

**AN ASSESSMENT OF THE PROCEDURE AND IMPACT OF IMPEACHMENT OF THE
PRESIDENT AND GOVERNORS UNDER THE CONSTITUTION OF FEDERAL
REPUBLIC OF NIGERIA 1999 (AS AMENDED)**

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**A LONG ESSAY SUBMITTED TO THE FACULTY OF LAW, GODFREY OKOYE
UNIVERSITY, UGWU-OMU NIKE, ENUGU**

**IN PARTIAL FULFILLMENT FOR THE AWARD OF THE DEGREE OF BACHELOR
OF LAWS (LL.B), GODFREY OKOYE UNIVERSITY**

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DECLARATION

I, **UDEGBUNAM PAMELA CHIDINMA**, with registration number **GOU/U21/LAW/394**, hereby affirms that this work was duly and diligently carried out by me in the Faculty of Law, Godfrey Okoye University, Enugu.

The primary and secondary sources used to carry out this legal research, are acknowledged appropriately and referenced herein, within this project. This work is an original and has not been submitted in part or in full for the award of any degree in this or any other University within and outside Nigeria.

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CERTIFICATION

I, **UDEGBUNAM PAMELA CHIDINMA** with registration number **U21/LAW/394**, hereby certify that this project research done by me, with the direct and diligent supervision of Dr. Onwa Ali Onwa has been approved by the administrative and academic staff of the Faculty of Law, Godfrey Okoye University, Enugu. To the extent that the requirements for Bachelor's degree in law (LL. B) are partially met.

Aside from the sources cited and recognized in this search project, this research work is an original work and has not been presented in part or in full, for any degree of this University or any other University.



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DEDICATION

I give all glory to God for the successful completion of this project. His boundless wisdom, talents, and guidance have sustained me through the challenges and triumphs of my academic journey.

ACKNOWLEDGEMENT

Firstly, all honour and glory be to God Almighty, who without his grace and guidance, I would not have been able to complete and publish this work. Thank you, Lord, for making this possible.

I appreciate and express my deepest gratitude to the my supervisor, Dr. Onwa Ali Onwa, who throughout this research has given me the push I needed, taking care not to cross the line into over bearing. Your thoughts and criticisms have added valuable content to my work. I am forever grateful.

Special thanks to the lecturers, the likes of Prof. B.O Okere, Dr. K.I Ajibo, Dr. Peter Aneke, Dr. Okika and all other lecturers in the Faculty of law, Godfrey Okoye University, Enugu State. You are a concrete unit that have never tolerated Machiavellian acts and I am forever grateful for that.

To my friends and well wishers, especially Martins C., Chisom Anyanwu, and Anthony Egwu who provided me with the material, emotional and financial support needed, and for their unending encouragement that all these shall be a success, I say thank you, men and women of valour.

I will not fail to acknowledge with great joy and appreciation, a great and wonderful person in my life, My dad, Chief Uzo Udegbumam and My mom Dr. Mrs. Uzo-Udegbumam Chioma, whom if not by his consent and support, I would not be publishing this work. Thank you for always pushing me to be best I can be and allowing me to face my obstacles. My vocabulary is inadequate to express how grateful I am to you.

TABLE OF CONTENTS

Title Page.....	i
Declaration.....	ii
Approval Page.....	iii
Dedication.....	iv
Acknowledgement.....	v
Table of Contents.....	vi
Table of Statutes, Treaties and Other International Instruments.....	vii
Table of Cases.....	viii
List of Abbreviations.....	ix
Abstract.....	x

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study.....	1
1.2 Statement of the Problem	4
1.3 Research Questions	5
1.4 Aim and Objectives	5
1.5 Significance of Research	6
1.6 Scope of the Study	7
1.7 Research Methodology	7
1.8 Limitations of the Study	8
1.9 Literature Review	8

CHAPTER TWO: CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework	12
2.1.1 Meaning of Impeachment	12
2.1.2 Distinction Between Impeachment and Other Removal Mechanisms	13
2.1.3 Impeachment and Constitutional Violations	14
2.2 Theoretical Framework	17
2.2.1 Historical Development of Impeachment in Nigeria	18

2.2.2 Doctrine of Separation of Powers	19
2.2.3 Doctrine of Checks and Balances	20
2.2.3.1 Analysis of the Principle in Key Constitutional Cases	21
2.2.3.2 The Rationale Behind Impeachment	22
2.2.4 Effects of Impeachment	23
2.2.5 Evasive Tactics by Executives	23
2.2.5.1 Political Maneuvering	25
2.2.5.2 Insertion of Immunity Clauses	26
2.2.6 Advantages of Impeachment	27
2.2.7 Disadvantages of Impeachment	28

CHAPTER THREE: LEGAL AND INSTITUTIONAL FRAMEWORK ON IMPEACHMENT IN NIGERIA

3.1 Legal Framework: Sections 143, 144 and 188 of the Constitution	29
3.1.1 Institutional Framework	31
3.1.2 Establishment of the National and State Assemblies	35
3.2.1 Functions and Duties of the National and State Assemblies in Impeachment Proceedings	35
3.2.2 Modern View of the Scope and Application of Impeachment and its Effects on Nigerian Governance	36

CHAPTER FOUR: CHALLENGES, ISSUES AND REFORMS OF IMPEACHMENT IN NIGERIA

4.1 Who Can Initiate Impeachment Proceedings?	39
4.2 Impeachment Procedure in the United Kingdom	41
4.3 Impeachment Procedure in the United States of America	42
4.4 Impeachment Procedure in Kenya	43

CHAPTER FIVE: SUMMARY, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings	46
5.2 Recommendations.....	51

5.3 Conclusion.....	57
Bibliography.....	60

LIST OF STATUTES, TREATIES AND OTHER INTERNATIONAL INSTRUMENTS

Constitution of the Federal Republic of Nigeria 1999 (as amended)...	2, 3, 4, 5, 6, 8, 9, 16, 17, 18, 19, 20, 21, 22, 24, 26, 27, 28
Constitution of the Federal Republic of Nigeria 1979.....	3, 25, 26
Constitution of the Federal Republic of Nigeria 1963.....	2, 25
Constitution of the Federal Republic of Nigeria 1989.....	25
Constitution of the United States of America 1787.....	18
Constitution of Kenya 2010.....	55
Constitution of the Republic of South Africa 1996.....	56
African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004.....	58
Electoral Act 2022.....	75
Legal Aid Act 2011.....	34
Whistleblower Protection Act 2017.....	67
Local Government Laws applicable in various States of Nigeria.....	80
.	

LIST OF CASES

Adegbenro v Akintola [1963] All NLR 305.....	27
Balarabe Musa v Kaduna State House of Assembly (1981) 2 NCLR 763.....	25
Dapianlong v Dariye (2007) 8 NWLR (Pt.1036) 239.....	9, 23, 26
Inakoju v Adeleke (2007) 4 NWLR (Pt.1025) 423.....	7, 22, 26
Ladoja v INEC (2007) 12 NWLR (Pt.1047) 115.....	5
Military Governor of Lagos State v Ojukwu (1986) 1 NWLR (Pt.18) 621.....	45
Obi v Anambra State House of Assembly (2007) 7 NWLR (Pt.1032) 218.....	4, 21
Nyako v Adamawa State House of Assembly & Ors (2016) 18 NWLR (Pt.1541) 1.....	5, 23
Onyebuchi v Enugu State House of Assembly (2015).....	47
Attorney-General of the Federation v Attorney-General of Abia State (2001) 11 NWLR (Pt.725) 689.....	67
Attorney-General of Bendel State v Attorney-General of the Federation (1981) 10 SC 1.....	68
Attorney-General of Lagos State v Attorney-General of the Federation (2004) 18 NWLR (Pt.904) 1.....	40, 31
Fawehinmi v Babangida (2003) 3 NWLR (Pt.808) 604.....	32
Marwa v Nyako (2012) 6 NWLR (Pt.1296) 199.....	45
Abaribe v Abia State House of Assembly (unreported).....	35
Musa v Kaduna State House of Assembly (1982) NCLR 763.....	72
Amaechi v INEC (2008) 5 NWLR (Pt.1080) 227.....	39
Attorney-General of the Federation v Atiku Abubakar (2007) 10 NWLR (Pt.1041) 1.....	40
Foreign Cases	
R v Lord Melville (1806) 29 How St Tr 683.....	53

Nixon v United States, 506 U.S. 224 (1993).....	40, 54
Powell v McCormack, 395 U.S. 486 (1969).....	51
United States v Nixon, 418 U.S. 683 (1974).....	63
Clinton v Jones, 520 U.S. 681 (1997).....	54

LIST OF ABBREVIATIONS

ACHPR – African Charter on Human and Peoples' Rights

A-G – Attorney-General

A-GF – Attorney-General of the Federation

A-GS – Attorney-General of a State

All NLR – All Nigeria Law Reports

ANPP – All Nigeria Peoples Party

Cap – Chapter

CFRN – Constitution of the Federal Republic of Nigeria

CJN – Chief Justice of Nigeria

EFCC – Economic and Financial Crimes Commission

ed. – Edition/Editor

et al. – And Others

FRN – Federal Republic of Nigeria

HC – High Court

Hon. – Honourable

ICG – International Crisis Group

INEC – Independent National Electoral Commission

IPU – Inter-Parliamentary Union

JCA – Justice of the Court of Appeal

JSC – Justice of the Supreme Court

LFN – Laws of the Federation of Nigeria

Ltd. – Limited

NBA – Nigerian Bar Association

NCLR – Nigerian Constitutional Law Reports

NDI – National Democratic Institute

NILR – Nigerian Law Reports

NJCL – Nigerian Journal of Constitutional Law

NLR – Nigerian Law Reports

NMLR – Nigerian Monthly Law Reports

NNPC – Nigerian National Petroleum Company

No. – Number

NWLR – Nigerian Weekly Law Reports

OJLS – Oxford Journal of Legal Studies

p. – Page

pp. – Pages

Pt. – Part

Q.B. – Queen's Bench

S. – Section

SC – Supreme Court

SCNLR – Supreme Court of Nigeria Law Reports
SCC – Supreme Court Cases
SSRN – Social Science Research Network
U.K. – United Kingdom
U.S.A. – United States of America
UN – United Nations
Vol. – Volume
WAPSR – West African Political Science Review
WLR – Weekly Law Reports
v. – Versus
ibid. – Ibidem (in the same place)
id. – Idem (the same author)
op. cit. – Opere Citato (in the work cited)
loc. cit. – Loco Citato (in the place cited)
supra – Above
infra – Below
cf. – Compare
viz. – Namely
e.g. – For Example
i.e. – That Is
n.d. – No Date
n.p. – No Page
n. – Note
LL.B – Bachelor of Laws
LL.M – Master of Laws
Ph.D. – Doctor of Philosophy
UKSC – United Kingdom Supreme Court
USSC – United States Supreme Court

ABSTRACT

This study investigates the legal, institutional, and practical aspects of the law and procedure of impeachment of the President and Governors in Nigeria between 1999 and 2025. Impeachment is a constitutional provision in Nigeria, having been enshrined in Sections 143, 144, and 188 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). It is a constitutional process borrowed from English and American Constitutions aimed at checking the excesses of the executive arm of government and instituted to serve as a remedy for cases of gross misconduct or incapacitation of the President or a Governor of a state. The study investigated the practice of impeachment in some selected countries of the world to find out whether the concept of impeachment is still relevant in this modern era. The study also discovered that the impeachment process in Nigeria has been compromised by the godfathers. It is in the light of these findings that the study recommends the following: there is need for constitutional amendment to explicitly define the concept of “gross misconduct”. This will prevent its abuses by the ruling party. The study concluded that impeachment is a veritable instrument for checks on corrupt and tyrannical tendencies of elected political office holders in presidential system of government.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Impeachment is one of the constitutional mechanisms or processes aimed at promoting good governance in any presidential system of government. The process is aimed at forestalling tyranny and dictatorship. It is a process or procedure for removing elected political office holders like the President or his deputy and a Governor or his deputy for acts of gross misconduct.¹ The constitution of Nigeria has made elaborate provisions for the impeachment process.² However, the constitution is not clear on what constitute “gross misconduct”.³ The concept is given different interpretations by different people. While some people in positions of authority take advantage of this lacuna to perpetuate acts of corruption and lawlessness, others employ it to settle scores with their political opponents.⁴

The process has been politicized. Politicians now take advantage of the process to remove their political opponents from political offices.⁵ Again, the constitution has provided that the Chief Judge of a state shall constitute an ad-hoc panel to investigate the allegations of gross misconduct against the Governor or his deputy.⁶ The ad-hoc panel has been compromised by the ruling party.⁷

¹ O Fagbadebo, *Impeachment in the Nigerian Presidential System: Challenges, Successes and the Way Forward* (Palgrave Macmillan 2020).

² Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 143, 144 and 188.

³ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 188(11).

⁴ A Sani, C T Ismail and A A Rahman, 'An Examination of the Role of Courts in Ensuring Compliance with the Constitutional Requirements for Impeachment in Nigeria' (2020) 10(1) *UUM Journal of Legal Studies*.

⁵ M O Abiodun, 'Gross Misconduct and Impeachment Crises in Nigeria's Fourth Republic' *Babcock Journal of the Social Sciences* 115–162.

⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 188(4).

⁷ Fagbadebo (n 1).

The party in power dictates to the Chief Judge on those to appoint into the panel. The opposition parties in the Houses of Assembly do not have confidence in the panel. Moreover, some impeachments have been carried out without compliance with the provisions of the constitution.⁸ The courts have intervened in those impeachments by setting them aside.⁹ Despite these problems, impeachment remains one of the most veritable instruments for checking the excesses of elected political office holders in a presidential system of government.¹⁰ It is in the light of the above problems that this study is being undertaken to investigate the law and procedure of impeachment between 1999 and 2025.

In Nigeria, the provisions for impeachment are contained in Sections 143 and 144 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) for the President and Vice President respectively and Section 188 for the Governor and Deputy Governor of a state. In the United States, it is enshrined in Article I and Article II of her constitution. “However, while the law of impeachment in the United Kingdom is moribund, that of the United States of America is bifurcated. In Kenya, the provisions are contained in Articles 145 and 181 of her constitution and like in the United States of America; it is also bifurcated. Moreover, unlike in Nigeria where there are two different provisions for the removal of the President, Vice President, Governor, and Deputy Governor, there is no such provision in Kenya.

In Nigeria, the provisions for impeachment are contained in sections 143 and 144 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) for the President and Vice-President respectively and section 188 for the Governor and Deputy Governor of a state.¹¹ In the United

⁸ *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC).

⁹ *ibid*; *Dapianlong v Dariye* (2007) 8 NWLR (Pt 1036) 332 (SC).

¹⁰ M Lawan, 'Abuse of Powers of Impeachment in Nigeria' (2010) 48(2) *The Journal of Modern African Studies* 311–338.

