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COMPARATIVE ANALYSIS OF PRESIDENTIAL IMPEACHMENT IN NIGERIA AND THE UNITED STATES OF AMERICA

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Abstract

The concept of impeachment is a process that originated from Great Britain and found its way into the colonies of Britain and several states constitution. The subject of impeachment has become a controversial issue since the return of democratic rule to Nigeria in 1999. The subjective interpretation of the impeachment clause in the constitution is a recipe for constitutional crises. The objective of the study is to understand the nature of impeachment as a concept and as it is operated in Nigeria and the United States of America. The constitutional provision of impeachment is to demonstrate that no one is above justice no matter how highly placed. The neo-institutional theory is adopted as the theoretical framework and the paper used the case study method of research and utilised content analysis method to analyse the data obtained for this research endeavour. The similarities and differences of the powers of impeachment between the Nigeria Legislature and United States Congress were established. This paper found that impeachment is the constitution's final answer to a president who mistakes himself for a monarch. This paper concludes that impeachment occurs and fails because of political conflict, partisan politics, and elites' struggle. This paper among other things recommends for the amendment of the constitutions to include detailed and precise definitions of impeachable offenses.

Key Words: Presidential Impeachment; Legislature; Constitution; Senate

Introduction

To understand the concept of impeachment, it will be interesting to look at the origination of the practice. Impeachment is a process that originated from Great Britain where the House of Commons could impeach. They would vote on articles of impeachment and appoint managers who would then go and argue before the House of Lords. This was how British citizens who committed crimes were tried and if found guilty, will be punished. It was the same criminal trial held in Parliament through the House of Commons impeaching and the House of the Lord

trying the impeachment. The Parliament had judicial power, as the House of Lords was the highest court in the land. As highlighted by Saikrishna Prakash in an interview with the University of Virginia School of Law: "the king's bench or court was not used in this trial process rather it was the House of Common. This process was the pattern that found its way into the colonies of Britain and several state constitutions" (Schwartzman, 2019). This is what is practiced today in Democratic government.

When the constitutional convention was held in Philadelphia in 1787, the framers of the US constitution decided to create two chambers, the

House of Representatives and the Senate. They also created impeachment with changes that those to be impeached and removed or rather impeached and tried should be the officers of the United States as opposed to criminal elements in the society. You can be impeached by the House or convicted by the Senate. The punishment for impeachment was reduced to only removal from office and disqualification from holding future public offices.

As can be seen, the concept of impeachment and the standard of High Crimes and Misdemeanours in the US Federal Constitution originate from English colonialist and early state practices. The Nigerian Presidential System is patterned after that of the US in the 1979 constitutional development popularly known as the Washington model. The 1999 Constitution of the Federal Republic of Nigeria as amended is a progeny of the United States constitution of 1790 as amended (Gwaza, 2013). This is how Nigeria got similar constitutional provisions to that of its counterpart, the United States of America.

Statement of the Problem

The subject of impeachment has been a controversial issue since the return of democratic rule to Nigeria in 1999. The subjective interpretation of the meaning of gross misconduct by the legislature is a major reason for the subversion of the constitutional intent in the use of the instrument of impeachment in Nigeria.

The 1999 Constitution of the Federal Republic of Nigeria (CFRN) section 143 (11) states inter-alia that “gross misconduct” means a grave violation or breach of the provision of this constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct”.

Despite the effort of the framers of the constitution to protect Democracy and establish accountability, the use of language and lack of precise definition of impeachable offenses has caused constitutional problems. The subjective interpretation of the impeachment clause in the constitution has turned impeachment into a weapon of intimidation, political harassment, oppression, and witch-hunting of political opponents. There is hardly any impeachment of a Governor that is as a result of gross misconduct in the performance of the function of his office. All have been motivated by political gains (Arinze *et al.*, 2016).

The impeachment clause in the 1999 CFRN can be likened to a proverbial saying of giving a Child to a witch to protect; the predictable outcome is that the child will die. Except otherwise determined, politicians in Nigeria will continue to employ the instrument of impeachment to settle political scores.

The Objective of the Study

The objective of this study is, first, to explain the concept of impeachment and compare its applicability in Nigeria and the United States of America. The paper also seeks to analyse the similarities and differences between the two countries particularly that the two systems of government are alike in so many ways. Other objectives of this study include: understanding the means to remove a president, scope, and procedure. The objective is also to analyse the weaknesses of both Constitutions and the practices which bring some constitutional problems in the process of removing a president from the office.

Literature Review

Impeachment as a concept

Political liberty is to be found only where there is no abuse of power. But constant experience has shown that every man invested with power is liable to abuse it and carry his authority as far as it will go. In the light of this, a basis may be found as the reason why legislature around the world has been empowered to impeach or remove erring government functionaries (Arinze *et al.*, 2016).

