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THE LAW OF IMPEACHMENT AND THE CONSTITUTIONAL CHALLENGES IN NIGERIA

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ABSTRACT

The law of impeachment is a constitution baized issue and the challenges ought to be constitutionalized on the merit not on ethnicity, religion sentiment and political settlement of gorgeous by the political the objective pursued and achieved whether impeachment has be used outside the contest of the constitution as the grand norm. This paper will help us to know what contest is law on impeachment is be used, and what way is law of impeachment has be used for this nascent democratic era accounting like our that does not have strong institution backing us the politician wrongly. Brazen the impeachment as apolitical act, as be used against those who they want in government but has made of it citizen.

The methodology to be used is primary sources of law and secondary sources of data in law. Which will help us to know the nature and strength of their analysis, this are mostly case law that taken against previous office holder in the North and South Nigeria. This paper is significance to the fact the Brown of politics who are change of the political maneuver has brags the constitution to their favour, than the common man, office holder supposed to save and protect.

The highlighter of the finding, is that S16 of Court of Appeal rule, then impeachment can be brought through and ouster changes to bring an impeachable offence to the court and the rule of law with ouster clause which the fourth realm of the estate should protect not to allow impeachment to be Brazer political Act.

In conclusion the law of impeachment and the constitution challenges in Nigeria has not that so bastardized to be used as which hurling tool, as be done by the democrat in USA which might spread over the world if allow to successes when a private person is now impeach and criticized the world impeachment at the constitution level, became politics, is not low, brazen the political Art of Impeachment will be wrong, we recommend a strong and stable fourth realm of the estate to act as pivot between the 3 arm of government, not to give meaning to world impeachment outside the constitution interpretation in the grand norm.

INTRODUCTION

Background to the Study

During the present and on-going democratic era, Nigeria has witnessed difficulties in terms of the law of impeachment and constitutional challenges in Nigeria which have resulted in many cases in actual and threats of impeachment. However, this is not to say that the law of impeachment and constitutional challenges have not existed prior to this period. The Second Republic witnessed the impeachment of the then Kaduna State governor; Balarebe Musa in 1980. The ethnic composition of the Nigerian federation makes room for political intolerance and hence, law and challenges of constitutionalism as well as impeachment turbulence[1].

The Law of Impeachment and Constitutional Challenges in Nigeria have taken different dimensions, which vary from that of the colonial period[2]. The first colonial constitution in 1912, the Clifford Constitution, introduced a Legislative council of which 27 were official members, 19 were unofficial members, only 10 were Nigerians and 15 were nominees of the Governor. The Legislative Council was vested with the powers to legislate for the Lagos and Southern protectorates[3]. However, the glaring inadequacy in terms of the skewed nature of the membership and the limitation of the legislative power led to strong agitations by the

[1] Nwabueze, B. O. *Nigeria's Presidential Constitution 1978-1993,* London Ikeja, and New York Longman Press p. 263-270, 1985.

[2] Aguda T. A. *The Working of the Rule of Law in Nigeria,* Port-Harcourt, A Lecture Delivered on 10th February, at Rivers State University of Science and Technology, 1984

[3] Clifford Constitution 1912

nationalists and the media thereby generating a constitutional crisis which eventually led to a new constitution in 1946, the Richard Constitution[4]. The Richard Constitution enlarged the membership of whom majority were unofficial members but with greater lawmaking powers. The new membership was made up of the governor, 15 officials, 13 ex-officio, 3 nominated and 28 unofficial members. Again this was not accepted by the nationalists who clamoured for more representations on the basis of election based on political parties. The agitations led to serious constitutional crisis in the Legislative council and among members such that a need for another constitution was generated.