¹¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 143, 144 and 188.

States, impeachment is provided for under Articles I and II of the United States Constitution.¹² However, while the law of impeachment in the United Kingdom is largely obsolete, that of the United States of America operates within a constitutional framework involving the House of Representatives and the Senate.¹³ In Kenya, the provisions are contained in Articles 145 and 181 of the Constitution of Kenya 2010, providing separate procedures for the removal of the President and Governor respectively.¹⁴ Unlike Nigeria, where separate constitutional provisions govern the removal of the President, Vice-President, Governor and Deputy Governor, the Kenyan constitutional framework adopts a different structure for the removal of the President and Governor.¹⁵

In Nigeria, the concept of impeachment was first incorporated into the nation's Constitution in 1979 when the country opted for presidential system of government.¹⁶ Prior to this time, Nigeria was practicing the British type of parliamentary system of government which the British bequeathed to Nigeria after independence in 1960.¹⁷ Under the parliamentary system, the removal of the Prime Minister or the Premier was by vote of no confidence.¹⁸ Under the 1963 Republican Constitution of Nigeria, which was the first indigenous republican constitution produced for the country, there was no constitutional impeachment procedure comparable to that subsequently introduced under the presidential system.¹⁹ Although there were constitutional mechanisms relating to the removal of political office holders, the political upheavals that engulfed the country,

¹² US Constitution arts I and II.

¹³ Charles L Black Jr, *Impeachment: A Handbook* (Yale University Press 1974); House of Lords Library, 'Impeachment' (UK Parliament).

¹⁴ Constitution of Kenya 2010, arts 145 and 181.

¹⁵ *ibid.*

¹⁶ Constitution of the Federal Republic of Nigeria 1979, ss 132 and 170.

¹⁷ B O Nwabueze, *Constitutional History of Nigeria* (Longman Nigeria 1982).

¹⁸ *Ibid.*

¹⁹ Constitution of the Federal Republic of Nigeria 1963; Nwabueze (n 17).

coupled with the military intervention in January 1966, truncated the democratic process.²⁰ Between 1966 and 1979, when the military ruled the country, constitutional government was suspended and the issue of impeachment did not arise within the operation of the constitutional order.²¹ However, in 1979, when the military handed over power to civilians, Nigeria adopted a presidential system of government influenced substantially by the American model.²² The provisions for impeachment were accordingly incorporated into the Constitution. Sections 132 and 170 of the 1979 Constitution made provisions for the removal of the President and Governor of a state respectively.²³

However, many impeachments have been characterized by procedural flaws and disputes over compliance with constitutional requirements.²⁴ The courts have consequently intervened in some of these disputes by nullifying impeachment proceedings that failed to comply with the Constitution.²⁵ It is in the light of the above that this study is being undertaken to examine the law and procedure of impeachment between 1999 and 2025 and how it has been practiced. The study will also investigate the practice of impeachment in some selected countries of the world with a view to finding out whether the concept of impeachment is still relevant in this modern era.

1.2 Statement of the Problem

Despite the elaborate provisions of the 1999 Constitution on the procedure for removal of an incumbent President and Vice-President of Nigeria, the impeachment process in Nigeria faces two

²⁰ J Ogunsakin, 'Evaluation of Impeachment Proceedings under the Constitution of the Federal Republic of Nigeria 1999' *Journal of Law, Policy and Globalization*.

²¹ B O Nwabueze, *Nigeria's Presidential Constitution: The Second Experiment in Constitutional Democracy* (Longman Nigeria 1985).

²² Ibid.

²³ Constitution of the Federal Republic of Nigeria 1979, ss 132 and 170.

²⁴ Fagbadebo (n 1).

²⁵ *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC); *Dapianlong v Dariye* (2007) 8 NWLR (Pt 1036) 332 (SC).

major constraints. The first is that the expression ‘gross misconduct’ which is used in section 188(11) is defined as ‘a serious breach or non-compliance with the provisions of the Constitution whether contained in this Chapter VII or elsewhere in the Constitution’.²⁶ Since there are no exclusive provisions in Chapter VII of the Constitution, nor are there any listed provisions of the Constitution which specifically provide what constitutes serious breach or non-compliance with the provisions of the Constitution, it is difficult to determine what acts constitute gross misconduct in Nigeria.²⁷ The ambiguity surrounding the concept has generated considerable debate concerning the circumstances in which impeachment should properly be invoked and has contributed to the politicisation of the process.²⁸ For instance, the removal of Governor Peter Obi of Anambra State generated significant constitutional litigation and judicial intervention concerning his tenure of office.²⁹ The second constraint to the impeachment process in Nigeria is that, since the National Assembly and State Houses of Assembly in Nigeria are partisan in nature, impeachment has become a highly partisan process.³⁰ Where a political party in power has a majority in either of the Assemblies, the majority may be used to influence the direction of impeachment proceedings, thereby raising concerns about compliance with the constitutional safeguards prescribed for the process.³¹ In such circumstances, principles of due process and fair hearing enshrined in section 36 of the 1999 Constitution may be undermined.³²

²⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 188(11).

²⁷ L Hoffmann, 'Fairy Godfathers and Magical Elections: Understanding the 2003 Electoral Crisis in Anambra State, Nigeria' (2010) 48(2) *The Journal of Modern African Studies* 285–310.

²⁸ IM, KA Oyinwola, DU Dewan and AM Sulaiman, 'An Evaluation of Judicial Intervention in the Impeachment Process in Constitutional Democracies: A Case of Nigeria' (2023) 11(6) *Global Journal of Politics and Law Research* 76–88.

²⁹ *Peter Obi v INEC* (2007) 11 NWLR (Pt 1046) 565 (SC).

³⁰ Aguda TA, *The Working of the Rule of Law in Nigeria*, Port-Harcourt, A Lecture Delivered on 10th February, at Rivers State University of Science and Technology, 1984

³¹ *ibid.*

³² Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36; *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC).

For instance, Siminalayi Fubara faced impeachment proceedings in March 2025 following a prolonged political crisis between him and his predecessor, Nyesom Wike, and the Rivers State House of Assembly.³³ After becoming governor in 2023, Fubara fell out with Wike amid a wider political struggle over control of the state's political structure.³⁴ Most members of the Rivers State House of Assembly were aligned with the political camp opposed to Fubara, creating a serious conflict between the executive and legislature.³⁵ The dispute led to court cases, disagreements over the legitimacy and functioning of the House of Assembly, budget approvals and local government administration.³⁶ The Assembly accused Fubara and his deputy, Ngozi Odu, of gross misconduct under section 188 of the 1999 Constitution.³⁷ The allegations included unconstitutional spending of public funds, failure to implement lawful court judgments, obstructing the House of Assembly from carrying out its constitutional duties, presenting budgets to persons other than the legally recognized Assembly, and withholding funds due to the Assembly and related institutions.³⁸

Before the impeachment process could be completed, President Bola Ahmed Tinubu declared a state of emergency in Rivers State on 18 March 2025 pursuant to section 305 of the 1999 Constitution.³⁹ The President suspended Governor Fubara, Deputy Governor Ngozi Odu and all elected members of the Rivers State House of Assembly for an initial period of six months.⁴⁰ Ibok-Ete Ekwe Ibas was appointed as the state's administrator during the emergency period.⁴¹ The

³³ Reuters, 'Nigeria declares state of emergency in Rivers State over pipeline vandalism' (18 March 2025).

³⁴ L Hoffmann, 'Fairy Godfathers and Magical Elections: Understanding the 2003 Electoral Crisis in Anambra State, Nigeria' (2010) 48(2) *The Journal of Modern African Studies* 285, 285–310.

³⁵ JC Vile, *Constitutionalism and the Separation of Powers*, (Oxford ed., published 1967), p.13

³⁶ Ibid.

³⁷ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 188.

³⁸ Reuters (n 33).

³⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 305; State House, Abuja, 'President Tinubu Declares State of Emergency in Rivers State on Tuesday 18 March 2025' (18 March 2025).

⁴⁰ L Adamolekun, 'Accountability and Control Measures in Public Bureaucracies: A Comparative Analysis of Anglophone and Francophone Africa' *International review of Administrative Sciences*, Vol. XL, no. 4, 1974.

⁴¹ F Louis, *Constitutional Structure, Separate Powers and Federalism*, (McGraw-Hill Publishers Co. 1990).

development generated significant constitutional and political controversy concerning the scope of presidential emergency powers and the relationship between emergency rule and the constitutional autonomy of elected state institutions.⁴²

The case of *Dapianlong v Dariye* is a pointer to the argument being made herein.⁴³ There, the constitutional and political circumstances surrounding the Plateau State political crisis raised important questions concerning the functioning of state legislative institutions and the constitutional processes governing political office holders.⁴⁴ Lastly, the problems associated with the operation of federalism also contribute to the haphazard manner in which impeachment is being carried out in Nigeria.⁴⁵ Where the members of the State House of Assembly are dominated either by the governor himself or some political godfathers, the impeachment process may be deployed to serve political purposes, with the result that governance is brought to a grinding halt and the state and the nation incur avoidable economic and political costs.⁴⁶ These developments are not only confidence-eroding but may also retard development, as political conflicts distract attention from critical issues such as insecurity and poverty. Therefore, it would require a great deal of sophistication to appreciate these problems and proffer solutions to them, without necessarily whittling down the powers of the executive.

⁴² C Edward, *Presidential Power and the Constitution*. London, University Press, 1976.

⁴³ *Dapianlong v Dariye* (2007) 8 NWLR (Pt 1036) 332 (SC).

⁴⁴ *ibid.*

⁴⁵ BO Nwabueze, *Federalism in Nigeria under the Presidential Constitution* (Sweet & Maxwell 1983).

⁴⁶ *Abaribe v Abia State House of Assembly* [2002] 14 NWLR (Pt788) 466, 474 CA

1.3 Research Questions

The study is guided by the following research questions:

1. What are the historical origins and conceptual foundations of impeachment in Nigeria, and how have they evolved since the colonial era?
2. How do the constitutional provisions under Sections 143, 144, and 188 delineate the impeachment process for the President and Governors, and what are the key procedural steps involved?
3. What are the distinctions between impeachment and other removal mechanisms, such as recall or judicial removal, in the Nigerian legal framework?
4. What challenges impede the effective application of the impeachment process in Nigeria, and how do these compare with impeachment systems in the United Kingdom, the United States, and Kenya?

1.4 Aim and Objectives of the Study

The primary aim of this study is to provide a comprehensive and critical analysis of the impeachment process for the President and Governors under the 1999 Constitution of Nigeria (as amended), evaluating its theoretical foundations, practical applications, challenges, and potential reforms to bolster democratic governance. The specific objectives are:

1. Discuss the historical and theoretical background of impeachment in Nigeria from the colonial period till date.

2. Examine the provisions of sections 143, 144 and 188 of the 1999 constitution of the federal republic of Nigeria which set out the procedure for removal of the president and governors from office.
3. Highlight the difference between impeachment and other forms of removal such as recall or removal through the judiciary.
4. Identify the problems militating against the proper invocation of the procedure of impeachment in Nigeria and make a comparative analysis with the UK, US and Kenya.

1.5 Significance of the Study

This research is of paramount importance to various stakeholders in Nigeria's democratic ecosystem. For policymakers and legislators, it offers in-depth insights into the flaws of the current impeachment framework, potentially guiding constitutional amendments to define "gross misconduct" more precisely and introduce safeguards against abuse.

Legal practitioners can benefit from the detailed analysis of case law which clarified quorum requirements, aiding in litigation and advocacy. Academics and scholars will find value in the comparative approach, contributing to the body of knowledge in constitutional law and political science. For civil society organizations and the general public, the study emphasizes how impeachment can be leveraged as a citizen-centric tool for holding leaders accountable, fostering greater participation in governance. In the broader African context, it provides lessons for countries like Kenya, where similar issues of political misuse arise, promoting regional democratic stability.

Economically, by highlighting how impeachment disruptions affect development, the research advocates for reforms that minimize instability, indirectly supporting poverty reduction and investment.

Ultimately, this work reinforces the role of impeachment in sustaining Nigeria's democracy, especially as the nation approaches its 26th year of uninterrupted civilian rule in 2025.

1.6 Scope of the Study

This research is restricted to the provisions of the 1999 Constitution of Nigeria (as amended) on impeachment of the President, Vice-President, Governor and Deputy Governor, as contained in Sections 143, 144 and 188. The time frame of this study shall be between 1999 and 2025. Pre-1999 Constitutions and different procedures for removal like recall procedure (Section 69 for removal of legislators) and prosecution under the Code of Conduct Tribunal, are therefore excluded from this research. The countries of the United Kingdom, the United States of America and Kenya have been chosen as comparative jurisdictions. This is because these jurisdictions have very excellent laws worthy of emulation. Further, the choice of Kenya is motivated by its being an African country. Spatially, this study covers Nigeria and the focus of study shall be federal and state levels. The study shall however be restricted to a few cases, which have been regarded as landmark cases. As a result of lack of free access to primary source materials and the ever-changing nature of political law, which might undergo changes after 2025, this study is limited.

1.7 Research Methodology

The research approach used in this study is doctrinal, hence the dominant sources used will include primary sources which are mainly the 1999 Constitution, Court cases, (*Dapianlong v. Dariye*) and relevant legislations. Secondary sources such as academic writings, texts, books and reports will also be used. A comparative method will also be used to compare the Nigerian situation with those of the United Kingdom, the United States of America, and Kenya, where necessary. For these comparisons, the Constitution of those countries and relevant case law will be used.

The data collected will be qualitative in nature and will be examined using thematic analysis. This is a very objective method, and no ethical issues can arise from it, except for the fact that accurate acknowledgement must be made, and adequate representation of views on all sides of the argument must be made.

1.8 Limitations of the Study

This study encountered a number of limitations in the course of the research. The first limitation relates to the availability and accessibility of primary legal materials, particularly official legislative records, unpublished impeachment panel reports, and some judicial documents relating to impeachment proceedings between 1999 and 2025. While most constitutional provisions and landmark judicial decisions were available, access to certain official government records was restricted. Another limitation arose from the political nature of impeachment proceedings in Nigeria. Many impeachment cases are influenced by political interests, making it difficult to obtain completely objective accounts from available literature and official sources. Consequently, the study relied on constitutional provisions, judicial decisions, scholarly publications, and other credible secondary sources to ensure balanced analysis. Despite these limitations, they do not diminish the validity of the study. The use of authoritative constitutional provisions, judicial precedents, statutes, scholarly works, and comparative legal materials from Nigeria, the United Kingdom, the United States of America, and Kenya provides a reliable basis for achieving the objectives of the research and drawing credible conclusions.

