 124-member parliament signed a letter asking the governor to remove the Premier because he no longer enjoyed the majority support of its members. The decision was the climax of a rift between the leader of the party, Chief Obafemi Awolowo, who was then the leader of the opposition in the Federal parliament, and the Premier, Chief S.L. Akintola. The cold war between the two leaders of the party became open at the Jos Convention of the AG in May 10, 1962 where Chief Awolowo, accused his deputy, Akintola, of insubordination. The convention asked Akintola to resign his positions as the Premier and deputy leader of the party. Akintola refused, and, instead defended himself by accusing Awolowo of undue interference in the running of his government as the regional Premier. This open division degenerated and affected the cohesion of the party.

⁶⁸ *Operation wetie* is the acronym used to describe the arson, killings and looting that followed the 1964 Western Regional Election. The aftermath of the development created the template for military intervention and the collapse of Nigeria's First Republic. For the details see Ejiofor 2010; Ojo 2012; Balogun 2009; Falola 2004; Anifowose and Odukoya 2012.

⁶⁹ At independence, the structure of the federal state allowed each of the three regions to have its own constitution different from that of the federal government. These regional constitutions were listed as schedules to the Nigerian (Constitution) Order in Council, 1960. Aside from this, each had its own judiciary headed by a Chief Justice but that cases relating to the ambiguity of the provisions of the constitution could be referred to the Federal Supreme Court for interpretation (section 108). Similarly, the final appellate Court in Nigeria then was the Judicial Committee of the Privy Council in London (section 114 of the Constitution of the Federation 1960).

This judgment exhibits the parliamentary culture of taking valid decisions within the legislative chambers with the Mace, the legislative symbol of authority. Indeed, when the fracas began, the parliamentarians broke the Mace in a bid to void the authority of the legislature (Awotokun 1998; Lafenwa 2006). Valid legislative decision requires the placement of the Mace at the centre of the chamber as a symbol of authority. The Nigerian political elite in the legislature usually target the Mace each time there is a division with a view to ensuring the validity of the decision taken even if the members failed to form a quorum. On the other hand, rival groups, in a bid to forestall a legislative decision, usually reach out to the Mace to either destroy it or to take it away⁷⁰. This culture which gradually developed during the First Republic has become part of Nigerian political culture.

The Chief Justice of the Federation, Sir Adetokunbo Ademola, in his judgment agreed with the claim of Chief Akintola.

The Constitution as framed in the light of normal constitutional practice and should be interpreted in that light... The governor cannot validly exercise power to remove the premier from office under section 33 sub-section 10 of the Constitution of Western Nigeria except in consequence of proceedings on the floor of the House whether in the shape of a vote of no confidence or a defeat on a major issue, or of a series of defeats on measures of some importance showing that the premier no longer commands the House of Assembly (cf. Okere 1987, p.793).

Nevertheless, Alhaji D. S. Adegbenro, the Premier appointed to succeed Akintola, appealed the judgment to the Judicial Committee of the Privy Council. The Council in its judgment validated the removal of the governor. In the judgment read by Lord Viscount Radcliffe,

Their Lordships will humbly advise Her Majesty that the appeal should be allowed; that the Answer of the Supreme Court given on the 7th of July, 1962, should be reversed; and that in lieu thereof it should be declared that the Answer to the first Question is Yes and that the Answer to the second Question is Yes also... (cf. The Privy Council 1963, p.108).

In fact, the Committee affirmed 'that the right of removal...explicitly recognized in the Nigerian constitution must be interpreted according to the wording of its own limitations and not to limitations which that wording does not import' (The Privy Council 1963, p.107).

⁷⁰ I witnessed this development as a legislative aide. Each time there was crisis, the first duty of the security forces is usually to assist the Sergeant-at-Arms to protect the Mace and take it out of the reach of the legislators. Indeed, the speaker of the legislature once told me that a valid legislative decision could take place inside his office as long as the Mace was present. As will be seen in chapter five, this particular position dominated the political system until the judiciary further strengthened the operational ethics of the legislature.

The politics associated with, and the outcomes of, this landmark political development could be explained from two perspectives: disunity among the political elite within the party and the constitutional power of the governor. The remote cause of the removal was the personal rift between the leader and the deputy leader of the ruling party in the region, the AG. This division was exacerbated by distrust and animosities arising partly from the separation of the office of the leader from that of the regional premier⁷¹. There were allegations that Chief Awolowo sought to control the party and the government of the region and that Chief Akintola preferred to assert his authority as the effective head of the government, and, thus, began to 'question the right of Awolowo to put reins on him' (Akintola, 1982, p.76)⁷². Chief Anthony Enahoro, one of the core loyalists of Awolowo alluded to this in an interview:

One major cause of the crisis was that for the first time in the history of the party, the leader of the party no longer combines party leadership with the office of the Premier and members have been encouraged to look beyond the party leader for patronage. Here then, was a dangerous opening for a rival leadership to be organised unless the deputy leader was completely loyal to the leader and had no ambition to supplant him (Nigerian Tribune, March 16, 1962, cf. Akintola 1982, p76).

Thus, the rivalry between the personal and public interests of the two leaders created disunity in the party and the machination to remove the Premier. In other words, there was no consideration of its impact on the overall goal of ensuring the public good.

The second perspective is the constitutional power of the Governor to remove the Premier. The Constitution of Western Nigeria, 1960, gave the governor the comprehensive executive power to remove the Premier and ministers of government. The Governor, as the appointee of Her Majesty, the Queen of England,⁷³ held power at the pleasure of the Queen and the governor was her representative in the Region. Section 32(1-3) of the Constitution vested the Queen with the executive authority of the Region to be exercised on her behalf by the Governor. Section 33 (2) vests the Governor with the power to appoint the Premier, 'a

⁷¹ Chief Awolowo, the leader, was the leader of the official opposition in the Federal Parliament while Akintola, his deputy, was the regional premier.

⁷² Indeed, this subtle resistance was predicated on the allegations of distrust that existed between the two leaders over the possibility of a coalition/alliance between the AG and the ruling Northern People's Congress (NPC). Akintola, in his biography written by one of his sons, claimed to have met with the leadership of the NPC to explore the possibility of a working relationship between the two political parties without the authorisation the leadership of the AG. By this, the leadership of the AG loyal to Awolowo saw Akintola as a mole and a lackey of the leader of the rival NPC, Alhaji Ahmadu Bello, the Sarkin Sokoto and Premier of the Northern Region (Diamond 1963; Akintola 1982).

⁷³ At independence, the Queen of England was the Governor-General until the 1963 Republican constitution was enacted.

member of the House of Assembly who appears to him [Governor] likely to command the support of the majority of the members of the House'. Section 33 (8&9) provides for the conditions that could lead to the removal of the Premier while section 33(10 a&b) empowers the Governor to determine, as it appears to him, the tenure of the Premier if he could no longer control the majority of the parliament. There was no procedure to arrive at this decision and there was no precedent to follow in either Nigeria or Great Britain (The Privy Council 1963, pp.103-108). The onus then shifted to the judiciary for proper interpretation⁷⁴.

Judicial politics in this case lies within the power of control of the institutions of government. The judiciary of the Western Region relied on the interpretation of the Federal Supreme Court to arrive at a conclusive judicial position on the propriety of the exercise of the removal power of the governor. This decision, according to Okere (1987, p.794), 'was unequivocally activist and sought to ascertain the intention of those who framed the constitution rather than a mechanistic, literal interpretation of the words used' because the Supreme Court judgment 'was more in conformity with and sensitive to the Nigerian political climate'. The regional judiciary was under the control of the regional government while the Federal Supreme Court was under the control of the Federal Government⁷⁵. In May 27, 1963, the Western Region House of Assembly retroactively enacted the Constitution of Western Nigeria (Amendment) Law 1963, to amend section 33(10a) of the constitution⁷⁶. The Federal parliament ratified this amendment on June 3, 1963 and subsequently passed the 1963 Republican Constitution which effectively divested the Queen of England of her political role as the Governor-

⁷⁴ Indeed, The Privy Council insisted that by the virtue of the difference between the institutional and constitutional structures upon which the system was being practiced in Nigeria and Great Britain, 'it is vain to look to British precedent for guidance upon the circumstances in which or the evidential material upon which a Prime Minister can be dismissed' (The Privy Council 1963, p.107).

⁷⁵ At the time, the coalition government at the centre was the product of an alliance between the NPC (Northern Region) and the National Convention of Nigerian Citizens (NCNC) (Eastern Region) while AG (Western Region) was the official arrowhead of the opposition. The crisis within AG was an opportunity for the NPC/NCNC government to weaken the electoral fortunes of AG. The fall out of the Western Region crisis was the formation of a new political party by Akintola, the United People's Party (UPP). UPP and some members for NCNC in the region formed an alliance the Nigerian National Democratic Party (NNDP) to form new government in the region after the end of the emergency rule with Akintola as the Premier. Immediately after the removal crisis, Awolowo was found guilty of corruption by the Coker Commission that investigated allegations of fund diversion to a private company by Awolowo. Shortly afterwards, Awolowo was convicted of sedition and sentenced to prison. This development weakened the electoral fortunes of AG in the West. Thus, Akintola's, NNDP later entered into an alliance with the NPC at the centre (Ojo 2012; Ojiako 1980; Sklar 1963; 1965).

⁷⁶ The amendment reads thus: 33 (10a) (a) the Governor shall not remove the Premier from office unless it appears to him, *in consequence of the passing of a resolution in the House of Assembly by a majority of the members of the House*, that the Premier no longer commands the support of a majority of the members of the House of Assembly... This amendment was deemed to have come into operation on October 2, 1960 (1963 LPELR-F.S.S. 187/1962).

General of Nigeria. To that effect, the Nigerian Supreme Court became the final appellate court.

By extension, the action of the Western Region parliament indicated that the removal of Akintola as the Premier, according to the existing constitutional provisions, was valid. The ratification of an amendment with retroactive power on issues of national importance by the Federal Parliament showed the degree of political desperation to protect the political interests of a faction of disunified political elites, in accordance with Higley and Burton's theoretical premise. In the Nigerian political system, intra-party conflict occasioned by disunity among the political elite is common. The divisive relationship is usually a consequence of individual politician's attempts to control the activities of the political party for personal ends. Competition for power within the party usually becomes intensive and acrimonious. They transfer this aggression into the government, hence a continuous cycle of political crises.

Political elites in the coalition government at the centre had a *vested interest* in the crisis in the region. Larry Diamond notes that

Ethnic inflammation and polarisation of the politics of the First Republic would not have progressed to the extent they did without the willful manipulation of political elites, for whom this became a calculated strategy in their competition for the enormous resources of class formation mediated by the state (Diamond 1982, p. 630).

The outcomes of this development partly informed the subsequent rejection of the parliamentary system and the adoption of presidentialism as the governing system by the military for the Second Republic (The Political Bureau 1987). The military had assumed that the crisis that gave rise to the collapse of the First Republic was systemic without considering the nature of the characters and the attitudinal disposition of the political elites to power (Diamond 1982).

3.3 Presidentialism in Nigeria's political system in the Second Republic, 1979-1983

The rancorous political development in Western Nigeria coupled with the instability that followed the 1964/1965 elections created the impression that a parliamentary system was not suitable for Nigeria⁷⁷. To this end, the military government approved an adapted version of

⁷⁷ Indeed, some Nigerian scholars as well as members of the Political Bureau of 1987 in their public discourses were quick to submit that the adoption of a presidential system in the Second Republic was the sequel to the pitfalls of dual executive associated with the parliamentary system of the First Republic. For the details see

the American model of presidential system (Nwabueze 1985; Joseph 1991; Olson 2002; Adesanya 2002a). The late head of state, General Murtala Mohammed, expressed this in his speech at the inauguration of the Constitution Drafting Committee (CDC)⁷⁸ on October 18, 1975. According to him, Nigeria needed an executive presidential system of government in order to avert the experience of the past (Akinsanya 2002a; Report of CDC 1976). This “inescapable conclusion” on the part of the military government was one of the “essentials” considered to be required for a system of checks and balances for the promotion of good governance (Diamond 1982, p. 630). In other words, the military government instituted institutional restructuring in order to avert the ‘destructive, explosive potential that lay in the accumulated cleavages of the First Republic’ (Diamond 1982, p. 630).

The military government, after thirteen years of a praetorian system, handed over power to an elected civilian government under a presidential system on October 1, 1979. The 1979 presidential constitution differed from the 1960 and 1963 constitutions in terms of the relationships among the arms of government. Unlike the fusion of power under the Westminster system, the concept of separation of powers exemplified by the constitution ‘implies a certain degree of opposition between the legislature and the executive’ (Nwabueze 1985, p.21). Thus, each of the institutional structures is eager to protect its independence by asserting its power in a system of checks and balances. With the absence of an official opposition in government, the legislature at all levels, irrespective of its composition, became the institutional monitoring structure in policy processes. The absence of the dominating presence of the Prime Minister or Premier and members of the Cabinet in the legislative assemblies during debates, ideally, helped this assertive and independent authority of the legislature.

Ben Nwabueze (1985) identifies the virtues of this system compared to the Westminster parliamentary system. He argues that the presidential system in the Second Republic encouraged the institution of divided government occasioned by the independent origin and survival of the legislature and the executive. This, according to him, is good because it affords the greatest opportunity for the effective control of the government by the legislature.

Akinsanya and Davies 2002; The Political Bureau 1987. Other fundamental factors crippled the immediate post-independent regime other than the governing system. For the details, see Diamond 1982; Sklar 1965.

⁷⁸ The military government set up the CDC to draft a new constitution in preparation for the return of the country to civilian rule after a spell with a praetorian system. The first military coup took place in January 15, 1966. This was followed by a counter coup of July 1966 and a 30-month civil war. Another military coup took place in 1975 with another failed coup in 1976.

He assumes that an executive faced with an opposition majority in the legislature would not venture to present arbitrary or objectionable proposals for consideration. He however notes that such a majority usually tends to accentuate the risk of a confrontational or capricious assertion of the independence of the legislature.

This noticeable demerit of the system in Nigeria, he notes, is nevertheless a safeguarding instrument against autocracy. He assumes that opposition of executive power by legislative authority is capable of producing a *modus vivendi* (a practical compromise bypassing difficulties arising from inherent differences, with a view to forging a peaceful working relationship), that would enable the government to function effectively in spite of the division between the two arms of government (Nwabueze 1985). The true exercise of legislative power reduces proclivity of the executive towards the arbitrary use of power. As Nwabueze (1985, p. 23) has noted, 'an executive which does not control the law-making process has very limited capacity for arbitrariness and despotism'. To avert this development and take the reins of control over the legislature, executive branches of government in presidential systems often act surreptitiously to use the legislature as the official extension of the executive arm. This is a common phenomenon in the Nigerian Fourth Republic. A former Majority Leader of a state legislature who spoke with me confirms the tendency of the state governors to have assertive control over the legislature. 'It is the desire of every governor to have control over the legislature' and that most often, 'they are having their ways' (Personal Interview I, May 3, 2014).

One of the major components of the presidential constitution of the Second Republic in Nigeria was the principle of a single chief executive. Unlike the parliamentary system, the executive authority of the governments at the federal and state levels belongs to the president and the governors respectively. This principle of singleness of authority is a distinctive characteristic attributed to the executive branch of government in Nigeria's Second Republic. Nevertheless, this singleness of authority is not a liberty for misuse or abuse of power: the exercise of the authority is subject to the other provisions of the constitution. Constitutional restrictions on the exercise of presidential and gubernatorial powers are statutory mechanisms to minimize arbitrariness and abuse.

Within the executive branch, the constitution institutes conspicuous devices to restrain presidential or gubernatorial actions (Nwabueze 1985; Akinsanya 2002 a-d; Lawan 2010). The constitution requires the president and the governors to hold consultations with various

executive bodies and individuals in the determination of general policy and the coordination of government activities. For instance, valid appointments of some categories of government officials require recommendation from the executive bodies and commissions overseeing such offices. The president or governor does not have absolute discretion in some matters relating to the exercise of executive authority. Aside from this, the exercise of executive authority on other policy matters requires consultations with the legislature and the judiciary. This consultative presidential system stems from the nature of checks and balances inherent in the system. Besides these consultative requirements, there are several other mechanisms instituted by the constitution to checkmate the exercise of the executive authorities by the president and the state governors.⁷⁹

The height of the system of checks and balances in this separated but shared-power arrangement is the legislative authority to remove the heads of the executive branches through an impeachment process. Ideally, it is a mechanism of last resort in checking executive power (Nwabueze 1985, Awotokun 1998; Akinsanya 2002c; Lawan 2010). Thus, impeachment as a legislative weapon provides the means by which to prosecute officers of the executive branches for offences committed while in office.

3.3.1 Impeachment in Nigeria's presidential system

In the US, article I, section 2 (5) of the Constitution assigns the House of Representatives the sole power of impeachment while section 3(6) empowers the Senate the sole power of trial and conviction of all impeachment cases. Beyond this, members of Senate for the purpose of impeachment trials are expected to 'be on oath or affirmation...and no Person shall be convicted without Concurrence of two-thirds of the Members present'. Aside from removal from office upon conviction by the senate, an impeached officer is liable to prosecution and stiffer punishment. Article I, section 3 (7) states:

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment according to Law Article I, section 3(7), Constitution of the United States of America).

⁷⁹ For instance, sections 82 and 120 of the 1979 Constitution of the Federal Republic of Nigeria empower the legislatures at the federal and state levels respectively to conduct investigations as part of their oversight functions. This power includes monitoring the policy process and other activities of the executive. Besides this, the legislative power of the purse constraints the executive from spending any money not appropriated by the legislature.

Article II, section 4 of the constitution stipulates the offences that an officer should commit to warrant removal.

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 Misdemeanors⁸⁰ (Article II, Section 4, Constitution of the United States of America).

This provision is remarkably different from the provisions of sections 143 and 188 of the Nigerian constitution⁸¹.

In the entire provisions for the removal of the governor/deputy-governor or the president/deputy-president, there is no use of the word “impeachment”. The word appears in six places in the constitution. In sections 84 (5) and 124 (5), impeachment is mentioned in respect of disqualification for pension by the president/vice-president and the governor/deputy-governor, respectively. Sections 146 (1) & 3(a) and 191 (1) & 3(a), identify impeachment as one of the factors that can disqualify the president/vice-president and the governor/deputy-governor, respectively, from continuing in office. However, the provisions relating to the removal of these officers from office do not contain the word impeachment but imply the intent of the framers of the constitution to mean removal from office without a criminal charge against the victims. Thus, impeachment is seen as a part of the routine manifestation of the behavioural disposition of the Nigerian political elite towards power and position in government. Since it has no criminal implication, removal does not preclude political office holders from being elected in the future.

The Nigerian Supreme Court has noted that the appropriate word for impeachment in the Nigerian constitution is “removal” because the provisions do not provide for the word impeachment. The Court took a cue from the Black’s Law definition of impeachment to mean

A criminal proceeding against a public officer, before a *quasi* political court, instituted by a written accusation called “articles of impeachment;” for example, a written accusation by the

⁸⁰At the Constitutional Convention, there were dissenting opinions over the desirability of inclusion of the word ‘misdemeanors’ as part of the offences (Farrand 1911).

⁸¹Section 188 is reproduced in chapter five for the purposes of analysis. Reference to the provisions here is to identify the salient differences therein from that of the United States of America. Nigeria adapted the American presidential system but not the adoption of the content and the entire system as a whole. Impeachment in the USA extended to civil officers while in Nigeria it is limited to the heads of the executive branches of the government at the state and the federal levels. Unlike the USA, with the exception of Nebraska which has only one legislative house, state legislatures in Nigeria are unicameral while the National Assembly is bicameral. In all the 49 states with bicameral legislatures in the USA, the House of Representatives impeach while the Senates convict and remove the impeached officer. The two chambers of the Nigerian National Assembly, by virtue of section 143 of the Constitution, conduct the impeachment process concurrently.

House of Representatives of the United States to the Senate of the United States against an officer (Black 1968, p.886)..

This definition fits into the constitutional provisions of impeachment in the US. Justice Niki Tobi of the Nigerian Supreme Court averred that this definition,

does not totally reflect the content of Section 188 of the Constitution [Nigeria], as it conveys so much element of criminality. Section 188 is not so worded. The section covers both civil and criminal conduct (*Inakoju & 17 Ors v. Adeleke & 3 Ors*, P.51)⁸².

In scholarly writings on the Nigerian presidential system, scholars use impeachment to denote the removal from office of the president/vice-president and the governor/deputy-governor (Nwabueze 1985; Awotokun 1998; Akinsanya and Idang 2002; Lafenwa 2006; Alabi and Egbewole 2010; Fashagba 2010). For consistency and uniformity, this study uses impeachment as the removal of president /vice-president and the governor/deputy-governor through the legislative process in Nigeria's presidential system. This distinction is necessary because section 189 of the Constitution stipulates another method by which a governor/deputy-governor could be removed other than procedural legislative process⁸³. The section states:

189. (1) The Governor or Deputy Governor of a State shall cease to hold office if (a) by a resolution passed by two-thirds majority of all members of the executive council of the State, it is declared that the Governor or Deputy Governor is incapable of discharging the functions of his office; and (b) the declaration in paragraph (a) of this subsection is verified, after such medical examination as may be necessary, by a medical panel established under subsection (4) of this section in its report to the speaker of the House of Assembly. (2) Where the medical panel certifies in its report that in its opinion the Governor or Deputy Governor is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice thereof signed by the Speaker of the House of Assembly shall be published in the Official Gazette of the Government of the State. (3) The Governor or Deputy Governor shall cease to hold office as from the date of publication of the notice of the medical report pursuant to subsection (2) of this section. (4) The medical panel to which this section relates shall be appointed by the Speaker of the House of Assembly of the State, and shall comprise five medical practitioners in Nigeria - (a) one of whom shall be the personal physician of the holder of the office concerned; and (b) four other medical practitioners who have, in the opinion of the Speaker of the House of Assembly, attained a high degree of eminence in the field of medicine relative to the nature of the examination to be conducted in accordance with the foregoing provisions of this section (Constitution of the Federal Republic of Nigeria, 1999, as amended).

Though this provision is also procedural, it does not require a legislative process except for the involvement of the speaker in the composition of the medical panel.

⁸²*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt. I), p.51

⁸³ Section 144 of the constitution makes similar provision for the removal of the president/vice-president.

As shown in chapter two, in some Latin American countries (notably, Ecuador in 1997 and 2005 and Peru in 1991) the legislatures invoked similar constitutional provisions to remove their presidents rather than resorting to unconstitutional means. The feasibility of the invocation of this provision is remote in Nigeria. For one, members of the executive council at the federal and state levels are appointees of the president and the governor, respectively. Their continuity in office depends on their loyalty to the president/governor. When the late President Sheu Musa Yar'Adua was sick in 2010 before his death, it was evident that he was incapable of discharging his responsibility. Nevertheless, the Federal Executive Council (FEC) remained silent on the matter (Adeniyi, 2011). Similarly, the State Executive Council (SEC) in Enugu, Cross River and Taraba states did not invoke this provision when their respective governors were sick and absent from the states for more than six months (Adeniyi, 2011).

3.4 Impeachment⁸⁴ in Nigeria's Second Republic

In Nigeria's presidential system of the Second Republic, the removal of any of the heads of the executive branches at the federal and state levels was predicated upon a proven allegation of gross misconduct⁸⁵. Sections 132 (11) and 170 (11) of the constitution define gross misconduct as grave violation or breach of the provisions of the constitution or misconduct of which, in the opinion of the House of Assembly, amounts to gross misconduct. Sections 132 (10) and 170 (10) put a lid on this definition by precluding any form of judicial interference in the proceedings and determinations of the legislature. By implication, the survival of any governor/deputy governor is at the mercy of the legislature who determines gross misconduct (Nwabueze 1985; Awotokun 1998; Akinsanya 2002c). Is this definition of gross misconduct different from the condition granted to regional governors to define the yardstick for the removal of a Premier in the Western region in the First Republic? It is certainly not. When a

⁸⁴ Impeachment in the American presidential system, as noted earlier, is an indictment of misconduct. In Nigeria's presidential system, the constitution set the procedure for the removal of the President/Vice-president and Governor/Deputy-Governor. In the American system and some other Latin American presidential systems, an impeached officer might survive removal from office. In Nigeria, once the removal process is concluded by the legislature, the officer concerned is removed from office except if the judiciary discovers any breach in the process, as will be seen later in this study. Therefore, for the purpose of this study with reference to Nigeria, impeachment is used as generic name denoting the removal of the President/Vice-President or Governors/Deputy Governors by the legislature.

⁸⁵ Sections 132 and 170 of the 1979 Constitution stipulate the procedure for arriving at this conclusion for the removal of the President/Vice-President and the Governor/Deputy-Governor, respectively.

statute derives its definition from the personal interpretation of the individual political elites, then it becomes a political instrument of control.

In terms of impeachment in the state, what the legislature does is that they just do the bidding of the executive when it comes to the impeachment of Deputy Governor; and that of the party executive and party leaders or the president when it comes to that of the governors. There is a general lack of playing by the rule in the country's political system: there is a prevalence of impunity (Personal Interview IV, May 11, 2014).

The experience of the removal of the Premier of the defunct Western Region, as discussed earlier in this chapter, was an indicator of the capacity of political elites in Nigeria to manipulate rules for the purpose of achieving a predetermined objective. This is in contrast to the indicators of democracy as outlined by Przeworski (1992). Scholars, political activists as well as a section of the political elites appraised the impeachment provisions in the 1979 constitution. Ben Nwabueze (1985) sees impeachment as an instrument of check against gross official misconduct. Drawing from the viewpoint of Clinton Rossiter (1960)⁸⁶ on the American presidential system, Nwabueze argues that the provision is not a means of controlling the tenure of the officials concerned but to ensure ethical conduct in the exercise of power. Awotokun (1998) sees the provisions as essential mechanism to enhance accountability, probity, and responsible executive. In his view, it is necessary to watch the official conduct of political heads in order to avert arbitrariness in the exercise of power with a view to checking proclivity towards tyranny (Awotokun 1998). In other words, impeachment is the antidote to the corruption that is associated with absolute power.

But a former Deputy Speaker told me that the use of impeachment in the Fourth Republic is at variance with its intent.

In states where impeachment took place, what led to it? You can see that it was a sort of two sets of people flexing muscles: intra-elite crisis. In some cases, the governor might want to show his deputy that he was in control or probably the federal government is trying to exhibit its might over the state governor. In all the impeachment cases, the issues involved have nothing to do with the interests of the common man in the street. When I looked at all the allegations, none was in the interest of the people. Where impeachment took place, they were a reflection of bad belly or a case of two elephants fighting/flexing muscles (Personal Interview II, May 10, 2014).

⁸⁶ Rossiter (1960, p.53) has argued that impeachment is not 'an extra-ordinary device for registering a vote of no confidence'. Nevertheless, impeachment is akin to the use of a vote of no confidence in a parliamentary system. While a vote of no confidence signifies the fall of the government, impeachment only affects the tenure of the office holder without affecting the government. Perez-Linan (2007) discusses this point in detail arguing that impeachment is an instrument of correction to discontinue with a particular administration while it encourages continuity in government.

Indeed, a particular deputy governor who was a victim of the abuse of impeachment provisions by the legislature told me that the legislature in his state was under the control of the governor.

They were just at the whims and caprices of whoever was the chief executive of any state. Once a matter of impeachment case comes up, it was a deed done because there was no independence of thoughts. Laws could be breached and nobody care about the government, especially when it involves financial inducement (Personal Interview IV, May 11, 2014).

Evidently, this is not part of the intent of the drafters of the constitution. The constitution provides the opportunity for an independent legislature to act in accordance with the rules presented by the constitution.

Akinsanya and Davies (2002) argue that the impeachment provision in the constitution is the most effective weapon to combat the excesses of abuse and misuse of state power by the executive branch. To them, the impeachment power of the legislature is essential to ensure effective control of the executive. Balarabe Musa, former governor of Kaduna state, in a media interview in 1981, noted that the constitutional provisions for the removal of designated officials of the executive branch of government is a necessity in view of the concentration of power in the executive (The Punch July 1, 1981). According to him, in the absence of a constitutional mode of controlling such power, ‘people holding [these] offices will easily develop divine or semi-divine hallucinations about their positions, as several leaders have done in this country with disastrous consequences to the nation’ (The Punch July 1, 1981, p.5). Ironically, the governor is the first victim of the exercise of the power of impeachment in Nigeria’s presidential system.

3.4.1 The Impeachment of Governor Abdulkadri Balarabe Musa of Kaduna State

In Kaduna state, the 1979 election produced a divided government. The governor’s political platform, the Peoples’ Redemption Party (PRP), had twelve members in the 99-member legislature (Nwabueze 1985; Awotokun 1998). The National Party of Nigeria (NPN) had sixty-eight members (a number sufficient to carry out any impeachment process against the governor as stipulated by the constitution⁸⁷), the Nigeria’s People’s Party (NPP) had six members, and Great Nigeria’s Peoples’ Party (GNPP) had ten while the Unity Party of

⁸⁷ The constitution requires a two-third majority of members to carry out major legislative decisions such as impeachment.

Nigeria (UPN) had three. This composition left the state in the labyrinth of Juan Linz's conceptualisation of the 'perils of presidentialism' discussed in the previous chapter.

Table 4: The distribution of votes among the political parties in Kaduna State in the 1979 general election

Political Parties	Presidential	Gubernatorial⁸⁸	Senatorial	House of Reps	House of Assembly
GNPP	190,936	-	0	1	10
NPN	592,302	551,252	3	19	64
NPP	65,321	-	0	2	6
PRP	437,771	560,605	2	10	16
UPN	93,382	-	0	1	3
TOTAL	1,382,712	1,11,857	5	33	99

Source: Compiled by the author

It is evident from the table that the electoral victory and the votes garnered by the PRP gubernatorial candidate to defeat his NPN rival were marginal, (9,153) compared to the number of seats won by the NPN in the House of Assembly. The NPN had the majority seats (64) in the legislature while PRP and other political parties have 35. This shows that interparty alliance coupled with intra party crisis within the NPN favoured the PRP during the gubernatorial election, while the voting pattern for the legislature reflected the electoral strength of each of the political parties.

The Progressive People Alliance (PPA) initiative was the 'last minute electoral strategy of the UPN' (Akinsanya 2002, p.214) in order to combat the domineering prospect of the NPN. The PPA could not sustain a majority of seats required for the conduct of vital legislative business⁸⁹. This put the governor in a very tight political corner. The NPN dominated legislature did not hide its disdain for the PRP-dominated executive. Thus, the lawmakers

⁸⁸Prior to the conduct of the gubernatorial election in Kaduna State, UPN, NPP, GNPP and PRP had formed an informal merger under the auspices of the Progressive Party Alliance (PPA) for the purpose of electoral strength against the strength of NPN in its core areas. The other gubernatorial candidates of the PPA group withdrew from the race. Thus, the gubernatorial election was formally between Alhaji Lawal Kaita of the NPN and Alhaji Balarabe Musa of the PRP.

⁸⁹Major legislative decisions such as impeachment require a two-third majority of members of the legislature. The Kaduna State House of Assembly had 99 members; meaning that two-thirds required for the conclusion of vital legislative is 66 and, the NPN with 64, was short of two to have an absolute majority. Meanwhile, legislative authorisation for the composition of statutory bodies, passage of the appropriation bills, among others requires only a simple majority. The NPN-led majority in the House explored this strength to frustrate the governor.

were adamant to take their pound of political revenge against the coalition that denied its party of the coveted gubernatorial seat of the state⁹⁰.

The seemingly ideological difference between the NPN and the PRP⁹¹ coupled with the rigid position of the governor accentuated an acute and hostile relationship between the executive and the legislature. Rather than adopt a negotiated path of compromise and accommodation of the opposition, the governor's intransigent and hostile disposition was reflected in his maiden address where he outlined the policy direction of his government⁹² (Awotokun 1998). This radical posture infuriated the NPN members who were in the majority in the legislature. The lawmakers were of the view that the governor should have consulted with the House on such a sweeping policy statement. Despite this criticism, the governor insisted he would not reach a compromise with the NPN majority legislators. Awotokun (1998) has noted that the pedigree of the governor as a principled personality informed his rigid position. According to him, his antecedent in the public service depicts 'a personality that is given to public probity' (Awotokun 1998, p. 62)⁹³. This "transparency credential" did not allow him to cope with the familiar political tact and compromise associated with the Nigerian political process.

A series of informal meetings and interventions to smoothen the executive-legislature relations in the state failed (Awotokun 1999; Nwabueze 1985). The legislature displayed hostile attitudes to policy issues that required legislative authorisation with a view to forcing the governor to a negotiating table⁹⁴. At this stage, mutual usurpation of powers between the

⁹⁰ Kaita went to the Election Petition Tribunal to challenge the result of the gubernatorial election, but he lost the case.

⁹¹ The NPN and the PRP were offshoots of two major political parties controlling Northern Nigeria in the First Republic—the Northern Peoples' Congress (NPC) and the Northern Elements Progressive Union (NEPU). Mallam Aminu Kano, the leader of NEPU was also the founder and leader of PRP. NEPU prided itself as the party representing the interests of the peasantry in the North as against its conception of the NPC as the mouth piece of the oligarchy and the bourgeoisies class. This radical ideological disposition unsettled the political situation in the North, especially in Kano, as the NEPU became the rallying political platform for the *Talakawas* (the poor peasants who constitute the majority) (Dudley 1968; Sklar 1963). This same orientation remained the platform upon which the PRP emerged as a political party in the Second Republic. Its electoral fortune was restricted to Kano and Kaduna States.

⁹² The governor condemned the existing social order with a resolution that his government would initiate the building of a new foundation of a new social order. As a demonstration of this policy thrust, the governor ordered the suspension, processing, and issuance of certificates of occupancy on government land. To him, the land allocation system was an instrument of semi-feudal oppression and exploitation in the society. For the details on this, see Musa 1981.

⁹³ Indeed, Balarabe Musa's insistence on probity was partly responsible for the termination of his appointment with the Kaduna Cooperative Bank Limited (Awotokun 1998).

⁹⁴ For instance, the legislature did not approve the lists of commissioners the governor forwarded to the House for consideration for four consecutive times. Even when the governor took the legislature to court over the refusal to approve the lists, he lost the case.

legislature and the executive became rampant (Nwabueze 1985). Rather than soften the antagonistic stance of the governor, legislative hostility and frustration drove the governor to breach certain procedural rules in the exercise of his power (Nwabueze 1985; Awotokun 1998; Lawan 2010). The majority NPN members seized this opportunity to commence an impeachment process against the governor. The legislature in the notice of allegations of gross misconduct leveled against the governor indicated ten categories of breaches they considered as evidence of gross misconduct (Nwabueze 1985; Awotokun 1998). With the numerical strength of the opposition in the legislature, it was not difficult for the lawmakers to conclude and pronounce the removal the governor on the allegations leveled against him⁹⁵.

This gridlock situation was exacerbated by a number of factors and circumstances. The bitter political rivalry occasioned by the formation of the PPA reopened the ideological difference among the political elites in the core Northern part of the country. The PRP was an offshoot of the Northern Element Progressive Union (NEPU), led by the late Mallam Aminu Kano, while the NPN was the reincarnation of the Northern Peoples' Congress (NPC), led by late Alhaji Ahmadu Bello. During the First Republic, the NEPU with a radical *Talakawa*⁹⁶ ideological disposition was opposed to the conservative NPC. Balarabe Musa explained it thus:

The relies of Nigerian politics today are that the roles and place of the NPC of yester years have been largely taken over by the National Party of Nigeria (NPN, just as those of the NEPU, have been largely taken over by the PRP). The harsh repression in the form of detentions, imprisonment, torture, murder and confiscation, meted by the NPC on the members of the NEPU [in the First Republic] are still fresh in the memory of many members of the PRP. The postures, the threats, molestations, and general conduct of NPN leaders and members, before, during and after the last elections and since, have done nothing o mitigate this. As a matter of fact, the intimidations (economic, social and legal) which characterised the conduct of the last elections and which were perpetrated largely by the NPN and its agents, both inside and outside the government clearly establish the linkage between the NPC and the NPN (cf. Akinsanya 2002, p215).

This historical antecedent rooted in class struggle among the Northern political elites further embittered the NPN-controlled legislature. The NPC and, by extension, the NPN, represented the aristocratic class with affluence and wealth; the NEPU and the PRP carried the banner of

⁹⁵ Nwabueze (1985) has argued that such a removal process is pre-determined whether the governor was guilty or not and that the legality or constitutionality of the process was subordinated to the political interests of the actors. The Panel set up by the Speaker of the House in accordance with the requirement of the constitution did not absolve the governor of the charges.

⁹⁶ This is an ideological disposition championed by the PRP that appealed to the plight of the peasantry and other less privileged people, and especially the poor.

a proletarian ideology⁹⁷ (Awotokun 1998; Nwabueze 1985). Balarabe Musa saw his electoral victory as the triumph of the peasants over the oligarchs in the conservative NPN because of its strong root in the *Talakawa* ideology. According to him, the oligarchic nature of the political elites in the NPN could not afford them of the courage to ‘accept competition and contest from its immediate slaves and subjects, under whatever type of democratic competition’ (cf. *The Punch*, July 1, 1981, p.5). Evidently, the electoral victory was the outcome of the electoral strategy of alliance formation to upstage the ruling party without considering the formidable threat of a legislature under the control of the opposition.

The second factor that flows from the radical ideological stance is the opposing political objectives and policies of the governments of the PRP-controlled states of Kano and Kaduna. Balarabe Musa claimed that the NPN and the PRP represent two different opposing forces engaged in an embittered struggle. The NPN, he said, ‘represented forces of feudalism, capitalism and general backwardness and we obviously represented forces of patriotism, democracy and socialism’ (cf. Awotokun 1989, p.56). He sought to redress the unjust practices with a view to building the foundation for a new social order. Thus, the governments of the PRP in Kano and Kaduna were set, according to Abubakar Rimi, to serve as vanguards ‘for revolutionary transformation of the decadent social order promoted and upheld by the NPN’ (cf. Akinsanya 2002, p.215).

A manifestation of this policy objective, the third factor, is the abolition of Cattle and Community Taxes, *Jangali*⁹⁸ and *Haraji*, respectively, in Kano and Kaduna states (Nwabueze 1985; Awotokun, 1989; Akinsanya 2002). This policy stance was a cardinal campaign programme of the PRP in Kano and Kaduna States (Awotokun 1989). The party argued that these two set of taxes were avenues for the reification of the ‘corrupt feudalistic order’ (cf. Akinsanya 2002, p.215). Abubakar Rimi, in his maiden broadcast to the people of the state highlighted the shortcomings of the administration of the taxes saying they were unnecessary (*New Nigerian*, 08/10/1979, p.3).

⁹⁷Mallam Abubakar Rimi, another member of the PRP won the gubernatorial election of Kano, the home state of the party leader, Mallam Aminu Kano. The two governors, Musa and Rimi, claimed they were the true representatives of the peasants who have been under the servitude of the oligarchy elements in the NPN. The two states are strategic locations of the Northern political elites. While Kaduna is the political base of the elites, Kano remains its commercial nerve centre.

⁹⁸*Jangali* and *Haraji* are forms of traditional taxation policy in Northern Nigeria that extract more resources from the peasant cattle owners. The PRP leadership saw this as forms of oppression of the masses. Their abolition became a PRP campaign issue with a view to winning the votes of the majority of peasants.

In the first place, they have been a major pillar of feudal and colonial oppression and exploitation... It is clear also that while the poor rural masses continue to pay these taxes annually and are severely punished for failure to do so, the privileged urban dwellers have always evaded taxation (cf. *New Nigerian*, 08/10/1979, p.3).

The governor said further that while local officials used *Haraji* as ‘a weapon of political oppression’, they also used it ‘to perpetuate corruption and extortion’, because of ‘an illegal increase’ of the fixed amount to be paid by the people (*New Nigerian*, 08/10/1979, p3). The abolition of these taxes boosted the popularity the PRP in the North. This policy, considered to be an affront on tradition and custom in the North, no doubt, angered the political elites. Nevertheless, the snowballing effect was the cancellation of payment of similar taxes in the NPN controlled states in a bid to frustrate the political gain of the PRP.

In a bid to protect the interest of the peasants in Kaduna State, Balarabe Musa placed a suspension order on the processing and issuance of certificates of occupancy, a measure to halt the acquisition of land by the wealthy (Awotokun 1989). His government also abolished the Emirate Traditional Council⁹⁹ which he said was antithetical to the norms and practice of modern democracy (Awotokun 1998). He contemplated a reform that would transform the Councils as organs of popular democratic control with a view to servicing the interests of a wider population.

Beyond the policy issues, there was intra-party wrangling within the PRP over the invitation by the NPN-led federal government to form an accord of a national government (Nwabueze 1985). This invitation pitched the leadership of the party against each other. Late Mallam Aminu Kano and late Sam Ikoku, the national president and secretary of the party respectively, were in support of the invitation while the other group, led by late Chief Michael Imoudu, a veteran labour activist and the deputy national president, joined hands with the governors of Kaduna and Kano states, and a majority of the party’s membership at the National Assembly, to lead a faction opposed to the accord. Instead, the Imoudu faction¹⁰⁰ was more interested in the membership of the PPA, which was opposed to the proposed

⁹⁹ The Emirate Traditional Council, headed by the Emir of Kano, was a colonial creation to facilitate local administration during the colonial period. This later became a prominent traditional administrative structure in the post-colonial Nigeria (Blench et al 2006).

¹⁰⁰ Chief Michael Imoudu, as the Deputy National President of the PRP, was opposed to the party’s decision to align with the ruling party to form an alliance. He saw this as a possible move to contaminate the ideology of the PRP. He thus became the leader of a number of members of the party who were committed to the ideals of the ideology of the PRP.

accord by the NPN (Nwabueze 1985). Balarabe Musa explained that acceptance of the invitation by the PRP would make it an appendage of the NPN.

Our party, the Peoples Redemption Party, and that other party, are diametrically opposed. We represent the forces of change and justice. They represent the reactionary forces against change and against progress and justice. If we become linked with that party, we shall have no reason for existing (cf. Nwabueze 1985, p140).

This development further closed the door of reconciliation with the opposition NPN majority in the House¹⁰¹.

The manner in which the governor carried out a series of policy reforms provided the template for his breaches of constitutional rules. These major policy reforms required legislative approvals which were absent. His antagonistic stance and utterances foreclosed the prospect of reconciliation through negotiation with the legislature and the opposition. As Akinsanya (2002, p.216) has noted, the governor 'did not exercise much political tact where the situation called for one, and the conservative, NPN-dominated legislature exercised its powers with reckless abandon'. Rather than seek a unity government to smoothen executive-legislative relations in the face of a gridlock (arising from a divided government), the governor insisted that he would not concede any cabinet position to the opposition. He was not ready for any compromise or negotiation yet his party, and the combination of the members of the PPA in the Assembly, is so insignificant to upstage the opposition of the NPN majority members. The absence of legislative approvals forced the governor to commit a series of infractions which later became the pillars upon which the legislature served him with a notice of allegation of guilt against the governor (Akinsanya 2002; Awotokun 1998; Nwabueze 1985).

Divided government is not designed to engender hostility in a policy process, though Juan Linz (2010) insists that the gridlock it usually generates is inimical to stability in the presidential system. However, in contemplation of the principles of separated but shared power, it is a phenomenon intended to invigorate the strength of the legislature for adequate and effective oversight for the public good (Perez-Linan 2007). The power of the legislature to approve or reject executive proposals is discretionary. Nevertheless, it is not the intention

¹⁰¹If the accord had been made possible, there was the possibility for reconciliatory negotiation and compromise which could have provided a reprieve for the hostile executive-legislature relationship. Though this was not a guarantee, because a similar accord with the NPP by the NPN collapsed, at least it would have provided the governor with a safety valve to constitute members of his cabinet as well as having access to legislative authorisation for the implementation of the policies of his government.

of the framers of the presidential system that the legislature should exercise such discretionary power arbitrarily or as an instrument of frustration (Nwabueze 1985). As Nwabueze has noted, such discretion should be in good faith. He argues: 'It is an abuse of power to reject a candidate out of personal prejudice or for purely political considerations or for other reasons not rationally or reasonably connected with his suitability for the post' (Nwabueze 1985, pp101-102). Thus, the removal of Governor Balarabe Musa by the legislature is a manifestation of the politics of divided-government rather than indicative of policy failure by his government.

3.4.2 Abuse and misuse of the power of impeachment in the Second Republic

Ben Nwabueze (1985, p.323) has noted that the abuse and misuse of the impeachment instrument against Balarabe Musa created a bandwagon effect described as 'an impeachment fever throughout the country' in the Second Republic. Within a space of one year, after the removal of Balarabe Musa, legislators in Niger, Bendel, Rivers, Cross Rivers, Lagos, Gongola and Kwara States issued threats to commence impeachment proceedings against their governors. Additionally, the Deputy-Governors of Plateau, Rivers, and Cross River States also faced impeachment threats. The Kano State House of Assembly actually removed the Deputy Governor, Alhaji Ibrahim Bibi Farouk (Nwabueze 1985; Awotokun 1998).

The motives behind these episodes do not reflect the intent of the constitution (Nwabueze 1985). Impeachment in its original conception is a design to checkmate gross official misconduct defined as a grave violation or breach of the provisions of the constitution. I found that Nigerian political elites are aware of this intent but they mostly gloss over it whenever they intend to exercise the power as an instrument of political vendetta. A speaker of a state legislature told me that legislators are aware of the importance of impeachment as legislative instrument of controlling the government but that they most often lack the proper understanding of what impeachment is intended to do (Personal Interview VI, May 13, 2014). I found that when lawmakers are interested in exercising their power to correct policy failure, they prefer to exploit such opportunities to advance personal interests. Thus, impeachment has become an instrument of negotiation for the personal welfare of the legislators¹⁰².

¹⁰² For instance, in a state legislature, 21 members of a 26-member legislature signed the note of impeachment but the House could not garner 18 votes, representing two thirds of the members, to finally remove the governor simply because of politics. My interaction with the Speaker of the legislature indicates that the members who

Though this definition of gross misconduct, as contained in Sections 132 (11) and 170(11) of the 1979 Constitution, and sections 143 (11) and 188(11) of the 1999 Constitution (as amended), gives a blanket power to the legislature to determine what amounts to gross misconduct, Nwabueze nonetheless argues that a violation or breach of the provisions of the constitution or misconduct has an objective meaning fixed by law rather than by a subjective opinion of the legislators. He notes that the opinion of the lawmakers ‘comes into play only in determining whether a misconduct in the legal sense of the term amounts to a gross one’ (Nwabueze 1985, p.323). He maintains that the legislature in Nigeria often erred in interpreting the definition of gross misconduct as a template to commence impeachment. Virtually all the cases of impeachment ‘either involved no misconduct at all or the misconduct was not a gross one’ (Nwabueze 1985, p.324)¹⁰³.

They were prompted by purely partisan or selfish motives - motives of vindictiveness, intimidation, jealousy, intra-party struggle for ascendancy and even blackmail. The impeachment power is not intended to serve such purely partisan or selfish purposes as these. It is simply an abuse so to use it (Nwabueze 1985, p.324).

The other abuse associated with the impeachment episode in the Second Republic was the judicial review of the impeachment proceedings that involved the case of Balarabe Musa¹⁰⁴. Nwabueze argues that the over-liberal interpretation of section 172(10)¹⁰⁵ of the 1979 constitution failed to provide the political system with a vital judicial precedent that was necessary for the practical determination of impeachment provisions in the constitution (Nwabueze 1985; Fagbadebo 2007; 2010). Nwabueze, in particular, argues that proper interpretation of the provisions of the constitution by the judiciary would have saved the

originally signed the notice of impeachment had negotiated their original desire for an enhanced welfare package.

¹⁰³ The justices of the Supreme Court who adjudicate in the cases of constitutional breaches in the impeachment of Governor Rasheed Ladoja of Oyo state condemned the literary interpretation of gross misconduct in the constitution as a negation of the intent of the drafters of the constitution. According to them, ‘for any misconduct to be gross, it must express some extreme negative conduct such as atrocious, colossal, deplorable, disgusting, heinous, outrageous, odious and shocking’ (*Inakoju & 17 Ors v Adeleke & 3 Ors* (2007)1 S. C (Pt I) 1). Beside this, such acts should be glaring, noticeable and inexcusable breaches of the constitution rather than mere figments of the imagination of the legislators.

¹⁰⁴ When the House of Assembly removed Balarabe Musa, he proceeded to court to challenge his removal, claiming that the action of the legislature was in contradiction with the provisions of the constitution.

¹⁰⁵ Section 172(10), often referred to as an ouster clause, precludes judicial interference in the determination of the legislature in impeachment matters. See Nwabueze 1985, especially chapter fourteen for an exhaustive discussion on the interpretation of this clause.

political system from the rash application of the impeachment power that pervaded the Second Republic¹⁰⁶.

However, the adoption of the presidential system in the Second Republic was an attempt to insulate the system from incessant political instability and the high levels of corruption that had characterized the First Republic¹⁰⁷. For instance, Nwabueze discovers that some of the attempted impeachments failed to eventuate in the removal of the allegedly corrupt governors. In the case against Governor Melford Okilo of Rivers State and his deputy, Dr. Frank Eke, Nwabueze (1985) argues that there are glaring acts of gross misconduct to support the allegations contained in the notice of allegations that was signed by the legislators¹⁰⁸. However, the lawmakers failed to proceed with the procedure to remove the indicted parties. Ben Nwabueze specifically notes that corrupt executive leadership escaped the legislative sanctions of impeachment in Nigeria's Second Republic because, 'the necessary two-thirds majority cannot be mustered, or an impeachment move is stopped by the party, or the members are simply lobbied to abandon it' (Nwabueze 1985, p.324). This 'tragedy', according to him, makes corruption unquestionably 'the most notorious form of abuse of office in Nigeria' (Nwabueze 1985, p.325).

The legislators in Rivers State yielded to the lobby mounted by the leadership of the ruling party, the National Party of Nigeria (NPN), and abandoned the procedure. Instances of this nature pervaded the political system of the Second Republic¹⁰⁹. A deputy speaker of a state legislature told me that such a phenomenon is common in states where the legislature and the executive is being controlled by the same political party.

¹⁰⁶ As will be seen later in this study, judicial review of impeachment cases in the Fourth Republic draw largely from the submission of Professor Ben Nwabueze.

¹⁰⁷ Larry Diamond (1982) has noted that in the early days of the Second Republic, the various structural changes introduced by the military further encouraged social and psychological distance between classes thereby reinforcing the prominence of the political elites in political conflicts. Indeed, Akinsanya (2002b) locates this in the origin of the 1979 presidential constitution. According to him, the drafters of the constitution deliberately constructed the provisions to promote and protect the interests of the bourgeoisie class, which eventually controlled the political space. For instance, in spite of the regulatory conditions imposed to ensure the emergence of national political parties in the Second Republic, the parties that contested elections during the period were a reincarnation of the political parties of the First Republic with their ethnic and class cleavages. For the details, see Whitaker, Jr.; Diamond 1982; Wright 1982; Okpu 1985; Joseph 1991; Awotokun 1998; Akinsanya and Davies 2002; Akinsanya 2002c. Events that led to the collapse of the republic were not different from the case of the First Republic.

¹⁰⁸ These allegations include, among others, reckless mismanagement of public funds, docile attitudes to the control of burgeoning corruption among the officials of the administration, gross abuse of power at the expense of the public good.

¹⁰⁹ This development is not limited to the Second Republic. I found that in the Fourth Republic, there are several governors alleged to have been involved in cases of gross misconduct while their legislatures looked the other way.

In states where the same party controls the executive and the legislature, the lawmakers are mere rubber stamp. Yet, this ought not to be. The problem is that the lawmakers do not have confidence to challenge the excesses of the governor (Personal Interview II, May 10, 2014).

Nevertheless, the demise of the regime within the space of four years attests to the earlier argument that beyond the structural properties of the governing system, the attitudinal disposition of political elites in managing the governing system is a major determinant of the course of politics in Nigeria. In spite of the various constitutional provisions to check the excessive abuse of power, with a view to ensuring good governance through accountability and probity, the Second Republic was fraught with corruption (Nwabueze 1985) and characterised by what Richard Joseph (1991) calls clientelism and prebendal politics. According to Nwabueze (1985), the extravagant lifestyle of the political elites manifested in the pervasive corruption and abuse of power which included the plundering of the nation's resources that should have been used for the benefit of the public.