Impeachment is a concept of a democratic government that separates it from other forms of government. The former US president, Abraham Lincoln in the 19th century defined Democracy as the government of the people, by the people, and for the people. Before the declaration of the United States of America's independence on July 4, 1776, the country was governed by a monarch, its former colonial master, Great Britain. The American Revolutionaries, who fought for secession from the British imperialism, justified their action by accusing the British King with a long list of power usurpations and abuses. Because of this, they became so fearful of a tyrannical chief executive that they initially, in the articles of Confederation, disbanded with the idea of executive's altogether in order to avoid autocratic rule.

Therefore, in May 1789 in Philadelphia, when the federation was being formed and the presidential system was to be established, the delegates agreed to tenure the office of the president and to be elected for a four-year term and the president of the United States should be liable to impeachment. In this circumstance, there is a total dissimilitude between the President and the king of Great Britain who is a hereditary monarch (Horst, 2020). Therefore, impeachment is a concept for the preservation and defence of democracy.

Presidents hold the ultimate public trust and are vested with powers so great that they frightened the framers of the nation's constitutions. In exchange, the president swears an oath to faithfully execute the laws that hold those powers in check. This oath is no formality. The framers foresaw that a faithless president could destroy the experiment in democracy. George Mason warned at the constitutional convention held in Philadelphia in 1787 and said: "if we do not provide against corruption, our government will soon be at an end." When politicians with corrupt motives and hidden agendas take office, they develop an insatiable appetite for power and contempt for checks and balances. This usually leads to acts of oppression, autocratic regime, and assault of free and fair elections.

A president that is faithful only to him will sell out democracy and national security for his aggrandisement, which is dangerous to his nation. Therefore, impeachment is the constitution's final answer to a democratically elected president who mistakes himself for a monarch (US House Committee on the Judiciary [HCJ], 2019).

The word "Impeachment" is derived from the Latin word 'impetere' (to attack) it expresses the idea of becoming caught or entrapped and has analogues in the modern French word 'empecher' (to prevent) and the English word 'Impede.' It has been used to challenge the integrity, honesty, and credibility of an individual especially a holder of public office (Gwaza, 2013). Impeachment connotes the practice and procedure by which politically elected persons are constitutionally removed from office by the legislature before the expiration of their tenure of office. It is the modality adopted by the legislative arm of government to bring an end or prematurely determine the tenure of a person's term of office

before its due expiration. It is the most powerful weapon in the hands of the legislature, which stands as a sword of Damocles over members of the legislature and the executives (Ozekhome, 2006).

Gerhardt (as cited in Arinze *et al.*, 2016) a commentator and a witness in the former US President Bill Clinton's impeachment proceeding said "impeachment can be defined in modern and operational meaning as an inherently political process designed to expose and remedy to political crises, subject to neither the judicial nor the presidential veto." Impeachment is a strong constitutional requirement that is meant to guide the right conduct of public office holders and to remind them that there will be consequences in case of abuse of office by any government functionary.

Furthermore: impeachment is a very serious weapon of destruction that destroys its given victim(s) completely. In highly sophisticated and advanced democracies of the world, especially in the United States of America where we copied, the weapon of impeachment is hardly mentioned let alone used abusively because of its damaging potency. It is only employed in extreme cases where alternative ways do not exist. for example, the vote of censure or vote of no confidence. Thus, impeachment as a constitutional process is not designed as a weapon of political harassment or witch-hunting of a President or a Governor (Gwaza, 2013).

The way and manner impeachment processes are carried out in Nigeria and the United States of America leaves much to be desired. The issue here is not the impeachment per se but the how; the process that leads to it. Impeachment concept is at the centre of the American Revolution and the American Republic. The reason for the tenure of office of the American President and Judges is to avoid perpetuity of any political figure in the office, in fear of a despot as the case was with the monarch.

The word Legislature is derived from the Latin word for "law" legis. It is the law-making organ of a substantial government in a State. It is a government organisation composed of one or more houses. It is essentially a law-making institution that is vested with the powers to enact, amend and repeal laws. It is the number one institution in a democratic government (Gwaza, 2013).

Powers of Impeachment Under the 1999 Constitution

The 1999 constitution of the Federal Republic of Nigeria as amended (CFRN) provides in section 4(1) that the legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly of the Federation which shall consist of a Senate and a House of Representative. Section 4(2) – The National Assembly shall have powers to make laws for the peace, order, and good government of the federation or any part thereof concerning any matter included in the exclusive list set on part 1 of the second schedule to this constitution.