1.9 Literature Review

1.9.1 Constitutional and Legal Framework of Impeachment in Nigeria

The constitutional framework of impeachment provides the legal foundation upon which the removal of elected political office holders is undertaken in Nigeria. Under the 1999 Constitution of the Federal Republic of Nigeria (as amended), the removal of the President and Vice-President is governed principally by section 143, while section 188 provides the procedure for the removal of a Governor or Deputy Governor on the ground of gross misconduct.⁴⁷ The constitutional provisions reflect the principle of checks and balances by giving the legislature a constitutionally recognised mechanism for holding the executive accountable. However, the literature indicates that the existence of constitutional provisions alone does not necessarily guarantee that impeachment will function as an effective accountability mechanism. The practical operation of impeachment has been affected by uncertainties surrounding the meaning of gross misconduct, political interests, legislative partisanship and disagreements over the extent to which courts may intervene in the process.

Fagbadebo's *Impeachment in the Nigerian Presidential System: Challenges, Successes and the Way Forward* represents one of the most comprehensive scholarly examinations of impeachment in Nigeria's presidential system.⁴⁸ The author approaches impeachment from the perspective of constitutional accountability and institutional relations, examining the manner in which the power has operated within Nigeria's Fourth Republic. Fagbadebo argues that impeachment was designed to provide the legislature with an important constitutional instrument for checking executive

⁴⁷ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 143 and 188.

⁴⁸ O Fagbadebo, *Impeachment in the Nigerian Presidential System: Challenges, Successes and the Way Forward* (Palgrave Macmillan 2020).

excesses. However, the effectiveness of the mechanism has been weakened by the political environment in which the power is exercised.⁴⁹ The work demonstrates that the Nigerian impeachment process cannot be adequately understood by examining the constitutional provisions in isolation because the operation of the process is influenced by party politics, legislative majorities and relationships between political actors.

A major contribution of Fagbadebo's work is its demonstration that constitutional impeachment powers operate within an institutional environment where political interests can affect the interpretation and application of legal rules.⁵⁰ The author draws attention to the experiences of state legislatures and the political circumstances surrounding impeachment proceedings, demonstrating that the formal constitutional procedure may sometimes become intertwined with broader struggles for political control. The implication is that the effectiveness of the constitutional framework depends not only on the adequacy of the provisions but also on the commitment of political actors to comply with both the letter and spirit of the Constitution. The work is directly relevant to the present study because it provides a broad foundation for understanding impeachment within Nigeria's presidential system. However, its analysis does not comprehensively cover the developments that occurred throughout the entire period from 1999 to 2025. The present study builds upon Fagbadebo's contribution by examining the development of impeachment law and procedure across the Fourth Republic and by incorporating more recent constitutional and political developments, including the 2025 Rivers State crisis.

⁴⁹ *ibid.*

⁵⁰ *Ibid.*

Ogunsakin, in *Evaluation of Impeachment Proceedings under the Constitution of the Federal Republic of Nigeria 1999*, adopts a more specifically constitutional approach to the subject.⁵¹ The study evaluates the constitutional provisions regulating impeachment and considers the legal requirements that must be satisfied before an elected political office holder can be removed. The author's analysis is important because it draws attention to the distinction between the constitutional power to impeach and the constitutional procedure through which that power must be exercised. The study demonstrates that the legislature's possession of impeachment powers does not authorise it to disregard the procedural requirements established by the Constitution.

The contribution of Ogunsakin's study lies in its emphasis on the constitutional limitations imposed on legislative impeachment powers. The study suggests that the effectiveness of impeachment as a constitutional accountability mechanism depends significantly on the extent to which the prescribed procedure is respected. This is particularly important in Nigeria, where disputes concerning impeachment have frequently involved allegations that legislative actors failed to comply with constitutional requirements. However, the study's focus is primarily on the constitutional framework and does not sufficiently examine the broader political circumstances that influence the application of the law. It also does not provide a comprehensive examination of developments up to 2025. The present study therefore extends the discussion by examining not only the constitutional provisions but also the practical operation of the impeachment process and the political circumstances within which it has been applied between 1999 and 2025.

Lawan's *Abuse of Powers of Impeachment in Nigeria* approaches the subject from the perspective of the misuse of constitutionally granted impeachment powers.⁵² The author argues that although

⁵¹ J Ogunsakin, 'Evaluation of Impeachment Proceedings under the Constitution of the Federal Republic of Nigeria 1999' *Journal of Law, Policy and Globalization*.

⁵² M Lawan, 'Abuse of Powers of Impeachment in Nigeria' (2010) 48(2) *The Journal of Modern African Studies* 311.

impeachment is intended to promote accountability, the power has sometimes been used for political purposes that are inconsistent with its constitutional objectives.⁵³ The study examines the relationship between political conflict and impeachment and demonstrates that the constitutional mechanism can become vulnerable to abuse where political actors use their institutional powers to pursue partisan or personal interests. Lawan's analysis is particularly relevant because it reveals a central contradiction within the Nigerian impeachment system. While the Constitution establishes impeachment as an instrument for checking executive misconduct, its practical application may itself be influenced by political considerations. The study therefore contributes to an understanding of why the constitutional framework has not always produced the accountability outcomes for which it was designed.

1.9.2 Impeachment Procedure and Constitutional Compliance in Nigeria

The constitutional procedure for impeachment is central to determining the validity of any removal process. The Nigerian Constitution establishes a series of procedural requirements that must be fulfilled before a President, Vice-President, Governor or Deputy Governor can be removed from office. These requirements are intended to prevent arbitrary removal and to ensure that an elected office holder is afforded an opportunity to respond to allegations made against him or her. The literature demonstrates, however, that procedural compliance has been one of the most persistent challenges associated with impeachment in Nigeria.

Sani, Ismail and Rahman examine this issue in their study, *An Examination of the Role of Courts in Ensuring Compliance with the Constitutional Requirements for Impeachment in Nigeria*.⁵⁴ The

⁵³ *ibid.*

⁵⁴ A Sani, C Ismail and A Rahman, 'An Examination of the Role of Courts in Ensuring Compliance with the Constitutional Requirements for Impeachment in Nigeria' (2019) 10(1) *UUM Journal of Legal Studies*.

authors focus on the constitutional requirements governing impeachment and the role of the judiciary in ensuring compliance with those requirements. The study demonstrates that impeachment proceedings have frequently resulted in litigation because of allegations that legislative actors failed to follow the procedure prescribed by the Constitution.⁵⁵

The major contribution of the study is its demonstration that impeachment is not simply a political process but also a constitutionally regulated legal procedure. The legislature may possess the constitutional authority to initiate impeachment, but that authority must be exercised within the boundaries established by the Constitution. Where the legislature fails to comply with those requirements, the courts may intervene to enforce constitutional limits.

The study is directly relevant to the present research because one of the central objectives of this study is to examine the law and procedure governing impeachment in Nigeria. However, Sani, Ismail and Rahman concentrate principally on the role of the judiciary in enforcing constitutional compliance. The present study adopts a broader approach by examining the entire impeachment procedure and evaluating how it has operated in practice between 1999 and 2025.

The constitutional requirements governing impeachment are also illustrated by *Inakoju v Adeleke*,⁵⁶ where the Supreme Court examined the impeachment of the Governor of Oyo State. The decision is significant because it demonstrates the importance of compliance with the procedural safeguards established under section 188 of the Constitution. The case has become an important authority in Nigerian constitutional law concerning the limits of legislative power in impeachment proceedings. The significance of *Inakoju v Adeleke* to the present study lies in its demonstration that procedural requirements are not merely technical formalities. They constitute

⁵⁵ *ibid.*

⁵⁶ *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC).

substantive constitutional safeguards intended to protect the integrity of the impeachment process. The decision therefore provides an important judicial benchmark against which subsequent impeachment proceedings may be evaluated. The case also exposes an important issue that requires further investigation. Although the courts may invalidate impeachment proceedings where constitutional requirements are violated, judicial intervention generally occurs after political conflict has already developed. The present study therefore considers whether judicial review alone is sufficient to prevent abuse of impeachment or whether broader constitutional and institutional reforms are necessary.

Fagbadebo also contributes to the discussion of procedural compliance by examining impeachment experiences in Nigeria's Fourth Republic.⁵⁷ His analysis suggests that although formal constitutional procedures are important, compliance with procedure does not always eliminate the possibility of political manipulation. An impeachment process may satisfy formal procedural requirements while still being motivated by political considerations.⁵⁸

This observation is particularly important to the present study because it demonstrates that two separate questions must be asked when evaluating impeachment. The first is whether the constitutional procedure was followed. The second is whether the procedure was used for the constitutional purpose for which it was created. The present study therefore examines both procedural legality and the practical purpose and context of impeachment proceedings.

The literature under this theme therefore establishes that constitutional compliance is indispensable to a valid impeachment process. However, the existing studies tend to focus either on the constitutional provisions or on specific judicial decisions. The present study seeks to provide a

⁵⁷ Fagbadebo (n 43).

⁵⁸ *ibid.*

more comprehensive assessment by examining the procedure as it has developed and been applied from 1999 to 2025.

1.9.3 Gross Misconduct and the Politicisation of Impeachment

The concept of gross misconduct occupies a central position in the Nigerian law of impeachment. Under section 188(11) of the 1999 Constitution, gross misconduct means a serious breach or non-compliance with the provisions of the Constitution.⁵⁹ However, the constitutional definition does not provide an exhaustive list of acts that constitute gross misconduct. This has generated considerable debate concerning the scope of the concept and the extent to which political actors may influence its interpretation.

Abiodun, in *Gross Misconduct and Impeachment Crises in Nigeria's Fourth Republic*, examine the relationship between allegations of gross misconduct and impeachment crises.⁶⁰ The study demonstrates that allegations of gross misconduct have often emerged within broader political conflicts involving Governors, State Houses of Assembly and other political actors.⁶¹ The study's central contribution is its demonstration that the legal ground of gross misconduct cannot always be separated from the political environment in which impeachment proceedings arise.

The study is particularly relevant because it highlights the possibility that allegations of gross misconduct may serve as a legal justification for proceedings that are substantially influenced by political disagreements. This raises concerns about the vagueness of the constitutional definition and the possibility of subjective interpretation. Where the meaning of gross misconduct is not clearly defined, political actors may have considerable discretion in determining what conduct

⁵⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 188(11).

⁶⁰ MO Abiodun, 'Gross Misconduct and Impeachment Crises in Nigeria's Fourth Republic' *Babcock Journal of the Social Sciences* 115.

⁶¹ *ibid.*

constitutes a sufficient basis for removal. However, the study's coverage does not extend to the most recent developments in Nigeria's impeachment politics. The present study therefore builds upon its contribution by examining the issue through a longer period ending in 2025. It also considers whether subsequent judicial decisions and constitutional developments have provided greater clarity regarding the meaning and application of gross misconduct.

Lawan's analysis of the abuse of impeachment powers further demonstrates the connection between gross misconduct and political contestation.⁶² The study suggests that impeachment proceedings may be initiated in circumstances where political disagreements between the executive and legislature become sufficiently serious to threaten the stability of government.¹⁷ In such circumstances, allegations of misconduct may become instruments through which political conflicts are pursued. The contribution of Lawan's study is its demonstration that the politicisation of impeachment can undermine the accountability purpose of the constitutional mechanism. If impeachment is repeatedly used to settle political disputes, it may discourage elected officials from exercising independent political judgment and may also weaken public confidence in democratic institutions.

Fagbadebo similarly argues that impeachment in Nigeria has frequently been affected by political interests and the influence of political actors.⁶³ His analysis of impeachment politics demonstrates that political godfathers and partisan interests may influence the relationship between governors and legislators. This may create circumstances in which impeachment becomes a means of restructuring political power rather than a mechanism for enforcing constitutional accountability.

⁶² Lawan (n 47).

⁶³ Ibid.

The relevance of this analysis to the present study is particularly evident in the 2025 Rivers State political crisis. The impeachment proceedings initiated against Governor Siminalayi Fubara and Deputy Governor Ngozi Odu occurred within a prolonged political conflict involving the Governor, his predecessor and members of the State House of Assembly. The allegations raised against the Governor therefore need to be examined not only from the standpoint of section 188 but also within the broader political context in which the proceedings occurred.

The Rivers State situation also demonstrates the continuing relevance of the relationship between impeachment and political power. The subsequent declaration of a state of emergency in Rivers State by the President on 18 March 2025 and the suspension of the Governor, Deputy Governor and members of the State House of Assembly introduced further constitutional questions concerning federal intervention, democratic governance and the limits of executive power.⁶⁴ Although the events are too recent to have generated a substantial body of peer-reviewed scholarship, they provide an important contemporary context for evaluating the practical operation of Nigeria's constitutional arrangements.

The existing literature therefore establishes that the politicisation of impeachment remains one of the major weaknesses of the Nigerian system. However, insufficient attention has been given to the interaction between the legal concept of gross misconduct and the changing political circumstances of impeachment between 1999 and 2025. The present study addresses this gap by examining whether the constitutional concept of gross misconduct provides an adequate legal basis for impeachment and whether the application of that concept has been influenced by political considerations.

⁶⁴ Fagbadebo (n 43).

1.9.4 Judicial Intervention in Impeachment Proceedings

The judiciary occupies an important position in the Nigerian impeachment framework because impeachment proceedings, although political in nature, are subject to constitutional rules. The role of the courts is therefore to determine whether the legislature has exercised its constitutional authority within the limits imposed by law.

Sani, Ismail and Rahman provide an important examination of this issue by focusing specifically on the role of courts in ensuring compliance with constitutional requirements.⁶⁵ Their study demonstrates that judicial intervention has become an important mechanism for protecting the constitutional rights of political office holders and ensuring adherence to prescribed procedures. The authors' contribution is particularly significant because it challenges the view that impeachment is exclusively a political question beyond judicial review. Their analysis demonstrates that where constitutional requirements have been violated, the courts may intervene to ensure that legislative powers are exercised lawfully. This reinforces the principle of constitutional supremacy and the rule of law. However, the study also raises a broader question concerning the limits of judicial intervention. While courts must ensure constitutional compliance, impeachment remains a political process involving elected representatives. The challenge is therefore to maintain an appropriate balance between judicial enforcement of constitutional requirements and respect for the constitutional role of the legislature.

Mohammed, Oyinwola, Dewan and Sulaiman examine this issue in their study, *An Evaluation of Judicial Intervention in the Impeachment Process in Constitutional Democracies: A Case of*

⁶⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 305; see also the events surrounding the declaration of a state of emergency in Rivers State on 18 March 2025.

Nigeria.⁶⁶ The authors evaluate the extent to which courts have intervened in impeachment proceedings and the constitutional implications of such intervention.²² Their analysis reinforces the argument that judicial intervention is necessary to prevent the abuse of legislative impeachment powers. The study contributes to the literature by placing Nigerian judicial intervention within the wider context of constitutional democracies. This comparative orientation is useful because it demonstrates that the question of judicial intervention in impeachment is not unique to Nigeria. Different constitutional systems have adopted different approaches to the relationship between political impeachment processes and judicial review. Nevertheless, the study does not provide a comprehensive historical examination of Nigerian impeachment from 1999 to 2025. Its focus on judicial intervention leaves room for further research into the broader development of impeachment law, the effectiveness of judicial remedies and the relationship between judicial decisions and subsequent political practice.

