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STATE CAPTURE: THE CASE OF THE NIGERIAN FEDERATION

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I hereby declare that I have compiled the paper independently and all works, important standpoints and data by other authors has been properly referenced and the same paper has not been previously presented for grading.
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ABSTRACT

The concept of state captures refers to the mechanism which allows narrow groups to maintain control over public policies despite the presence of a system of general suffrage. The mechanisms of state capture have mostly been analyzed in the context of European democracies, hence, the study examined state capture, the types and their causal mechanisms in two European democracies; Hungary and Czech Republic. The former is a party captured state while the latter is a corporate captured state. These findings were then applied to Nigeria to ascertain the type of state capture existing in the Nigerian political system and their causal mechanisms. The study found that the Nigerian political system distinctively exhibits a mix of both types of state capture; the causal mechanisms of state capture in Nigeria as found in the study includes; the peculiar institutional provisions installed in the constitution by the military, the political party dynamics and party defection. With this findings, the thesis concludes with three policy recommendations that may mitigate this deeply embedded problem in Nigerian politics.

Keywords: political parties, military, democracy, elections, state capture, godfatherism.

INTRODUCTION

For years, democratization has dominated the third world political debates and African literatures. Several analyses about the transition from militarism to democracy have been published by international and supranational institutions such as the World Bank and the European Union (EU). Several scholarly works have also addressed the need for a democratic system and how pertinent it is for development. Easterly (2013) in his study argues that the rights of the ruled being acknowledged is as important as development in itself, he further went on to argue that, national governments in some cases, intentionally suppress the rights of the majority to further their own initiatives. To solve this problem, he recommends democracy as the model of governance; stating that if the government depends on the consent of the ruled, it must respect the popular will and heed their interests.

This argument seems logical, however, implying that the rights, consent and interests of the majority are equivalent to democracy is not fully encompassing because, even when a country adopts a democratic system of government, it is still quite possible that, the regime fails to pursue policies that are in the interest of the governed. Indeed, as Thomas Carotehrs (2002: 8), has pointed out, much of western democracy promotion has been based on the assumption that “elections will serve to broaden and deepen political participation and the democratic accountability of the state to its citizens.” The way democratic elections can coincide with a state being run in the interest of a narrow group is summarized in the concept of state capture. Nigeria, for one transitioned from military dictatorship to a democratic system of government in 1999, however, from 1999-2019 there have been no real change in the government as it is largely dominated by the elites and more importantly, military officers and godfathers whose interest are prioritized before the interest of the majority. This has allowed for the constant capture of the state. Additionally, the government constantly ignore the popular will and does not seek consent of the ruled, rather they forcefully impose themselves on the ruled through electoral malpractices.

The political parties in Nigeria also exist to serve the purpose of these cabal of private interests. The first political party that came to power in 1999, the people’s democratic party (PDP) was primarily dominated by military officers, this party was created with the sole purpose of ensuring that the military still had control over the democratic dispensation. However, since democracy allows for electoral competition, this means that the electorates have the power to vote them out of office. But

this is not the case in Nigeria as elections are marred with inconsistencies, fraud and malpractices. This aids the military to durably maintain control over the political system. The judiciary on the other hand, is controlled and funded by the legislative and executive arm of government thus, making this arm susceptible to undue pressures from the political class. The paramilitary force (i.e. the national police) suffers the same fate as well; they are equally controlled and funded by the executive and also used as a tool by the government to pervert the course of justice.

Some scholars attribute Nigeria's institutional problem and poor quality of democracy to corruption, however, these problems are deeper than corruption. Corruption is a deliberate action to undermine the implementation of already established laws through bribery, extortion or embezzlement. In Nigeria's case, the constitution that birth the democratic era was written by the military, this by definition, describes the mechanism of state capture; it is a deliberate action by an interest group to influence the way laws are being made, thus making state capture synonymous to legal corruption. Hence, the problem Nigeria is faced with is a problem of state capture, however, corruption is one of the resultant effect of a captured state. Worth-noting is the fact that the state capture has mostly been discussed in the context of European democracies, however, this study will examine state capture and the causal mechanism in the context of Nigerian democracy.

State capture and its manifestation as will be seen in the study, is peculiar in that, it differs from what has been inscribed in standard academic literatures. The capture of the Nigerian state was planned, initiated and executed by the military. They captured the state by drafting and signing the 1999 constitution into law without a referendum, a public debate or the involvement of the polity and civil society; also interesting is the fact that they published the constitution, two months after the general elections. This means that the electorates polled in their vote without adequate knowledge about the terms and provisions encoded in the constitution for the democratic dispensation. They further went on to capture the state by colonizing a political party and establishing extra-judicial agencies to serve their interest. These institutional provisions created by the military from the onset of the democratic era allowed them to durably maintain control over the government and promulgate their interests while simultaneously keeping the opposition parties divided and suppressing the rights and the interests of the ruled.

Similar to the methodology used by Larry Diamond (1988: 17-20) to analyze the failure of Nigeria's First Republic, this study examines this problem through an analytical narrative of Nigeria's political system. The core of an analytical narrative is that, it traces and analyses the causal mechanism of a phenomenon through a narrative (Levi 2004, 208). The research problem primarily focuses on elucidating how it is possible to have a democracy and at the same time a government that do not respect the popular will.

In doing so, the study is organized as follows; The first chapter of the study includes a theoretical framework that addresses the puzzle of state capture with references to Hungary and Czech Republic, it identifies the mode and causal mechanisms of state capture in these European countries. The second chapter identifies the causal mechanisms of state capture by applying the theoretical findings to Nigeria's case. It starts out with an introduction that explains how the chapter is structured. There are three main elements in this chapter that explains the causal mechanism of state capture; the first is the peculiar institutional provision the military installed in the constitution to capture the state. The second is an analysis of how the military works through political parties to durably keep them in control. The third element of the chapter addresses how they managed to remain in power even with regular electoral competition.

The study found that the core institution of state capture in Nigeria is not a political party like Hungary and it is also not a business interest group like Czech Republic; it is the military. The Nigerian military manages to at the same time operate a democratic system with party competition and open elections while essentially retaining control of the state. The causal mechanisms of state capture in Nigeria includes the constitutional constraints installed by the military to aid in capturing the state, the party dynamics that allow the military to durably keep their party in control of the government to prevent the short-lived problem as is the case with Czech Republic variant and lastly, the lack of party ideology which in turn, facilitates party member's defection. In sum, the study found that Nigeria's case is analytically different from the typical manifestation of state capture. It appears that Nigeria has a mix of both corporate and party state capture. On the one hand, the study found that in Nigeria's case, the interest group is the military, unlike the Czech business interest group. They work their state capture through parties. On the other hand, Nigeria's party system appears to be long-lived like the Hungarian model. However, in ultimately boils down to state capture. The third chapter concluded the research

with policy recommendations to mitigate the problem of state capture in Nigeria. As this is also a policy-relevant research, these recommendations were primarily built on a normative position.

Research Questions

1. What are the causal mechanisms of state capture in Nigeria and its effects on the democratic dispensation?
2. What can be done to mitigate the problem of state capture?

Thesis statement

The Nigerian military captured the important organs and institution of the state shortly before the democratic transition, hence, despite the occurrence of regular elections there has been no real change in the government.

Justification of Study

The phenomenon of state capture is relatively new in African literature and is yet to become topical in Nigerian academic research. The rationale behind this study is to explain how it is very possible for a state to be captured by a narrow interest despite the existence of democratic institution that grants suffrage to the entire adult population. The idea was first identified by Hellmann et al, (2003) as a governance problem, it gained topicality in some European countries such as Poland, Hungary, Moldova and Czech Republic, however, not a lot of research has been dedicated to using this phenomenon in explaining the governance problem in African countries. The novelty of the study is that it unpacks the phenomenon of state capture and describes how and to what extent its mechanisms are operative in Nigeria.

1. THEORETICAL FRAMEWORK

Merriam (1941, 309) describes democracy as “a form of political participation in which the general control and direction of the commonwealth is habitually determined by the bulk of the community in accordance with understandings and procedures providing for popular participation”. In essence a democratic system by definition should give people the liberty to choose the leaders that represent their interest, through elections. Schumpeter (2003, 242) defined democracy as a political method or a type of institutional arrangement used for making political, legislative and administrative decision that aligns with the public interests. A democratic leader should rule in the interest of the majority thus, there is an expectation that the wishes of the people are heeded to in a democracy.

The way electorates select their leaders in a democracy is through open elections; however, it is very possible that even when elections are free and fair, politicians could still use public offices to carry out their own interest and consistently ignore the wishes of the people. On the one hand, democracy gives electorates the power to vote out candidates who consistently ignore the interest of the majority, however, when it becomes impossible to vote out rent-seeking politicians from power, then this is simply a case of state capture.