The Nigerian constitution also provides very clearly for the impeachment of the President. Section 146 provides *inter alia*; the Vice President shall hold the office of the President if the office of the President becomes vacant because of death or resignation, impeachment, permanent incapacity, or removal of the President from office for any other reason in accordance with section 143 or 144 of this constitution. National Assembly has the constitutional power of impeachment. Specifically, section 143 of the 1999 constitution as noted above provides the procedure for the impeachment of the President and his Vice. Section 143(1) – (9) respectively provides that: when a notice of allegation against a holder of the office of the President or Vice President in writing by not less than one-third of the members of the National Assembly is presented to the Senate President, stating that the holder of such office is guilty of gross misconduct in the performance of the function of that office with detailed particulars of which shall be specified, then the Senate President shall within seven days give a copy to the occupant of the office, and also copy all members of the National Assembly copies of the allegation and replies made therein.

Thereafter, each chamber of the National assembly shall resolve by a motion of not less than two-thirds of the majority of all members within fourteen (14) days of the receipt of an allegation, whether to investigate the allegation or not. Within seven (7) days of passing of a motion, the senate president shall then request the Chief Justice of Nigeria, to constitute a panel of seven bipartisan persons who in his opinion are of unquestionable

integrity, who are not members of any public service or legislative house to investigate the allegation. The power and function of the panel will be by such procedure as prescribed by the National Assembly. The panel shall within three (3) months of its appointment report its findings to both the Senate and House of Representatives (CFRN, 1999).

The National assembly shall proceed to consider the report if the allegation is proved. Where the allegation is not proved, the proceeding ends there. Where the panel returned a proved verdict, each chamber shall consider the report and if by resolution of two-third majority of all members of each house adopts the report, then the holder of office stands removed. The reason for the impeachment of the president is provided in section 143(11) to be Gross Misconduct, which means “a great violation or breach of the provisions of this constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct. It is worthy of note at this juncture to say that the 1999 Constitution of the Federal Republic of Nigeria is a descendant of the United States of America’s constitution of 1790 as amended (Gwaza, 2013).

Powers of Impeachment in the United States of America

Article I, Section 1 of the U.S. Constitution provides that, “Legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.” It further provides for instance for the exercise of US legislative powers by the Congress to include among others impeachment, where it vested in the House of Representatives the power to impeach. The Constitution also provides in Article I, Sections 2, cl. (5) (which read in part) that, the House of Representatives shall choose their speaker and other officers and shall have the sole power of impeachment.

An impeachment process is initiated by a written accusation known as “Articles of impeachment” which states the offenses charged against the president or Vice President. When the House of Representatives determines that grounds for impeachment exist, they vote to impeach when it adopts an impeachment resolution and accompanied with the articles of impeachment. They are presented

to the Senate. Any one of the articles may provide a sufficient basis for impeachment.

The Senate shall have the sole power to try all impeachments. As it is with the case in the U.S., the power to impeach lies with the House of Representatives whereas the power to remove lies with the Senate.

Dakas (2010, as cited in Gwaza, 2013) notes that:

Indeed, in American constitutional jurisprudence, impeachment is not synonymous with removal from office. The former is merely a prelude to the latter. Instead, the US House of Representatives in the case of prescribed Federal Official effects an impeachment while the Senate decides whether to remove the impeached public functionary from office.

Article I, Section 3, cl. 6 of the US Constitution provides that: The Senate shall have the sole power to try all impeachments. The Senate then conducts a trial on the articles of impeachments and either convicts the President by two-third majority vote or acquits the President.

When sitting for this purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment in the case of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of Honour, Trust or Profit under the United States; but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment according to the law (U.S. Const. art I, § 3, cl. 7).

With the impeachment powers of the Congress, the legislature is performing a judicial function. The fact that the Supreme Court participates in the impeachment process of the President as the Chief Justice presides over the trial in the Senate. The Senate is wielding judicial power regarding the impeachment of the President. Therefore, there has to be an offense for which the House of Representatives and the Senate can render their judgment.

The US constitution provides that, “the President, Vice President and all civil Officers of the United States, shall be removed from office on impeachment for and convicted of ‘treason, bribery or other high crimes and misdemeanours’” (U.S. Const. art II, § 4).

The Purpose of Impeachment

What is the constitutional intent for the instrumentality of impeachment? The constitutional provision of impeachment is to demonstrate that no one, no matter how highly placed politically is above justice. Therefore, the authority of the legislature to impeach or remove a President for egregious misconduct is a testament to that fact. It is a constitutional remedy to offenses against the system of government. In the United States of America, the framers of the constitution at Independence were determined to make a distinction between an elected President and a Monarch. In the sense that, the President of the United States will be answerable personally to the Congress and thus the nation if he engaged in serious wrong doing.