Clientelism, according to Richard Joseph, connotes a chain of networks of individuals (political elites) competing for access to the state in the struggle for the appropriation of the resources for upward mobility.

An individual seeks out patrons as he or she moves upward socially and materially; such individuals also come to accept ties of solidarity from their own clients which they view as fundamental to the latter's security and continued advancement as well as their own. Clientelism therefore is the very channel through which one joins the dominant class and a practice which is then seen as fundamental to the continued enjoyment of the prerequisites of that class (Joseph 1991, p. 55).

The underlying factor in this network is a constant flux of change occasioned by a lack of consensus among the group of political elites about the *modus operandi* of the apparatus of state power. From ethno-religious clusters within the networks, at intervals, *prebends* emerge as prominent political elites in a game of rent seeking actors assigned to service the interests of patrons (Joseph 1991). Richard Joseph defines prebendal as:

patterns of political behaviour 'which rest on the justifying principle that such offices should be competed for and then utilized for personal benefit of office holders as well as of their reference or support group. The official public purpose of the office often becomes a secondary concern, however much that purpose might have been originally cited in its creation or during the periodic competition to fill it (Joseph 1991, p.8).

Richard Joseph contends that

clientelism and prebendalism are two of the fundamental principles of political organization and behaviour in Nigeria. An individual seeks the support and protection of an *oga* [a superior person/individual with a measure of influence] or a "godfather," while trying to acquire basic social and material goods-loans, scholarships, licenses, plots of urban land, employment,

promotion-and the main resource of the patron in meeting these requests is quite literally a piece of the state(Joseph 1991, p.56).

This practice and mode of behaviour characterised the politics of the First and Second Republics but has also developed into a blooming political enterprise in the control of the political space..

The implication of this is that political elites treat 'state power as a congeries of offices which can be competed for, appropriated, and then administered for the benefit of individual occupants and their support groups' (Joseph 1991, p. 63).The personalisation of state power at the expense of the public good created an inclement political environment. The legislators rarely explore the constitutional mechanism of checks and balances to curb the excesses of the executive. As will be seen in chapter five, the provision for the removal of governors and/or their deputies; president and or his deputy, for instance, were explored as instruments to settle political scores among the individual political elites.

None of the legislative assemblies either at the federal or state levels sought to correct the reckless abuse of power, despite its negative impact on the economy and its negative implications for good governance. The case in Kaduna State arose from a divided government, while the removal of Alhaji Bibi Farouk, the Deputy Governor of Kano State, was traceable to the personal crisis between him and the governor. The threat against Governor Ambrose Alli of Bendel State was informed by the desire of the legislators to protect their political interests. Consequently, a majority of the Nigerian public welcomed with jubilation the military putsch of December 31, 1983 (Nwabueze 1985). A majority of state governors and other officials of government during the Second Republic were arrested on allegations of corruption by the succeeding military government (Nwabueze 1985; Forrest 1986; Joseph 1991; Awotokun 1998; Akinsanya 2002e; Bassey 2002; Isijola 2002). This attests to the claim that the legislature, though with requisite constitutional powers, could not live up to its constitutional responsibilities.

3.5 Summary

In this chapter, I have traced the evolution and the problems associated with the practice of the presidential system in Nigeria, particularly in terms of the removal of the heads of the executive. Drawing on documentary references and through an examination of the behavioural disposition of the Nigerian political elite in the legislature in the exercise of their

constitutional oversight power, I discovered that in all cases examined, the exercise of power was contrary to the intent of the constitution. My claim in this chapter is that pecuniary considerations rather than policy dominated the reason for the series of removal cases in the First and Second Republics.

Young Hun Kim (2013, p.5) admits a dearth of 'broader comparative evidence on the sources of impeachment attempts in the world's other new democracies' other than the 'insights into a number of impeachment efforts against particular presidents, and into conditions that have fostered or inhibited such efforts across Latin America'. In this chapter, I have identified the circumstances that prompted the use of the power of impeachment in Nigeria's presidential system, which are different from the cases in Latin America and Asia.

A central concern of this chapter is the inability of the legislature in the Nigerian presidential system to appropriate impeachment as an instrument of discipline for the abuse of power, with a view to promoting good governance. In the midst of abundant resources, the Nigerian people celebrate corruption as a virtue while poverty and low standards of living pervade the lives of a majority of Nigerians. By contrast, a handful of powerful and wealthy elites live in opulence in a system that proclaims checks and balances. Aside from the occasional threats of impeachment, Nigeria's National Assembly has not considered initiating an impeachment process against any of the presidents since 1999, in spite of the manifest evidence of the abuse of power. The cases of impeachment at the state level are shrouded in the politics of strategic political actors seeking power and self-aggrandizement, rather than the promotion of good governance and public good. Unfortunately, the Nigerian polity is reasonably lacking in an informed public capable of enforcing accountability in the face of legislative failures. An informed public (as in the cases in Latin America and Asia) depicts the presence of national consciousness as a vanguard for change.¹¹⁰ This is a rarity in Nigeria. Hence, the central thesis of this study is that a corrupt laden political system besieged by executive recklessness, legislative ineptitude and judicial passivity renders the impeachment process an instrument of political vendetta and victimisation.

¹¹⁰ An exception however is the case of the Philippines under President Macapagal-Arroyo where public protest could not bring about the desired change in spite of a burgeoning economic crisis, indiscriminate killings, and repression. Though unpopular, Macapagal-Arroyo was able to survive because of a legislative shield and military support in the face of 'the inertia of public cynicism and lack of a charismatic alternative' (Coronel 2007, p.178).

Subsequent chapters address the various causal factors to explain the politics associated with impeachment in the Nigerian political system. In the next chapter I examine the theoretical frameworks for the analysis of the use of impeachment in Nigeria of the executive branch of government in Nigeria.

Chapter Four

Structures, Actors and Legislative Roles in the Nigerian Presidential System:

Content and Context

4.1 Introduction

An analysis of the politics associated with impeachment requires an examination of the activities of political actors operating in multiple institutional structures that are mandated to perform certain statutory roles in the presidential system in which the institutional structures decentralize the decision-making processes. The concept of a separation of powers depicts the existence of interdependent structures operating for a unified systemic purpose. Thus, each institution of government has its assigned role with actors bearing the responsibility of steering the decision-making process through the policy cycle.

In this chapter, I present the some theoretical postulations on legislative processes in presidential systems with a focus on the practice of presidential system in Nigeria. One particular theory is not sufficient for the analysis of the politics associated with impeachment in a developing presidential system like Nigeria's. To this end, I draw upon structural functional analysis theory, elite theory and legislative role theory for an understanding of the interplay of actors within the institutions in Nigeria's presidential system in the Fourth Republic.

Institutions are critical to political stability and development in every political system (Ezrow and Frantz 2013; Francis 2011; Peters 2005). Scot (2004) notes:

Institutional theory attends to the deeper and more resilient aspects of social structure. It considers the processes by which structures, including schemas, rules, norms, and routines, become established as authoritative guidelines for social behavior. It inquires into how these elements are created, diffused, adopted, and adapted over space and time; and how they fall into decline and disuse (Scott 2004, p 410).

Guy Peters (2005) sees institutions as comprised of patterns of political culture that have become institutionalized (Peters 2005). This patterned interaction, overtime, affects the behaviour of individual actors rather than institutions within the political system. In other words, a group of political elites within or across political institutions, interacting for the purpose of achieving a set of objectives, may also be regarded as an institution (Peters 2005).

Francis (2011, p.33) defines institution ‘as a formal or informal body, structure or activity with established legitimacy or recognition’. Institutions are social structures that have attained a high degree of resilience being governed by rules and norms created by individuals or a group of individuals to govern their behaviour (Ezrow and Frantz 2013).

Thus, whether they are being guided by norms and values or rules and incentives, the overall objective of members is to advance a particular set of interests within the socio-political and economic context of the political system. State institutions, according to Ezrow and Frantz (2013, p.2), ‘structure political dynamics and policy choices, just as these institutions are molded and shaped by actors responding to political conditions and reality’ In essence, institutions define the health of the state thereby creating the capacity to justify its existence¹¹¹. Depending on the political culture of any society, institutions could promote or inhibit good governance. In societies with self-interested elites, the purpose of the institutions would tilt towards serving the interest of the individuals while the common interests of the people are less well served. The effectiveness of institutions, therefore, depends largely on the disposition of the elites who controls the affairs of the institutionalized structures.

For the purpose of this study, I define institutions as structures in the political system, that are guided by a set of rules, formal or informal, created by political elites to govern their pattern of interactions and activities. Thus, institutions in every political system have characteristics, that may be formal or informal, that are influenced by the behaviour of the political elites. This conceptualization of institution is appropriate for an analysis of the activities of the political elites in the way in which they exercise power in the political system. Over time, certain norms and values that run contrary to good governance have become institutionalised as a feature of political action. When the activities of the actors within the institutions of the state meet the expectations of the citizens, the public acknowledges the established rules as instruments of governance¹¹². Institutions, therefore, are key factors in defining the nature of the society in relation to the exercise of power and authority for the promotion of the welfare of the citizens. Presidential political systems, in particular, operate within the context of institutions. These institutions are interdependent in operation but separated in structures.

¹¹¹Ezrow and Frantz (2013, p.16) reinstating the positions of early political thinkers, argue that ‘the state essentially bound citizens to its existence’ when it functions effectively by providing citizens with welfare.

¹¹²Kaufmann et al (2010) conceptualise governance in this realm as the rules and norms governing the exercise of power to include the determination of the origin, survival and processes of governmental activities and policies, the extractive capacity of the state and the manner of interaction between the state and the citizens.

4.2. Structures and functions in political systems

Structural functionalist theorists postulate that every political system consists of structures performing requisite functions for the stability of the polity (Almond and Coleman 1960; Almond & Powell 1966; Smith 1966; Groth 1970; Peters 2005; Almond et al. 2007). Function in this regard is the objective consequence of a pattern of action for the system while structure is a pattern of action and the resultant institution of the system (Almond et al, 2007). The central element in the structures is the role, the power to make decisions on behalf of the society with a view to implementing the allocation of scarce resources (Fisher 2010). A functional approach to the study of the political system focuses on the formulation and execution of authoritative decisions designed for the promotion of the common good in the polity (Easton 1957; Smith 1966). In other words, the function of each structure within the political system is measured in relation to the expected ascribed scope. This is found mostly in the objectives principles of the state¹¹³.

David Easton (1957) identifies inputs and outputs as the two requisite functions of the political system. Gabriel Almond (1961), a leading proponent of the functional approach to political processes, broadens the functions into seven specific categories with the corresponding structures assigned to perform each. These functions are political recruitment and socialization, interest articulation, interest aggregation, political communication, rule making, rule application and rule adjudication (Almond & Powell, Jr. 1966). The first four are the input functions while the last three stand for the output functions. This division links the process of policy making to two specific collective actors - the governed and the governors. The essence of this classification is to ensure the allocation of responsibilities to structures, and by extension, actors in the political system.

The input functions denote the expectations and preferences of the public in terms of demands and supports for the political system. The public legitimises the conversion process and empowers the actors in the institutional structures of government to exert control in the policy process. This approach emphasizes the separation of powers and operational structures for the functionality of the political system. This is a crucial aspect of a presidential system

¹¹³ For instance, chapter two of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) lists the fundamental objectives and directive principles of the state policy where the obligations of the government to promote certain objectives remain the cornerstone of the responsibilities of the various structures of the government.

(Cheibub 2007). The hallmark of a presidential system is the interdependent relationships among different structures working towards common goals for the overall interest of the public.

The presence of individuals in control of affairs defines institutions and agencies of government. Thus, the formulation and implementation of the collective goals of the society become the responsibility of the actors in the institutional structures. In view of the competing interests in the political system, the policy process requires effective interaction between the environment and the political actors. This is essential because of the need to legitimize the outcomes (Kawanaka, 2010). While inputs from these environments shape the behavioural pattern of the political elites, their reactions in terms of policy direction, legitimately or not, affect the functionality of the institutions or structures in the system (Almond et al, 2007).

Though these institutions or structures are interdependent, their efficiency and stability depend largely on the extent of the presence of rent seekers and *vested interest* actors (Almond et al, 2007). For instance, the 1962 crisis in the Western Regional Parliament in Nigeria, as shown in chapter three, is partly a function of the political environment created by the conflict within the leadership of the Action Group (AG) party (Ojiako, 1980; Famoroti, 2011). Similarly, the series of crises that engendered most of the impeachment cases in the Fourth Republic, especially those that involved the deputy governors, are precipitated by interpersonal squabbles between the governors and their deputies or their proxies¹¹⁴. A deputy governor who was a victim of the impeachment process told me that the state legislatures usually defer to the wishes and demand of the governors when it comes to the impeachment of deputy governors because the legislature lacks the capacity to act independently¹¹⁵ (Personal Interview IV, May 11, 2014). The use of monetary inducement to facilitate legislative processes has become an institutionalised culture in Nigeria¹¹⁶.

¹¹⁴ As will be seen later in this study, there is no functional constitutional role assigned to deputy governors that could have warranted misconduct, as an official of the government, capable of leading to their removal. Yet, a series of inter-personal crises between the governors and their deputies created the avenues for the deployment of the instruments of state power through the legislative process.

¹¹⁵ State legislatures depend on the governor for the approval and release of funds for the various activities. Thus, governors who want to remove their deputies though the legislative process usually engage in a process of negotiation and bargaining over the release of funds in support for the impeachment process.

¹¹⁶ Francis (2011, pp.33-34) avers that an action becomes institutionalised when it acquires 'symbolic legitimacy as a formal or informal body, structure or activity'. Empirical evidence from this study shows that a series of

There was a crisis between me and the governor; we have had a fallen out which came as a result of our different backgrounds and experiences. They made false allegations against me...And since there was monetary inducement in the process, it was easier for some people (legislators) to work against their conscience. It happened in almost all the cases of impeachment...Any governor that does not like his deputy would just make any allegation and induced the legislators with money to commence impeachment process for his removal. They direct the CJ on whom to pick to constitute the panel (Personal Interview IV, May 11, 2014).

In this case, the actors in the three branches of the government involved in impeachment processes found themselves working together for the execution of the interest of a particular actor. This is in abeyance to the intent of the impeachment provision in the constitution.

Of particular relevance to this study are the output functions - rule making, rule application and rule adjudication - performed by the legislative, executive and judicial arms of the government respectively. More often than not, policy outputs reflect the interests of individual actors. This is a common phenomenon in all political societies. The position of Gabriel Almond and Bingham Powell, Jr. (1966) is still relevant. To them, informal groups, political attitudes, and a multitude of interpersonal relationships shape and often limit the roles of formal governmental institutions. This postulation reflects the problem associated with the process of legislative activities in Nigeria. Many legislative actions, especially impeachment, derive their sources from the actors in the environment that are external to the legislature.

By virtue of the constitutional provisions, impeachment in Nigeria's political system is in the domain of the legislature. Although the judiciary is involved, the primary source of impeachment is the legislative institutions. Nevertheless, a series of actors external to the legislature precipitated the impeachment cases in the Fourth Republic. The involvement of these external actors is not to correct policy failures. As will be seeing later in chapters five and six, the prevalence of *godfathers* in the political system as formidable causal factors in impeachment cases is an extension of the corruption in the political space. Similarly, the disparate use of an anti-corruption agency to hunt political opponents, in the name of sanitising the political system, further entrenched the culture of impunity in the political system.

One of the shortcomings of this theory 'is the absence of common definitions of the various roles and knowledge of which participants perform which roles' (Skok 1995, p.326). Critics

constitutional breaches in impeachment cases are facilitated by the inducement of rewards by political elites outside of the legislature.

have noted that the approach 'is seen as not much more than a translation of familiar and known phenomena into blandly broad categories' (Fisher 2010, p. 79). Beside this, Susser (1992 cf. Fisher 2010) is of the view that a structural functional approach relies too heavily on mythological components in assuring validity. It tends to be vague and impressive; filled with assumptions of definite change without specifics on the nature of interdependent structural relationship (cf. Lafenwa 2006).

Notwithstanding all the shortcomings and criticisms of the structural functional approach, it assists in understanding the relationship between the actors and their responsibilities in any given political system (Smith 1966; Susser, 1992; Fisher, 2010). It is a derivative of the general systems theory adapted for the understanding of complex political issues in terms of the interdependent relationships among the various political structures expected to shape and being shaped by the environment. Hence, it remains a useful instrument for the analysis of the performance of the functions of the legislative institution in relation to the objectives of the state (Fisher 2010). Impeachment, as a critical legislative oversight function, is essential to safeguard the state against the dangers of executive recklessness. Nigeria's presidential constitution recognises the pivotal roles of the legislature for the realisation of the fundamental objectives of directive principles of state policy as stipulated in the constitution¹¹⁷. The fundamental objectives of directive principles of the Nigerian state are listed in chapter two of the constitution.

A functional analysis of the legislative process of impeachment in Nigeria therefore seeks to establish the link between constitutional responsibilities and the actual performance of the legislators. As an integral part of the rule-making function of the legislature, impeachment is a corrective as well as control mechanism to ensure the promotion of good governance envisaged by the Nigerian presidential constitution. The constitutional procedure for, and the purpose of, impeachment is explicit, denoting a definite functional responsibility.

Even if there are flexibilities as in the cases of some Latin American countries, or legislative shields (Perez-Linan 2007; 2014), the outcome should promote the functional intent of the constitutional provisions. Perez-Linan's (2014) two-level model of impeachment incorporates

¹¹⁷Section 13 of the Constitution states 'It shall be the duty and responsibility of the all organs of government , and of authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions' of chapter two of the constitution dealing with the fundamental objectives and directive principles of state policy.

public protests demanding the removal of a president, as a motivation, reminding the legislature of its constitutional responsibility necessary for the functionality of the political system. Thus, in Nigeria, allegations of corruption against the leaders of the executive branch, as well as the spate of governance crises in the political system, provides the necessary template for the legislative structure to exert its power with a view to achieving the intent of the constitution. An understanding of the functional responsibilities of the executive *vis-a-vis* the constitutional oversight roles of the legislature portends the essence of good governance as the expectation from the state in Nigeria's presidential system.

4.3 Legislative role theory and representation

One of the offshoots of the structural-functionalist paradigm is the political roles of actors in the policy cycle (Fisher 2010). 'Role' as a concept depicts 'the tendency of human behaviors to form characteristic patterns that may be predicted if one knows the social context in which those behaviors appear' (Biddle 1992, p.1681). John Wahlke et al (1962, p. 8) define legislative role as 'a coherent set of 'norms' of behavior which are thought by those involved in the interactions being viewed, to apply to all persons who occupy the position of legislator'. They aver that the role of a legislator is different from his position or office but that lawmakers are aware of the norms that constitute their roles 'and consciously adapt their behavior to them in some fashion' (Wahlke et al 1962, pp.8-9). Political actors develop acceptable norms of behaviour, based on the realisation of the roles expected of them by the system. As such, compliance is essential as a symbol of understanding and interaction with others in the system. No doubt, the role perception of political actors often shapes their behavioural patterns in decision-making processes.

In their early work, Eulau et al (1959, p.742) have noted that in democracy, 'legislatures are both legitimate and authoritative decision-making institutions and that it is their representative character which makes them authoritative and legitimate'. Functionally, the legislature has the authority, as the legitimate representative of the body politic, to ensure the institutionalisation of responsible government. Thus, representation becomes effective when the people accept the decisions of their representatives as legitimate and authoritative (Eulau et al 1959; Rehfeld 2006). In other words, representation involves services because the representative stands to perform specific functions on behalf of the people. Representational role 'describes the behavioral orientation of a legislator toward the policy preferences of his constituency' (Alpert 1979, p 587). Representation involves 'authorisation, accountability,

and looking out for others' interests' (Rehfeld 2006, p.3). With structural responsibilities and control, a presidential system prides itself in role performance as well as the linkage between the ruled and their representatives (Hochstetler 2006; Marsteintredet and Bermtzen 2008; Hochstetler 2011; Hochstetler and Samuels 2011; Marsteintredet et al 2013; Oleszek 2014; Lee 2014; Cheibub & Limongi 2014).

The theory of representative linkage as propounded by Hurley and Hill (2003) expresses the need for an established link between the legislators and their constituents on a range of issues. In other words, representatives should pay attention to issues that reflect the preferences of their constituents. Hurley and Hill (2003) contend that the conduct of a representative in decision making on popular issues should conform to the expectations of the constituent. In an earlier publication, Eulau and his colleagues express the importance of such linkages.

The relationship between the representative and the represented is at the core of representational theory. The term "representation" directs attention, first of all, to the attitudes, expectations and behaviors of the represented-to their acceptance of representatives' decisions as legitimate and authoritative for themselves. More particularly, representation concerns not the mere fact that they do accept such decisions, but rather the reasons they have for doing so, their rationalizations of the legitimacy and authority of the decisions made by their representatives (Eulau et al 1959, p. 743).

This has to do with the expected role of the legislators as espoused in the different models of representation (Gerber, 1996; Johnson & Secret, 1996; Katz, 1997; Cooper and Richardson, 2006).

4.3.1. Mode of representation

There are three major categories of representation styles - delegate, trustee and *politico* (Wahlke et al. 1962; Cooper & Richardson Jr. 2006; Rehfeld 2009). The essence of this categorization is to define the location of authority of the legislator in voting during the decision-making process in the parliament. Delegate representatives subjugate their preferences for that of their constituents with a view to looking out for the good and interests of the whole constituents (Cooper & Richardson, Jr. 2006; Rehfeld 2009). Here, the legislator may disagree with the preference of his constituency but then, the position of the constituency prevails. The trustee representative on the other hand acts independently of the preferences of the constituents; s/he can substitute the preference of his or her people with his or her own. In other words, the representative is not bound to act according to the preferences of the constituents. The trustee representative, when confronted with a conflict of opinion

between his or her preferences and that of the constituents over a course of policy, would consider his or her position as superior, as it could be in the bigger public interest. This mode has its root in the argument that representatives could promote the interests of their constituents without necessarily seeking their opinions (Kuklinski & Elling 1977; Strom 1997; Katz 1997; Rosenthal 1998; Cooper & Richardson, Jr. 2006). In sum, a

pure delegate does not express his or her personal opinion on an issue, but rather votes based on the opinion of the constituents. On the other hand, a pure trustee believes that he or she is in office to act by making the best decision possible on some objective criteria, regardless of the constituents' opinions (Cooper & Richardson, Jr. 2006, p.175).

The *politico* 'expresses an overlap of the two orientations, [trustee and delegate] so that representative types can be conceived of along a continuum, rather than constituting two polar positions' (Meller 1967, p.464).

Implicitly, these models of representation denote the existence of a principal-agent relationship between the constituents and the legislator (Strom 2000; Mansbridge 2003). Indeed, legislative role, though it varies depending on the issues at stake, shapes the behaviour of legislators (Mansbridge 2003; Cooper & Richardson Jr. 2006). On the other hand, however, the assumption of compliance to universal norms of behaviour among political actors might not be total. While some actors are deviant in behavioural norms contrary to the expectation of the system, the institution of sanction at times might be weak or rarely exists to effect corrections. This is common in political systems where corruption plays a vital role in the political process.

I found this to be a key factor for the poor policy performance of the legislature in Nigeria. I spoke with a number of legislators who confirm that the legislative institution in Nigeria is not insulated from the pervasive culture of corruption¹¹⁸. A respondent said:

But what do you expect from lawmakers who have no money to buy vehicles, build their own house? That will be his preoccupation for the first four years. He will want to recoup his electioneering campaign fund. So, if the governor offers him money to look away, he will gladly accept (Personal Interview II, May 10, 2014).

¹¹⁸ Records and reports of corruption in Nigeria between 1999 and 2014 are not encouraging as shown in Table 1 in the introduction to this study. Indeed, commentators have regarded corruption as an institutionalised structure, naming it as the 37th state of the Nigeria's federal structure (Ilevbare 2012). I elaborate on this in chapters six and seven.

Thus, legislative deliberations will be clouded with considerations of personal gain rather than the public good. Cases of impeachment in Nigeria are characterised by flagrant breaches of the rules. This kind of corruption goes beyond material desire and includes the abuse of power for pecuniary desires. A respondent explains this thus:

Corruption, not just in terms of exchange of material means but also in terms of deployment of state power. Obasanjo did it in the most brazen manners; deployed the police, the anti-corruption agencies, to bring down the heads of Governors that were not willing to do his bidding (Personal Interview VIII, May 19, 2014).

The Obasanjo regime in Nigeria's Fourth Republic (1999-2007) recorded the highest number of impeachment cases where the functional role of the legislature runs contrary to the actual implementation of the law. In almost all the major cases of impeachment in Nigeria that occurred between 1999 and 2007, there was evidence of interference by the federal government (Lawan 2010). As will be seen in chapter five, the cases of impeachment in Oyo, Plateau, Bayelsa and Ekiti States, for instance, were facilitated by the EFCC, an agency of the federal government.

Beyond this is the lack of independence of the legislators. Most of the legislators were elected through the influence of the leaders of their political parties who wished to exert a measure of control over them, particularly when one considers that impeachment is orchestrated by the party leadership. It takes a truly independent legislature to assert its constitutional power in the face of a crisis with the executive. Unfortunately, my analysis of interviews reveals that Nigerian legislative institutions are peopled by political elites who are subject to control by the executive. As one interviewee claimed,

The governor could influence the removal of any speaker considered to be antagonistic. Antagonistic speakers were removed and hounded away; Governors were able to emasculate speakers. Most Governors picked their speakers. This now made it easier since the speakers are the "boys" of the Governor, they could not move against their bosses (Personal Interview IV, May 11, 2014).

Nevertheless, institutional structures in every political system have assigned roles which actors have to internalise as approved norms of behaviour and conduct. To an extent, political actors in the legislature are aware of the expectations of the system. In a presidential system, the constitutional provisions as well as the internal rules and orders of the parliament mostly define legislators' roles. In other words, the position of lawmakers *vis-a-vis* their role is in the public domain and subject to accountability.

The primary role of the legislative institution in presidential systems is to represent the interests of the people. Thus, the legislative institution, as the conscience of the public, plays a vital role in governance because it performs important functions that are necessary to sustain democracy in complex and diverse societies (Huneus et al., 2006; Alabi 2009; Schleiter & Morgan 2009; Franchino & Høyland 2009; Olson 2013). Scholars consider a legislative role 'as a set of norms of behavior that a person in the position of legislator has internalized, which (consciously or unconsciously) guides that person's actual behavior' (Johnson & Secret 1996, p.248). The core function of political representation is the ability of the legislature to be responsible and responsive to the wishes of the population.

Oftentimes, the behaviour of the legislators does not reflect their political representation role and function. A sizeable number of citizens, especially in developing democracies like Nigeria, are not well informed on what comprises the content of the law and the responsibilities of their representatives. A lawmaker interviewed in the course of this study has this to say:

I have contested elections and won three times. I did not win because of my contributions at the floor of the House. No. people are not interested in that. People are interested in what the politicians have personally given out to meet their immediate financial and material needs (Personal Interview II, May10, 2014).

The preferences of the people 'may be incoherent at the individual or collective levels, their preferences may not conform to their true interests and will change over time, or their preferences may be trumped by more important principles of justice' (Rehfeld 2009, p.214). To determine the behavioural disposition of legislators in crucial decisions, one needs an analysis of the context in which they seek to represent the preferences of the constituents. Indeed, the institutions cannot perform any role of its own, without the action of political elites. Structures, roles and functions are mere abstractions of the models of expectations of the people. These objects derive their meanings and importance when a group of individuals interact within the confine of the guiding principles of the institutional structure. This brings to the fore the role of elites in every political system.

4.4 Elites in the political process

Beyond the structures and their functions are the actors responsible for the performance of these functions. One of the underlying assumptions of the democratic process is the notion of popular participation. In reality, not all the populace gets involved in government activities.

Depending on the nature of the governing system, the only aspect where citizens participate directly in politics is through the electoral process. Even then, such participation is often restricted to the eligible voters. Apparently, this notion of minimal public participation informed Joseph Schumpeter's definition of democracy as the 'institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote' (Schumpeter 1976, p.269). In Schumpeter's minimalist conception of democracy, these individuals who gain the control of government in elections exercise actual political power in the decision-making process.

The principal actors in this respect are the political elite. Elites are generally regarded as the holders of top positions in government, business, the military and other professional outfits exerting influence on government decisions one way or the other (Putnam 1976; Higley and Moore 1981; McDonough 1981; Dye 1983; Hoffmann-Lange 1987; Moyser and Wagstaffe 1987; Higley and Burton, 1989; Higley, Burton and Field, 1990; Francis, 2011; Higley 2011). Nevertheless, Vilfredo Pareto (1935; 1968 cf. Mathiot and Gervais 2011) defines the political elite as a group of people with exceptional virtues who show distinguished abilities and exercise power in the political domain. Robert Michels (1962) refers to this set of people as the dominant class that controls the leadership of any organisation.

This exemplifies the principle of unequal power that is common in the developing countries. John Peeler (2009, p. 32) in his work on Latin American societies identifies 'persistent and pervasive inequality, predatory relations between rulers and ruled, and clientelism', as three features considered as barriers to democracy. The features engender inter-class differences and rivalries. Individuals seek to promote and protect the interest of groups represented in government. Rivalries occasioned by self-interest occupy the centre stage of government thereby endangering the collective interests of the governed. To Mosca, Rousseau's conception of democracy as the government of the majority will is unrealistic (cf. Finocchiaro, 1999, p.25). In essence, democratic government exists under the principle of minority rule.

There are two main approaches to the study of the political elites: normative and empirical (Francis 2011). The normative approach portends that the operation of power, 'measured against the desirability of a democratically based polity' depends on the capacity of the political elites (Francis 2011, p.3). 'As such, the special talents that political elites possess are viewed as a justification for their domination, with the public playing a subordinate role'

(Francis 2011, p.3). Francis (2011) argues that this approach is a contradiction of the central hypothesis of elite theory. Beside this, 'the approach does not sufficiently recognise that the character of the elite group within the context of the particular institutional arrangement may be the primary factor shaping the form of power' (Francis 2011, p.3).

On the other hand, the empirical approach, according to Francis (2011), portends that 'in any political dispensation, despite the relative desirability of the form and character of it, political power is concentrated in the hands of a political elite' (Francis 2011, p.3). The key element of this approach is the behavioural dispositions of the political elite group which could be empirically measured by their actions and activities.

This empirical approach is relevant to this study. The Nigerian political elite have less regard for the public as co-actors in the political system. The primary concern of the political elite is how to influence the public for the promotion of personal interests. For instance, in October 2000, 21 out of the 26 members of the Osun State House of Assembly decided to remove the former governor, Chief Bisi Akande, as a result of the worsening governance crisis that had pervaded the state (Official Report, Osun State House of Assembly October 23, 2000). Subsequently, the lawmakers served the former governor with the Notice of Impeachment, with 13 allegations of gross misconduct, on November 1, 2000 (Official Report, Osun State House of Assembly November 1, 2000). Out of these allegations, ten focused on the violation and abuse of the provisions of the 1999 Constitution of the Federal Republic of Nigeria, which the governor pledged to protect¹¹⁹. This was applauded by the public that had been awaiting legislative action (Bodunrin 2000; Faturoti 2000a and b). Nevertheless, the lawmakers exhibited their power of influence and refused to remove the governor in spite of the overwhelming public support¹²⁰.

¹¹⁹ In the the seventh Schedule of the Nigerian constitution, each governor affirms that 'I will discharge my duties to the best of my ability, faithfully and in accordance, with the Constitution of the Federal Republic of Nigeria and the Law, and always in the interest of the sovereignty, integrity, solidarity, wellbeing and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria'.

¹²⁰ The legislature needed a two third majority of members to approve the investigation of the allegations. A two thirds majority of a 26-member legislature is 17. The notice of allegations of gross misconduct against the governor was signed by 21 members. When, on November 8, 2000, the lawmakers voted on whether the allegations against the governor should be investigated, 9 out of the 21 legislators who signed the Notice of Impeachment voted against the motion to investigate the allegations (Votes and Proceedings, November 8, 2000).

The principal component of the governing process is the act of decision-making. Moreover, this is limited to the political elites. They participate directly or influence the decision making process that 'allocates resources within and among social units' (Welsh 1979, p 1). To this end, 'the actual exercise of political power, in most societies, remains the prerogative of a small part of the citizenry' (Welsh, 1979, p1). Researchers, therefore, often 'identify elites in terms of who holds the most important formal positions in a society, who has a pronounced reputation for political power and influence, or who participates in making key decisions and policies' (Higley 2011, p.760).

Classical political thinkers, especially Plato and Aristotle, are concerned about the nature of leadership that could promote good governance (Peeler, 2009; Straus and Cropsey, 1987). According to Straus and Cropsey (1987), Plato's *noetic*¹²¹ men or philosopher kings, for instance, do not emerge through a democratic process; yet, in Plato's conception, they remain the safety valve for ensuring good governance.

In Nigeria, the political elite are found beyond the legitimate institutions of government. Aside from the elected people with legitimate positions in the institutions of government, the political elite that influence the Nigerian political system extend to individuals outside the formal institutions of government whose activities exert sufficient influence in the decision-making process (Adebanwi & Obadare 2011; Kifordu 2010; 2011; Omobowale & Olutayo 2007). This set of people has and exercises actual and potential influence on decision-making and the distribution of spoils and patronage (Zartman, 1974; Hoffman-Lange, 1987). For instance, the activities of *godfathers*¹²² in Nigeria contributed in no small measure to the serial abuse of constitutional orders in the removal of Governor Rasheed Ladoja of Oyo State (Omobowale and Olutayo 2007). Elsewhere in Nigeria's political system, the activities of these political patrons have negated the principle of democratic practice.

¹²¹ Plato, in his ideal of a political society, conceives the noetic men as the rulers whose development through a planned educational system offered the advantage of understanding the nature of the state and what is best for the citizens.

¹²²The Nigerian political system is filled with actors outside the formal structures of government, known as patrons, being addressed as *godfathers*, who exert substantial influence on the political processes. This set of actors determines and direct the course of activities in government circles, at times with brazen impunity. This is easy because this set of people usually finance and or influence the elections of most of the political elites in the legislative and the executive branches of Nigerian government. In Nigeria, *godfathers* are the variant of patrons in patron-client politics. They get this appellation because they see politics as investment with the expectations that their *godsons* (clients) installed in power should always do their bidding when in power. For the details, see Joseph, 1991; Albert 2005; Sklar et al., 2006; Omobowale & Olutayo 2007; Oarhe 2010; Edigin 2010.

In Nigeria, these powerful and influential people are usually found within the political parties but with no official responsibility. Some provide the financial backbone to the political parties, as in the case of Emeka Offor and Chris Uba in Anambra State. Others are influential personalities who command a great deal of respect among the electorate, such as the Late Alhaji Lamidi Adedibu in Oyo State (Adebanwi and Obadare 2011; Fagbadebo 2010; Lawan 2010; Omobowale and Olutayo 2007). Their influence and activities often override the legitimate decisions of the formal institutions of government, as witnessed by the impeachment of the governors of Oyo and Anambra States, respectively (discussed in chapter five).

This does not necessarily mean that non-elites do not matter in the calculations of the political elite. According to Higley (2011), the political elite will find it difficult to perpetuate their hold on power without the support of people outside the group. The political elite frame appeals that seek to promote the political orientation and the interests of the general public even if such would not translate into policy outcomes. When these appeals serve only as incentives for gaining power, rival group of political elites seek the opportunity to secure public support through a more forceful insistence on purposeful leadership. But when such appeals manifest in policy outcomes, it provides the platform for the political elite to enjoy durable public support or a lack of public acceptability.¹²³

Scholars have argued that the preferences of the political elite are crucial to democratic stability especially in developing countries (Lopez-Pintor 1987; Malloy, 1987). In other words, the nature of democratic transitions and breakdowns will be determined by how the political elite choose to exercise power within the institutions of government. Higley and Burton (1989) identify three basic types of elites: (1) the 'pluralistic' or 'consensually unified' elites, (2) the 'totalitarian' or 'ideologically unified' type, and (3) the 'divided' or 'disunified' elite. Consensually unified elites are found mostly in the developed democracies, populated by people who

share a voluntary, mostly tacit consensus about political norms and practices, the hallmark of which is keeping political competition restrained and non-violent. Factions recognize each other's right to be heard, they agree to disagree when decisions cannot be reached, they emphasize technical and procedural feasibilities rather than ultimate rights and wrongs, and

¹²³ In the case of Osun State that I mentioned earlier, the lawmakers lost public acceptability after the disappointing vote that shielded the governor from impeachment. Indeed, the ruling party in the state, the Alliance for Democracy (AD), lost the 2003 gubernatorial action based upon the poor public perception of the government.

they practice enough secrecy to have flexibility when bargaining and fashioning compromises on difficult policy issues (Higley 2011, p.762).

Totalitarian or ideologically united elites are found mostly in totalitarian political systems. This is not within the realm of this study.

Members of the *disunified* elite group 'are clearly divided and separated from each other, they disagree fundamentally about the worth of existing institutions, and they adhere to no single code of behavior' (Higley 2011, p.762). Elite circulation and the perpetuation of power in this group are usually fraught with fraud and manipulation. This is especially so when a competitive electoral process is mired with 'fraudulent practices that few elites and citizens accept their outcomes as legitimate' (Higley 2011, p.762). In other words, the electoral process rarely produces a legitimate government. For instance, the outcomes of electoral processes in Nigeria between 1999 and 2007 have generated condemnation and misgivings because of the extent of violence and fraud associated with them (Kifordu 2010). Yet, the political elites who emerged from these elections continue to exert power. This study adopts the concept of disunited elites as analytical tool in the analysis of impeachment politics in Nigeria.

One basic characteristic of this elite group is a sense of deep insecurity-the fear, usually rooted in experience, that all is lost if some other person or faction gets the upper hand. Accordingly, members of the disunified elite routinely take extreme measures to protect themselves and their interests: killing, imprisoning, or banishing opponents, fomenting rebellions against factions, expropriating opponents' resources (Higley 2011). In the context of elite disunity, these actions are often the most available rational choice to retain, reclaim or gain power. Indeed, a political system characterized by this type of elite often experiences political instability (Higley & Burton 1989; Higley 2011). David Sanders (1981) identifies three properties of instability: political violence, frequent changes in governing coalitions and military coups. While military intervention is gradually becoming a rarity in Nigeria (unlike before 1998), the spate of violence generated by recurring governance crises as well as endemic intra-party conflict accounts for instability in the Nigerian political system. Since 1999, intra-party crises have led to the alignment and realignment of major political elites defecting from one political platform to the other in rapid succession (Fagbadebo et al 2014; Fashagba 2014). This episode, though not new in Nigeria's political system, has further created a division among political elites not because of ideological differences but as a strategy for gaining, retaining or regaining power.

Disunity among the political elite in Nigeria in this context is a function of the strategy to gain power. According to Kifordu (2010; 2011), Nigerian elites are more interested in the pursuit of their desired objectives at the expense of the integrity of the statutes. Central to this division is the inherent motive of appropriating the power of the state for personal ends thereby creating a regime of manipulation and coercion with impunity. According to Richard Sklar et al, (2006), Nigeria's political landscape is,

dominated by powerful 'godfathers' who sit atop vast patronage networks at the local, state, and federal levels. Political outcomes are primarily a function of titanic struggles among these magnates, who bargain among themselves—and at the expense of the impoverished greater public—within a political context of multiple ethno religious divisions (Sklar et al 2006, p. 101).

Because of the prevailing survival instinct (Kew 2005), Nigerian political elites seek all avenues to exert control over state power. A unity of purpose exists when they have a common platform for the appropriation of state power for their personal objectives¹²⁴. Thus, power politics in the structures of government remain an elitist game to either retain or assume control. This becomes more so in a presidential system where the independent control of power remains the hallmark of governmental process.

The division among political elites is a useful instrument for the analysis of political instability in Nigeria's Fourth Republic, especially in cases where governors are removed. For instance, in most states where the legislatures removed their governors through the impeachment process there is an acrimonious relationship among factions of elites within the same political party. For instance, the political crisis that gave rise to the impeachment of the former governor, Rashidi Ladoja of Oyo State has its roots in the bitter rivalry between the Governor and his *godfather*, late Alhaji Lamidi Adedibu (Personal Interview I, May 3, 2014)¹²⁵. The intra-party crisis snowballed into political violence that affected the entire state.

Thus, the resort to illegal means of exercising power through breaches of constitutional provisions for selfish ends is a manifestation of the desperation of the political elite for

¹²⁴ For instance, the defection of politicians from the People Democratic Party (PDP) to the All people Congress (APC), in preparation for the 2015 general elections is a classical example of this kind of unity. The intra-party conflict in the APC generated by the composition of the leadership of the National Assembly indicate that the political elites were only united not to present an alternative policy option but to promote their personal interest.

¹²⁵The Governor and his *godfather* belonged to the same political party. Indeed, Adedibu facilitated the process that culminated in the emergence of Ladoja as the party's gubernatorial candidate and as the winner of the gubernatorial election. For the details, see Omobowale & Olutayo 2007).

power. The pursuit of personal interest over and above public interest weakens the promotion of the rule of law in Nigeria. Divisions in the ranks of the political elite in the two political branches of government often subject the rules to personal interpretation and brazen manipulation. Disunity in the political elite in Nigeria is often a characteristic of political survival.

4.4.1 Strategic political elites in the legislative process

Scholars have noted that most often, legislators deviate from the preferences of their representative role to satisfy the interests of sponsors and financiers of their electoral campaigns (Stratmann 1992), or to please the demands and interests of their political parties (Alesina and Rosenthal 1989; Carey 2007). When the interests of the public are not congruent with those of the representatives or public, the outcome is a disjuncture between public and private interests. These are sometimes political strategies adopted by the legislators with a view to securing their electoral fortunes and political relevance. Strategic politician theory as conceptualised by Jacobson and Kernell (1983) posits that the actions and behavioural dispositions of politicians seeking electoral positions, especially in the legislature, often means that they mediate national conditions on the electoral process. An incumbent president and governor has a better chance of winning should they run for re-election (Abramowitz 2006).

Strategic political elites, for the purposes of this study, are politicians who see their participation in politics as a means to achieving personal ends. These ends are achieved once they gain power and become able to influence rules and public opinion. They use all the means at their disposal to ensure their continuity in power. The Nigerian political elite, particularly in the legislature, strategically exert their power to advance their personal interests at the expense of the public good.

The central focus of the approach of strategic politicians' in the understanding of the behaviour of political elites is how electoral politics enforces accountability (Jacobson 1989). Elections in presidential systems are mostly candidate-centered, reinforcing the axiom that all politics is local and thereby stifling the expectations of collective accountability (Carson & Roberts 2005; Jacobson 1999). Most often, in the advanced presidential systems, the extent of the impact of the national economy on the daily living of the public determines the fortunes of the political parties and individual candidates in congressional elections. Thus, the winning

formula largely depends on the strategy of the candidates (Romero 2004; Basinger and Ensley 2007).

Politicians seeking re-election to the legislature or the executive would want to behave in a manner that would boost their chances of success. This is more pronounced in Nigeria where the political fortune of the political elite mostly depends on the support and influence of influential individuals. In the case of the botched impeachment of the governor of Osun State that I mentioned earlier, the nine legislators who refused to vote for the investigation of the allegations of gross misconduct against the former governor acted in response to their strategic calculation of electoral fortune because they lacked an independent political base for repeated electoral success¹²⁶.

Originally, the idea of removing the governor of Osun State was not designed to succeed. It was, instead, a strategic decision made by the lawmakers to force the governor to a negotiating table for an enhanced welfare package (Bello 2011)¹²⁷. Nevertheless, the favourable public support, towards impeachment (Fagbadebo 2011), engendered a belligerence in the attitude of the legislators. The Minority Leader of the house, Adejare Bello, (who later became the Speaker upon the defeat of the AD government in 2003) publicly admitted in 2011 that the action of the lawmakers was not to remove the governor but to ‘shake him’ (Bello 2011, p.420).

We never wanted to impeach Chief Bisi Akande....[he] was given us Ninety Thousand Naira a month. Many of us with a lot of indebtedness, we were managing that amount of money. At a point in time, the governor just said “you people cannot be earning more than a Permanent Secretary, so I am reducing your salary from Ninety Thousand to Sixty Thousand Naira....We now said it was because we had not shown this governor the power of the House of Assembly; he could not remove us, but we could remove him. We now said we should shake him. It was to shake him (Bello 2011, p.420).

This portrays the Nigerian political elite, especially in the legislature, as strategic in the exercise of their power to not only exert their power for future electoral prospects but to negotiate better current conditions because of their lack of financial autonomy.

¹²⁶On the eve of the voting (November 7, 2000) party leaders who sponsored the elections of these legislators had prevailed on them to withdraw their votes or else they would be recalled from the house and lose any opportunity to be considered in the future for legislative positions. Unknown to the speaker, prominent members of the Alliance for Democracy (AD), the ruling party in the State, had arrived, at the invitation of the governor; to appeal to their respective candidates they sponsored not to participate in the impeachment process. The party leaders also came to the House of Assembly to impress upon the lawmakers to discontinue with the process (Votes and Proceedings Osun State House of Assembly, November 7 and 8, 2000).

¹²⁷ His does not mean that the allegations of gross misconduct leveled against him were imaginary, but rather that the political elites were interested in making a fortune out of the ensuing crisis.

The strategic politician approach considers the electoral process as a measure of enforcing accountability with regards to the electorate as the 'rational god of vengeance and reward' (Jacobson 1989). It sees the local and national variables as conditioning factors determining the electoral success of candidates. Jacobson and Kernell (1983) argue that strategic political elites would seek to enforce a sense of collective responsibility and accountability among the legislators in a presidential system by translating national conditions into election results. As Jacobson (1989, p. 775) has noted 'the best potential candidates will also be most sensitive to the odds on winning and so to conditions that affect the odds'. Put differently, strategic political elite would time his or her candidature to coincide with favourable electoral circumstances (Gibson 1999; Romero 2004).

In the advanced presidential systems where candidates largely depend on political parties or donors and sponsors for regulated campaign funds, they strategically adopt measures and better odds capable of inspiring more generous donations and supports (Jacobson 1989; Abramowitz 2006). In the legislative arena, Jacobson and Kernell (1981; 1983) aver that political elites devise strategies for their future political careers. They argue that the behaviour and decisions of potential politicians seeking re-election in the legislature are conditioned by certain considerations capable of determining their electoral success. Such elites weigh their actions and behaviours in the legislative debates and decisions based on experience, the prospects of a challenger and the interests of contributors to campaign funds (Jacobson 1989; Basinger and Ensley 2007).

How does this relate to the impeachment process? Gary Jacobson (1999) applies this approach in the analysis of the behaviour of the American Congress in the impeachment of President Bill Clinton in 1998. To him, the Monica Lewinsky scandal¹²⁸ was sufficient to upstage the electoral fortunes of the Democrats during the midterm election in the Congress. He argues that the popular rating of the president, as well as the strong economy of the United States at the time, influenced 'the strategic decisions of potential candidates and campaign contributors' (Jacobson 1999, p. 37). The scandal had 'the potential for a dramatic deterioration in the public's rating of the president' a factor that ought to have accelerated the removal of the president (Jacobson 1999, p.39) but then, what could have comprised political

¹²⁸ The Monica Lewinsky scandal was the case of an amorous relationship between President Bill Clinton and a female intern in the White House, Monica Lewinsky. The scandal led to the impeachment of the president by the House of Representatives but was eventually acquitted by the Senate.

capital for the Republican Party worked against it in the Congress (Jacobson 1999). According to him,

satisfaction with the Clinton administration's performance on things that directly affect people's lives, especially the economy, was so strong that most people resolved whatever cognitive dissonance the scandal provoked by maintaining a sharp public/private distinction or by downplaying the gravity of Clinton's transgressions (Jacobson 1999, p. 46).

Most congressmen voted in the impeachment case based on their strategic calculations in relation to their electoral future (Zaller 1998; Jacobson 1999).

Similarly, John Nichols (2011) cites a series of cases where the US Congress applied the political strategy approach in protecting President Ronald Reagan in 1987¹²⁹. For instance, the Congress ignored the advice of Congressman Henry B. Gonzalez of Texas to impeach President Ronald Reagan over the Iran-Contra scandal¹³⁰ in anticipation of a victory in the 1988 election (Nichols, 2011, pp. 53-54). Unfortunately, George Hebert W. H. Bush, Reagan's deputy, a principal character in the scandal won the election. Another case was the fallout from the invasion of Iraq when a revelation from Downing Street¹³¹ indicated that the war ought to have been averted. In 2005, the Wisconsin Democratic Party proposed impeachment proceedings against President Bush, his deputy, Dick Cheney, and Defense Secretary, Rumsfeld. The Downing Street memo had revealed that the Bush administration ignored intelligence report to make a case for the war in Iraq (Nichols, 2011 p.54).

The war in Iraq which could have been avoided, according to the memo, was one of the Bush administration's foreign policies that created the economic recession later inherited by President Barrack Obama in 2008.

An opposition party that "waits for the next election" is not being partisan, it is being politically strategic. It is not doing what's right for the country, it is doing what's right for itself-or more precisely, what leaders who are disinclined to take risks think is politically "wise" (Nichols 2011, p. 53).

¹²⁹ Ronald Reagan was the 40th president of the United States of America, January 20, 1981-January 20, 1989. He contested the election on the platform of the Republican Party.

¹³⁰ The Iran-Contra scandal was the case of a secret arms deal in 1986, facilitated by top administrative officers of President Ronald Reagan, to discretely supply arms to Iran, against the decision of to impose an arms embargo in a bid to secure the release of American held by a militant group in Lebanon. This group had a link with a section of the Iranian military. There was a Contra rebel in Nicaragua fighting the government, group supported by the Reagan administration. The Reagan administration official also diverted the money realised from the secret arms sales to Iran to fund the Contra rebel group.

¹³¹ 10, Downing Street, London, is the office and home of the Prime Minister of the United Kingdom.

The argument here is that if the Congress (and especially the members of the Democratic Party), had prevented the war in Iraq, without considering the consequences on their electoral chances, the economic recession which now affects the government might have been averted.

In Nigeria, a patron sponsors the election of a candidate in order to influence the candidate after the election and to control the government for the advancement of his or her personal interests. The candidate, as the client, would seek to please the patron who usually remains his benefactor, exerting influence to direct and control the process of government. When the member of the legislature acts contrary to this, the patron would seek to withdraw his support and orchestrate the removal of the candidate through the manipulation of legislative rules. Thus, it becomes a strategic necessity in Nigeria for a legislator that is sponsored by a godfather to accede to any orchestrated legislative process, despite any indication that the process would violate the rules in a bid to remove a governor or deputy governor who has parted ways with his patron (Adebanwi & Obadare 2011; Fagbadebo 2010; Lawan 2010; Omobowale & Olutayo 2007) should the legislator wish to stay in power.

The planning and execution of the cases of impeachment in Anambra, Bayelsa, Oyo and Plateau States and, more recently, in Adamawa State, rest on strategic calculations on the part of the lawmakers, their political parties and their sponsors. Indeed, the outcomes of the judicial review processes of the cases in Anambra, Oyo and Plateau States depict the proliferation of disunified political elite group seeking to stay in power within the confines of manipulated rules. A former deputy governor who was a victim of an impeachment episode said that this attitude of the legislators is a manifestation of their lack of independence.

They lacked independent thinking and actions. They were just at the whims and caprices of whoever was the chief executive of any state. Once a matter of impeachment case comes up, it is a deed done because there were no independent of thought. Laws could be breached; nobody cares about that (Personal Interview IV, May 15 2014).

Thus it would seem that Nigerian political elite have a common objective of acquiring power and remaining in power for the advancement of their personal interests. These interests comprise of the access to state resources, becoming recipients of state contracts and influencing contracts awarded to others, and the acquisition of personal wealth. To them, government position is the best way to access the public treasury for personal use. As a commentator remarks, 'a lot of funds that could have been used for development would be trapped in the hands of a few...politics [in Nigeria] is now the cheapest way to make money... (Olugbile 2010, p.38).