The Supreme Court's decision in *Inakoju v Adeleke* remains central to understanding the Nigerian judicial approach to impeachment.⁶⁷ The decision demonstrates that the courts are prepared to examine whether constitutional procedures have been followed and to invalidate proceedings where the legislature fails to comply with mandatory constitutional requirements. The decision is particularly important to the present study because it provides a legal standard against which impeachment proceedings may be assessed. It also demonstrates the practical importance of judicial intervention in maintaining constitutionalism. However, the continuing occurrence of political disputes surrounding impeachment suggests that judicial intervention alone may not be

⁶⁶ Sani, Ismail and Rahman (n 54).

⁶⁷ IM, KA Oyinwola, DU Dewan and AM Sulaiman, 'An Evaluation of Judicial Intervention in the Impeachment Process in Constitutional Democracies: A Case of Nigeria' (2023) 11(6) *Global Journal of Politics and Law Research* 76.

sufficient to resolve the underlying institutional and political weaknesses in the process. The present study therefore builds upon the existing literature by examining the broader role of the judiciary within the development of impeachment law between 1999 and 2025. It considers whether judicial intervention has strengthened constitutional compliance, whether courts have provided consistent guidance on impeachment procedures and whether judicial decisions have effectively discouraged future abuses.

The reviewed literature demonstrates that impeachment in Nigeria is a complex constitutional mechanism operating within an equally complex political environment. Fagbadebo provides a broad examination of impeachment politics and demonstrates the influence of political interests on the process. Ogunsakin focuses on the constitutional framework and highlights the importance of legal compliance, while Lawan exposes the potential abuse of impeachment powers. Abiodun and other scholars draw attention to the relationship between gross misconduct and impeachment crises, while Sani, Ismail and Rahman and Mohammed and others examine the role of the judiciary in enforcing constitutional requirements. Comparative scholarship further demonstrates that Nigeria's experience must be understood against the wider experiences of presidential constitutional systems.

Despite these contributions, the literature remains fragmented in several respects. First, existing studies frequently examine specific dimensions of impeachment without comprehensively connecting the constitutional framework, procedural requirements, political manipulation, judicial intervention and comparative experience. Second, several important studies were conducted before the most recent developments in Nigerian constitutional practice and therefore do not cover the period up to 2025. Third, the literature has not sufficiently examined the extent to which the constitutional concept of gross misconduct has operated in practice as a legally objective standard

or as a potentially politicised basis for removal. Fourth, the recent Rivers State crisis of 2025 introduces new questions concerning the relationship between impeachment proceedings, executive-legislative conflict and federal constitutional intervention that remain insufficiently examined in existing scholarship.

The present study seeks to address these gaps by undertaking a comprehensive examination of the law and procedure of impeachment in Nigeria between 1999 and 2025. Unlike studies that focus primarily on political abuse, judicial intervention or individual impeachment episodes, the study brings these dimensions together to assess the effectiveness of impeachment as a constitutional mechanism of accountability. It further examines selected comparative jurisdictions to determine whether lessons can be drawn from alternative constitutional arrangements. In doing so, the study seeks to establish whether the Nigerian impeachment framework has achieved its intended constitutional purpose or whether its operation has been significantly undermined by procedural weaknesses, ambiguity concerning gross misconduct and political manipulation.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework

2.1.1 Meaning of Impeachment

The concept of impeachment occupies an important position in constitutional systems that adopt mechanisms for holding high-ranking public officials accountable for serious misconduct in office. In its contemporary constitutional usage, impeachment generally refers to a formal process through which a constitutionally designated political institution initiates proceedings against a public official on allegations of serious misconduct and, following the prescribed procedure, may remove that official from office. The concept is therefore concerned primarily with the accountability of public officials and the protection of constitutional government. In Nigeria, the constitutional framework applies the impeachment procedure to the President and Vice-President under section 143 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), and to Governors and Deputy Governors under section 188.⁶⁸

The term 'impeachment' is historically associated with the English constitutional tradition and derives from the idea of accusation or formal charge against a public official.⁶⁹ Its modern constitutional application, however, differs significantly across jurisdictions. In the United States, for example, impeachment involves a formal accusation by the House of Representatives followed by trial in the Senate, whereas the Nigerian Constitution establishes a distinct procedure through which the National Assembly or a State House of Assembly initiates and determines the removal

⁶⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 143 and 188.

⁶⁹ CL Black Jr, *Impeachment: A Handbook* (Yale University Press 1974) 1–2.

process, subject to the constitutionally prescribed investigative procedure.⁷⁰ The comparative variation demonstrates that impeachment is not a universally uniform legal process; rather, its meaning and operation depend upon the constitutional structure of each state.

In the Nigerian constitutional context, impeachment may be understood as a constitutionally prescribed legislative process for the removal of the President, Vice-President, Governor or Deputy Governor from office on the ground of gross misconduct.⁷¹ The process represents an institutional mechanism through which the legislature may exercise a check on executive authority. This is particularly significant in a presidential system where the executive derives an independent electoral mandate and does not ordinarily depend upon the continuing confidence of the legislature for survival in office. Impeachment therefore provides a constitutional means of addressing serious misconduct without relying upon the ordinary political mechanism of a vote of no confidence applicable in parliamentary systems.⁷²

The Nigerian Constitution, however, does not use the word 'impeachment' consistently as the formal legal terminology for the removal process. Rather, sections 143 and 188 principally speak of the 'removal' of the President, Vice-President, Governor or Deputy Governor. Nevertheless, Nigerian constitutional scholarship and judicial discourse commonly use the term impeachment to describe the legislative procedure through which these office holders may be removed.⁷³ The distinction is important because it shows that 'impeachment' in Nigeria is best understood as a description of the constitutional removal procedure rather than as a separate constitutional offence.

⁷⁰ US Constitution arts I–II; Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 143 and 188.

⁷¹ Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 143(2)(b) and 188(2)(b).

⁷² EA Taiwo, 'Judicial Review of the Impeachment Procedure in Nigeria' (2009) 13(1) *Law, Democracy and Development* 1.

⁷³ J Ogunsakin, 'Evaluation of Impeachment Proceedings under the Constitution of the Federal Republic of Nigeria 1999' (2014) 5(10) *Journal of Law, Policy and Globalization* 1.

The constitutional basis of impeachment is closely connected with the principle of separation of powers. Under the presidential system, executive authority is vested in elected executive officials, while legislative authority is vested in the National Assembly and the Houses of Assembly of the States.⁷⁴ The impeachment mechanism creates a constitutional relationship between these branches by empowering the legislature, under defined circumstances, to initiate proceedings that may result in the removal of an executive office holder. In this respect, impeachment constitutes an aspect of the broader system of checks and balances intended to prevent the abuse of public power.

Taiwo, in examining judicial review of impeachment proceedings in Nigeria, explains that the Constitution provides impeachment as a mechanism through which the legislature may check executive office holders who are accused of gross misconduct.⁷⁵ The author's analysis is significant because it situates impeachment within the Nigerian constitutional structure and emphasises the importance of judicial oversight where the legislative process is alleged to have departed from constitutional requirements. The study also demonstrates that impeachment cannot be regarded as an unrestricted political power because its exercise remains subject to constitutional limitations.⁷⁶ This perspective is relevant to the present study because it supports the argument that the meaning of impeachment in Nigeria must encompass both its political accountability function and its legal and procedural character.

Impeachment can be examined under sections 143 and 188 of the 1999 Constitution and argues that the constitutional provisions have, in some instances, been invoked for reasons extending

⁷⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 4 and 5.

⁷⁵ P Woll, *American Government: Readings and Cases* (5th edn, Little, Brown and Company Canada Ltd.) 102–103.

⁷⁶ Jack SimsonCaird, 'Impeachment: Briefing Paper' <<http://researchbriefings.files.parliament.uk/documents/CBP-7612/CBP-7612.pdf>> accessed 12th October, 2025

beyond genuine breaches of law or gross misconduct.⁷⁷ The analysis is important to the present study because it demonstrates the tension between the formal constitutional meaning of impeachment and its practical application. While impeachment is constitutionally intended to provide an accountability mechanism, its actual operation may be influenced by political considerations. The present study builds on this observation by examining the law and procedure of impeachment between 1999 and 2025 and assessing the extent to which the constitutional mechanism has operated according to its intended purpose.

The concept of impeachment is also closely connected with the constitutional idea of 'gross misconduct'. Section 188(11) provides that gross misconduct means 'a grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the House of Assembly to gross misconduct'.⁷⁸ This definition is significant for two reasons. First, it expressly connects gross misconduct with a grave violation or breach of the Constitution. Second, it recognises that conduct which may not necessarily constitute a direct constitutional violation may nevertheless be regarded as gross misconduct where, in the opinion of the House of Assembly, it reaches the required threshold. This dual formulation creates an area of constitutional discretion that has generated significant debate concerning the boundaries of legislative power.

The ambiguity surrounding gross misconduct has been identified as one of the central problems in the Nigerian impeachment process. Fagbadebo's analysis of impeachment in Nigeria demonstrates that the absence of an exhaustive definition of gross misconduct may provide room for political actors to influence the application of the impeachment mechanism.⁷⁹ The importance of this

⁷⁷ J Nichols, *The Genius of Impeachment: The Founders' Cure for Royalism* (New Press 2008)

⁷⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended) s 188(11).

⁷⁹ O Fagbadebo, *Impeachment in the Nigerian Presidential System: Challenges, Successes and the Way Forward* (Palgrave Macmillan 2020).

argument to the present study is that it reveals why the meaning of impeachment cannot be separated from the interpretation of gross misconduct. The constitutional mechanism is only as objective as the standard used to determine whether the conduct complained of justifies removal.

A study of the impeachment process under the 1999 Constitution similarly identifies gross misconduct as a central component of the impeachment framework.⁸⁰ The work examines the meaning of gross misconduct alongside the constitutional procedure and judicial decisions relating to impeachment. Its contribution lies in demonstrating that the legal uncertainty surrounding the concept has practical consequences for the legitimacy of impeachment proceedings. The study is relevant to the present research because the question of what constitutes gross misconduct forms a central part of the examination of the Nigerian law and procedure of impeachment.

Impeachment should nevertheless not be equated with a criminal prosecution. The two processes may arise from the same factual circumstances, but they serve different legal purposes. Impeachment is concerned principally with the political and constitutional accountability of a public office holder, while criminal proceedings determine whether an accused person has committed an offence under criminal law and impose criminal sanctions where guilt is established.⁸¹ Consequently, an act that may constitute a criminal offence may also form the basis of an impeachment proceeding, but the two processes remain legally distinct. The existence of one does not necessarily eliminate the other.

The quasi-judicial character sometimes attributed to impeachment reflects this combination of political and legal features. Impeachment is initiated and substantially determined by political

⁸⁰ SI Nnadi, *Appraisal of Impeachment Process under the 1999 Constitution of Nigeria* (LLM thesis, Ahmadu Bello University 2016).

⁸¹ See generally Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 143 and 188; Criminal Code Act, Cap C38 Laws of the Federation of Nigeria 2004.

institutions, yet the process involves formal allegations, notice, investigation, opportunity to respond and constitutionally prescribed voting requirements.⁸² In Nigeria, this combination is particularly evident in the requirement for an investigative panel under sections 143 and 188. The process therefore contains legal safeguards within a fundamentally political institutional framework.

The Supreme Court's decision in *Inakoju v Adeleke* illustrates the importance of these safeguards. The Court emphasised the mandatory nature of the constitutional requirements governing the removal of a Governor and held that substantial compliance with the procedure could not be substituted for compliance with the constitutional requirements.¹⁶ The decision is significant to the conceptual understanding of impeachment because it demonstrates that the process is not simply a political vote by legislators. It is a constitutionally structured procedure whose validity depends upon compliance with specified legal requirements.

Impeachment may therefore be conceptualised in this study as a constitutionally regulated legislative process for determining whether a serving President, Vice-President, Governor or Deputy Governor should be removed from office on the ground of gross misconduct, involving the exercise of political judgment within legally prescribed procedural safeguards. This definition captures the dual nature of impeachment in Nigeria. It is political because the process is conducted by elected legislative institutions, but it is also legal because the power is derived from and limited by the Constitution.

The concept is consequently broader than the mere physical removal of an office holder. It embodies the constitutional principle that the exercise of public power must remain subject to

⁸² JC Baumgartner and N Kada (eds), *Checking Executive Power: Presidential Impeachment in Comparative Perspective* (Praeger 2003) 113–136.

accountability. At the same time, because impeachment may affect the outcome of democratic elections and alter the balance of political power, the mechanism must be exercised strictly within constitutional boundaries. The present study adopts this understanding of impeachment in examining whether the Nigerian process between 1999 and 2025 has functioned primarily as a legitimate instrument of constitutional accountability or has, in practice, been susceptible to political manipulation.

2.1.2 Distinction between Impeachment and Other Removal Mechanisms

Impeachment must be distinguished from other constitutional and legal mechanisms through which public officials may leave or be removed from office. The distinction is necessary because the Nigerian Constitution recognises several different circumstances in which the tenure of a public official may come to an end. These mechanisms differ in their legal basis, initiating authority, grounds, procedure and consequences. Treating all forms of removal as impeachment would therefore obscure the unique constitutional purpose and procedure of impeachment.

The first major distinction is between impeachment and recall. Recall is a mechanism through which registered voters may seek to remove a member of the National Assembly or a State House of Assembly before the expiration of the member's tenure. Section 69 of the Constitution establishes the recall procedure for members of the National Assembly, while section 110 provides a corresponding procedure for members of a State House of Assembly.⁸³ The process is therefore fundamentally different from impeachment because recall is initiated by citizens rather than by legislators acting in their institutional capacity.

⁸³ *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC).

Scholars in their examination of the constitutional provisions for recall of legislators, argue that recall represents an important mechanism of electoral accountability because it gives citizens a constitutional means of responding to the conduct of their elected legislative representatives.⁸⁴ Their analysis is relevant to the present study because it highlights the institutional distinction between popular accountability and legislative accountability. While recall allows the electorate to initiate the removal of legislators, impeachment permits the legislature to initiate proceedings against certain executive office holders.

The difference is also evident in the nature of participation. Recall involves a prescribed process of voter support, verification and referendum, whereas impeachment is conducted principally within the legislative institution and involves constitutional thresholds for the initiation and determination of proceedings.⁸⁵ The two mechanisms therefore reflect different approaches to democratic accountability. Recall is primarily a direct form of popular accountability, while impeachment is an indirect institutional mechanism exercised by elected representatives.