Hamilton (as cited in HCJ, 2019) explained that:

The President would have no more resemblance to the British King than to the “Grand Seignior, to the Khan of Tartary, (or) to the Man of the Seven Mountains.” Whereas the person of the King of Britain is sacred and inviolable, the President of the United States could be impeached, tried, and upon conviction, removed from the office. The ultimate goal of impeachment in the US is the removal of the President by the Senate from office. It is the loss of political power. This is the nature of Impeachment, it exists not to inflict punishment to past wrongdoing, but rather to save the country from misconduct that endangers Democracy and the Rule of Law.

He is however prevented from holding any political office in the future (U.S. Const. art I, § 3, cl. 7). It is the US first step in a remedial process the removal from public office and possible disqualification from holding further office. It is not a personal punishment; rather its primary function is to maintain a constitutional government.

However, in Nigeria, the President or any other impeached political office holder can still seek re-election. Another reason to note for the constitutional provision of impeachment is to establish the Cardinal Principle of the Doctrine of Separation of Power and Checks and Balances of the three arms of government between the Legislature, Executive, and Judiciary. The constitutional powers of impeachment by the Legislature are its role to check the Executives and hold the President accountable in the discharge of the duties of his office. It must also be noted at this juncture that in the US, apart from the President, Congress also has impeachment powers over the Judiciary. Article II, Section 4 of the U.S constitution provides that the President, Vice-President, and all Civil Officers of the United States shall be removed from office on impeachment for any conviction of treason, bribery, or other high crimes and misdemeanours.

Out of the 19 successful impeachment trials in the US Presidential System for over 300 years, 17 of those were Judges while only 2 were Presidents. However, the two Presidents' impeachments fell short of being removed, so they stayed and finished their terms in office. In Nigeria, no President has been successfully impeached; all the attempts had fallen short.

Theoretical framework

This paper uses the neo-institutional theory to explain the foundation of his argument. The Neo-institutional theory has been a theoretical framework for the study of parliament in the 21st century. This change in the analytical study of parliament occurred at the end of the 20th century based on two main perspectives. First is the neo-institutional approach which considers institutions as determinants of the decision-making process. The second is the rational choice approach that considers mainly the dynamics of parliamentary actors individually and collectively. Both of them conflate into the rational choice institutionalism (Sanchez, 2014).

This theory is the advanced concept of the institutional theory, which sees institutions as the sole determinant of policy outcome in government institutions (Cheibub, 2007). Neo institutionalism implies a commitment to institutional rules and explanations of political behaviour. It also presumes

that institutions themselves can be explained in terms of goal-oriented human behaviour (Strom, 1996). This analysis helps to improve understanding of the process that translates political actions into institutional change and other factors that can be responsible for a policy outcome. Neo-institutionalism is a more encompassing theory as it not only analyses institution as the sole determinant of the outcome of policy in a government institution but also acknowledges the political behaviour of the actors in such institution like the Legislature.

The Neo-institutional theory is most appropriate and suitable for this study as both the institutional and human behaviour can be seen at play all at the same time in the process of impeachment. The political behaviour of the parliamentarians can be clearly seen in the manipulation of the constitutional provision of the impeachment clause to suite their political interest. While institution, in this case the legislature determines the decision making process, human behaviour in such institution influences the policy outcomes as well and should be considered as key element in the study and function of the institution.

Methodology

This paper adopts the case study methods of scientific research. This work is a case study of the Presidential impeachment in Nigeria and the United States of America. A case studies in the words of Robbins (2001) "is a thorough description, rich in details about an individual, a group or an organisation" (p. 597). Because of this, a detailed study of the impeachment processes in the US Congress and Nigeria's National Assembly has been described and a rich analysis made to determine the outcome of this research paper.

In this process, a lot of records and documents were reviewed and analysed from secondary sources.

Method of Data Analysis

Content Analysis

This paper utilises the content analysis method of research to analyse the data obtained. This is the method of analysis that analyses the manifest and latent content of a body of communicated material through a classification, tabulation, and evaluation of

its key symbols and themes in order to ascertain its meaning and probable effect. Content analysis is beyond the reading and understanding of books but the researcher's ability to bring out or make manifest the latent, in-between line content of communication or a book.

Kerlinger (1964) defines content analysis as "a method of studying and analysing communications in a systematic, objective and quantitative manner for the purpose of measuring variables." (p. 544). It is the method of analysis where the investigator takes the communication that people have produced and asks questions about the communications.