4.5 Structures, functions and elite behaviour in impeachment procedures

In chapter two, I examined the role of the legislative shield in the process of impeachment. In Nigeria, the deployment of a legislative shield is dependent upon the political context. Legislators could shield a governor against his or her removal if there is a harmonious relationship based on mutual interest and benefits. In other words, ‘all too often, elite behavior falls short of public expectations as elected representatives engage in self-serving or otherwise morally questionable practices that violate popular norms of ethical behavior’ (Allen and Birch 2012, p.89).

In the impeachment cases in Nigeria, the legislators were often faced with the pressure to accede to the demands of the political elite outside the legislature when considering impeachment cases. A former Speaker of the Osun State House of Assembly, Mojeed Alabi, expressed his dilemma when the legislature could not garner sufficient votes to impeach Governor Bisi Akande.

I had to preside over the matter, exhibit as much of neutrality as I could and even defend the position of the House to go ahead with the impeachment. And when the impeachment proceedings failed, still justify why we couldn’t proceed in the face of clear provisions of the law when indeed some felt I could have pronounced the governor impeached even when we didn’t have the required two-thirds majority... Even then, some people still turn around and blame you for allowing the proceedings to commence in the first instance, including some of those who signed the notices... It was a most challenging period when you had to make a choice between political expediency and what was right (cf. Popoola 2014).

The central factor in the impeachment process is the disposition of the legislature.. A law practitioner and one of the architects of the 1979 presidential constitution told me that what matters in impeachment cases is the willingness of the legislators to vote. ‘What I want to tell you is that the critical issue in impeachment is the vote. If you get the appropriate votes, he [Governor] is out, if you do not get the appropriate votes, he is in’ (Personal Interview VII, May 10, 2014). Though he recognized the importance of the allegations of gross misconduct, he considered the strategic disposition of the legislators as critical to the success or otherwise of the proceedings.

In proposing his legislative shield approach to explain the institutional determinants of impeachment, Perez-Linan (2007) avers that in the face of public outrage and scandals, the president can rely on loyal legislators to avert impeachment. Conversely, the legislators can also use this shield against the president. In an ideal situation, Perez-Linan (2007, p.132) notes that the legislature will initiate an impeachment process, ‘only if there were sufficient

proof of a “high crime”, and would refrain from doing so if accusations were merely grounded in partisan or personal motivations’. In his extension of this approach, he argues that a ‘legislative shield may protect an unpopular president from the consequences of public outrage’ while a popular shield of the public, ‘may also dissuade the legislators from unseating the president’ even if he commits offences that warrant removal (Perez-Linan 2014, p.35)¹³². In other words, legislators’ strategic considerations within the institutional structures of the political system are critical elements in impeachment cases (Perez-Linan 2014).

On the other hand, the public that are disillusioned by the failure of the government to deliver, they seek a change of leadership. This can happen mid-term, in which case they rely upon the legislature to effect this change. Thus, strategic legislators must balance the institutional rules with public opinion. In most cases, and particularly in Nigeria, the political elite influence public opinion through populist appeals to prevent public protests. At times, they exploit the public’s lack of information and understanding of the constitutional rules, as was the case in the botched impeachment in Osun State. They also sometimes resort to repressive measures such as intimidation to suppress public opinion.

While the case of President Lugo was exceptional, it is yet to be seen if the Nigerian public has the same resilience to influence the removal of a governor through impeachment or shield a governor against removal even if he has not committed any offence. The public perception in Nigeria is that every politician occupying any government position is corrupt (Fagbadebo 2007). Even if the public provides the necessary support, as in the case of Osun State in 2000, the final decision remains with the legislators whether to accede to public demand or to act within the confine of their strategic political reality.

On the contrary, the social and political context of the presidential system might influence the legislators to commence impeachment proceedings (Kada 2000; 2003). The decision to initiate impeachment is dependent on the attitude and disposition of the legislators in relation to the prevailing social and political context of the crisis. When a legislative shield is solid, the legislators might decide to protect a president whose conduct deserves further

¹³²He developed this extended argument based on the removal of President Lugo of Paraguay in 2012, a development that put to test the early proposition of a legislative shield without considering the effect of public protests.

investigation and sanction. On the other hand, a hostile legislature could initiate impeachment even if there is no sufficient motivation from the public.

Nevertheless, the issue of the legislative shield revolves around the credibility of the legislature. Perez-Linan (2007, p. 132) has noted that irrespective of the social and political context of a presidential crisis, the legislature as a democratic institution of governance 'should act in ways that strengthen its credibility and public standing'. This is where political strategy comes in. Strategic legislative elites would not venture to initiate impeachment against a president with a high public rating if there are no sufficient justifications or motivation to protect the public interest (Perez-Linan 2007; 2014; Kada 2003; Zaller 1998; Jacobson 1999). The impeachment of Bill Clinton in 1998 and the removal of President Fernando Lugo of Paraguay are classical cases where the legislature, because of partisan incentives, chooses to initiate impeachment of a president on issues not considered as justifiable by the public (Zaller 1998; Jacobson 1999; Marsteintredet et al 2013; Perez-Linan 2014).

President Clinton, for example, enjoyed a high public rating because of an improved economy while the public, despite the media frenzy, viewed the sex scandal as the president's personal life with limited effect on the American interest (Zaller, 1998; Jacobson 1999). Nevertheless, the Republican dominated Congress proceeded with the impeachment but the Senate, dominated by members of the Democratic Party, acquitted the president. The case of President Lugo of Paraguay differs. There was little or no justification for this extreme legislative action but his relationship with a partisan legislature, as well as a less than impressive public rating, provided a shield that worked against him (Marsteintredet et al 2013; Perez-Linan 2014). Perez-Linan has noted that

partisan legislators may resist social pressures to impeach the president. Conversely, co-opted social movements may mobilize against impeachment proceedings. When opponents constitute a challenge and supporters fail to articulate a political shield, the president is exposed and the administration confronts a high risk of failure (Perez-Linan 2014, p.38).

The same actors that provide a shield can also become a source of threat depending on the political context. Popular protest is a signal of public discontent capable of undermining public order (Perez-Linan 2014). This may embolden the opposition to further discredit the administration and demand its fall through a democratic legislative process. If this degenerates, the administration might seek to apply force. In the event of popular outcry, the political shield might collapse and make the administration vulnerable. Perez-Linan identifies

four factors to explain this phenomenon: constitutional rules, the party system, the nature of the relationship between the president and the legislature, and the political context which might include political scandals, and timing of the electoral year (Perez-Linan 2014; 2007). While this worked in the case of President Lugo, it is not sufficient to understand the ineffectiveness of the combination of the interaction of popular protests or inactions in the explanation of impeachment politics in Nigeria.

4.5.1 The nature and characteristics of Nigerian political elites

Scholars of the Nigerian political system (Ekeh 1975; Sklar et al 2006; Adebawale and Obadare 2011; Kirfodu 2011) often describe the nature of Nigerian political actors in relation to their conduct as corrupt. Peter Ekeh (1975, p.110) attributes this to the transition from the 'primordial public' to the 'civic public'. He defines corruption in two forms: 'embezzlement of funds from the civic public [the government]... [and] solicitation and acceptance of bribes from individuals seeking services provided by the civic public' (Ekeh, 1975, p. 110). This, he argues, was absent in the 'primordial public'. According to him, any leader who indulges in such in the primordial public

may risk serious sanctions from members of his own primordial public if he seeks to extend the honesty and integrity with which he performs his duties in the primordial public to his duties in the civic public by employing universalistic criteria of impartiality (Ekeh, 1975, p. 110).

Henry Kifordu (2011) says Nigeria's political elites depend largely on the public, and survive on state resources. He contends that they exploit and manipulate state institutions for the realization of their personal ambitions, while vested interests continually encumber accountability (Kifordu, 2011).

Richard Sklar et al (2006) aver that 'Nigeria's political titans vie for power and control over the vast spoils of office' and 'sit atop vast, pyramid-structured patronage networks based on regular "cash and carry" kickback relationships' while over 70 percent of the people wallow in poverty (Sklar et al 2006, p. 105). Likewise, Wale Adebawale and Ebenezer Obadare (2011) see Nigeria as a polity where political actors consecrate corruption while they engage in competitive thievery of public funds. The cartoons in figures I and II below provide a pictorial representation of the character of Nigerian political elites occupying public office.

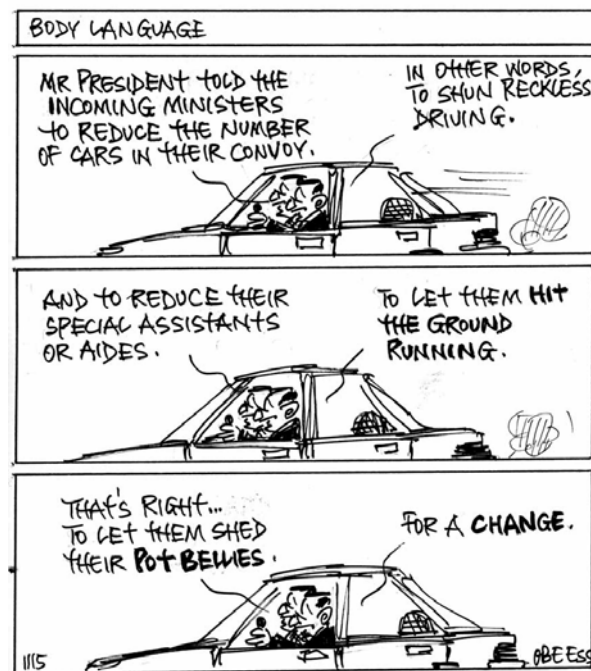


Figure I: A cartoon presented to describe the body language of typical Nigerian politician towards public appointment

Source: The Guardian, November 10, 2015. Available at:

<http://www.ngrguardiannews.com/2015/11/body-language-8/>



Figure II: A cartoon illustrating the perception of the Nigerian politician to public appointment

Source: The Guardian, November 6, 2015. Available at:

<http://www.ngrguardiannews.com/2015/11/ministers-of-peace/>

The cartoon in figure I depicts the need for a change of perspective by public officials occupying government positions. It shows a fictional discussion to explain how President Buhari was to reduce the cost of the government, through encouraging a disciplined life style among government ministers and other political appointees (Alli 2015). Aside from this, the president had also announced that not all the nominees screened for ministerial appointment would be assigned portfolios (Vanguard, 31/10/2015)¹³³. Figure II depicts the fictional response of a Nigerian politician to the issue of serving in government without any assigned responsibility over a portfolio.

These political cartoons are not misplaced. A former president, Olusegun Obasanjo, lamented that the Nigerian political elites have failed to provide credible leadership for the nation. He said: 'We are jinxed and cursed; we should all go to hell' (cf. Ajayi, 2013). Similarly, former Nigerian Defence Minister (and a member of the prominent retired military elite in the current political dispensation), Theophilus Danjuma, denounced the infamous role of the country's political elites who are fond of 'scheming and screaming for due and undue advantages' while the people 'are chained down in dehumanising and grinding poverty' (cf. Akhaine & Bello 2013). The positions of Obasanjo and Danjuma are not new. Segun Osoba (1978, p.65) has noted in his analysis of the formative stages of the Nigerian political society that instability associated with the Nigerian political system was a function of 'this ever-widening gap of legitimacy and authority between the rulers and the ruled'. Sklar et al (2006, p.110) corroborate this by arguing that if 'most of these elites ... perceive that the democratic system serves their interests better than extra systemic alternatives...the system must be able to check those elites who conspicuously break the rules'.

The conduct of Nigeria's political elites since 1999 has shown growing boldness in circumventing the democratic system to advance their personal interests. In all the cases of impeachment considered in this study, a common feature is the manipulation of the constitutional rules that prescribe the specifics of the procedures to be followed. For instance, it is an abuse of the rule of law for six members of a 24-member legislature to carry out an impeachment, as occurred in the case of Plateau State.

¹³³ In compliance with the constitutional provisions on the federal character principle of the Nigerian federal system, all the 36 states of the federation and the Federal Capital Territory (FCT) would be represented in the cabinet. The president had forwarded names of 36 nominees to the Senate for approval as stipulated by the constitution.

One major characteristic of the Nigerian political elite relates to Ekeh's predictions that they lack 'autonomy in the formation of their values and in their decision-making processes independent of external sources' and pressures (Ekeh 1975, p.94). Sule Lamido, the Governor of Jigawa state, alluded to this characteristic saying that the conduct of Nigerian political elites affects democratic patterns and standards (Aziken 2013). He attributed this to the brazen exploitation of rules to obtain personal advantage in the system. This, according to him, engenders disorder in the political system. For instance, in virtually all the impeachment cases in Nigeria's Fourth Republic, external forces such as political pressures and financial inducements, prompted the actions of the legislators¹³⁴.

Richard Joseph (1991, p.55) has noted that the nature of the Nigerian political elites revolve round what he calls 'clientelism and prebendal politics' while 'access to the state remained disproportionately important for the elites who struggle to appropriate the state resources for private use'. As Abubakar argues, 'state power remains highly personalized, immense, totalizing arbitrary, often violent and always threatening' (Abubakar, 2004, p.155). This mentality persists. A series of political hiccups associated with the prevailing political process in Nigeria are being facilitated by the acute division among the elites over the control of state power for the promotion of personal interests.

Indeed, in Nigeria, previous military interventions were the manifestation of this disconnect between the ruled and the political actors¹³⁵. The public often accept such undemocratic changes because of the lack of trust in the political leadership arising from the inability of the democratically elected government to promote the public good. The dearth of good governance has persisted even after the return to civilian rule in 1999. This explains why the Nigerian public, unlike its counterpart in Latin America, would remain unconcerned about enforcing public accountability.

¹³⁴ For example, pressures from the political leaders of the Alliance of Democracy (AD) facilitated the failure of the impeachment process against Governor Bisi Akande of Osun State while the same pressure prompted the lawmakers to impeach his deputy, Iyiola Omisore. The impeachment of Joshua Dariye, Rasheed Ladoja and late Diepreye Alamieyeseigha, though there were *prima facie* cases against them, were facilitated by the prompting of external forces rather than the willingness of the legislators.

¹³⁵ The conduct of political actors in power facilitated the involvement of the military in Nigeria's political landscape since 1966. By the time the military struck in January 15, 1966, discontent with the government was rife among the populace because of the turbulence, looting and arson that greeted the controversial census of 1962, the general elections of 1964 and the Western Region Election of 1965. These developments arose because of the intra-leadership squabbles across the political parties. Similarly, the military justified the December 31, 1983 coup because of the spate of crises that followed the widespread protests and violence that followed the 1983 general elections as well as indiscipline and corruption among political actors. For details, see Ojiako, 1980; Ademoyega, 1981, Joseph, 1991. The military elites while in power did not fare better either.

A common feature in the cases of impeachment in Nigeria is the desire to occupy the gubernatorial seats at the state levels before the expiration of the stipulated term in office¹³⁶. To accomplish this, the political leaders have to recruit the political elite in the legislature to draw up plans to influence the application of the constitutional provisions. If there is no unified position among the majority of the legislators, a usually difficult task, the political elites would be fragmented.

This malaise is not limited to actors within the political branches of the government. The struggle for prominence and survival has also permeated the attitudes and conduct of the members of the judiciary, and particularly the judges in the courts of adjudication, who allegedly sell justice to the highest bidders (Momoh 2012; Adisa 2013; Rasheed 2013). As will be seen in chapter five, a series of cases of impeachment were complicated by judicial pronouncements as well as unethical conduct among a number of judges in the State High Courts.

According to the constitution each institution of government in Nigeria has specific responsibilities. The exercise of these responsibilities is the process by which policy is implemented and the needs of the population realized. Unfortunately, this is not the case in Nigeria and this explains the abysmal global ratings of the country's performance in all sectors based on the reality of the development indexes Development index reports as shown in Tables 5,6 and 7, place Nigeria among the countries that exhibit poor human development, poor governance indicators, poverty, high unemployment rates and corruption.

¹³⁶ A governor is constitutionally qualified to govern for four years. He could be re-elected for another term of four years. Most governors would want to spend two terms of 4 years each. Disenchanted political leaders could orchestrate a midterm removal through the legislative process of impeachment.

Table 5: Nigeria's Human Development Index (HDI) and Ranking, 1999-2013

Year	HDI	Rank
1999	0.456	146
2000	0.439	151
2001	0.455	136
2002	0.466	148
2003	0.463	152
2004	0.466	151
2005	0.466	158
2006	0.448	159
2007/2008	0.470	158
2009	0.425	158
2010	0.423	142
2011	0.459	156
2012	NA	NA
2013	0.471	153
2014	0.504	152

Source: Compiled by author from the available data produced by the United Nations Development Programme (UNDP) Human Development Reports for the period. Available at: www.undp.org/content/undp/en/hme/librarypage/hdr/

As shown in Table 5 above Nigeria has, since 1999, consistently remained in the rank of countries displaying low indicators of human development. The Human Development Index (HDI) measures the capacity of the state to 'create an enabling environment for people to enjoy long, healthy and creative lives' (Human Development Report 1990). Paul Streeten in his contribution to the HDR 1999, defines human development as,

the process of enlarging people's choices—not just choices among different detergents, television channels or car models but the choices that are created by expanding human capabilities and functionings (sic)—what people do and can do in their lives (Streeten 1999, p.16).

The indicators of human development include the capability 'to lead long and healthy lives, to be knowledgeable and to have access to the resources needed for a decent standard of living' (Streeten 1999, p.16). Other choices that are valued include 'political, social, economic and cultural freedom, a sense of community, opportunities for being creative and productive, and self-respect and human rights' (Streeten 1999, p.16). The HDR (1999) indicates that 'human development is more than just achieving these capabilities; it is also the process of pursuing them in a way that is equitable, participatory, productive and sustainable'. A low HDR index is a threat to human security. The HDR identifies eight dimensions of threats to human security: economic insecurity, food insecurity, health insecurity, personal insecurity, environmental insecurity, community and cultural insecurity and political insecurity.

Table 6: Nigeria's Fragile/Failed State Index 2005-2015

Year	Indicators												Rank	Total
	DP	REF	GG	HF	UED	ECO	SL	PS	HR	SEC	FE	EXT		
2005	7.2	3.0	6.5	8.7	8.9	5.8	8.8	6.9	6.7	9.0	8.3	4.5	54/76	84.3
2006	8.0	5.9	9.1	8.5	9.0	5.4	9.0	8.3	7.1	9.2	9.0	5.9	22/146	94.4
2007	8.2	5.6	9.5	8.5	9.1	5.4	9.1	8.7	7.1	9.2	9.5	5.7	17/177	95.6
2008	8.2	5.1	9.4	8.2	9.2	5.9	8.9	8.7	7.5	9.2	9.3	6.1	18/177	95.7
2009	8.5	5.3	9.7	8.3	9.5	6.6	9.2	9.0	8.6	9.4	9.6	6.1	15/177	99.8
2010	8.4	5.8	9.5	8.1	9.3	6.9	9.4	9.1	8.8	9.3	9.4	6.2	14/177	100.2
2011	8.3	6.0	9.6	7.7	9.0	7.3	9.0	9.0	8.6	9.1	9.5	6.9	14/177	99.9
2012	8.4	6.5	9.7	7.6	8.9	7.5	9.1	9.1	8.6	9.2	9.8	6.6	14/177	101.1
2013	8.5	6.6	9.8	7.0	9.2	7.3	8.8	9.3	8.6	9.5	9.4	6.3	16/178	100.7
2014	8.3	6.9	9.8	7.0	8.9	7.3	8.8	9.0	8.7	9.5	9.5	6.0	17/178	99.7
2015	8.8	7.5	9.9	7.1	8.8	7.6	9.1	9.1	8.8	9.9	9.8	6.0	14/178	102.4

Source: Compiled by author from the Failed/Fragile States Index Reports produced by The Fund for Peace.
Available at: www.global.fundforpeace.org

Similarly, the Failed/Fragile States Index, as shown in Table 6, ranks Nigeria very low. The index is an annual ranking of countries based on the indicators of their levels of stability and the combination and severity of pressures they face. The index measure twelve indicators divided into two categories: Social and Economic indicators and Political and Military Indicators. The social and economic indicators are demographic pressure (DP), refugees and IDP (REF), uneven economic development (UED), group grievances (GG), human rights and brain drain (HF) and poverty and economic decline (ECO). The political and military indicators are state legitimacy (SL), public services (PS), human rights and rule of law (HR), security apparatus (SEC), factionalized elites (FE), and external intervention (EXT). Nigeria's position for the eleven years oscillates between high alert and alert category denoting the vulnerability of the people to socio-economic problems that engender a poor quality of life.

Table 7: Nigeria's Ibrahim Index of African Governance (IIGA) 2000-2015

Year	Rank	Score
2000	39	45.7
2001	NA	NA
2002	41	46.2
2003	NA	NA
2004	NA	NA
2005	38	47.3
2006	39	48.5
2007	37	48.3
2008	35	45.5
2009	38	50.3
2010	40	43
2011	41	41
2012	43	42
2013	41	43.4
2014	37	45.8
2015	39	44.9

Source: Compiled by the author from the IIAG Report produced by the MO Ibrahim Foundation. Available at: www.moibrahimfoundation.org

The IIGA measures African governance based on 4 categories of issues divided into 14 other sub-categories and 93 indicators (MO Ibrahim Foundation 2015). The safety and rule of law category is sub-divided into rule of law, accountability, personal safety and national security. The second category is that of participation and human rights, which comprises of participation, rights and gender. The third category, sustainable economic opportunity, is sub divided into public management, business environment infrastructure, and the rural sector. The fourth category is human development with welfare, education and health sub-categories. In all these indicators, Nigeria's rating is very poor compared to the resources at the disposal of the political leadership¹³⁷.

From the above data, it is evident that the Nigerian political elites have been unable to translate the abundant resources at the disposal of the state into a better quality of life for the population.

In their overview on the fragile States Index 2015, Messner and Blyth (2015) note the ray of hope indicated by the peaceful conduct of the 2015 general election, and especially mention the historical landmark of an opposition party winning an election without violence. Nevertheless, their remark indicates a pessimistic warning for the future.

¹³⁷According to the World Bank, Nigeria has a healthy economy with a total Gross Domestic Product (GDP) of \$568.5 billion as of 2014, the largest in Africa. For the details see The World Bank: Nigeria. Available at: www.worldbank.org/en/country/nigeria

It has given pause to cynics and raised hopes in the possibility of a maturing democracy and representative governance in Nigeria. Still, more than ever, challenges remain. None of the conflict drivers have gone away. Next year will be critical for ensuring that Nigeria truly is on a trajectory towards sustainable peace and security and that this peaceful transition was not just a blip on the radar screen (Messner and Blyth 2015).

These conflict drivers, according to Nate Haken (2015) include poverty, inequality, and dependence on oil as source of government revenue, corruption and patronage networks.

One of the major problems with elite politics in Nigeria's presidential system is the desire of, and struggle by, the executive branch to "annex" or substantially control the legislative and the judicial branches of government as extensions of the executive branch rather than as independent organs in a system of interdependent relationships. A former state governor, Ibrahim Saminu Turaki, of Jigawa State, confirmed this recently. According to him,

The biggest problem in some states is that the executive arm almost always takes control of the legislative body and, by extension, the judiciary...The principle of the separation of power has been defeated and the course of democracy subverted (cf. Dangida 2014)¹³⁸.

This is a common political strategy to secure legislative and judicial shields against impeachment¹³⁹. On the part of the state governors, a loyal legislature has direct access to all its funding requests. Having been co-opted into the regime of executive recklessness, the legislature would find it very difficult to move against the governor (even if there are public motivations for evidence of gross misconduct, corruption and fraud. One of the legislative elite said that in the face of monetary inducement, Nigerian lawmakers could easily compromise their representative role.

Most legislators perceive their roles as gate keepers; being gate keepers, if they can settle them, the gate can be opened! If there are weaknesses they observe and there are chances that they can be settled, i.e. be given either a contract, they can look the other way (Personal Interview IX, May 19, 2014).

Professor Wole Soyinka attributes this to the type of presidential system in Nigeria. According to him, the practice of presidentialism in Nigeria engenders regimes of corruption (Kumolu 2014). Since the executive can negotiate with the legislature for mutual benefits, the

¹³⁸He was alleged to have stole N6billion from the state treasury and to have diverted public funds for private use (Kolade-Otitoju 2010).

¹³⁹ The legislature and the judiciary play crucial role in the impeachment process in Nigeria. While the legislature drafts the articles of impeachment, the composition of the panel of investigation is the prerogative of the head of the judiciary. If the legislature refuses to provide a shield against impeachment, the head of the judiciary could compose a panel willing to provide the shield by declaring that the allegations were not sufficiently grave to warrant impeachment. Thus, a loyal legislature and or judiciary could provide a shield for or against impeachment.

provision of public good is dependent upon the mutual relationship between the two branches of government. If the legislature chooses to allow the policy options of the executive to be implemented without proper scrutiny, the public suffers. He argues that the Nigerian public ‘became critical of the presidential system because it is close to kleptomania. The presidential system [in Nigeria] breeds corrupt leaders’ (cf. Kumolu 2014).

Nigeria’s constitution recognises the prominent roles of the legislature. The realisation of the fundamental objectives of directive principles of state policy depends largely on the ability of the legislature to enhance the promotion of accountability. The political elite in Nigeria’s political system are aware of the impact of institutional failure on good governance. Sule Lamido, one of the former prominent state governors in Nigeria noted this recently, saying:

So, let us have institutions which are functioning... Clearly defined and when they are functioning you won’t talk about problems in Nigeria for the next one million years. Not Nigeria of today and when a country is not defined by institutions we will keep on remaining in one spot (cf. Aziken, 2013).

The political elite in Nigeria are aware of their roles and responsibilities within the structures of the presidential system. A legislator told me that the lawmakers are aware of their responsibilities and the extant constitutional provisions to facilitate the discharge of their duties.

Basically, the legislature as part of the government in presidential system is saddled with the responsibility of checkmating the excesses of the executive branch in order to promote good governance. The legislature can sanction the executive through the exercise of the power of impeachment. It makes laws for the smooth running of the government, it deliberates on the budget estimates of the spending of the government; without legislative appropriation government cannot spend money. These are the various ways the constitution designs the structure of the legislature to serve as an effective institution in the running of the government (Personal Interview I, May 3, 2014).

Nevertheless, they make use of the loopholes in the institutional arrangements to further their strategic interests¹⁴⁰. According to informants, ‘political immaturity, greed, selfishness, and a host of other problems’ (Personal Interview I, May 3, 2014) often causes legislators to abandon their constitutional assigned roles. Thus, the problem is not institutional failure but, rather, the incapacity of the political elite to perform the requisite functions and responsibilities within the rules in order to make the institutions function effectively.

¹⁴⁰The legislature does not have any independent course of action without a concurrent action by the executive in the area of policy-making. While lawmakers can pass resolutions and motions, they do not have the force of the law for execution, except in some specific cases such as approval of executive appointments. Besides this, state legislatures are not financially autonomous; they depend on the executive for their routine financial needs.

While institutional weaknesses serve the political elite, ordinary citizens suffer. Governor Lamido asserted that Nigerian political elites strategically weaken the institutions of the civil society through divide and rule tactics where one group is being played against others and thus take away the dignity of the public in order to perpetuate their interests. According to him, 'the common man [in Nigeria] loses nothing. What is he losing? He is already living in hell; he cannot lose anything more than this hell' (cf. Aziken, 2013).

Francis Fukuyama (2015, p.12) has noted that the disappointing performance of democracies, especially in the developing countries, has to do with 'a failure of institutionalization'. To him, most modern states lack the capacity to keep pace with the popular demands for democratic accountability. In the case of Nigeria's presidential system, this weakness arises from the inability of the political elites to adhere to the rule of law because of their lack of independent political base. Political elites tend to pursue intra and inter elite cohesion with a view to guaranteeing continuity in power (Kolstad and Wiig 2015; Schedler and Hoffmann 2015). Nevertheless, such convergence among the political elites, which Schedler and Hoffman (2015, p.3) describe as 'authoritarian elite cohesion' 'does not derive primarily from mutual trust between minority and majority factions, but from the capacity of rulers to enforce their demands of loyalty'. In other words, such levels of unity are 'not the fruit of elite cooperation, but of elite subordination' (Schedler and Hoffman 2015, p.3). Thus, a 'cohesive authoritarian elite is a loyal elite, respectful of and faithful to the commands of the supreme leadership' (Schedler and Hoffman 2015, p.3).

Fukuyama (2015, p.15) associates state capacity with sufficient human and material resources in order to cope with the 'array of complex services' that requires 'huge investments in human resources and in the material conditions that allow agents of the state to operate'. Though Fukuyama argues that state incapacity may not necessarily arise from corruption, in the case of Nigeria, the political elites incapacitate the state through corruption.

Nigeria has abundant human and material resources capable of improving the quality of life of the citizens. Rather than transform this capacity into positive policy outcomes, the Nigerian state, according to LeVan (2014, p.3) 'possesses many of the qualities associated with policy failure'. He notes that civilian dictatorships with a high foreign debt in the midst of a robust oil economy undermines growth and stifles public trust in the government. He argues that 'excessive increases in spending on local collective goods are a sign of patronage or misappropriation of these policy outputs with excludable benefits' (LeVan 2014, p.3). He

attributes this to the activities of the individual political elites, whom he describes as “veto players” in the structure of the public policy environment. These “veto players” are ‘rooted in institutions such as legislatures or military ruling councils, or they can emerge from alternative centres of power, manifest in military factions, cohesive political parties, or broad regional coalitions’ (LeVan 2014, p.3). The poor showing of the Nigerian political elites in the provision of public goods has earned them derision by the public, as noted by Governor Segun Mimiko of Ondo State. He said: ‘There is this demonic characterisation of politicians in Nigeria. Politicians are seen as vagabond, rogues and so on’ (cf. Atoyebi 2015).

Richard Sklar et al (2006, p.100) have remarked that, ‘the great game of politics in Nigeria is perilously rough and at times lawless’.

Decades of avaricious military rule have left the Nigerian political landscape dominated by powerful “godfathers” who sit atop vast patronage networks at the local, state, and federal levels. Political outcomes are primarily a function of titanic struggles among these magnates, who bargain among themselves—and at the expense of the impoverished greater public—within a political context of multiple ethno religious divisions (Sklar et al 2006, p. 101).

Nigerian political elites employ many different tactics to outsmart one another in a bid to exert control on state power (Omololu 2014). They are patrons, who usually recruit their clients into elective positions as proxy methods of access and influence to the largess of the state. If the clients fail, they recruit non-elites to disrupt government activities through clandestine political activities who become spoilers. For instance, the Niger Delta militancy and the Boko Haram insurgency in the South-South and the North Eastern part of Nigeria, respectively, have their root in the political divisions among the political elites (Fagbadebo and Akinola 2010; Adeniyi 2011; Omololu 2014). . The essence is to create influence over those in power. As will be seen in chapter five, late Alhaji Lamidi Adedibu in Oyo State, Chief Jide Offor and Chief Chris Mba of Anambra State, are the classic cases of godfathers who sought to manipulate the state to advance their interests (Omobowale & Olutayo 2007)¹⁴¹.

4.6 Summary

In this chapter I discussed the Nigerian political elite. Their desire to control power – sometimes at all costs – provides their rationale for their manipulation of constitutional rules.

¹⁴¹They actually sought to compel the governors to take orders from them before implementing any policy. When, for instance, when Chris Ngige refused to abide by this order, he was abducted and was forced to resign his position as the governor. This is the extent at which individuals could exert influence on formal institutions of government in the Nigerian presidential system.

This is the bedrock of the ineffectiveness of the institutional checks against impunity. I discuss how this trait manifested in a series of impeachment cases since 1999. I examined and analysed the operation of the presidential system within the scope of elite theory, structural functional analysis and the legislative role theory. I examined the concept of institutions and institutionalism and how these concepts relate to the operation of the presidential system. I discussed the theories within the context of the institutional framework and claim that the Nigerian political elites act strategically in the exercise of power to advance personal interests in the political system. Citing relevant cases of the activities of the Nigerian political elites in the legislature, I discovered, theoretically, that the exercise of the legislative power of impeachment in Nigeria is contrary to the norms in other presidential systems. A single theory is insufficient for a comprehensive analysis of the actions of the Nigerian political elite.

The central idea of contemporary representative democracy focuses on the theoretical assumption that the rulers and the people are bonded on the promise and benefits of good governance. While the rulers secure power through the electoral mandate of the people, the general expectation of the public is that leaders will be accountable within the structural framework of political institutions.

Political institutions are mere abstractions without the involvement of political actors, comprising the political elite and civil society. The activities of the political elite are predicated on the general expectations of the people whose mandate provides the requisite legitimate authority. In return, political elites are expected to exhibit behavioural that attracts popular approval, is legitimate and is in accordance with the principles of the rule of law and good governance.

Nicholas Allen and Sarah Birch (2012, p.89) note that contrary to public expectations, 'elected representatives engage in self-serving or otherwise morally questionable practices that violate popular norms of ethical behaviour'. In Nigeria, there is a disjuncture between these expectations of the public and the actual behaviours of the political elite in government. This is demonstrated in the politics of impeachment.

In the next chapter I provide an analysis of the practice of the legislative power of impeachment in selected states in Nigeria. I examine and analyse cases of impeachment and I examine the constitutional provisions relating to impeachment in the Nigerian presidential

system. I discuss and analyse the various constitutional breaches in the cases of impeachment and explore the judicial review of the actions of the legislature.

Chapter Five

Impeachment in Nigeria's Fourth Republic, 1999-2007: Analysis of Cases and Empirical Findings

5.1 Introduction

The military interregnum that followed the collapse of the Second Nigerian Republic in 1983 lingered until May 1999. Thus, for sixteen years, the Nigerian military, through a series of coups and counter coups, dominated the country's political space and decimated the democratic institutional structures. One of the implications of the December 31, 1983 military putsch was the inability of the presidential system of the Second Republic to consolidate democratically (Nwabueze 1985)¹⁴². Rather than progress towards the entrenchment of the political culture of democratic principles, the various transition programmes of the military in preparation for the country's return to civil rule further undermined the political system. The culture of exclusion from the political space, through divide and rule tactics, became rampant with a growing culture of impunity and disregard for the rule of law.

The application of the legislative oversight power of impeachment was one of the casualties of the military coups and subsequent military regimes in Nigeria. Following the impeachment of Governor Balarabe Musa, of the defunct Kaduna State, there were a series of cases awaiting judicial decisions on whether the constitutional provisions would be applied and the governors removed. The judiciary (especially the State High Courts and the Federal Court of Appeal) declined jurisdiction in adjudicating on impeachment cases.¹⁴³ As Nwabueze (1985) has noted, this development denied the political system of a judicial precedent on a fundamental aspect of the presidential system in Nigeria. There were no fundamental judicial pronouncements to define the intents of the constitution with regards to the process and

¹⁴²The presidential system was adopted as Nigeria's system of government in 1979 after thirteen years of military rule. The immediate post-independence First Republic was based on the British Westminster Parliamentary Model. The practice of presidential system, for the first time in the Second Republic, faced a series of problems because of the inexperience of the political elites (Ogunbadejo 1980). Nevertheless, the military intervention of December 3, 1983, was a setback to the growth and development of the features of the system because it denied the political elite the opportunity to adapt to the demanding nature and culture of a presidential system.

¹⁴³(*Musa v. Speaker, Kaduna State House of Assembly*, [1982] 3 NCLR 450; *Musa v. Hamza & Others*, [1982] 3 NCLR 439 (H.C); *Musa v. Hamza & Others*, [1982] 3 NCLR 229 (FCA).

procedure of impeachment. Hence the flagrant abuse of the legislative rules in the early part of the Fourth Republic.

This unresolved issue of how to exercise of the legislative oversight power of impeachment remained until the Fourth Republic and, by extension, the second Nigerian experience with a presidential system of democracy. Within the first eight years of Nigeria's return to a presidential democracy, 1999-2007, the country recorded a far greater number of impeachments of state governors and their deputies than previously¹⁴⁴. The governors of the following states - Anambra, Bayelsa, Ekiti, Oyo, and Plateau - were removed via impeachment processes by their respective state legislatures. Similarly, legislatures in Abia, Akwa Ibom, Cross River, Ekiti, Gombe, Jigawa, Katsina, Kebbi, Lagos, Osun¹⁴⁵, and Taraba States, removed their deputy governors¹⁴⁶. In all these cases, there were breaches of the procedures required by law and set out in the constitution to impeach these governors..

The themes of this chapter are divided into five sections. In the first, I present a brief discussion and analysis of the impeachment of the governors in the four selected states. I then discuss the constitutional provisions relating to the impeachment of state governors and their deputies. I explore the characteristics of the provisions and provide an analysis of the judicial review of the various cases. I interrogate the politics of the judicial shield that gave reprieve to the governors removed without complying with the extant rules set out in the constitution. In the next section, I provide an analysis of the meaning in the constitution as it applies to impeachment. Finally, I explore and analyse empirical data on the various infractions committed by the governors that ought to have been cause by the legislatures to remove them. Some of these infractions violate the constitutional provision regarding the conduct of elected governors while in office.

My claim in this chapter is that the exercise of the powers of impeachment by the legislature was not in keeping with the constitution. Though the governors that were impeached had

¹⁴⁴ During this period, 16 cases of impeachment were recorded in 15 out of the 36 states.

¹⁴⁵The Governor of the State had earlier escaped removal through impeachment because the House could not muster sufficient votes to direct the investigation of the allegations of gross misconduct contained in the notice.

¹⁴⁶The Deputy Governor of Abia State, Eyinaya Abaribe, survived the first two impeachment attempts but eventually resigned when the legislature commenced the third attempt. Similarly, the two Deputy Governors in Lagos States, Bucknor Akerele and Pedro, also tendered their resignation letters when the legislature commenced impeachment processes against them. Tukur Jikamshi of Katsina State, Abdullahi Argungu of Kebbi State, John Okpa of Cross River State, Garba Gadi of Gombe State and Shehu Kwatalo of Jigawa State lost their positions through impeachment when they fell out with their governors.

records of conduct that amounted to the violation of the constitution, the manner in which the processes were carried out demonstrates the use of impeachment as a political weapon. Judicial review of the cases supports my claims, as the governors of Oyo, Plateau and Anambra states were restored to power. This does not mean that they were innocent of the charges proffered against them, but rather that the legislature had failed to abide by the constitutional rules and procedures relating to impeachment.

My conclusion is that collaboration between the legislature and the executive would shield a governor against impeachment even if there was glaring evidence of infractions. Most of the governors removed, were done so by a minority faction of the legislature which enjoyed the support of the majority faction. The critical aspect of a valid impeachment procedure is the vote. The minority faction did not embark upon impeachment out of patriotism, but as a strategic move to please their benefactors in anticipation of political rewards that were to comprise of future appointments or re-election.

5.2 Impeachment of the governors in the selected states

In Oyo State, 18 members of the 32-member legislature loyal to a chieftain of the ruling Peoples' Democratic party (PDP), Alhaji Lamidi Adedibu, met in a hotel in Ibadan, the state capital, and commenced a process to remove the governor, Rasheed Ladoja. Prior to this development, there had been a crisis between the governor and his political sponsor, the late Alhaji Adedibu, who was a prominent leader of the PDP, the ruling party both in the state and at the federal level (Omobowale and Olutayo 2007; Oni 2013)¹⁴⁷. The crisis between the two was based on what the governor describes as the unreasonable demand of his godfather, a claim that Adedibu did not deny (Omobowale and Olutayo 2007; Oni 2013). According to the governor, his godfather wanted a percentage of the share of the financial allocation to the state to be remitted to him for his personal use (Aderemi 2005; Adegboyega 2006; Adeyemo 2007). Aside from this, the governor also claimed that his godfather wanted to nominate a sizeable number of members of his cabinet and political advisers.

¹⁴⁷ Late Alhaji Adedibu was a chieftain of the People's Democratic Party (PDP) in Oyo State whose political influence boosted the electoral victory of Ladoja and a sizeable number of members of the state legislature. There was a *godfather-godson* relationship between them. However, the 'revolt' of the *godson* against his *godfather* created an unstable political environment in the state that divided the members of the legislature into two factions - 18 members supported Adedibu while 14 supported Ladoja.

Since a sizeable number of the members of the legislature were elected because of the influence of Adedibu, the crisis between him and the former governor affected the unity among the legislators (Omobowale and Olutayo 2007). The Oyo State House of Assembly then became factionalised. The 14 members loyal to the former governor (including the speaker and the principal officers of the House) held the normal parliamentary meetings in the legislative chamber on December 13, 2005 (Votes and Proceedings, Oyo State House of Assembly, December 13, 2005). The 18 members loyal to the *godfather*, late Adedibu, (in their plan to remove the governor) were meeting outside the parliamentary complex at a hotel¹⁴⁸ and served the governor with a notice that contained allegations of gross misconduct. With the support of the federal government (whom provided security and logistics) the 18 members meeting externally to the parliamentary complex commenced with a process to remove the former governor through impeachment¹⁴⁹. With disregard for the stipulated constitutional requirements, the 18 lawmakers holding their meeting at the hotel eventually pronounced the removal of the governor on January 12, 2006¹⁵⁰.

The acceptance of this decision showed the extent of impunity in the Nigerian political system. It was evident that the 18 lawmakers, because they enjoyed the support of the federal government and the political party, embarked upon a course of action that promoted the outright abuse of the rule of law. This is an indication that the Nigerian political elite can go to extreme lengths in the circumvention of constitutional rules as long as they received the requisite backing of the federal government.

Similarly, in Plateau State, eight lawmakers of the 24-member House of Assembly, under the security provided by the Nigeria's Economic and Financial Crime Commission (EFCC), commenced a process to impeach the governor (Fagbadebo 2007; Lawan 2010). In 2004, the former governor was arrested and charged in court in London over allegations of money laundering (Global Witness 2010; Lawan 2010). But this is not the problem. Political elites within the ruling PDP in the state had been having a running battle with the governor over the

¹⁴⁸ The hotel, D'Rovans Hotel, was located at Ring Road area of Ibadan, the capital city of Oyo State.

¹⁴⁹ The leadership of the political party could not resolve the deepening crisis between Adedibu and Ladoja. The president, Olusegun Obasanjo and the leadership of the party were in support of Adedibu asking Ladoja to go and apologise to him. When he refused, the leadership sided with Adedibu.

¹⁵⁰ The constitution, as will be seen in the next section, stipulates that the votes required for the presentation of a notice containing allegations of gross misconduct is one third of the total members of the House of Assembly. The legislature requires two- third votes of all members to validly remove the governor. Oyo State House of Assembly was comprised of 32 members. One third of the members is 10.6, while two thirds is 21.3. Aside from this, a parliamentary sitting in a hotel is unconstitutional.

control of the machinery of the party, especially over the registration of members (Abdusalami 2005). This development provided the opportunity for the party to induce the EFCC to commence an investigation into the financial transactions of the state government. The agency arrested the Speaker of the House, Simon Lalong, his deputy, Usman Musa, and 11 other members of the legislature on charges of money laundering (Obateru 2006; Okanlawon 2006)¹⁵¹. While the EFCC sent the petition against the governor to the legislature, the leadership insisted that the House would conduct its own investigation to establish the veracity of the claims in the petition (The Nation 2007; Obineche 2006)¹⁵². A majority of the members of the House of Assembly remained loyal to the governor. Eventually, the EFCC was able to secure the support of eight members of the legislature to commence impeachment proceedings against the governor (with maximum security provided by the federal government). On November 13, 2006, six out of the eight legislators voted and pronounced the removal of the governor¹⁵³.

Like in the case of Oyo State, an intra-party crisis in the ruling PDP played a vital role in the determination of the legislators to commence an impeachment process against the governor of Plateau State. In Nigeria, a common feature of party politics is the bitter and acrimonious relationships that often exist among the leadership over the control of the party machinery. Influential party leaders, who have facilitated an electoral victory, (either through financial support, grassroots mobilization or fraud) desire to control the party in order to exert influence on the government for the dispensation of patronage. Since the political party is the only avenue through which to become elected into the government, such leaders would want to monopolise the control of the electoral processes within the party. This usually results in conflict with the governor who is regarded as the leader of the party in the state by virtue of his position as governor. Legislators elected with the support of the leadership of the party or a *godfather* would want to remain loyal to them, in order to be considered as candidates by them in future elections (Fagbadebo, Agunyai and Odeyemi 2014).

¹⁵¹ The arrest of the lawmakers was a ploy to induce them into negotiating their freedom on the promise that they would commence impeachment process against the governor.

¹⁵² While the legislature was deliberating on the petition, the EFCC was arresting its members and had frozen the state accounts. This development irked the legislators and sought judicial restraint against their arrest. Eventually, the committee investigating the petition exonerated the governor of all the allegations. As the crisis festered, the governor and 16 other legislators in the state defected to another political party, the Advanced Congress of Democrats (ACD).

¹⁵³ Constitutionally, the number required to successfully carry out a valid impeachment in a 24-member legislature is 16. The Plateau State House of Assembly had 24 members. One third of this number (8) is required to vote for the presentation of a notice of impeachment containing allegations of gross misconduct but it requires two third votes of all members (16) to vote on the investigation of the allegations.

Similar to the case of Plateau State is the circumstances that led to the impeachment of the governor of Bayelsa State. The former governor, late Diepreye Alamieyeseigha, was removed by splinter members of the legislature. The Bayelsa State House of Assembly had 24 members but 15 members commenced the impeachment process. The one third of the votes (8 members) requirement of to serve the governor with the allegations of gross misconduct was met but the two thirds majority vote required to proceed with the investigation was not. (Lawan2010). The former governor was arrested in London and charged on allegations of money laundering (Polgreen 2005; Lawan 2010). He was released on bail and jumped bail and absconded to Nigeria. Prior to this time, the EFCC had been on his trail over sundry allegations relating to corruption and the abuse of power. The EFCC was able to establish that the members of the legislature were reluctant to impeach the former governor because they benefited from the misappropriated funds of the state (Umanah 2005)¹⁵⁴. When the EFCC invited the lawmakers to Lagos for questioning, they were arrested and threatened with prosecution if they refused to commence the impeachment of the former governor. Eventually, 15 of the 24-member House agreed to commence impeachment procedures against the governor. The Speaker, Peremobowei Ebebi, while announcing that the legislature had served the governor with the notice of the allegations of gross misconduct pursuant to his removal said,

A governor who disguised himself as a woman to run away from justice in London should not be our governor. It is a slap on our collective dignity as a people and our sensibilities as a people (BBC News 23.11.2005).

On December 9, 2005, the lawmakers pronounced the removal of Diepreye Alamieyeseigha as the governor of Bayelsa State, though he claimed to be innocent of the money laundering charges (BBC News 25.11.2005).

The case of Anambra is different. On October 16, 2006, 18 out of a 30-member Anambra State House of Assembly passed a motion to serve the governor, Peter Obi, and his deputy, Mrs. Dame Virginia Etiaba, with charges of gross misconduct pursuant to their removal through an impeachment process (Votes and Proceedings, Anambra State House of Assembly, October 6, 2006; Ameh et al 2006). The House met at 5:00 am to deliberate on the report of the panel and subsequently voted to impeach the governor (Sahara Reporters,

¹⁵⁴ The EFCC used the same method to force a splinter group of the Plateau State House of Assembly to commence an impeachment process of the former governor, Joshua Dariye (Agoola and Tsa 2006; Onyemaizu 2006).

November 3, 2006). The governor and the majority members of the legislature are from different political parties¹⁵⁵. While the governor was elected on the platform of the All Progressive Grand Alliance (APGA), the majority of the members of the legislature were from the PDP (Lawan 2010; Oni 2013).

The members of the People's Democratic Party (PDP), the political party with the majority of members in the legislature, were uncomfortable with the divided government¹⁵⁶. The PDP was in control of the legislature while the rival APGA was in control of the executive. This is not strange to presidential system, although it is one of the developments that define Juan Linz (2010) "perils of presidentialism". The envisaged gridlock over policy issue in Linz conception differs from the pattern of behaviour of the Nigerian political elite. What divided government meant for the PDP was the loss of control over the chain of political patronage. This means that the PDP would have to negotiate with the governor for any largesse. The loss of the state to the rival APGA through election petition was a fall out of the crisis between the PDP governor, Chris Ngige and his godfather, Chris Uba (Ologbenla 2007; Ijediogor 2006). Chris Uba had disclosed how he fraudulently rigged the gubernatorial election of 2003 to ensure the electoral victory of his candidate, Chris Ngige. This confession provided evidence for the APGA candidate, Michael Obi, who had challenged Ngige's electoral victory at the election Petition Tribunal (Ologbenla 2007). The option left was either to harass the governor to defect to the PDP or get him and his deputy removed through a process of impeachment which would, in turn, pave the way for a by-election. The governor refused to leave his political party.

One could argue that legislature moved against the governor because of his decision not to defect to the PDP (Oni 2013). Nevertheless, the governor claimed that his major offence was

¹⁵⁵ The governor contested the election of 2003 on the platform of the All Progressive Grand Alliance (APGA) but lost to Dr. Chris Ngige of the People's Democratic Party (PDP). Displeased with the outcome of the election, he appealed against the victory of Ngige. After three years of legal battles, the judiciary nullified the election of Ngige and declared Obi as the validly elected governor of Anambra State.

¹⁵⁶ When the president, Olusegun Obasanjo visited the state in 2006, shortly after Peter Obi became the governor, he had jokingly asked the governor to shift his political base from the APGA to the PDP as a condition for retaining his position (Ijediogor, 2006). Indeed, the members of the legislature passed a motion on the day asking the president to release one of his aides, Dr. Andy Uba, to contest the gubernatorial election in the state in 2007 (Ameh et al 2006). Unfortunately, Obi was able to secure judicial reprieve to complete his term of four years starting from the date he was sworn-in as the governor. This judgment foreclosed the hope of another gubernatorial election that could have given the PDP victory.

that he did not award contracts to the political elite.¹⁵⁷ He opted to implement projects through the use of existing personnel. The governor said:

The reason why I was impeached was that they budgeted N298 million to repair my office but I spent N43.2 million to repair it and said I didn't follow due process. I went to court and came back. So, I told them "go and do this thing directly because the people don't have time. They want to see these things on the ground (cf. Daily Trust April 5, 2012).

Beyond this, there are indications that the governor refused to accede to the financial requests of the legislators to the tune of N60million (Votes and Proceedings, Anambra State House of Assembly, October 10, 2006; Saturday Punch 10/10/2006, p.11). There was an uproar following the motion to present the governor with the notice of allegations of gross misconduct. One member of the legislature, Mrs. Anthonia Tabansi-Okoye, lamented thus:

Oh, 18 million [naira], because of 18 million [naira], why do we always do this kind of thing in Anambra State? What will be the future of the people of this state? Oh, our children... This is a shame, endless shame (cf. Ameh et al 2006, p.2)¹⁵⁸.

The divided government in the state coupled with the desire of the leadership of the political party provided the impetus for the action of the legislators. Ironically, the National Secretary of the PDP, Chief Ojo Madueke, absolved the party and the president, Olusegun Obasanjo, from any complicity in the case (Ameh et al 2006). According to him, the legislators were exercising their 'constitutional right' 'without the knowledge of the Commander - in-Chief of the Armed forces' [President Olusegun Obasanjo] (Ameh et al, 2006, p.9). This defensive position was to stave off public criticisms on the complicity of Obasanjo's PDP federal government in the abuse of legislative process to remove state governors perceived to be antagonists of the party (Lawan 2010).

In all these cases, there are obvious breaches of the constitutional provisions which set out the process and the procedure for the removal of governors. In view of this, a judicial review process provided reprieve to the governors of Anambra, Oyo, and Plateau States (Fagbadebo 2007; 2010; Lawan 2010; Oni 2013)¹⁵⁹. For the first time, judicial pronouncements in the

¹⁵⁷ In Nigeria, contract awards are used to facilitate corruption; contract sums are usually inflated while contracted works that have been paid for are often abandoned. Political elites therefore see access to executive power as a means of ensuring the awarding of contracts to cronies and proxies.

¹⁵⁸ Personal interviews with some stakeholders in the crisis corroborate this assertion. Indeed, one of them told me that the initial plan of the legislators was to persuade the governor to allow them (legislators) to negotiate a path of collaboration where money would be made available to offset the usual gridlock often associated with divided government.