Innes (2013, 87) describes state capture as a serious problem that some new European Union (EU) member states are plagued with. The study stresses that there are predominantly two types of state capture; party state capture and corporate state capture. When it comes to party state capture, a political party in a state seeks to gain political monopoly of power in most of the governmental institutions and public offices, thereby, making it less likely for an opposition party to emerge. The latter; corporate state capture is a situation where public power is wielded by a private or business entity to undermine the legal channels of political power mainly for pursuing private interests. While both types can operate together, they have key differences; the former seeks political monopoly, while the latter is aimed at financial monopoly.

The origin of state capture comes from the notion of regulatory capture (Wren-Lewis 2011, 145). It describes the complex relationship between the regulator (primary interest group) and the regulated (special interest group). The same applies to state capture—it is a complex relationship that exists between businesses, politicians and elites in the political system. Pesic (2007, 4) describes state

capture as the seizure of laws in favor of corporate entities and private interests through the organs and institutions affiliated with the government. This according to the author, renders the legal system of the state weak, as it serves the illegal interest of the rent-seeking elites legally.

In Hellmann's view (2003, 752) state capture is a strategic decision made by individuals, groups or firms in either the public or private sector to seek rents or advantages from the state to further their private interest through illegitimate and non-transparent means. State capture in a democratic system, does not only defeat the purpose of a democracy; it also undermines the legitimacy of the state. Bracking (2018, 170) refers to state capture as a situation where private actors capture the state's regulatory authority without democratic authorization to serve private interests. Private actors could refer to companies, oligarchs, politicians, military officers or cultural groups. It could also mean the institutions of government responsible for enacting checks and balances in the government. This includes; the legislative or the judiciary branch (World bank 2000, 3). There are several mechanisms and modes through which a state can be captured, some of which include;

1. When an individual or a group of individuals use the public offices to further their own private interests.
2. When the formulation of laws and policies are altered in favor of private interests.
3. When a political party seeks to gain monopoly of power in a democratic system.
4. Awarding contracts, altering decision or changing policies in order to benefit the bribing entity at the expense of the national interest.

A state can be captured by a corporate or political entity with a well-structured network that allows them access via secret political affiliation to exercise authority over the state's organs and institutions. This entity, depending on their goals; make decisive policies and overturn decisions that are beneficial to the polity to satisfy their interests. Hall (2012, 4) describes state capture as a practice of grand corruption by political and business elites, which involves offering or receiving bribes to be awarded a contract; perversion of the public-policy decision by influencing decisions to suit the interest of the rich, powerful politicians, businesses and elite class.

The type of political parties present in a democratic system equally plays an important role in ensuring that the wishes of the people are granted. According to Bass (1993, 66) in a democracy, political

parties must commit to programs they wish to implement once they get to power, then the next step would then be, nominating candidates that are committed to the implementation of these programs. When this is done, voters will choose which political party and candidate best represent their interests before they cast their vote. When the electoral competition ends, the elected candidate of the party has the responsibility of implementing the promised program with sufficient discipline and cohesion. Hence, it is important to understand how these parties were formed and how their ideologies match that of the national interest; as electorates tend to support political parties that reflect their preferences.

In transitional and consolidating democracies, political parties tend to implement policies and alter legislation such that it aligns with their own interests; not necessarily the interest of the majority. When parties tread this path in a democracy; they get voted out of office by the electorates. However, due to some parties' desire to stay in power; they try to get their protégés into the main hub of power; the legislature, executive and judiciary, they also plant their members in various institutions and public offices connected to the government. Once this is done, it becomes difficult to vote such parties out of power. This situation is what is referred to as party state capture.

Political parties may also engage in other ways of capturing a state by forming a parties whose sole program is to eliminate older, corrupt and ill-functioning parties. They then go ahead to nominate a candidate whose personal achievement gives people the assurance that the party would eliminate bad governance and clean up the political system such that the rights, interest and wishes of the majority are considered when formulating and implementing policies. When this parties get into power, they do nothing different from their predecessors. They engage in rent seeking activities, extract financial resources from the state, misappropriate funds, award contracts based on favoritism not merit and most importantly, they ignore the interest of the majority and the promises they made during the election campaign.

These types of political parties do not necessarily seek re-election as their focus is to plunder the state, hence, they make no efforts to durably capture the administration or branches of power. However, since democracy encourages political competition, individuals with private interest still form new parties with a campaign based on the need to establish a 'clean government'; but they eventually end up doing the same as their predecessors when they get into power. Some of the main features of these

parties are that; they are short-lived, they prey on the state, and they fuel political apathy. This kind of governance problem is referred to as corporate state capture.

The EU credits itself with the successful promotion and export of democracy to eastern Europe, however, as Agh (2016, 8) points out, political parties across these regions are reportedly doing the opposite of their intended purpose. Although, democratic formalities are still present in these regions; elections are being carried out, people are still allowed to vote and be voted for and civil liberties are still granted. However, much of the key institutions used to keep rulers in check are steadily being eroded by ambitious political parties to further their private interest. Thus, formal institutions of democracy are gradually becoming a façade for non-democratic and authoritarian rule. Civil society is also one of the key institutions a democracy as they play crucial roles in political processes and the consolidation of democracies.

According to Soesastro (1999, 11) the role of a civil society in democracies includes; resisting authoritarianism, providing social safety net in the society, aiding the poor and underprivileged in the society, engage in capacity building, human resources development and lastly, acting as a medium for participation in a society. However, if all these functions are actively being carried out by civil societies; ruling parties may run the risk of losing power, hence, their steadfastness to ensure that civil societies, non-governmental organization and institutions responsible for building a responsive and energetic government are weakened by the policies they implement. This ultimately promotes lack of transparency and accountability within the structures and institutions of the state. The subchapter below explains in practice how party and corporate state capture manifests in a political system using two countries as examples.

1.1. Examples of countries with a captured political system.

Hungary is a prime example of EU countries with the problem of party state capture. Following the electoral victory of Orban's Hungarian Civic Alliance party (FIDESZ), most of the previously independent institutions of the state were subject to the control of this government. In 2010, the FIDESZ party had a two-thirds majority in the parliament, which is enough to pass a new constitution to legally make adjustment to the political-legal system such that it aligns directly with the preferences of the party. Since a two-third majority was indeed the constitution-making majority, Orban's

government gradually began to introduce new undemocratic legislation that directly affects the rights of the governed. Most of the newly introduced policies politicized key institutions and when the government is not impressed with the performance of certain institutions, they simply appoint new heads for those institutions or go ahead to amend the constitution to fix the problem. According to Agh (2016, 4), Orbán's government alone introduced 859 new acts and 538 amendments to the constitution, the government believed that many of the acts in the constitution were of low-quality and did not meet the demands and changing circumstances of the country, hence, the need for the constitutional amendments.

In 2010, the FIDESZ party formulated new laws that aimed at regulating media broadcasts. In this legislation, the appointment procedure for the media council became highly politicized; The prime minister was in charge of appointing who becomes the head of the media council with a 9 year-tenure that can only be ended when another majority party emerges in the parliament. In 2012, additional amendments to erode the freedom of expression were included in the media legislation, this gave the media council the power to approve broadcasting agreements and alienated the courts from the role of monitoring and reviewing these agreements (Iusmen 2015, 603).

To solidify their hegemony in the media, the government purchased well-known media houses. Some allies; mainly business people close to the ruling party also have large shares of private media houses. Thus, giving the prime minister the freedom to bend democratic institutions and ultimately the Hungarian society to its will. Non-governmental media houses are subject to higher taxes and other media houses that attempt to shed light on these issues are denied governmental media assistance and are subsequently investigated by the politicized media council. Within a brief period, the FIDESZ were able to successfully plant their members in other key institutions of the state to ensure the smooth running of their activities and to protect the party from any political development that deviates from its interests.

Another round of constitutional amendment was approved by the parliament in 2013. These amendments introduced laws that were previously rejected by the constitutional court. The only way this amendment can be adjusted as required by the law is when a two-thirds majority of the parliament votes against it. This is less likely to happen as the constitutional-majority are in the ruling party, thus

limiting the possibility of future government to review these changes. It is worth mentioning that these new acts, limits the power of the constitutional court to keep the power of the parliamentary majority in check. Also, the National Judicial Office of Hungary has more power than the constitutional court does, thus, making the court a mere participant in legislative matters. The media, the judiciary, the civil society and government agencies are under the direct control of the party which evidently shows that Orban's government has successfully captured key institutions of the state in Hungary. Thus, making it easier for them to introduce new legislations and amendments at any given time.