Result, Discussion and Findings

Impeachment as a process of removing erring political leaders from office is an instrument that is not expected in any government to be used frequently. When faced with credible evidence of extraordinary facts of wrongdoing by the president or

vice president, it is incumbent on the Legislature as part of their constitutional duties to investigate and determine whether impeachment is appropriate. Impeachment is the constitution's final answer to an elected president who mistakes himself for a monarch. A President can be impeached as provided by the CFRN section 143(1) – (9) when a notice of allegation against the holders of the office of the President or Vice President is written by not less than one-third of members of the National Assembly (NASS) is presented by the Senate President stating that the holder of such office is guilty of gross misconduct in the performance of the function of that office, detailed particulars of which shall be specified. This is the case with Nigeria.

In the US, a president can be removed from office if the House of Representatives approves articles of impeachment charging him with treason, bribery, or other high crimes and misdemeanours (U.S. Const. art I, § 2, cl. 5).

Table 1: Constitutional Provision on Impeachment between the United States and Nigeria

Reason	US Congress	Nigerian NASS
<i>Impeachment</i>	The House of Representatives "has the sole power of impeachment" (U.S. Const. art I, § 2, cl. 5). The Senate has the "sole power to try all impeachments" and remove the president from office if found guilty. (U.S Const. art I, § 3, cl. 6)	Whenever a notice of any allegation in writing is signed by not less than one-third of members of the National Assembly (Section 143(2) CFRN) When the report of the judicial panel is returned as proved against the holder of the office, the President, by two-third resolution of NASS, the officeholder is removed from office (Section 143 (9) CFRN).
<i>Why Impeachment</i>	"When the US President or Vice President while in office has committed an offense such as treason, bribery or any other crimes and misdemeanours" (U.S Const. art II, § 4).	When the President or Vice President is guilty of misconduct in the performance of the functions of his office, detailed particulars of which shall be specified (Section 143(2b) of 1999 CFRN).
<i>What Does Impeachment Mean?</i>	In the US, impeachment is the process of investigating, indicting, and establishing an impeachable offense by the House of Representatives. In American constitutional jurisprudence, impeachment is not synonymous with removal from office. The former is merely a prelude to the later	In Nigeria, impeachment is the removal from office of the holder of public office by the National Assembly by two-third of the majority of members of both House of Representatives and Senate when the allegation of gross misconduct is proved against the holder of such office.

Source: Field evidence

Method of Impeachment between the United States of America and Nigeria

Comparative Method of Impeachment

The United States



The Announcement

The House of Representative announces the beginning of impeachment investigation



The Inquiry

The House establishes the grounds for impeachment as provided in the US Const. art II § 4



Articles of Impeachment

If there exist grounds for impeachment, the House drafts and adopts the articles of impeachment



House Voting

Vote is taken on the articles of impeachment and a simple majority vote, leaves the



Senate Trial

A trial is conducted by the Senate on the Articles of Impeachment presided by the Chief Justice.



Senate Votes

A two-third majority vote by the Senate removes the President otherwise he is acquitted and the



Punishment if Convicted

Removal of the President from office and possible disqualification from holding public. There is no room to

Nigeria



The Notice

A written Notice of Allegation of Gross Misconduct against the President is presented to the Senate. The notice is signed by at least one-third of the National Assembly.



Serve Notice

The Senate President serves the President and each member of National assembly with a copy of the Notice of



The President Reply

The President's reply to the Notice is served to each member of the National assembly.



Motion to Investigate

Each house of the National Assembly will resolve by motion if the allegation should be investigated or not. A two-third majority votes passes the motion



Panel of Investigation

The Senate President requests the Chief Justice of Nigeria to set up a Seven (7) persons panel to investigate the allegation



Report of Finding

The report of the findings by the panel is presented to both house of National Assembly.



Result of Finding

The process ends if the panel did not prove the allegation but if the allegation is proved, both houses consider the report and a resolution for the adoption of the report is