In 1951, the Macpherson Constitution was introduced which tried to meet some of the demands by the nationalists[5]. The constitution replaced the Central Legislative Council with the House of Representatives made up of the Governor as the President, 6 white officials, 136 elected representatives by the Regional House of Assembly. Of these 136, 68 were from the Northern Regional Assembly, 34 from the Western and Eastern Regional Assemblies and 6 were special appointees of the governor. While this was a great improvement on the previous constitutional provisions, however, the House was not empowered to initiate bills on public revenue and public services. It was the governor that could exercise those powers on the advice and consent of the House. In addition, the issues of foreign policy, public finance and public service were the exclusive preserve of the governor. Coupled with the increased agitations for independence, the elected members of the House rejected this advisory role which the House was made to play and agitated for more inclusion in policy making and lawmaking. This generated another constitutional challenges which was resolved by the enactment of the Lyttleton Constitution in 1958.[6]

Constitutional amendments were carried out in 1954, 1957 and later in 1959. As from January 1955 Nigeria's premier legislature, the House of Representatives started the conduct of legislative affairs with a speaker appointed for the first time. The House of Representatives under the Lyttleton Constitution had law-making powers. The House was empowered to legislate for the entire country under three legislative lists stipulated in the constitution. The first was the exclusive legislative list which specified items on which the house has powers to make laws. The second was the concurrent list containing areas on which the House of Representative and the Regional House of Assembly had concurrent legislative powers and finally was the residual list on which the Regional Legislatures had the final say.

These Constitutional developments brought to bear the gradual introduction of the Westminister model of Parliamentary Democracy in Nigeria, which became manifest in the independent constitution of 1960 that established a Parliament of House of Representatives comprising 320 members and a Senate of 44 members[7]. The 1960 constitution created two legislative lists namely, the executive legislative list with 44 items exclusively preserved for the parliament and the concurrent legislative list containing 28 items on which both the Parliament and Regional Houses of Assembly had simultaneous legislative powers. This, to some extent created constitutional challenges as both houses could not agree on the same bill and so withhold their assent.

The existing colonial "Westminster model" and the methods of parliamentary control not only remained unchanged in 1960, but there were also no doubts that the indigenous politicians also accepted them as the norm. After all, there were no other alternatives they could choose from, not after being exposed to these methods since the colonial days. Thus, it was a wonder to note that shortly after independence, the methods that had worked for generations in Britain and which had constituted the backbone of British democratic system, suddenly became ineffective in Nigeria, with the politicians who were 'schooled' in its use, deliberately thwarting its implementation and effectiveness. All these could be seen as deliberate and not due to problems accompanying transplantation of models or ideas from one locale to another.[8]

For example, the tradition of question time in parliament which had been an effective instrument for turning the searchlight on the public service and for probing the conduct of administration in the inherited British model was the first to be stifled. The reasons for this are as numerous as they were personal to the

[4] Richard Constitution 1946
[5] Macpherson Constitution 1951
[6] Lyttleton Constitution 1958
[7] 1960 Constitution of Nigeria
[8] *Legislative Digest Vol. 1, No. 3*

politicians who were interested in 'killing' everything that would have hindered them from their primary preoccupation of self-perpetuation and enrichment. Consequently, the absence of these parliamentary methods which would have called the civil service to order through the political ministers in charge of them paved the way for the abuse and misuse of bureaucratic power and subsequently corruption. Thus, the link between political and bureaucratic corruption was further concretized.[9]

However, many reasons could be adduced for the abandonment of the question time. The first was that the majority of the questions asked were mainly concerned with the distribution of amenities such as electricity, postal services, water and roads instead of how the service was doing in implementing decisions and their relationship with the citizens. Second was the short duration in which the parliament sat for business. This was because the politicians preferred to be busy looking for opportunities to feather their nests. There was, therefore, no adequate time for serious business to be discussed or searchlight turned on the conduct of the public service. Records have it that between 1960-1965, the Nigerian parliament sat for about 38 days. When compared with the British equivalent of about 160 days for the same period, there is no doubt that the Nigerian parliamentary members preferred other preoccupation to the one they pledged to and which they were voted for by the citizens. Third was the fact that the question time session took an air of inquisition, an opportunity which the opposition saw to ridicule and castigate the ruling party for inefficiency. Therefore, the majority of the ministers were unfavourably disposed to answering questions such that their continued absence at such sessions eventually led to its abandonment[10]. The Public Accounts Committee, another control method, was rendered ineffective also as a result of almost similar reasons. Between 1960 and 1965, the effective functioning of the PAC was hampered by the uncooperative attitude of the senior public servants, the limited knowledge of the members concerning their responsibilities, the high turnover rate of membership and more importantly the preponderance of pro-government members on the committee including the chairman (Adamolekun, 1974).[11]

The impeachment provisions under the 1979 Constitution[12] are similar to those of the 1999 Constitution.