Impeachment must also be distinguished from removal on grounds of permanent incapacity. Sections 144 and 189 of the 1999 Constitution provide procedures for addressing the permanent incapacity of the President or Vice-President and Governor or Deputy Governor respectively.⁸⁶ These procedures are fundamentally different from impeachment because they are concerned with the physical or mental incapacity of the office holder rather than alleged misconduct in the performance of official duties.

⁸⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 69 and 110.

⁸⁵ IK Oraegbunam and CA Onah, 'Constitutional Provision for Recall of Legislators under the 1999 Nigerian Constitution: A Critical Examination' (2023) 5(3) *International Review of Law and Jurisprudence*.

⁸⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 69(1)–(3) and 110(1)–(3).

The distinction is significant because incapacity does not necessarily involve blameworthy conduct. An office holder may become permanently incapable of performing the functions of office without having committed any constitutional violation or misconduct. Impeachment, by contrast, is associated with allegations of gross misconduct and therefore carries an accountability dimension. The different procedures reflect the constitutional recognition that removal from office may arise either from misconduct or from an inability to continue performing the functions of office.

Impeachment is further distinguishable from criminal prosecution. Criminal proceedings are initiated to determine whether an individual has committed an offence recognised by criminal law, and conviction may result in penalties such as imprisonment, fines or other statutory sanctions. Impeachment, by contrast, is directed primarily at the individual's continued occupation of public office.⁸⁷ The two processes may therefore coexist where the conduct alleged against an office holder is both constitutionally serious and criminal in nature. This distinction is particularly important in the Nigerian context because certain executive office holders enjoy constitutional immunity from civil or criminal proceedings in respect of their personal capacities while they remain in office. Section 308 of the Constitution provides immunity to the President, Vice-President, Governors and Deputy Governors from the commencement or continuation of certain civil or criminal proceedings during their tenure.⁸⁸ The impeachment process consequently assumes particular constitutional significance because it provides a mechanism through which the legislature may address serious misconduct by an office holder who is otherwise protected by constitutional immunity while in office.

⁸⁷ *ibid* ss 144 and 189.

⁸⁸ YH Kim, *The Politics of Interrupted Presidencies in Third Wave Democracies* (PhD thesis, The Pennsylvania State University, 2008)

Impeachment is also different from resignation. Resignation occurs when an office holder voluntarily relinquishes office, whereas impeachment is an involuntary constitutional process initiated by another institution.⁸⁹ Similarly, death brings an office holder's tenure to an end by operation of law and does not involve a finding of misconduct or an institutional accountability process.

The concept of forfeiture or loss of legislative seat also differs from impeachment. Section 68 of the Constitution provides circumstances under which a member of the National Assembly may lose his or her seat, including defection in circumstances specified by the Constitution and other legally prescribed conditions.⁹⁰ Such loss of seat is not equivalent to impeachment because the constitutional basis, procedure and consequences differ. Impeachment under sections 143 and 188 is specifically directed at the removal of certain executive office holders for gross misconduct.

These distinctions demonstrate that impeachment occupies a unique position within Nigeria's constitutional order. It is neither a criminal prosecution nor a recall procedure, nor is it equivalent to resignation, incapacity or automatic loss of office. Rather, it represents a constitutionally regulated form of institutional accountability through which the legislature may address serious misconduct by specified executive office holders. The distinction is particularly important to the present study because the effectiveness of impeachment can only be properly assessed when its constitutional purpose is separated from other mechanisms of removal. The study therefore treats impeachment as a distinct constitutional accountability mechanism and examines whether the procedure established by the 1999 Constitution has been appropriately applied between 1999 and 2025.

⁸⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended) s 308.

⁹⁰ *ibid* ss 135(1)(b) and 180(1)(b).

2.1.3 Impeachment and Constitutional Violations in Nigeria

The relationship between impeachment and constitutional violations is central to understanding the Nigerian impeachment framework. Impeachment is intended to provide a constitutional remedy where the conduct of a public office holder is sufficiently serious to justify removal from office. Under section 188(2)(b), a Governor or Deputy Governor may be removed where the House of Assembly considers that the office holder is guilty of gross misconduct in the performance of the functions of office.⁹¹ Section 188(11) subsequently defines gross misconduct as a grave violation or breach of the provisions of the Constitution or misconduct of such a nature as, in the opinion of the House of Assembly, amounts to gross misconduct.⁹²

The constitutional formulation indicates that impeachment is fundamentally connected with the preservation of constitutional government. The purpose is not merely to punish an individual but to protect the integrity of public office and prevent the continued exercise of executive authority by an official whose conduct has crossed the constitutional threshold for removal. One possible area of constitutional violation concerns the oath of office. The Constitution requires the President, Vice-President, Governor and Deputy Governor to subscribe to the relevant oath contained in the Seventh Schedule.⁹³ The oath requires the office holder to preserve, protect and defend the Constitution and to discharge the duties of office faithfully. A serious departure from these constitutional obligations may, depending on the circumstances, raise questions concerning gross misconduct.

⁹¹ *ibid* s 68(1).

⁹² *ibid* s 188(2)(b).

⁹³ *ibid* s 188(11).

The constitutional concept of gross misconduct may also intersect with abuse of official power. Where an executive office holder uses constitutional powers for purposes fundamentally inconsistent with the office or engages in conduct that constitutes a serious breach of constitutional obligations, such conduct may potentially form part of an impeachment allegation. However, not every exercise of executive power with which legislators disagree automatically constitutes gross misconduct. The constitutional threshold requires a serious breach or conduct of a nature that properly amounts to gross misconduct. This distinction is essential because otherwise ordinary political disagreements or policy differences could be transformed into grounds for removal.

The constitutional framework also recognises the broader objective of combating corruption and abuse of power. Section 15(5) of the Constitution provides that the State shall abolish all corrupt practices and abuse of power.⁹⁴ Although Chapter II provisions relating to the Fundamental Objectives and Directive Principles of State Policy are generally not directly enforceable in court in the same manner as fundamental rights, they provide important constitutional principles against which governance and the exercise of public authority may be understood.⁹⁵ Conduct involving corruption or abuse of office may therefore become relevant to impeachment where it also satisfies the constitutional threshold of gross misconduct.

The experience of Governor Diepreye Alamieyeseigha of Bayelsa State illustrates the relationship between allegations of corruption and impeachment. Alamieyeseigha was removed from office following impeachment proceedings in 2005 amid allegations involving financial misconduct and corruption.⁹⁶ His case demonstrates how impeachment may operate alongside criminal and anti-corruption processes. The subsequent criminal proceedings against him also illustrate that removal

⁹⁴ *ibid* Seventh Schedule.

⁹⁵ *ibid* s 15(5).

⁹⁶ *ibid* s 6(6)(c); *Adebisi Olafisoye v Federal Republic of Nigeria* (2004) 4 NWLR (Pt 864) 580 (SC).

from office through impeachment and criminal accountability are distinct processes that may arise from related factual circumstances.

The case of Joshua Dariye, Governor of Plateau State, provides another important illustration. Dariye was impeached in 2006 following allegations concerning financial misconduct.⁹⁷ His subsequent criminal prosecution and conviction demonstrate the distinction between political removal and criminal responsibility. The case is relevant to the present study because it shows that impeachment may function as an immediate constitutional response to alleged misconduct while criminal liability remains a separate matter to be determined through the criminal justice system.

The experience of Peter Obi of Anambra State presents a contrasting example. Obi was removed from office in 2006 but was subsequently reinstated following judicial intervention.⁹⁸ The case demonstrates that allegations of misconduct and the political decision of a legislature to remove an elected executive are not necessarily sufficient to sustain an impeachment. Constitutional compliance remains essential, and where the prescribed procedure is not followed, the courts may invalidate the process. The Supreme Court's decision in *Inakoju v Adeleke* provides an important legal foundation for understanding this principle.⁹⁹ The Court's approach demonstrates that the legislature must comply with the mandatory procedural requirements established by section 188 before a Governor may lawfully be removed. The decision therefore reinforces the principle that impeachment must be based not only on allegations of misconduct but also on strict adherence to constitutional procedure. The cases of Alamiyeseigha, Dariye and Peter Obi collectively demonstrate the different ways in which impeachment may interact with allegations of corruption,

⁹⁷ *Alamiyeseigha v Federal Republic of Nigeria* (2006) 16 NWLR (Pt 1004) 1 (SC).

⁹⁸ *Dariye v Federal Republic of Nigeria* (2015) 3 NWLR (Pt 1445) 235 (CA); see also *Dariye v Federal Republic of Nigeria* (2018) 13 NWLR (Pt 1637) 593 (SC).

⁹⁹ *Peter Obi v INEC* (2007) 11 NWLR (Pt 1046) 565 (SC).

political conflict and judicial review. The first two cases illustrate circumstances in which allegations of financial misconduct were connected with political removal and subsequent criminal proceedings, while the Peter Obi case illustrates the importance of constitutional compliance and judicial protection against procedurally defective removal.

However, it is important to avoid treating every act of corruption, abuse of power or administrative failure as automatically constituting gross misconduct. The constitutional threshold remains critical. Impeachment should not become a substitute for ordinary criminal prosecution, administrative discipline or political disagreement. The central legal question is whether the alleged conduct is sufficiently serious to satisfy the constitutional standard established by section 188(11). The concept of constitutional violation must therefore be approached carefully. A violation capable of supporting impeachment must be sufficiently serious to justify the exceptional consequence of removing an elected official before the expiration of the constitutional term. This requirement protects both the accountability function of impeachment and the democratic legitimacy of elected office holders.¹⁰⁰ The present study is concerned with this precise tension. On the one hand, impeachment must be available as a constitutional remedy against serious misconduct and abuse of power. On the other hand, the mechanism must not be manipulated to remove elected officials merely because they have lost political support or because of ordinary disagreements with legislators. The study therefore examines the law and procedure of impeachment between 1999 and 2025 to determine how the constitutional concept of gross misconduct has been interpreted and applied, how courts have responded to alleged procedural

¹⁰⁰ *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC).

violations and whether the impeachment process has effectively served its constitutional purpose of preserving accountable and constitutional government.

2.2 Theoretical Framework

The theoretical framework of this study is anchored on the doctrines of separation of powers, checks and balances, and the rule of law.

2.2.1 Separation of Powers Theory

The doctrine of separation of powers is one of the fundamental principles underlying modern constitutional government. Its central proposition is that governmental authority should be distributed among different organs of the state in order to prevent the excessive concentration of power in a single institution. The doctrine is commonly associated with the writings of John Locke and, more particularly, Baron de Montesquieu, whose *The Spirit of the Laws* developed the argument that political liberty is endangered where legislative, executive and judicial powers are concentrated in the same hands.¹⁰¹

Locke distinguished between legislative, executive and federative powers, arguing that the concentration of governmental authority creates the possibility of arbitrary rule.¹⁰² Montesquieu subsequently developed a more systematic conception of the separation of powers, identifying legislative, executive and judicial functions as distinct governmental powers.¹⁰³ The underlying concern of the doctrine is that the distribution of governmental functions among separate institutions creates institutional barriers against tyranny and abuse of power.

¹⁰¹ Baron de Montesquieu, *The Spirit of the Laws* (Anne M Cohler, Basia Carolyn Miller and Harold Samuel Stone trs, Cambridge University Press 1989) bk XI, ch 6.

¹⁰² John Locke, *Two Treatises of Government* (Peter Laslett ed, Cambridge University Press 1988) Second Treatise, ch XII.

¹⁰³ Montesquieu (n 101) bk XI, ch 6.

The doctrine does not necessarily require an absolute separation in which the three branches operate in complete isolation from one another. In modern constitutional systems, particularly presidential democracies, the doctrine generally operates alongside mechanisms of institutional interaction and mutual restraint.¹⁰⁴ The objective is therefore not simply to create separate organs but to ensure that no organ becomes sufficiently powerful to exercise governmental authority without constitutional restraint.

Nigeria's constitutional structure reflects this principle. Section 4 of the 1999 Constitution vests legislative powers in the National Assembly and State Houses of Assembly; section 5 vests executive powers in the President and Governors; and section 6 vests judicial powers in the courts.¹⁰⁵ The constitutional allocation of these powers establishes the institutional foundation upon which the Nigerian presidential system operates. The relationship between separation of powers and impeachment is particularly significant. In a presidential system, the executive derives its mandate independently of the legislature and ordinarily remains in office for a constitutionally fixed term. Unlike a parliamentary system, where a government may be removed through a vote of no confidence, the legislature in a presidential system cannot ordinarily remove an executive office holder simply because it no longer enjoys political confidence in that person. The Constitution therefore provides a specific mechanism through which the legislature may remove certain executive office holders for constitutionally recognised grounds. In Nigeria, these mechanisms are contained principally in sections 143 and 188 of the 1999 Constitution.¹⁰⁶

Impeachment can consequently be understood as an institutional expression of the separation of powers. The legislature, while constitutionally independent of the executive, is given a defined

¹⁰⁴ M J C Vile, *Constitutionalism and the Separation of Powers* (2nd edn, Liberty Fund 1998).

¹⁰⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 4, 5 and 6.

¹⁰⁶ *ibid* ss 143 and 188.

authority to hold certain executive office holders accountable for gross misconduct. This power reflects the recognition that executive independence cannot mean executive immunity from constitutional accountability. At the same time, the executive cannot be removed merely through ordinary legislative disagreement because the Constitution prescribes specific procedural requirements that must be fulfilled before removal can occur.

The doctrine therefore creates a delicate constitutional balance. The legislature must possess sufficient authority to investigate and, where necessary, remove an executive office holder whose conduct satisfies the constitutional threshold for gross misconduct. However, the exercise of this authority must not undermine the independent constitutional mandate of the executive. The impeachment provisions consequently represent an attempt to reconcile executive stability with legislative accountability.

The Nigerian courts have played an important role in maintaining this constitutional balance. In *Inakoju v Adeleke*, the Supreme Court examined the validity of proceedings for the removal of the Governor of Oyo State and emphasised the need for strict compliance with the constitutional procedure prescribed under section 188.¹⁰⁷ The decision demonstrates that the legislative power to impeach is not unlimited and that the constitutional allocation of powers does not place the legislature beyond legal control. The relevance of the separation of powers theory to this study therefore lies in its ability to explain the institutional basis of impeachment. The theory establishes why the legislature is constitutionally empowered to exercise oversight over the executive while also explaining why that power must remain within constitutionally defined limits. The theory will accordingly guide the study in assessing whether the impeachment process in Nigeria between

¹⁰⁷ *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC).

1999 and 2025 has maintained the appropriate constitutional relationship between legislative accountability and executive independence.

2.2.2 Checks and Balances Theory

The doctrine of checks and balances complements the principle of separation of powers. While separation of powers seeks to distribute governmental authority among different organs, checks and balances recognise that institutional separation alone may not be sufficient to prevent the abuse of power. Each organ must therefore possess constitutionally recognised mechanisms through which it can restrain or review the exercise of power by the others.