The Czech Republic is a prime example of a corporate state capture. Vaclav Klaus led the Civic Democratic party (ODS)—a 'free-market' Eurosceptic party he founded to victory in 1992. The ODS was the largest party in Czech Republic. The party was very insistent that an economy revamp and an institutionalized market system will introduce a social transformation that will then lead to the consolidation of Czech's democracy. However, the economic policies the party implemented for market-making were more pragmatic and less neo-liberal. Nonetheless, the party maintained strong control over the state to enhance the activities of its rent-seeking elite party members. Amidst a major bank collapse and an embezzlement scandal involving the coalition members and the social democrats; Klaus' coalition government eventually ended in 1997 (Hadjisky 2001, 52).

These events changed the perception of the party's credibility amongst voters. On the other hand, the popularity of the Czech Social Democratic Party (CSSD) rose due to their campaign promises of 'cleaning up the state'. Given that the ODS were already in a disadvantaged position, the CSSD campaign garnered support from the Czechs which led to their electoral victory with 26.5 percent and 32.2 percent of the votes in 1996 and 1998 respectively (Innes 2013, 97), however, this victory was short-lived as the party became highly factionalized and controlled by rent seeking elites. Also, the economic policy adopted by the CSSD often became susceptible to political manipulation and private interests. A good example was the creation of the Ceska Konsolidacni Agentura (CKA). This agency's main task was to manage and account for the state's assets; ideally the composition of this agency should consist of economist and legal experts, however, the government staffed it with business men who were parliamentarians from the ODS and CSSD (Jordan 2002, 31). As a result, the state's assets were poorly managed.

By 2005, much of the Czech population were already pessimistic about the general direction of the country's development. Political scandals involving top CSSD figures became the subject of political discourse and with elections approaching in June 2006, the ODS decided to adopt a "zero tolerance" themed campaign; other parties also campaigned along the lines of promises to clean the state. In the 2006 legislative elections, the ODS emerged as winner. During their time in government, they also did nothing differently. Between the period of 2006 and 2010, 80 percent of government contracts were awarded based on private interest and merits. The ministry of defense, local development and Justice showed less than 20 percent of contract awarded through transparent channels. As a result, the party also lost its credibility. The total value of government contract procured thorough illicit channel was worth one-fifth of the national debt in 2011 (Innes 2013, 99).

The political problems, scandals and party discrepancies confirmed citizens' assumptions about the political and business interests overlap, the omnipresence of corruption, the pervasiveness of clientelism and the practices of party patronage (Freedom house 2016). This Czech political system clearly depicts a corporate captured state; changes happens, but they are often short-lived. Additionally, the successors end up doing the same as their predecessors. In sum, the example explains how state capture manifest; party state capture and corporate state capture. Party state capture is a systemic type of political corruption in which, political parties gain political monopoly over states' institutions and public offices to limit any political opposition and establish their dominance in the political system; such is the case with Hungary. The latter, however, implies the capturing of power by entrepreneurial political parties whose primary aim is to prey on the state's resources. In the next chapter, the author will apply these models of state capture to Nigeria's analysis to determine what type of capture adequately describes the Nigerian political system.

2. THE CAUSAL MECHANISMS OF STATE CAPTURE IN NIGERIA

The aim of this chapter is to show through an analytical narrative, how the phenomenon of state capture works in Nigeria. Unlike the form of state capture that exists in Czech Republic and Hungary; Nigeria has a peculiar form of state capture which appears to be a mix of both party state capture and corporate state capture inherent in the Hungarian and Czech political system respectively. To show how this works in Nigeria, this chapter will analyze three main elements inherent in the political terrain that indeed proves that the Nigerian state is captured.

Firstly, through an analysis, the study shows how the military captured the state by constructing some peculiar provisions in the constitution to maintain control over the state, it then goes on to identify what these provisions are, and how they aid the military in legitimizing their hold on the state. The second part of this chapter analyses the political parties, their dynamics and how the military works through them to maintain control over the state while simultaneously elongating their tenure in government. The third element of this chapter illuminates a new ongoing dynamics in the political system, because, after 16 years of the PDP's long rule, there was a change in government. This change of government, however, did not necessarily mark the end of state capture in Nigeria political system, rather, it enhanced the phenomenon. At the end of this chapter, the study will uncover the causal mechanism of state capture in Nigeria through an analytical narrative and establish that state capture is very much existent in Nigeria as is the case with Czech Republic and Hungary.

2.1. The Nigerian military and its imposed constitutional constraints

The Nigerian military first seized power in 1966 as shown in Table 1.1, this power-grab was intended to be a short-lived and temporary revolution lasting for a few months before a democratic government would be restored again. But this did not happen, what actually transpired was that the military government stayed in power for 29 out of 33 years until 1999 before it handed over power to the civilian government. From 1966-1998, the military was in power 80 per cent of the time; Nigeria had eight military rulers and 10 different coups in the space of 32 years, averaging close to 1 successful coup attempt every 3 years. Additionally, the military has always been intensely involved in policy making and decision including the brief periods when democracy was restored. This involvement became deeply rooted in Nigerian politics to the extent that the transition to democracy and the capture of the state was initiated, planned and executed by the military through the constitution.

In the lead up to the transition, the military government headed by General Abubakar Abdulsalami, set up a 25-member constitution drafting committee to canvas the opinion, memoranda and wishes of the people. They were also tasked with supervising planned debates on the constitution before its adoption in 1999. However, before the committee began, the military had already successfully predetermined and prejudged the outcome of the conferences as the members of the committee were members of the Provisional Ruling Council (PRC) during the military regime, hence the opinion that was canvased was rather that of the military and the rent-seeking Nigeria elites. It is also interesting to note that, the 1999 constitution went into full effect without a referendum, public debate and the involvement of civil society. Additionally, the general elections of 1999 took place on the 20th of February, however, the constitution was published on the 29th of May. Which essentially means that the Nigerian people polled in their votes without knowing the terms and provisions encoded in the constitution. It also meant that the people gave their consent to political offices whose powers were in reality, non-existent—thus making the constitution illegitimate.

This move afforded the military the opportunity to embed their core preferences into the constitution, thereby capturing the state. One common trait inherent with countries that have transitioned from military rule to civilian rule is that they rarely leave without leaving behind some residues of political power. Collier and Levitsky (1997, 443) identify two ways through which the departing military government retain political influence; Tutelary power and Reserved domains respectively.

Tutelary power: are broad powers given to the military to actively participate in political processes even though they are no longer in government. Hence, they play a decisive role in the civilian regime since they are either part of the ruling coalition or they influence certain policy decisions. In some cases, the military managed to acquire so much power to the extent that they begin to act as veto actors. For example, in Myanmar, the military remains autonomous as it is neither subject to the rule of law nor the civilian control, also, 25 per cent of seats in all regional and national parliaments in Myanmar were reserved for the military officers (Bunte 2014, 754). This is extremely important because a constitutional amendment in Myanmar requires 75 per cent majority to pass through. Thus, the 25 per cent seat reservation effectively gives the military a veto over the constitutional amendment.

Reserved domains: these are basically carved out areas of power insulated from democratic competition and control (Schiemann 2005, 33). In other words, they are exemptions from civilian political authority. Argentina and Brazil best illustrate the phenomenon of reserved domains. When military rule ended in these countries, soldiers were given broad immunity and amnesty from prosecution for human rights abuses and crimes against humanity that occurred under military rule (Schneider 2018, 21; Bakker 2005, 1107). In Nigeria’s case, the military retained political influence and captured the state through the use of both tutelary power and reserved domains.

2.1.1. Nigerian military tutelary power

The Nigerian military officers and generals who had previously held political positions in the military regime were primarily the dominant members of the PDP—one of Nigeria’s largest political party. After the 1999 elections, the PDP had 59 of 109 seats in the Senate and 206 of 360 seats in the House of Representatives. This means the party controlled both the executive and legislative arm of government from the very beginning of the democratic dispensation. This is significant because a constitutional amendment requires two-thirds majority of the National Assembly (NASS), which would ensure that they create more laws that insulate them from the reach of democratic checks and balance. Section 9 of the 1999 constitution states that:

An Act of the National Assembly for the alteration of this Constitution, not being an Act to which section 8 of this Constitution applies, shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than two-thirds majority of all the members of that House and approved by resolution of the Houses of Assembly of not less than two-thirds of all the States.

This constitutional provision afforded the military the means to dominate the political system legally. In addition to that, the military also capitalized on the political chaos they initiate towards the opposition to keep them from growing strong and garnering public support. This political chaos was primarily facilitated through the anti-graft agency the ruling party created—the Economic and Financial Crime Commission (EFCC). The ruling party used this as an instrument to eliminate its competition thus, making opposition members illegible for re-contesting political offices. This is so because according to Section 137 and Section 66 of the Nigerian constitution, a person shall not be qualified for election to the legislature and the executive if;

“He/she has been indicted for embezzlement or fraud by the Judicial Commission of Inquiry or an Administrative Panel of Inquiry or a Tribunal set up under the Tribunals of Inquiry Act, a Tribunals of Inquiry Law or any other law by the Federal or State Government which indictment has been accepted by the Federal or State Governments respectively”

Thus, by the end of 2003 NASS elections, PDP gained 17 Senate seats and 17 House of Representative seats. Table 2.2 shows how much dominance the PDP gained over the years in the legislature. Additionally, the existence of godfatherism in the Nigerian political system, ensured that the state is captured by the same cabal of private interest. The godfathers in Nigerian politics who were most frequently, ex-military officers, play a multifaceted role in Nigerian politics; from sponsoring candidates to involvement in rent-seeking activities in the arms of government, this ensures that the interest of the military is at the forefront of Nigeria’s politics.