Under the 1999 constitution of Nigeria, the removal of the President or Vice-president and that of the Governors or Deputy Governor of a State are governed by the provisions of Sections 143 and 188 of the Constitution respectively.

Section 188 provides thus:

188(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 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.

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[9]Vile, J. C., *Constitutionalism and the Separation of Powers*, (Oxford ed., published 1967), p.13

[10]Jackson and Rosenberg, ***Personal Rule in Africa,*** (1982), preface, p. x.

[11]Adamolekun, L. "Accountability and Control Measures in Public Bureaucracies: A Comparative Analysis of Anglophone and Francophone Africa" in *International review of Administrative Sciences,* Vol. XL, no. 4, 1974.

[12] Constitution of the Federal Government of Nigeria, 1979

(4) A motion of the House of Assembly that the allegation be investigated shall not be declared as having been passed unless it 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 of the State shall at the request of the Speaker of the House of Assembly, appoint a Panel of seven persons who is his opinion are of unquestionable integrity, not being members of any public service, legislative house or political party, to investigate the allegation as provide 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 exercise its functions in accordance with such procedure as may be prescribed by the House of Assembly; and
b. Within three months of its appointment, report its findings to the House of Assembly
(8) Where the panel reports to the House of Assembly that the allegation has not been proved, 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 be proved, ten 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 its 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.[13]

Justification for the Study

The law of impeachment and constitutional challenges in Nigeria, has created an infringement in fair hearing of its elected citizen will an ouster clauses, in 1999 constitution making it easy for few ombudsmen to use removal in office, an elected person from the public office who they don't want, then the court is now straddle with the responsibility between breaches of procedural practice against ouster clauses, therefore the need to examined the law of impeachment and constitutional challenge in Nigeria.

The few Nigerian cases that were decided under the impeachment provisions of the 1999 Constitution did not pose any challenge for the courts to determine the possible effects of the failure to comply with the procedural requirements of the impeachment provisions. Therefore, for the unwary or the stereotyped Judge, it was easy to stick to the idea that the courts have no business whatever with any "essential political" matter like impeachment or in common parlance, it is believed that 'impeachment is a no go area for the courts". How will the court not a go area, hence the essences of the study.

For example in *Alhaji Balarabe Musa v. Musa Hamsa & 6 Ors*[14] the applicant, Governor of Kaduna State prayed the court to issue a prerogative writ of prohibition against the seven man Panel appointed by the Speaker of Kaduna State House of Assembly in accordance with Section 170(5) of the 1979 Constitution to prohibit them from exercising their functions V.J.O. Chigbue *J.*, at the High Court of Kaduna State, Kaduna held that the exercise of removing a governor from office under Section 170 of the 1979 Constitution[15] was a purely legislative constitutional affair quite outside the jurisdiction of the court by virtue of Section 170(10) of the Constitution of the Federal Republic of Nigeria, 1979.

Also, in the sister case of *Alhaji Babarabe Musa v Speaker, Kaduna State House of Assembly & Anor*[16] the same Governor brought another application for an order prohibiting the Speaker of the State House of Assembly, the House of Assembly and its members from proceeding with the consideration of the Notice of allegation of gross misconduct against him. The Respondent in the case relied on the provision of Section 170(1) and objected to the jurisdiction of the court to hear the application. Umaru Abdullahi, *J*, (as he then was) held that the provision of Section 170(10) of the 1979 Constitution which stated that 'No