The principle is closely associated with the constitutional philosophy of the United States, where the institutional design of government was deliberately structured to prevent the concentration of political authority. James Madison explained the necessity of such arrangements in *The Federalist No 51*, arguing that government must be structured in a manner that enables each branch to resist encroachments by the others.¹⁰⁸ The principle therefore rests on the assumption that governmental institutions require both independence and mechanisms of mutual restraint.

In Nigeria, the principle of checks and balances operates through the constitutional relationships between the legislature, executive and judiciary. The legislature exercises oversight over the executive through mechanisms including legislation, appropriation, investigations and, in appropriate circumstances, impeachment. The executive participates in the legislative process through constitutionally recognised powers, including the power relating to assent to bills, while the judiciary exercises judicial review over governmental actions and interprets the Constitution.¹⁰⁹

¹⁰⁸ J Madison, 'The Federalist No 51' in Alexander H, James M and J Jay, *The Federalist Papers* (Clinton Rossiter ed, Penguin Books 1961).

¹⁰⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 4–6.

Impeachment is one of the most significant manifestations of legislative checks on executive authority. Sections 143 and 188 of the 1999 Constitution provide procedures through which the National Assembly or State House of Assembly may initiate proceedings for the removal of specified executive office holders for gross misconduct.¹¹⁰ The purpose is to ensure that the executive remains accountable even though it enjoys a constitutionally guaranteed tenure.

The legislative power of impeachment, however, is itself subject to constitutional checks. The Constitution prescribes specific requirements concerning the initiation of allegations, notice, investigation and voting thresholds. In the case of a Governor or Deputy Governor, for example, section 188 requires a written notice of allegations signed by not less than one-third of the members of the House of Assembly, followed by the constitutionally prescribed investigative process and a resolution supported by not less than two-thirds of all the members of the House before removal can take effect.¹¹¹

These requirements demonstrate that checks and balances operate in more than one direction. The legislature checks the executive through impeachment, but the Constitution simultaneously checks the legislature by prescribing the conditions under which that power may be exercised. The judiciary may then review the legality of the process where constitutional compliance is challenged. Impeachment therefore represents a complex constitutional interaction involving legislative power, executive accountability and judicial oversight. The Supreme Court's decision in *Dapianlong v Dariye* illustrates this principle. The Court considered the validity of the impeachment of the Governor of Plateau State and found that the constitutional requirements governing the process had not been satisfied.¹¹² The decision demonstrates that the legislative power of impeachment

¹¹⁰ *ibid* ss 143 and 188.

¹¹¹ *ibid* s 188(1)–(9).

¹¹² *Dapianlong v Dariye* (2007) 8 NWLR (Pt 1036) 332 (SC).

cannot lawfully be exercised by a minority of legislators acting outside the constitutional procedure. The judiciary's intervention in such circumstances serves as a check on legislative power and reinforces the principle that constitutional accountability applies to all organs of government.

Similarly, in *Inakoju v Adeleke*, the Supreme Court's intervention in the impeachment process in Oyo State demonstrated that the legislature's constitutional authority is subject to legal limits.¹¹³

The decision is particularly relevant to this study because it illustrates the dual operation of checks and balances in the impeachment process. The legislature possesses the authority to hold the executive accountable, but the judiciary may intervene where the legislature itself fails to comply with constitutional requirements. The checks and balances theory is therefore particularly relevant to the present research because it provides a framework for examining the competing interests involved in impeachment. On one side is the need to prevent executive impunity by ensuring that elected office holders can be held accountable for serious misconduct. On the other side is the need to prevent the legislature from abusing impeachment as an instrument of political retaliation or partisan competition. The constitutional process must therefore maintain a balance between these competing concerns.

The theory will consequently be applied in this study to examine whether the Nigerian impeachment process between 1999 and 2025 has achieved an appropriate balance between executive accountability and legislative restraint. It will also assist in analysing the role of the judiciary in preventing unconstitutional legislative action and determining whether judicial intervention has effectively preserved the constitutional balance between the three branches of government.

¹¹³ *Inakoju v Adeleke* (n 107).

2.2.3 Rule of Law Theory

The rule of law constitutes the third theoretical foundation of this study. At its core, the rule of law requires that governmental power be exercised in accordance with established law rather than according to the arbitrary will of those who hold political office. The principle therefore emphasises legality, constitutional supremacy, equality before the law, procedural fairness and accountability in the exercise of public power.

The modern understanding of the rule of law is strongly associated with the work of A V Dicey, who identified three principal elements of the doctrine: the supremacy of regular law over arbitrary power, equality before the law and the constitutional principles derived from judicial decisions protecting individual rights.¹¹⁴ Although contemporary conceptions of the rule of law have developed beyond Dicey's original formulation, the central principle remains that public authorities must act within legally defined limits.

The Nigerian Constitution expressly establishes constitutional supremacy. Section 1(1) declares the Constitution to be supreme and binding on all authorities and persons throughout Nigeria, while section 1(3) provides that any law inconsistent with its provisions is void to the extent of the inconsistency.¹¹⁵ The provision establishes the constitutional foundation for judicial review and requires all organs of government, including the legislature, to exercise their powers within constitutional boundaries.

The rule of law is directly relevant to impeachment because the removal of an elected executive office holder involves the exercise of an extraordinary constitutional power. The process must

¹¹⁴ AV Dicey, *Introduction to the Study of the Law of the Constitution* (8th edn, Macmillan 1915).

¹¹⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 1(1) and (3).

therefore be conducted according to the procedure established by the Constitution. Allegations of misconduct alone cannot justify removal where the constitutionally prescribed requirements have not been satisfied.

The importance of procedural legality is evident in section 188 of the Constitution. The provision establishes a sequence of procedural steps governing the removal of a Governor or Deputy Governor, including the initiation of allegations, presentation of the notice to the Speaker, service of the notice on the affected office holder, consideration of the allegations and the establishment of an investigative panel where the required threshold is met.¹¹⁶ These requirements are not merely technical formalities. They provide procedural safeguards intended to protect the affected office holder against arbitrary or politically motivated removal.

The rule of law also incorporates the principle of fair hearing. Section 36 of the Constitution guarantees fair hearing in the determination of civil rights and obligations and criminal proceedings.¹¹⁷ Although impeachment proceedings are *sui generis* and do not constitute ordinary criminal trials, the broader principles of procedural fairness and natural justice remain relevant to the assessment of constitutional removal proceedings. The requirement that allegations be properly communicated and that the affected office holder be given an opportunity to respond reinforces the broader constitutional commitment to fairness.

Judicial review is another essential component of the rule of law in the context of impeachment. Where a legislature exceeds its constitutional authority or fails to comply with mandatory procedural requirements, the courts may intervene to preserve constitutional supremacy. The

¹¹⁶ *ibid* s 188(1)–(9).

¹¹⁷ *ibid* s 36.

decisions in *Inakoju v Adeleke* and *Dapianlong v Dariye* demonstrate the practical importance of judicial review in this regard.¹¹⁸

The rule of law therefore places an important limitation on the political character of impeachment. Although impeachment involves elected political institutions and may inevitably have political consequences, the process cannot be reduced to a purely political contest. The legislature must act within the Constitution, and the courts retain the authority to determine whether constitutional requirements have been observed. This principle is particularly important to the present study because one of the major concerns surrounding impeachment in Nigeria is the alleged politicisation of the process. Where impeachment is employed primarily as a means of settling political disputes or removing political opponents, the constitutional purpose of the mechanism may be undermined. The rule of law provides a normative standard against which such practices can be evaluated. It requires that the power of removal be exercised according to established constitutional procedures and not merely according to the political interests of those controlling the legislature.

The rule of law theory will therefore guide this study in examining whether impeachment proceedings conducted in Nigeria between 1999 and 2025 complied with constitutional requirements. It will also provide a basis for analysing judicial decisions in cases where impeachment proceedings have been challenged on grounds of procedural irregularity, inadequate notice, failure to comply with voting requirements or other constitutional violations.

¹¹⁸ *Inakoju v Adeleke* (n 107); *Dapianlong v Dariye* (n 112).

CHAPTER THREE

THE LEGAL AND INSTITUTIONAL FRAMEWORK TO THE APPLICATION AND OPERATION OF IMPEACHMENT.

3.1 Legal Framework: Sections 143, 144 and 188 of the 1999 Constitution

The legal framework governing the removal of the President, Vice-President, Governor and Deputy Governor in Nigeria is principally derived from the Constitution of the Federal Republic of Nigeria 1999 (as amended). The Constitution establishes different procedures for removal from office depending on whether the removal is based on alleged gross misconduct or permanent incapacity. Sections 143 and 144 regulate the removal of the President or Vice-President at the federal level, while sections 188 and 189 provide corresponding procedures in respect of the Governor or Deputy Governor of a State.¹¹⁹ These provisions reflect the constitutional design of Nigeria's presidential system, in which elected executive office holders ordinarily enjoy security of tenure but may be removed before the expiration of their terms where the constitutionally prescribed conditions are satisfied.

3.1.1 Section 143: Removal of the President or Vice-President for Gross Misconduct

Section 143 of the 1999 Constitution establishes the procedure for the removal of the President or Vice-President on the ground of gross misconduct.¹²⁰ The provision is intended to ensure that the holder of either office cannot be removed merely because of political disagreement with the National Assembly. Instead, the Constitution prescribes a series of mandatory procedural steps that must be complied with before removal can validly occur.¹²¹

¹¹⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 143, 144, 188 and 189.

¹²⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 143, 144, 188 and 189; see also B O Nwabueze, *The Presidential Constitution of Nigeria* (C Hurst & Co 1982).

¹²¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 143.

The process begins with a written notice of allegation of gross misconduct signed by not less than one-third of all the members of the National Assembly. The notice must state the particulars of the alleged misconduct and must be presented to the President of the Senate and the Speaker of the House of Representatives.¹²² The requirement for the support of at least one-third of the members of the National Assembly before the process can commence is an important constitutional safeguard. It prevents a small minority of legislators from initiating proceedings based solely on personal disagreement or political rivalry.

The notice must also be presented to the President or Vice-President and to each member of the National Assembly within the period prescribed by the Constitution. Following service of the notice, each House of the National Assembly is required to consider, by motion and without debate, whether the allegation should be investigated. The motion must be supported by not less than two-thirds of all the members of each House before an investigation can proceed.¹²³ The requirement that the two chambers must separately satisfy the prescribed threshold reflects the bicameral structure of the National Assembly and ensures that a decision of such constitutional significance cannot be taken by one chamber acting alone.

Where the requisite two-thirds threshold is achieved, the Chief Justice of Nigeria is required to appoint a seven-member panel of persons of unquestionable integrity to investigate the allegation. The Constitution further specifies categories of persons who are ineligible to serve on the panel, including members of any legislative house, members of the executive council of the Federation

¹²² *ibid* s 143(1).

¹²³ *ibid* s 143(2)–(3).

or a State, or members of a political party.¹²⁴ The exclusion of active political actors is intended to enhance the impartiality and credibility of the investigative process.

The panel is required to investigate the allegation and report its findings to each House of the National Assembly within three months of its appointment. Where the panel finds that the allegation has not been proved, the proceedings terminate. Where, however, the allegation is established, the National Assembly is required to consider the report. The President or Vice-President may be removed only where the report is adopted by a resolution supported by not less than two-thirds of all the members of each House of the National Assembly.¹²⁵

3.1.2 Section 144: Removal of the President or Vice-President on Grounds of Permanent Incapacity

Section 144 establishes a distinct mechanism for the removal of the President or Vice-President on grounds of permanent incapacity. Unlike section 143, which concerns alleged gross misconduct and is essentially an accountability mechanism, section 144 addresses a situation in which the holder of the office is unable to perform the functions of the office because of physical or mental incapacity.¹²⁶

The distinction between sections 143 and 144 is significant. Impeachment under section 143 is based on alleged misconduct and requires an investigative process involving the National Assembly and a seven-member panel. Section 144, by contrast, is concerned with the functional capacity of the office holder and provides for medical assessment. The provision therefore reflects

¹²⁴ *ibid* s 143(4).

¹²⁵ *ibid* s 143(5)–(10).

¹²⁶ *ibid* s 144.

the constitutional recognition that the continuity of government may be affected not only by misconduct but also by the permanent incapacity of an elected office holder.

Under section 144, the process is initiated by a resolution passed by not less than two-thirds of all the members of the Executive Council of the Federation declaring that the President or Vice-President is incapable of discharging the functions of office by reason of infirmity of body or mind. The resolution is thereafter transmitted to the President of the Senate and the Speaker of the House of Representatives, who arrange for the matter to be investigated by a medical panel established in accordance with the Constitution.¹²⁷ The provision illustrates that the Nigerian Constitution recognises different constitutional routes for the termination of the tenure of executive office holders. It is therefore important not to treat every form of constitutional removal as "impeachment" in the strict sense. Sections 143 and 188 concern removal for gross misconduct, whereas sections 144 and 189 concern permanent incapacity. The distinction is important for this study because the legal grounds, institutions and procedures applicable to each mechanism are different.

3.1.3 Section 188: Removal of a Governor or Deputy Governor for Gross Misconduct

Section 188 establishes the procedure for the removal of a Governor or Deputy Governor of a State on the ground of gross misconduct. The provision largely mirrors the procedure under section 143 but operates within the institutional structure of the State House of Assembly.¹²⁸

The procedure begins with a written notice of allegation of gross misconduct signed by not less than one-third of the members of the State House of Assembly. The notice must state the particulars

¹²⁷ *ibid* s 144(1)–(3).

¹²⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 188.

of the alleged misconduct and must be presented to the Speaker of the House. The Speaker is required to cause the notice to be served on the Governor or Deputy Governor and on each member of the House of Assembly.¹²⁹

Within the constitutionally prescribed period, the House must resolve, by motion and without debate, whether the allegation should be investigated. The motion must be supported by not less than two-thirds of all the members of the House of Assembly. If the required threshold is achieved, the Chief Judge of the State is required to appoint a seven-member panel of persons of unquestionable integrity to investigate the allegation.¹³⁰

The panel must complete its investigation and submit its report to the House of Assembly within three months of its appointment. Where the panel finds that the allegation has not been proved, the proceedings come to an end. Where the panel finds that the allegation has been established, the House of Assembly must consider the report. Removal from office occurs only where the report is adopted by a resolution supported by not less than two-thirds of all the members of the House of Assembly.¹³¹ The constitutional procedure is therefore deliberately demanding. The requirement of one-third support to initiate proceedings, two-thirds support to authorise an investigation and two-thirds support to adopt a report establishing the allegation reflects the constitutional intention to prevent impeachment from becoming an ordinary instrument of legislative politics. The process requires broad legislative support at different stages before an elected Governor or Deputy Governor can be removed.

¹²⁹ *ibid* s 188(1)–(2).

¹³⁰ *ibid* s 188(3)–(5).