However, there is an unanswered question as to how godfathers make enough money to sponsor politicians AKA godsons and simultaneously remain politically relevant even after the military regime ended two decades ago. The answer lies in the “Remuneration of Former Presidents and Heads of State (and Other Ancillary) Act” of 1999 which was signed a month prior to the official transition to democracy. This act allows former military rulers (Like the two longest-serving presidents), vice presidents, prime ministers, senate presidents and vice, chief justices, speakers and deputy speakers of the House of Representatives, access to federal funds after their time in office.

The decree stipulates that retired military leaders and heads of states are entitled to 350 000 naira per month as an up-keep allowance, while former vice presidents are entitled to 250 000 naira per month. If they are deceased, their families are entitled to 1 000 000 naira per annum from the federal government. However, these amounts are subject to revision per year when there is an increase in the salary of the serving presidents in the democratic regime; which ironically, is primarily dominated by the military. These cabals are also entitled to free medical care, a residential accommodation, office accommodation, vehicles to be purchased by the federal government and subject to be replaced every four years, a personal staff not below the rank of a chief administrative officer, two to four armed policemen and one State Security Service (SSS) officer to be permanently attached to former rulers for life. Lastly, former rulers and their families have diplomatic passports for life and 30 days paid annual vacation within and outside Nigeria.

The amount of money these former political leaders accumulated since 1999, including those they stole during the military era, gives them an unfair financial edge over those candidates who want to get into politics for genuine reasons. Thus, politicians with only ideas vying for public offices have to go through godfathers to sponsor them into office. This increasingly became the norm and overtime; electoral politics became highly monetized by former heads of states turned godfathers. Onah et al (2018, 15) argued the monetization of political offices has narrowly concentrated powers into the hands of elites who organized political activities such that their private interests are effectuated at the expense of the will of the ruled. In sum, the end of military rule led to the creation of retired but wealthy military officers who found their way back to politics and became an unopposable political power bloc. The PDP is the main instrument used by ex-military officers to actively participate in politics and maintain dominance over the democratic dispensation.

2.1.2. Reserved domains of the Nigerian Military

Aside from the apparent tutelary powers, Nigerian politics is also constrained by the presence of reserved domains created by the military. Section 6 (6)(d) of the Nigerian constitution excludes the Judicial powers from;

“extending any action or proceedings relating to any existing law or actions made on or after 15th January 1966 for determining any issue or question as to the competence of any authority or person to make any such law”.

Existing laws/Acts are military decrees that are automatically recognized in the democratic dispensation, they can only lose their validity if it violates the provisions in the constitution imposed on Nigeria by the military. According to the Section 315 (1) of the 1999 constitution, an existing law shall;

“have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be an Act by the national assembly and law by the House of Assembly”

By excluding the judicial powers of the supreme courts from issues or questions within the timeline of 1966-1999, the military successfully conferred immunity upon themselves and other usurpers from the 15th of January 1966 until when the constitution was signed into law. Hence, this immunity clause makes it impossible to prosecute generals and soldiers for their crimes during the military era

including those events that occurred during the civil war which led to the genocide via the 1966 anti-Ibo pogrom and the ethnic cleansing of Ibos in the southern part of Nigeria.

The current president of Nigeria—retired Major General Buhari Muhammad was one of the top commanders who led the war against the secessionist state of Biafra from 1967-1970. It is commonly referred to as the Nigerian Civil War or the Biafran war. The secessionist movement was due to the nationalist aspirations of the Ibos, whose chiefs increasingly became opposed to the northern-dominated federal government and were ready to break out of the country. The resultant effect was a military coup in 1966, a counter-coup the same year and the massacre of the Ibos residing in the southern part of Nigeria till 1970. Many of the commanders and generals like the current president who participated in the war are still in government and are yet to be prosecuted for their crimes since the immunity clause in the 1999 constitution protects them against any judicial proceedings relating to events that occurred on or after the 15th of January; the war started on the 6th of July, 1966 making the date choice of the 15th of January, 1966 a tactical one.

Many other commanders and generals like him who participated in this war are very well alive and present in the important arms of government. The first president of Nigeria—General Olusegun Obasanjo was a commander in the civil war and is yet to be prosecuted for his crimes, the former minister of defense—former Lieutenant General Theophilus Danjuma, was appointed by Olusegun Obasanjo to serve in his cabinet when he was president, but he was also involved in the genocide of the Ibos. In the lead up to the 1999 general elections General Ibrahim Babangida, during an interview said: “While we do not know those who will succeed us, we definitely know those who will not” (Nagel 2000, 161). It is worth mentioning that General Ibrahim Babangida is one of the prominent godfathers in Nigerian politics, which means that he controls who gets what position in the executive and legislative arm of the government, he determines their tenure and can equally end it abruptly if he deems it fit. Additionally, he sponsored the creation of the PDP. Hence, every politician vying for political offices had to discard their plans for public service in favor of fulfilling his private interests. It is safe to conclude that the Nigeria’s democracy was hijacked before it barely began.

2.1.3. The Nigerian Judiciary

The Nigerian Judiciary lacks independence from the executive arm of government, which makes it difficult for the institution to effectively perform its assigned role in the democratic dispensation. This institutional problem has ensured that the state remains continuously captured by the same cabal of private interests. A weak judiciary means that they are in reality above the law. The peculiar provisions in the constitution for the jurisdiction and the funding of judiciary, further expanded the influence and control of the executive and legislative arm of government.

As stated in the constitution, court officials are appointed, promoted and removed at the discretion of the executive. Section 171 (1) of the constitution states that;

“Power to appoint persons to hold or act in the offices and to remove persons so appointed from any such office shall vest in the President.”

This is endorsed by the confirmation from the legislative arm; by virtue of section 231 (1), 238 (1), 250 (1), 256 (1) and 266 (1).

“The appointment of the Chief Justices of Nigeria, the President of the Court of Appeal, the Chief Judge of the Federal High Court, the Chief Judge of the Federal Capital Territory High court, and the president of the Customary Court of Appeal respectively shall be made by the president on the recommendation of the National Judicial Council subject to confirmation of such appointment by the Senate.”

These peculiar constitutional provisions have ensured the continued capture of the state by both the executive and legislative arm of government, if the judicial council recommend a person who will not carry out the interest of the government, the senate has the right to reject such recommendation. Hence, the judiciary arm of government is predominantly filled by loyalist whose primary goal is to put the opposition at a disadvantage (i.e. in a judicial hearing) and interpret the law in favor of the government; not the people. The executive on the other hand, has the right to directly appoint or remove court officials from office, thus, a failure to comply to the wishes of the executive may result in the removal of judges from office. This administrative manipulation has immensely weakened the role of the judicial system and has equally allowed for capture of the judiciary.

Furthermore, the funding of the courts and budgetary allocations are determined by the executive and legislative arm of government, hence, the judiciary fails to be insulated from the undue pressures of the other two arms of government. As stated in the constitution Section 84;

“The remuneration, salaries and allowances payable to the holders of the offices in the judicature shall be decided upon by the executive and the National Assembly.”

This makes it easier for the military dominated party—PDP to effectuate their interest as they control the financial autonomy of the judiciary. Decision-making on salient governmental issues are also corrupted by the undue influence of the military, this is so because, as stated above, the employment status of court officials is very much dependent on whether they interpret the law in favor of the government or the people, thus, making the Nigerian judiciary a tool for political partisanship. The next part explains in-depth how Nigeria’s party dynamics are intensely influenced by the preferences and activities of the military. It also unravels how the military works through the PDP to maintain their dominance and control over the political system.

2.2. Nigerian Political Parties

Nigeria practices a multi-party system of democracy, where multiple parties across the political spectrum of the country run for national elections with each having equal opportunity to gain control of the government. In the lead up to the 1999 elections, Nigeria had three political parties registered by the Independent National Electoral Commission (INEC) for the state and national election. They include; the People’s Democratic Party (PDP), All People’s Party (APP), Alliance for Democracy (AD). The PDP was mainly dominated by retired military officers most of whom were in the corridors of power, opponents of the former military ruler—General Sani Abacha, and rent seeking elites (Ijere 2015,4). The APP on the other hand consisted of mainly General Sani Abacha’s supporters from the northern and the Middlebelt region. As a result, the APP was usually referred to as Abacha’s Peoples Party. AD on the other hand, was founded purely on ethnic and tribal sentiment; the goal of this party was to produce a Yoruba presidential candidate in 1999. They later formed a coalition with the APP when they realized that an ethnic agenda could not guarantee their victory in the presidential election.