[13]Alhan B. Musa v. Musa Hamsa &6ors, 3NCLR 1982, p. 450
[14] 3NCLR (1982) p. 463
[15] 1979 Constitution Section 170, (5) (10)
[16] *Alhaji Babalabe musa V Speaker Kaduna state house and others 3NCLR*

proceedings or determination of the committee or of the House of Assembly or any matter relating thereto shall be entertained or questioned in court' is a specific provision that has clearly outsted the jurisdiction of the courts on the subject matter of the appellation. And finally in the case of *Alhaji Babalabe Musa v Kaduna State House of Assembly & 4 Ors*[17] which was the third in the series of the impeachment cases by Governor Balarabe Musa, Umaru Abdullahi (as Acting Chief Judge) held that the court had no jurisdiction to entertain application for judicial review by way of *ceniorari* as it relates to the process of removal of a State Governor as Section 170(10) of the Constitution had ousted the jurisdiction of the court.

Although the impeachment process has been used periodically since 1979 there has been no judicial attempt to define its limits. This is contributable in part to the Constitution language ostensibly consigning the issue of impeachment to the legislative branch of Government and thus arguably baring judicial review of impeachment under the political question doctrine.

Also, defending the position of non-interference by the courts in impeachment cases and arguing that it is indeed inappropriate to term the provision of Section 188(10) of the 1999 Constitution[18] an "ouster clause" Ikongbe *JCA* supported the lead judgment of Pats-Acholonu *JCA* (*as he then was)* in the *Abaribe case* to say at pages 501-502 of the Report that:

> For this reason I do not feel comfortable with the view that decision based on the interpretation of ouster clauses in these decrees can provide a good guide for the interpretation of provisions in a Constitution limiting the power of the courts. All governmental powers derived from the Constitution in a civilian regime. There cannot be any legitimate complaint if the Constitution withdraws a particular power from one organ of government in favour of another in the same way that one can complain about the way the Military barsenly emasculated, especially the judicial just to pave way for themselves to do as they pleased with the lives and property of people. This point can be better appreciated if it is realized that a Constitution, is at least in theory, the product of planned and collective agreement of the people on how to govern themselves. When, therefore, they agree at the outset that a particular matter shall be within the competence of one organ and not the other, one cannot properly liken such situation to the situation created by ouster clauses in the military decree".

It is clear from the ratio decidendi and the more important pronouncements in the Abaribe case that the Court of Appeal took the view that impeachment is a political matter and that 'the court should not however attempt to assume for itself power. [19]It is never given by the Constitution to brazenly enter into the miasma of the political cauldron and have itself bloodied and thereby loosing respective in its quest to play the legendary *Don Quixite De La Manche"*.

At the same time, some of the pronouncements in the Abaribe case gave the green light, some sort of forerunner to more recent decisions by indicating the preparedness of the court to learn in favour of its jurisdiction when the facts guarding impeachment disclose a flagrant disregard of procedural requirements. Thus at page 486 of the report, Pats Acholon *JCA (as he then was)* could be heard to say:[20]

However, the court at the same time may not close its eyes to serious injustice relating to the manner, the impeachment procedure is being carried out. That is to say it is within the province of the court to ensure strict adherent to the spirit of the Constitution for the endurance of a democratic regime…

And at page 506-607 of the report, Ikongeh JCA also gave indication of circumstances when the courts would necessarily interfere with the conduct of impeachment.[21]

The only circumstances in which there can be said to have been non-conformity is where the investigating panel is disallowed the affected officer from presenting his case in defence of himself. It becomes necessary to consider whether or not such non-conformity can or does rob the alleged ouster clause in Section 188(10) of its potency. As that stage had not been reached in this case before he Appellant rushed to Court the necessity for such consideration has not arisen. The Appellant jumped the gun, crying foul when

[17] NWLR (2006) p. 608

[18]1999 Constitution (188) 10 of Nigeria

no foul had in fact been committed. The resolution passed by the 2nd Respondent and of which proceedings has the full backing and support of section 188(3) of the constitution.

