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Article

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### INTERROGATION OF EXECUTIVE IMPEACHMENT PROCEDURES IN UNITED STATES OF AMERICA AND NIGERIA

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#### Abstract

This study critically examines the impeachment mechanisms in both Nigeria and the United States—two major democratic nations with entrenched constitutional guidelines for the removal of executive officials. In both countries, impeachment is a constitutional process with detailed provisions embedded in their foundational legal documents. In Nigeria, the removal of a President, Governor, or Deputy Governor is governed by Sections 143 and 188 of the 1999 Constitution (as amended)<sup>1</sup>. Section 143(1) provides the legal basis for removing the President or Vice President in accordance with outlined procedures. Similarly, Section 188(1) authorizes the removal of State Governors or their Deputies under specified conditions. The United States Constitution assigns the House of Representatives the exclusive right to initiate impeachment proceedings (Article I, Section 2)<sup>2</sup>, while the Senate is empowered to conduct impeachment trials. For a conviction to occur, two-thirds majority of senators present must vote in favor (Article I, Section 3). The scope of impeachable offences in the USA includes "treason, bribery, or other high crimes and misdemeanors" as outlined in Article II, Section 4<sup>3</sup>. However, the Constitution does not explicitly define "high crimes and misdemeanors," leaving room for interpretative flexibility. Similarly, Nigeria's constitutional provisions under Sections 143 and 188 do not provide a concrete definition of 'gross misconduct,' leaving the term to be interpreted by the National Assembly or State Houses of Assembly based on the context of alleged behavior. A doctrinal review in this paper reveals that Nigeria's impeachment process is relatively complex, involving multiple institutions. The structure may have been designed to serve as a safeguard, preventing arbitrary or politically motivated removals. It also aligns with the right to fair hearing guaranteed under Section 36

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of the 1999 Constitution (as amended)<sup>4</sup>. In conclusion, while both Nigeria and the United States uphold impeachment as a legal check on executive power, there are practical differences in implementation. Both systems aim to balance accountability with institutional protection. However, the study also finds that in Nigeria, the process is sometimes exploited for political gain, raising concerns over the politicization of what is intended to be a legal and constitutional safeguard.

**Keywords:** Articles, Constitution, Impeachment, Nigeria, Removal, United States of America.

## **Introduction**

The concept of impeachment can be traced to medieval England, where the Parliament exercised the authority to hold royal officials accountable for wrongdoing. It is served as a vital instrument to ensure that power was not misused by agents of the crown. The word “impeachment” originates from the Old French term *empecher*, meaning to obstruct or impede, reflecting its intended function—to halt the abuse of public office. Impeachment refers to a legislative procedure by which certain public officeholders are accused of serious misconduct. If found culpable, they are removed from office before their term ends. It essentially involves the constitutional removal of elected political leaders through a formal process conducted by the legislature. Although practices differ across jurisdictions, the idea first emerged in England<sup>5</sup> and was subsequently adopted by colonial and state governments in early America. In democratic governance, impeachment stands as critical check available to legislature to retrain or dismiss members of the executive arm. However, in some developing democracies—particularly in parts of Africa including Nigeria—this process is increasingly influenced by political actors. It has sometimes become a tool used by political “godfathers” to settle disputes with their proteges, thereby undermining its original democratic intent.<sup>6</sup> In well-established democracies like the United States, impeachment is primarily a constitutional mechanism aimed at ensuring executive accountability. It allows lawmakers to initiate charges and, where appropriate, remove public officials for actions that violate the law or constitutional standards.<sup>7</sup>