It is noteworthy that a feature of these political parties is that they lack any kind of party ideology, the first is dominated by military officers, the second consist of those who support military regime, while the third political party was formed along the lines of tribalism and ethnic sentiments. This is, indeed, contrary to the formation of political parties. Ideally, a political party should have a party ideology

and a feasible list of objectives they aim to achieve once they get into power, however, this is not the case with Nigerian politics. The PDP won the 1999 elections. For the presidential elections, PDP polled 62.8 percent of votes to APP/AD coalition of 37.2 percent. In the senate, the PDP won 59 out of 109 seats while in the House of Representative PDP won 206 out of 360 seats as shown in table 2.1. The PDP's slogan or motto is 'power to the people', however, their approach to governance was neither people oriented nor politically sound. The next subsection analytically narrates how the military worked through the PDP to maintain control over the democratic dispensation while simultaneously elongating their tenure even with the occurrence of regular elections.

2.2.1. Elections and the influences of Godfatherism.

Good governance effectuated by free and fair elections is a sign of democratic consolidation, however, during PDP's regime, elections and electoral process failed to reflect democratic values. It contested in all three general elections, none of which was free or fair. But they still ruled for as long as 16 years. The three presidential elections in 2003, 2007 and 2011 held during PDP's reign were fraught with several cases of electoral malpractices. The presidential elections were synonymous to security crises, where agents paid by the ruling parties out-rightly intimidate and commit violent acts against voters at polling units. Election rigging, ballot box theft, horse trading, widespread electoral fraud, ballot box stuffing, and tampering with the election result led to the ruling parties' candidate as winners. Elections in Nigeria under PDP's government did not reflect the preference of the voters, rather it reflected the objectives of the party; which was to capture the main organs and institution of the state.

Democratic values are also seriously corroded in the PDP's internal structures. The PDP national conventions, congresses and primaries over the years have largely been corrupted by the influence of godfathers. Hence, rather than a democratically conducted nomination of party candidates, what usually takes place is actually the imposition of a preferred candidates of the Godfathers as flagbearers of the party during elections. Also, party delegates in most cases, cast their votes in favor of candidates that offer the highest amount of money.

Undoubtedly, the problem of godfatherism and lack of transparency in primary elections increasingly restricted voters to the candidates who then go on to become puppets of their sponsors and ultimately that of the regime, hence denying the nation of credible leaders who is have a clear vision for the development of the country. The consequences of the first 16 years of the PDP's rule and electoral

irregularities that ensued during this period, immensely affected the opposition and encouraged depoliticization of electorates. Additionally, the electoral irregularities continuously and consistently diminished the real essence of election. Elections are one of many democratic tools that ensures that leaders are accountable to the governed, but, as PDP internal politics allowed for the party's godfathers preferred candidates to be elected, they automatically become accountable to their sponsors once they resume office, the welfare of the people never becomes a priority until the godfathers instructs their godson to make it one.

In sum, aside from the constitutional constraints put in place by the military; the activities of ex-military officers turn godfathers, undoubtedly ensured that the PDP forcibly elongates their tenure. It is however worth mentioning that even though electoral malpractices goes beyond the concept of state capture, it is still a mechanism adopted by party elites to control the political system in their interest. However, this is not as crucial a mechanism compared to the activities of Godfathers who then fueled electoral malpractices; ultimately this is still a "no-win" situation for the ruled because, if there were no electoral malpractices, the godfathers still choose candidates that represents the party during a general election which means that, the electorates choices are still restricted to the preferences of the military; hence, voting this interest group out of power proves a difficult task. The constitutional constraint in section 137 and 66 as mentioned previously, also discourages the establishment, growth and presence of an opposition parties that threatens the stability and dominance of the PDP.

2.2.2. Political Party Dynamics in Nigeria.

Under the PDP government, political parties grew from 3 in 1999 to 64 in 2015. PDP governance also allowed the growth of mass media and civil society. According to Arogundade (2015, 49) Nigeria as of 2015, had 200 radio and television stations, 40 of them were privately-owned while the remaining 160 is owned by the state and federal government. The presence of the media considerably allowed for citizens' engagement in politics. However, the PDP government frowned at criticism from the civil society and mass media, they also openly displayed hostility to any perceived criticism from the opposition party at any given opportunity. Due to this hostility, a number of opposition parties struggled with their activities and their existence in the political arena. The PDP, although allowed for the liberalization and growth of political parties, they maintain absolute dominance over other political

parties. In fact, the multiparty system and the abundance of political parties turned out to work in the favor of the PDP as most of the smaller parties did not have a coherent structure or a well-established presence in the six geopolitical zones of Nigeria; hence, garnering support from the public proved a difficult task for the opposition parties.

During the period the PDP was in power, The PDP administration established an anti-graft agency called the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practice Commission (ICPC). The aim of these institutions was to tackle public sector corruption. However, these institutions were used by the executive branch of government to suppress, intimidate and witch-hunt those people perceived as an opposition to the president and his policies (Musa 2006, 7). They suppressed by indicting members of the opposition for fraud or embezzlement through the judiciary. Section 137 and Section 66 of the Nigerian constitution states that a person shall not be qualified for election to the legislature and the executive if;

“He/she has been indicted for embezzlement or fraud by the Judicial Commission of Inquiry or an Administrative Panel of Inquiry or a Tribunal set up under the Tribunals of Inquiry Act, a Tribunals of Inquiry Law or any other law by the Federal or State Government which indictment has been accepted by the Federal or State Governments respectively”

Once a member of the opposition has been indicted for fraud, they automatically lose their right to be elected into public offices. A classic example of how the PDP used this was in the 2007 elections. Prior to the election, the president—Olusegun Obasanjo sought to amend certain provisions of the constitution that will enable him to extend his party’s grip to power for another 4 years; to which his Vice—Atiku Abubakar disagreed with, due to this clash he decamped from PDP to the Action Congress (AC) where he was nominated to be the presidential candidate for the 2007 general elections.

In the lead up to the 2007 election, the president used the EFCC to investigate and eventually indict Atiku Abubakar on charges of corruption (Edozie 2008, 168). Due to this indictment, his name was not found on INEC’s list of presidential aspirants for the elections in 2007. INEC then issued a statement stating that his name was not included on the list due to his recent indictment for corruption (Akinwale 2018). However, Abubakar headed to the supreme court to have his disqualification reversed. The supreme court ruled in his favor stating that it is not within INEC’s jurisdiction to

disqualify a candidate only the court has the right to do so. But he lost the elections as INEC failed to reprint the ballot papers with Abubakar's name and party logo. The PDP was declared winner of the 2007 election garnering 70 percent of votes. shortly after that, the Chief justice of the supreme court was impeached by the NASS; which at the time, was primarily dominated by the PDP.

The PDP also worked with INEC and the EFCC to indict over 50 political candidates from opposition parties who were contesting for political offices, this includes governors, senate and house of representative aspirant in the 2007 elections (Okechuwuku et al 2011, 51). Under the instruction of the PDP then chairman—Iwu; INEC disqualified those politicians the EFCC indicted. Most of the disqualified candidates were not as wealthy and influential as Atiku to bribe the supreme court; Also, the new judge installed by the president was loyal to the ruling party. Hence, the aspirations of these politicians vying for political offices were dashed and the PDP continued to dominate Nigerian politics.

It is also worth mentioning that, according to the constitutional provision in section 84 (4) the electoral body—INEC receives its funding from the executive arm of government. Thus, to keep their funding they remain loyal to the ruling party and act according to what the ruling party deems fit. In the conduct of elections, the ruling party and officers of INEC cooperatively determine who should be elected into office, they carry out this goal by bribing electoral officers, these officers then hire agents for thumbprinting. In some cases, polling units are transferred from the originally designated areas to the houses of an influential PDP member. The agents hired for thumbprinting would then lock themselves up in those houses and begin thumbprinting ballot papers in favor of the ruling party (Dike et al 2018, 33). The police on the other hand, abet this process by protecting these houses and deploying cultist and touts to intimidate voters who agitate for transparency.

After, the elections are over, INEC is tasked with collating results from each polling units, if the results are not in favor of the ruling party, INEC then tamper with the results by declaring a fake result. Politicians from the ruling party also work in tandem with judges to frustrate any efforts made by politicians from the opposition party to contest the results. Politicians who fail to accept the outcome of the elections were either kidnapped and in the worst-case scenario murdered (Kia 2013, 45). The other tactics employed by INEC under the supervision of the PDP was the late arrival of election

materials to the voting centers, upon late arrival, some election materials may be inadequate or a lot smaller than requested, so voting was on a first come first served basis, once the ballot papers were exhausted people were no longer allowed to vote. In the process of collating result, INEC use police officers to steal and destroy ballot boxes from the opposition's strong hold.