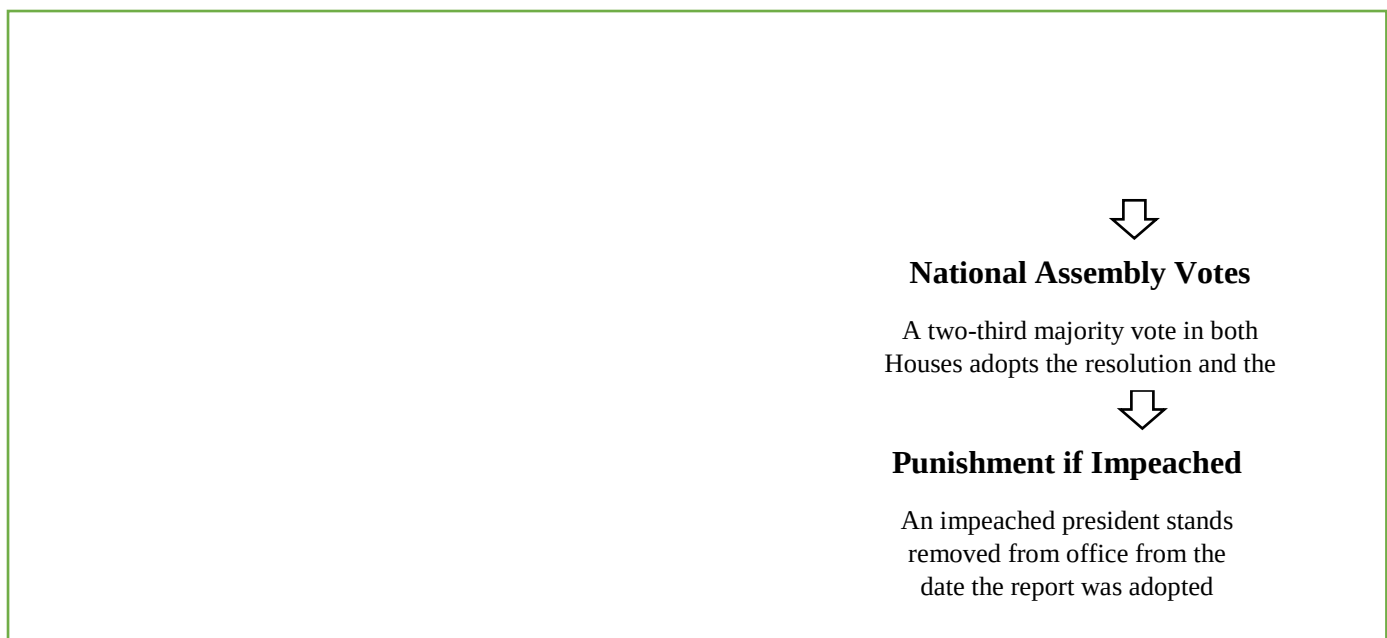


Figure 1: Method of Impeachment between the United States of America and Nigeria represented in a Process Diagram

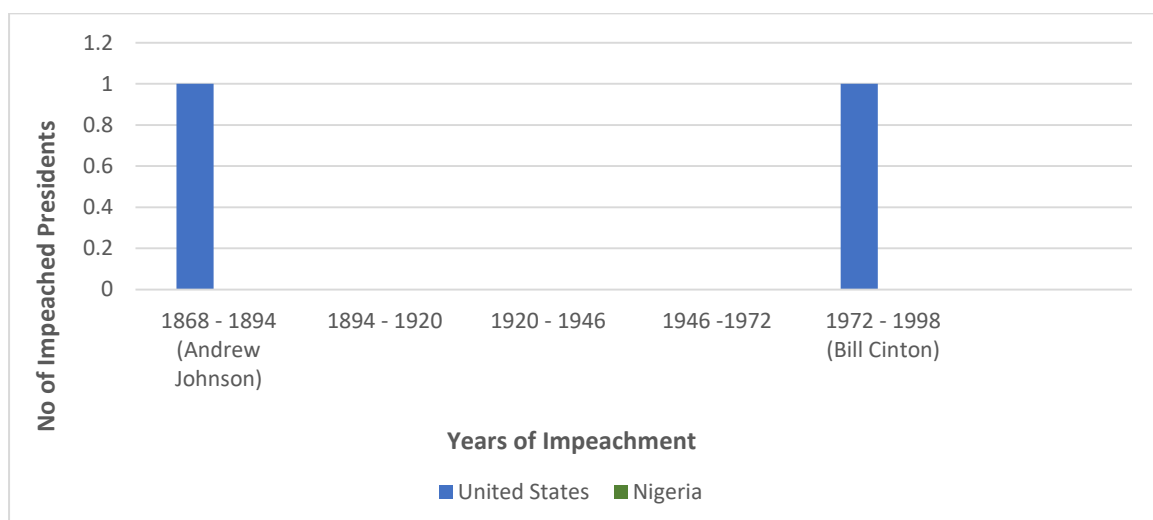


Figure 2: Records of Impeached Presidents in the United States & Nigeria from 1868 – 1998 represented in a double bar chart

Note: No president has been successfully impeached in Nigeria from 1960 till date which explains why the record for Nigeria on the chart is 0, hence non visibility of the green colour representing Nigeria on the chart. The United States on the other hand have had two impeached Presidents, Andrew Johnson (1868) and Bill Clinton (1998) represented by the blue bar on the chart.

Similarities of Impeachment in Nigeria and the United States Legislature

The constitutional powers of impeachments are vested in the Legislature of both the United States Congress and the Nigerian National Assembly as part of the Cardinal Democratic Principles of Checks and

Balances which the two sacred documents enshrined. The National Assembly and the US Congress both provide for a Bicameral Legislature consisting of the House of Representatives and Senates who have roles to play in the processes of impeachment of the President and Vice President respectively.