¹⁵⁹ In Ekiti State, the absurdity associated with the manner in which the legislature carried out the impeachment of the governor and his deputy at the same time, engendered the crisis that precipitated the declaration of a State of Emergency in the state.

course of adjudicating the cases relating to impeachment provided a far-reaching precedent in the interpretation of the provisions relating to the impeachment of governors and their deputies in Nigeria¹⁶⁰ (Alabi 2014). For instance, the Supreme Court recently quashed the impeachment of the Deputy Governor of Taraba State, Abubakar Danladi (Adesomoju 2014; Premium Times 2014). The deputy governor was removed from office in 2012 by the legislature in a circumstance that the court described as conspiratorial and against the procedures set out in the Constitution. Similarly, the panel set up to probe allegations of gross misconduct against the Governor of Nasarawa State, Tanko Al Makura, in preparation for his impeachment, could not prove the allegations against the governor. Subsequently, the impeachment bid failed in spite of the resistance of the legislature to the composition of the panel (Fabiya et al 2014).

These cases of impeachment illustrate the vulnerability of the Nigerian presidential system to manipulation and control. In view of this, society also lacks the capacity to enforce accountability. One feature common of these cases of impeachment is the prevalence of disunified elites seeking to control power in apolitical environment that is acrimonious.

5.3 The Constitutional provisions on, and judicial review of, impeachment proceedings in Nigeria's Fourth Republic

Section 188 of the Constitution of the Federal Republic, 1999 (as amended), relating to the removal of the Governor and /or Deputy Governor of a state in Nigeria's presidential system, provides an elaborate procedure. For the purposes of clarity, these provisions are reproduced hereunder:

- (1) The Governor or Deputy Governor of a State may be removed from office in accordance with the provisions of this section.
- (2) Whenever a notice of any allegation in writing signed by not less than one-third of the members of the House of Assembly-
 - (a) is presented to the speaker of the House of Assembly of the state;
 - (b) stating that the holder of such office is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified,
 the Speaker of the House of Assembly shall, within seven days of the receipt of the notice, cause a copy of the notice to be served on the holder of the office and on each member of the House of Assembly, and shall also cause any statement made in reply to the allegation by the holder of the office, to be served on each member of the House of Assembly.
- (3) Within fourteen days of the presentation of the notice to the Speaker of the House of Assembly (whether or not any statement was made by the holder of the office in reply

¹⁶⁰Indeed, these precedents have laid the foundation for subsequent adjudications in a series of cases during and after 2007.

- to the allegation contained in the notice), the House of Assembly shall resolve by motion, without any debate whether or not the allegation shall be investigated.
- (4) A motion of the House of Assembly that the allegation be investigated shall not be declared as having been passed unless is supported by the votes of not less than two-thirds majority of all the members of the House of Assembly.
 - (5) Within seven days of the passing of a motion under the foregoing provisions of this section, the Chief Judge shall at the request of the Speaker of the House of Assembly, appoint a Panel of seven persons who in his opinion are of unquestionable integrity, not being members of any public service, legislative house or political party, to investigate the allegation as provided in this section.
 - (6) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person or be represented before the Panel by a legal practitioner of his own choice.
 - (7) A Panel appointed under this section shall –
 - (a) have such powers and exercised its functions in accordance with such procedure as may be prescribed by the House of Assembly; and
 - (b) within three months of its appointment, reports its findings to the House of Assembly.
 - (8) Where the Panel reports to the House of Assembly that the allegation has not been proven, no further proceedings shall be taken in respect of the matter.
 - (9) Where the report of the Panel is that the allegation against the holder of the office has been proved, then within fourteen days of the receipt of the report, the House of Assembly shall consider the report, and if by a resolution of the House of Assembly supported by not less than two-thirds majority of all the members, the report of the Panel is adopted, then the holder of the office shall stand removed from office as from the date of the adoption of the report.
 - (10) No proceedings or determination of the Panel or of the House of Assembly or any matter relating to such proceedings or determination shall be entertained or questioned in any court.
 - (11) In this section –
 “gross misconduct” means a grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the House of Assembly to gross misconduct.

This section is a replication of section 170 of the 1979 Constitution, the first presidential constitution of Nigeria. However, a major and significant difference is the involvement of the Chief Judge of the State in the composition of the 7-person panel to investigate the allegation of misconduct against the officer concerned¹⁶¹. While the 1979 constitution made impeachment a wholly legislative affair, the 1999 constitution included a role for the Chief Judge of the state to set up the panel. The provision stipulated that the Chief Judge of the State, rather than the Speaker of the House of Assembly, would constitute the panel assumes that the panel would then be neutral. However, the involvement of the judiciary in the process limits the judicial role to a crucial aspect of the process: the composition of the members of

¹⁶¹Section 170 (5) of the 1979 Constitution states thus: Within 7 days of the passing of a motion under the foregoing provisions, the Speaker of the House of Assembly shall cause the allegation to be investigated by a Committee of 7 persons who in his opinion are of high integrity, not being members of any public service, legislative house or political party, and who shall have been nominated, with the approval of the House of Assembly, appointed by the Speaker of the House to conduct the investigation.

the panel. The outcome of the deliberations of the panel would determine the fate of the governor. Nevertheless, it does not portend a ‘judiciary-dominant’ model of impeachment as conceptualised by Naoko Kada (2003, pp.113- 136).

In the early stage of its application in the Fourth Republic, this constitutional provision has been central to a series of legal and political arguments because of a lack of judicial precedent and interpretations of its intent. The legal battles that have followed the abuse of the provision gave rise to judicial intervention to interpret the intent of the framers of the constitution. The Supreme Court of Nigeria delivered the first judgment on the case of impeachment on December 7, 2006. Justice Niki Tobi, who delivered the lead judgment, described it as ‘the first pronouncement on this fairly troublesome area of our law on the removal of Governors’.¹⁶²

The provision is specific and clear in terms of the procedure and requirements for a valid impeachment to take place. Yet, members of the legislature resorted to the violation of unambiguous procedures. Early judicial reviews of the cases, especially by the state high courts further exposed the vulnerability of the Nigerian judiciary to political manipulation. Judges in the state high courts declined that they had the jurisdiction to entertain the suits brought by the former governors impeached by a faction of the legislature¹⁶³.

5.2.1 The characteristic features of the impeachment provision: Requirements of membership and the authority of the speaker

An obvious aspect of the provision is its elaborate procedural and time-bound character. The Nigerian Supreme Court, through the judgment delivered by Justice Ikechi Francis Ogbuagu, notes that section 188 presents ‘clear and unambiguous provisions...regarding the removal of the Governor or the Deputy Governor from office’.¹⁶⁴ Besides this, it is not the intent of the framers of the constitution to make an impeachment process ‘just like any other business of the House of Assembly’ because ‘the impeachment of a serving Governor is a weighty

¹⁶²*Inakoju & 17 Ors vs Adeleke & 3 Ors* (2007) 1 S. C. (Pt 1), p 149). The judgment was a confirmation and further elaboration of the position taken by the Justices at the Court of Appeal. The appeal was a sequel to the Judgment by the High Court of Oyo State where Justice Ige declined jurisdiction and dismissed the originating summons seeking for adjudication on the violation of the procedure for the removal of Governor Ladoja.

¹⁶³*Inakoju & 17 Ors vs Adeleke & 3 Ors* (2007) 1 S. C. (Pt 1)

¹⁶⁴*See Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another*, [2007] 8 NWLR, pp.424-426

matter'.¹⁶⁵ Thus, the elaborate provision makes the impeachment process a unique legislative action different from the other routine legislative processes.

Section 188 (2) stipulates the presentation of a notice of allegation signed by not less than one-third of the members of the House of Assembly and presented to the Speaker to be serviced on the officeholder concerned. This foundational step defines the proceedings. For one, it takes only one-third of the members to present the allegation of gross misconduct necessitating the removal of the governor. However, the provision stipulates a two-thirds majority vote of members of the legislature to result in an investigation of the allegation and to approve the report of the panel as stipulated in section 188 (4 and 9) respectively. Anything short of this specifically renders the process null and void.¹⁶⁶ The Court of Appeal interpreted this numerical percentage of votes along with the provisions stipulating the requirements of electoral votes for the election of a Governor of a state.¹⁶⁷ The Court interprets this to mean that the removal from office of the governor

will require the same reverse procedure. This is left in the hand of the State Assembly by the framers of the Constitution the obvious reason being the representation of the electorate as the House of Assembly members are representatives of their constituencies, i.e. the local governments of the State.¹⁶⁸

This interpretation arose from the case in respect of the removal of Dr. Joshua Chibi Dariye, the governor of Plateau State in December 2006 by six members of a 24-member House of Assembly. The Court elaborates this interpretation further:

The impeachment of a Governor is serious business and must not be reduced to child's play. Just as a person needs to receive the approval of the majority of people within the State to be elected Governor, his removal from office ought to be by a majority of the electorate in the State through their representatives in the State House of Assembly. This explains the requirements of the concurrence of two-thirds of the members of the State House of Assembly; otherwise a tiny cabal can gang up to remove an otherwise popular Governor. This could bring about political instability leading to breakdown of law and order which may ultimately result in anarchy.¹⁶⁹

Aside from this specific requirement on membership for valid votes, the framers of the constitution do not contemplate that the Speaker of the House of Assembly should be one of

¹⁶⁵*Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR, pp.303 &424

¹⁶⁶See *Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR, pp. 303-304

¹⁶⁷ Section 179 (1b) of the Constitution stipulates that for a Governor to be validly elected, he must have 'not less than one quarter of the votes cast at the election in each of at least two-thirds of all the local government areas in the state'.

¹⁶⁸See *Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR, pp. 307

¹⁶⁹*Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR, pp. 329

the signatories to the notice. The Court of Appeal, in the judgment delivered by Justice Zainab Adamu Bulkachuwa, said: ‘The one-third of the members required to sign the notice of impeachment does not include the Speaker as envisaged by section 188(2)’.¹⁷⁰ Thus, the Court of Appeal held that it is anomalous for any Speaker to be one of the signatories and thus party to the impeachment. Not all Speakers in states where governors were impeached complied with this. One of them told me that as a lawyer, he knows the limit of his power as the presiding officer of the legislature in the impeachment process. According to him, in commencing the impeachment process, ‘myself as the presiding officer, has little role to play because the presentation of the notice of impeachment would not be signed by the Speaker; it will only be handed over to him’ (Personal Interview VI, May 13, 2014).

In view of this, anyone who occupies the position for the purpose of impeachment should be a person ‘duly elected’¹⁷¹ from among the members as stipulated by section 92 of the Constitution¹⁷². This interpretation arose from the case in Plateau State where a Speaker *Protempore*, Hon. Michael Dapialong,¹⁷³ presided over the impeachment of the Governor, Chief Joshua Chibi Dariye. The Court of Appeal, in the judgment delivered by Justice Adamu Bulkachuwa, held that the provision in section 188 of the Constitution

is not referring to a *Speaker protempore* but to the duly elected Speaker of the House. If the framers of the Constitution have contemplated a situation where a ‘*Speaker Protempore*’ would make the request for the investigation to the Chief Judge they would have clearly stated so.¹⁷⁴

In *Inakoju & 17 Ors v Adeleke & 3 Ors*, the Supreme Court held: ‘Section 188 does not only mention the Speaker and the members of the House of Assembly, but also gives them

¹⁷⁰See *Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR, pp. 303. One of the numerous reasons for the nullification of the impeachment of Governor Joshua Dariye is that the *Speaker Protempore*, apart from being a stranger to the Constitution, was one of the signatories to the notice of allegation purportedly served on the Governor.

¹⁷¹See *Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR, p. 303

¹⁷²Section 92(1&2c) states that the Speaker and the Deputy Speaker shall be elected by the members of the House of from among themselves” and their removal shall be by ‘the votes not less than two-thirds majority of the members of the House’.

¹⁷³*Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR Dapialong was chosen as the *Speaker Protempore* following the decision to commence the impeachment of the Governor since the substantive Speaker and his deputy were not willing to commence the proceedings. Section 95 of the Constitution empowers the Speaker (or his deputy in his absence) to preside at any sitting of the House. Section 188 specifically gives the Speaker a prominent role to play in the matter of impeachment of a Governor or a Deputy Governor. In view of this, the 8 members of the Plateau State House of Assembly who commenced the impeachment hurriedly amended section 8 of the House Rule. The amended section reads: In the absence of the Speaker and Deputy Speaker, such member of the House as the House may elect for that purpose shall preside. Such shall be known as “*Speaker protempore*”.

¹⁷⁴See *Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR, p. 303

functions to perform in the removal processes'.¹⁷⁵ Thus, a *Speaker protempore* is not 'the appropriate authority known to the Constitution' to request the Chief Judge to constitute the panel to investigate the allegations¹⁷⁶ or preside over a weighty matter as the impeachment of a Governor.

Beyond the presiding officer, there are rules about the number of legislators required to remove a governor or the deputy. One-thirds of all the members of the House will have to sign the notice of allegation for presentation to the Speaker while the subsequent voting exercise requires a two-thirds majority vote of all members of the legislature. In Oyo and Plateau States, the number of legislators who participated in the removal of Governors Ladoja and Dariye, respectively, fell short of the constitutional requirements. In Oyo State, 18 out of the 32-member House of Assembly began and concluded the removal of the Governor.

This interpretation essentially extols the representative role of the legislature as the custodian of the sovereign power of the people. Thus, it is envisaged that the legislators would have considered the legislative action of removing a Governor or a Deputy Governor as representing the overall interests of the people rather than a fractional part of the political elite. This therefore requires that lawmakers, as true representatives of the people and key political elites in Nigeria's presidential system, must act in a responsible and civilized manner (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).¹⁷⁷

5.2.2 Service of the notice of allegations containing articles of impeachment

Section 188 (2b) mandates the Speaker to serve the notice of allegation on the holder of the office. One contentious issue regarding this is the interpretation of service. The provision does not specify how the notice should be served. Most of the legislatures erred in this. Some did the service through newspapers while others served by pasting the notice at the entrance of the Governors lodge and office. Why should it be so difficult to serve a notice? The governor may evade the notice personally by using security personnel as a barrier and instructing them to refuse any documents coming from the legislature during the impeachment period. Though there are established channels of communication between the

¹⁷⁵ *Inakoju & 17 ORS v. Adeleke & 3 ORS* (2007) 1 S. C., (Pt 1), p 89

¹⁷⁶ *Hon. Michael Dapialong and others v. Chief (Dr.) Joshua Chibi Dariye and another* [2007] 8 NWLR, p.330

¹⁷⁷ *Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (pt I), p184

legislature and the executive, a governor can try to evade the process by evading the notice to be served on him or her.

A Speaker who presided over a botched impeachment case in the legislature told me how he managed the question of serving the notice to ensure the procedure was followed. He said,

Immediately the notice of impeachment was submitted to me as the presiding officer, the next step for me was to serve the notice on the person against whom it was directed...As a legal practitioner; what came to mind was what would be the means of serving the notice. The Constitution did not state that the service has to be personal. But in my own case as a legal practitioner, I know we must ensure that the service is actually received by the governor. So we sent a copy of the notice through the Clerk of the House to be delivered to the Governor. We also served another notice through a Courier Company, because it is also a recognised means of service under the law (Personal Interview VI, May 13, 2014).

In the case of Oyo State, the 18 lawmakers who participated in the impeachment of Governor Ladoja failed to comply with the constitutional requirement demanding the presentation of the notice to the Speaker who has the constitutional responsibility of serving same on the members and the holder of the office.¹⁷⁸ Indeed, the Court of Appeal, in the case of the removal of Governor Peter Obi of Anambra state, further established the primacy of service insisting that service of the notice of allegations of gross misconduct has to be served personally on the governor (*Hon. Mike Balonwu & 5 others v. Mr. Peter Obi & another*)¹⁷⁹. The court declared that

by virtue of Section 188(2) of the 1999 Constitution of the Federal Republic of Nigeria, the Plaintiff was entitled to be personally served with a notice of any allegation of Gross Misconduct against him within 7 days of the 1st Defendant's receipt of the Notice of allegation dated 16th October 2006 (*Hon. Mike Balonwu & 5 others v. Mr. Peter Obi & another*)¹⁸⁰.

Not only was the notice not properly served on the Governor, but members of the House of Assembly who did not belong to the group of 18 lawmakers also did not have access to the notice of allegations as required by the law. Mr. Ben Chuks-Nwosu, a member of the House had protested on the day the motion was moved to serve the governor with the notice thus:

This procedure is entirely faulty and never done in the history of modern day democracy. The allegations were not read to us, we don't even know what you people are talking about we were not served the copies of this motion as is the usual practice to know the contents (cf. Ameh et al, 2006, p.2).

The Speaker of the Anambra State House of Assembly, Mike Balonwu, had insisted, in a media interview that

¹⁷⁸*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt.1), p 138

¹⁷⁹*Hon. Mike Balonwu & 5 others v. Mr. Peter Obi & another* (2007) 5 NWLR (Pt.1028) 488 C.A

¹⁸⁰*Hon. Mike Balonwu & 5 others v. Mr. Peter Obi & another* (2007) 5 NWLR (Pt.1028) 488 C.A

[w]e have served his [Governor Obi] people [government officials] both in Anambra, Lagos and Abuja offices, we served the SSG [Secretary to the State Government]. He has received it, but he told all his staff not to sign for the notice when they receive it. You see, he knows what the law says about getting notices of impeachment. Let him keep denying it, when the time comes we will take the necessary step (cf. Sowore, 2006).

But the Court declared that this method of service, as ‘an act of bad faith’, violates the constitutional requirement of service envisaged by the framers of the constitution (*Hon. Mike Balonwu & 5 others v. Mr. Peter Obi & another*)¹⁸¹. As such, for the lawmakers to have proceeded in pronouncing the removal of the governor amounted to what the Court described as the highest order of legislative rascality (*Hon. Mike Balonwu & 5 others v. Mr. Peter Obi & another*)¹⁸². Thus, any impeachment without due service of the notice on the actors involved remains invalid.

5.2.3 Gross Misconduct

Section 188 (2b) of the Constitution stipulates that the notice of allegations against the Governor or his Deputy (that could warrant removal) has to indicate the alleged gross misconduct in the performance of the function assigned to his or her office. Section 188 (11) defines gross misconduct as ‘a grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the House of Assembly to gross misconduct’. The Supreme Court, in its judgment read by Justice Dahiru Musdapher, describes this constitutional definition as ‘nebulous, fluid and subject to potentially gross abuse and is also potentially dangerous at this point of our national or political life’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).¹⁸³ All the political elites interviewed admitted that this provision gives the lawmakers the free hand to determine the fate of governors and deputy governors at will. The subjective definition of gross misconduct enables the lawmakers to raise any issue. Thus, it provides the legislature with a weapon to negotiate as long as there is a majority of members willing to invoke the provision to remove the governor or his deputy.

Albert (2009, p.545), in his comment on the constitutional provision for impeachment in America, argues that ‘[i]f the purpose of separating powers was to ensure that each branch

¹⁸¹ *Hon. Mike Balonwu & 5 others v. Mr. Peter Obi & another* (2007) 5 NWLR (Pt.1028) 488 C.A

¹⁸² *Hon. Mike Balonwu & 5 others v. Mr. Peter Obi & another* (2007) 5 NWLR (Pt.1028) 488 C.A

¹⁸³ *Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p.183

could exercise its functions independently of, and without intrusion from, the other branches, then the impeachment power appears to put this in peril'. He notes

the congressional prerogative to render a permissive interpretation of "high crimes and misdemeanors" undermines the independence of the President and other executive members because it gives expansive authority to control executive action to the impeaching House and the convicting Senate (Albert 2009, p.545).

By virtue of the constitutional provisions, 'impeachment is a judicial function, in which case the legislature exercises judicial powers in derogation from the conventional wisdom that presidential systems separate powers' (Albert 2009, p.546). At the same time, it is a legislative function where the legislature invites the judiciary to participate. This latter expression is similar to the Nigerian situation whereby the definition of the reason for impeachment is the domain of the legislature.

For instance, in *Akintola v. Adegbenro*¹⁸⁴, the Privy Council relied on the literal interpretation of the phrase 'as it appears to him' in section 33 (10) of the Constitution of the defunct Western Nigeria, in holding that the governor was right in removing the Premier. The provision states that the governor could remove the premier when it 'appeared to him' that the Premier no longer commanded the respect and support of the majority of the members of the regional House of Assembly. Such discretion to determine what amounts to gross misconduct may be abused, especially in cases where a majority of the legislators belong to an opposition party, as it happened in the impeachment of the governors of Kaduna and Anambra States, Alhaji Balarabe Musa and Peter Obi, respectively (Lawan, 2010; Nwabueze 1985).

Professor Ben Nwabueze (1985), a renowned Nigerian legal scholar, in his analysis of the impeachment issue in the country's Second Republic, avers that this political definition amounts to misconception of the original meaning of gross misconduct. According to him, the constitutional definition of gross misconduct does not give the legislature the discretion of deciding what constitutes misconduct (Nwabueze 1985). He says that 'misconduct in the performance of the function of an office has a definite, objective legal meaning which is not dependent on, or controlled by, the subjective opinion' of the legislature (Nwabueze 1985, p 280). Thus, 'the Constitution grants it [legislature] no power to regard as a misconduct what is not a misconduct according to the legal definition of the term' (Nwabueze 1985, p. 280).

¹⁸⁴*Akintola v. Adegbenro* 1 All NLR 1962: 461

A Deputy Governor, who was a victim of impeachment proceeding, told me in that ‘the problem with this law [section 188] is the definition of an act that amounts to gross misconduct’ (Personal Interview IV, November 5, 2013). According to him,

The law, the Nigerian Constitution is ambiguous in the sense that there is nothing provided that you will have to do before you are impeached. It simply stated in the law that if in the opinion of the House of Assembly, you have committed an offence (Personal Interview IV, May 11, 2014).

A former Speaker corroborated this assertion in an interview that although the initiative to remove the governor or his deputy comes from the legislature, ‘the grounds are not based on actual facts, I must tell you that...They are grounds based on what I just told you about: the selfish nature of the members of the legislature’ (Personal Interview III, May 10, 2014). Thus the legislators are aware that the grounds upon which they seek to remove the governor is not based upon any infractions. He explained further,

We had spoken to the governor on telephone and we wanted the deputy governor to do something... We learnt that the Deputy Governor was against our proposal saying that we were thieves, he regarded us as thieves. Based on this, one of the members was infuriated and some others joined him and forced the House to call for a parliamentary meeting. When this kind of decision is to be taken, members will move to parliamentary meeting. At the meeting, tempers were high, emotions were very high, and all members were looking for a way just to harass or in fact impeach the Deputy Governor (Personal Interview III, May 10, 2014).

This means that even if there *is* evidence of infraction, as long as the governor satisfies the demands of the lawmakers, he or she would be protected by them against impeachment.

Deputy Governors that are in conflict are vulnerable to removal by the subjective definition of gross misconduct. Constitutionally, the deputy governor does not have the specific responsibility to perform functions other than the ones assigned to him or her by the governor. Section 193 of the Constitution of the Federal Republic of Nigeria, 1999, as amended, states:

- (1) The Governor of a State may, in his discretion, assign to the Deputy Governor or any Commissioner of the Government of the State responsibility for any business of the Government of that State, including the administration of any department of Government.
- (2) The Governor of a State shall hold regular meetings with the Deputy Governor and all Commissioners of the Government of the State for the purposes of -
 - (a) determining the general direction of the policies of the Government of the State;
 - (b) co-ordinating the activities of the Governor, the Deputy Governor and the Commissioners of the Government of the State in the discharge of their executive responsibilities; and
 - (c) advising the Governor generally in the discharge of his executive functions, other than those functions with respect to which he is required by this Constitution to seek the advice or act on the recommendation of any other person or body (Constitution of the Federal Republic of Nigeria, 1999, as amended).

By implication, a governor might decide not to assign any responsibility to his deputy but prefer to work with the commissioners in directing the affairs of the state. This means that deputy governors do not directly exercise the power. If so, for what reasons have a sizeable number of deputy governors suffered from the political instrumentality associated with the politics of impeachment? The truth of the matter is that most of the deputy governors were imposed on the governors by their respective political parties or powerful political elites within the party. When many of the deputy-governors were offered their position, they still hoped to become governor in the future. Sometimes during the re-election campaigns the governors have sought to undermine the popularity and acceptability of their deputies in a bid to frustrate their gubernatorial ambition. Thus their career aspirations create a clash and a crisis of confidence between them. Most of the deputy governors that were impeached by the legislature had become victims of a lack of trust by their governors, governors that sought re-election and were concerned about the competition with their deputies for the governorship.

Most often, the removal of a deputy governor is less difficult than removing a governor because the governor controls the executive power and thus the distribution of political patronage. A speaker who spoke to me confirmed that the reason for the removal of the deputy governor in his state was fallout between the governor and his deputy rather than specific breaches of the constitution by the deputy (Personal Interview VI, May 13, 2014). This type of intra-executive conflict leads to a divided-executive: a situation where an acrimonious relationship between the governor and the deputy further degenerates to divisions within the party. If the majority of legislators support the governor, the deputy will try to remove them. If he was to succeed, the capacity of the legislature to remove the deputy governor would be weakened¹⁸⁵. This is a common feature in the Nigerian presidential system. A deputy governor also told me that he suffered direct consequences at the hands of the governor, as a result of trying to prevent corruption.

They made false allegations against me. When I stepped up and defended myself and exposed the government, all they were after was to throw me out. And since there was monetary inducement in the process, it was easier for some people (legislators) to work against their conscience. It happened in almost all the cases of impeachment (Personal Interview IV, May 11, 2014).

¹⁸⁵ This particular deputy governor originally showed his intention to contest the position of governorship but the leadership of the party prevailed on him to accept the position of deputy. Indeed, the crisis between the deputy and his governor commenced shortly after the assumption of office when his deputy began to mobilise support for his own ambitions of becoming governor.

The Supreme Court admitted that though section 188(11) ‘is generic and vague in its wording [but] cannot be extended beyond its onerously generic and vague nature to include misconduct which are not gross’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*)¹⁸⁶. Evidently, the Nigeria Supreme Court relied on the scholarly position of Professor Nwabueze to arrive at the interpretation of section 188 (11) of the Constitution. The Court held that ‘the allegation under section 188 is that the officer is alleged to have conducted himself in a perverse and delinquent manner amounting to gross misconduct’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*)¹⁸⁷. The Court, through Justice Niki Tobi, held that ‘only a grave violation of the Constitution can lead to the removal of a Governor or Deputy Governor’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*)¹⁸⁸. Such violations include, among others, the abuse of the fiscal provisions of the Constitution, interference with the Constitutional functions of the legislature, corruption, disregard for and breach of the constitution, abuse of office, and subversive conduct inimical to the implementation of the constitution.

It is not a lawful or legitimate exercise of the constitutional function of section 188 for a House of Assembly to remove a Governor or Deputy Governor to achieve political purpose or one of organized vendetta clearly outside gross misconduct under the section...Section 188 is a very strong political weapon at the disposal of the House which must be used in appropriate cases of serious wrong doing on the part of Governor or Deputy Governor, which is tantamount to gross misconduct within the meaning of subsection 11 (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).¹⁸⁹

Section 188(11) ‘is not however a license for the Legislature to open a Pandora’s Box of vendetta and rake up misconducts that are not gross’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*)¹⁹⁰. Thus, ‘for articles of impeachment to be relevant, the misconduct must be gross, gross here means glaringly noticeable, because of obvious inexcusable badness, or objectionableness (sic) or a conduct in breach of the Constitution’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).¹⁹¹ The pronouncement of the judiciary indicates that the loose definition of gross misconduct by the political elite is contrary to what is intended by the Constitution. This lacuna actually made impeachment a political weapon that could easily be invoked by the legislature against any governor for any reason.

¹⁸⁶*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p135

¹⁸⁷*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p182

¹⁸⁸*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p64

¹⁸⁹*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (pt I), pp66-67

¹⁹⁰*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (pt I), p135

¹⁹¹*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (pt I), p183

5.2.4 The Ouster Clause

Section 188 (10) of the constitution can be interpreted as an ouster clause, that precludes judicial intervention in the process. . The clause states: ‘No proceedings or determination of the Panel or of the House of Assembly or any matter relating to such proceedings or determination shall be entertained or questioned in any court’.¹⁹² Literally, this clause prevents judicial intervention in an impeachment case. Indeed, early judicial pronouncements on impeachment cases construed this provision as an exclusionary clause (Alabi 2014).

In the Second Republic, the courts at the state and federal levels declined to consider impeachment cases because of two main factors. First, that impeachment is an exclusive legislative mandate because section 170(10) excluded judicial intervention. And, in the spirit and principle of the separation of powers, it would violate the principle of non-interference by the three arms of government. Justice Adolphus Karibi-Whyte of the Federal Court of Appeal¹⁹³ held in his judgment in *Musa v Hamza & Ors* that the ‘very essence of the separation of powers’ is the avoidance of inter-branch conflict.¹⁹⁴ In his view, section 170 of the 1979 Constitution insulates the legislature from the control of the courts in all cases relating to impeachment.

That the Constitution has vested the power to remove the Governor or Deputy Governor in the State House of Assembly is not questioned... I am satisfied that the moment the legislature commenced removal proceedings und Section 170 (2), the jurisdiction of the court was ousted by Section 170 (10)... Where the constitution has not vested in the courts any supervisory jurisdiction the court will be acting contrary to the spirit of the constitution if it went on any inquiry into the manner parliament had performed the functions assigned to it by the constitution.¹⁹⁵

Nwabueze (1985, p.342) regards this interpretation as ‘an incredible and startling conception of the court’s role in constitutional adjudication’. He argues that the exercise of governmental power ‘attracts the sanction of judicial review’ and that the court derives this power from its original jurisdiction (Nwabueze 1985, p.342).

¹⁹²The same clause is in section 170(10) of the 1979 Constitution

¹⁹³He was later promoted as one of the Justices of the Supreme Court from which he eventually retired.

¹⁹⁴*Musa v. Hamza & Others*, [1982] 3 NCLR 229, p.251

¹⁹⁵*Musa v. Hamza & Others*, [1982] 3 NCLR 229, p.257

The second consideration is the political question doctrine. Justice Adenekan Ademola of the Court of Appeal interpreted impeachment as a political matter, the jurisdiction of which is above the court.¹⁹⁶

It is a political matter... for the court to enter into the political thicket as the invitation made to it dearly implies would in my view be asking its gates and its walls to be painted with mud; and the throne of justice from where its judgment are delivered published with mire.¹⁹⁷

Basically, the political question doctrine is a common principle in the American political system which intends to insulate the judiciary from adjudicating on issues which are political. Justice Frankfurter, of the US Supreme Court, the proponent of this doctrine, did advocate for judicial self-restraint and ‘abstention from injecting itself into the clash of political forces in political settlements’.¹⁹⁸ John E. Finn (2006 p.55) defines it thus:

The political question doctrine holds that some questions, in their nature, are fundamentally political, and not legal, and if a question is fundamentally political...then the court will refuse to hear that case. It will claim that it doesn’t have jurisdiction. And it will leave that question to some other aspect of the political process to settle it.

Thus, the court is at liberty to exercise its discretion to decline adjudication on issues considered to be associated with political decisions. Nigerian courts held onto this doctrine in declining involvement in impeachment cases in the Second Republic. Even in the early part of the Fourth Republic, Justice Ige of the High Court of Oyo State, Ibadan, in his judgment in the case over the impeachment of Governor Rashidi Ladoja of Oyo State, held:

When the House of Assembly is exercising its Constitutional power in relation to impeachment proceedings or any matter relating thereto, it is performing a quasi-judicial function. Thus, it is provided in sub-section 11 of Section 188 of the 1999 Constitution that the power to determine what constitutes gross misconduct or conduct that will lead to impeachment proceedings lies with the House of Assembly and not in the court. By the combined effect of the above provisions therefore and having regards to the nature of the reliefs claimed by the plaintiffs, it is clear beyond argument that the jurisdiction of this court is clearly ousted. Impeachment and related proceedings are purely political matters over which this court cannot intervene. The action is not justifiable. It is not part of the duty of the court to forage into areas that ought to vest either directly or impliedly in the legislature such as the issue of impeachment which is a matter that comes within the purely internal affairs of the House of Assembly. The court will therefore decline jurisdiction in the matter.¹⁹⁹

Nevertheless, the Court of Appeal and Supreme Court set aside this ruling because the trial judge ‘was in serious error’ on judicial self-restraint in impeachment matters (*Inakoju & 17 Ors v. Adeleke & 3 Ors.*)²⁰⁰ Justice Niki Tobi in his lead judgment in *Inakoju & 17 Ors v.*

¹⁹⁶*Musa v Hamza & Others*, [1982] 3 NCLR 229.

¹⁹⁷*Musa v Hamza & Others*, [1982] 3 NCLR 229, pp 246-247

¹⁹⁸*Baker v. Carr*, 369 US 186, pp.267-270 (1962)

¹⁹⁹*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt I), p. 22

²⁰⁰*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (Pt I), p.46

Adeleke & 3 Ors at the Supreme Court debunked the applicability of the doctrine of political question in Nigeria.

America jurisprudence has so much developed the political question doctrine in their case law, so much so that it has taken very firm root in their legal system. The political question doctrine is still in its embryonic stage in Nigeria. Let us not push it too hard to avoid the possibility of still-birth. That will be bad both for Nigerian litigants and the legal system (*Inakoju & 17 Ors v. Adeleke & 3 Ors.*).²⁰¹

These previous considerations were consequences of the ouster clause in the impeachment provisions of the 1979 and 1999 Constitutions. The Supreme Court held that the initial interpretation of the clause is fraught with errors arguing that it is wrong for the judiciary to ‘gallivant about or around what the makers of the Constitution do not say or intend’ in its bid to interpret its specific provisions.²⁰²

The Court of Appeal, vide Justice James Ogenyi Ogebe, held earlier that when considering any case that ousts judicial review, it is mandatory that the condition precedent is strictly followed (*Adeleke & 2 Ors v. Oyo State House of Assembly & 18 Ors.*)²⁰³. To this end, the Court has the jurisdiction to intervene if the impeachment proceedings were instituted in contravention of the provisions of the Constitution. The Supreme Court hinges its interpretation of the ouster clause of section 188 of the Constitution on the submission of the Court of Appeal. The Court held:

It is good law that where the Constitution or a statute provides for a precondition to the attainment of a particular situation, the pre-condition must be fulfilled or satisfied before the particular situation will be said to have been attained or reached (*Inakoju & 17 Ors v. Adeleke & 3 Ors.*)²⁰⁴

The Court further held that if ‘a law provides for the doing of an act with conditions, it is an elementary principle of practice that the courts have a duty to look into the matter to ensure that the conditions are fulfilled’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors.*)²⁰⁵ The Supreme Court described the ouster clause as ‘a very hard matter of strict law which must be clearly donated by the provisions’ rather than ‘a subject of speculation or conjecture’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors.*)²⁰⁶ Consequently, the Court defined the ouster clause in section 188(10) within the context of two expressions: procedure and proceedings. According to Justice Niki

²⁰¹*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt I), p. 75

²⁰²*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt I), p. 79

²⁰³*Adeleke & 2 Ors v. Oyo State House of Assembly & 18 Ors* [2006] 16 NWLR Part 1006, pp. 671-672

²⁰⁴*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt I), p. 70

²⁰⁵*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt I), p. 171

²⁰⁶*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt I), p. 80

Tobi in his lead judgment, section 188(1-6) denotes the procedure for impeachment while section 188(7-9) denotes the proceedings.

In my humble view, section 188(1) to (6) sets out the procedure to be adopted in the removal process. The proceedings start from section 188(7) and ends in section 188(9)...section 188(10) ouster clause is clearly on proceedings or determination of the Panel or the House, it does not relate to or affect the procedure spelt out in section 188(1-6) (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²⁰⁷

In view of this, a valid removal of a governor requires compliance with all the requisite preconditions set out in the procedure. Thus, the ouster clause in section 188(10) does not provide the legislature with absolute power to remove a Governor or Deputy Governor without strict compliance with the procedural requirements spelt out in the constitution. It is erroneous, therefore, to assert that the legislature ‘is the sole and only tribunal in matters of impeachment and that the decision of the legislature is always final’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²⁰⁸ Having explored interpretations of the constitutional provisions on impeachment, I turn to an analysis of the politics associated with the exercise of judicial review in impeachment proceedings in the State High Court.

5.4 The politics of judicial shield in impeachment cases in Nigeria

There are a number of shields for and against impeachment in the Nigerian political system: the legislature, the political parties, political elites, and the judiciary²⁰⁹. Perez-Linan (2007, 2014), Hochstetler (2006), and Marsteintredet et al (2013) (as discussed in chapter two) identified a series of institutional shields available to either ward off impeachment or hasten its application in Latin America. These scholars however do not place much premium on the judiciary as a potent shield because the constitutions of Latin American presidential systems do not assign a crucial role for the judiciary as provided in the Nigerian impeachment provisions. In Nigeria, the involvement of the Chief Justice of Nigeria (CJN) and Chief Judge (CJ) of the State in impeachment processes has meant that the judiciary is of paramount importance.²¹⁰ Aside from this, in case of any adjudication arising from the process, the judiciary, as the custodian of the Constitution, interprets the requisite statutes. Such

²⁰⁷*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt I), pp. 78-79

²⁰⁸*Inakoju & 17 Ors v. Adeleke & 3 Ors*, (2007) 1 S. C. (pt I), p. 186

²⁰⁹Perez-Linan, Hochstetler and Marsteintredet et al. identify mass protest, social movements and the media as potent shields in Latin America. As will be seen later in this study, these shields rarely matter in Nigeria.

²¹⁰ The Constitution empowers the CJN, in cases of impeachment of the President or Vice President, and the CJ, in case of the impeachment of the Governor or the Deputy Governor, to compose the panel to investigate the allegation of gross misconduct levelled against them.

interpretation, as noted in the preceding section, has provided a shield for governors removed by the legislatures.

By the virtue of section 188(5) of the Constitution, the Chief Judge plays a critical and determining role in the removal process at the state level.²¹¹ In view of this, the appointment of this highest judicial position at the state level is usually characterised by intrigue. Successive governors would want a Chief Judge capable of providing a necessary shield in the event of any impeachment process. A senior Nigerian legal practitioner who participated in the drafting of the 1979 presidential constitution told me in an interview that the positions of the Chief Justice of Nigeria (CJN) and the Chief Judge of a State (CJ) are crucial in the determination of the outcome of an impeachment process (Personal Interview VII)²¹².

Therefore, when appointing your [President] CJN at the national level, or your [Governor] CJ at the state level, you must have in mind that you are dealing with instrument which might be used for your removal or non-removal. That is critical and many people don't think about that when they are doing it (Personal Interview VII, May 7, 2014).

This critical role of the Chief Judge of a State in respect of the impeachment of a Governor or Deputy Governor is envisaged to inject credibility into the process. A Judge of a State High Court claimed that the CJ is expected to be unbiased and to maintain a neutral position in the composition of the panel (Personal Interview XXII, May 3, 2014). Similarly, the Supreme Court, vide Justice Niki Tobi, in *Inakoju & 17 Ors v. Adeleke & 3 Ors*, held that the CJ must be a person of integrity as 'a man of law and good judgment and should be trusted to take decisions with egalitarian outlook'.²¹³

The fact that he is appointed Chief Judge is a presumption of integrity in his favor and he will never betray the confidence the Constitution has placed on him. On no account should he be involved in favouritism and nepotism. So too partisanship in the exercise of his quasi-judicial function. He must perform his constitutional function above board... (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²¹⁴

The Court avers that the CJ ought not to have invoked his constitutional powers of setting up the panel as directed by the Speaker if the provisions of section 188 (2-4) are not complied with. Indeed, Justice Musdapher of the Supreme Court reiterates that 'any Chief Judge worth

²¹¹The composition of the panel to investigate allegations of gross misconduct against the governor is the most crucial procedural step in impeachment process. The outcome of the panel will determine whether or not the governor will be removed from office.

²¹²In Nigeria, the Chief Judge of the State is usually appointed by the Governor on the recommendation of the State Judicial Service Commission and approval of the National Judicial Council (NJC) and confirmation by the State legislature.

²¹³*Inakoju & 17 Ors v. Adeleke & 3 Ors*(2007) 1 S. C. (Pt 1), pp 56-57

²¹⁴*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt 1), pp 57-58

his salt should not proceed, under the circumstances [of obvious breaches of the constitution] to set up the panel in accordance with the provisions of Section 188(5)' (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²¹⁵ Justice Niki Tobi affirms that this position 'is the intendment of the makers of the Constitution' (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²¹⁶ In all the cases considered in this study, the CJs overlooked the breaches and invoked their powers to set up the panel without considering the various infractions in the process.

Pressures from both sides of the parties often put the CJ in a precarious situation. A State High Court Judge attributes this to the lack of independence of the judiciary at the state level as pressures from the political elite make the CJ vulnerable to abuse of judicial power and process (Personal Interview XXII, May 3, 2014). Beside this dependent status, corruption in the Nigerian judiciary has been a source of concern at the bar and the bench (Personal Interview XXI, May 6, 2014).

A former CJN, Justice Mariam Aloma Murhktar, lamented the rate of decadence in the Nigerian judiciary 'where the rich get bail while the poor get jailed' thereby making it a negotiable commodity meant for the 'highest bidder' (cf. Nnochiri 2013). A Chief Judge of Nigeria's Federal High Court, Justice Ibrahim Auta, has also told the country's House of Representatives that corruption in the bar and the bench hinders the administration of justice (cf. Ameh 2013). Nigeria's first female Senior Advocate of Nigeria (SAN), Chief Folake Solanke, regretted the numerous allegations of corruption against some judicial officers whose conduct denigrates the collective reputation of the entire judiciary (cf. Royal Times 2012).

A retired president of the Court of Appeal, Justice Ayo Salami, disclosed that there are reports of judicial officers who specialised in fixing judgments for money (cf. Nwogu, 2014). Confirming the corruption in the judicial system, Justice Salami disclosed that 'the problem of corruption in the Nigerian judiciary is real and has eaten deep into the system' lamenting that the identifiable corrupt judicial officers are being protected by the system (cf. Nwogu 2014). Indeed, a series of pronouncements by senior judicial officers and actions of judicial bodies in the country confirm the depth of corruption and abuse of power in the judiciary. For

²¹⁵*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt 1), p185

²¹⁶*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p. 57.

instance, the National Judicial Council (NJC)²¹⁷ at different times has forcefully retired judicial officers on the proven allegations of unethical practices including bribery, corruption and the compromise of the administration of justice in their judgments, to satisfy political interests (Vanguard February 25, 2013; Ameh 2013; Vanguard July 17, 2013; The Guardian, July 17, 2013, Rasheed 2013; Adesomoju 2014).

In Ekiti State, the legislature removed the CJ, Justice Kayode Bamisile, because of the allegation that the members of the panel he raised to probe the allegations of gross misconduct against Governor Ayo Fayose were sympathisers of the governor (Oyebode 2006)²¹⁸. The new acting CJ appointed by the legislature, Justice Jide Aladejana, constituted another panel to investigate the allegation against Governor Fayose and his deputy, Mrs. Abiodun Olujinmi. The latter panel accused the Governor and his deputy of gross misconduct. The legislature subsequently removed them from office on October 16, 2006.²¹⁹ An interviewee informed me that the political elites opposed to the Governor selected members of the panel and the list was just presented to the CJ for rubber stamping.²²⁰ In some cases, especially in the impeachment of deputy governors, '[a]ny governor that does not like his deputy would just make any allegation and induce the legislators with money to commence an impeachment process to his removal; they direct the CJ on whom to pick to constitute the panel' (Personal Interview IV, May 11, 2014). Not only that, the report of the panel is usually drafted by people who were not members of the panel.²²¹ The outcome of the case in Ekiti snowballed into a larger political crisis that precipitated the declaration of a state of emergency by the president.

²¹⁷The NJC is a regulatory body charged with the responsibility to discipline erring judicial officers. Beside this, the body is responsible for approving judicial officers to be appointed as CJ in the state judiciary upon the recommendation of the state government.

²¹⁸The legislature removed the CJ and nullified the appointment of members of the Panel. Indeed, the report of the panel exonerated the governor of all charges preferred against him. In contravention of the constitutional rules, the lawmakers appointed an acting CJ, Justice Jide Aladejana, without the approval of the NJC, and asked him to constitute another Panel that eventually returned a guilty verdict against the Governor. The CJN, Justice Alfa Belgore, frowned at this development and warned Aladejana against accepting the appointment by the legislature. The CJN had declared the appointment as unconstitutional.

²¹⁹The development that followed this action created a logjam in the State, as the Speaker, Honourable Friday Aderemi was sworn-in as the acting governor while Fayose and Olujinmi insisted that they were the Governor and Deputy Governor respectively. Eventually, the Federal Government had to declare a State of emergency in Ekiti State on October 19, 2006.

²²⁰This informant requested complete anonymity. In Plateau, Bayelsa and Oyo States, an official of the Economic and Financial Crime Commission (EFCC) told me that the anti-corruption agency was involved in the composition of the members of the panel, monitor and provide security cover for their sittings.

²²¹ This account seems to be the practice in most cases of impeachment where the judicial shield is against the governor. In one of the states where the Deputy Governor was removed, a member of the House told me that the lawmakers actually drafted the report of the panel and merely presented it to the panel members for signatures.

In Plateau State, the Acting Chief Judge, Justice Lazarus Dakyen, upon the instruction of the six members who passed a resolution for the investigation of gross misconduct against Governor Joshua Dariye, set up the panel to investigate the allegations (Abdulsalami 2006; Okanlawon 2006; Lawan 2010)²²². Though Justice Yan Dakwang of Plateau State High Court, declared the composition and sitting of the panel as unconstitutional, the acting Chief Judge subsequently transferred the case to another Judge who provided the legal cover for the sitting of the panel (Abdulsalami 2006). Having discovered that the Acting CJ, by his action was in support of the six lawmakers, the Governor reviewed the status of the acting Chief Judge and appointed another Judge as the acting CJ (Lawan 2010).²²³

A similar case occurred in Oyo State, in the process that led to the removal of Governor Ladoja. A judge of the Oyo State High Court, Justice Bolaji Yusuff, had on January 12, 2006 declared as unconstitutional the composition and sitting of the panel investigating the allegation of gross misconduct against the governor (*Ogundoke & 3 others v. Hon. Justice Afolabi Adeniran*).²²⁴ Nevertheless, the Acting Chief Judge did not honour this judgment, and the panel discontinued with its sitting (Ogienagbon, 2006, p.10).

The case of Anambra state was similar to what happened in Plateau State. A judge of the High Court of Anambra State, Justice Uregbolu Nri-Ezedi, was assigned to preside over the case on the impeachment of Governor Peter Obi. As he prepared to deliver his judgment, the Chief Judge of the state, Justice Chuka Jidefor Okoli, “arrested the judgment”²²⁵ and subsequently transferred the case to another judge (cf. The Guardian 22 Dec. 2006, p.1; Lawan 2010). Though the National Judicial Council (NJC) directed the CJ to allow Justice Nri-Ezedi to deliver the judgment, he refused.²²⁶ The NJC noted that ‘at the point of

²²² Aside from the fact that the number of lawmakers who directed the acting Chief Judge to constitute the panel fell short of the constitutional requirements, a High Court Judge in Plateau State had earlier restrained the panel from sitting having declared the composition as unconstitutional.

²²³ Section 271(4-5) of the Constitution empowers the governor to ‘appoint the most senior Judge of the High Court’ to perform the functions of a CJ if the office is vacant. Nevertheless, this appointment ‘cease to have effect after the expiration of three months’ and the “Governor shall not re-appoint a person whose appointment has lapsed’.

²²⁴ *Ogundoke & 3 others v. Hon. Justice Afolabi Adeniran*. Guardian Law Report, *The Guardian*, January 17, 2006, p. 68.

²²⁵ Arrest of judgment is a legal terminology, denoting the decision of the court to refuse to render a judgment, after it has reached a verdict, based because of some legal reasons.

²²⁶ The NJC, headed by the CJN, is constitutionally empowered to discipline erring judicial officer in the Nigerian judiciary with a view to ensure sanity and unbiased administration of justice in the country. As in the case of Ekiti state, the CJ of Anambra state was subsequently suspended having defied the instruction and directive of the NJC (cf. The Guardian 30, December, 2006, p.1). Following the suspension of the CJ, Justice

judgment, it is only a court of competent jurisdiction [Court of Appeal or Supreme Court] acting on a formal application by a party to the suit, that can arrest the judgment' (cf. The Guardian 22 December 2006, p.1).

The CJs in Anambra, Oyo and Plateau States provided the shields that allowed the panels to proceed with their sittings though the constitution of the panels was unconstitutional. The beneficiaries of these shields are the political elites seeking the removal of the governors. This study has established that judicial officers who pronounced, as unconstitutional, the composition and the sitting of the panels sought to provide shields for the embattled governors as envisaged by the constitutional provisions. Inferences from the judicial pronouncements of the Court of Appeal and the Supreme Court on the cases indicate that the intendment of the anti-impeachment judicial pronouncements is to insulate the judiciary from the politics of impeachment through a proper interpretation of the constitution.

The disparities in the judgments of the courts symbolises a lack of uniformity in the interpretation of statutes. This is akin to the disunity among the political elites in the executive and the legislative branches of the government. Nevertheless, the disunified judicial interpretation and adjudication can be facilitated by the politicians.

Beyond this is the problem of corruption which characterises the judicial branch of the Nigerian government (Nwogu, 2014, Aborisade 2014; Olaleye 2001). The CJN has admitted that conflicting judgments characterise the Nigerian courts, a development he attributed to the 'personal interests of judges and lawyers in certain political cases' (cf. Aborisade 2014).

A retired President of the Court of Appeal disclosed that the Nigerian courts are not willing to do the right thing in adjudicating political cases, especially impeachment because of corruption (Personal Interview XXI, May 6, 2014). Though he admitted that 'there are few good ones [judges]' but that the lack of independence of judicial officers at the state High Courts makes them vulnerable to manipulation by the political elite. A Judge of a State High Court corroborates this; he said that judicial officers at the state levels are underpaid while their courts are underfunded (Personal Interview XXII, May 3, 2014). A Nigerian lawyer, who is also a professor of law, Fidelis Oditah, admits that some judges in Nigeria have lost their independence to politicians.

Nri-Ezendi delivered his judgment and upturned the decision of the legislators who had removed the governor (This Day, 29/12/2006).

I think that poverty is a terrible thing and greed is even more. I do fear that some judges have surrendered their independence to politicians. Some for monetary reason, some in order to further their judicial ambition... I also believe that the politicians have sought to erode the independence of the judiciary. For example, by a Governor refusing to pay a State High Court judge his entitlements or refusing to provide them proper courtrooms for them to work with, and in some cases even refusing to provide them with official vehicles (cf. Vanguard, December 4, 2014).

A member of the Oyo State House of Assembly during the impeachment of Governor Ladoja related his experience with the state judicial officers saying that the independence of the judiciary at the state level is a rarity.

The judiciary is being influenced by the politicians. There is no independence of judiciary, Judges take money and maneuver judgment... Politicians use judges as they want...judicial officers are not self-disciplined...If you have money you can pervert the course of justice, but if you are poor you are denied justice (Personal Interview I, May 3, 2014).

It would have been a disservice to the Nigerian presidential system if adjudication on impeachment cases terminates at the state level. But the structure of the Nigerian judiciary provides protection against miscarriages of justice in the lower courts. This is evident in the cases of impeachments where State High Courts declined their own mandate to examine flagrant breaches of constitutional orders. The judicial review championed by the Court of Appeal and the Supreme Court, provided a way to deepen constitutionalism in Nigeria, especially in the area of impeachment. Thus, a judicial shield, albeit tainted with politics, does remain a veritable instrument to check the excesses of the legislature in their exercise of the power of impeachment.

5.5 The intent of the impeachment provisions in Nigeria's presidential constitution

The Nigerian presidential constitution in the Fourth Republic is a replica of the 1979 Constitution. A senior Nigerian lawyer who participated in the drafting of the 1979 Constitution said that the impeachment provision is a political measure to police the activities of the executive branch of government with a view to promoting good governance (Personal Interview VII, May 15, 2014). He described the provision as a 'political decision to punish somebody [President/Vice President, Governor/Deputy Governor] who is impeachable' (Personal Interview VII, May 7, 2014). The adoption of a presidential system, according to him, stemmed from the need for a president with a national charisma rather than someone who displayed sectional interests, 'because the whole country is the constituency of the president' (Personal Interview VII, May 7, 2014). This, he claimed, worked very well in America.