Furthermore, the PDP used the power of incumbency and its control over the federal bureaucracy against the mass media during their regime. For example, the Nigerian broadcasting Agency under the instruction of the ruling party, seized the license of the African Independent Television (AIT) and RayPower FM because they criticized the ruling party's third term agenda (Akoh et al 2012, 84). They also made use of an outdated sedition law that existed during the military regime to oppress the media. A presenter at AIT—Gbenga Aruleba and a senior correspondent for the *Daily Independent* newspaper were charged with sedition over a presidential aircraft story they published. They were arrested by the SSS which reports directly to the president and they were charged with conspiring to incite hatred against the government of the federation (CPJ 2006). The PDP also organized about 30 attacks on the press in the lead up to the 2011 presidential, legislative and gubernatorial elections. Journalists who were not working for the government frequently became targets of the SSS agents; who detain and arrest them without any legal authorization (Freedom House 2012).

Another tactic the PDP government used in suppressing the opposition was the refusal to grant police permit to opposition parties to hold rallies. Rallies that were organized without a police permit are shut down by security operatives of the state. It is worth noting that the police and all security bodies answer directly to the federal government; whose composition are predominantly the ruling party. After the presidential election in 2003, the opposition parties applied for a police permit to protest against the electoral malpractices of the ruling party during the elections, but they were denied. On the other hand, a rally was organized in Kano state by the second largest opposition party All Nigeria Peoples Party (ANPP) without a police permit, this resulted in a large-scale police violence, the use of tear gas against the organizers and the supporters of the opposition rally (Musa and Domatob 2012, 118). The former senate president, chieftain and opposition leader of the ANPP—Chika Okadigbo died at the rally following the use of teargas by the police to disband the rally.

Civil society suffered the same fate, the PDP government denied civil society groups the opportunities and means to organize rallies i.e. police permits. In 2003, when the fuel price increased from 26 Naira to 46 Naira, civil society groups, members of the Nigerian Labor Congress (NLC) and the Trade Union Congress (TUC) applied for a police permit to protest against the hike in fuel price, but their application was denied (Oghojafor et al 2014, 70). This did not deter them from organizing the rally. However, few minutes into the rally, the PDP government deployed both the police and the paramilitary mobile police force to crackdown on the rally. According to the Humans Rights Watch report (2003, 8) The police forcefully dispersed the protesters with teargas and life shots even when there was no evidence of violence from the protesters. Journalists who were covering the events were beaten up and arrested; union officers and human rights activists involved in the demonstration were also among those who were arrested and detained by the police. Several protestors and passers-by were shot dead in an attempt to break up the demonstration.

2.2.3. Internal Party Politics.

Nigeria is exceptionally diverse ethnically, religiously and linguistically. Hence, there is always a question on how to make governance inclusive for a diverse polity like Nigeria, such that no tribe or ethnic group is left out of political processes. Given the consistent tension and disunity between the Muslim dominated North and the Christian dominated South, the political class came up with the idea of rotation and zoning (Awopeju et al 2012, 11). When it comes to rotation, there has been an unwritten agreement since 1999 to alternate political power between the South of the country and the North of the country every 8 years; Zoning in Nigeria's politics was a strategy used for the reunification of the country after the civil war that primarily rotates the presidency among the six geopolitical zones. Interestingly, none of these formula and political strategies is codified anywhere in the constitution; Also, although, Nigeria runs a multiparty system, which allows a candidate to contest for elections at all tiers of government; the ethnicity and the geopolitical zones of the candidates in most cases, determines the outcome of the elections.

In 2007, the incumbent president—Olusegun Obasanjo tried to modify the constitution such that he could serve an additional four-year term as president after he has exceeded the constitutional two-tenure/ eight years limits. This third term bill, if passed into law, would have also been applicable in the gubernatorial level, however, this move failed as the Northern PDP members in the legislative branch and their godfathers were not keen on having a southern president in power for another 4 years.

Undoubtedly, it was in the party's interest to remain the sole captor of the state and maintain power, but the party increasingly became factionalized between godfathers who supported the president's third term bid, and godfathers who did not. The former factions were primarily from southern Nigeria. They supported his third term bid as politicians from the south had more political appointment in the government during Obasanjo's tenure, thus, they feared a political change in the executive arm would lead to the end of the privileges they received and enjoyed.

The latter factions, however, were mainly from northern Nigeria. They did not support the third term bid because, they were concerned about the zoning and rotation formula that had already been agreed upon. The incumbent president from the South had almost completed his tenure and since ethnic politics is deeply-rooted and persistent in Nigeria (Kifordu 2011, 428), they feared that the party may lose power to the opposition party. Additionally, the opposition party—ANPP was fielding a candidate from the North—retired Major General Buhari Mohammed. Hence, the latter faction wanted the party to use a candidate from the North so they will secure their place in power. A third term agenda was in their interest, but a third term with a candidate from the South was not.

The faction rivalry in the party began while the opposition on the other hand, banked on this political chaos hoping to win the elections. The godfathers from the Southern factions including the president began bribing law-makers in the NASS to pass his third term bill into law. However, the godfathers in the Northern factions had more loyal legislators in the NASS, hence, the third term bill was rejected (Sklar 2006, 101). When this plan failed, the president selected a Northern candidate of his choice—Musa Yar'Adua to be the flagbearer of the party who later emerged as the winner of the highly controversial election in 2007. The PDP also won 28 of the 36 states in the gubernatorial elections. The elections were widely condemned by international observers as it was violent, poorly coordinated and massively rigged by the ruling party (EUEOM 2007, 20; Freedom House 2008).

2.3. Cross-carpeting and Party defection.

The incessant political intimidation and oppression of the ruling party fueled the coalition of Nigeria's four biggest opposition parties; Action Congress of Nigeria (ACN), Congress for Progressive Change (CPC), a faction of the All Progressive Grand Alliance (APGA) and the ANPP. These parties merged to form the All Progressive Congress (APC) in 2013 in anticipation for the 2015 elections. The party's candidate—retired General Muhammad Buhari, won the election in 2015; the party also won 23 of

the 36 states in the gubernatorial elections. The election was historic because, since 1999, an opposition party has never won a presidential election. However, the elections were also marred with violence, manipulation of results and abuse of incumbency power on the state and federal level.

Several members of the ruling party, including Godfathers and ex-military general, decamped to the newly formed coalition to sponsor candidates in the APC vying for political positions. Hence, although there was a change in government, the political terrain still relatively remained the same. From 2015-2019, there was a massive political defection of senators, governors and honorable from PDP to APC (Imam et al 2017, 40); thus, no substantial change has occurred even with the opposition in power. The reason being that, Nigerian political parties, in general, lack a clear-cut ideology, they are not formed to effectuate the national interest, rather they exist the prey on the state's institutions. They also lack feasible manifestoes or blueprint that guides their policies and decisions while they are in government. In a well-functioning democracy, political parties are differentiated by their political ideologies, governments are either far-right, far-left, center-right, extreme-left or leftist. However, Nigeria's political parties do not have any of that differentiation, hence, defection from one political party to another is easy, customary and prevalent in Nigeria's politics. This pseudo change in government allows the state to remained constantly captured by godfathers, politicians and rent-seeking elites whose policies and agenda are based on self-interests not necessarily that which would be of benefit to the polity.

In the APC regime, key positions are awarded to family members, appointments are rarely based on merits. The chief of staff—Abba Kyari (an ex-military officer) is the son of the President's nephew. The minister of aviation—Hadi Sirika is the Son of the President's elder sister, the minister of state for industry, trade and investment—Aisha Abubakar is an in-law to the president's nephew, the Independent National Electoral Commission (INEC) commissioner for the North-West region—Amina Zakari is the daughter of the president's elder sister. The principal adviser to the president—Mamman Daura, is his elder brother's son; while his personal assistant—Kabir Daura is his nephew's son. The President's Aide De Camp (ADC)—Colonel Lawal Abubakar is married to his niece.

Also, the president expressly began a non-inclusive ethnic northernization agenda by appointing Northern Nigerians in key security positions. The Inspector General of the Police force—Ibrahim Idris

is a Northerner, the Chief Army of staff—General Buratai is from the North, the national security adviser—General Munguno is from the North, the Minister of defense—Dan Ali is also from the North, the Controller-General of the Nigerian prison service—Ja’afaru Ahmed is from the North, the Comptroller General of the Nigerian custom service—Retired Nigerian army Colonel Hammed Ibrahim is also from the North, The Directorate General of the Department of State Service (DSS)—Yusuf Bichi is from the North, the commandant-general of the Nigerian Security and Civil Defense Corps—Abdullahi Muhammadu is also from the Northern part of Nigeria and the list goes on.