The rate as well as the pronouncement in the Abaribe case represent in aggregate the position of the law relating to impeachment before the cases that came for consideration in the second term of president Olusegun Obasanjo's democratic dispensation.

Incidentally, this reasoning, put together with some others that had been given in the majority judgment, brings one to the conclusion quite clearly that the support for the Court of Appeal in the invocation of Section 16 of the Court of Appeal Act in the *Inakoju v. Adeleke's* case was based on the peculiar circumstances of the point could be said to have been decided on expediency and public policy. This, of course, might suggest that when the real legal question of what to do when an appeal is based on a preliminary objection by a Defendants/Appellants raises its ugly and thorny head once again, we may all be compelled to re-open, reassess and appreciate the value of the age-long judicial precedent that is contained in the dissenting judgment of Oguntade JSC on the scope and limits of the provision of section 16 of the Court of Appeal Act.[19]

The Court and Nigeria Constitution

The Court of Appeal may from time to time make order necessary for determining the real question in controversy in Appeal and may direct the Court below to inquire into and certify its findings in any question which the Court of Appeal thinks fit to determine before final judgment in the appeal, may make and interim order or grant any injunction which the court below is authorized to make of grant may direct any necessary inquires or accounts to be made or taken and generally shall have full jurisdiction over the whole proceeding as if the proceedings had been in the Court of Appeal as court of first instance and may re-hear the case in whole or in part or may remit it to the court below for the purpose of such rehearing or may give such other direction as to the manner in which the court below shall deal with the case in accordance with the powers of that court or in the case of an appeal from the court below in that court's Appellate jurisdiction order the case to be heard by a court of competent jurisdiction.

From the foregoing, I submit with great respect sir that it may indeed be easy to conceive the powers under section 16 as virtually unlimited in scope especially if the paragraphs are read disjunctively. However, a constructive and holistic reading of the provision simply means that in the determination of the real question in controversy the Court of Appeal could "step into the shoes" of the lower court. This, I submit without any inhibitions but with abundant discretion as to approach of consequential orders.

An interesting and notable development as regards the scope of the section 16 power of the Court of Appeal arose in the case of *Alamieyesagha v. Ignoiwari (No. 2)*[20] where the majority of the Court of Appeal (Port Harcourt Division) allowed the Appellant's appeal on jurisdiction and ordered that the case be remitted for trial by the High Court. This view of the majority was based on an appropriate distinction by the Justices on the form of action before the lower court. In other words while the suit in the *Inakoju v. Adeleke's* case commenced by the procedure of originating summons, the majority of the court felt that Section 16 of the Court of Appeal Act cannot apply to a case commenced by writ of summons and statement of claim while the defence had or called evidence at the trial.[21]

Curiously, this very sound view of the majority which distinguishes the Alamieyesigha v Igoniwari (No. 2) case from Adeleke and Dariye case suffered a dissenting opinion in the judgment of Saulawa JCA who at page 623 of the Report held thus "… I hold that this court has duty to instantly determine the case of the parties on the basis of the Appellant's statement of claim and exhibit 'A'.

Clearly, the last word has not been said as we anxiously wait for the Supreme Court to pronounced specifically and categorically on the applicability of Section 16 of the Court of Appeal Act in the determination of a substantive matter Interlocutory Appeals.

[22b] NWLR (2007:PT.1025) at pages 675-676 (quoted in the judgment of Akintan JSC)

[20] Owoade, M.A. (2007:1); Impeachment of the Chief Executives Under the 1999 Constitution New Problems New Solutions, Published by Centre for Constitutionalism and demilitarisation, Lagos. Vol. 7, No. 4

[21] NWLR (2006) pt 6008:CA

It would seem from the above analysis that the problem of the impeachment of Chief Executive is neither new to constitutional development in Nigeria or to the legal scenery. What is new is the challenge now faced by the courts in between breaches of impeachment procedures and the application of the ouster clause in section 188(10) of the 1999 Constitution.[22] The Nigerian courts have shown that they are clearly up to the task as they threw into the winds whatever is left of the conservative approach to impeachment proceedings which arose largely from its historical antecedents as an essentially political matter. The courts have opted for a liberal, purposeful, progressive, forward looking and satisfactory approach. An interpretation beyond "Legalism" that the average Nigerian or the common man expected. The unimagined result is that the confidence on Nigerians has grown in the courts and the judicial system justifying and almost hitherto abandoned heritage of the "Courts as the last hope of the common man". Incidentally, hope of the Nigerian in the judiciary at present, is not limited to the purposeful constitutional interpretation rendered in the impeachment cases but also in the almost excellent performance of the judiciary in the Election cases and generally in upholding the Rule of Law.