¹³¹ *ibid* s 188(6)–(9).

The interpretation of section 188 has been substantially shaped by judicial decisions. In *Inakoju v Adeleke*, the Supreme Court considered the validity of the impeachment of the Governor of Oyo State and emphasised that the constitutional requirements governing impeachment must be strictly followed.¹³² The decision remains one of the leading authorities on the procedural requirements governing impeachment in Nigeria. Similarly, in *Dapianlong v Dariye*, the Supreme Court examined the impeachment of the Governor of Plateau State and reaffirmed the importance of compliance with the constitutional requirements relating to the composition and voting threshold of the State House of Assembly.¹³³ These decisions demonstrate that the legislature's constitutional authority to remove a Governor is not unlimited. The exercise of the power is subject to judicial scrutiny where there is an allegation that the Constitution has been violated.

3.1.4 Section 189: Removal of a Governor or Deputy Governor on Grounds of Permanent Incapacity

Section 189 provides the State-level equivalent of section 144 and deals with the removal of a Governor or Deputy Governor on grounds of permanent incapacity. The provision applies where the Governor or Deputy Governor is unable to discharge the functions of office because of physical or mental incapacity.¹³⁴ Like section 144, the provision is distinct from impeachment for gross misconduct. Its purpose is not to punish misconduct but to address a situation in which the office holder has become permanently incapable of performing the constitutional functions of office. The distinction reinforces the need to treat constitutional removal mechanisms according to their specific legal foundations rather than using the term "impeachment" indiscriminately to describe every form of removal. The existence of sections 188 and 189 demonstrates that the Constitution

¹³² *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC).

¹³³ *Dapianlong v Dariye* (2007) 8 NWLR (Pt 1036) 332 (SC).

¹³⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 189.

recognises both misconduct and incapacity as circumstances capable of bringing the tenure of a Governor or Deputy Governor to an end before the expiration of the constitutionally prescribed term. However, the procedural requirements applicable to each situation are fundamentally different.

3.2 Institutional Framework of Impeachment

3.2.1 The Legislature: The Central Institution in Impeachment Proceedings

The legislature is the principal institution responsible for proceedings for removal based on gross misconduct. At the federal level, the National Assembly exercises the powers provided under section 143 in relation to the President and Vice-President. At the State level, the State House of Assembly exercises the powers provided under section 188 in relation to the Governor and Deputy Governor.¹³⁵

The constitutional role of the legislature extends across the different stages of the process. It receives the notice of allegation, determines whether the allegations should be investigated, participates in the appointment of the investigative panel through the constitutional mechanism, receives the panel's report and determines whether the report should be adopted. The legislature therefore performs both an initiating and determinative role. The requirement for substantial legislative support at different stages is an important safeguard. The initial notice must be supported by at least one-third of the relevant legislative body, while the decision to proceed with an investigation and the final adoption of a report establishing the allegations require the

¹³⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 4, 5, 6, 143 and 188.

constitutionally prescribed two-thirds majority.¹³⁶ These thresholds are intended to ensure that impeachment cannot be undertaken solely at the direction of a small group of legislators.

3.2.2 The Judiciary: Constitutional Supervision and Judicial Review

The judiciary occupies a distinctive position within the impeachment framework. While the Constitution assigns the primary responsibility for impeachment proceedings to the legislature, judicial institutions participate in the process through the appointment of investigative panels and, more broadly, through judicial review of alleged constitutional violations. At the federal level, section 143 provides for the appointment of the investigative panel by the Chief Justice of Nigeria, while section 188 provides for appointment by the Chief Judge of the State.¹³⁷ The constitutional exclusion of legislators, members of the executive and members of political parties from membership of the panel is designed to protect the investigation from direct political influence.

More importantly, the courts have exercised significant authority in determining whether impeachment proceedings comply with constitutional requirements. In *Inakoju v Adeleke*, the Supreme Court held that the impeachment process against the Governor of Oyo State was invalid because of substantial non-compliance with the constitutional procedure.¹³⁸ The case established an important judicial precedent concerning the mandatory nature of the procedural requirements under section 188.

In *Dapianlong v Dariye*, the Supreme Court similarly intervened in the impeachment of the Governor of Plateau State and held that the constitutional requirements relating to the impeachment process had not been satisfied.²⁵ These decisions demonstrate that the constitutional

¹³⁶ *ibid* ss 143 and 188.

¹³⁷ *ibid* ss 143(1)–(3) and 188(1)–(3).

¹³⁸ *ibid* ss 143(4) and 188(4).

authority granted to legislatures does not exclude judicial review where the process is alleged to have been conducted in violation of the Constitution.

The judiciary's role is therefore central to maintaining the rule of law within the impeachment framework. However, judicial intervention must also be carefully balanced against the constitutional separation of powers. The courts are not expected to substitute their political judgment for that of the legislature; rather, their primary concern is whether the legislature has acted within the constitutional limits of its authority.

3.2.3 The Executive: The Subject of Impeachment and Participant in Constitutional Removal Processes

The executive occupies a dual position within Nigeria's constitutional removal framework. In proceedings under sections 143 and 188, the President, Vice-President, Governor or Deputy Governor is the subject of the allegations and is therefore required to respond to the allegations in accordance with the procedure established by the Constitution. The executive as an institution, however, does not determine the outcome of impeachment proceedings. The position differs under sections 144 and 189, which address permanent incapacity. These provisions provide for the involvement of the Federal Executive Council or State Executive Council in initiating the process through the constitutionally prescribed resolution concerning the incapacity of the affected office holder.¹³⁹ This distinction demonstrates that the Constitution deliberately assigns different institutional roles depending on the basis for removal.

The executive's limited role in misconduct-based impeachment is consistent with the principle that an office holder should not be permitted to determine the legality of his or her own removal. At

¹³⁹ *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423 (SC).

the same time, constitutional safeguards ensure that the affected office holder receives notice of the allegations and has an opportunity to respond during the investigative process.

The institutional framework therefore reflects a carefully distributed system of constitutional authority. The legislature exercises the principal power in impeachment proceedings, the judiciary provides institutional safeguards and judicial review, while the executive remains subject to the process but retains constitutional protections against arbitrary removal. The effectiveness of this framework ultimately depends on the willingness of each institution to operate within the constitutional boundaries of its authority.

3.3.1 The National Assembly

The National Assembly is established under section 4 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), which vests federal legislative powers in the National Assembly. Section 47 further provides that the National Assembly shall consist of a Senate and a House of Representatives.¹⁴⁰ The Senate consists of three Senators representing each State of the Federation and one Senator representing the Federal Capital Territory, Abuja, making a total of 109 Senators.¹⁴¹ The House of Representatives consists of 360 members representing federal constituencies established in accordance with the Constitution.¹⁴²

The constitutional structure of the National Assembly is relevant to impeachment because section 143 assigns the National Assembly the responsibility for proceedings concerning the removal of the President or Vice-President on the ground of gross misconduct. The impeachment power is therefore not an independent power derived merely from the general legislative authority of the

¹⁴⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 4 and 47.

¹⁴¹ *ibid* s 48.

¹⁴² *ibid* s 49.

National Assembly. Rather, it is a specific constitutional power expressly conferred under section 143 and subject to the detailed procedural requirements contained in that provision.¹⁴³

The National Assembly consequently performs a constitutional accountability function in relation to the federal executive. However, its role in impeachment must be exercised within the limits prescribed by the Constitution. The National Assembly cannot remove the President or Vice-President simply because of political disagreement or loss of confidence. The Constitution requires compliance with specific requirements concerning the initiation of allegations, legislative consideration, investigation and the adoption of the investigative panel's report.¹⁴⁴

The constitutional arrangement therefore reflects the broader principle of checks and balances. While the President and Vice-President derive their mandates independently of the National Assembly, they remain subject to constitutional accountability. At the same time, the National Assembly's authority to initiate and conclude impeachment proceedings is restricted by constitutional thresholds intended to prevent arbitrary or politically motivated removal.

3.3.2 State Houses of Assembly

The State Houses of Assembly are established under section 90 of the 1999 Constitution, which provides that there shall be a House of Assembly for each State of the Federation.¹⁴⁵ Unlike the National Assembly, which is bicameral, each State House of Assembly operates as a unicameral legislature. The number of members of a State House of Assembly is determined by the number of constituencies established within the State in accordance with the Constitution and relevant electoral legislation.

¹⁴³ *ibid* s 143.

¹⁴⁴ *ibid* s 143(1)–(10).

¹⁴⁵ *ibid* s 90.

The constitutional functions of the State Houses of Assembly extend beyond ordinary law-making. They include legislative oversight of the State executive and, most significantly for the purposes of this study, the exercise of the constitutional power to initiate and determine proceedings for the removal of a Governor or Deputy Governor on the ground of gross misconduct under section 188.¹⁴⁶

The State House of Assembly therefore occupies a central position in the impeachment framework at the State level. However, its authority is not unlimited. Section 188 establishes a detailed procedure that must be complied with before a Governor or Deputy Governor can be removed. The procedure requires the support of not less than one-third of the members of the House to initiate the allegations, followed by the prescribed two-thirds majority for the resolution to investigate and, ultimately, the adoption of the investigative panel's report.¹⁴⁷

The constitutional position of the State House of Assembly is therefore similar, although not identical, to that of the National Assembly under section 143. In both cases, the legislature exercises a constitutionally defined power to hold the executive accountable, but that power is subject to procedural safeguards and judicial review. The difference lies principally in the institutional level at which the power operates and the particular executive office holders affected.

¹⁴⁶ *ibid* s 188.

¹⁴⁷ *ibid* s 188(1)–(9).

CHAPTER FOUR

CHALLENGES/ISSUES AND REFORMS IN THE IMPEACHMENT PROCESS: A COMPARATIVE ANALYSIS

4.1 Impeachment Proceedings and the Problem of Initiation

Impeachment is a constitutional mechanism through which specified public office holders may be held accountable for serious misconduct or other constitutionally recognised grounds for removal from office. Its principal purpose is to reconcile two competing constitutional objectives: protecting elected office holders from arbitrary removal while ensuring that holders of public office remain accountable for conduct inconsistent with the responsibilities of their offices.¹⁴⁸ The effectiveness of impeachment therefore depends not only on the existence of constitutional provisions but also on the clarity of the grounds for removal, the institutions authorised to initiate proceedings, the procedural safeguards available to the affected office holder and the independence of the institutions responsible for determining the allegations.¹⁴⁹

The initiation of impeachment proceedings presents one of the most contentious aspects of the process. The question of who should have the authority to commence proceedings, the threshold required to initiate an investigation and the extent to which political considerations influence the process have generated considerable debate in constitutional democracies.¹⁵⁰ In Nigeria, sections 143 and 188 of the 1999 Constitution (as amended) prescribe the procedure for removing the President or Vice-President and the Governor or Deputy Governor respectively on the ground of gross misconduct. The Constitution also provides separate procedures for removal on grounds of

¹⁴⁸ B O Nwabueze, *The Presidential Constitution of Nigeria* (C Hurst & Co 1982).

¹⁴⁹ Ibid.

¹⁵⁰ A A Utuama, *Nigerian Constitutional Law* (Malthouse Press 2007).

permanent incapacity under sections 144 and 189. Although these provisions establish detailed procedural safeguards, their application has generated controversies concerning political manipulation, partisan influence and compliance with constitutional requirements.

The problem is particularly significant in Nigeria because impeachment proceedings have frequently taken place within broader political conflicts between executive office holders and legislators. Judicial decisions such as *Inakoju v Adeleke* and *Dapianlong v Dariye* demonstrate that non-compliance with constitutional requirements can invalidate impeachment proceedings.¹⁵¹ The comparative examination of Nigeria, the United Kingdom, the United States and Kenya is therefore useful in identifying the strengths and weaknesses of different constitutional models and in considering possible reforms to the Nigerian impeachment framework.

4.2 Who Can Initiate Impeachment Proceedings in Nigeria?

In Nigeria, the authority to initiate impeachment proceedings is constitutionally vested in the legislature. The procedure for the removal of the President or Vice-President is governed by section 143 of the 1999 Constitution, while section 188 governs the removal of a Governor or Deputy Governor.¹⁵² The process is not initiated by the executive or by the judiciary. Rather, it begins with a written notice of allegations signed by not less than one-third of the members of the National Assembly in the case of the President or Vice-President, or by not less than one-third of the members of the relevant State House of Assembly in the case of a Governor or Deputy Governor.¹⁵³

The notice must state that the office holder is guilty of gross misconduct in the performance of the functions of his or her office and must set out the particulars of the alleged misconduct.¹⁵⁴ In the

¹⁵¹*Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423; *Dapianlong v Dariye* (2007) 8 NWLR (Pt 1036) 332.

¹⁵²Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 143 and 188.

¹⁵³ *ibid*, ss 143(1) and 188(1).

¹⁵⁴ *ibid*, ss 143(2) and 188(2).

case of the President or Vice-President, the notice is presented to the President of the Senate or, where appropriate, the Speaker of the House of Representatives in accordance with section 143. In the case of a Governor or Deputy Governor, the notice is presented to the Speaker of the relevant State House of Assembly under section 188.¹⁵⁵

The constitutional requirement that the notice must be supported by at least one-third of the members of the relevant legislative body serves as an initial threshold against frivolous or individualised impeachment initiatives. However, the requirement does not prevent political considerations from influencing the initiation of proceedings. Where a political party or political bloc controls a substantial proportion of the legislature, the constitutional threshold may be easier to satisfy, particularly where there is an existing political conflict between the executive and legislative branches.

After the notice has been presented, the relevant legislative body must comply with the constitutional requirements concerning service of the notice and consideration of the allegations. The Constitution requires the notice and allegations to be served on the affected office holder and copies to be made available to members of the relevant legislative body. The legislature must then determine whether the allegations should be investigated. This requires a resolution supported by not less than two-thirds of all members of the relevant legislative body.¹⁵⁶

Where the required resolution is passed, the investigation is conducted by a seven-member investigative panel. In proceedings concerning the President or Vice-President, the Chief Justice of Nigeria appoints the panel, while in proceedings concerning a Governor or Deputy Governor,

¹⁵⁵ *ibid*, ss 143(2) and 188(2).

¹⁵⁶ *ibid*, ss 143(3) and 188(3).

the Chief Judge of the State appoints the panel.¹⁵⁷ The panel is required to consist of persons of unquestionable integrity who satisfy the constitutional requirements for membership. The affected office holder is entitled to defend himself or herself before the panel and may be represented by a legal practitioner of his or her choice.¹⁵⁸

The panel must submit its report within the constitutionally prescribed period. Where the panel finds that an allegation has not been proved, no further proceedings may be taken in respect of that allegation. Where the panel finds that the allegation has been proved, the report is submitted to the relevant legislature for consideration. Removal from office ultimately requires the adoption of the report by not less than two-thirds of all the members of the relevant legislative body.¹⁵⁹

The Nigerian model therefore places the legislature at the centre of the initiation and determination of impeachment proceedings while introducing an investigative stage involving a panel appointed by the Chief Justice of Nigeria or the Chief Judge of the State. This arrangement attempts to balance legislative accountability with procedural safeguards. Nevertheless, the Nigerian experience demonstrates that constitutional safeguards alone cannot completely prevent political manipulation. The Supreme Court's decisions in *Inakoju v Adeleke* and *Dapianlong v Dariye* illustrate the consequences of failing to comply with mandatory constitutional requirements.¹⁶⁰

The Nigerian framework therefore raises an important question for reform: whether the present concentration of initiation and final determination within the legislature provides sufficient protection against partisan impeachment. The comparative systems considered below provide alternative approaches to this problem.