Legislators are the primary custodians of impeachment powers<sup>8</sup>. Misuse of this authority can erode democratic norms, especially when the process lacks judicial oversight. The Nigerian Constitution, under Section 143(10)<sup>9</sup>, stipulates those decisions or proceedings related to presidential impeachment by the National Assembly are immune from judicial scrutiny. Similarly, Section 188(10)<sup>10</sup> shields the actions of State Houses of Assembly in gubernatorial impeachment matters from Court intervention. This framework grants the process a finality that renders it nearly unquestionable—unless a seven-member investigative panel, appointed by either the Chief Justice of Nigeria or a State Chief Judge (as applicable), delivers a “not guilty” verdict or if the process is constitutionally flawed from the beginning, as outlined in Sections 143(5) and 188(5).<sup>11</sup> Impeachment, though grounded in law, is ultimately a political process with significant constitutional consequences. Its primary objective is to hold officeholders accountable, curb the excesses of executive power, and safeguard the rule of law. Nonetheless, the implementation of impeachment differs across countries, depending on constitutional arrangements, political maturity, and institutional independence. As noted by Ozokhome (2006)<sup>12</sup>, impeachment serves as the legislative branch’s ultimate tool to cut short an official’s tenure before it ends naturally. It is often described as a figurative sword hanging over the executive. Although Nigeria’s constitutional model draws heavily from that of the United States, its practical application of impeachment has often diverged. While the American system treats impeachment with legal gravity and

institutional decorum, in Nigeria it has frequently been misused for political retribution, especially in recent democratic cycles.

### **Impeachment in the United States**

The notion of impeachment, originally inherited from English legal tradition, was integrated into the constitutional frameworks of early American colonies. As the United States Constitution was ratified in 1788<sup>13</sup>, the framers purposefully left the criteria for impeachment open to interpretation, entrusting Congress with the discretion to assess what constituted impeachable behavior. According to Article I, Section 2 of the United States Constitution, the House of Representatives holds the exclusive authority to initiate impeachment proceedings<sup>14</sup>. Article I, Section 3 further mandates that the Senate conducts the trial, with a two-thirds majority required for conviction<sup>15</sup>. The President, Vice President, and other federal officers are subject to impeachment under Article II, Section 4, which lists treason, bribery, and “other high crimes and misdemeanors” as valid grounds, though the latter remains undefined. The impeachment process in the United States is constitutionally enshrined within a broader system of checks and balances. Once the House approves articles of impeachment by a simple majority, the matter proceeds to the Senate. There, a formal trial is held, with the Chief Justice of the Supreme Court presiding in cases involving the President. Conviction leads to removal from office and can include disqualification from holding future public office. Notably, there is no provision for appeal after conviction. Compared to Nigeria’s more layered and often politicized impeachment model, the U.S. framework is procedurally clearer. Nigeria’s process typically involves additional external panels and investigative bodies, reflecting its unique constitutional design that places significant emphasis on legislative authority tempered by judicial input. Despite procedural differences, both nations embed high thresholds to prevent the abuse of impeachment for political ends, underscoring its gravity and potential for misuse.

Historically, only three American Presidents have gone through the impeachment process by the House of Representatives: Andrew Johnson in 1868, Bill Clinton in 1998, and Donald Trump in both 2019 and 2021. None were removed from office, as the Senate acquitted each of them<sup>16</sup>. Johnson’s impeachment was related to Tenure of Office Act, Clinton’s to perjury and obstruction of justice arising from the Paula Jones lawsuit and the Monica Lewinsky investigation, and Trump’s impeachments stemmed first from allegations of abuse of power and obstruction of Congress, and later from incitement of insurrection following the events at the Capitol in January 2021. Impeachment may still proceed even if the official resigns. In 1876, for example, William Belknap was impeached by the House shortly after stepping down as Secretary of War<sup>17</sup>. The Senate ruled it had the authority to try him regardless of his resignation. A similar debate occurred in Trump’s second impeachment, which was pursued after he had left office. The Senate upheld the constitutionality of proceeding with trial in a 55-45 vote.<sup>18</sup> The constitution places no restriction on how many times a federal officer can be impeached. Donald Trump remains the only individual in U.S. history to have faced impeachment twice. Typically, the process unfolds in three phases: a preliminary inquiry (which is optional), the House’s approval of one or more articles of impeachment by simple majority, and a Senate trial where two-thirds vote is necessary for conviction. In cases of presidential impeachment, the Chief Justice presides; for other federal officials, the presiding officer is not specified, though it usually defaults to the Senate’s presiding officer, often the Vice President. Impeachment in the United States of America remains a weighty constitutional process aimed at upholding public accountability and safeguarding democratic institutions. While the grounds for

impeachment are broadly defined, the structured and deliberate procedures underscore the nation's intent to reserve this mechanism for only the most serious offences.