The attitude of the Courts to impeachment cases as "old wine in new bottles" as what is new to the legal scenery is the challenge posed in between Procedural Breaches v Ouser Clauses,[23] that the Courts reacted satisfactorily by a liberal, progressive and purposeful interpretation of the constitution and concludes that the consequences has been increased confidence of Nigeria in the Judiciary in recent time, in case of *Chief Enyi Abaribe v. The Speaker, Abia State House of Assembly*[24] and one other, which communicates into corruption, indiscipline of politician and lack of independence of the judiciary as obstacles to using judiciary power of interpretation in courts, law is an aspect of the political system which we all know, since we do not have good social justice and political justice hence every man has flesh and blood, he is not a spirit and the human factor exists in the exercise of his duties, therefore the Green hole period which exist in every law, issue, matter, situation or politics this enable the Legislature to carry on lawlessness and crises of constitutionalism case, in Nigeria in the case of impeachment.

Nigeria has had about fourteen written Constitutions and Amendment from 1912 to 2011, i.e. 1912, (Hugh Clifford Constitution), 1946 (Arthur Richard Constitution), 1951 (Sir John Macpherson Constitution), 1954, 1957, 1958, 1959, 1960, 1963, 1979, 1994, 1989, 1999 and 2019 respectively and the common feature in all is the preponderance of either the colonial or military influence. The people had not been part of the process of the emergence of the constitutions hence, the heightened clamour for the review of the 1999 Constitution. The Nigerian legislature to amend the Constitution is not an indication that the democratic process is working because the people are not part of the constitution drafting process through their representatives in the National and State Houses of Assembly.[25]

In contemporary time, the subject of impeachment in constitutionalism has remained a challenging issue to the legal counsel or practitioner in particular and to all human race in general. Humanity is living in paradoxical epoch which is full of hope for a peaceful co-existence among people, but which is also dangerous, with the possibilities of a series of explosive crisis based on the mobilization of various identities and deterioration of relationship at different levels. In spite of the picture being painted, the world is increasingly becoming a global village[26].

The spread of the mighty waves in the escalation of legislative lawlessness and crisis in constitutionalism and indeed, civil wars, is already threatening the survival of some states in the developing nations to which Nigeria belong, this drew the world's attention to how several complex crises are currently manifesting themselves in the law of impeachment and constitutional challenges, a combination of both

[22] 1999 Constitution of Nigeria 188 (10)

[23] Brimoh, L. An Evaluation of the Practice of Separation of Power in Nigeria, Centre for Strategic and Development Studies, Ekpoma, 2008 p. 28

[24] http://en.wikipedia.org/wiki/Blackhole (2008).

[25] Ben Nwabueze, Constitutional Democracy in Africa, Vol. 1, (Spectrum Books Ltd., 2004) p. 243.

[26] Fredrick, C. *Trends of Federalism in Theory and Practice,* (New York, Praeger, 1968) p. 19.

forms[27]. These are also diverse crisis of various dimensions ranging from political, economic, religious and socio-cultural, depending on the context and specification.[28]

Also, there is a degree of validity in the present assertion by Friedrich (1968:19) that impeachment and constitutional challenges is prominent with a global spread. Alongside the trend of legislative discrimination and constitutionalism separation emerges the struggle for renewal on the terrain of democratisation. Therefore, current crisis dynamism can be viewed in certain context as efforts by the dominated and marginalized group in terms of people participation, fight for equality and for the guarantee of rights in the National life.[29]