Both the US and the Nigerian Constitution provide for the resolution or vote by two-third majority of members of Legislature before the impeachment would be valid.

Similarly, in Nigeria and the United States' impeachment process, the Chief Justice of the Federation is involved.

Finally, an impeachment proceeding can only be initiated against holders of the office of President or Vice President in both US and Nigeria, when the case of gross misconduct or abuse of such office is established as defined by the respective constitutions to constitute an impeachable offense.

Differences in Impeachment in Nigeria and the United States' Legislature

As there are similarities between impeachment and removal of the President and Vice President in Nigeria and the United States of America, so are areas of differences.

As discussed earlier, in Nigeria, impeachment means removal from office of an indicted President or Vice President on the grounds of gross misconduct but in America impeachment is not synonymous with removal from office. For Example, Andrew Johnson was the first US President to be impeached by the House of Representatives in 1867 on the grounds that he had attempted to dismiss the Secretary of War, Edwin Stanton, and by rejecting the command of the Army Act and the Tenure of Office Act. However, President Andrew Johnson escaped removal from office by the Senate with one vote in May 1868 (Horst, 2020; Gwaza, 2013). Though he was impeached, he was not removed from office. This distinction is fundamental but there are other areas where differences exist as well.

The 1999 CFRN provides that the Senate President requests the Chief Justice of the Federation to constitute the panel of seven bipartisan persons to investigate the allegation of misconduct against the President or Vice President. On the other hand, the US constitution provides that the Chief Justice presides over the impeachment proceedings. This is because the President of the Senate is the Vice President of the nation who will not be expected to preside over an impeachment proceeding against his boss, the President, or for him to seat as a judge in his own case, where the Vice President is facing an impeachable trial.

Therefore, in the US the judiciary is directly involved in the impeachment proceedings with the Chief Justice presiding over the Senate while in Nigeria, the Judiciary is not directly involved in that sense.

Findings

Impeachment is the constitution's final answer to a President who mistakes himself for a Monarch. Being aware that power corrupts and absolute power corrupts absolutely, the framers of the constitution built other guardrails against that error. The constitution thus separates governmental powers, imposes an oath of faithful execution, prohibits profiting from office, and guarantees accountability through regular elections.

However, there was fear that someday, a corrupt executive might claim he could do anything he wanted as President. Determined to protect democracy, the framers built a safety valve into the constitution, which is that, a President can be removed from office if the House of Representatives approves the article of impeachment charging him with "treason, bribery or other high crimes and misdemeanours," and if two-thirds of the Senate vote to find him guilty of such misconduct after trial. Despite the intent of the framers of the constitution to protect democracy and establish accountability, the use of language and definition of impeachable offense has subjected the instrumentality of impeachment to controversy and has caused a constitutional crisis that has taken a completely new political dimension

Till date, there are conflicting opinions and questions arising as a result of the meaning of the term, "high crimes and misdemeanours" (Horst, 2020). The framers of the American constitution had followed a narrow view of impeachable offenses that was customary in English law at the time. The former US House Minority Leader, Gerald Ford in 1970 describes an impeachable offense as "whatever a majority of the House of Representatives considers it to be at a given moment in history" (Tribe and Matz, 2018). Therefore, this makes the interpretation of impeachable offenses in the United States subjective in interpretation which can be used to suit political interest rather than democracy or National interest.

The phrase "High crimes" excluded a series of lower crimes but where to draw the line. Was it necessary for a 'high crime' to be a crime at all or could it consist of actions that were not considered to be criminal in the first place (Horst, 2020). The issue of high crimes has been referred to by Hamilton and

the English practice to mean high public office from which the misconduct emanates. High crimes are political crimes exercised by public men and directed against the state or society. Since this is not constitutionally defined, it leaves it to chances and political manipulations thereby causing constitutional problems.

The impeachment of President Andrew Johnson in 1868 and Clinton in 1998 both ended with an acquittal. Both proceedings showed that impeachment is not only a judicial power exerted by the Congress to determine misdeeds of high public officials. It is, also, a political device of the majority party in the Congress to fight the political moves of the President, to hold him accountable, and achieve maximum gains for one's own political aims (Horst, 2020).

The 1999 Constitution of the Federal Republic of Nigeria (as amended), provides impeachable offense thus; section 143(11) "gross misconduct" means a grave violation or breach of the provisions of this constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct." This provision is highly subjective in interpretation. It gives a blank cheque to the National Assembly to determine what constitutes an impeachable offense. Your guess is as good as mine as it has created constitutional problems and abuse of power on the part of the Legislature. This discretionary power of the National Assembly creates loopholes to exploit and oppress political opponents. It is worrisome that in Nigeria, politicians employ the instrument of impeachment to settle political scores (Arinze *et al.*, 2016).