Popular political discourse in the American presidential system is obsessed with the question of whether candidates possess national charismatic qualities able to satisfy the ‘public's wish for extraordinary leadership’ (Landy and Milkis 2000, p.2). Thus, scholars of the presidential system in America often debate the question of ‘presidential greatness’: which is often described in terms strikingly reminiscent of Weber's classical definition of charisma (Scheuerman 2005, p.25). Max Weber has argued that presidential democracy is intimately linked to the quest for charismatic political leaders and the presidential version of modern liberal democracy appears adept at generating a necessary dose of executive charisma in an otherwise disenchanted universe (Mommsen, 1984). Juan Linz (1994) and Bruce Ackerman (2000) build on Weber's political intuition, arguing that presidential systems, to a greater extent more than their parliamentary rivals, require would-be political leaders to show evidence of extraordinary abilities that raise them above run-of-the-mill politicians and ordinary citizens.

One expectation is that the leadership of the executive branches at the national and state levels should exhibit a sense of community capable of engendering good governance as stipulated by the constitution²²⁷. The Nigerian Supreme Court held that the principle of separation of powers in the Nigerian presidential Constitution ‘is meant to guarantee good governance and development and to prevent abuse of power’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²²⁸ In the opinion of the Court, impeachment exhibits a unifying determination rather than a sectional representation of primordial interest.

The exercise [impeachment] is much more than the party the Governor or Deputy Governor belongs and the party a member belongs. It is an exercise for the good of the state and members must remove their political hats or togas...Let the debate and the subsequent findings of the House be donated by the report of the Panel and not by sentiment (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²²⁹

This interpretation correlates with other explanations on the constitutional provisions that empower the legislature to have control over the policy process in a manner that promotes good governance. Section 4 of the Constitution of the Federal Republic of Nigeria, 1999 vests the legislative powers of the federal and state governments in the legislative institutions and this is the first in the list of the powers of the Federal Republic of Nigeria in the Constitution. A former Speaker of a state legislature explains that this arrangement ‘makes the legislature the locus of the people’s power’ because lawmakers are elected as representatives of separate

²²⁷Chapter II of the Constitution stipulates the fundamental objectives of the policy of the Nigerian state.

²²⁸*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p183

²²⁹*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p. 62

constituencies (Personal Interview VI, May 13, 2014). Thus, the legislators have the power to make laws for the promotion of the welfare of the constituents they represent. The legislative power of the purse, as stipulated by sections 80-89 and 120-129, of the constitution empowers the legislatures at the federal and state levels, respectively, to authorize and monitor the disbursement of all funds for government expenditures.²³⁰

This authorisation power of the legislature is crucial in its relationship with the executive branch because the executive depends largely on the legislature for the implementation of government policies with a view to fulfilling the fundamental objectives of the state policy. In the same token, this oversight power enables the legislature to watch and monitor the appropriated funds. Specifically, section 128 (1&2) empowers the state legislature to direct an inquiry or investigation into

(a) any matter or thing with respect to which it has power to make laws; and (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for (i) executing or administering laws enacted by that House of Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by such House (The Constitution Federal Republic of Nigeria, 1999, as amended).

Oversight power is designed to effect corrections in case of any defects in the implementation of the policies that funds have been appropriated for and to ‘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’ (Section 128 (2b), The Constitution Federal Republic of Nigeria, 1999, as amended). This provision gives the legislature the power to control public funds; a major responsibility that establishes the legislative institution as the corner stone of public policy (Personal Interview VI, May 13, 2014).

When you have a president who is a decent person, who decides and works within the law of the land, and an Assembly that is focused, I think what we have in the provisions of impeachment are adequate enough. Like I said, it gives a role not only to the legislature but also the judiciary. And the framers envisaged that when a governor/president commits very big infraction it is then you invoke provisions of impeachment against him not when you have partisan division and pressures and all at that (Personal Interview VIII, May 19, 2014).

Chapter II of the Constitution contains the fundamental objectives and directive principles of the policy of the Nigerian state. This chapter provides the template for the promotion of good

²³⁰Section 120 (1) states: ‘All revenues or other moneys raised or received by a State (not being revenues or other moneys payable under this Constitution or any Law of a House of Assembly into any other public fund of the State established for a specific purpose) shall be paid into and from one Consolidated Revenue Fund [CRF] of the State’. The executive has no power to withdraw from this account without the authorisation of the legislature.

governance. Specifically, section 16 (1-2) mandates the Nigerian state to 'harness the resources of the nation and promote national prosperity and an efficient, dynamic and self-reliant economy' with a view to securing 'the maximum welfare, freedom and happiness of every citizen based on social justice and equality of status and opportunity' (The Constitution Federal Republic of Nigeria, 1999, as amended). Aside from this, it is the responsibility of the Nigerian state to promote 'planned and balanced economic development' by harnessing the nation's material resources and to distribute them 'as best as possible to serve the common good' (The Constitution Federal Republic of Nigeria, 1999, as amended). The provisions of this chapter set out the blueprint of the policies of the government as well as the philosophical foundations of the governmental process.

It is within this framework that the meaning and relevance of the functions of the three branches of government are found. More importantly, the legislature and executive activities are the driving forces for the realisation of the import of these provisions. As one interviewee argued,

I also believe very deeply that in a democracy, under a democratic constitution as we have, especially the presidential system of government, the legislature is actually the locus of influence. A legislature that knows its onions, that asserts its independence reasonably, and that is led by visionary individuals, is actually supposed to be the bedrock of democratic governance. At first contact, the tendency is to assume that the president is all powerful. They call him executive president. The assumption is that the president is so powerful. But a legislature that is alive to its responsibilities and made up of men and women of stature, who also have vision and deeply patriotic, there is no much a president can achieve except with the support of the legislature. It would therefore mean that where the legislature is doing the needful, an executive officer cannot go berserk; he cannot turn to become irresponsible because that tool of impeachment is there (Personal Interview VIII, May 19, 2014).

This constitutional provision, when paired with the provisions on the power of the lawmakers, strengthens the responsibility of the legislative institution to promote good governance (Personal Interview VI, May 13, 2014). This is important because elected members of the legislative and executive branches of government in Nigeria usually swear oaths to discharge their duties faithfully and, in accordance with the provisions of the constitution (Seventh Schedule, The Constitution of the Federal Republic of Nigeria, 1999, as amended). In other words, they pledge to uphold and defend the provisions of the Constitution. They are also bound to abide by the Code of Conduct and to be devoted to the service and well-being of the people. These oaths, when pieced together, are expected to serve as the guiding principles for their conduct in directing the affairs of the Nigerian state

and to ensure the formulation and implementation of policies designed to enhance the welfare of the people.

Indeed, the Supreme Court laments the abuse of these oaths by the legislature and the executive. Justice Niki Tobi affirms that in the discharge of crucial legislative responsibility such as impeachment, ‘members [legislators] should be most loyal to the oath they took on that eventful day of their swearing in ceremony’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²³¹ The Court regrets that ‘some Nigerians regard this oath as another kindergarten recitation, to the extent that they did not attach any importance to it’ (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²³²

As important as chapter two of the constitution is, its successful implementation is dependent on strict adherence to section 15(5), which states: ‘The State shall abolish all corrupt practices and abuse of power’.²³³ It is in the realisation of this that the constitution further mandates the legislature to ensure that any erring official of the executive branch of government whose actions amount to the abuse of power and the derailment of the objectives of the government, is eased out of the government through the process of impeachment (Personal Interview, May 13, 2014)²³⁴.

Section 308 of the Constitution, often referred to as the immunity clause, shields the heads of the executive branch of the government at the state and federal levels, against civil or criminal proceedings while in office. Aside from this, they ‘shall not be arrested or imprisoned during that period’ and that ‘no process of any court requiring or compelling the appearance of a person to whom this section applies, shall be applied for or issued’ (The Constitution of the Federal Republic of Nigeria, 1999, as amended). However, impeachment removes this immunity and disrobes governors with questionable characters of all the constitutional shields against prosecution. For instance, when the Economic and Financial Crime Commission (EFCC) commenced the trial of Governor Joshua Dariye over the embezzlement of state funds, the court ruled that section 308 of the Constitution shields the

²³¹*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p. 61

²³²*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p. 61

²³³ Corruption and abuse of power are the two main challenges which the structure of the presidential system seeks to overcome (Kada, 2003; Hochstetler 2006; Pérez-Liñán 2007; Kim and Bahry 2008; Hochstetler and Edwards 2009; Kim, 2013). They are formidable among the factors that engender governance problem (The World Bank, 2010; MO Ibrahim Foundation, 2011). The concept of separation of power and the doctrine of checks and balances are instruments to ensure responsible governance structures in a presidential system.

²³⁴ Section 308 of the Constitution provides immunity for the leadership of the executive against prosecution while in office.

governor from prosecution (The Guardian, 17/02/2006)²³⁵. But, immediately after the removal of late Diepreye Alamieyeseigha of Bayelsa State in December 2005, the EFCC arrested him for prosecution because of allegations of corruption against him while in office (BBC News, December 9, 2005)²³⁶.

The impeachment provision therefore is intended to remove the immunity shield provided by the Constitution for the governors in order to allow them to answer charges of malfeasances perpetrated while in office. As an interviewee said,

I surely believe that the provisions for impeachment in the constitution are adequate in the 1999 constitution. It is adequate in the sense that it empowers the legislature and the judiciary to checkmate an errant chief executive. The framers of the constitution were also very careful not to allow the provisions to be so soft that it would create the bases for frivolity in terms of the security of tenure of chief executives (Personal Interview VIII, May 19, 2014).

As such, impeachment is the only constitutional means to sanction this category of people who are the custodians of state policy, and to expose them to judicial inquest and prosecution.

When you have a president/governor who is a decent person, who decides and works within the law of the land, and an Assembly that is focused, I think what we have in the provisions of impeachment are adequate enough. Like I said, it gives a role not only to the legislature but also the judiciary. And the framers envisaged that when a governor/president commits very big infraction it is then you invoke provisions of impeachment against him not when you have partisan division and pressures and all at that (Personal Interview VIII, May 19, 2014).

Thus, impeachment in the Nigerian presidential system is not an instrument in the domain of the legislature to 'achieve a political purpose or one of organised vendetta clearly outside gross misconduct' in the provision (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²³⁷ Rather, the provision in section 188,

is a very strong political weapon at the disposal of the House which must be used only in appropriate cases of serious wrong doing on the part of the Governor or Deputy Governor, which is tantamount to gross misconduct within the meaning of subsection 11 (*Inakoju & 17 Ors v. Adeleke & 3 Ors*).²³⁸

Impeachment, as an oversight instrument, is the main constitutional tool available to the legislature to sanction leadership of the executive branch in a presidential democracy who are involved in corruption or the abuse of power (Hinojosa and Perez-Linan 2002, p.1). In other

²³⁵As will be discussed in chapter six, these two governors were arrested separately by the London Metropolitan police for money laundering. The report was forwarded to the EFCC.

²³⁶He was eventually convicted but was later pardoned by President Goodluck Jonathan. Incidentally, Jonathan was the Deputy Governor who succeeded him after his removal. This is discussed in detail in chapter six.

²³⁷*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), p. 66

²³⁸*Inakoju & 17 Ors v. Adeleke & 3 Ors* (2007) 1 S. C. (Pt I), pp. 66-67

words, the impeachment provision in a presidential constitution is a measure to persuade the political elite to behave responsibly in government with a view to promoting good governance.

Nigerian scholars aver that the impeachment provision is a necessity to deal with the proclivity of government leadership toward impunity. Fagbohunge (2007 p.37) posits that impeachment 'is capable of wrenching the Nigerian nation from the clutches of pathologically corrupt politicians and promotes both democratic and national development'. Thus, the impeachment provision in the Nigerian Constitution is a measure to 'prevent the exercise of arbitrary power and to serve as a check on official tyranny' because of the fear that 'periodic elections may not be enough check (sic) against absolute tyranny that impeachment is considered expedient in the constitution' (Awotokun 1998, pp.48-49). Lai Olurode sees the impeachment provision as a well intended mechanism that seeks to 'prevent those who are found capable of gross misconduct from remaining in office' (Olurode 2007, p.26). The primacy of impeachment in Nigeria, therefore, is predicated on the need to empower the legislature to exercise control over public officers (Akinsanya, 2002) in a bid to ensure the emergence of 'a system of government accountability and control' (Omotola 2006, p.187).

Evidently, Nigerian political elites are aware of the import and intent of the impeachment provision in the constitution. A number of them who spoke with me admit that the provision is clear enough to convey the overall intent of the framers but that legislators often apply it incorrectly. To some, it is an instrument to call the governor to order whenever he/she is derailing the implementation of government policy (Personal Interview I, May 3, 2014).

If you have the Governor of the state misappropriating funds, involved in misuse of power, or executing any project outside the budgets, the legislature might commence an impeachment process to remove him from office (Personal Interview I, May 3, 2014).

This means that the legislative use of section 188 of the Constitution should be borne out of the need to enforce good governance. As a former Deputy Speaker noted, 'impeachment must be based on concrete allegations impinging on governance' (Personal Interview, II, May 10, 2014). Where the allegations related to governance issues, they were afterthoughts mostly occasioned by differences over the attitudes of the governor towards their welfare demands. A former Speaker of a state legislature confirmed this saying that the decision of the

legislature to remove the deputy governor was occasioned by his [Deputy Governor's] failure to accede to their financial request (Personal Interview III, May 10, 2014).²³⁹

Unfortunately, most legislatures that embarked upon impeachment did not adhere to the intent of the constitution. A Deputy Speaker disclosed that the issues that prompted nearly all the impeachment episodes,

have nothing to do with the interests of the common man in the street. In fact, from my interaction with colleagues from other legislatures, who were involved in the removal of their Governors and or Deputy Governors, the actions took place as a reflection of division among the political elites. (Personal Interview, II, May 10, 2014).

In Oyo, Bayelsa, and Plateau States, the genesis of the impeachment process against the former governors was the division between the former governors and their respective political *godfathers*. It is evident from the pronouncements of the courts that the judicial decisions were based on the violation of the procedures and the constitutional provisions relating to the removal of governors and not on the veracity of the allegations of corruption leveled against the former governors. There is evidence that former governors were involved in activities of gross misconduct, which included the misappropriation of funds by the former governors. Yet the intent of those making the claims was not to serve justice, but to remove them from office (Personal Interview VII, May 7, 2014).

5.6 Governors and the abuse of office

In most of the of impeachment cases, there were *prima facie* cases established against the former governors that were removed and many others who were spared (Lawan 2010). The chairman of EFCC, Mallam Nuhu Ribadu, in one of his appearances before the nation's parliament had disclosed that 26 out of the 36 state governors were under investigation for corrupt practices (Okanlawon 2006). Similarly, the Independent Corrupt Practices Commission (ICPC) also disclosed that certain numbers of governors were being investigated for corruption related issues. Indeed, a former top official of ICPC told me in an interview that the agency was able to track over 20 governors with tainted corruption records.

During my tenure, I know that the Commission sent cases of over 20 governors to the CJN that ought to be prosecuted for a series of corrupt practices. We were able to establish *prima facie* case against each of them. I left high profile cases but continue to wonder why the governors were not prosecuted (Personal Interview 11, May 6, 2014).

²³⁹According to the Speaker, the Deputy Governor was acting on behalf of the Governor who was outside the country on an official matter.

5.6.1 Allegations of corruption against former governor of Bayelsa State, late Diepreye Alamieyeseigha

The governor was arrested at Heathrow airport in September 15, 2005 by the London Metropolitan Police on the suspicion of money laundering (Global Witness 2010). A sum of £1.8m was found on him both in cash at his London home and deposits in the bank (BBC News 2005; Polgreen 2005). He was granted bail on the condition that he should not leave London. He however absconded and flew back to Nigeria on November 20, 2005 (Polgreen 2005). He was eventually impeached by the legislature. Though he claimed that the allegations against him were politically motivated (Polgreen 2005; Global Witness 2010), he was charged to court after his impeachment and sentenced to 12 years imprisonment in 2007 on a six-count charge of fraud and false declaration of assets (Iriekpen and Muraina 2007).

Aside from the imprisonment terms, the court also ordered him to forfeit several of his properties acquired in his name with the state fund. Besides, he was to forfeit 'N1 billion worth of shares in former Bond Bank; \$160,000 in account number 005482562491 with an American bank; and N105million in account number 2010062850006 with former Bond Bank' (Iriekpen and Muraina 2007). The governor held several foreign bank accounts, either in his name or companies, which he opened and operated during his tenure. The presidential constitution of Nigeria does not permit some categories of government officials to own foreign accounts while in office as part of their code of conduct as public officials. Section 3 of the Code of Conduct in the Constitution states:

The President, Vice-President, Governor, Deputy Governor, Ministers of the Government of the Federation and Commissioners of the Governments of the States, members of the National Assembly and of the Houses of Assembly of the States, and such other public officers or persons as the National Assembly may by law prescribe shall not maintain or operate a bank account in any country outside Nigeria (Constitution of the Federal Republic of Nigeria, 1999).

Section 6 of the code also bars this category of public officials from receiving gifts or benefits from individuals or group of individuals in the course of their service.

A public officer shall not ask for or accept property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties... the receipt by a public officer of any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the government shall be presumed to have been received in contravention of the said subparagraph unless the contrary is proved. A public officer shall only accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognised by custom Provided that any gift or donation to a public officer on any public or ceremonial occasion shall be treated as a gift to

the appropriate institution represented by the public officer, and accordingly, the mere acceptance or receipt of any such gift shall not be treated as a contravention of this provision (Constitution of the Federal Republic of Nigeria 1999 as amended).

The late Governor Alamiyeseigha flouted these constitutional stipulations.. A government contractor, Mr. Aliyu Abubakar, confessed he gave the former governor three houses in London that were worth £3.15 million as gifts (Global Witness 2010, p.15). In April 2001, this contractor also claimed he deposited US\$1.5million to buy bonds for the former governor while he also bought him a house worth £1.4million in Kilburn, North London (Global Witness 2010, p.12). Table 5 below shows the various accounts operated by the governor in different banks in Britain in contravention of the constitutional rules.

Table 8: Some of the bank accounts controlled and operated by Governor Alamiyeseigha in the United Kingdom between 1999 and 2005

Bank	Account Details	Date opened	Amount with dates
UBS	Personal (Ref. No. 323940)	09/1999	£306,000 (12/2005)
UBS	Falcon (Proxy Company) Ref. No 338931	10/2001	£1.03million (12/2005)
HSBC	Personal A/c 01411578	12/2001	£420,000 (12/2001)
HSBC	Personal dollar account Sort code 40-20-16 A/c 57827459	12/2003	\$178,947 £110.948 (03/2003)
RBS	Santolina (Alamiyeseigha's Company) A/c 10182819	01/2001	£2.6million (11/2001)
Barclays	Personal Sort code 20-69-15 A/c 10659347	01/2004	£205,376 (03/2005)
Barclays Cyprus	Santolina (Alamiyeseigha's Company)	11/2004	£3million (09/2005)
NatWest	Mrs. Alamiyeseigha Sort code 60-13-33 a/c 48003182 63825546 63825538	11/2003	£290,000 (08/2005)

Source: Data adapted from Global Witness. 2010. How British banks are complicit in Nigerian corruption. London: Global Witness Limited, p.9).

Aside from these bank accounts, the former governor also received several gifts from contractors handling several projects of the state. Global Witness (2010) in its reports presents the various properties in London that were ‘presented’ to the governor as ‘gifts’ by contractors²⁴⁰. Few months after his assumption of office, precisely December 1999, the former governor acquired Flat 202, Jubilee Height in Cricklewood, Northwest London at a sum of £241,000, in the name of one of his offshore companies, Solomon and Peters (Global Witness 2010, p.18). He also acquired the property in 68-71 Regent Park Road in Golders Green in the name of his company, Solomon and Peter for a sum of £1.4 million (Global Witness 2010, p.18). The former governor also bought a £1.75 million luxury penthouse at 247 The Water Gardens in July 2003, also in his company’s name (Global Witness 200, p18). In 2004, the former governor bought another penthouse in the upscale Waterfront development area in Cape Town, South Africa at a sum of £949,000 (Global Witness 2010, p.19). The Financial Action Task Force (FATF) in its 2011 Report indicates that Alamieyeseigha laundered a total sum of US\$17 M between 1999 and 2005 through shady deals in the United Kingdom and South Africa (FATF 2011, p.45). Late Alamieyeseigha confessed to all these allegations and confirmed the ownership of the properties (Global Witness 2010; FATF 2011).

5.6.2 Allegations of corruption against Governors Joshua Chibi Dariye and Rashidi Ladoja of Plateau and Oyo States, respectively

Like his Bayelsa State counterpart, the former governor of Plateau State, Joshua Dariye was arrested in London in 2004 on allegations of money laundering to the tune of £1.4m (BBC News 23/11/2005; Ogienagon 2007; Global Witness 2010). The report of the investigation of the London Metropolitan Police which led to the conviction of Dariye’s associates in the money laundering charges, Joyce Bamidele Oyebanjo²⁴¹, confirmed the culpability and involvement of the former governor in the crime (Global Witness 2010). She allegedly confessed that the friendship between her and Dariye facilitated the money laundering activities of the governor. According to her,

[he] asked me to choose a private school in England for his children to go to. I found Dean Close in Cheltenham but warned him the fees were high. He did not mind at all. He told me he

²⁴⁰ The report details the revelations and confessional statements of witnesses during Alamieyeseigha’s court trial in London over the recovery of the laundered funds and properties.

²⁴¹ Oyebanjo was Dariye’s associate in London who was taken care of his children education. Dariye’s children attended Dean Close in Cheltenham.

would wire the money to my account because that way he could avoid a lot of bureaucracy and that he would refund me (cf. Global Witness 2010, p.26).

In view of his arrest and pending trial in London²⁴², Nigeria's EFCC began an investigation of the financial activities of the state. In the course of its investigation, the anti-corruption agency discovered the misappropriation and embezzlement of the N1.6 billion fund allocated for ecological problem in the state. In April 4, 2007, the Southwark Crown Court convicted Joyce Bamidele Oyebanjo over the charges of money laundering and sentenced her to three years imprisonment (Ogienagon 2007; Global Witness 2010).

The investigation began in January 2004 following the seizure of over £11,000 in cash from an address in Portland Street, London SE1...The cash was found to have belonged to a man called Joshua Chibi Dariye, a Nigerian State Governor for Plateau State...A joint investigation into Joshua Dariye was subsequently launched with the Nigerian State Security and later with their Economic and Financial Crimes Commission. It was discovered that vast sums of Plateau State Government money had been diverted into Dariye's personal accounts, using the funds to purchase expensive property in London using false names (cf. Ogienagon 2007).

Table 6 below shows the amount of funds Governor Dariye transferred to the accounts of Oyebanjo between July 2003 and March 2004 when he was still the governor of Plateau State.

Table 9: Money laundered by Dariye between July 2003 and March 2004 through Joyce Bamidele Oyebanjo

Bank	Amount	Date
NatWest	£147,000	29 July 2003
NatWest	£147,985	20 August 2003
NatWest	£199,985	27 August 2003
NatWest	£189,970	3 October 2003
NatWest	£404,073	21 October 2003
NatWest	£76,951.87	8 March 2004

Adapted from: Global Witness. 2010. How British banks are complicit in Nigerian corruption. London: Global Witness Limited, p.26).

Aside from the use of this proxy accounts, Dariye also deposited large sum of money into one of his accounts in Barclays' Bank between 1999 and 2004 (Global Witness 2010). This cash flow included individual deposits of £55,000 on 9 October 2000, £34,000 on 3 September 2001 and £20,000 on 18 December 2003 (Global Witness 2010, p.28). As at the time of his arrest in London in 2004, the Metropolitan Police found with him £80,000 cash and over £2

²⁴² Like his Bayelsa counterpart, Dariye jumped bail in London in 2004 to avoid his arraignment over money laundering charges (Global Witness 2010; FATF 2011).

million deposit in his bank accounts (The Guardian 03/09/2004; Global Witness 2010). The police in London wondered how a former governor whose ‘official legitimate earnings amounted to under £40,000 per annum’ could acquire ‘assets worth millions of pounds’ (cf. Ogienagon 2007). In May 2007, the EFCC sold one of Dariye’s properties in London for £450,000 while another £1 million was forfeited to the government of Nigeria (cf. Ogienagon 2007; Global Witness 2010; FATF 2011).

FATF in its July 2011 report states:

Checks issued from the Central Bank of Nigeria to Plateau State for ecological works were received by Dariye and, rather than being deposited into a government account, were instead diverted to an account in Nigeria Dariye had established using an alias. The money was then transferred to accounts held in Dariye’s own name in the UK. Likewise, Dariye purchased real estate by diverting money destined for a Plateau State account into an account in Nigeria in the name of a corporation he controlled. That corporation, in turn, transferred money to UK accounts in the corporation’s name to effectuate the real estate purchase (FATF Report 2011, p22).

FATF report disclosed that Dariye laundered a sum of US\$17 million between 1999 and 2006 in the United Kingdom through offshore fund transfers (FATF Report 2011, p45). In an apparent confirmation of his money laundering activities, the governor wrote a protest letter to the president in 2007 claiming that the London Metropolitan Police seized £2,961, 560 from him as against £1.4m claimed by the police (Ogienagon 2007). Prior to this time, the former governor had confessed that he actually embezzled the N1.6 billion Ecological Fund²⁴³ of the state and that he shared the proceeds with top government officials.

Some people will join me to return this money. The talk about billions and billions of naira has no element of truth because of this amount (N1.8 billion) only N800 million came to the state. I gave N100 million to PDP South-West; N100 million to North-East, is that not one billion? Between Mantu [Deputy Senate President] and me, I gave him N10 million. I told Mantu when we met in Benue that since they have decided to blackmail me, if I am asked to return this money, you should also be ready to return the N10 million I gave you (cf. Obateru 2006).

Similarly, the former governor of Oyo State, Rashidi Ladoja, like Joshua Dariye, received a judicial reprieve to complete his term after his impeachment in 2006. In the notice of allegations of gross misconduct served on him, there were no serious indictments. Nevertheless, the EFCC investigation indicated that the former governor laundered a sum of N47billion naira while in office (Premium Times 19/04/2013²⁰¹³). The EFCC accused him of purchasing an armoured Land Cruiser Jeep for N42million aside from a remittance £600,000 into the foreign account of his wife, Bimpe Ladoja (Premium Times 19/04/2013).

²⁴³This fund is a constitutional allocation to states to combat environmental problems such as erosion, flood, among other natural disasters.

None of the legislatures in these states embarked upon the impeachment of the former governors despite the strength of the evidence. Rather, their actions were prompted by the EFCC, in Plateau and Bayelsa States, while the influence of *godfather*, the late Lamidi Adedibu, prompted the removal of governor Ladoja of Oyo State. Implicitly, the lawmakers chose to look the other way. They had the power to remove the governors, and the evidence to do so. However, it took external interventions instead to remove the governors.

Aside from the three governors discussed above, there are many other former governors accused of violations of the rules and the codes of conduct of public officials where neither the legislature nor the EFCC has sought to remove them. Table 7 below shows the various infractions of some selected former state governors.

Table 10: Records of allegations of impropriety against former governors of selected states between 1999 and 2011

Name of Governor	State	Allegations	Legislative /Judicial Action
Jolly Nyame	Taraba 1999-2007	Money laundering and acceptance of gratification to the tune of N1.36billion (Adewole 2012)	No legislative action. Charged to court by the EFCC but no conviction.
Aliyu Doma	Nasarawa 2007-2011	Misappropriation of N18 billion (Sanni & Balogun 2011; Adewole 2011)	No legislative action. Charged to court by the EFCC but no conviction.
Alao Akala	Oyo 2007- 2011	Misappropriation of N25 billion (Sanni & Balogun 2011; Adewole 2011)	No legislative action.. Charged to court by the EFCC but no conviction.
James Ibori	Delta 1999-2007	Stole £50m while in office Embezzled £157m. Laundered £1.4million (Gesinde et al 2012).	No legislative action. EFCC charged him to Nigerian court but was freed for lack of evidence to convict him. Convicted by a London Court.
Lucky Igbinedion	Edo 1999-2007	Stole N4.4 billion (Africa 19/12/2008; Adewole 2008).	No legislative action. He was charged to court by EFCC and found guilty.
Gbenga Daniel	2003-2011	Misapplication of N58 billion (Sanni & Balogun 2011; Adewole 2011; Musari 2011)	No legislative action. He was charged to court by EFCC, but no conviction yet.
Timpre Sylva	Bayelsa 2007-2011	Fraudulent stealing of N6.5 billion, property of the state government (Amaize & Nnochiri 2012)	No legislative action. He was charged to court by EFCC, but no conviction yet.
Attahiru Bafarawa.	Sokoto 1999-2007	Facing a 47-count charge relating to allegations of embezzlement of state funds (Ogannah 2009; Kofarmatta 2005)).	No legislative action. EFCC pressed charges against him.
Orji UzorKalua,	Abia 1999-2007	Criminal diversion of public funds totaling over N5billion (Saharareporters 12/7/2007; Premium Times 27/4/12).	No legislative action. Was charged to court by the EFCC.
Chimaroke Nnamani	Enugu 1999-2003	Laundered N4.5 billion (Njoku 2007; Channels Television 07/02/2013; Iriekpen & Muraina 2007).	No legislative action. EFCC pressed charges against him.

Danjuma Goje	Gombe 2003-2011	Diversion of N52 billion state fund for private use. Stole N5 billion from the state coffers through supply of food to the Gombe State Government House (Kalu & Onwuemenyi 2011; Adewole 2011; Musari 2011).	No legislative action. EFCC pressed charges against him.
SaminuTuraki ²⁴⁴	Jigawa	Stole N6 in one day (Kolade-Otitoju 2010)	No legislative action. EFCC pressed charges of corruption against him
Ayodele Fayose	Ekiti State	Money laundering, illegal conversion of N11.7 billion funds of the local government councils, receipt of illegal gift of 37,000 British Pounds, N13 billion Ekiti Poultry Integrated Project funds (Okanlawon 2006; Lawan 2010).	No legislative action until EFCC arrested the lawmakers and promised to set them free if they proceeded with an impeachment process. The lawmaker resorted to illegality in the removal process. The crisis it generated led to declaration of state of emergency. He was reelected as the governor of the state in 2014.

Source: Compiled by the author from multiple newspaper reports.

The EFCC investigations exposed these infractions. Thus the legislators either colluded with the former governors or did not to perform their oversight and monitoring functions during the period in which the governors were in office.

5.7 Summary

In Nigeria, the constitutional provisions are adequate to serve as an instrument for the promotion of good governance. Judicial interpretation of the provisions affirm that the intent of the impeachment provisions in the constitution is to serve as a legislative instrument to monitor the conduct of the executive with a view to ensuring compliance with extant rules in a manner that promotes good governance. Section 188 of the constitution is intended to safeguard a governing system, populated by elected officials, against the abuse of power and, as such, is intended to protect the interests of the population. The legislature, as the custodian of the constitution, is expected to monitor the activities of the executive, the implementer of government policies, with a view to ensuring governmental responsibility.

²⁴⁴His successor, Sule Lamido disclosed that he had documents to show how the former governor looted the treasury. He said: 'This is somebody who looted N6 billion in one day. He could write a cheque of N500 million and cash across the counter by different people, until he got up to N6 billion. That is not all, he cut an existing road into two, that is about one kilometre and awarded the contract at N3 billion. He also gave a contract for the sinking of a borehole to his company and paid N7 billion upfront. We have proof of this, the facts are there.' (cf. Kolade-Otitoju, 2010).

I claim, however, that Section 188 of the constitution is flawed, particularly those clauses that define ‘gross misconduct’, and, the ouster clause. These clauses are not sufficient for justifying the use of legislative power to flout and breach the constitutional provisions. The judiciary pronounced that these clauses are mischievously misconstrued by the political elite as well as their accomplices in the judiciary, in order to enable the application of the law for political purposes. Intra-elite divisions (in line with Higley’s conceptual distinction of disunified elites), provides the catalyst for the abuse of the constitutional rules on impeachment by the legislative and judicial branches of government. As will be seen in chapter six, the application of the rules, was selective. Other governors who committed similar offences to those that were impeached but were spared of what Olowo (2006) calls ‘EFCC fast-track impeachment’. Thus, the constitutional provision of impeachment is not used, in practice, to promote good governance, but in effect quite the opposite.

In the next chapter, I examine patron-client relations in the politics of impeachment in Nigeria.

Chapter Six

Patron-client Politics and the Politics of Impeachment in Nigeria's Fourth Republic

6.1 Introduction

A common feature in the conduct of the affairs of the Nigerian state as shown in chapter five is a pervasive sense of impunity among the political elite, despite a constitutional system of checks and balances. In this system, there is a de facto loss of the de jure powers of oversight embodied in the legislature. The use of the Economic and Financial Crime Commission (EFCC), to influence the impeachment process of some governors, attests to this as it depicts a clear manifestation of the loss of the constitutional relevance and actual control. The height of this is the use of the EFCC, an agency of the executive branch, to harass or coerce the legislature, an independent branch of government, to undertake its statutory role under duress.

This trend depicts a new dimension of patronage politics and corruption in Nigeria's political system. The lack of independence of the legislative institution is partly as a function of the prevailing nature of socio-economic and political relationships among the political elite. The 'vastly superior wealth and access' of a number of individual political elites has 'moved them into a select club of elites from across the nation who increasingly came to dominate national politics' (Sklar et al 2006, p.105). Godfathers who display power and affluence establish networks of clients among the political elite as godsons and followers among the populace as political trading instruments. The godsons in the government are expected to remain loyal to the godfathers, carry out orders and meet demands even if such directives run contrary to the requirements of good governance. Where a godson revolts against, or shows any sign of disloyalty to, the godfather the consequence is either violence against the governor or an induced legislative process of impeachment.

Though they have 'shown surprising capacity to negotiate compromise solutions that serve most of their ends' (Sklar et al 2006, p.105), the outcome is 'often at the expense of the public good' (Sklar et al 2006, p.105). Whenever such compromise threatens their personal survival, 'their penchant for displays of brinkmanship... inadvertently - or in some cases deliberately - send (sic) their political struggles spiralling out of control and into the streets' (Sklar et al 2006, p.106). Flagrant abuses of power, constitutional manipulation and deliberate breaches of statutes are the contemporary measures to advance such interests. Thus, disunity

and a lack of consensus about the rules impinge on service delivery. Higley (2011) has argued that members of the disunified elite, especially in a developing political system (like Nigeria), are not interested in the delivery of the public goods but rather in exploiting their position within the state to advance their pecuniary interests. Thus, intra-elite crises and violence are common features because there is no consensus on the patterns of behaviour of members. The outcome of this is usually poor service delivery and crises in of governance.

In this chapter, I present an empirical analysis on how the activities of godfathers influence the decisions in the legislature in the cases of impeachment. In particular, I analyse the activities of godfathers in party politics, the legislative process of impeachment, and the provision of legislative shields to promote the interests of the godfathers and godsons. I claim that the legislature is filled with godsons that thereby incapacitate it to use the constitutional powers they possess to serve the public. The godsons, although elected to promote the interests of the public, do not vote against the interests of their godfathers who have sponsored their personal electoral victory, even when the consequences of not doing so clearly contradict that public interest.

The consequences of voting against the interests of a godfather are severe. In Oyo State, for example, former Governor Ladoja went against the preferences of his godfather, the late Lamidi Adedibu, which eventually led to the removal of the governor from office. Interviews showed that although there was evidence of abuse in office by the governor, the legislature would not have taken any action if there had not been a rift between Ladoja and his godfather. The political elite are thus unified in purpose – they are aware of the rules and the consequences of breaking them, but there are no consequences in cases of the abuse of office as long as their mutual interests are protected and promoted. Thus, the use of the legislative power of impeachment in cases where the constitution is breached indicates that the lawmakers were not motivated by the desire to promote accountability and good governance.

6.2 Patron-client politics (*Godfatherism*) in Nigeria's presidential system

Scholars have noted the impact of patronage politics on democratic practice and the promotion of good governance (Randall and Svasand 2002; Fonchingong 2004; Marty 2002; Fatton 1992, 1995). Rather than promote democratic ideals, patronage politics in Nigeria inculcates a culture of personalised politics thereby stifling the prospects of good governance by promoting impunity despite a system of checks and balances. Traditionally, patronage

politics is understood to be a form of social relationships between the political elite and those in the relationship. This involves an exchange of “goods” and services aimed at enhancing the welfare of those in the relationship (Lemarchand 1981; Stein 1996; Omobowale & Olutayo 2007; Sarker 2008; Mwenda and Tangri 2005, Weingrod 1968). While the patron provides the ‘goods’ in terms of socio-economic and political gains, the clients are expected to appreciate such gestures with their loyalty; which might translate into support during the elections.

In contemporary Nigerian politics, this concept of goods and services has gone beyond the contemplation of this reward system embedded in traditional social relations. Richard Joseph (1991, p.116) has noted that the survival of the political elite hinges on their ability to ‘deliver the goods’. This might not necessarily be in terms of tangible infrastructural facilities and amenities but rather in terms of the satisfaction of the immediate and temporary needs of the people, popularly referred to as *stomach infrastructure*²⁴⁵. Thus, social relations within the space of Nigeria’s patronage politics are akin to a trading partnership or investment with a proportionate element of coercion. When the rewards fall below expectations, or as Alabi William (2009) puts it “when the godson steps on the toes of the godfather”, then the game of politics becomes what Sklar et al (2006) refer to as perilously rough and lawless. Thus, the political elite often ‘see the electoral process as an avenue for investment through which they expect to corruptly reap profits by manipulating and misleading their sponsored candidates while (sic) in executive position’ (Uneze 2008). In other words, the primary motive of the godfather is to sponsor candidates, especially governors, which would him or her with returns, in terms of access to the resources of the state.

Nigerian political godfathers ‘generally share more in common with each other than with their own relatively impoverished supporters’ (Sklar et la 2006, p 105) who risk their lives as foot soldiers and instruments of violence to establish the political hegemony of their patrons (Animasawun 2013; Kifordu 2010; Oarhe 2010).

²⁴⁵This concept was coined in the wake of the electoral victory of Governor Ayo Fayose of Ekiti State in the June 2014 gubernatorial election to denote the use monetary and material inducements that cater for the immediate needs and consumption of the people to canvass for votes during elections. This is not a new concept but a refined appellation of bribery for election which characterised the politics of the First and Second Republics. It has regained its prominence as a veritable instrument in determining political process in Nigeria. For the details, see Joseph 1991; Ayeni & Soremekun 1988; Fagbadebo 2007.

In Nigeria, the patron-client relation is based on master servant relation (sic) and motivated by commercial interest at the detriment of public interest. The patrons foist charlatans or hooligans on the rest of the people and help to ensure that they stay in office for as long as they desire. The clients in return devise (sic) perfidious schemes aimed at boosting the residual interest of the cabal (Oarhe 2010, p.54).

A writer sums up this unethical value that characterises the Nigeria state thus:

We have politicians bastardising (sic) the political process. We have those in the public and private spaces stealing the country blind. We have a judiciary that is less than stellar. We have a legislative branch that is more concerned with enriching itself than enriching the nation. We have non-state actors killing innocent citizens at will. And now we have petty and pesky individuals threatening the survival of the country (Abidde 2013).

In Nigeria, democracy is about personalities; the political process revolves around the desire to please the individuals who are in control of power. In Nigeria, 'the underlying political and social system' (Joseph 1991, p. 4) has to do with the mode of representation of interests and distribution of benefits thereof²⁴⁶. The notion of executive power, associated with the offices of the offices of the president and the state governors, have been stretched to afford the executive with the omnipotent power of control both in terms of the representation of interests and the distribution of benefits. . A former speaker of a state legislature said:

My experience has shown that whereas the framers of the constitution might have intended a system of government that would be modeled along what is operating in the USA, the state of our political and economic development is not such as can withstand the kind of presidential system we put in place. The notion of executive presidency seems to have gone to the head of everybody; we want to make a monster out of a president/governor. In Nigeria today, if anything happens instead of looking for ways of solving it, they will be calling on the President because we have had the impression that everything must be the president; at the state, everybody will be calling the Governor. The totality of governance has been localized in one person - the president governor. That is why the politics of Nigeria cannot go very far (Personal Interview VI, May 13, 2014).

These perceptions weaken the capacity of the legislature. Godfathers, especially at the level of the states, see executive positions as the most important to influence and to control. Governors, whom realize the prestige and power attached to this office seek to exert their autonomy and to monopolise the resources of the state. My analysis of interviews shows that the struggle between the godfathers and the godsons over the control of resources and the distribution of benefits is not driven primarily by a concern for the promotion of the public good. Thus, the idea of democratic governance is not realised in Nigeria.

²⁴⁶The preoccupation of the political elite in the struggle against colonialism was the need for direct political representation by the local politicians as against the monopoly of the political leadership by the European officials. Similarly, the political elite demanded the direct utilization of the economic resources for the benefit of the indigenous Nigerian people rather than being appropriated to service the interests of the colonial power.

Democracy concerns the collective interests of the population who have agreed to be governed by a set of rules and principles (Przeworski 1992). This in essence is an expression of the ideals of the modern state (Fukuyama 2015). According to Fukuyama (2015, p.13), the ‘modern state aspires to be impersonal, treating people equally on the basis of citizenship rather than on whether they have a personal relationship to the ruler’. This is unlike the patrimonial state where the society is viewed as ‘a species of personal property, and in which there is no distinction between the public interest and the ruler’s private interest’ (Fukuyama 2015, p.13). The syncretic relationship between godfathers and godsons in Nigeria fits Fukuyama’s idea of neopatrimonialism where “rent-sharing” kleptocrats run institutions of government as private enterprises for the benefit of the political elite.

Neopatrimonialism can coexist with democracy, producing widespread patronage and clientelism in which politicians share state resources with networks of political supporters. In such societies, individuals go into politics not to pursue a vision of public good, but rather to enrich themselves (Fukuyama 2015, p.13).

Hence, the political elite further use measures such as *stomach infrastructure* to subtly coerce the people into voting for them in future elections (Kifordu 2010; Philip et al 2014). The assertion of Richard Joseph (1991, p.116) that the survival of politicians in the Nigerian political terrain is dependent on the ability of the actor to ‘deliver the goods’ finds relevance in the modern day politics of ‘*stomach infrastructure*’ (Adindu 2014; Olupohunda 2014). Often, such people and their cronies seek to have dominant voices that are not in keeping with the interests of the public.

The godfather (patron) provides all the financial and political means for the electoral victory of his godson (client) in a transaction that commercializes the political process. The political means include manipulation of the political party rules for the selection of candidates for elections. This is to ensure that the candidate that emerges is the preferred candidate of the godfather. Electoral violence as a mechanism of rigging is a common instrument often adopted by Nigerian godfathers to ensure the victory of their preferred candidates during elections (Adele 2012; Adigbuo 2008; Agbaje 2006; Bekoe 2011; Omotola 2010; Omobowale & Olutayo 2007). The expectation thereafter is that the godson will enable the godfather to enjoy unfettered access to the resources of the state through the preferential award of contracts, political appointments and through other forms of political patronage. Where the godson fails to meet these expectations, the godfather will mobilise the political elite, constitutionally or otherwise, to effect compliance with his/her preferences or to ensure the

removal of the godson from office. A classic case of this is that of the removal of a former governor – Dr Chris Ngige - from Anambra State.

In Anambra state, Dr. Chris Uba was the godfather of Governor Chris Ngige, who was declared the winner of the gubernatorial election in 2003 (Oarhe 2010). Uba funded the electoral victory with the expectation of returns, including the appointment of commissioners and other principal officers of the state as well as access to the state treasury. When the governor reneged on their agreement Uba tried, by several means, to remove the governor. First, he forced Ngige to sign a letter of resignation as the state governor (Human Rights Watch 2007). However, the letter had no weight as according to the constitution a governor cannot resign without submitting the letter to the legislature. This was followed by an invasion of the government house and the abduction of the governor by the police (Oarhe 2010) with the intention to force him to announce his resignation. Public outcry at his abduction foiled this attempt. Uba then confessed, on the basis of evidence that had been provided, that the 2003 election was rigged in favour of the governor. The Election Petition Tribunal then declared the election of Governor Ngige void and his opponent, Peter Obi, of the All Progressive Ground Alliance (APGA) was instead then declared the winner (Olaniyi 2013). Thus, the ‘revolt’ of the godson against the godfather often leads to political crisis.

One analyst likens a Nigerian ‘politician without a godfather’ to ‘a cyclist without a bicycle’ (Ezumezu 2010). They are the ‘underground railway for the corrupt leaders, and office holders’ and have ‘become the incubators for corrupt’ political elites (Ezumezu 2010). The concept of godfatherism is better seen from the perspective of the actors. Lamidi Adedibu²⁴⁷ claimed that as the godfather to the governor of Oyo State, Rashidi Ladoja²⁴⁸, he had the right to demand money. ‘I put him there, so, if I demand money, will it be wrong? Do I need to ask for it?’ (Apabiekun 2006, p.21). This confessional statement is an indication of the perceptions of impunity and decline of democratic values in the Nigerian political system.

²⁴⁷The late Chief Lamidi Adedibu became an influential politician during the political transition programmes of the military in the early 1990s. He was an influential politician in the political parties he joined during the aborted Third Republic and the commencement of the Fourth Republic in May 29, 1999 until his death in June 11, 2008. He was popularly called “the Strongman of Ibadan Politics” (Omobowale and Olutayo 2007), an appellation that depicted his political strength in Oyo State. He was reputed to have influenced the electoral success of a series of governors and other elected political officers in the legislature.

²⁴⁸Rashidi Ladoja won the gubernatorial election of Oyo State in the 2003 election under the umbrella of the PDP having defeated the incumbent from the defunct Alliance for Democracy (AD), Alhaji Lam Adesina. After the crisis that led to his impeachment and subsequent reinstatement by the judiciary, he defected from the PDP to establish his own political party, the Accord Party (AP). He had been contesting the gubernatorial election in the state since 2011 under the platform of his party without success.

His ability “to put him there” is not in accordance with the democratic values of free and fair competitive elections. While the governor did not deny the fact he achieved his election victory through the influence of his godfather, a confrontation between the godfather and godson over the distribution of the benefits of office reveals the depth of prebendalism in the Nigerian presidential system. The governor was eventually removed from office, but the federal government and the leadership of his political party did not enforce the constitutional rules or challenge the illegality of his election victory. It was the judiciary that nullified the electoral outcome.

This neo-patrimonial culture is an indication of transaction politics in the Nigerian state where public institutions are governed as private enterprises for the promotion of the interests of the political elite. In this scenario democratic values have little relevance, a factor that weakens the capacity of the institutions of government to ensure accountability.

In the 2003 election in Anambra State Chris Uba²⁴⁹, as the godfather, had the governor and his deputy and some members of the state legislature, as his godsons. He also financed the election of the 3 senators and 10 out of 11 House of Representatives members representing the state at the Senate and House of Representatives, respectively²⁵⁰. He was also godfathers to 29 out of the 30 members of the state legislature. Like Adedibu of Oyo State, Uba boasted that, ‘I also have the power to remove any of them who does not perform up to my expectations anytime I like’ (*The Comet*, 14 March, 2002, p. 12).

A former governor, Chimaroke Nnamani²⁵¹, described a godfather as ‘a merchant set out to acquire the godson as a client’ (cf. Tell Magazine, 2004, p.17). The former governor who had a running battle with his godfather, Chief Jim Nwobodo, defined a godfather as,

an impervious guardian figure who provided the lifeline and direction to the godson, perceived to live a life of total submission, subservience and protection of the oracular personality

²⁴⁹Dr Uba emerged as an influential politician in Anambra State in 2003 when he sponsored and financed the majority of the politicians who contested the election on the platform of the PDP. His brother, Andy Uba, was a supporter of President Olusegun Obasanjo’s election campaign, and was appointed as the Special Assistant to the president on Special Duties and Domestic Affairs. Chris Uba’s closeness and support for the president was rewarded when he was offered a position as a member of the Board of Trustees of the PDP. This position further strengthened his influence in the local politics in Anambra State.

²⁵⁰As an influential member of President Obasanjo’s administration, he had access to the leadership of the PDP to influence the candidate that would emerge from the party’s primary election. This influence also extended to local politics in Anambra State where he exerted his power to engage in electoral malpractice (Oarhe 2010; Lewis and Kew 2015).

²⁵¹He was a two-term governor in Enugu State, 1999-2011, on the platform of the PDP. His godfather was Chief Jim Nwobodo. In 2007, he contested and won the election as a senator on the platform of the PDP.

located in the large, material frame of opulence, affluence and decisiveness, that is, if not ruthless (Nnamani 2003, pp.30-31).

Nnamani noted that the main objective of a godfather, as a self-seeking political figure, is the subjugation of the godson in an attempt to exploit government resources for personal enrichment.

Chris Ngige²⁵², another godson, described godfathers as a set of political individuals who were out, not to improve the state, but rather to live on public resources (cf. Adebajo, 2003).

Ngige described his experience thus:

Chris Uba [the godfather] took my former Accountant-General into his hotel room in Abuja at NICON. And they typed a letter to the Central Bank of Nigeria, CBN, opening up an Irrevocable Standing Payment Order, ISPO, on his project that has been on before then. He told me that Dr Mbadinuju [former governor] stopped his ISPO because of the political crisis between them. So he called me to sign this document directing the Central Bank to pay him from the federation account N10 million monthly for the next 87 months totalling N870 million. I said I could not do that for two reasons: First and foremost, I would not be in office for 87 months. I will only be governor for 48 months, that is four years.... That if I will ever sign an IPSO, it is for 48 months... Secondly, there are no accompanying certificates to prove or show that you are entitled to N870 million. Thirdly, it is wrong for you to bring my accountant-general into a hotel room with a prepared letter by him and yourself and you expect me to sign it for you. He did not like it. He started making trouble ... Again, he said his election expenses total N3 billion and that he wanted a cheque from me. I told him that nobody can give a cheque of N3 billion. He insisted I should also sign an agreement. But I asked, 'how did you come about the N3 billion?' He flared up ... (cf. Tell Magazine, July 28, 2003, p. 42; The Guardian, July 14, 2003).

He paid this money until the time the crisis set them apart (Adebajo 2003). The crisis between the former governor and his godfather began when the Ngige could no longer access the resources of the state to meet his financial obligation. The decision to discontinue the payment was not because the governor was protesting against the demand of his godfather but simply because the money was no longer available. The governor said in a media interview in 2010 that:

I could not pay the N3 billion because I did not know where I would get it because I looked at the state I inherited, the state was owing pensioners, civil servants, financial institutions, contractors, some with phony bills in quote and we were even owing traditional rulers (cf. Agbo 2010).

²⁵²Dr. Chris Ngige contested the gubernatorial election in Anambra State in the 2003 election on the platform of the PDP. He was the godson of Dr, Chris Uba. Ngige was removed as the governor by the judiciary when his godfather confessed that the 2003 election that brought him to power was rigged.

From all indications, he had an agreement with his godfather prior to the election on how to distribute the benefits of the government and to dispense and to share political appointments.

The godfather, Chris Uba said:

When he [Ngige] became Governor he started playing funny. That is where we disagree, we signed before he became governor. We said that I am going to produce [appoint] six to seven Commissioners. He is going to produce [some] because he is governor already. I am going to produce more; he is going to produce lesser...I spent a lot of money to put him there but I never asked him for my money back...I am supposed to bring the Commissioner for Finance, this man who funded the campaign is supposed to be Commissioner of Works, I said, look, you signed it, and not under duress. The problem is the immunity the governors are having, everything they are having, you spend your money to bring them into power and they say "Go to hell." It should be just like, you invest in a bank and then you have power to make some decisions because of your controlling shares. But he blackmails you and pays the press to go say all sorts of bad things about you and put it in the internet (cf. Human Rights Watch, 2007).

Ngige admitted that he was not interested in contesting the gubernatorial election but was drafted into the race by his godfather who eventually took over the running of the government.