The 1999 constitution of the Federal Republic of Nigeria like those of other democracies, is premised upon the separation of the three arms of governments, namely, the Legislature, the Executive and the Judiciary[30] . The phrase "as far as possible" is used advisedly, since so far no known constitution has succeeded in keeping the three arms of government in three water tight compartments, and the Nigeria constitution has not attempted that impossible task[31]. Not only is such a task impossible, any constitution which purports to do so, must be making a deliberate effort to create anarchy because in any state, there can be only one government. But the truth is that as of the three arms of government, the executive has always dominated the judiciary and legislature premised on this facts it is very easy to be used for removal instead of impeachment.

Objectives of the Study

The main aim of the research study which can provide us not only with the facts, aim and the solution of current problem, but also with a greater appreciation of the practice and procedure of impeachment in Nigerian and of the role new knowledge can play in impeachment, to National Security management. The specific objectives of the study will include proffering answer to the questions raised above by examining:

(a) Why the law of impeachment and the constitutional challenges in Nigeria.
(b) The various underlying factors of constitutional challenges in impeachment.
(c) The nature and magnitude of impeachment law and constitutional challenges.
(d) Proffer new legal issue to address the identified constitutional challenges.

RESEARCH METHOD

The research method we shall talk about, is the Nigeria Court's Executives and Legislative House, the study is on impeachment in Nigeria and its applicable law in Nigeria.

The source of data for this research are from primary and secondary source of data like various Nigeria constitution; cases decided in Law report and its applicable acts, the secondary source of data are on Article from Journal, Article from Internet, law book, etc.

Furthermore, source of data for this research are from library, inherent and Article from journal etc. relating to Law of Impeachment and the constitutional challenge in Nigeria.

It will also help us to arrive at the accurate account of the past that is the desire to know what happen in past, how, when and why it happened in order to links the past to both the resent and the future

The purpose of this research method is to find a clearer perspective of the present. The repeated problem such as the legislative lawlessness and crisis of constitutionalism in the cases of impeachment is understandable only on the basis of past history. Historical research can provide us not only with the solution to current problem, but also with a greater appreciation of impeachment and in the role which new knowledge can play in the process of Law of Impeachment and the constitutional challenges in Nigeria.

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[27] Fisher Louis, *Constitutional Structure, Separate Powers and Federalism,* (McGraw-Hill Publishers Co. 1990.

[28] Friedman W. *Legal Theory* (Seven and Sons Ltd., 1976)

[29] Edward, C. *Presidential Power and the Constitution.* London, University Press, 1976.

[30] Coomanaswany, T. *The Judiciary in Plural Society.* London, Francis Printers Publisher Ltd., 1987.

[31] Ihonvbare J. Network for constitutional law conference on fostering constitutionalism in Africa Nairobi April 2007 page 5

It will also help us to arrive at an accurate account of the past, that is the desire to know what happened in the past, how, when and why it happened in order to link the past to both the present and the future from Data for the research.

Content analysis is potentially one of the most important research techniques in law. The content analysis views data as representations nor seen read, interpreted and acted on for their meanings and must therefore be analysed with such uses in mind. Analysing texts in the contexts of their uses distinguishes content analysis from other method of inquiry.

This study hopes to examine impeachment of the executive, legislature between the period of 1979 to 2015.

The study focuses essentially on the legislative lawlessness and crises of constitutionalism in Nigeria salient legal issues, strategy issues and political issues affecting the lawlessness and constitution, the relationship for not achieving it desire result, respectively.

However, this study is on the Law, strategy issues, socio-political relationship of the impeachment in government because of the time factor and scarce financial resources to pursue more elaborate studies on this chosen topic.

The study is limited to the law review of the legal strategic issues, social, political and economical of the three arms of government, its relevance to the National Security of Nigeria. This is due to the fact with the spate of corruption, spreading in the country that has led to insecurity in state. It seems that only one institution cannot solve the problem no matter how transparent and efficient. Since the inception of the democratic dispensation in 1999, it is doubtful, if the strategic applied by the politician meets the demand, yearning of the people they represent. The investigation is to be carried out in order to determine the effectiveness otherwise of the law. The limitation of the study may arise from the fact, is only an evaluation of the practice of impeachment under the Nigeria constitution that will be historical, strategical, political and legal analysed.