¹⁵⁷ *ibid*, ss 143(5) and 188(5).

¹⁵⁸ *ibid*, ss 143(6) and 188(6).

¹⁵⁹ *ibid*, ss 143(8) and 188(8).

¹⁶⁰ *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423; *Dapianlong v Dariye* (2007) 8 NWLR (Pt 1036) 332.

4.3 United Kingdom

The historical origins of impeachment are closely associated with the constitutional development of the United Kingdom. The procedure emerged in medieval England as a mechanism through which the House of Commons could bring allegations of serious misconduct against public officials before the House of Lords. Unlike modern systems, impeachment originally provided Parliament with a means of holding ministers and other officials accountable for conduct that threatened the public interest.

The procedure was historically used in several prominent cases, including the impeachment of William Latimer in 1376 and later proceedings against senior political figures. One of the last major impeachment proceedings was that against Henry Dundas, Viscount Melville, in 1806, who was accused of misappropriation of public funds during his tenure as Treasurer of the Navy. He was subsequently acquitted by the House of Lords.¹⁶¹

Impeachment has, however, become effectively obsolete in contemporary British constitutional practice. The United Kingdom has not used the procedure for more than two centuries, and modern parliamentary accountability is achieved principally through other constitutional and political mechanisms. These include ministerial responsibility, parliamentary scrutiny, votes of no confidence, parliamentary committees and judicial review.¹⁶²

The British system therefore provides an important contrast with Nigeria. The United Kingdom does not have a codified constitutional provision establishing a contemporary impeachment procedure for the Prime Minister or other ministers. The Prime Minister remains politically

¹⁶¹ House of Lords, 'Impeachment' (UK Parliament); Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (25th edn, LexisNexis 2019).

¹⁶² *ibid.*

accountable to the House of Commons and, in practice, depends upon maintaining the confidence of the House. A government that loses a confidence vote may be forced to resign or, depending on the constitutional circumstances, face a general election. The vote of no confidence in the government of James Callaghan in 1979 illustrates the operation of parliamentary accountability in the British system.¹⁶³

The British experience demonstrates that executive accountability does not necessarily require a formal impeachment procedure. The parliamentary system provides alternative mechanisms for removing or constraining governments that lose legislative support. This differs fundamentally from Nigeria's presidential system, where the President and Governors possess independent electoral mandates and cannot ordinarily be removed merely because they have lost the confidence of the legislature. Impeachment therefore performs a more significant constitutional function in Nigeria than it does in contemporary Britain. However, the British experience also raises a question relevant to Nigeria: whether effective political accountability can be achieved through mechanisms other than impeachment. While the Nigerian presidential system makes a formal removal mechanism necessary, greater reliance on parliamentary oversight, committee investigations and institutional accountability may complement impeachment and reduce the pressure to use impeachment as the primary instrument for resolving political disputes.

4.4 United States of America

The United States provides one of the most significant comparative models for the Nigerian impeachment system because Nigeria's presidential constitutional structure and impeachment framework have been substantially influenced by the American presidential model.

¹⁶³ House of Commons Library, *Votes of No Confidence* (UK Parliament).

Article II, section 4 of the United States Constitution provides that the President, Vice-President and other civil officers of the United States may be removed from office upon impeachment and conviction for "Treason, Bribery, or other high Crimes and Misdemeanors."¹⁶⁴ The provision does not provide an exhaustive definition of "high Crimes and Misdemeanors", thereby leaving room for constitutional interpretation and political judgment.

The impeachment process is divided between the House of Representatives and the Senate. The House possesses the sole power of impeachment under Article I, section 2, while the Senate has the sole power to try all impeachments under Article I, section 3.¹⁶⁵ A simple majority in the House is sufficient to approve articles of impeachment. Where the President is tried, the Chief Justice of the United States presides over the Senate proceedings. Conviction and removal require the concurrence of two-thirds of the Senators present.¹⁶⁶

The American model therefore differs from Nigeria's system in an important respect. In Nigeria, the Constitution requires the involvement of an investigative panel appointed by the Chief Justice of Nigeria or Chief Judge of a State before the legislature can adopt a report leading to removal. In the United States, the House of Representatives itself conducts or supervises investigations through its committees before voting on articles of impeachment. The Senate subsequently conducts the impeachment trial.

The American experience also demonstrates the difficulty of separating impeachment from partisan politics. President Bill Clinton was impeached by the House of Representatives in 1998 but acquitted by the Senate in 1999. President Donald Trump was impeached twice by the House,

¹⁶⁴ US Constitution, art II, s 4.

¹⁶⁵ US Constitution, art I, ss 2–3.

¹⁶⁶ *ibid*, art I, s 3, cl 6.

first in 2019 and again in 2021, but was acquitted by the Senate on both occasions.¹⁶⁷ In each case, the outcome reflected significant partisan divisions, raising questions concerning the extent to which political affiliation influences impeachment decisions.

The United States experience is therefore relevant to Nigeria because both systems confront the challenge of balancing political accountability with partisan politics. The phrase "high Crimes and Misdemeanors" in the United States, like "gross misconduct" in Nigeria, is not exhaustively defined and permits considerable debate concerning the types of conduct that justify removal. However, the American system differs in the allocation of institutional responsibility. The House initiates impeachment, while the Senate conducts the trial, thereby creating a bicameral division of functions. The American experience suggests that high constitutional thresholds may protect executive stability but may also make removal difficult where political parties are deeply divided. Nigeria's requirement of two-thirds support at critical stages similarly makes successful removal difficult. At the same time, the Nigerian system could draw lessons from the American separation between the institution that brings the charges and the institution that conducts the trial, while adapting such a model to Nigeria's own constitutional structure.

4.5 Kenya

Kenya provides a particularly relevant comparative model because, like Nigeria, it operates a presidential system within a written federal or devolved constitutional structure and provides constitutional procedures for removing senior executive office holders. However, Kenya's

¹⁶⁷ US House of Representatives, 'Impeachment of President William Jefferson Clinton' (1998); US House of Representatives, 'Impeachment of President Donald J Trump' (2019 and 2021).

constitutional framework differs significantly from Nigeria's in the allocation of impeachment functions between the National Assembly and Senate.

The Constitution of Kenya 2010 provides separate procedures for the removal of the President, Deputy President and County Governors. The relevant provisions include articles 144 and 145 concerning the removal of the President on grounds of incapacity and impeachment respectively, article 150 concerning the removal of the Deputy President, and article 181 concerning the removal of County Governors.¹⁶⁸

4.4.1 Removal of the President

Article 145 provides the constitutional procedure for the impeachment of the President. A member of the National Assembly, supported by at least one-third of all members of the National Assembly, may move a motion requiring the President to vacate office on specified grounds. These include gross violation of the Constitution or any other law, serious reasons for believing that the President has committed a crime under national or international law, or gross misconduct.¹⁶⁹ The motion must be supported by at least two-thirds of all members of the National Assembly before the matter can proceed to the Senate. If the motion is approved, the Senate considers the allegations and establishes a special committee of eleven members to investigate them. The President is entitled to appear and be represented before the committee and to defend himself or herself.¹⁷⁰ Following the investigation, the Senate considers the committee's findings. Where the Senate finds that the allegations have been substantiated and the required constitutional threshold is achieved, the President is removed from office.¹⁷¹

¹⁶⁸ Constitution of Kenya 2010, arts 144, 145, 150 and 181.

¹⁶⁹ *ibid*, art 145(2).

¹⁷⁰ *ibid*, art 145(3)–(5).

¹⁷¹ *ibid*, art 145(6).

The Kenyan model therefore distributes the impeachment process between the two chambers of Parliament. The National Assembly initiates the process, while the Senate performs the principal investigative and determining role. This institutional division creates a greater separation between the initiation and final determination of impeachment than exists in Nigeria, where the same legislative institution initiates and ultimately determines the removal of a Governor.

4.4.2 Removal of the Deputy President

Article 150 of the Constitution of Kenya provides that the Deputy President may be removed from office on grounds including gross violation of the Constitution or any other law, serious reasons for believing that the Deputy President has committed a crime under national or international law, or gross misconduct.¹⁷² The procedure for removal is linked to the process prescribed under article 145.

The Kenyan constitutional framework was tested in 2024 when Deputy President Rigathi Gachagua became the subject of impeachment proceedings. The National Assembly passed a motion to impeach him, and the matter was subsequently transmitted to the Senate for consideration. The Senate ultimately resolved to remove him from office, making the proceedings a significant contemporary example of the operation of Kenya's constitutional impeachment mechanism.¹⁷³ The Gachagua proceedings are particularly relevant to the present study because they demonstrate the practical operation of Kenya's bicameral impeachment system. They also raise similar concerns to those observed in Nigeria concerning political alliances, party loyalty,

¹⁷² *ibid*, art 150.

¹⁷³ Parliament of Kenya, *Proceedings on the Impeachment of the Deputy President Rigathi Gachagua* (2024); Constitution of Kenya 2010, art 150.

executive-legislative relations and the extent to which impeachment proceedings can become intertwined with political disputes.

The Kenyan experience therefore provides an important comparative lesson for Nigeria. Unlike Nigeria, where the State House of Assembly both initiates and ultimately determines the impeachment of a Governor, Kenya separates the process between the National Assembly and the Senate. This arrangement potentially reduces the risk that a single legislative body will control the entire process. Nevertheless, the Kenyan experience also demonstrates that institutional separation alone cannot eliminate political considerations from impeachment proceedings.

4.4.3 Removal of County Governors

Article 181 of the Constitution of Kenya provides for the removal of County Governors. A Governor may be removed on grounds including gross violation of the Constitution or any other law, serious reasons for believing that the Governor has committed a crime under national or international law, abuse of office or gross misconduct, or physical or mental incapacity to perform the functions of office.¹⁷⁴ The procedure for removal is further regulated by the Constitution and relevant legislation governing county governments. The county assembly may initiate the process, after which the matter is referred to the Senate for consideration. The involvement of the Senate creates an additional institutional layer between the initiation and final determination of the removal process. This arrangement is particularly relevant to Nigeria's constitutional framework because Nigeria's State Houses of Assembly exercise both the initiating and final legislative functions in proceedings against Governors. The Kenyan model therefore raises the possibility of

¹⁷⁴ Constitution of Kenya 2010, art 181(1); County Governments Act 2012 (Kenya), s 33.

considering whether the introduction of an additional institutional stage or an independent review mechanism could improve the credibility of impeachment proceedings in Nigeria.

CHAPTER FIVE

FINDINGS, RECOMMENDATIONS, AND CONCLUSION

5.1 Summary of Findings

This study examined the law and practice of impeachment in Nigeria, focusing on its constitutional framework, institutional operation, challenges and possible reforms, with comparative reference to the United Kingdom, the United States of America and Kenya. The major findings of the study are as follows:

1. The study found that impeachment is an important constitutional mechanism for ensuring executive accountability in Nigeria. Sections 143 and 188 of the 1999 Constitution (as amended) provide the procedure for removing the President, Vice-President, Governor and Deputy Governor for gross misconduct, while sections 144 and 189 provide for removal on grounds of permanent incapacity. However, the effectiveness of the framework depends largely on strict compliance with the constitutional procedure.
2. The study found that the impeachment process is vulnerable to political manipulation. Political rivalry, partisan interests, political patronage and the influence of political actors may affect the initiation and conduct of impeachment proceedings, thereby turning a constitutional accountability mechanism into an instrument of political vendetta.
3. The study found that the broad meaning of gross misconduct creates room for subjective interpretation. The constitutional definition gives considerable discretion to the legislature in determining what amounts to gross misconduct, which may create uncertainty and increase the possibility of politically motivated allegations.

4. The study found that judicial intervention is essential in safeguarding the constitutionality of impeachment proceedings. Decisions such as *Inakoju v Adeleke* and *Dapianlong v Dariye* demonstrate that the courts can invalidate impeachment proceedings where mandatory constitutional requirements are not followed. The investigative panel also serves as an important procedural safeguard.
5. The comparative analysis found that Nigeria can draw useful lessons from other jurisdictions. The United States separates the initiation of impeachment by the House of Representatives from the trial by the Senate, while Kenya distributes important stages of the process between the National Assembly and Senate. These systems demonstrate the potential value of separating the initiation, investigation and final determination of impeachment proceedings.

5.2 Recommendations

Based on the above findings, the following recommendations are made:

1. In relation to the finding that impeachment is an important constitutional mechanism whose effectiveness depends on procedural compliance, the National and State Houses of Assembly should strictly comply with all constitutional requirements governing impeachment. Any failure to comply with mandatory provisions relating to notice, voting thresholds, fair hearing and investigation should render the proceedings invalid.
2. In response to the finding that impeachment is vulnerable to political manipulation, political parties and legislators should refrain from using impeachment as a means of settling political disputes or removing political opponents. The process should only be initiated where credible allegations of constitutional or other serious misconduct exist.

3. In response to the finding that the meaning of gross misconduct is broad and open to subjective interpretation, the constitutional provisions on gross misconduct should be clarified through constitutional amendment or authoritative judicial interpretation to provide clearer standards for determining conduct that may justify impeachment.
4. In response to the finding on the importance of judicial and investigative safeguards, the independence and integrity of investigative panels should be strengthened, while the judiciary should continue to exercise effective oversight to ensure that impeachment proceedings comply with constitutional requirements.
5. In response to the comparative finding that other jurisdictions separate different stages of impeachment, Nigeria should consider introducing an appropriate institutional separation between the initiation, investigation and final determination of impeachment proceedings. Any such reform should be carefully adapted to Nigeria's presidential and federal constitutional structure.

5.3 Conclusion

Impeachment remains an essential constitutional mechanism for ensuring accountability among elected executive office holders in Nigeria. However, its effectiveness is undermined by political manipulation, uncertainty surrounding gross misconduct and procedural violations. The study concludes that impeachment should be preserved as a constitutional safeguard but must be exercised strictly in accordance with the law. Strengthening procedural compliance, limiting political abuse, clarifying the grounds for removal, protecting judicial and investigative safeguards and drawing appropriate lessons from comparative jurisdictions will enhance the credibility of

impeachment and ensure that it serves as an instrument of constitutional accountability rather than political vendetta.

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