As a governor, he was not in actual control of the government; his Commissioners and other principal personal aides were nominated and appointed by his godfather without any resistance. He said:

The first appointment made in this Government House was the Principal Secretary to the governor, a personal staff of the governor. Somebody was foisted on me. A man who has never worked in the civil service before... He doesn't even know what a file looks like not to talk about writing memos for the governor. The Secretary to Government is somebody I know very well. He (Ubah) also brought him for appointment. I didn't raise objection because he's somebody I know. But we did not agree on that. I didn't choose him. I had somebody else in mind and I wanted that particular SSG to have maybe another position in government later. The Permanent Secretary (Uche Udedibia) was re-deployed on the instruction of Ubah...while I was away in Abuja attending governors' meeting (cf. The Guardian, July 14, 2003).

It is evident from the above that the former governor had, prior to his election, agreed to serve the interests of his godfather. This explains the ease at which he accepted all the actions and decisions of his godfather. This is an indication that though he was the governor with executive power, he was not in actual control of the powers of the office in which he served. Nor was the legislature in the position to take an independent stand against external interference in the running of the government. Thus, politics in Nigeria comprises of the representation of the interests of the political elite and the distribution of the benefits thereof among the elites.

The former governor and the members of the legislature were elected to represent the interests of the public. The actions of the godfather comprised of making decisions about political appointments and other government matters. The acceptance by the governor and the members of the legislature of such appointments, and the approval of the decisions of the

godfather on matters of the state, amounts to a self-imposed abdication of their constitutional responsibilities. This is a characteristic feature of the manifestation of patron-client politics in Nigeria.

Indeed, the members of the legislature were aware of the enormous responsibility the constitution placed on them. An interviewee told me that:

The constitution provides enough supports for the legislature to function effectively as an important arm of the government. Apart from the constitutional provisions, the legislature is being guided by the internal rules which are subject to review from time to time. These House Rules are recognised as constitutional procedural guidelines in the conduct of the affairs of the legislature in order to enable it perform effectively in the routine policy process. Nobody can jeopardise these functions (Personal Interview I, May 3, 2014).

Nevertheless, the Nigerian lawmakers often jeopardise their performance of these functions because of their lack of capacity. This incapacity is a product of the syncretic relationship between the godfathers and godsons. If there had been no conflict between Chris Uba and the governor, the misappropriation of the state funds would have continued and the members of the legislature would have supported the former governor because of the smooth relationship he had with the godfather.

It is evident that godfather-godson relationship is a voluntary arrangement for mutual socio-economic and political benefits. The tie between the two is motivated by mutual materialistic desire (Joseph 1991). James Scott (1972) has noted that such relationships exist as a result of the desire of a weaker political figure to seek refuge and protection from an individual of higher socio-economic and political clout. It is an exchange relationship involving the offer of service in anticipation of an agreed reciprocity for 'genuine affective ties' (Scott 1972, p.92). Richard Joseph elaborates on this thus:

An individual seeks out patrons as he or she moves upward socially and materially; such individuals also come to accept ties of solidarity from their own clients which they view as fundamental to the latter's security and continued advancement as well as their own. Clientelism therefore is the very channel through which one joins the dominant class and a practice which is then seen as fundamental to the continued enjoyment of the perquisites of that class (Joseph 1991, p.55).

The mutual agreement often centres on the struggle for the control of the resources of the state for their upward mobility. In Nigeria, the crisis of godfather-godson relationships becomes public when greed infringes on the expectations of the godfather. The godfather would thereafter withdraws his support and mobilise the leadership of the party and a sizeable number of the members of the legislature against the interests of the governor. Both Ladoja

and Ngige acknowledged the immense roles of their respective godfathers in ensuring their electoral successes at their inaugurations in May 29, 2003 (Albert 2005; Smith 2007). Their relationships changed when the interests of the godfathers conflicted with the personal interests of the godsons. While Nigerians struggle under the burden of economic and social maladies, political elites prosper in a mercantilist political environment whose preoccupation is the cravings for 'monetary gains' through kickbacks (Edigin 2010).

Sklar et al (2006) have noted that one of the consequences of patronage politics in Nigeria is the excessive personalisation of power 'while national policy is driven by elite relationships rather than by public needs' (Sklar et al 2006, p.107). Beyond this, it weakens the institutions of government, especially the legislature, often populated by *clients* who won their elections at the behest of a godfather. The result is a legislature that is subservient to the executive. The political elites I interviewed in the course of this study believe that the majority of legislators at the state level are not independent of the executive branch because most of them are sponsored by the governors (or the group of political godfathers where the governor is a stakeholder, as in the case of Anambra and Oyo States) (Smith 2007; Omobowale and Olutayo 2007). State governors, when they assume power often seek to "buy off" the legislators, a political strategy to maintain a 'good rapport' and to further entrench their interests. The system of checks and balances becomes circumvented while a culture of impunity, in a cascading process of transaction politics through the branches and levels of government, dominates the policy process.

Respondents from the legislature who spoke with me related their experiences on the ways in which the influence of their godfathers affected the discharge of their legislative responsibilities. For instance, in a state where the legislators had concluded plans to remove the governor, based on a series of breaches of the constitution by him, the governor reached out to the party leaders who sponsored the legislators to instruct their godsons to back out of the process (Personal Interview VI, May 13, 2014). Above all, its 'mechanisms also undercut and undermine the tenets of democracy and governance such as transparency, accountability, equity, effectiveness and efficiency, rule of law, and fair competition' (Oarhe 2010, p.40). Attempts to institutionalise an 'informal balance of power among political elites' with a view to checkmating the 'ambitions of political godfathers,' often degenerates into violent confrontation (Sklar et al 2006, p.107).

In Anambra state, for instance, an attempt by a former governor, Mbadinuju, to resist the power his godfather, Emeka Offor, had over him resulted in violence (Alachenu 2013; Oarhe 2010). In the case of for Ngige in Anambra, armed policemen abducted him and forced him to sign a letter of resignation (Smith 2007; Human Rights Watch 2007). When this failed, armed men attacked the Anambra State Government House in Awka, with explosives and burnt part of it down, while the members of the Nigerian Police watched (Human Rights Watch 2007). The attack was alleged to have been masterminded by the godfather, though he denied involvement in the incident. In spite of the magnitude of the attack, the incident was not investigated (Human Rights Watch 2007). The final action the godfather took to ensure the removal of the governor was his confession that the election that brought the governor to power was rigged (Human Rights Watch 2007; Smith 2007)²⁵³.

On December 21, 2004, Chris Uba, in a publicly circulated statement, admitted that the 2003 gubernatorial election in Anambra State was rigged in favour of the PDP candidate, Chris Ngige. He said:

As the truth of Anambra issue is being gradually revealed and denials and lies are being traded, I believe that as one of the main activists in the whole issue, the moment of truth and remorse has come. First of all, let me express my heartfelt regret for my error and the activities involved with others in Anambra to put Ngige in power as the governor of the state. In showing remorse, I sincerely ask for understanding and forgiveness of all our people in Anambra state and those Nigerian leaders and citizens who have been affected and insulted by the Anambra issue. My mistake for which I ask for understanding stemmed from my belief that election is like a battle and since all is fair in war, I believe the end justifies the means in an election. We did everything possible, to put Ngige in power. In the presence of the President of Nigeria, Chief Olusegun Obasanjo, I asked Dr. Chris Ngige whether he actually won the election; he confirmed he did not win the election. The President drove us out. As from that point, he did not want to listen to our story again (cf. Nigeria Muse 2004).

Uba claimed further that he also notified the National Chairman of the PDP, Chief Audu Ogbeh, who 'advised that we should all keep quiet on the issue of the governorship election in Anambra. I obeyed' (cf. Nigerian Muse 2004). Though Ogbeh and Ngige denied the statement (This Day, 22/12/2004), former president, Obasanjo, confirmed that the former governor told him that he did not win the election (Vanguard 26/12/2004). Chris Uba did not elaborate or provide any details of how he rigged the election. However, there was evidence,

²⁵³The electoral law prescribes punishment for electoral offences. Aside from this, the Independent National Electoral Commission (INEC) has a list of election offences and penalties (see Election Offences and Penalties. Available at: <http://www.inecnigeria.org/wp-content/uploads/2013/09/ELECTION-OFFENCES-AND-PENALTIES.pdf> . However, these rules are rarely applied and in the case of Uba, no action was taken against him.

albeit circumstantial of connivance between the officials of the electoral body. As an analyst put it,

Although, Uba failed to give details of how he manipulated the result of the election in favour of Ngige, it was clear that both the police and INEC in Awka might have effectively collaborated with the godfather to pave way for the rigging. On the election day, all entrances to the INEC[Independent national Electoral Commission] office along the Okpuno Road, Awka, were cordoned off by heavily armed mobile policemen who denied everybody except Chief Uba access to the commission's office. Powerful politicians and contestants from other political parties who attempted to visit INEC to ensure the votes cast for their parties were accurately recorded never had access to the commission (Vanguard 26/12/2004).

Prior to this revelation, the candidate of the APGA in the election, Peter Obi, had challenged the electoral victory of Ngige on the basis that there was electoral fraud. He had provided evidence of electoral malpractice (Human Rights Watch 2007). Uba's confession strengthened the case at the Court of Appeal, and the election of the governor was nullified in March 2006 (Human Rights Watch 2007). It is evident that beyond the politics within the state, the support received from the federal government and the leadership of the political parties often emboldens godfathers to exert influence on the governors and the members of the legislature in Nigeria. This case demonstrates the extent of the impunity in the Nigerian political system. One would have expected punitive measures to sanction Uba, based on the evidence provided in his confessional statement. No action has been taken against the godfather.

Table 11 below shows three cases of the godfather-godson relationships between 1999 and 2007. This table does not capture a series of other relationships such as the subtle growth of influence by chieftains of political parties deferring to the overbearing presence of the president, as the national leader of the ruling political party. At times, some chieftains of political parties, in a bid to retain their seats and free themselves from the power of godfathers defect to the opposition political parties. This is also an attempt to establish a new political base. In states controlled by the opposition political parties, with no elected officials at the national level, local godfathers within those political parties exert control over the activities of the parties. Thus, influential political elites who defect from the ruling party to another party usually emerge as leaders of that party.

Table 11: Three cases of prominent godfather-godson relationships, 1999-2007²⁵⁴

S/N	Period	State	Godfather	Godson	Nature of relationship
1	1999-2003	Anambra	Emeka Offor	Chinwoke Mbadinuju	It was a rancorous relationship, strained by the financial demand of the godfather who collects N10million monthly from his godson (Alachenu 2013). The use of violence, including multiple murders, often generates instability. The governor lost the party ticket for re-election.
2	2003-2005	Anambra	Chris Uba	Chris Ngige	The Godfather unleashed terror when the godson reneged on the pre-election agreement to provide money from the state treasury to the godfather. The governor was abducted and forced to resign from his position. Uba confessed to the rigging of the election in favor of Ngige. Ngige was eventually removed by a judgment of the Court of Appeal (Human Rights Watch 2007).
3	2003-2007	Oyo	Lamidi Adedibu	Rashidi Ladoja	The governor reneged on the agreement with the godfather. The relationship became strained as a result of the deployment of force to destroy government property and that of the governor. The governor was removed by a faction of the legislature loyal to the godfather. Judicial review of the legislative decision reinstated the governor as the Court of Appeal and the Supreme Court declared the impeachment unconstitutional. .

Source: Compiled by the author from different newspaper reports.

The primary focus of these godfathers is to ensure that the godsons, as the governors/legislators, accede to their demands in terms of access to lucrative earnings through the *godsons'* position in government.

The *godson* becomes rebellious when it becomes obvious to him that the godfather would not allow him to enjoy anything from the instrumental relationship. The *godfather* too becomes apprehensive when he realises that the godson does not want him to have all he wants from the government, such as jobs and contracts (Albert 2005, p.95).

Any deviation from this often generates a succession crisis as the godfather will seek to replace the 'recalcitrant' *godson* with someone that is more compliant, as in the case of Ngige; violence and political instability, as in the case of Mbadinuju and, unconstitutional manipulation of legislative rules, as in the case of Ladoja.

²⁵⁴My choice of these three cases is based on their relevance to the selected states in this study. I omit a prominent *godfather*, Dr. Olusola Saraki (now deceased), whose sprawling political influence in Kwara State spanned from the Second Republic to the Fourth Republic. His son, Dr. Bukola Saraki, is another budding *godfather* in the state who has stepped into the political shoes of his late father. His father ensured that he was elected as the governor of Kwara State for two terms, 2003-2011. He also won an election as a senator in 2011. He later defeated to the APC and was re-elected into the Senate in the 2015 election. He also contested the position of the President of the Senate and won, though this was against the directive of his party.

6.3 The ‘revolt’ of the ‘godson’ and the impeachment of Governor Ladoja of Oyo State

The former governor of Oyo State, Rashidi Ladoja, was impeached by 18 members of the 32-member state legislature in January 2006. The late governor Alhaji Lamidi Adedibu was a political godfather who ensured the emergence of Ladoja as the gubernatorial candidate of the People’s Democratic Party (PDP) in 2003 (Omobowale and Olutayo 2007). In Nigeria, political godfathers see the exchange of ‘goods’ for loyalty as a mechanism to ensure political victory (Omobowale and Olutayo 2007; Oarhe 2010). This set of political elites often enjoys government protection and uses it to harass political opponents, sometimes deploying strategies that include manipulation and force. Adedibu belonged to this group of political elites.

He established himself as formidable member of the political elite with the influence to determine the political fate of party candidates during elections. Three successive governors of the state benefited from his political networks serviced by ‘an informal coercive force of thugs and street urchins from the “army” of disenchanted low class [people] who depend on him for survival’ (Omobowale and Olutayo 2007, p.434). The parting of ways between him and his godson, Ladoja, began when he sought to have a de facto control over the administration of the state. Adedibu expected 100 percent loyalty from Ladoja including that he would not ‘appoint his commissioners without input from Adebibu, and had to pay a certain percentage of his security vote to Adedibu’ (Obiagwu and Ogbodo 2006). Nevertheless, Ladoja had a different plan: he rebuffed his godfather who had allegedly sought, ‘to dip his hand into the state treasury’ (Oni 2013, p.122). The outcome was an open confrontation between the supporters of the godfather and his godson (Oni 2013).

Ladoja had said at the heat of the crisis that his problem with Adedibu is, ‘on the difference in our interpretations of governance and politics’ (cf. Adegboyega, 2006:13). Omobowale and Olutayo (2007, p.443) note that attempts by Ladoja to de-emphasise the influence and ‘political relevance’ of Adedibu, because of his (Adedibu’s) insatiable demands for ‘goods’, widened the gulf between the godson and his godfather. A principal officer of the Oyo State House of Assembly expressed it this way:

...Baba Adedibu sponsored Ladoja as the governor; he was expecting constant returns from Ladoja after he became the governor. Ladoja was not ready for that because as a business man and budding political elite, he was mindful of his name and reputation. He wanted to be an independent man but Baba Adedibu wanted him to be taking orders from him. Ladoja’s refusal angered Baba that he had to report him to the president. The president told Ladoja to

go and beg Baba if he wanted to remain as the governor of the state. Most of us were sponsored by one political elite or groups within the political party or in our towns. Very few of us got elected independent of any godfather. That is the pattern in Nigerian politics. Electoral contest is like a business deal, you have to make returns. If you fail to do that, you risk the loss of your political relevance (Personal Interview I, May 3, 2014).

In other words, the major offence of Governor Ladoja that the 18 lawmakers regarded as gross misconduct is that he 'displeased his erstwhile godfather [Adedibu] by not forwarding him the demanded amount of the state budget or control of key appointments' (Sklar et al 2006, p 100). This connotes the pervasive influence of godfatherism in Nigerian politics, irrespective of the extant rules. Two thirds of 32 is 21.3 and not 18. In order to allow the 18 lawmakers to accomplish their purpose, the federal government provided them with security. Police escorts guarded the hotel where they were meeting for the impeachment of Ladoja (Omobowale and Olutayo 2007).

In this case Adedibu was so powerful that he enjoyed the support and protection of the state security agencies against a constitutionally recognised governor. In addition, as Omobowale and Olutayo (2007) discovered in their study, he also had the support of the federal government because Olusegun Obasanjo, was seeking to manipulate the constitution to extend his tenure.

Perhaps all the support Adedibu needed had to be granted, because as well as Ladoja's disagreement with Adedibu, he was also against the supposed third-term bid of President Obasanjo. Retaining Ladoja in power meant losing the vital support of one of the Yoruba South Western states that Obasanjo considered his primary constituency and base of the third-term campaign. And since Ladoja was out of favour with the 'real powers behind the throne', he was impeached, though unconstitutionally (Omobowale & Olutayo 2007, p443).

Richard Sklar et al (2006, p101) have averred that as power brokers, these individuals 'have grown increasingly bold in circumventing the democratic system' to include constitutional manipulation to justify their brazen disdain for the rule of law. Sklar et al (2006, p.105) aver that 'they are primarily self-interested wealth and power seekers'. This self-seeking behaviour explains the politics behind the processes of impeachment that occur in practice.

You know, many of us are not independent of our sponsors... Ladoja's problem has to do with his disagreement with his benefactor, Baba Adedibu. He compounded this problem when he preferred to support the Vice-President, Atiku Abubakar, against president Obasanjo's desire to go for the third term. If it was the disagreement with Baba Adedibu alone, Obasanjo could have resolved it. His [Ladoja's] problem with Adedibu coincided with the Obasanjo third term project. The president was seeking for support from all the PDP controlled states. Virtually all the PDP governors who opposed his ambition or discovered to be in alliance with his deputy, Atiku Abubakar, were having problems with either their legislature or political party or godfathers (Personal Interview I, May 3, 2014).

The position of the state governor is crucial for the mobilization of members of the political party. A sitting governor is the leader of his political party in the state because he has access to the instruments of political patronage. This means that the governor has the control of the votes of the members of the party whenever the need arises for the selection of electoral candidates. When the loyalty of the governor can no longer be guaranteed, then the president, as the national leader of the party, can use all the machinery at his disposal to orchestrate the removal of the governor. Where the executive of the political party at the state is loyal to a “recalcitrant” governor, the national leadership of the party will dissolve the party executive and appoint a temporary executive whose membership is loyal to the national leadership in a bid to weaken the political base of the governor. This partly explains the pervasive culture of the fragmented political party in Nigeria and its effect on the political stability in the country.

The Nigerian constitution limits the term of the president to 8 years. But Obasanjo sought to manipulate the constitution through an omnibus amendment that would benefit the state governors and the legislature, the principal actors needed in the stipulated amendment provision of the constitution. His deputy, Atiku Abubakar, was opposed to this idea because it would jeopardise his own ambition to succeed the president after the completion of his second term in 2007. Atiku had rallied his numerous supporters within the ranks of the governors and legislators to scuttle the amendment. The amendment eventually failed. Beside this, Obasanjo as the president was a godfather in his own right with towering influence over the machinery of the ruling party, PDP.

The division between the two members of the political elite in the executive branch led to the fragmentation of the ruling political party, the People’s Democratic Party (PDP), and, by extension the ranks of the governors of the PDP-controlled states. In an attempt to coerce support from the governors, the EFCC began to reopen cases where there were allegations of financial misappropriation against the governors. Governors Ladoja, Dariye, Alamieyeseigha and Fayose of Oyo, Plateau, Bayelsa and Ekiti States respectively, belonged to this group of “recalcitrant” governors who were targeted to be removed from office by all means. Ladoja’s case was compounded by the open confrontation with his godfather, Alhaji Lamidi Adedibu.

One of the features of the Obasanjo administration was the use of unconstitutional means to achieve personal political ends. A respondent described this as the other version of the corruption culture that characterised the regime of the former president.

Corruption, not just in terms of exchange of material means but also in terms of deployment of state power. Obasanjo did it in the most brazen manner; deployed the police, the anti-corruption agencies, to bring down the heads of Governors that were not willing to do his bidding (Personal Interview VIII, May 19, 2014).

This manifested in different dimensions. At the wake of the crisis in Anambra State between the governor, Chris Ngige, and his godfather, Chris Uba, the president was in support of the unconstitutional activities of Uba (Adebanjo 2003; Albert 2005). The former chairman of the PDP, Audu Ogbeh, expressed his frustration thus:

It would appear that the perpetrators of these acts are determined to stop at nothing since there has not been any visible sign of reproach from law enforcement agencies... How do we exonerate ourselves from culpability and worse still, how do we even hope to survive it... Mr President, if I write in this vein, it is because I am deeply troubled and I can tell you that an overwhelming percentage of our party members feel the same way though many may never be able to say this to you for a variety of reasons... On behalf of the People's Democratic Party, I call on you to act now and bring any, and all criminal, even treasonable activities to a halt. You and you alone, have the means (cf. Saturday Punch, 11/12/2004, p.16).

This opinion eventually set Ogbeh against the president and provided the template for his removal as the national chairman of PDP. In this respect, the governors are seen naturally as the godsons of the president, the national leader of the party, who also symbolizes the leadership of the party. Any opinion or position contrary to that of the president is nothing other than a “revolt” by these godsons that must be crushed by all means. In essence, the president, as the national leader of the political party, is the godfather to all other elected political office holders in the political party.

Table 12: List of Impeached Governors, 1999 and 2007

Name	State	Date Impeached	Alleged Offences
Rasheed Ladoja	Oyo	December 13, 2005	Conflict of interest Fraudulent conversion of public funds.
Peter Obi	Anambra	November 2, 2006	Misappropriation of public fund
Joshua Dariye	Plateau	November 13, 2006	Embezzlement of public funds
Diepreye Alamieyeseigha	Bayelsa	December 9, 2005	Embezzlement of public funds
Ayo Fayose	Ekiti		Mismanagement of public fund

Table 13: List of impeached Deputy Governors, 1999-2007

Name	State	Date Impeached	Alleged Offences
Eyinaya Abaribe	Abia	March 21, 2003	Conflict of interest
Iyiola Omisore	Osun	December 14, 2002	Conflict of interest
Kofoworola Akerele-Bucknor	Lagos	December 3, 2002	Disloyalty to the party
Femi Pedro	Lagos	May 10, 2007	Disloyalty to the party
Abdullahi Argungu	Kebbi	December 9, 2002	Gross misconduct
Tukur Jikamshi	Katsina	July 2002	Gross Misconduct
John Okpa	Cross River	February 2003	Gross misconduct

6.3.1 Allegations of gross misconduct against Ladoja

The allegations of gross misconduct leveled against Ladoja by the 18 lawmakers as contained in the report of the panel²⁵⁵ are:

1. Conflict of interest
2. Fraudulent conversion of public funds.
3. Establishment of Oyo State Road Maintenance Agency without the consent of the State House of Assembly
4. Operation of Foreign Accounts, Sponsorship of attack on Honourable Members of the House of Assembly
5. Sponsored attacks on members of the legislature

²⁵⁵See This Day 13/01/2006. 'Ladoja Impeachment –Report of the Panel'.

6. Undermining the integrity and constitutional power and functions of the legislature
7. Undermining the integrity of the judiciary,
8. Acts unbecoming of a Governor of Oyo State
9. Nepotism on contract
10. Chieftaincy matters,
11. Usurpation of the power of the state legislature on local government affairs,
12. Undermining the principle of separation of powers,
13. Purchase of 33 graders
14. Dereliction of duties.

The panel in its report detailed how it arrived at its conclusions despite the legal objections of the governor's representatives. Aside from this, the governor did not respond to the allegations, because of pending litigation over the composition of the panel. As shown in chapter five, one of the reasons why the Court of Appeal and the Supreme Court nullified the impeachment of the governor was that the panel was illegally composed. It was nullified by the acting Chief Judge (Ag. CJ) of Oyo State, Justice Afolabi Adeniran. Nevertheless, the panel disclosed that nine out of the 14 allegations of gross misconduct against governor was proven. The panel referred the remaining 5 allegations for further investigation (This Day 13/01/2006).

The judgments of the Court of Appeal and the Supreme Court, as discussed in chapter five, point to the fact that the activities of the panel were in breach of the constitution. One important issue here (which is also common to other cases of impeachment) is the politics behind the allegations of gross misconduct. The legislators that I interviewed confirmed that the moment the lawmakers decide to impeach a governor, allegations are presented to the panel. The members of the panel are loyalists of the faction of the legislature seeking to impeach the governor. In the case of Oyo State, a principal officer of the legislature told me during an interview that the allegations of gross misconduct against the governor were fictitious and simply an attempt to remove him.

Godfatherism was the main issue... had it been that Ladoja actually committed these offences and the process was legal even if he went to the Supreme Court, he would have lost... If you look at the allegations leveled against Ladoja, you will discover that they are not all valid. The panel itself could not prove the ones that could be regarded as gross misconduct in the violation of the constitution. The other ones proved by the panel are trivial ones that are just mere matters of politics rather than policy of the state. The bottom-line is that he angered his godfather and at the same time he was not in the good book of the president who could have appeased Baba. Those of us who opposed the impeachment at the legislature did so at the risk of our lives and political relevance (Personal Interview I, May 3, 2014).

Evidently, the removal of the former governor goes beyond the independent decision of the 18 legislators. They did not make their decision in the official chamber of the legislature.

Instead, they conducted the proceedings of the impeachment in a hotel. The number of legislators required to impeach was less than the constitutional requirements (Human Rights Watch 2007). Indeed, it may be argued that the legislators were mere instruments to be used by the godfather.

The confession of a prominent traditional ruler in the state, the Alaafin of Oyo, Oba Lamidi Adeyemi²⁵⁶, attests to this. According to the Oba, the president, Olusegun Obasanjo had intimated to him and a popular Muslim Cleric and member of the political elite in the state, late Alhaji Arisekola Alao, of his intention to remove the governor.

Initially, when the former president [Obasanjo], made his intention known, Aare [Late Alhaji Arisekola Alao] and I were displeased and unhappy, in spite of all odds, as we were sympathetic to the cause of former governor Ladoja. As a result, we passionately appealed to ex-president Obasanjo to forgive Ladoja and let off the hook on him.... Consequently, former president Obasanjo became more enraged and stood his ground that Ladoja must go. You know Obasanjo; he is like a moving train ready to crush anyone who attempts to obstruct his plan or decision.... So, we set the ball rolling, though reluctantly, by thinking of those to constitute the panel through the then acting Chief Judge (cf. Ojuaiye 2014)²⁵⁷.

The decision of the president and the support granted by the traditional ruler is not motivated by the desire for the delivery of public goods, but instead as a consequence of personal animosity against the governor. The Alaafin, who did not have a cordial relationship with the governor, claimed that, 'I single-handedly drafted the three [out of the nine] charges proffered against the former governor' (cf. Ojuaiye 2014).

I noted in chapter five that the judgments of the Court of Appeal and the Supreme Court on the impeachment of Governor Ladoja and others were based on the violation of the constitutional rules rather than the veracity of the allegations against the governors. In Oyo State, the 18 legislators breached the constitutional provisions in order to remove the former governor because it was the wish of their godfather. This does not mean that Ladoja did not commit any malfeasances while in office that warranted his removal. Though the panel could not prove the allegations that public funds were misappropriated there were allegations of corruption leveled against the governor by the EFCC after he left office (Ahemba 2008). I now turn to discuss and explore these allegations in the next section.

²⁵⁶The Alaafin is a prominent king (Oba) of an ancient town, Oyo, in Oyo State. He was the chairman of the state Council of Traditional Rulers. The chairmanship of the council was based on rotation among the prominent kings in the various towns in the state. There was no cordial relationship between the Alaafin and the governor. .

²⁵⁷The emphasis in this expression is necessary to indicate the politics associated with the composition of the members of the panel, a constitutional responsibility of the Chief Judge. It depicts the general practice across the state.

6.3.2 Allegations of corruption against Ladoja

In August 2008, the EFCC charged Ladoja in court with embezzling N15billion (US\$127 million) (Ahemba 2008). The anti-graft agency alleged that Ladoja ‘sold stocks belonging to Oyo state for 6.2 billion naira [US\$53million] but remitted 4.3 billion naira, [US \$36.76 million] pocketing the balance of 1.9 billion naira [US \$16.24 million]’ (Ahemba 2008). Besides this, Ladoja was also alleged to have laundered 4.7 billion naira (Premium Times 19/04/2013). This court adjudication over the charges is still pending.

While the EFCC was able to uncover the various infractions the governor committed, the panel could not establish a *prima facie* case against the governor on the issue of the mismanagement of public funds. This is an indication of the problems associated with the practice of the presidential system in Nigeria whereby institutional measures and structures to eradicate corruption and harness the resources of the state to promote good governance are circumvented to promote the vested interests of the disunified political elite.

One of the consequences of godfatherism politics in Nigeria is the fragmentation of the political process and political institutions. Godsons seeking to renege upon the syncretic relationship with their godfathers deploy their gubernatorial power to remain in office but defect to another party. The outcome of the crisis between Ladoja and his godfather was the weakening of the influence of the governor in the PDP (Atoyebi 2013). Many governors who clashed with their godfathers defected to another party where possible. For example, Ayodele Fayose (Ekiti State) left the PDP for the Labour Party (LP), Ladoja left the PDP and formed the Accord Party (AP), Omisore (Osun) left the Alliance for Democracy (AD) for the PDP, Eyinaya Abaribe (Abia) left the PDP for the All Nigeria Peoples Party (ANPP), Dariye (Plateau) left the PDP for the Action Alliance (AC) and later contested elections for the senate on the platform of the Labour Party (LP). Intra-party crisis often degenerates to what I refer to as *fragmented-party-in-government*.

6.4 Fragmented-party-in-government and the analysis of the politics of impeachment in Nigeria: The impeachment of Governor Dariye

One explanation for defection and resulting party fragmentation in Nigeria is found in the pursuit of power. The struggle for the control of state power often engenders disunity among the political elite in Nigeria. Political parties are the only platforms through which leaders emerge for the control of state power. To this end, political elites compete for the control of

the machinery of each political party with a view to ensuring that their preferred candidates emerge as the leadership of the party²⁵⁸. Thus, I claim that political parties in Nigeria are theatres of struggles to attain and maintain power among the various godfathers. Political elite deploy their strength and influence to seize the control of the dominant factional group in each of the political parties.

Whenever the ambition of the dominant group to control state power is threatened, it often leads to a further realignment of forces, especially when a deprived candidate commands popular support and followership within the political party. For instance, Governor Olusegun Mimiko was a member of the ruling PDP in Ondo State when he defected to the Labour Party (LP) to contest the 2007 gubernatorial election against the incumbent, Late Olusegun Agagu. His popularity within the party affected the political fortunes of the ruling party after his departure and he eventually won the election against the incumbent

This crisis is generally precarious at the state level where the governor is the leader of the party. Where there is a conflict of interest between the governor and the national leadership of the party, factional struggles will be focused on the decimation of the political structure of the former with a view to orchestrating his removal from a position whereby he controls state power²⁵⁹. Competition for state power, is usually perceived as a matter of life and death, which explains why the exercise of the legislative power of impeachment is important to godfathers who wish to remove a governor whom no longer fulfils their demands.

In Plateau state, the problem of Governor Joshua Dariye has its roots in the crisis between him and the Deputy Senate President, Senator Ibrahim Mantu (Obateru 2004). One interviewee claimed,

The impeachment of Governor Dariye was an extension of the politics of godfatherism *in* Plateau State. The problem of Dariye started with his disagreement with Mantu [Senator Ibrahim Mantu, the Senate Deputy President]. You know, Mantu was a close associate of the president [Obasanjo]. Mantu was the man that the president was using in the Senate to promote the third term agenda. Any crisis with Mantu is a declaration of war against Obasanjo! Because of that crisis, Dariye started to shift his loyalty toward Atiku [Alhaji Atiku Abubakar, the Vice-President]. That further created the problem for him because Obasanjo did not want Atiku to succeed him...The president wanted to have control of Plateau state but the crisis between Mantu and the governor was threatening this ambition. There and then, the

²⁵⁸The Nigerian constitution recognises the political party as the avenue through which state leaders emerge. There is no provision for independent candidacy in elections.

²⁵⁹ With the exception of the case of Peter Obi (Anambra State) whose removal was based on divided-government, all other cases of impeachment in Nigeria's Fourth Republic are partly products of fragmentation of the political party in control of the government in the state.

president supported the Mantu group against the governor. That is the genesis of his problem. (Personal Interview X, May 19, 2014).

In essence, one of the primary forces behind the impeachment of Governor Dariye is the disaffection with the leadership of the political party, rather than the gravity of the charges of financial malfeasances against him. As long as he enjoyed good rapport with the leadership of the party, he is sure of protection.

Even if we discover any corrupt practices that could amount to gross misconduct, as long as his [governor] relationship with the president and the leadership of the party remains cordial, we are handicapped to take any legislative action against him... We are all members of the same political party before the crisis separated us. The leadership knows the language of appeasement... By the time they wanted us to take action, our party was already in crisis in the state, our own political relevance was under a threat... we were on the side of the governor and we cannot move against him (Personal Interview X, May 19, 2014).

This is a general pattern in virtually all the states. For instance, the principal officer of the Oyo State House of Assembly who spoke with me said that even if cases of gross misconduct against governor Ladoja were established, the legislators would find it difficult to initiate any impeachment process against him so long as there was a rapport between the governor, Adedibu and the president. He said,

Though we have the power to do so, but the leaders of the party will prevail over them not to do it. They will settle it amicably. But when there is a problem between the governor and the leadership of the party, everything will work against the governor. They will stir up the legislature to remove him. Impeachment is more of collaboration than policy outcome. If you look at the allegations leveled against Ladoja, you will discover that they are not all valid. The panel itself could not prove the ones that could be regarded as gross misconduct in the violation of the constitution. The other ones proved by the panel are trivial ones that are just mere matters of politics rather than policy of the state. The bottom-line is that he angered his godfather and at the same time he was not in the good book of the president who could have appeased Baba. Those of us who opposed the impeachment at the legislature did so at the risk of our lives and political relevance (Personal Interview I, May 3, 2014).

The lack of independent decision-making in the legislature means that they may be subservient to the executive and/or the leadership of the ruling party. Since legislators are sponsored by the godfathers and/or the party leadership, their capacity to act independently is weakened.

They are “contracted” to participate in impeachment processes initiated by the party and/or the godfather. In some impeachment cases, the legislators that participated were under strict surveillance, camped together in a location throughout the period of the impeachment, in order to maintain unity and cohesion and to avoid being influenced by the opposition.

President Obasanjo himself was a godson to some the established members of the People's Democratic Party (PDP), notably military elites (Sklar et al 2006; Adegbamigbe & Ugbolue 2002)²⁶⁰. Having consolidated his power, Obasanjo 'gradually gained ground against his godfathers, using the powers of the presidency to build alliances with some and to undermine others, most notably [his deputy] Vice-President Atiku Abubakar' (Sklar et al 2006, p.106).

In a similar fashion, most of the current governors arrived as protégés of godfathers and power networks within their states, but have used the executive branch to build increasingly independent bases of their own. Some, such as the governor of Enugu, have succeeded. Others, such as the governors of Anambra and Oyo states, have found themselves losing to their former sponsors (Sklar et al 2006, p. 106).

Thus, the personalised nature of the Nigerian political system often weakens the political party. In addition, one interviewee said of the political parties,

The people at the helms of affairs of political parties are the dreg of the society; they are not fit to be there. This set of people is not supposed to be there. And they suddenly become the principal factors and actors in the selection of party candidates (Personal Interview II, May 10, 2014).

The stakes for the leadership of the party is high because the party is responsible for choosing candidates to run in the election. Thus, in this system of patron-client relationships, prospective candidates would want either their sponsor to become a member of the executive body of the party. Consequently, the struggle for the acquisition of state power starts in a struggle over the composition of the leadership of the party. Once the leadership is composed, members who were not successful in gaining a position often defect to another party.

In order to consolidate their power in the state, the leadership of the party will strategies to ensure that the leadership of the legislature is the same group of the political elite that controls the party. A leadership of the legislature that is opposition to the leadership of the executive is perceived as a threat to the security of the tenure of the governor. As such, the leadership of the party as well as members of the political elite in the executive branch would want to ensure that the leadership of the legislature is composed of members from within their group. A former Speaker of the House of Representatives, Bello Masari, said:

²⁶⁰His emergence as the presidential candidate of PDP in 1998 in preparation for the election was largely facilitated by the military government that released him from prison. While in prison, different political elites, notably prominent people who participated in the government of the military, with a view to forming a political platform in preparation for the transition programme of General Abdusalami Abubakar. He was not part of the foundational structure of the PDP. His deputy, Atiku Abubakar, was the heir of the People's Democratic Movement (PDM), the political association formed and led by late General Sheu Musa Yar' Adua.

The support of the party and the executive arm is important for you to get to the office of the Speaker. If you get their support, it makes the race easier and simpler but immediately you get to that office you must start to build your own structures because you simply cannot prepare for a fight on the day of the battle (cf. Akpe and Iyashere, 2009).

The consequence is that the leadership of the legislature would then be subservient to the leadership of the party. In such a situation, the emergence of credible candidates to fill political offices is rare. One interviewee said,

Credible candidates will be unable to emerge if they are not ready to play the game according to their own rule, not according to the standard rule because they have their own rule. Nigerian political elites have their own rule of operation which is different from the constitutional rule. Majority of the political actors are not the set of people the system envisaged to populate the critical environment of political process. Most of them got to power through fraud; they have no respect for the rule of law (Personal Interview II, May 10, 2014).

Another interviewee told me that because of the influence of the political party, the legislature is unable to function effectively.

The party has been weakened. They are practically in the hands of the executive branch at all levels of government. They assumed the leadership of the political party. Eventually, those who emerged as the candidates are those favoured by the heads of the executive. Thus, members of the legislature emerged at the mercy of the governors. Most legislators at the state levels are in the “pockets” of the governors. They eventually do their bidding most of the time. They hardly perform their oversight function (Personal Interview IX, May 19, 2014).

Often, the lack of internal democracy in the political parties leads to divisions. The leadership of the political parties is mostly composed of the members of a particular group of the political elite; the preoccupation therefore is the consolidation of power within the party for the promotion of the interest of the group.

It might be argued that this activity of modern godfathers or ‘big men’ (Sklar et al 2006, p.105) in Nigeria derives from the practices of the traditional patrimonial system. This system is characterised by personalised rules, often associated with natural rulers who often possess actual power and exercise control over the resources of their communities (Joseph 1991; Sklar et al 2006; Ekeh 1975; Eisenstadt & Roniger 1984). They distribute these resources and other privileges, such as positions, to service the coterie of their supporters in return for loyalties (LeVine 1980). This distribution of benefits among the political elite has found its relevance in the modern presidential political system in Nigeria and manifests as a way to build and maintain loyalty among supporters inside and outside the confines of political organisations (Auyero 1999; Ikpe 2000). Richard Joseph (1991) in his analysis of the fall of Nigeria’s Second Republic, refers to this as *prebendal* politics. This has been a major defining characteristic of party politics in Nigeria since independence in 1960.

One can also explain this prebendal practice from the perspective of the *longue durée* approach: the epistemological argument of a French historian, Fernand Braudel (Wallerstein 2009) and the Annales School of thought. This approach sees present political events as a product of a long-term historical evolution. As Emmanuel Wallerstein puts it:

History is about the present. The reason we want to study the *longue durée* is because we want to be able to analyze the present. The present is the point of the game..Men make their own history, but they are not aware of doing it (Wallerstein 2009, p.166).

Despite Wallerstein's perspective the concern of this School of Thought was the manner in which historical traditions and processes come to be re-produced in the present and in the case of Nigeria the way in which patrimonial practices from the past become re-defined under the present "modern" system of politics and structure relationships within it.

Godfathers have a vested interest in the continuity of the *status quo* in terms of continued representation and the distribution of benefits. Almond et al (2008) have noted that people with a vested interest would not want to lose the benefits they enjoy in government and are likely to resist change, unless the change means an expansion of the scope of the benefits. Nigerian godfathers therefore see the "revolt" of their godsons as a measure to reduce or remove their benefits.

Evidently, godfatherism weakens the capacity of the legislature to fulfill the constitutionally designated mandate act as a serious check against executive recklessness in the management of the affairs of the state. One of the interviewees said:

Godfatherism is one of the banes of the legislators. I can beat my chest and tell you that after 2003, the issue of godfatherism came to play because most of the members that emerged from 2003 till date in the legislatures are cronies of somebody: the Governors, influential people in the society, or heavy party executive members, or people who bought the process for them (Personal Interview X, May 19, 2014).

He posits that legislators with capacity to represent the people should be able to analyse and review situation and take independent decision. 'But when you are a crony of a godfather, you are not your own self; all your activities and decisions are reflections of the thinking and desire of the godfather or patron' (Personal Interview X, May 19, 2014). Thus, godfatherism incapacitates the legislature. This attitude of godfathers aligns with Pareto's idea on the circulation of elites (Pareto 1968). Pareto is of the view that the rise of certain elites would lead to the decline of others in terms of their relevance and their ability to exercise of power. Thus, godfatherism in Nigeria is an instrument of elite circulation. In this way, the weakening

of the power of the lawmakers makes them subservient to the elites in the executive branch of government. Because “big-men” politics reigns in Nigeria, ‘*godfatherism* is a big clog in the wheel of the legislators exercising their constitutional role’ (Personal Interview X, May 19, 2014). By extension, in the exercise of its oversight power, ‘it will be difficult [for the legislature] to use impeachment as a process of deepening our democracy, to correct some lapses in governance issues’ (Personal Interview X, May 19, 2014).

As long as the phenomenon of godfatherism persists in the Nigerian political system, the legislature will be unable to function effectively and the political elite will remain “disunified”. An example of a recent crisis in the Nigerian National Assembly over the composition of the leadership of the Senate and the House of Representatives supports this argument. Constitutionally, the legislature has the power to choose its leadership from among the legislators. On June 9, 2015, Senator Bukola Saraki and Mr. Yakubu Dogara emerged as the President of the Senate and the Speaker of the House of Representatives, respectively (Folasade-Koyi 2015). They were not the preferred candidates of the leadership of the ruling party, the APC. The leadership perceived this as an act of rebellion (Al-Ghazali 2015).

6.5 The legislative shield and the politics of impeachment

Marshall Ifenayi (2006) describes this endemic corruption in relation to the unconstitutional application of the impeachment provision thus:

The composition of the various State Houses of Assembly and the crucial role of corruption, coupled with greed cannot be over emphasised in the various impeachment exercises so far recorded. Many of the legislators were sponsored to the house by their respective governors who never wanted a vibrant assembly. Some of the state’s Chief Judge were also those who coupled be controlled by the governors who on monthly basis disburse fat sate funds without recourse to transparency and accountability (Marshall 2006).

A former state legislator believed that the culture of corruption in the legislature is a larger problem of integrity. He argued,

It is an integrity problem; it is individual attitude. By the nature and structure of the legislature, a tree cannot make a forest. Unless a majority of you has the same vision and mission of what you want to achieve as legislators, it is difficult for you as an individual trying to drive the process. They can cut you to size, or suspend you indefinitely, even if it is illegal, if they discover you are going to be a clog in the wheel of their bidding (Personal Interview IX, May 19, 2014).

Integrity here connotes the ability of the political elites to govern according to strong ethical principles which include honesty and integrity. The position of the interviewee is that many of the political elites in Nigeria do not act in accordance with those principles, but instead support the breach of rules and procedures in exchange for pecuniary gains.

Constitutionally, the legislature has the power to appropriate the impeachment provision to promote good governance, but the overwhelming influence of the governor over the legislature continues to stifle this power. The lack of independence of the lawmakers hampers their ability to actually enforce this sanctioning power. A former Speaker of a state legislature said:

It is politics; because *ab inito*, you find out that most governors always have a hand in the election of the speakers of their legislatures. When it is not so, there will be kind of cold war between the speaker and the governor. The governor will marshal all power of patronage to ensure that the speaker belongs to his camp or get him removed (Personal Interview III, May 10, 2014).

The position of the speaker in a state legislature might be considered the first among equals. In such a system of patronage, the governor would prefer the Speaker to be his ally. This factor has weakened the capacity of the legislature to actually harness its power to uphold the tenets of its constitutional responsibilities. ‘It is the desire of every governor to have control over the legislature. They are having their ways. Most legislatures are rubber stamps. They always agree with executive proposals’ (Personal Interview I, May 3, 2014). A rubber stamp legislature would not be opposed to any of the decisions of the executive. This weakens the capacity of the legislature to assert oversight control over the affairs of the government.

In Bayelsa state, for instance, from 1999-2007, the government was under the control of the People’s Democratic Party (PDP). Table 12 shows the number of seats controlled by political parties in the House of Assembly. Like the case of Plateau state, the legislators did not see any reason to discipline the governor over allegations that he had misappropriated of the resources of the state. The majority of the members supported the governor.

Table 14: Membership of the Bayelsa State House of Assembly by political party, 1999-2007

Political parties	1999-2003	2003-2007
PDP	15	23
ANPP	6	0
AD	3	1
Total	24	24

Source: Compiled by the author.

The governor enjoyed the support of the members of the legislature because there was no crisis within the political party during the period. In the absence of a prominent *godfather* the former governor was able to enjoy a good working relationship with the legislature (Lawan 2010).

The rationale for a governor seeking to influence the emergence of the presiding officers of the legislature is to ensure a good working relationship that would in turn ensure that the policies of the government are approved. Evidently, from the responses of the political elites that I interviewed, such synergy is a vital instrument to stave off legislative scrutiny of the activities of the executive²⁶¹. A former Speaker confirmed that such rapport is a common feature of the relationship between the executive and legislative members in Nigeria. According to him,

Usually there is.... I won't be a governor now and not be interested in who becomes the speaker, majority leader and other principal officers of the legislature. It makes sense for me as the governor to make sure that the Speaker of the House and the Principal Officers are in my good book. Good rapport enhanced peace, good governance... If we are making war with the governor who has his own policy agenda, and every time you are calling him to the House, we are harassing him, he will be distracted... in the interest of good governance, the executive and legislature should collaborate in a way. Most of the time, we use impeachment as an instrument of harassment there are lots of politics behind it (Personal Interview III, May 10, 2014).

In practical terms, the governors have an interest in who emerges as the leader of the legislature because the governor will wish to control him or her. A good rapport between the governor and the speaker is an important strategy to pursue. Given that in Nigeria, many politicians make politics a professional career they do become susceptible to the dominant political culture that pervades the legislature. This therefore makes them susceptible to manipulation for in exchange for financial rewards. A respondent said:

Most of the legislators do not have other means of livelihood. Most of them do not have jobs of their own. Their fear is that the governor could corruptly enrich the Speaker and other key members to remove or sanction any legislator that seeks to expose the misdeeds of the governor. They abdicate the checks and balances responsibility on the platter of financial rewards from the executive (Personal Interview I, May 3, 2014).

In the face of obvious infractions and abuses of power, state legislatures are unable to establish *prima facie* cases of corruption against their governors with a view to exercising their power of oversight to discipline them and protect democracy and the public interest. This is despite the fact that other agencies of government like the EFCC (as well as the international security outfits, especially the London Metropolitan Police) have been able to do so with damning records that show a high magnitude of corrupt practices in Nigerian legislatures.

It is the same problem of corruption. When the majority in the House knows the right thing to do but refuse to do it... Even if there is evidence, the party leadership will not allow them to

²⁶¹This concept of rapport/synergy is a terminology of corrupt collaboration where the legislature overlooks the malfeasances against the executive on the platter of pecuniary negotiation and compromise.

take up the challenge. Where impeachment took place, you will discover that it is as a result of intra-party crisis. Impeachment is being used as instrument to settle political scores. There is massive corruption in Nigeria; there is nobody to enforce the law relating to punishing corrupt political officials. The Nigerian people are generally corrupt; their orientation and mentality promote negative attitude to life. There is a general lack of nationalism and patriotism among the people. Nepotism hinders good governance. We celebrate corruption and iniquity; no justice and equity. There is also leadership problem; there is lack of political will by the leadership to fight corruption. Most of the followers too are sycophants. Those who work hard lack motivation (Personal Interview XI, May 6, 2014).

A former principal officer of a state legislature confirmed this development and attributed it to the lack of capacity by the lawmakers in the face of an endemic corruption culture. He said:

It is neither structural neither institutional: it is the lack of capacity of the members and the virus of corruption to sway opinions and decisions...Impeachment is one of the democratic processes; it is an instrument to strengthen democracy. That is why it is in the constitution. But if you look at our members [legislators], most of them are lacking in capacity to really use it as a democratic instrument which should be used to correct some imbalances or as a check on the executive. But because majority of members are lacking in capacity, they don't even understand, they don't even know...they think impeachment is impunity: it is not impunity, it is a tool that can be used to strengthen and deepen democracy (Personal Interview X, May 19, 2014).

Another respondent attributes the corruption in the legislature to the weakness of the legislators in terms of 'our level of integrity, honesty and the weakness of the institution itself' (Personal Interview IX, May 19, 2014). The respondent explained further:

Most legislators perceive their roles as gate keepers; being gate keepers, if they can settle them, the gate can be opened! If there are weaknesses they observe and there are chances that they can be settled, i.e. be given either a contract, they can look the other way. That is one of the major reasons why we have not been able to get acts together in terms of ensuring that the legislature does its job, ensure good governance and checkmating executive recklessness and lawlessness. Most legislators have problem of integrity (Personal Interview IX, May 19, 2014).

This depicts an entrenched political culture of collaboration between the legislative and the executive structures to circumvent the practice of the doctrine of checks and balances. There are requisite constitutional provisions that empower the legislature as major stakeholder in the promotion of good governance through the enforcement the oversight power. Legislators themselves are aware of the enormity of this power. One of the legislators said:

There are numerous functions of the legislature recognised by the constitution. Basically, the legislature as part of the government in presidential system is saddled with the responsibility of checkmating the excesses of the executive branch on order to promote good governance. The legislature can sanction the executive through the exercise of the power of impeachment. It makes laws for the smooth running of the government, it deliberate on the budget estimates of the spending of the government; without legislative appropriation government cannot spend money (Personal Interview I, May 3, 2014).

They know that '[i]f you have the governor of the state, misappropriating funds, or executing any projects outside the budget or misuse of power by the governor, it might lead to

impeachment’ (Personal Interview I, May 3, 2014). It is evident that members of the Nigerian legislature are aware of the import and intents of their power. Nevertheless, they are incapacitated to function effectively because of the influence of the godfathers who sponsored their elections. According to a respondent, many of the Nigerian legislators

got elected through the help and assistance of godfathers. Thus, they are not independent of some individuals outside the government or structures that reduce their capacity to act independently. Aside from this, the process that brought them in was not free, mostly manipulated by the godfathers who sponsored their election. I think the best election..., the 1999 election, was the best so far in terms of free and fair and credibility of the process. The prevalence of godfathers weakens the independence of the legislators. The electoral process is not credible. This also weakens the independence of the products of the election (Personal Interview IX, May 19, 2014).

The legislature is single most crucial actor in the impeachment process. Even in cases where the *EFCC fast track* impeachment cases, there is still a heavy reliance on the legislature. The Nigerian Constitution recognises the legislature as the only legitimate institution in the removal of a governor and or his deputy through the legislative process (Section 188, Constitution of the Federal Republic of Nigeria, 1999, as amended). This makes it the strongest shield because in an ideal situation, the primary initiator of impeachment is the legislative arm. An interviewee said that members of the legislature are aware of this legislative responsibility. He said:

The constitutional provisions are there. But the initiative has to start from the House of Assembly. Once you create an initiative, then you serve the governor with the allegation of gross misconduct. There are so many offences you can allege against the governor or his deputy. Don’t forget even till now, implementation of the budget not in accordance with the appropriation law is an impeachable offence. It is a ground of impeachment (Personal Interview III, May 10, 2014).

Constitutionally, the primary actors to determine what constitutes gross misconduct that warrants impeachment are the legislators. The procedure begins with the signing of the allegation claiming that the accused has committed acts that amount to gross misconduct.

When the governor enjoys a syncretic relationship with the legislature, the lawmakers sometimes, as one interviewee puts it “look the other way”. In other words, the legislators are aware of the malfeasances of the governor but would not to take any action because of the prebendalism that they benefit from.

A constitutional law expert told me that members of the legislature could indeed manipulate the impeachment provision. He said:

There is no human relation that cannot be manipulated. No matter how brilliant the work of the legislature might be in passing a law, some people have to implement the law. In the process of implementation, they can be manipulated. Thus, impeachment provision in the constitutions is a piece of legislation. It can also be manipulated in the sense that if there is a strong political difference between the executive and the legislature, the legislature can move against the executive... This is not the intendment of the provision but it will be difficult to say there is no major offence because there is nobody, no person... no individual is perfect. There could be honest mistakes but when crisis comes, such mistakes that have been overlooked become cogent and valid proofs of misconduct (Personal Interview V, May 13, 2014).