The sum total of these relations of production constitute the economic structure of society. The real foundation on which rise the legal and political superstructure and to which correspond define forms of social consciousness, because it is impossible to fully understand mankind's present or future without a good knowledge of the past and how the past influence the present. Hence it necessary to move from unknown to known, first of all let talk about the previous decided case in court of 1979 to 1999 constitution to present day, thereafter, with theories to fill the Gap in knowledge between ouster clauses and procedure.

Expected Findings

1. Amendment of the 1999 constitution is imperatively necessary, whereby practice and procedure of impeachment will be guarantee and attain. Purgatory law, negating the principle of good practice will be expunge from the constitution. I make bold to call on people constitution e.g. Strengthen the Judiciary arm of government.
2. Any member, seeking public position into the executive, legislative and judiciary arm of government, should be certified healthy and psychological reasonable by a medical doctor and psychologist to be made mandatory with a certificate to curb the hi per fraud tendency or motive of our political leaders which is negating the practice and governance between the executive, legislature and judiciary. Executive should stop funding of political party, it should be in form of association and getting revenue form independent source, to weaken the Baron of Politics.
3. A major weakness in the practice and procedure of impeachment between the executive, legislature, and judiciary is the absence of strong institutional arrangement, that can impartially assess, performance in the three arms, here I recommend, the fourth realm of the estate to be strong e.g. the professional body like Nigeria Bar Association, Medicine Association of Nigeria, the Press, Labour Union and NGO etc to copiously, challenge or oppose corrupt leader and bad government e.g. whereby strengthen the civil society will be defending electoral votes, and unconstitutional impeachment. The political party structure, should be redefine by allowing independent candidate to context election for executive, legislature arm of government to minimized looters in government.
4. Fourthly, law and politics is an important integral of government, hence politician once elected into office having paid huge sum of money, to party leaders see politics and public office as a zero-sum

game, a situation whereby they use their offices to enrich themselves while in office, negating the practice of constitutional impeachment therefore copious and crystal clear effort should be made to educate the Nigerian Society of corrupt practices of politician by all Nigerian under duties of care and social responsibility, we own to ourselves as Nigerians should be built into our law.

5. The Nigerian legal leaders are politician in classical sense, but their influence are detrimental for good practice and procedure of impeachment in Nigeria between the executive, legislature and judiciary, hence, anyone who has been indicted for embezzlement or fraud shall be disqualified for election into the office of governor or president, thereby INEC should stop screening of candidate for election this will also enable the executive, legislature and judiciary to perform its constitutional role unfettered, so that their appointment or removal is determined by the people.

Expected Contributions to Knowledge

1. The contribution to knowledge is the gap to fill in the law of impeachment and constitutional challenges in Nigeria. The term impeachment is not in our 1999 constitution which was replace by the world removal this has cause conflict between procedure and practise in the three arm of government.
2. The courts to impeachment cases as "old wine in new bottles' as what is new to the legal scenery is the challenge posed in between procedural breaches v ouster clauses has the courts reached satisfactory by a liberal, progressive and purposed interpretation of the constitution.
3. In recent time, the challenges of impeachment has resulted into corruption, indiscipline of politician, and lack of independence of the Judiciary as obstacles to using judiciary power to interpret in court, law is an aspect of the political system, which we all know, since we do not have good social justice and political justice, hence every man has flesh and blood, he is not a spirit and human factor exists in the exercise of his duties.
4. The electorate must insist on changes in the qualification for candidates seeking elective office in order to improve the standard of performance of elected officer's, mostly the Legislature.
5. Executive powers of the federal government should be reduced as in a truly federal structure in order to render the state more autonomous and not mere appendages to the government from which they are obliged to receive allocations of revenue regularly. We must abandoned hybrid system of government.

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