The Constitution of the Federal Republic of Nigeria is not explicit on the definition of what constitutes impeachable offenses but rather subjects its interpretation and meaning to the National Assembly. This makes it a recipe for constitutional problems and political grandstanding. In 2002, the former President of Nigeria, Olusegun Obasanjo was threatened with impeachment by the Umar Ghali Na'aba led House of Representatives. He was alleged to have committed impeachable offenses ranging from breach of the constitutional provision on fiscal issues, lack of transparency and accountability. The impeachment did not see the light of day because it was politically motivated. Since the return of

democratic rule to Nigeria in 1999, there has been hardly any impeachment of a Governor as a result of misconduct in the performance of the function of his office. All have been motivated for political gains.

Another case in point was the impeachment of the former Vice President; Atiku Abubakar by Obasanjo controlled National Assembly. Atiku Abubakar wanted to contest for the office of the President while his boss, the former President Olusegun Obasanjo wanted a third term in office. Atiku was suspended from his party, the People's Democratic Party (PDP), and consequently asked to vacate office. It was the judgment of the Supreme Court in favour of Atiku, having taken the case to court was what saved him from being removed from office (Arinze *et al.*, 2016).

The framers of the Nigerian and US constitutions in trying to prevent a democratically elected President from operation like a monarch and guard him from abuse of power and being corrupt introduced the impeachment clause. But in doing that they unknowingly open the door on the flip side for the legislators to abuse their power by providing impeachment clause using subjective language. Therefore; care must be taken that future constitution provisions are made in such a manner that it leaves no room for subjective interpretation to the law makers to exploit for personal political gains.

Certain words and phrases used in framing constitutional provision that might have other meanings should be given specific contextual interpretation and meaning to avoid constitutional crisis as has been witnessed so far. This is a good lesson to learn.

Conclusion

Impeachment occurs and fails because of political conflict, partisan politics, and divided government. Impeachment in Nigeria though a constitutional provision has become a weapon in the hands of political parties, the Executives, and the Legislative against perceived opponents especially when relationships go sour or another round of election is approaching. Sometimes in Nigeria a political Godfather (Political Godfathers are those who sponsor or influence the victory of a political candidate in an election.) who wields much influence in the political landscape may influence the

impeachment of a supposed rebellious Godson.

The reason for the impeachment by the US Congress and unsuccessful removal of the former Presidents Johnson and Clinton was because of political interference. In both cases, the opposition parties controlled both houses of the Congress. Both cases of impeachment failed because of the excessive partisan instrumentalisation of the impeachment process.

So, impeachment is a political weapon and in Nigeria particularly it is used for intimidation, political harassment, and oppression, witch-hunting and elite' struggles. Furthermore: The Nigerian National Assembly and the United States Congress must bear in mind that the development of the impeachment clause by the framers of the constitution was meant to check abuse of power and tyrannical tendency in an executive president. Such provisional intent should therefore not be abused by them who are to provide checks and balance to the executive.

The objective of this study is, first, to explain the concept of impeachment and compare its applicability in Nigeria and the United States of America. The paper also seeks to analyse the similarities and differences between the two countries particularly that the two systems of government are alike in so many ways. Other objectives of this study include: understanding the means to remove a president, scope, and procedure; the objective is also to analyse the weaknesses of both Constitutions and the practices which bring some constitutional problems in the process of removing a president from the office.

Recommendations

First of all; the United States and Nigeria's Constitution has to be amended to include detailed

and precise definitions of all impeachable offenses against the President and Vice President. Languages and definition of terms that will be subjective in meaning should be clearly avoided.

Secondly, the intentions of the framers of the constitution by creating that the president can be impeached subject to abuse of office must be the primary intention for invoking such constitutional provision and should be followed by the legislature to the letter.

Thirdly, partisanship should be discouraged as an inducement in the use of impeachment, and should also be made to constitute abuse of power on the part of the Legislature. Impeachment should only apply in an obvious case of abuse of power and serious constitutional offenses to protect democracy and the government.

Fourthly, since the Nigerian presidential system is patterned after the American system (Washington model) adopted in 1979, it is advisable that Nigeria should copy well both the spirit and practice of the American constitutional intent.

Fifthly, the abuse of impeachment powers on the part of the legislature and the parochial interpretation of the impeachment clause against the intent of the framers of the constitution should be made to constitute an abuse of legislative power and should attract penalty.

Finally; Care must be taken that future constitutional provisions are made in such a manner that it leaves no room for subjective interpretation to the law makers to exploit for personal political gains. Certain words and phrases used in framing constitutional provision that might have other meanings should be given specific contextual interpretation and meaning to avoid constitutional loopholes or crisis.

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