Where there is no crisis or division between the legislature and the executive, the offence will never amount to gross misconduct. A former speaker explained that the decision of the lawmakers to begin an impeachment process usually arises when they are discontented about their personal benefits. He said:

No.... there is always politics. Some people are annoyed, some people are aggrieved, some people are angry. It starts from there. It is purely an elitist game; desire to pursue personal interest... And the impeachable offences are so numerous that you can easily pick on any one. For instance, non-implementation of the budget is an impeachable offence. So people can easily go there. I have not seen any government in this country that implements budget up to 50% including the federal government. Then it is easy to look for loopholes in the contracts through legislative assessment by the oversight committees (Personal Interview III, May 10, 2014).

As important as the legislative shield is, its effectiveness is dependent on the disposition of the political elite who control the actual exercise of power within and outside of the legislative institution. In other words, lawmakers could be coerced by their godfathers to commence an impeachment process even if they were not prepared to do so. Here, the disposition of the leadership of the ruling political party towards the governor determines the success of any legislative initiative towards impeachment. If the elections of the lawmakers are at the behest of the leadership of the party, the extent of their independence in crucial decision making like impeachment will be weak. Thus, a rubber stamp legislature under the control of the governor is an effective shield for the governor against impeachment. On the contrary, it becomes a shield against the governor if the leadership of the party is in control of their survival in the legislature.

In table 13 below, I present data on the available shields that existed in the cases of impeachment in the selected states of this study. This indicates the various ways that constrained the ability of the legislatures to act.

Table 15: The available shields in the cases of impeachment in Anambra, Bayelsa, Oyo and Plateau States

State/governor	Primary allegations	Underlying causes	Major actors involved	Final outcome / Shield
Anambra/ Peter Obi	Misappropriation of state fund	Divided government	Leadership of the PDP and the dominant legislators	Legislative shield weak in the face of divided government but judicial shield reinstated the governor
Bayelsa/ Alamieyeseigha	Corruption, money laundering	Conflict between the governor and the president over third term ambition	Leadership of the PDP and the EFCC	Legislative shield in favour was strong until the superior <i>godfather</i> deployed the instrumentality of the EFCC to coerce the few legislators to remove him from office. He was removed through breaches of the constitution. Judicial reprieve abandoned, tried in court and found guilty but later pardoned.
Oyo/Ladoja	Corruption and the illegal diversion of state and local government funds.	Conflict between him and his <i>godfather</i> and, by extension, the leadership of the PDP	President Obasanjo and Chief Lamidi Adedibu, his <i>godfather</i>	Enjoyed a factional legislative shield but removed through an unconstitutional procedure. Favoured by a judicial shield.
Plateau/ Dariye	Corruption and money laundering	Division between him and the president over his lack of support for the third term bid.	President Obasanjo/Federal Government, the EFCC	Enjoyed major legislative shield. Removed through an unconstitutional procedure but favoured by judicial shield

Source: Compiled by the author

It is evident that in the face of infractions by the governors, state legislatures lack the capacity to initiate impeachment process to remove such governors. A respondent described the Nigerian legislature as an institution composed of the ‘3rd eleven leaders playing the role of the 1st eleven’ (Personal Interview VII, May 7, 2014). He said:

My generation of political leadership was excellent. I entered parliament in my 20s, our salary was 840 pounds per year. There was no car, no house, and people were satisfied and happy. Many of the players at that time were 1st eleven playing the role of 1st eleven. But in our legislature now, we have people in the 3rd eleven playing the role of 1st eleven (Personal Interview VII, May 7, 2014).

The use of the allegory “1st eleven” and “3rd eleven” by the interviewee is to denote the level of the competency and commitment of the legislators. He was comparing the commitment and the capability of the present generation of the Nigerian lawmakers with those of the First Republic. The legislators in the “1st eleven playing the role of 1st eleven”, as in a football team, are the best set of lawmakers performing their legislative responsibility with utmost commitment. On the other hand, the “3rd eleven playing the role of 1st eleven” stands for the third best that are performing the responsibility meant for the best. His argument is that the contemporary Nigerian legislators lack sufficient competency and commitment. The distinction that is made by the interviewee above implies a negative assessment of the capability of the Nigerian legislators.

The legislators in the First and Second Republics did not fare better. The level of impunity among political elites in the Fourth Republic legislature is high and the mode to influence the public remains the same - what Bayart (1993) conceptualizes as the “politics of the belly”. In the modern Nigerian terminology, it is referred to as the quest for “stomach infrastructure”.

This description of the disposition of the Nigerian legislators is evident in their quest for enhanced remuneration packages. The July 15 2013 edition of *The Economist*²⁶² lists Nigerian legislators as the highest paid across the globe. A former legislator who spoke with me agreed that this emolument is outrageous but that the system encourages the emergence of individual political elites whose primary motive of gaining power is to pursue pecuniary gains and rewards. The legislator pointed out that

emoluments of political office holders to us are outrageous but the designer of the structure did not have in mind the set of people that earn that money. The designer envisaged the emergence of experienced but retired principals, head teachers, top civil servants, people who have had experience in the public service capable of contributing meaningfully to the society not secondary school dropouts as we have them now (Personal Interview II, May 10, 2014).

Another former legislator said that because of this motivation, ‘most of the lawmakers maneuver their ways into power to enrich themselves rather than stand for the truth’ (Personal Interview I, May 3, 2014). The public perception of power in Nigeria coupled with the general culture of corruption provides the template for the emergence of ‘such people [who] have nothing to offer to the society’ (Personal Interview II, May 10, 2014). It could be further argued that Nigerian society, because of the loss of confidence in the capacity of the

²⁶²*The Economist*, July 15, 2013. Available at:
<http://www.economist.com/blogs/graphicdetail/2013/07/daily-chart-12>

state to deliver public good, prefers immediate gains from the political elite in exchange for their support and loyalty. A respondent said:

The society itself is a challenge. I left office in 2011, people still expect me to be paying their bills. Constituents want lawmakers to pay for their social engagements and ceremonies. Such largesse has become the standard being used to measure performance. The society lacks a credible standard to measure the performance of the lawmakers. If, for instance, a lawmaker, who is vibrant in legislature, fails to pay school fees of children from his constituency, he will be regarded as a failure. If he seeks for reelection, he will lose (Personal Interview II, May 10, 2014).

It takes an informed society sufficiently motivated to demand accountability from the political elite. In Nigeria, the public lacks the capacity to hold the leaders accountable. And that 'is why lawmakers are not effective since they know that legislative outputs is not the standard to measure performance' (Personal Interview II, May 10, 2014). When citizens are invested in horizontal accountability, as conceptualised by Adamolekun (2010), the population support civil society organisations in compelling public representatives to be accountable. This is not the case in Nigeria. The quest for "stomach infrastructure" and the "politics of the belly" means that a transactional political culture has replaced a desire for accountability.

A civil society group, Civil Society Legislative Advocacy Centre (CISLAC), considers state legislatures in Nigeria as "dead institutions" in terms of the performance of their constitutional responsibility. The group states that

In Nigeria, the state Houses of Assembly have turned themselves to be the stooges of their state governors as a result of their weaknesses. The state legislatures have failed to ensure full implementation of budgets passed by them by the governors. After reviewing the performance of state Houses of Assembly in the current dispensation, human rights activists, civil society organisations, eminent lawyers and leaders of some political parties, have declared them "dead" (cf. Abdallah 2013).

The Nigerian presidential constitution designed the three principal institutional structures of government as co-equals in the administration of public policy, with an appropriate system of checks and balances. Unfortunately, according to one interviewee, the principle of separation of power regulating the relationship among the branches of government,

only exists on paper as the state legislatures have become mere extensions of the executive arm of government, because they are more of toothless bulldogs. Some speakers of the states legislatures and other lawmakers have turned themselves to rubber-stamp to the governors... For instance, in many states lawmakers have failed to call their governors to order over their shoddy implementation of the state's budgets, unbudgeted spending, misconduct, abandonment of capital projects, looting and stealing of public fund etc... (cf. Abdallah 2013).

A newspaper editorial describes this as mind-boggling.

Corruption reports have become a daily feature, of mind-boggling proportions, in newspapers. Here is a monster that has defied successive administrations' soulless cures, thereby threatening to consume the country. Government officials, including civil servants accumulate wealth and property illegally and with reckless abandon; unmoved by any sanction attached to their conduct. Federal legislators are derisively now referred to as "legislotters"; for helping themselves to loads of unmerited perks, unjustly, and at the expense of the poor citizens. Hardly do any of them condemn corruption openly. Many too have been justifiably accused of having no vision for the country. That should worry any patriotic lawmaker (The Guardian, 26/04/2012).

A former Speaker of a state legislature told me that the failure of the legislature to hold the executive to account is a function of the personalized nature of Nigerian politics. He said,

In the US, the power of the legislature is manifest in the activities of government. The Congress can effectively censor the power of the executive. But here in Nigeria, the legislature cannot exercise such power because they don't have independent existence, they don't have adequate financial, even human resources to be able to compete effectively with the executive in ensuring the kind of good governance that will usher in a lasting democracy in Nigeria (Personal Interview VI, May 13, 2014).

He noted that the state of Nigeria's political and economic development is not such as can withstand the way in which the presidential system functions in practice in Nigeria. 'The notion of executive presidency seems to have gone to the head of everybody; we want to make a monster out of a president/governor' (Personal Interview VI, May 13, 2014). This personalisation of politics further entrenches the culture of corruption as a regular feature of governance in Nigeria. According to another respondent, the nature of the country's party system produces subservient legislators.

One of the factors responsible is that to a large extent, the party system that we have usually throws up a House of Assembly that is beholden unto the governor; that cow tow to the governor because at the point of selection, whoever emerges as the governorship candidate is the bigger personality in the party. He has all the influence. Those who eventually get elected into the legislature are those people who, to all intents and purposes, are not comparable to the governorship candidate in terms of stature, experience, access to material resources. So, invariably, the governor is like a super king that has to be worshipped by the members of the House of Assembly. Even when they are elected and sworn-in, and the legislature got convoked, you don't find many of the state legislatures in a position to look the governor in the face and call his bluff. You have instances where a governor commits impeachable offence yet the House of Assembly will not be able to do much (Personal Interview XIII, May 19, 2014).

This is a general problem that characterises the operation of the legislature in Nigeria. The legislators struggle with a lack of independence from the leadership of the party and from their godfathers which in turn weakens their capacity to challenge the governors. Even if they seek to challenge decisions made by the executive, they would be unable to do so if the interests of their godfather were being threatened. This incapacity makes them vulnerable to the manipulation of both the leadership of their political party and their godfathers.

6.9 Summary

In Nigeria, the legislature is constitutionally empowered to provide oversight of the executive. In practice, this oversight is lacking. In this chapter, I explored the phenomenon of godfatherism in an analysis of impeachment cases in the selected states of this study. I presented my empirical findings on the influence of godfathers in impeachment cases in Nigeria. I also explored the role of how the interests of the political elite affect the functioning of political parties in Nigeria. I discussed this along with an analysis of how the lawmakers determined the tenure of governors.

In my analysis in this chapter, I discovered that the Nigerian legislators at the state level have been unable to use their constitutional powers effectively because of the phenomenon of godfatherism. I claim further that the activities of the godfathers, who sponsor the election campaigns of the lawmakers, weaken the capacity of the legislature to take independent action. A subservient legislature rubber stamps the decisions and proposals of the executive.

I also found that the attitudinal disposition of the lawmakers also impedes their ability to hold the executive accountable. Corruption in the Nigerian legislature incapacitates effective oversight of the actions of the executive. Rather than exert their constitutional powers to enforce accountability, Nigerian lawmakers negotiate the public good in exchange for their pecuniary gains. Disparities in the application of impeachment principles in Nigeria, is a function of the attitudinal disposition of the lawmakers. This attitude is influenced by godfatherism, the party system and the “politics of the belly”. This further supports a culture of impunity and prebendalism which undermines democratic governance and is at the expense of the public interest.

In the next chapter, I explore the incapacity of the legislature to sanction governors involved in corruption.

Chapter Seven

Deciphering the politics of impeachment in Nigeria: Sacred cows and the scourge of gross misconduct

7.1. Introduction

The framers of the Nigerian presidential constitution anticipated the emergence of a legislative institution that would represent the collective interests of the public, rather than those of factionalised law-making bodies besieged by the politics of vested interests. From the cases considered in this study, evidence suggests that none of the legislatures acted in a manner that fulfils the intent of the framers of the constitution. Those who engaged in flagrant abuses and breaches of the constitution to remove their governors acted on the prompting of their godfathers.

Others who refused to use the constitutional provisions of impeachment to sanction erring governors have also not acted in the public interest. Many of the heads of the executive branch, at the state and national levels, sees the legislature as an extension of the executive. There is little or no regard for the autonomy and independence of the legislature. For instance, the governor of Ekiti State, Ayodele Fayose, addressed the state legislature as ‘my house of assembly’ (Fabiya, 2014).

In the absence of effective legislative institutions, Nigeria is experiencing what Olowo (2006) calls ‘EFCC-induced fast-track impeachment’. One could argue that this is an “innovation” in the face of the refusal of the legislature to act. Nevertheless, the “selective use” of the ‘EFCC-induced fast-track impeachment’ challenges its credibility. While EFCC was investigating governors noted for their disagreements with the president, it spared others who were supporters of the president. Though Nuhu Ribadu, the former Chairman of the EFCC, told the Senate that 31 out of the 36 state governors were under investigation for financial malfeasance, the political will to bring them to book was lacking. An attestation to this analysis is the disparate use of the EFCC as agents of impeachment. The use of the EFCC to *fast track* the impeachment of Governors Dariye and Alamieyeseigha, in the absence of a willing majority of members of the legislature is political rather than a transparent process to ensure accountability. The flouting of constitutional provisions and procedures by the EFCC in the impeachment of a number of governors suggests that extraneous factors, other than corruption, may have propelled the move against them (Dike 2006).

In this chapter, I present my analysis of the cases of former governors who were involved in abusing their powers of office and misappropriating state funds. I claim that there are disparities in the application of impeachment in Nigeria. I explore a series of cases to support my claim. In the first section, I provide an analysis of a series of impeachment cases of deputy-governors. I claim that it is less difficult to impeach a deputy governor whose working relationship with the governor is not on good terms. Few deputy-governors are impeached by lawmakers as a consequence of gross misconduct. In the second section of this chapter, I explore the cases where the EFCC established evidence of malfeasance committed by some former state governors. I also provide data on former governors who have been investigated and indicted by the EFCC but still occupy prominent positions in the legislature. I claim that this set of people could influence the outcome of the EFCC investigation and decision. In particular, I provide empirical data on the case of a former governor of Delta State, James Ibori, who was tried and convicted of corruption charges in London. I explore this case in particular, to argue that in Nigeria, impeachment only take place when a governor loses the protective shield of the legislature. I support this claim with an analysis of the impeachment of the former governor of Adamawa State in 2014.

7.2 Deputy Governors and the burden of impeachment

Impeachment in Nigeria has become a part of the daily routine by which godfathers whip recalcitrant godsons into line and force their compliance or their removal. For deputy governors not willing to ‘be more urbane and diplomatic in dealing’ (Odivwri 2004) with their political godfathers - the governor, and or party chieftains – could mobilise the legislature to remove them. Thus, the impeachment of a deputy governor, perceived to be competing with the governor, is usually a strategy to weaken his political strength. In other words, a deputy governor is removed by impeachment not because of he has breached the constitution or abused his of office, but instead for political reasons (which may include a breakdown in the relationship with the governor). In Nigeria, deputy governors do not have a specific constitutional role to play in government. They operate according to the instructions provided to them by the governor. But when a deputy governor is seeking to be elected as governor and the governor is also seeking re-election their conflicting interests clash. As a result, some governors have erected ‘a superstructure of power hanging a top’ their deputies who only operate in the shadow of the governors (Odivwri 2004). Any attempt by the deputy governor to operate outside of the influence of the governor could be met with consequences.

Orji Kalu and Bola Tinubu, former governors of Abia and Lagos States respectively, (1999-2003), had three deputies in 8 years (Odivwri 2004; Azubike 2006). For Tinubu, Kofoworola Akerele-Bucknor and Femi Pedro were too ambitious to operate within the “shadowy straw” he created for them (Adedayo 2006). The governor and his deputies became embroiled in personal feuds over their mutual desire to contest gubernatorial seats. Mrs. Akerele-Bucknor was the deputy governor of Lagos State from May 29, 1999 until December 16, 2002, when she resigned her position (Adedayo 2006). The Lagos State House of Assembly had served her with an impeachment notice in preparation for her removal (The Nigerian Voice 02/02/11). Her problem with the governor started the moment she indicated her intention to contest the 2003 gubernatorial election in the state (Adedayo 2006). Initially, she was persuaded by the leadership of the party (AD) to step down in support of Tinubu in the 1999 gubernatorial election. The “agreement” was that she would succeed Tinubu at the end of his first term in 2003.

Femi Pedro succeeded Akerele-Bucknor as the deputy governor of Lagos State in April 2003. He made clear his intention to succeed Tinubu at the end of his second term in 2007. Tinubu had instead decided that his Chief of Staff, Babatunde Fashola, would succeed him. The relationship between Pedro and Tinubu broke down as a result of this and Pedro was impeached by lawmakers in May 10 2007 (Akoni 2007). In these two cases, there was no evidence of any abuse of power by the deputy governors.

In Abia State, the governor Orji Kalu, considered his deputy, Eyinaya Abaribe²⁶³ to be too politically aggressive in the pursuit of his ambition (Odivwri 2004). The governor had expected that Abaribe would be a loyal deputy that could be trusted (Odivwri 2004). Chima Nwafor succeeded Abaribe in 2003 and was impeached in February 2006 (Nwakanma and Uche-Ukon 2006). When he assumed office, he was described by a newspaper writer that he was ‘heavily guided by an over-bearing loyalty complex’ (Odivwri 2004). Nevertheless, this did not take prevent him from being removed by the legislature at the insistence of the governor on August 31, 2004 (Azubike 2006). Nevertheless, intervention by the political elite in the state halted the implementation of the impeachment order as the legislators had to

²⁶³ Abaribe was the deputy governor of Abia State from May 29, 1999 until March 7, 2003 when he resigned but the state legislature claimed he was impeached. Having escaped an impeachment process twice, the former deputy sent his resignation letter to the legislature when he discovered that the legislature would have the required two-thirds majority of votes to impeach him.

‘pardon him’ (Azubike2006). There was no specific reason to explain the pardon of the deputy governor after his impeachment.

The constitution does not make provision for the legislature to pardon a deputy governor impeached through a constitutional procedure. Thus, in 2006, a notice of legal action to challenge the action of the legislator forced the lawmakers to finally removed Nwafor as the deputy governor (Azubike 2006). It is evident from my interviews that the legislators were not acting as an independent institution of government.

A member of the legislature who spoke with me disclosed that when the governor was pressurised to reconcile with his deputy, he approached the house to ask for a pardon but that the relationship could not be sustained. He added that on the prompting of the governor, the lawmakers had to rescind the pardon two years later because it was an error. In both instances – those of giving the order and then rescinding it, the legislators acted as a political tool of the governor. The decision to retract the pardon was not because of a realisation that it was unconstitutional. As the interviewee told me, those who prepared the legal notice were asked to do so by the lawmakers because the governor wanted a retrial of the pardoned deputy governor with a view to his removal. It is evident, therefore, that the lawmakers compromised the integrity of the legislature in order to please the governor.

The Speaker of the legislature, Stanley Ohajuruka, claimed that the decision to remove Nwafor as the deputy governor was to correct the error associated with the pardon (Azubike 2006). Nevertheless, the interviewee disclosed to me that the primary motive was that the governor had promised the lawmakers that the deputy speaker, Eric Acho Nwakanma, would be nominated to succeed Nwafor as the deputy governor.

The real reason for the decision of the governor was to forestall further enquiry into allegations of misconduct by him. In 2006, the EFCC report had indicted the governor Kalu and his family had looted N35 billion of state funds (Aziken 2006). He has since been charged with the misappropriation of funds in court (at the end of his term in 2007). The trial is still pending (Alli 2015a). Indeed, the EFCC had confiscated 10 properties and frozen bank accounts of 13 companies that were linked to him (Alli 2015a).

When Nwakanm was the deputy speaker, he supported the governor every time the EFCC indictment came up for debate. However, once their relationship broke down, he disclosed the misappropriation of funds²⁶⁴. He said,

I was his deputy governor (sic) and I can tell you that most of what Kalu did was to run the government as a family business with his mother at one end in charge of the local government treasury, and the rest of the family at the other end, having the apparatchik of government placed under their watch and control. When Abia was sinking, Kalu's business empire was growing (cf. Oboh 2014).

This allegation has not been retracted neither has it been contested as libelous. Indeed, the EFCC have documented the various infractions of Orji as the case is still pending in the law courts for prosecution (Odunlami 2015). The EFCC had also confiscated some of the properties seized from him (Alli 2015). He was the deputy speaker of the legislature and, later, deputy governor, when the governor was running the state like a family business (Azikien 2006). He could not muster the constitutional provisions that were at his disposal to promote good governance²⁶⁵.

In Enugu State, the deputy governor, Sunday Onyebuchi, was impeached on August 25, 2014, in what is popularly known as the 'chicken impeachment' (Premium Times 26/08/2014; Aziken 2014; Owete 2014a; Ndujihe et al, 2015).²⁶⁶ He was elected as the deputy to the governor, Mr. Sullivan Chime, in 2007 and got re-elected in 2011 (The Sun 30/08/2014; Obi 2014). In a notice that alleged gross misconduct against the former deputy, signed by 22 out of the 24 members of the legislature, the lawmakers accused Mr. Onyebuchi of two offences. These offences are: operation of livestock poultry farms within the premises of the official residence of the deputy governor, alleged refusal to represent the governor at a public function (Owete 2014 b).

The truth is that the governor and his deputy were not on good terms. The feud between the former governor and his deputy arose when Onyebuchi (the deputy-governor) told the

²⁶⁴The EFCC had initially discovered this development when Nwakanma was the deputy speaker. The legislature did not take any legislative action to redress the development because the lawmakers were part of the deal.

²⁶⁵He was the deputy speaker when his predecessor, Nwafor, was removed. At that time, he supported the impeachment of a deputy governor but objected to the removal of the governor who was indicted of abuse of office (Alli 2015a).

²⁶⁶The major allegation against the deputy governor was that he was running a poultry farm within the premises of his official residence. In his response to the allegations, he defended himself by showing laws in which provisions had been made for the maintenance of the poultry farms in the Agricultural Unit located in the official residences of the governor and the deputy governor. For the details, see Aziken 2014; Obi 2014; Premium Times, 26/08/2014.

governor that he wanted to contest the elections as a senator, a position that the governor had indicated he wished his chief of staff to occupy (Owete 2014 a and b; Obi 2014; Aiken 2014). In his response to the allegations of gross misconduct, Onyebuchi claimed that Chime had asked him to resign for no just reason (Aziken 2014).

On the 16th of July, 2014 I went to the Governor's office to inform him of my intention to travel out of the country for six days and he asked me to give him one reason why he should approve it. I told him that I did not know of any reason but if there is any that I would like to know. He then said that I did not represent him at the South East Governors' Forum Meeting that took place in Enugu on the 6th of July 2014. I told him that he never instructed me to represent him. He now directed me to resign immediately from my office or he will make my life miserable. I told him that not representing him at that meeting was not enough reason for me to resign (cf. Aziken 2014).

He refused to resign and the governor was left with the option of persuading the legislators to remove him from office through impeachment (Owete 2014 a and b). This is a pattern that was not different from the cases of other deputy governors that were removed.

I claim that the allegations of gross misconduct leveled against the former deputy governor did not fall within the definition of gross misconduct. The Nigerian Supreme Court in its judgment in the case of former governor of Oyo State, Rashidi Ladoja, had ruled that allegations of gross misconduct have definite parameters²⁶⁷. The Supreme Court therefore defined gross misconduct as 'a grave violation or breach of the constitution'²⁶⁸. Thus, the reason behind his removal was his decision to contest the senatorial election against the wish of the governor. This illustrates that deputy governors are susceptible to removal from office whenever their interest runs contrary to that of the governor.

More recently, the former deputy governor of Ondo state, Alhaji Ali Olanusi, was impeached by the legislature on April 27, 2015 (Johnson 2015). His problem started when he declared his intention to defect from the ruling PDP to the APC (Akintomide 2015; Fanaro et al 2015)²⁶⁹. On April 22, 2015, the lawmakers served Olanusi with the notice of allegations of gross misconduct in preparation for his impeachment (Sahara Reporters, April 22, 2015). The legislature accused Olanusi of negligence (a failure to discipline his staff allegedly involved

²⁶⁷*Inakoju & 17 others v. Adeleke & 3 others*. (2007) 1 S. C. (pt. I).

²⁶⁸*Inakoju & 17 others v. Adeleke & 3 others*. (2007) 1 S. C. (pt. I), pp63-64).

²⁶⁹The state governor, Olusegun Mimiko initially defected from the PDP to the Labour Party (LP) to contest the 2007 gubernatorial election. In 2014, the governor defected from the LP back to the PDP. His deputy, Olanusi defected from the PDP to the APC.

in fraud), antagonism towards the governor, frequent absence from work and engaging in conduct that undermined the government (Sahara Reporters 22/04/2015).

Aside from the allegation of unlawful enrichment, all other offences, were allegedly committed between the time he announced his defection to the APC and the time he was impeached (Sahara Reporter 22/04/2015). On the allegation of unlawful enrichment, the legislators claimed that the former deputy governor committed this offence between 2009 and 2014 (Sahara Reporters, 22/04/2015) and that he,

collected various sums of money for the purpose of travelling and medical bill (sic) as follows: 2009 (N8, 175, 410), 2010 (N8, 952, 600), 2013 (N10, 833, 200) and 2014 (N11, 328, 100) when in actual fact, the said Alhaji Ali Olanusi did not travel on the said specified dates or did not travel at all and, or did not expand the approved medical bills as appropriate, thereby unlawfully enriching himself and/causing loss to the State Government (cf. Sahara reporters 22/04/2015).

The lawmakers did not bring up these allegations within the period they were allegedly committed until the former deputy governor defected from the ruling party in the state to the APC. Like the previous cases analysed in this chapter, it is evident that even if the allegations were true, the lawmakers would not have removed the deputy governor if he had not defected from the ruling party to the APC. One might thus claim that the impeachment of Olanusi was political and rooted in competition, rather than as a result of any breaches of the constitution which he may or may not have done. If he had not defected to the APC, the PDP dominated legislature would not have contemplated impeaching him.

There is little in the way of constitutional protection for the office of the deputy governor. In view of the judgment of the Supreme Court,²⁷⁰ I contend that the removal of the deputy governors was in contradiction to the purpose of the constitutional provisions on impeachment. The legislatures in these cases exercised their powers of removal 'to achieve a political purpose'²⁷¹. The Supreme Court had declared:

It is not a lawful or legitimate exercise of the power of constitutional function in Section 188 for a House of Assembly to remove a Governor or a Deputy Governor to achieve a political purpose or one of organised vendetta clearly outside gross misconduct under the section²⁷².

The Supreme Court, in the judgment delivered by Justice Niki Tobi, therefore interpreted gross misconduct as contained in section 188(11) thus:

²⁷⁰Inakoju & 17 Others v Adeleke & 3 Others (2007) 1 S. C. (Pt.1),

²⁷¹Inakoju & 17 Others v Adeleke & 3 Others (2007) 1 S. C. (Pt.1), p.66,

²⁷²Inakoju & 17 Others v Adeleke & 3 Others (2007) 1 S. C. (Pt.1), p.66,

The word “gross” in the subsection does not bear its meaning of aggregate income. It rather means generally in the context atrocious, colossal, deplorable, disgusting, dreadful, enormous, gigantic, grave, heinous, outrageous, odious and shocking. All these words express some extreme negative conduct...By the definition, it is not every violation or breach of the Constitution that can lead to the removal of a Governor or a Deputy Governor. Only a grave violation or breach of the constitution can lead to the removal of a Governor or a Deputy Governor. Grave in the context...mean, in my view, serious, substantial, and weighty.²⁷³

In view of this interpretation, the Supreme Court averred that the impeachment provision ‘is a very strong political weapon at the disposal of the House which must be used only in appropriate cases of serious wrong doing on the part of the Governor or Deputy Governor, which is tantamount to gross misconduct’.²⁷⁴

In view of this judicial interpretation, the impeachment of the deputy governors was politically motivated. In most cases, there was no substantive evidence to show that the deputy governors violated the provisions of the Constitution. Politics is about conflict resolution, among the political elite, with a view to ensuring cooperation and collaboration in the midst of conflicting interests for the promotion of public good (Fukuyama 2015). In Nigeria, political competition is usually characterised by divisive politics. While some legislators insisted in removing their deputy governors because of offences that did not impact governance, some refused to remove their governors where there had been evidence of their abuse of power. I turn to an analysis of these empirical cases in the next section.

7.3 The EFCC investigation and the indictment of some former governors: Outcomes and problems

The activities of the EFCC were selective and widely seen as a mechanism to weaken the political base of prominent governors, within the ruling party, the PDP, that opposed the ambitions of the former president, Olusegun Obasanjo, to extend his term of office. In the case of Dariye, Obasanjo insisted that the governor should either resign or be removed by the legislature (Dike 2006) If the governor committed an offence tantamount to gross misconduct it was the duty of the legislature of the state, as stipulated by the constitution, and not the president of the country, to determine whether or not the governor should resign or be removed through an impeachment process. One of the constitutional experts who spoke with me discussed this leadership culture.

²⁷³Inakoju & 17 Others v Adeleke & 3 Others (2007) 1 S. C. (Pt.1), pp.63-64

²⁷⁴Inakoju & 17 Others v Adeleke & 3 Others (2007) 1 S. C. (Pt.1), pp.66-67.

The problem with Nigeria is leadership at all levels - executive, legislature and judiciary. When Obasanjo was the president; he was just orchestrating the removal of Governors. He was treating the Governors as if they were servants under him. It was wrong (Personal Interview VII, May 7, 2014).

At different times before he joined partisan politics, Nuhu Ribadu, as the chairmen of the EFCC, had disclosed that there were established cases of corruption against the wife of President Goodluck Jonathan (when he was the Governor of Bayelsa State) (Olumeshe 2014). He claimed in 2006 that the EFCC had seized US \$13.5 million dollars from Mrs. Patience Jonathan and obtained the judicial authority to freeze a sum of 'N104 million Mrs. Jonathan had allegedly tried to launder through one Nancy Ebere Nwosu' (Olumeshe 2014). As the head of the Joint Task Force (JTF) against corruption in 2005, Nuhu Ribadu had announced the indictment of 15 governors on sound corruption charges (Olumeshe 2014). Among the governors then were Ahmed Bola Tinubu²⁷⁵ of Lagos State and Goodluck Jonathan of Bayelsa State (Olumeshe 2014). Ribadu had boasted then that,

Bola Tinubu and the rest should consider themselves very lucky. But they can't escape. We are after them. After their tenure as Governor, they will be prosecuted. It is a matter of time. They remain indicted and are not fit to hold public positions. They have to answer for their misdeeds (cf. Ubochi 2011).

Former president, Olusegun Obasanjo confirmed this. According to him,

Nuhu Ribadu tried to investigate almost all of them [governors] to the best of my understanding. At a time, he publicly announced that 28 out of the 36 governors were either manifestly corrupt or had been tainted in one way or other. He gave me a copy of his report on those governors. Bola Tinubu was definitely one of the worst cases (cf. Sotubo 2014).

In September 27, 2006, Ribadu told the Nigerian Senate that the corruption profile of Tinubu was of an 'international dimension' (Senate Official Report, September 27, 2006; Olumeshe 2014; Ubochi 2011)²⁷⁶.

Abia is number one (of corrupt states) not because it is number one alphabetically, but because we have one of the biggest established cases of stealing, money laundering, diversion of funds against Governor Kalu. The governor used his mother, daughter, wife and brother to divert N35 billion to build his business empire including Slok Airlines, Slok Pharmaceuticals and newspaper house... Tinubu's corruption is of international dimension (cf. Ubochi 2011).

²⁷⁵A documentary, *Lion of Bourdillion Part I*, documents the various allegations of corruption perpetrated by Tinubu when he was the governor of Lagos state.

²⁷⁶By international dimension, Ribadu meant that the cases of corruption being investigated by the EFCC against the former governor involved certain allegations of criminal activities perpetrated outside the country. Curiously, Ribadu recanted this allegation when he emerged as the presidential candidate of the Action Congress of Nigeria (ACN), a political party led by Tinubu, in the 2011 presidential election. In preparation for the 2015 election, Ribadu defected to the People Democratic Party (PDP), where Jonathan is the leader, to contest for the governor of Adamawa State.

Neither Tinubu, nor Kalu nor Jonathan was subjected to an EFCC-induced impeachment process. It is ironic that out of many other governors alleged to have misappropriated state funds, the EFCC chose to fast track the impeachment of only three. An official of the EFCC who I interviewed said that the EFCC usually act upon instructions by the president in cases that involved governors and other elected political officeholders (Personal Interview XIV, May 7, 2014). The EFCC is empowered by law to be responsible for, among other things,

the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc.; (c) the co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority; (d) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds; (e) the adoption of measures to eradicate the commission of economic and financial crimes; (f) the adoption of measures which includes coordinated preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes...(EFCC Act 2004).

Section 7(i) of the act also empowers the EFCC to ‘cause investigations to be conducted as to whether any person, corporate, commission body or organization has committed any offence under this Act or other law relating to economic and financial crimes’ (EFCC Act 2004).

The person in this Act includes government officials and all political office holders. The Commission has the authority to institute legal proceedings against anybody indicted by the investigation. In practice, the extent and the outcomes of the investigations depend on the relationship between the office holder and the presidency or notable political elites connected with the presidency. As a routine measure, in the discharge of its functions, the EFCC officials is assigned to monitor the activities and financial transactions of political office holders across the country and compile reports of any movement of funds into and out of the country (EFCC Act 2004). Thus the agency could potentially have a dossier on each officeholder.

The use of this information collected by the EFCC in practice is dependent on the personalities involved. An interviewee cited the cases of Governor James Ibori and Peter Odili of Delta and Rivers States, respectively. In these two cases, there was overwhelming evidence of corruption and mismanagement of state funds, but the presidency, according to the interviewee, gave a directive that any further investigation should be suspended because the two governors were loyalists of the president and the ruling political party. The

respondent claimed that the presidency ordered the EFCC to move against governors Dariye, Ladoja, Alamieyeseigha and Fayose of Plateau, Oyo, Bayelsa and Ekiti states respectively, because they had shifted their loyalty to the Vice-President (Personal Interview XIV, May 7, 2014). The vice-president was opposed to an extension of the term of the president who was seeking a third term (Personal Interview XIV, May 7, 2014).

The former governor of Adamawa State, Murtala Nyako, was also impeached in July 2014. He defected from the PDP to the opposition party, the APC, in anticipation that the 25 members of the legislature who followed him to the APC would remain there (This Day 18/07/2014). However, the 25 members defected back to the PDP few weeks after their initial defection (Yusuf 2014a). Following his defection, Nyako became critical of the actions and policies of the former president, Goodluck Jonathan. For instance, at the height of the Boko Haram insurgency in north eastern Nigeria, Nyako accused Goodluck Jonathan of using the attacks on the insurgents to commit genocide against the North (Tukur 2014).

These incitements were seen as a national disservice and had to be stopped (Aribisala 2014). With an overwhelming majority in the legislature, the PDP leadership had to persuade the lawmakers to commence the process of removing him as the governor (Yusuf 2014a; Ndiribe 2014). The legislators accused him of 26 allegations of gross misconduct that included the misappropriation of state funds (Yusuf 2014b). The members of the legislature did not admit that they were mobilised by the PDP to remove the former governor. Nevertheless, the former Chief Whip of the legislature, Mr. Jerry Kumdisi, disclosed that the impeachment of the governor was a mission of revenge (Ndiribe 2014). He explained

We impeached Nyako because he was not doing well for the state. Secondly as people who were supposed to be working together, he didn't think that we mattered in the administration of the state. As our governor, we had the right to ask for certain things from him. One of such things was our constituency projects. We expected that every member ought to get it so that he or she can execute some projects in his or her constituency and remain relevant (cf. Ndiribe 2014; Nwosu 2014).

Following his impeachment, the EFCC spokesman, Wilson Uwujaren, said that the former governor and his son – Abdul Aziz - were wanted 'for criminal conspiracy, stealing, abuse of office and money laundering' (cf. Obi 2015). He was eventually arrested and arraigned on charges of misappropriation of state funds and money laundering (Ibeh 2015). The former governor was accused of laundering N15 billion of the Adamawa State (Ibeh 2015; Soniyi 2015). The EFCC alleged that the laundered money was traced to bank accounts of five companies that were believed to be owned by the former governor and his son (Soniya 2015;

Ibeh 2015). Witnesses who testified against the former governor provided details on how the state funds were withdrawn and lodged into private accounts of companies that belonged to the former governor. The case is still pending in court (Alli 2015a).

In 2008, the lawmakers had wanted to remove the former governor but the leadership of the PDP persuaded them to resolve their differences (Hallah 2008). The former Chief Whip said that the intervention of the leadership of the PDP made them discontinue the plan.

I was part of those who wanted to impeach him when President Yar'Adua was still in power. We served him impeachment notice then but because he was still in PDP and the party was one family, we were called to a meeting in Abuja and told to stop the impeachment move. We told them what the governor was doing and yet he was not being called to order by the party. We tried to resist the intervention but the late President Umar Yar'Adua asked the then Vice-President, Goodluck Jonathan to sit with us because he was traveling abroad. We agreed on certain things with the governor. He was asked to implement the agreement while we were asked to drop the impeachment moves. We did as agreed (cf. Ndiribe 2014; Nwosu 2014).

Indeed, the former national chairman of the PDP told the media that the feud between the lawmakers and the governor had been resolved and that they should 'bury the hatchet and concentrate on how to move Adamawa state forward' (Hallah 2008). It is evident from the statement of the former Chief Whip that the motivation to remove the former governor was based on a personal feud between the legislator and the former governor. I claim that in Nigeria, impeachment is being used as instrument to settle personal feuds between the legislators and the governor.

The Adamawa State House of Assembly finally impeached the former governor on July 15, 2014 based on the findings of the report of the panel raised by the Chief Judge of the State to investigate allegations of gross misconduct against the governor (Daniel and Aziken 2014). The panel had found the former governor guilty of the misappropriation of funds. . He was eventually arrested and charged in court (Ibeh 2015).

The irony of the impeachment of the former governor is that the lawmakers had on October 2, 2013, passed a vote of confidence in him (Leadership 02/10/2013; Sani 2014; Pella 2014). The lawmakers praised him because he 'demonstrated a high sense of responsibility and dedication to duty' and because he had managed to maintain a cordial relationship between the legislature and the executive branches of government (Leadership 02/10/2013). The Deputy Majority Leader of the House of Assembly, Mr. Adamu Kamale, who moved the motion said that the decision 'became necessary to inspire confidence in the leaders in their commitment to continue to deliver dividends of democracy to the electorate' (Leadership,

02/10/2013). Just a few months after this vote of confidence, the legislators alleged his gross misconduct. The alleged infractions were apparently committed prior to the passing of the vote of confidence. The former Chief Whip of the legislature, Mr. Jerry Kumdisi, admitted that the lawmakers passed the vote of confidence as a measure to get favours from the former governor. He said:

I agree that there was a vote of confidence but we all know how that confidence vote came about. It may be of no value to begin to dissociate myself from the action because if the House takes a decision, whether you voted for or against such decision, it is binding on you, you are bound to be part of it. Some of us didn't agree with the confidence vote but we were in the minority. We didn't have the voice to say that this vote of confidence cannot stand. The way our democracy operates, sometimes when some members want to get favours from the executive, they engage in praise singing. It happens in all the states. I am not disassociating myself from the decision because it was taken on the floor of the House and it was the decision of the House. I cannot exclude myself from it (cf. Nwosu, 2014).

My finding here is that the lawmakers were aware that the former governor was involved in the abuse of office and misappropriation of state funds but concealed it because of the personal favour they wanted from the former governor. This further strengthens my claim that the Nigerian lawmakers are incapacitated to harness their constitutional authority to promote good governance because of “the politics of the belly” and “stomach infrastructure”. If the former governor had not defected to the APC, the lawmakers would not have decided to remove him, even though they were aware that he was involved in the misappropriation of state funds. My claim here is that the use of impeachment would remain an instrument of political negotiation as long as the lawmakers continue to trade their constitutional role for pecuniary gains.

There are other former governors indicted of embezzlement and the misappropriation of state funds who have been taken to court by the EFCC. Charges of allegations of mismanagement and the diversion of over N52 billion in state funds are still pending against Senator Danjuma Goje, the former governor of Gombe State (EFCC 18/03/2015; Alli 2015a; Umar 2015; Odunsi 2015). Other charges include conspiracy to loot the state treasury and money laundering (EFCC 16/12/2014).

In the last hearing of the case at the high court in Gombe on November 2, a witness, Mr. Shehu Atiku, who was also the Clerk of the Gombe State House of Assembly during the tenure of the former governor, informed the court session that Mr. Goje “forged” a resolution of the House of Assembly to collect a loan of five billion naira from a local bank (Umar 2015).

My Lord, the said resolution did not emanate from the Gombe State House of Assembly and I was not a signatory to it. As the admin officer of the House, I chair management committee of the House, keep the record of House proceedings and maintain its records (cf.Umar 2015).

Late Abubakar Audu was the governor of Kogi state from 1999-2003. Until his death on November 21 2015, he was facing charges of ‘criminal breach of trust and misappropriation of public funds to the tune of N10,965,837,040 (ten billion, nine hundred and sixty five million, eight hundred and thirty seven thousand and forty Naira)’ (EFCC 6/03/2015; Alli 2015a). The allegations against the late former governor include,

stealing money from the First Bank account of Directorate of Rural Development of Kogi State and was lodging it into the Diamond Bank Plc account of Bulkcom Nigeria Ltd, a company that handled most of his building projects during his tenure (EFCC 06/03/2015).

Aside from this, the late former governor was also alleged to have siphoned off state funds through the inflation of contracts, to construct private houses (EFCC, 29/01/2015; EFCC 28/01/2015). He was alleged to have forged contract papers for the provision of water for the state and increased the contract sum from less than N18 million per one project to N49, 649,000.00, almost N50 million (EFCC 28/01/2015). The contractor, Lewechi Terry Ozoemenam, told the court that,

I have never handled any contract up to N18m (eighteen million naira) let alone signing a project worth N49m (forty nine million naira)... a voucher for additional payment for water project...a project valued N41million...a project valued N20million...a project worth N30million... a forged receipt and... a project N20m... All these documents are forged, my lord (cf. EFCC 28/01/2015).

In the build up to the 2015 gubernatorial election in Kogi State, the former chairman of the EFCC, Mr. Ibrahim Lamorde, had notified the leadership of the APC on the need to disqualify the late Abubakar Audu from being the candidate of the party in the election²⁷⁷. The former EFCC chairman, in a letter addressed to the Secretary of the Government of the Federation (SGF), Mr. Babachir Lawal, said:

The candidate was arraigned by the Commission for abuse of office, theft of public funds and money laundering during his tenure as Executive Governor of Kogi State between 1999 and 2003 at both Kogi High Court, Lokoja in 2006 and the Federal Capital Territory High Court, Apo Abuja in 2013. The Lokoja case was stalled for six years on the account of frivolous interlocutory applications by the accused person, which has taken us twice to the Supreme Court and eventually decided in the commission’s favour on 23rd November 2012. The trial effectively continued in 2013 with the filing of fresh charges in Abuja. Eight prosecution witnesses have so far given evidence and 166 exhibits tendered at the proceedings, while the

²⁷⁷Until his death, shortly before the announcement of the results of the election, on November 21, 2015, late Audu was the APC candidate. The Independent National Electoral Commission (INEC) would have announced him as the winner of the election but for the cancellation of the results in 91 polling units.

case adjourned till 14th October 2015 for continuation of trial. We are genuinely concerned that the trial will be suspended for another four years if Prince Audu emerges as Kogi State Governor, similar to the situation of Governor Ayo Fayose of Ekiti State. While not being unmindful of the constitutional presumption of innocence of all accused persons until proven guilty, we are nevertheless greatly concerned that swearing in of another accused person as Executive Governor in Nigeria may not be in consonance with the current anti-corruption policy of the new administration (cf. Jaafar 2015).

The leadership of the APC ignored this submission of the former EFCC chairman. If late Audu had not died, it is probable that he would be declared the winner of the election. As if to confirm the allegation that the former governor misappropriated state funds, the chairman of the APC in Kogi State, Alhaji Hadi Ametuo, said:

Nobody is a saint. No governor can claim he has not done any malpractice or stolen anything during his time in the office. We heard of Saraki's case, even Tinubu is being accused of stealing funds but the truth is that Prince Abubakar Audu has pledged to return the money to the Kogi treasury when he gets elected on the November 21st, yes he will return the 11billion naira or even more than that and that will add to the Kogi economy (cf. Odunsi 2015a).

The statement of the chairman of the APC in Kogi State implied that the late governor actually stole the N11billion that belonged to the state. I claim that the Nigerian political elite consider misappropriation of public funds as a routine phenomenon in political life.

Akwe Doma, a former governor of Nasarawa state, 2007-2011, was accused of money laundering to the tune of N800 million (EFCC 24/02/2015). The EFCC alleged that the administration of the former governor used to withdraw state money without legislative authorisation. Section 120 (3-4) of the Nigerian

No moneys shall be withdrawn from any public fund of the State, other than the Consolidated Revenue Fund [CRF] of the State, unless the issue of those moneys has been authorised by a Law of the House of Assembly of the State. (4) No moneys shall be withdrawn from the Consolidated Revenue Fund of the State or any other public fund of the State except in the manner prescribed by the House of Assembly (Constitution of the Federal Republic of Nigeria, 1999 as amended)..

There was no indication that the Nasarawa State House of Assembly challenged the former governor for this unconstitutional action that drew on the finances of the state. Ideally, the legislature, by virtue of requisite constitutional provisions, has the mandate to monitor the implementation of projects included in the appropriation law. The state governor is mandated to present the estimate of the fiscal policy of the government to the legislature for deliberation and approval. The intent of the provisions of section 120 of the constitution is to ensure that the executive withdraws money to fund projects that have been authorised by the legislature. This abuse of the fiscal authorisation of the legislature is a common phenomenon

in the Nigerian presidential system. This is an indication that the lawmakers do not perform their oversight in respect of policies authorised for implementation.

Governor Jolly Nyame governed Taraba state for 8 years, 1999-2007 (Onwuemeyi 2011). In 2007, the former governor had confessed that he collected some kickbacks and that he was ready to refund his own share of some of the looted funds (Nigeria Political July 23, 2007). The EFCC alleged that he defrauded the state to the tune of over N1.7billion. Though he pleaded not guilty to the charge, the court declared that a *prima facie* case of corruption had been established against him (Nnochiri 2012). The case has since then been pending (Alli 2015a). Eventually, Nyame defected from the ruling PDP to the ACN where he contested a seat in the Nigerian Senate but lost in the 2011 elections. He is now a member of the ruling APC.

The confession by Nyame that he was involved in bribery and kickbacks, as in the case of the Audu, is an indication that the conduct of the governor while in office was properly monitored by the lawmakers as expected. On the other hand, it could be argued that the legislature might be aware of these infractions but decided to look the other way since the action did not significantly impact on their personal benefits. Conversely, if the N1.7billion alleged to have been misappropriated by Nyame had adversely affected the allocations to the legislature, they might have sought to investigate him for gross misconduct. A former speaker of the Osun State House of Assembly, Adejare Bello, in his account of how the legislators sought to impeach the former governor, Bisi Akande, disclosed that they were prompted to do so when the financial crisis in the state adversely affected the personal benefits of the legislators (Bello 2011).

Similarly, Lucky Igbinedion was the governor of Edo State for 8 years, 1999-2003. He was prosecuted by the EFCC and convicted by the court. Charges proffered against him included a 191-count charge of embezzlement of public funds to the tune of N4.3 billion when he was the governor (Adewole 2008). He was found guilty of the charges and was asked to pay a fine of N3 million. Not satisfied with the punishment, the EFCC appealed the judgment seeking stiffer penalties that would serve as a deterrent to others. The head of media and publicity of the EFCC, Mr. Wilson Uwujaren, said:

Following the furore generated by the option of fine handed the governor by the trial judge, the commission filed fresh charges against Lucky Igbinedion. The action was challenged in court with the trial court ruling that the commission cannot try the ex-governor on the same matter for which he had already been convicted. The EFCC appealed against the ruling with

the Court of Appeal affirming the commission's position that Igbinedion really has a case to answer. Following that, two of his accomplices, his younger brother, Michael Igbinedion and his Personal Assistant, Charles Eboigbodin, who were charged alongside the former governor, were successfully prosecuted and convicted, just last month (April 29, 2015, precisely) (cf. Alli 2015a).

In April 2011, with another N25billion charge of fraud against the former governor, the EFCC sealed off two of his properties in Abuja on the basis of a forfeiture order granted by the Federal High Court in Lagos, Nigeria (Iriekpen 2011; Okonta 2011; Alli 2015a). The EFCC had also confiscated 11 other properties belonging to the former governor (Iriekpen 2011; Okonta 2011).

Throughout the eight years he governed the state, there was no indication that the legislators monitored the implementation of the policies of the state. Since all money of the state in the CRF requires the authorisation of the legislature, it means that the governor must have circumvented the laws to divert public funds for private use. If the members of the legislature had been effective in the exercise of their oversight power, they ought to have apprehended the governor.

Saminu Turaki was the governor of Jigawa state for 8 years, 1999-2003, on the platform of the PDP. The EFCC arraigned him in July 2011 before a Federal High Court in Dutse on a 32-counts of fraud and misappropriation of over N36 billion (Alli 2013; Dangida 2014). Some of the charges included N12 billion withdrawn from the state government treasury for financing former President Olusegun Obasanjo's third term ambition (Alli 2013). The former governor has since defected from the PDP to the APC (Anako 2015). The EFCC has also frozen the accounts of six companies that were linked to the former governor (Alli 2015a).

Orji Kalu governed Abia state for eight years, 1999-2007). He defected from the PDP to form the Progressive People's Alliance (PPA) The EFCC accused him of embezzling a sum of N59 billion. His appeals against the trial failed both at the Court of Appeal and the Supreme Court and, since then, he was returned to the trial court to face criminal charges before Justice Adamu Bello of the Abuja Federal High Court. The case is still pending. The EFCC had confiscated 10 of his properties and frozen 13 bank accounts that were linked to the former governor (Alli 2015a). Adjudication over the charges of corruption leveled against him is still pending in the Supreme Court (Alli 2015a).

The allegations against Gbenga Daniel, the former governor of Ogun State, 2003-2007, include 'stealing (of) public funds, bribery, fraudulent conversion of public property and false declaration of assets in the amount of N211.3million' (EFCC 05/12/2014). His administration

was characterised by allegations of the abuse of power and privileges. The case is still pending in the law court.

The EFCC has the requisite legal authority to conduct investigations into financial crimes committed not only by public servants, but also by political office holders. Nevertheless, this agency is not an alternative to the legislature - which has the requisite constitutional power to perform oversight the activities of the executive branch of the government. The EFCC is an agency of the government that depends on both the legislature and the executive to provide the necessary administrative logistics for its operations. However, the activities of the agency have exposed the weaknesses of state legislatures in the area of oversight.

I therefore claim that the lawmakers in all these states failed to attend to their constitutional responsibility of oversight. There is no doubt that the cases of corruption and misappropriation of public funds established against these former governors were valid. The fact that many of the properties of former governors have been confiscated or seized, indicate that the former governors actually misappropriated public funds while in office. This is an indication of the prevalence of corruption in the authorisation and disbursement of public funds for. This shows clearly the failure of the legislature to its powers of oversight in the execution of its mandate.