In the recently concluded general elections held in 2019, APC emerged the winner of the presidential and gubernatorial elections. They also secured more seats in the NASS which means, the party now maintains control over the executive and legislative arm of government on the federal level and on the gubernatorial level, they control 24 states compared to the PDP which controls 12 states. This makes it the second time in Nigeria’s history when a party rules for eight years straight and the first time an opposition party rules the country for an eight-year period. Thus, leaving an open question on what will become of Nigeria’s political system when APC’s eight-year period elapses in 2023. Will another opposition emerge to capture the state? Or will APC go on to rule Nigeria for 16 years as their predecessors did? Another interesting factor is that the two rulers who captured the state for an eight-year period had previously ruled Nigeria during the military era.

Cheeseman (2015, 38) in his book describes the dominance of the military in African politics and made a point that about half of Africa’s current president have prior military experience. For example, President Paul Kagame of Rwanda was formerly Major General Paul Kagami of the Rwanda army, president Yahya Jammeh of Gambia was formerly Lieutenant Yahya Jammeh of the Gambian Army and lastly to name a few, former president Jerry Rawlings of Ghana was previously known as Flight Lieutenant Jerry Rawlings of the Ghanaian air forces. This pattern is also predominant in present-day Nigerian politics, the two longest-serving presidents were Major Generals before they ascended to power in the democratic dispensation. As of October 1st, 2018, Nigeria celebrated its 58th independence anniversary, which intriguingly means that Nigeria’s post-independence years have been split exactly in half between military rule and civilian rule, each having ruled for 29 years respectively.

However, little or no changes have occurred in the current political system, the same cabal of private interests that existed during the military era are still very much in control of the state and its institutions. Even with the regular occurrence of elections, electorate cannot possibly vote out rent-seeking party elites as is the case with Czech Republic's form of capture. This is primarily because, the internal political party dynamics is by default, captured by the godfathers who dictate the general direction of the party and ultimately that of the country.

The way the military handled the transition to democracy and the peculiar constitutional barriers they installed into the political system aided in capturing the state before the consolidation of democracy. In addition to this, they worked through the political party to ensure their continued dominance over Nigeria's political system; which was primarily effectuated through electoral malpractices, abusing the power of incumbency, using state's institutions against the opposition, and the constant imposition of godfather's preferences on the political system. For the most part, these mechanisms equally kept the opposition divided and threaten their very existence.

Another distinctive feature of state capture in Nigeria is the cross-carpeting that occurred after PDP lost the elections in 2015. A significant number of godfathers, military officers and their staffs defected to APC to sponsor candidate vying for political offices. And as discussed, no clear-cut party ideology exists in both parties; hence no ideological pre-requisite is needed to defect from one party to another. Equally important is the fact that, this pattern of state capture manifestation is not found in the Hungarian or Czech variant; but it is very dominant in Nigeria's case. Imam et al (2017, 30) also notes that in some cases, power thirsty godfathers from the PDP, pay their way up to the top positions available in the APC to ensure that they maintain their political influence and respect amongst aspirants who look up to them for political assistance and electoral maneuvering.

In sum, the Nigerian political system appears to exhibit a mix of the characteristics inherent in both party state capture and corporate state capture. Similar to the Czech form of state capture where a business interest groups work their capture through parties, in Nigeria's case, the interest group is the military; they captured the state by colonizing the PDP which allowed for their continued political dominance in the executive, legislative and Judiciary arm of government, however, it is different from the Czech variant as the PDP was not a short-lived party as is the case with corporate state capture.

Thus, in the aspect of long-lived parties such as the PDP, it bears more resemblance to the Hungarian variant of party state capture. It is worth mentioning that, electoral manipulation and rigging is not a mechanism generally found in European models of state capture. However, this is one of the mechanism the ruling party used in Nigeria's case to elongate their rule while simultaneously maintaining control over the government.

CONCLUSION AND POLICY RECOMMENDATION.

The mechanisms and types of state capture were elaborated upon at the beginning of the study. Hungary and Czech Republic were used to expound on the types of state capture existing in standard academic literature. The mechanisms inherent with Hungary and Czech Republic were tested against the Nigerian political system with the use of an analytical narrative as the research method. At the end of the research, the study established that state capture is indeed operative in the Nigerian political system. However, there are subtle differences in the mechanisms and manifestation of state capture in Nigeria compared to Hungary and Czech Republic; The form of state capture in Nigeria is peculiar in the sense that, it appears to be a mix of corporate state capture and party state capture. In terms of structure i.e. a corporate interest group like the military working their state capture through political parties—it bears close resemblance to Czech Republic corporate capture while in terms of durability; it is not short-lived like the Czech variant, thus, in this sense, it more closely resembles Hungary's party capture variant.

The study specified the following mechanisms of state capture in Nigeria; the military's constitutional constraints, the political party dynamics, cross-carpeting which essentially led to the recapture of the state by the same interest group despite the transition of power. The effects it had on the democratic dispensation was that there was no real change in government. The same godfathers who controlled the PDP defected to APC to ensure that they maintain control over the legislature and the executive. Other mechanisms uncovered includes; the party's use of extra-judicial agencies as witch-hunting tools, the financial advantage the incumbents had over the judiciary and the abuse of the power of incumbency to suppress media houses, journalists and civil society. When it comes to electoral malpractices, it goes beyond state capture, however, it is still a tool used by the elite class to control the political system to their advantage. The two mechanisms found to be analytically different from the Hungarian and Czech variant is the prevalence of electoral malpractices and defection of party members. Just as the EU adopts normative approach towards solving the ongoing problem of state capture in Hungary and Czech Republic, this study's policy recommendations are built on a normative position which allows for practical solutions to be proffered.

As analyzed in the study, the mechanisms put in place by the military to capture the state includes; the constitutional constraints which keeps the opposition divided and at a constant disadvantage while

simultaneously limiting the independence; it also confers immunity on past military leaders, thus, making it possible for past military leaders to actively participate in the democratic dispensation. The political dynamics allowed for the capture of the legislative and judiciary arm of government, increased influence of godfatherism, encouraged the culture of political impunity and the monetization of Nigerian politics. To solve this deeply embedded problem, a bottom-top approach is very crucial as well as the political will of those in power and the engagement of the polity.

In Nigeria's case, the problem of state capture is deeply embedded in the drafting and enforcement of the constitution. Mitigating the menace of state capture is imperative to the survival of Nigeria's fragile democracy. The common denominator in the manifestation of Nigeria's state capture is the constitution. Jettisoning the constitution in favor of a more inclusive and liberal constitution would be an option if the legislative arm of government were not infiltrated by lawmakers whose sole interest is to pass laws in favor of their political parties and godfathers. Additionally, an immediate judicial annulment of the constitution may not necessarily be the right action plan because, this, in a short period of time, may lead to political chaos that would then be pacified by a military coup. The removal of the immunity clauses should temporarily be out of bounds by the legislative and judiciary arm of government if they want sustainable development and the continuance of democracy in Nigeria.

A feasible path to mitigating state capture would be the amendments of certain provisions relating to elections, electoral practices, political parties and the powers of the judiciary in the 1999 constitution. Once these changes are implemented, the agenda of jettisoning the constitution in favor of a more inclusive one will become viable. To effectuate this reform, the civil society, interest groups and labor union need to work in tandem to mount pressure on their NASS representatives in their respective constituency to initiate a bill to kickstart the governmental reforms included in the following policy recommendation;

2.4. Reform of the Judiciary.

For Nigeria to successfully detangle herself from the web of state capture, a completely independent, impartial and upright judiciary is needed to check the power of the other two arms of government. Judicial independence is very necessary to effectuate the idea of separation of power, enhanced by the power of judicial review. This will allow the judiciary to examine cases independently and mandate certain actions towards the legislature or executive when it perceives that their activities are not in

accordance with the constitution. The EFCC for example was set up to tackle corruption in the public sector; but later became (and is still) a witch-hunting tool for the ruling party. If a judicial reform takes place, it could dissolve the institution or mandate a compulsory institutional reform to ensure that it carries out its intended functions.

Furthermore, the appointment of the court officials should be removed from the executive jurisdiction. The judicial council should be responsible for electing the head of the judicial institution, and, collectively decide the tenure of chief judges. This will ensure that the judiciary as an institution is free from any form of external influence (from politicians, godfathers, the legislature and executive). Finally, the funding and salary payment of the judiciary should no longer be managed by the executive, rather, it should come from the consolidated revenue fund of the federation (CRFF)—which is free from the control of the executive. This will not only protect the judiciary from undue external influences; it will also waive the financial restrictions that undermines its ability to discharge its constitutional responsibilities.