### **Impeachment Process and Procedures in Nigeria**

In Nigeria, the process of removing high-ranking public officials such as the President, Vice President, Governors and Deputy Governors is constitutionally grounded in Sections 143 and 188 of the 1999 Constitution (as amended)<sup>19</sup>. These sections outline the procedural steps required for impeachment, though they provide considerable leeway to the legislature, which has led to concerns about the process being manipulated for political reasons. The procedure typically includes several phases, such as an initial allegation, investigation by a judicial panel, and formal deliberation by the relevant legislative chamber. Safeguards such as the right to fair hearing and avenues for judicial oversight are embedded in the system. Nigeria's constitutional evolution, particularly from the colonial period through to independence in 1960, drew significant influence from the American model. This influence is evident in the 1979 and 1999 constitutions, which institutionalized legislative checks and balances, especially in the context of impeachment.

Despite these legal frameworks, Nigeria's political environment has often affected how impeachment is implemented. In certain instances, it has been wielded as a political instrument to settle internal disputes or exert control, rather than being based on genuine allegations of misconduct. To commence the process at the federal level, a motion supported by a least one-third of members of National Assembly must be submitted<sup>20</sup>. A panel, usually appointed by the Chief Justice of Nigeria, is tasked with reviewing the claims. Their findings are then presented to the Assembly, which votes on whether the case should proceed. If the required majority supports the motion, a joint session is convened for the final decision. At the state level, a similar structure is used, with the State House of Assembly playing a leading role. A two-thirds majority is necessary to formally remove the officeholder. Neither Section 143 nor 188 of the Constitution provides a clear definition of "gross misconduct" leaving the term open to interpretation. Nigerian courts have ruled that such grounds may include severe constitutional violations, misuse of public office, or actions that infringe upon citizen's rights. This lack of precise terminology grants the legislature considerable interpretative authority, which, while flexible, can also make the process vulnerable to partisan abuse. Section 143(1)<sup>21</sup> stipulates that the President or Vice President can be removed from office in accordance with that section's provisions. Subsection 2 specifies that an impeachment process begins with a written notice of allegations, endorsed by no fewer than one-third of National Assembly members and presented to the President of the Senate.

When an allegation is made that the President or Vice President has committed gross misconduct in carrying out their official duties, with specific details provided, the Senate President is required, within seven days of receiving such notice, to distribute a copy to the officeholder concerned and to all members of the National Assembly. The procedure outlined in Section 188<sup>22</sup> for removing a Governor or Deputy Governor closely mirrors, in substance and application, the constitutional process established for impeaching the President or Vice President. Impeachment in Nigeria traces its roots to the Second Republic when Alhaji Balarabe Musa, then Governor of Kaduna State under the People's Redemption Party (PRP), was removed by a legislature dominated by the opposing National Party of Nigeria (NPN)<sup>23</sup>. Though the official charge was gross misconduct, the action was largely seen as a political strategy by the majority legislators to assert authority over a minority-party governor. Since the beginning of the Fourth Republic in 1999, several Governors and

Deputy Governors have faced impeachment, often under questionable circumstances. The process has frequently been misused to resolve personal and political disputes, especially between political patrons and their proteges. A notable case occurred in Anambra State in 2004 when Chief Titus Ubah, a political influencer, allegedly attempted to orchestrate the impeachment of Governor Dr Chris Ngige after the latter reportedly declined to allocate state funds as previously agreed. Though unsuccessful, the effort nearly paralyzed governance in the state.<sup>24</sup>