It is a routine legislative assignment for legislators to inspect the progress of work in the different projects that are budgeted for. In Kogi State for instance, one of the socio-economic problems confronting the population is the dearth of portable water (Alabi 2010). Bayelsa and Delta States are among those that failed a solvency test of the Debt Management Office (DMO) as at December 2011 (Okwe 2013). The solvency test measures the domestic debt stock of a state *vis-a-vis* its Internally Generated Revenue (IGR) profile. Bayelsa State had the highest rating of insolvency with a domestic debt of N162.82 billion and the capacity to generate a sum of N9.510 billion as IGR. Delta State had a domestic debt of N90.843 billion, with an IGR that stood at N34.601.

These former governors with pending corruption charges against them in the courts of law are prominent political elites in the Nigerian political system. Danjuma Goje is a serving senator who has just won another term of four years in the recent elections. Aside from being a member of the Nigerian legislature, he was one of the senators that sought to be elected as the president of the Senate. If he had succeeded, he would have emerged as the third most senior

political office holder in the country's leadership hierarchy. Audu, until his death, in 2015, was a prominent member of the ruling APC. He was the APC candidate for the November 2015 gubernatorial election in Kogi State (Vanguard 22/11/2015). If he had not died, he would have been declared as the new governor of the state where he faced charges of corruption. It is evident from the data presented in chapter five that there are several other governors whose records were tainted by abuse of power, yet faced no consequences from the legislature nor action by the EFCC to fast track their impeachment. The case of the former governor of Delta State, James Ibori, is pertinent here. He spent eight years as the governor without any legislative reprimand but was jailed in the United Kingdom for money laundering, an offence committed while he was the governor (Tran 2012; BBC News, 27/02/2012).

The cases analysed above provided insights into the disparities in the way in which the lawmakers exercised the power of impeachment. Where there was evidence of the abuse of power, governors were spared by their legislatures.

7.4 Saint at home, convict abroad: The analysis of the abuse of power by and corruption charges against James Ibori

James Onanefe Ibori was sworn in as the executive governor of Delta State in May 29, 1999. He spent eight years as the governor. Prior to this time, Ibori was a confirmed convict in the UK, having stolen goods from the store where he was working and fined £300, along with his wife (Glanfield 2014). In 1992, he was involved in a stolen of American Express credit card scam where he had fraudulently withdrawn \$1,590 (Glanfield 2014; Crawford 2012). He was convicted and made to pay a fine of £100 (Crawford 2012; Glanfield 2014). By virtue of extant constitutional provisions on the rules of eligibility of candidates to contest elections in Nigeria, Ibori was not fit to have contested for the gubernatorial seat in Delta State. Section 182 (1) (d & e) stipulates:

No person shall be qualified for election to the office of Governor of a State if...
 (d) he is under a sentence of death imposed by any competent court of law or tribunal in Nigeria or a sentence of imprisonment for any offence involving dishonesty or fraud (by whatever name called) or any other offence imposed on him by any court or tribunal or substituted by a competent authority for any other sentence imposed on him by such a court or tribunal; or (e) within a period of less than ten years before the date of election to the office of Governor of a State he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of the contravention of the code of Conduct;... (Constitution of the Federal Republic of Nigeria, 1999, as amended).

But Ibori won the election 'after tricking his way into power by hiding details of his previous convictions in the UK for theft and changing his age' (Glanfield 2014). Aside from this UK

conviction, a Nigerian court had also convicted Ibori for stealing building materials at a construction site in Abuja, Nigeria in 1995 (Ochuko 2010). His opponent in the 2003 gubernatorial election, Great Ogboru, had petitioned the Election Tribunal in the state to disqualify Ibori in view of the fact that he was an ex-convict (Ochuko 2010). But Ibori claimed that he was not the same James Onanefe Ibori that was convicted in 1995, and that this was a case of “mistaken identity”. He claimed this even when the investigating police officer, Sgt Mambo Odumu, recognised and testified against him (Ochuko 2010).

He held onto power in the state with a very “good rapport” with the legislature although the leadership turnover in the legislature was very high. For the 8 years he spent as the governor, the state legislature had 7 Speakers. Table 14 below shows the rate of turnover of the speakers in the Delta State House of Assembly between 1999 and 2007.

Table 16: Turnover of the Speakers of Delta State House of Assembly, 1999-2007

S/No	Name	Office	Constituency
1	Rt. Hon. Francis Megbele	Speaker 03/06/99 – 22/11/99	Warri North
2	Rt. Hon. (Prince J.F.K. Omatsome	Speaker 23/11/99 – 13/03/02	Warri South West
3	Rt. Hon. Francis Megbele	Speaker 20/03/2000 – 14/05/2000	Warri North
4	Rt. Hon. (Barr.) Akpo Pius Ewherido	Ag Speaker1 5/05/2000-20/04/2001	Ughelli South
5	Rt. Hon. Basil Ganagana	Speaker 20/04/2003 – 02/06/2007	Patani
6	Rt. Hon.(Barr) Young Daniel Igbrude	Speaker 2003-2006	Isoko North
7	Rt. Hon. (Engr) Franc P.C. Enekorogha	Speaker 2006-2007	Burutu I

Source: Compiled by the author from the data provided by the Delta State House of Assembly at: <http://deltastateassembly.gov.ng/the-5th-assembly/past-members/>

There is no empirical evidence to show that the high rate of leadership turn over in Delta State House of Assembly was a result of the quest for legislative protection in favour of the former governor. Nevertheless, my fieldwork research shows that state governors often induce the removal of a speaker who is proving difficult to control. An interviewee told me that the governors would always seek to ensure the emergence of a speaker that would not be

critical of the policy proposals and decisions of the executive (Personal Interview III, May 13, 2014). For instance in Osun State, a former Speaker, Mojeed Alabi, 1999-2003, was faced with the threat of removal on more than nine occasions legislators allegedly working for the state governor. This threat was because he refused to compromise on his opposition to a number of policies and decisions of the executive (Bello 2011).

I claim that the frequency in the change of leadership in the Delta State House is connected to the influence of the governor. My argument is that for the 8 year duration of his tenure, the state legislature did not, at any point, seek to monitor the implementation of state projects.

Requisite constitutional provisions empower the legislature to police the disbursement of public funds with a view to ensuring judicious application for the promotion of good governance. Sections 120-129 of the Constitution provide the state legislatures with broad powers to control public funds in a bid to achieve the fundamental objectives and directive principles of state policy contained in chapter two of the Constitution. Section 16 (2b) specifically mandates the states to harness the material resources and distribute the same ‘to serve the common good...’ (Constitution of the Federal Republic of Nigeria, 1999, as amended).

Like the other states where corruption and mismanagement of public funds have become a routine part of governance, the Delta state legislature could not enforce these provisions to monitor the disbursement of public funds for 8 years. In April 2012, the Southwark Crown Court in the UK sentenced James Ibori to 13 years imprisonment on the charges of corruption and money laundering (Glanfield 2014; Crawford 2012; The Guardian 2012; Walker 2012; Vanguard 4/11/14). Ibori admitted that he actually committed these offences (Tran2012a and b). Table 15 below shows the details of properties, discovered by the London Metropolitan Police, to have been acquired by James Ibori while he was the governor of Delta State.

Table 17: Ibori's properties discovered by the London Metropolitan Police

S/N	Property	Financial Worth	Location
1	Private Jet	£12.6million	London
2	Armoured Range Rovers	£600,000.	London and Nigeria
3	Bentley (Car)	£120,000	Sandton, Johannesburg
4	Mercedes Maybach	£340,000	London
5	Mansion	£3.2million	Sandton, Johannesburg
6	House	£2.2m	Hampstead, north London
7	A property	£311,000	Shaftesbury, Dorset
8	Haleway and Boyd Properties	N/A	Gibraltar and Teleton Quays (BVI)
9	Three Properties	N/A	58 Uphill Drive, London NW9 OBX; 76 Woodhill Crescent Kenton, Harrow, Middlesex HA OLZ; 139 Kingfisher Way, London NW10 (Adeniyi 2011) ²⁷⁸
10	Ownership of 30% share of Oando Oil Company	N/A	Nigeria
11	Undisclosed amount of Money PKB Private Bank	N/A	Switzerland
12	Two Properties	US\$4.43m	Washington, DC
13	A mansion	N/A	Houston
14	Two Merrill Lynch brokerage accounts	N/A	Houston

Source: Compiled by the author from foreign newspapers and Court papers of the UK Metropolitan Police on the trial and conviction of James Ibori.

The total annual salary package of a state governor in Nigeria is estimated at N11,540,896 (£38,508) (Ujah 2015). In other words, a governor earns an estimated total sum of N92,327,168 (£308,065) for the duration of 8 years.. Judge Anthony Pitts of the Southwark Crown Court told Ibori that ‘it was during those two terms [1999-2007] that you turned yourself in short order into a multi-millionaire through corruption and theft in your powerful position as Delta State governor’ (cf. Crawford 2012). Angus Crawford in the analysis of the case said ‘when a man who has an official salary of £4,000 a year buys a house in Hampstead worth £2.2m, why did no-one smell a rat?’ (Crawford 2012).

²⁷⁸ These properties were owned in the name of his sister, Christine Ibori-Ibe.

Aside from the above, Ibori admitted to have sold the £23million (\$37m) shares of Delta State in Vee Mobile, a telecommunications company (Crawford 2012). Rather than remit the money to the state, he spent the proceeds ‘to fund a lavish lifestyle including a monthly £125,000 credit card bill while his people languished in poverty’ (Crawford 2012)²⁷⁹. The Judge, Anthony Pitts, of Southwark Crown Court, told Ibori in the open court: ‘You lived modestly in London in the 1990s and no-one, I think, hearing at that time would imagine the multi millionaire high profile governor that you became some eight or nine years later’ (cf. Walker 2012). Ibori was also linked with the ownership of Wings Aviation Limited and Stanhope, the companies he used to launder money through his London Attorney, Mr. Bhadresh Gohil and several other fronts and friends (Sharareporters12/12/2010).²⁸⁰

Indeed, analysts had wondered how ‘a man who has an official salary of £4,000 a year buys a house in Hampstead worth £2.2m’ [and]... no-one smells a rat?’(Crawford 2012). It is ironical that such monumental fraud took place in a system characterised by checks and balances and that the legislature could not detect it with its multiple of oversight functions.

The UK Metropolitan Police, in cooperation with the EFCC had been on the trail of Ibori since 2005 upon the discovery of ‘a purchase order for a private jet, made through his solicitor in London’ (The Guardian 17/04/2012). This search was possible because Ibori was an ardent supporter of Atiku Abubakar, the then Vice-President who was contesting the presidential ticket of the PDP against the ambitions of the President, Olusegun Obasanjo, who wanted to extend his term limit (The Guardian 17/04/2012; Walker 2012). In realization of this, and the need for his protection, Ibori strategically switched his loyalty back to the president and became an ardent campaigner for an extension of the term that would have provided the opportunity for Obasanjo to run for a third term of another four years. Thus, the pace of the EFCC investigation slowed. While the EFCC relaxed on the trail of Ibori, the UK Metropolitan Police intensified its investigation that culminated in the freezing of his UK assets that were worth US \$35m in 2007 (Walker 2012; Adeniyi 2011). After the retirement

²⁷⁹ Two other state governors, Bola Tinubu (Lagos) and Obong Victor Attah (Akwa Ibom) were also involved in this alleged illegal deal.

²⁸⁰ Mr. Gohil, Ibori’s wife, Theresa, his mistress, Udoamaka Okoronkwo and his sister, Christine Ibori-Idie, have been convicted of money laundering and sentenced to different jail terms in London. For the details, see Tran 2012.

of Obasanjo, the EFCC began to investigate him and he was arrested in December 2007 on allegations of corruption (Walker 2012)²⁸¹.

Prior to this, he had become one of the influential political elites in the government of Obasanjo's successor, Umaru Yar'Adua (now deceased)(Adeniyi 2011).Adeniyi was one of the close aides of the late president, Yar'Adua. In his book, he provided a detailed account of the overwhelming influence of Ibori in the administration and how his presence impacted negatively on public perceptions of anti-corruption. This personal account validates a series of rumours about the factors and forces responsible for the removal of Ribadu as the chairman of the EFCC. As an insider, the account confirms the use of the EFCC as instrument of intimidation and persecution of political opponents while it protects supporters of government with records of shady deals during Obasanjo's regime. He also revealed how the Yar'Adua administration did not allow the EFCC to be effective in a bid to protect Ibori, in particular, against prosecution.

Adeniyi recalled that Ibori knew he was using his influence in the Yar'Adua government to stave off prosecution against his corrupt practices while in office. According to him,

Ibori came to my office to warn me, he said something very instructive: "Look, Segun, there is nowhere in the world where you help somebody to power and his reward for you is that you go to jail. It doesn't happen anywhere, and it won't begin with me" (Adeniyi 2011, p.22).

This statement is an indication of his involvement in the politics that facilitated Yar'Adua as the presidential candidate of the PDP in 2007 and his subsequent election as the president. The primary motive was to use the presidential cover to escape further investigation and, possibly, indictment. This he enjoyed until the death of President Yar'Adua in May 2010.

Like the case of Joshua Dariye, part of the money Ibori looted from the state went to the third term campaign as well as the presidential campaign of Yar'Adua in 2006 (Walker 2012). Indeed, his prominence in the administration of Yar'Adua tainted the personal integrity of the president and thus increased 'the perception that he [Yar'Adua] was leading a government that was protecting the corrupt' (Adeniyi 2011, p.14).

²⁸¹ Although President Obasanjo provided the initial cover for Ibori after the discovery of the crimes he allegedly perpetrated in UK, he dumped him when he discovered the extent of his influence and power in the Yar'Adua government, especially, the weakening of the power of the EFCC and the redeployment of the key staff of the agency in order to prevent the prosecution of Ibori.

Unfortunately, the president did not appear to see what most Nigerians, and indeed several of us within the administration, could see very clearly: that the seeming connivance between his attorney general and justice minister, Mr. Michael Kaase Aondoakaa, and the former Delta State governor, Chief James Ibori, was destroying the reputation of the government and also compromising his own personal integrity (Adeniyi 2011, p.14).

While the former chairman of the EFCC, Nuhu Ribadu, was adamant in pressing corruption charges against Ibori, the government provided a sufficient shield to retain him in the services of the administration as a prominent power broker²⁸². Former president, Obasanjo, had revealed that the removal of Ribadu, as well as the appointment of Farida Waziri, was at the behest of Ibori. 'I know that the woman they brought in to replace Ribadu [Farida Waziri] was not the allegedly right person for that job, because I understood that one of those who head-hunted her was James Ibori' (cf. Itua, 2003).²⁸³ In 2009, the EFCC formally charged Ibori in court on 170-count charges of corruption and money laundering. The charges were however dismissed on the grounds that there was insufficient evidence.²⁸⁴

The death of President Yar'Adua in 2010 and the emergence of Goodluck Jonathan, as the president, emboldened the EFCC to reopen the case of Ibori²⁸⁵. In London, the Southwark Crown Court found him guilty of the charges. Having admitted involvement in all the charges; the former governor was sentenced to 13 years imprisonment (Walker 2012; Crawford 2012). By virtue of this judgment, the EFCC pledged to continue with the trial of the former governor after serving out his jail term in London. The spokesperson for the EFCC, Mr. Wilson Uwujaren, declared that although Ibori was sentenced to 13 years imprisonment in London, the details of his corrupt practices as the governor were monumental. The EFCC claimed that:

²⁸²In the process of seeking for the prosecution of Ibori, a move that ran counter to the desire of the government, Ribadu was removed as the chairman of the EFCC. He was demoted from the rank of Assistant Inspector General of Police (AIG) to Deputy Commissioner of Police. The succeeding chairperson of the EFCC, Farida Waziri, in conjunction with the Minister of Justice, Aondoakaa, provided the necessary cover for Ibori.

²⁸³Although one might argue that the utterance might be in reaction to the treatment meted out to his stooge, Ribadu, by the Yar'Adua's administration, nevertheless, the revelation of Waziri in the same newspaper report, indicates a link between Waziri and the Minister of Justice, Aondoakaa, who, according to Adeniyi (2011) was in charge of the instrumentality of shielding Ibori from the long arm of the law.

²⁸⁴This judicial pronouncement generated a series of criticism of the Nigerian Judiciary. Concerned citizens and civil society groups protested against the decision of the judicial officer who delivered the judgment, describing the judgment as a miscarriage of justice in the face of irrefutable evidence.

²⁸⁵The emergence of Jonathan as the President provided another opportunity for former President Obasanjo to renew his call for the prosecution of Ibori. Obasanjo facilitated the emergence of the duo as the occupant of the residency. In view of the acrimonious relationship created by the sickness and the death of Yar'Adua, political elites fenced off by Ibori sought for revenge. At the wake of this development, James Ibori fled to Dubai to evade prosecution in Nigeria. However, pressure on Dubai led to his [Ibori] deportation to London to face criminal charges on fraud and money laundering.

For the benefit of stakeholders and lovers of justice, it is interesting to note that the offences for which Ibori faces imminent jail term in London is (sic) only a minute aspect of the bouquet of offences committed by the governor during his eight years rule of Delta State... The former governor didn't steal alone. There were accomplices (cf. Sobowale 2012).

This statement depicts the helplessness of an agency caught in the web of elitist politics. The EFCC spokesperson had said that once Ibori finished his jail term in London, the EFCC has more allegations that will keep him in prison. In the Nigerian political system, to convict Ibori would be a very tall order. By illustration, many of the cases initiated by the EFCC against former governors are still pending. These indicted former governors are actively participating in government without any sanctions as a result of their past records of abusing power.

7. Summary

In this chapter, I have explored, empirically, cases of the abuse of office by former governors. I discovered that the lawmakers in these states failed to monitor the implementation of projects of the government as demanded by the constitution. I began the analysis with a consideration of cases of deputy governors that were removed by their legislatures. Deputy governors suffer more from the disparate use of impeachment by the lawmakers than governors. I found that these impeachment cases were prompted by the governors because of political competition. Thus, the competition between the governor and his deputy is not effectively processed through the rules and procedures of the system of government.

I also explored the cases of some former governors who were indicted by the EFCC for the misappropriation of public funds while they served in office. Some of them are still facing criminal charges in court. The EFCC has also seized and confiscated some of the properties of these former governors alleged to have been illegally acquired.

One example was the case of a former governor of Adamawa State who was removed after he defected to another political party. While he was a member of the ruling party, he enjoyed the protection of the lawmakers. However, the protection ceased when the former governor defected from the PDP to the APC. Impeachment is not to be used as a weapon of political competition.

The lawmakers ought to have exercised their oversight power to remove the former governor prior to his defection to the other political party. The Supreme Court had decided that the

legislature could not invoke the provision of impeachment ‘merely because the House does not like the face or look of the Governor or Deputy Governor in a particular moment’.²⁸⁶

Aside from this, I specifically examined the case of a former governor of Delta State, James Ibori. Throughout his eight years tenure as the governor of Delta State, Ibori was shielded by the legislature. Even when he was charged in court by the EFCC (after his term as governor had expired), the judiciary cleared him of any wrong doing on the basis of their claim that there was of a lack of evidence. Nevertheless, the same evidence was used by the Southwark Crown Court in London to convict him.

My finding here is that in Nigeria, the law is applied only against people who are critical of the dominant political elite. In view of this, political elites with cases of constitutional breaches usually defect to the ruling party to escape prosecution. This worked for Ibori for more than eight years until the death of his godfather, the late president Umaru Yar’ Adua in May 2010.

I claim that as long as people with vested interests populate the institutions of government in Nigeria, the rules will continue to be manipulated to promote the pecuniary interests of the political elite. Though impeachment is a powerful means of ensuring accountability, its use since 1999 has been in accordance with the intent of the constitution.

I now proceed to the final chapter, my conclusion.

²⁸⁶Inakoju & 17 Others v. Adeleke & 3 Others. (2007) 1 S. C. (Pt. 1), p. 65.

Chapter Eight

Summary, Conclusion and Recommendations

8.1 Conclusion

This study explored the ways in which the legislature in selected states in Nigeria's Fourth Republic, exercised the power of impeachment. The central theme of the study is the exercise of the legislative power of impeachment to promote good governance in Nigeria. I began the study with the discussion of the major features of the presidential system and the exercise of the power of the legislature. I focused on the purpose of impeachment as a measure to ensure accountability in a governing system that promotes shared powers of the government. I anchored my analysis on three major theories and their components: structural functionalist theory, legislative role theory and the elite theory.

I approached this study from the interpretative tradition of knowledge, which is concerned with understanding of the people, their actions and motivations. The concern of the approach is to explore detailed accounts of the conduct of the people within their social and political environment. My methodology was qualitative and I thus adopted qualitative methods for data collection. I explored the key questions of this study through interviews of key participants in the legislative process, personal observations and through documentary analysis. I consulted the records of legislative procedures, judgments of the courts, government documents and other public documents for my primary data. I relied on extant literature for my secondary data. My eyewitness accounts of legislative debates and processes in a state legislature for four years, 1999-2003, provided further background for most of my claims and assertions.

My examination of the key issues relating to impeachment in the Nigerian presidential system was divided into eight chapters. In chapter one, I provided a general overview of the presidential systems and set out the context of my arguments and analysis. I provided a comparative overview of the principles of a presidential system.

I examined scholarly perspectives on the study of presidential systems in chapter two, where I engaged in a review of extant literature on presidential systems from the two broad perspectives of the traditional school and the developmental school. Both agree that a presidential system seeks to promote accountability in government. Scholars note the need to institutionalise a system of accountability. I found that each political system operated the

presidential system in line with the demands of their particular society. I therefore claimed that the political elite in each political system determined the way in which the principles of the governing system were put into practice. I claim that political elites in this case study perceived power as a means to advancing their personal benefits.

In the third chapter, I traced the development of the Nigerian presidential system to the collapse of the post-independent parliamentary system. I compared the cases of the removal of the Premier of the Western Region in the First Republic parliamentary system with the impeachment of the governor of Kaduna State, in the Second Republic. I analysed the processes and the outcomes of the two cases with the claim that the flaws associated with the exercise of the power of the legislatures in the two periods emanated from the attitudinal disposition of the political elite. I claimed that abuse of power for the promotion of personal gains was the bedrock of the crisis associated with the exercise of the power of impeachment in Nigeria.

In chapter four, I discussed the three principal theories used in the study. I identified the usefulness of the structural functionalist, the elite and the legislative role theories in my analysis of the politics associated with the way in which the legislators exercised their power. I evaluated the strengths of these theories to provide insights into the general analysis of the exercise of power in a presidential system. I discovered, from the literature, that none of these theories is independently capable of providing an adequate explanation for the ways the political elite exercised power in the Nigerian presidential system. I applied this to the ways in which the Nigerian political elite exercised the power of impeachment. I found that there is a wide gap between the behaviour of the political elite and the theoretical postulations that defined their roles and responsibilities within the institutions of government. I claimed that in Nigeria, the concept of separation of power is an avenue for the political elite to negotiate for personal benefits.

In chapter five, I presented empirical data on the way in which the political elite exercised their legislative power of removing state governors. I examined this through the lens of the judicial review of the legislative actions in selected states. First, I explored the requisite legal rules that guide the exercise of the legislative power to remove specified elected officials. Second, I identified the constitutional meanings of the purpose of impeachment to include monitoring the exercise of executive power, guaranteeing good governance, strengthening the legislative responsibility, and adherence to the rule of law. Insights from these meanings

provided the basis for my claim that the use of impeachment as a political weapon is responsible for governance crises in the Nigerian presidential system. I proved this with data that showed evidence of abuse of power by former state governors. I found that intra-elite crisis facilitates the resort to constitutional breaches in the exercise of the legislative power of impeachment. I supported this claim with extant judicial pronouncements that nullified a series of cases of impeachment as justifiable legislative action taken in violation of the laws.

In chapter six, I explored how internal and external factors influenced the exercise of legislative power of impeachment in the selected states. I located this within the confines of the concept of patron-client politics or what Richard Joseph (1991) calls prebendal politics. I presented empirical data to illustrate how the political elite outside the legislature facilitated the abuse of power in the selected states.

In chapter seven, I explored a series of cases to analyse the disparate use of impeachment in Nigeria. I began the chapter with an analysis of the impeachment of former deputy governors. I found that these impeachment cases were prompted by the competition for positions between the governors and their deputies. I therefore claimed that deputy governors suffer more from the disparate use of impeachment as a weapon of political victimisation and intimidation. I also explored the cases of former governors who were investigated and indicted by the EFCC on the misappropriation of state funds while in office. I specifically devoted a section to examine the case of a former governor of Delta State, James Ibori, whose 8 years of rule was riddled with the evidence that he abused the power of his office, yet no action was taken against him by the legislature. He escaped justice in Nigeria but was charged and convicted in the United Kingdom. I therefore factored this into my claim that the nature of patronage politics in Nigeria undermines political accountability. I supported this claim with empirical illustrations of the misappropriation of public funds that involved state governors.

I explored the level of corruption that characterises the exercise of power in this system of checks and balances and how the behaviour of the political elite incapacitated the institutions of government. I argued, using empirical evidence, that the primacy of corruption as an instrument of statecraft in the Nigerian presidential system frustrates political accountability. I claimed that weak institutions of government, and especially the legislature, expose the public to the abusive use of power against the public interest.

8.2 Summary of findings

A key finding of this study is the primacy of corruption as an instrument of statecraft in Nigeria's presidential system. Beyond the mismanagement of funds, a synergy between the legislature and the executive undermines the doctrine of checks and balances in Nigeria's system of separated but shared power. The executive seeks a "rubber stamp" legislature and the lawmakers are, in turn, usually willing to compromise their constitutional responsibilities. The weakening of the capacity of the legislature, in return for political gains, to effectively monitor the implementation of policies enables executive recklessness.

In his reflections on the misfortune of Nigerians who sojourn abroad, Tunde Adeyemo (2010) laments that 'if Nigeria worked for the common man, people would be contented to remain in Nigeria and those abroad would return'. His argument is that human capital in Nigeria is wasted abroad because of the crisis of governance in Nigeria. Sixteen years after the country's return to civilian rule, and the promises that the political institutions would promote good governance in a presidential system, the quality of life of the people is not improving.

One scholar describes the governance crisis in Nigeria in the following way:

Life expectancy is fast dropping as many have continued to lose their lives through mostly avoidable causes including motor accidents due to bad roads, air mishaps resulting from negligence, avoidable diseases due to poor environmental conditions and lack of adequate medical facilities, sectarian and ethnic clashes due to poor mutual understanding to make life better (cf. Ihediwa 20012, p.3).

Nigeria earned US\$370 billion between 2000 and 2008 from the export of oil and gas. During this period, Nigeria's position on the human development and governance index was poor (Global Witness 2010). Evidently, the abuse of the constitutional provisions of impeachment in the Nigerian presidential system is not in accordance with the constitution. Nevertheless, such abuses characterise the practice in Nigeria's presidential democracy. I claim that the factors that are responsible for this may be categorized as institutional, systemic and attitudinal.

Institutional problems emanate from the misconception of the meaning ascribed to the offices of the president and governor. The concept of the executive president and governor is being conceived as a conferment of absolute power in the executive branch. Thus, this facilitates the possibility of the personalisation of the political process. The consequence of this is the

emergence of individual political elites that exert tremendous control over the policy process. This is antithetical to the features of a presidential system.

This institutional malaise has become systemic whereby the abuse of constitutional powers and failure to fulfill responsibilities is with impunity. Breaches of the constitutional order have become a norm rather than an exception. Inadequate legislative checks on the excesses of the executive, coupled with a symbiotic relationship between the legislature and the executive, underpinned by the politics of the belly (Bayart 1993), promotes the pursuit of personal and communal goals at the expense of the public good. Thus, there is little accountability in practice.

In Nigeria a culture of impunity clouds the constitutional provisions of impeachment. Some of the former governors that were indicted of corrupt practices while serving in office and whose properties have been confiscated by the EFCC have since been elected as members of the Senate. In particular, the former governor of Plateau State, Joshua Dariye, is a serving Senator of the Federal Republic of Nigeria. He is currently facing charges of corruption and money laundering proffered against him by the EFCC (Alli 2015 a). Impeachment is no longer a political stigma.

8.3 Theory and development: External influence, legislative responsibility and the politics of impeachment in Nigeria

A presidential system is designed to institutionalize the culture of responsible government and accountability. The principle of separation of powers and the doctrine of checks and balances is to avert the consequences of the concentration of power. The operation of these principles is supposed to guarantee a system of governance that serves the public good. In essence, an institutionalised culture of presidentialism, over time, offers the public a shield from the dangers of autocracy. Power is controlled in a manner that provides the public, through their representatives, the rare opportunity of controlling the government. Impeachment is the constitutionally recognised measure for this important oversight function.

In the advanced presidential system like that of the US, impeachment is rarely used by the legislature. In the history of the US presidential system, for instance, only six state governors

have been impeached and removed from office.²⁸⁷ Impeachment in the Nigerian presidential system has been used as an instrument of control. This is in contradiction to its intended purposes. In the various cases discussed in this study, it is evident that the lawmakers often compromise their constitutional responsibilities by allowing *godfathers* as well as other political elites to influence their decision. Mis-governance in the political space is a sufficient reason to exercise this legislative oversight power. In all the cases, none originated from the independent actions of the legislatures as required by the law governing the practice of impeachment in Nigeria.

Politics in Nigeria is highly personalised. This manifested greatly in the First Republic, in spite of a parliamentary governing system that enshrined the principle of collective responsibility. Irreconcilable conflicts, differences and division among political elites, accentuated, partly by the manipulation of the ethno-religious divide, characterised the politics of the First Republic. The perception of politics and political power, by the political elite, as the source of personal wealth has remolded the behaviour of the Nigerian political elite. This is a manifestation of Peter Ekeh's concept of the *two publics*.

In Western society, Ekeh contends that the public and the private realms share the same moral foundation.

Generalized morality in society informs both the private realm and the public realm....what is considered morally wrong in the private realm is also considered morally wrong in the public realm. Similarly, what is considered morally right in the private realm is also considered morally right in the public realm (Ekeh 1975, p.92).

Similarly, the post-colonial African state also presents the two realms but is 'differentially associated...in terms of morality' (Ekeh 1975, p.92). His conception of the *two publics* emerges from the behaviour of the political elites, first, influenced by 'primordial groupings, ties, and sentiments' and, second, by identification with the civil structures of the colonial administration (Ekeh 1975, p.92).

²⁸⁷ In the US, the House of Representatives impeach while upon conviction by the Senate, the impeached officer is removed from office. Thus, it is possible that the House might impeach but the officer escape conviction as in the case of President Bill Clinton. Governor William Holden of North Carolina was the first governor to be impeached in March 22, 1871 (Holden 1911, cf. Wagoner ND) and David Butler, governor of Nebraska, impeached and removed by the Senate on June 2, 1871 (The Downfall Dictionary, 2008). Similarly, Governor William Sulzer of New York was impeached on August 13, 1913 (Dunne 1986; O'Donnell 2013), Governor James E. Ferguson of Texas was impeached on August 25, 1917 (Steen 2010) while John C. Walton, the governor of Oklahoma, was impeached by the House of Representatives on October 23, 1923 and convicted and removed on November 19, 1923 (Duren 2002-2003). Governor Rod Blagojevich of Illinois was impeached and convicted in January 2009 (Gay & Saulny 2009). Only two presidents, Andrew Johnson (1868) and Bill Clinton (1998), have so far been impeached by the House of Representatives, in the history of the American presidential system (Congressional Directory 2009). None of them was convicted by the Senate (Staff n.d).

The primordial public is moral and operates on the same moral imperatives as the private realm...The civic public in Africa is amoral and lacks the generalized moral imperatives operative in the private realm and in the primordial public (Ekeh 1975, p.92).

The products of these two publics dominated post-colonial Nigerian politics with the reification of the nature and characteristics of the civil public. Since there is a disjuncture between the two, the civil public often secures the power of the state to advance further personal gains. . Electoral fortunes however impact less in the public but promote the private good of the civil public. This characterised the Nigerian First Republic and remains an important lens for the analysis of the politics of the Nigerian parliamentary system.

Richard Joseph (1991) advances this further in the study of the presidential system of the Second Republic. To him, the primacy of ‘the nature, extent and persistence of a certain mode of political behaviour, and of its social and economic manifestations’ cannot be overemphasized in the understanding of the Nigerian political turf (Joseph 1991, p1). His theory of prebendal politics rests on the insistence by which the political elites exploit state power to procure private socio-economic goods at the expense of those of the public (Joseph 1991). This objective, like the civil public, subjects the Nigerian state to the consequences of ‘the intensive and persistent struggle to control and exploit the offices of the state’ (Joseph 1991, p1). Prebendal politics is therefore used to explain the,

patterns of political behaviour which rest on the justifying principle that such offices should be competed for and then utilized for the personal benefit of office holders as well as of their reference or support group. The official public purpose of the office becomes a secondary concern, however much that purpose might have been originally cited in its creation or during the periodic competition to fill it (Joseph 1991, p8).

Prebendalism characterised the politics of the presidential democracy of the Second Republic. The public space became highly competitive with acrimonious relationships among the political elite (Ayeni and Soremekun 1998).

One of the consequences of this development which spanned to the Fourth Republic is the prevalence of *godfatherism* (Albert 2005). This is a situation where an individual emerges, in different realms, as a towering force over and above institutional and non-institutional mechanisms and comes to determine political outcomes. Activities of political parties are largely determined by the influence of godfathers to satisfy a pecuniary political objective of exerting control over the political system through the elimination of competitors. When the godfathers begin to lose their political influence over their godsons in government, they gradually withdraw their support, mostly through violent means. Akinola (2009, p.268) notes

that 'godfatherism has taken a strange dimension in Nigeria's political environment. It has become a menace pulling down the foundations of masses-driven governance, thereby denying Nigerians the much-deserved dividends of democracy'.

I re-conceptualise this as a *mercantilist* version of politics. This *mercantilist* conceptualisation seeks to define politics as a business enterprise with the expectation of rewards for private goods. As an advanced form of prebendal politics, *mercantilist politics* permits a godfather to buy off the political space with a view to determining the outcome of the socio-economic and political process. He recruits *godsons* as subordinate trading agents to oversee the various political outposts in the executive and the legislative arms of government. Since the presidential system decentralises the exercise of power, the presence of the *godsons* of a godfather in the legislature provides a legislative shield for the *godson* in the executive to further the private interest of the godfather. The major characteristic of *godfatherism* is the imposition of candidates through the elimination of the opponents, like the mercantilist, in order to monopolise the political space.

Mercantilism is an economic system, both in theory and practice, which seeks to strengthen a state, economically and politically, at the expense of other states (Heckscher 1935(2007); Hutchison 1988, Irwin 1991). Its primary objective is not to further trade and welfare but to monopolise the trading system to the disadvantage of other states with a view to eliminating them out of competition. As a strategic trading policy, it 'entailed extensive government regulation of international trade to ensure that these gains accrued to one's own country, a pursuit that even carried European states into military conflict with one another over commercial interests' (Irwin1991, pp 1296-1297). In other words, mercantilist policy often degenerates into conflict because the weaker seek measures to avert the consequences of the monopolised trading system. Since it is meant to augment the power of a state at the expense of others, it is characterised by rent-seeking, a zero-sum game, economic oppression, monopolies and illegal trading activities (Heckscher 1935; 2007; Hutchinson 1988). That is why Terence Hutchinson describes it as an unpleasant and obscure economic system.

I use *mercantilist politics* as a lens through which to explain the pervasive external influence on the exercise of legislative oversight power (as a trading instrument in exchange for socio-political rewards in favour of the godfather). The godfather sees the impeachment provision as a veritable political tool to be manipulated to advance private goods to the disadvantage of the public. It is an instrument that is used to by the political elite to determine the outcome of

any conflict of interest between the godfather and the godsons. As subordinate trading agents, the godsons in the legislature lack the requisite independent status conferred on them by the constitution. All the impeachment cases that have taken place in Nigeria's Fourth Republic are characterised by elements of a mercantilist politics. The godfather as a mercantile is concerned about his *profit* measured by his personal benefits.

Like the civil public, *mercantilist politics* is *amoral*; it thrives in an environment of constitutional breaches and political disorderliness. It stifles accountability in Nigeria's presidential system. Judicial intervention affirms this. In all the cases, the judiciary did not address the substantive issues in the allegations of gross misconduct against the former governors. The judgments were based on breaches of the constitutional rules of impeachment by the legislators. In other words, judicial review of the impeachment cases did not exonerate the former governors of the allegations of gross misconduct. My eye witness account of three impeachment episodes in one of the states in Nigeria bears testimony to this.

When the late military head of state, General Murtala Mohammed pronounced the decision of the Supreme Military Council (SMC) that the executive presidential system would be adopted for the Second Republic, the expectation was the institutionalisation of the culture of fiscal responsibility and good governance (The Political Bureau 1987; Teniola 2014)²⁸⁸. Nay, political mercantilists took over the control of the two political branches of the government. A delegate at the 2014 National Constitutional Conference in Abuja has rightly noted that the Nigerian people 'find it difficult to trust their governments that they will embezzle their money' (cf. Umoru et al 2014). This lack of trust manifests in the lackluster attitude of the Nigerian public towards the political elite and the government in general.

The relative power imbalance between the governors and the legislature in Nigeria is not peculiar. In the United States, legislative scholars have noted that many citizens perceive state governors as the 'face of the government' (Joaquin & Myers 2014; Carpenter & Hughes, 2011). The annual speech in the legislature whereby state issues are put forward for consideration offers them the opportunity to set the legislative agenda. To this end, 'they tend to be more visible and seen as being out front in the development of the legislative agenda' (Joaquin & Myers 2014, p.3). Nevertheless, in a true presidential democracy,

²⁸⁸ General Mohammed made the pronouncement at the opening session of the Constitution Drafting Committee (CDC) in preparation for the drafting of the Constitution meant to usher in the Second Republic after almost thirteen years of military rule.

gubernatorial leadership and prominence does not guarantee stability. As Hale (2013) has noted, the governor needs the legislature for fiscal responsibility. In other words, a bipartisan political environment is a necessity for fiscal accountability and good governance because the policy process is not exclusive to the gubernatorial domain. Late Rotimi Williams, one of the architects of the presidential system in Nigeria, noted that the political elites operating in the Nigerian presidential system lack the necessary experience and knowledge (Soyinka 1999).

The Nigerian legislature often uses impeachment as a weapon of control and negotiation for personal benefits, a shield of protection in favour of political elites external to the legislature and a mechanism for the intimidation of opponents. The legislature in Nigeria has lost the control over the exercise of its constitutional role as an agent of accountability. The use of impeachment in recent times, especially in the aftermath of the 2015 general election, attests to this.

Drawing from Varol's (2012) attributes of democratic military coups, impeachment could be regarded as a democratic civilian coup. Varol hinges his justification on seven conditions: the presence of an authoritarian/totalitarian regime; popular public discontent at the regime; a refusal of the leader to accede to popular discontent, the existence of coup leaders who are respected; the removal of the leader through a coup, the facilitation of an early return to civilian rule and the transfer of power to a democratically elected regime. These attributes present a polity in dire need of a change because of the failure of government to fulfill its mandate.

In the same manner, the legislature, the constitutional guardian against authoritarian and totalitarian executive leadership, should consider these attributes in the application of the impeachment provisions. Thus, impeachment of a president or governor in Nigeria should be based on the findings of the legislature that established the allegations of gross misconduct. The constitutional provisions are explicit, not ambiguous. Breaches of these provisions do not require an ambiguous interpretation of gross misconduct. A comprehensive constitutional amendment to protect the interests of the citizens and to ensure the promotion of good governance is necessary to make impeachment a truly democratic process that promotes good governance in the public interest.

The Nigerian state is yet to address the structural foundations of corruption. The accumulation of wealth by the political elite at the expense of good governance and accountability characterizes the system as one which lacks checks and balances. The character of the Nigerian state is such that it is unable to address the fundamental challenges of corruption in government. The political economy of corruption in Nigeria's presidential system is such that the state lacks the capacity to scrutinise its public and private sectors thoroughly for corruption. The most pernicious form of corruption is the manipulation of rules relating to the process of electing political leaders and in the application of the constitutional provisions of impeachment.

Corruption creates an internationally negative image of Nigeria. Nigeria is seen as a bastion of corruption with a crisis of governance. The single incident of the conviction of James Ibori by a London Court is just one example of the poor image of the country's democratic institutions and structures. The state legislature, for eight years, failed to apprehend the governor. The Nigerian judiciary also failed to uncover the truth and absolved the governor of corruption charges in 2009. The Federal High Court quashed all the charges proffered against him by the Economic and Financial Crime Commission (EFCC)²⁸⁹. It took a process in another country to convict him on the same charges for which he escaped justice in Nigeria. Thus, the legislature and the judiciary, the two major institutions of oversight and the gatekeepers of probity, transparency and justice demonstrated severe weaknesses despite the immense constitutional powers that they possess.

8.4 Recommendations

a. Constitutionally Emplacing Multiple Measures of Accountability in the Nigerian Presidential System

In view of the abuse of the legislative power of impeachment, I argue that it is necessary to develop multiple measures of accountability. By this, I mean to legally mandate and to authorise independent civil society groups or bodies to investigate any act of misconduct or abuse of legislative and executive power in Nigeria's presidential system. This measure remains one of the instruments that allow state governors in the United States to pursue

²⁸⁹ See Elombah, Daniel. 2009. 'James Ibori, Corruption trial and Asaba Judge Letter to London Court Judge'. Available at: www.elombah.com November 04, 2009; Nigerian Tribune, 02/5/2012. 'Ibori and Nigeria's justice system'. Available at: www.tribune.com.ng/index.php/editorial/40170-ibori-and-nigerias-justice-system

policy issues that improve the quality of people's lives. For instance, a grand jury, not the legislature, indicted Governor Rick Perry of Texas for the abuse of power in August 2014 (Fernandez 2014). Similarly, the indictment and subsequent impeachment of President Bill Clinton by the US House of Representatives was facilitated by the activities of independent private investigators. This measure could also be abused in a political system besieged by an entrenched culture of corruption. The development of a conscious and active civil society and an informed public is necessary to accomplish this. I agree with the view of one of the respondents in this study that this culture will evolve gradually overtime. He said,

as we thread this path of democratic governance, we will continue to build a critical mass of independent minded political officials, who continue to people the national and state legislatures, things will continue to improve. An impeachment clause will then be able to serve the purpose meant for it by the framers of the constitution (Personal Interview XIII, May 19, 2014).

The fear of monitoring from independent bodies outside a partisan legislature could induce the executive arm to abide by the rule of law in the exercise of executive power and help the legislature develop a non-partisan character in dealing with policy issues. This would create an atmosphere of responsible leadership with a view to entrenching a culture of accountability. This new political culture will be directed towards the promotion of the welfare of the people. Rather than resolve to be content with the palliatives of *stomach infrastructure*, the Nigerian citizens will have the capacity to demand accountability from the political elite. This they can do, in the exercise of their sovereign power, through direct confrontation and protestation against ineffective leadership. They can exercise this power, indirectly compelling their representatives to effect change when executive power is exercised contrary to the intent of the constitution.

This possibility is, however, dependent on the character of the civil society. It is my claim that a politically conscious society is a *sine qua non* for taming the recklessness and abuse associated with the exercise of executive and legislative powers in the country's presidential system. Such a civil society should be aware of the rights and responsibilities of members and be prepared to defend such in the face of any abuse. These rights include the power to choose political leaders under a free and fair electoral process: first, from the intra-party electoral contest leading to the emergence of candidates for the inter-party elections. An entrenched democratic consciousness will arouse a true sense of national community rather than the divisive tendencies associated with palliative handouts from political elites to a docile civil society.

b. Independent Judiciary

The above recommendation will become effective when the judiciary at the federal and state levels is truly independent. This is necessary for the effective administration of justice in a manner envisaged in the constitution. The judiciary, especially at the state level, should be truly independent of the executive. The judiciary should be insulated from politics and develop a culture of an impartial arbiter. An independent judiciary is a necessity for effective administration of justice.

c. Legislative Independence

There are factors that prevent the Nigerian legislature from fulfilling its constitutionally designated oversight power of impeachment. These comprise a lack of legislative independence, the lack of appreciation of the importance of the legislature as an institution of government in Nigeria's presidential system, and the unequal power relations between the legislature and the executive (Personal Interview II, May 10, 2014). An interviewee noted that 'most of them [legislators] rode to power through a godfather or traditional rulers. Such lawmakers cannot act independently when it comes to the legislative process' (Personal Interview II, May 10, 2014). The absence of stability in the legislative process is a function of the long years of militarization of the Nigerian political space. In other words, the Nigerian political system is yet to develop a culture where the legislature is populated by people with substantial experience in a democratic legislative process.

With a high turnover of experienced legislators, 'lawmakers will know the rules on how to challenge the executive... If we have stability in the parliament, it is then they will be able to checkmate the executive' (Personal Interview II, May 10, 2014). The attitudinal disposition of the Nigerian political elite to the distribution of benefits in government often makes them compromise their constitutional responsibilities. An interviewee said:

But what do you expect from lawmakers who have no money to buy vehicles, build their own house? That will be his preoccupation for the first four years. He will want to recoup his electioneering campaign fund. So, if the governor offers him money to look away, he will gladly accept. (Personal Interview II, May 10, 2014).

The dearth of experienced legislators who are committed to the ideals and practice of the legislative process prevents the emergence of a legislative institution capable of enforcing probity in governance.

d. Re-Orienting People's Perception of Political Power

This problem is compounded by the public perception of political power. With a prevailing culture of *stomach infrastructure*, among the populace, political elites have equated accountability with providing only for the personal needs of the people through palliative measures.

There is a trend in our society now: people feel if you are elected as a legislator, you should come home and donate motorcycles, sewing machines, from your own pocket. That is clearly not the function of a legislator; they don't care whether you are discharging your constitutional duty or not. All they want is largesse or handout. If everybody has economic capacity then things will be better (Personal Interview X, May 19, 2014).

In other words, the prevalence of *stomach infrastructure*, in the Nigerian society has eroded the societal value of probity and accountability. 'The problem is attitude. Look at our presidential system here: the legislature is the most expensive in the world; they are just spending money as they like' (Personal Interview VII, May 7, 2014). Many legislators won their elections through manipulation and electoral malpractice orchestrated by their godfathers. Because of this, they are responsible more to their sponsors rather than to the public. An interviewee said:

Legislators are not responsible to the people; they get public mandate through bribes and monetary gifts to the electorates. Because of this, the people are not keenly interested in what the elites do but what they can offer in terms of monetary and material inducements. People have lost confidence in the political space (Personal Interview II, May 10, 2014).

The legislature populated by the godsons of godfathers would be unable to harness its constitutional power to promote accountability.

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Appendix I

Informed Consent Document

Dear Participant,

My name is Omololu Michael FAGBADEBO. I am a PhD (Political Science) candidate studying at the University of KwaZulu-Natal, Howard College Campus. The title of the research is: **Exploring the Politics of Impeachment in Nigeria's presidential System: Insights from selected States in the Fourth Republic, 1999-2007.** The aim of the study is to understand why governance crisis persists in Nigeria's political system when presidential system provides opportunities for the legislature to exercise the power of impeachment to fight corruption and abuse of power by the executive branch. I am interested in learning about the politics associated with application of this power of impeachment in Nigeria's presidential system. I recognise you as one of the stakeholders in the political process in Nigeria's presidential system. To gather the information, I am interested in interviewing you so as to share your experiences and observations on the subject matter.

Please note that:

- The information that you provide will be used for scholarly research only.
- Your participation is entirely voluntary. You have a choice to participate, not to participate or stop participating in the research. You will not be penalized for taking such an action.
- Your views in this interview will be presented anonymously. Neither your name nor identity will be disclosed in any form in the study.
- The interview will take about one hour.
- The record as well as other items associated with the interview will be held in a password-protected file accessible only to myself and my supervisors. After a period of 5 years, in line with the rules of the university, it will be disposed by shredding and burning.
- If you agree to participate please sign the declaration attached to this statement (a separate sheet will be provided for signatures)

I can be contacted at: School of Social Sciences, University of KwaZulu-Natal, Pietermaritzburg Campus, Scottsville, Pietermaritzburg. Email: otomololu@yahoo.com; 213571311@stu.ukzn.ac.za Cell: +27611533824; +2348033517769.

My supervisor is Dr. Alison Jones who is located at the School of Social Sciences, Pietermaritzburg Campus of the University of KwaZulu-Natal. Contact details: email JonesA@ukzn.ac.za . Phone number: +27332605181.

My co-supervisor is Dr. Suzanne Francis who is located at the School of Social Sciences, Howard College Campus of the University of KwaZulu-Natal. Contact details: email Franciss@ukzn.ac.za Phone number: +27769985955.

The College of Humanities Research Ethics Officer is Phumelele Ximba who is located at Humanities Research Ethics Office, University of KwaZulu-Natal. Contact details: email: ximbap@ukzn.ac.za Phone number +27312603587.

Thank you for your contribution to this research.

Appendix II

August 2013



TO WHOM IT MAY CONCERN (or insert the addressee)

RE: Introducing **Mr. Omololu Michael FAGBADEBO**, PhD Student at University of KwaZulu-Natal

This letter serves to introduce and confirm that **Mr Omololu Michael FAGBADEBO** is a duly registered PhD (Political Science) candidate at the University of KwaZulu-Natal. The title of his PhD research is '**Exploring the Politics of Impeachment in Nigeria's Presidential System: Insights from Selected States in the Fourth Republic, 1999-2007**'. The outcome from the study is expected to improve practice, inform policy and extend theory in this field of study. As part of the requirements for the award of a PhD degree, he is expected to undertake original research in an environment and place of his choice. The UKZN ethical compliance regulations require him to provide proof that the relevant authority where the research is to be undertaken has given approval.

We appreciate your support and understanding to grant **Mr. Fagbadebo** permission to carry out research in your organisation. Should you need any further clarification, do not hesitate to contact us.

Thank you in advance for your understanding

Dr. Alison Jones

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Appendix III

Semi-structured Interview Questions

Questions for Legislators from the selected states

1. What are the powers, functions and responsibilities of members of the legislature? Can you provide examples of how these powers, functions and responsibilities work in practice?
2. Is there sufficient institutional support for these powers, functions and responsibilities?
3. What are the major impediments to the performance of these powers, functions and responsibilities? Could you please provide examples?
4. Can you tell me about the impeachment episode in your legislature? How and why did this come about?
5. In what ways do you as a legislator provide oversight over the other branches of government? Can you provide examples?
6. Are there cases, where this constitutionally designated mandate does not function as it is supposed to? Can you provide examples?
7. What is at the root of this? Is it a lack of institutional support, party politics, a lack of capacity by legislators or something else? [ask to explain and give examples for each]

Questions for principal officers from other legislative assemblies

1. In what ways, if at all, does the legislature promote good governance? Please provide examples.
2. Has there been a time during your tenure that you conceived the idea of initiating impeachment against the governor? Can you tell me about this?
3. For what reasons has an impeachment not been brought in this legislative assembly? What is it about this legislative assembly that differs from those where an impeachment has been brought? (institutional support, party politics, institutional capacity of members)
4. What, in your own view, would be the appropriate application of the power of impeachment by the legislature?

Questions for former governor/deputy governor affected by the impeachment

1. Can you tell me how you came to be governor/deputy-governor and about the constitutionally designated relationship between you and the legislature during your tenure?
2. Can you tell me about the impeachment episode?

Questions for Judicial officers involved in the adjudication of impeachment cases

1. Can you tell me about the process of impeachment and what your role entails in cases where impeachment is brought before you?
2. What factors informed your judgments in impeachment cases brought before you?
3. Have you ever experienced forms of political pressure during impeachment cases? Can you tell me about it?

Questions for former chairman of EFCC

1. How would you describe the activities of EFCC as an anti-graft agency?
2. Can you tell me about the impeachment cases in Plateau, Bayelsa and Ekiti States during your tenure as the chairman?
3. What informed the actions of the EFCC in the impeachment crises in Plateau, Bayelsa and Ekiti States during your tenure as the chairman?
4. How many governors did your agency indict of graft while in office? Were the circumstances around these indictments similar or not?

Question for officer in ICPC

1. What is the role of the ICPC?
2. How many former state governors has your agency prosecuted for corruption offences while in office? Were the circumstances around these prosecutions similar or did they differ?

Question for constitutional law practitioner

1. In what ways does the constitution support, or not, the promotion of good governance in Nigeria's presidential system?
2. What would be your assessment of the practice of the provisions relating to impeachment in Nigeria's constitution by the legislature?