2.5. De-monetization of Nigerian Politics to curb Godfatherism

The electoral act of 2010 stipulates the amount of money a candidate can spend on electoral campaigns for certain electoral offices. The maximum amount is pegged at 2.7 million USD as shown in table 3.1. A major implication of Nigeria's highly monetized election is that it allows for the continued dominance of godfathers and the elite class in politics. Hence, the legislature should introduce a constitutional amendment that will set a lower and more reasonable limit to election expenses. This will encourage the participation of credible and patriotic candidates with genuine interest to serve the country; it would also force the ruling parties to begin grassroots politics—an activity both ruling parties seemingly replaced with votes buying and belly politics.

Another policy worth pursuing is reducing the cost of governance to reduce the attractiveness of public offices, doing it will further limit the influence of godfathers in Nigeria's political system. A presidential system is extremely costly to maintain, in Nigeria's case, it is very acute. Nigeria has a majority of her citizens living on less than 2 USD per day, while the legislators, on the other hand, earn 14.25 million naira per month. At the current black-market rate of 360 naira to the USD, that is about 40000USD per month (Campbell 2018). Godfathers in politics are also entitled to an agreed percent of their godson's salary, thus, the government indirectly sponsors the activities of the

godfathers in the system. The government's inability to focus less on accumulating the country's wealth and more on respecting the popular will and their interest has further led to the capture and financial freedom of its citizens in addition to the already existing state capture.

Solving this problem requires the political will of those in power. In Senegal, members of the legislatures voted to dissolve the Senate as it became too expensive to run. In Nigeria's case, this solution may not necessarily be viable. Hence, rather than dissolving the senate, the government should adopt a meritocratic system to award salaries based on performance, merits and educational achievements. For instance, if a lawmaker has a bachelor's degree, he gets paid higher than an HND holder, and if he/she has a Master or Doctoral degree then the payment would be significantly higher than those with bachelor's degrees. This would limit the influence of godfathers in the system and effectively sieve out uneducated elites from participating in politics and slowly include educated lawmakers in the legislative arm of government.

2.6. A Bill for jettisoning the constitution

When the judiciary becomes an independent arm of government and when the political environment is free from influential godfathers and undereducated lawmakers in the legislative arm of government; a bill for the jettison of the constitution should be introduced by the legislative arm of government based on the fact that the constitution went into full effect in 1999 without a referendum, a public debate or the involvement of the civil society. This arguably makes the constitution illegitimate. Additionally, as explained in the study, the general election of 1999 took place on the 20th of February, however, the constitution was published on the 29th of May. This means that polity participated in an election without knowing the terms and provisions encoded in the constitution; it equally means that the people gave their consent to political offices that were non-existent. This tactical move by the military allowed for the PDP's long-term rule. Given that the political party was dominated mainly by military officers, they were able to stay in power and dictate what happens in the political system through these mechanisms they included in the constitution; tutelary power and reserved domains. Hence, to ensure that all Nigerians from all 35 states are represented in the government, each state representatives should be allowed to submit a memorandum of political association to the federal government. This memorandum will define the scope of power and relationship each state wants to have with the federal government.

A bill should also be introduced to address issues like; the removal or revision of the immunity clause, the funding of political parties, ex-military officers involvement in politics, the jurisdiction of extra-judicial agencies created by the executive (i.e. EFCC and SSS), the formation of political parties, the type of political system, the creation or dissolution of states, revision of the applicability of existing laws. More importantly, the bill should address the Biafran secessionist movement; as it has been ongoing since 1967. The people of the southern part of Nigeria should be allowed to decide on whether they want to stay or leave the Nigerian federation. The military opted for federalism as they believed that federal states had the institutional capacity to accommodate Nigeria's diverse ethnic groups; the three largest being Yoruba, Hausa and Igbos.

However, the Igbos still face political marginalization in the current democratic dispensation. Additionally, the 2019 administration is mainly dominated by politicians and godfathers from northern Nigeria; the Igbos are grossly underrepresented in Nigeria's politics; this goes against the federal character principle encoded in section 14 (3) of the constitution.

“The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few State or from a few ethnic or other sectional groups in that Government or in any of its agencies.”

Hence, there should be more efforts to ensure that all ethnic groups are represented in the government; this ensures that no arm of the government is dominated by a specific ethnic or sectional group. Lastly, this bill should only be passed into law after a plebiscite. This would ensure that Nigerians are familiar with the terms and provisions encoded in the constitution; they will also be knowledgeable about their rights and the power of those in government. The plebiscite also provides an opportunity for multiple amendments of the constitution before it is finally passed into law. If this is done, certain provisions and modifications will be made by lawmakers to ensure that the government is no longer captured by an ethnic group, the military, political parties, private interests or other sectional group.

Mitigating the menace of state capture is imperative to the survival of Nigeria's fragile democracy, which is why these recommendations, as already mentioned, are normative; as it means that they are viable, implementable and realistic. Undoubtedly, the governance problem created by the military's

capture of the state is one very complex problem that needs to be solved tactfully, to ensure that there is progressive government and more importantly a stronger democracy. As mentioned earlier, this cannot be effectuated without the discipline, political will, the input of the civil society, interest groups, trade unions and ultimately the polity's engagement.

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APPENDICES

Table 1.1. Names of Nigeria's presidents from 1960-2019.

NR	Date of Commencement/ date of coup	Head of State	Duration of Regime	Type of Regime
1	1st of October, 1960	Dr. Nnamidi Azikiwe and Alhaji Tafawa Balewa	1st October 1960 - 14th January 1966	Civilian
2	15th January, 1966	Major Gen. J.T.U. Aguiyi Ironsi	15th January - July 29th, 1966	Military
3	29th July, 1966	Gen. Yakubu Gowon	29th July 1966 - 29th July 1975	Military
4	29th July, 1975	Gen. Murtala Mohammed	29th July 1975 - 13th February, 1976	Military
5	14th February, 1976	Gen. Olusegun Obasanjo	14th February 1976 -1st October 1979	Military
6	1st of October, 1979	Alhaji Shahu Shagari	1st October 1979 - 31st December 1983	Civilian
7	31st December 1983	Major Gen. M. Buhari	31st December 1983 - 27th August 1985	Military
8	27th August, 1985	Gen. Ibrahim B. Babagida	27th August 1985- 25th August 1993	Military
9	26th August, 1993	Chief Ernest Sheneke	26th August 1993- 17th November 1993	Civilian
10	17th November, 1993	Gen. Sani Abacha	17th November 1993 - 9th June 1998	Military
11	9th June, 1998	Gen. Abdulsalami Abubakar	9th June 1998 - 29th May 1999	Military
12	29th May, 1999	Rt. Gen. Olusegun Obasanjo and Atiku Abubakar.	29th May 1999 - 29th May 2007	Civilian with military affiliation
13	29th May, 2007	Alhaji Umaru Musa Yar'adua and GoodLuck Ebele Jonathan	29th May 2007- 5th May, 2011	Civilian with military affiliation
14	5th May, 2010	Goodluck Ebele Jonathan and Namadi Sambo	5th May 2010- 29th May 2015	Civilian
15	29th May 2015	For. Major Gen. Muhammadu Buhari and Osinbanjo Yemi	29th May 2015- 2023	Civilian with military affiliation

Source: INEC

Table 2.1 Nigerian general elections in 1999

Political Party	Presidential		Senate		House of Representatives	
	Percent of votes	Number of Votes (29.8 million)	Percent of votes	Number of Seats (109)	Percent of votes	Number of Seats (360)
PDP	62.75%	18.7 million	54.12%	59	57.22%	206
APP	APP+AD 37.24%	11.1 million	26.60%	29	20.55%	74
AD			18.34%	20	18.88%	68
Invalid Votes	-	-	-	1	-	12

Source: INEC

Table 2.2 Nigerian general elections in 2003

Political Party	Presidential		Senate		House of Representatives	
	Percent of votes	Number of Votes (39,48 million)	Percent of votes	Number of Seats (109)	Percent of votes	Number of Seats (360)
PDP	61.92%	24.45 million	69.72%	76	61.94%	223
ANPP	32.23%	12.7 million	24.77%	27	26.66%	96
APGA	3.04%	1.2 million	5.50%	6	9.44%	34
Other Parties	2.81%	1.01 million	-	-	1.96%	6
Invalid Votes	-	-	-	-	-	1

Source: INEC

Table 3.1. Amount of election expenses for governmental offices in Nigeria

Office	Maximum Election expenses
Councilors	1 million naira approximately 2800 USD
Local governor	10 million naira approximately 28 000 USD
House of Representative	20 million naira approximately 56 000 USD
Senate	40 million naira approximately 112 000 USD
Gubernatorial office	200 million naira approximately 556 000 USD
President	1 billion naira approximately 2.7 million USD

Source: Olorunmola, A. (2015)