In contrast to failed attempts, the impeachment of some governors such as D.S.P. Alamieyeseigha of Bayelsa, Rashidi Ladoja of Oyo, Joshua Dariye of Plateau, and Ayo Fayose of Ekiti were successful. While official reasons included allegations of gross misconduct and corruption, the underlying causes were often political. For instance, Ladoja's removal was linked to his refusal to endorse President Obasanjo's third-term ambition, while Fayose's impeachment stemmed from ideological differences with the same president. When the legislature removed both Fayose and his deputy, the president responded by invoking Section 305 of the constitution to dissolve the state's democratic institutions.<sup>25</sup> Impeachment data in Nigeria reveal that deputy governors have been the most frequent targets. This trend is often driven by succession politics—deputies expressing interest in gubernatorial seats clash with governors who favor other successors. Notable impeachments of deputy governors include Chief Mrs Bucknor Akerele and Chief Pedro (Lagos), Dr Nwafor and Chief Chris Akomas (Abia), Mr Sani Abubakar (Taraba), Peremobowei Ebebi (Bayelsa), Sunday Onyebuchi (Enugu), Simon Achuba (Kogi), and Philip Shaibu (Edo).<sup>26</sup> Simon Achuba's case is particularly controversial. Although a seven-member panel cleared him of all allegations, the Kogi State House of Assembly proceeded to remove him, allegedly at Governor Bello's behest. This act contradicted Section 188 (8) of the Constitution, which clearly states that if allegations are not substantiated, the process should end. Ironically, the Chief Judge who empaneled the investigating committee later swore in a new deputy governor, disregarding the panel's not-guilty verdict. Overall, impeachment processes in Nigeria are rarely about genuine administrative failings. They are predominantly driven by political motives. Notably, Sections 143(10) and 188(10) of the Constitution shield impeachment proceedings from judicial review—unless there is a procedural flaw or if the accused is acquitted.

### **Policy Recommendations**

To address the persistent misuse of impeachment procedures in Nigeria, it is essential to confront the underlying issues—chief among them being the influence of political godfatherism. In many cases, politics is treated as a transactional affair, where influential elites sponsor candidates not for public good but to serve personal interests. A shift toward transformational leadership, driven by service rather than self-interest, is urgently needed. Moreover, the legislative arm currently holds unchecked discretion in determining what qualifies as "gross misconduct", making the process highly subjective. This ambiguity in Sections 188(11) and 143(11) of the 1999 Constitution calls for a constitutional amendment that clearly defines and outlines the criteria for impeachment. For better governance, politics must be service-centered. One proposal is to restructure the legislature into a part-time institution, functioning only when necessary. Alternatively, its independence must be reinforced to prevent it from being reduced to a mere extension of the executive branch. When lawmakers act as rubber stamps, democratic values are undermined, giving rise to impunity and political instability.

## **Conclusion**

In the United States, impeachment at the federal level is carried out by a bicameral legislature - comprising the House of Representatives and the Senate. The House initiates the impeachment process, while the Senate conducts the trial by evaluating evidence and hearing witness testimonies. A two-third majority vote in the Senate is required to convict and remove the official from office. Otherwise, the official is acquitted and remains in position, as seen in cases of Presidents Andrew Johnson, Bill Clinton, and Donald Trump<sup>27</sup>. This process is mirrored in many States in USA due to their bicameral legislative systems. Conversely, in Nigeria, impeachment proceedings have only been applied to Governors and Deputy Governors, with no Nigerian President or Vice President ever removed through this process. Although Nigeria's procedure includes judicial involvement - particularly the formation of a seven-member investigative panel - the State Houses of Assembly often bypass the spirit of due process by acting simultaneously as accuser, judge, and enforcer. A notable example is the removal of Deputy Governor Simon Achuba, who was impeached despite the panel clearing him of all allegations. Even when the judiciary eventually overturns such actions, the purpose of the impeachment—removing the officeholder - would already have been accomplished, rendering legal redress ineffective due to the passage of time

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