



Presidential Accountability in Contrast: A Comparative Study of Impeachment in Afghanistan and the United States

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Abstract

This study provides a comparative analysis of the presidential impeachment systems of Afghanistan and the United States. The purpose of the study is to assess the accountability of the president in light of the constitutional laws, political structures, and legal procedures of the two countries, and to examine what factors affect the impeachment process. A descriptive-analytical method was used for the study, and the constitutional laws, historical cases, academic writings, and legal documents of the two countries were examined. Tables and comparative analyses were also used to present the data. The results show that the US presidential impeachment process is organized, legal, and has a strong foundation, while the Afghan system still faces problems due to legal shortcomings, political pressures, and weak administration. Finally, the study recommends that Afghanistan should pay serious attention to the principles of legal clarity, judicial independence, and checks and balances, and learn from successful international experiences, to make presidential accountability effective.

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Introduction

The position of president is regarded as the most powerful and influential role within any political system, as the president serves not only as the executive head of state but also as the representative of the nation's will. The powers, responsibilities, and limitations of the president are outlined in the country's constitution; however, responsibility also accompanies power. If the president breaches the law, engages in corruption, or undermines national values, he must undergo the legal process of trial. In advanced democratic systems like the United States, the trial of the president, known as "Impeachment," is a clear, active, and enforceable legal process. Conversely, in Afghanistan, the legal framework for prosecuting the president is limited, incomplete, and encounters political obstacles, which have not been practically tested. Thus, comparing the mechanisms for the trial of the president in both systems is valuable from legal, political, and administrative perspectives. Why is the trial process for the president ineffective in Afghanistan? Does the Afghan constitution provide sufficient legal mechanisms for prosecuting the president? What legal, political, or administrative issues might arise from comparing the U.S. presidential trial system with that of Afghanistan? This study aims to compare the presidential trial processes in Afghanistan and the U.S., analyze the differences in legal, political, and enforcement capabilities of the two systems, and demonstrate how Afghanistan can foster accountability, transparency, and the rule of law. This study is significant for several reasons. First, it offers a scholarly analysis of an important yet under-researched aspect of the Afghan constitution—the presidential trial. Second, this comparative study draws lessons for Afghanistan from the practical experiences of the U.S. Third, it strengthens fundamental democratic principles such as checks and balances, accountability, and the rule of law. This study can serve as a guide for lawyers, lawmakers, and reform-minded institutions to enhance the effectiveness of presidential trial mechanisms. There has been considerable legal and political writing on the impeachment of the president, particularly in the United States, where the topic has been thoroughly analyzed

under the heading of “Impeachment.” The U.S. Constitution, federal court decisions, and congressional documents clarify that the president can only be tried for treason, bribery, or other serious crimes. In Afghanistan, although the 1982 Constitution explicitly provides for presidential impeachment (specifically Article 69), little scholarly and practical work has been conducted on this topic to date. Some legal scholars have discussed the interpretation of the constitution, the powers of the Wolesi Jirga and the Supreme Court, and the political implications, but these writings remain largely theoretical and provide minimal insight into their practical implementation. Several key concepts and theories are addressed in this section: the Checks and Balances theory is a fundamental principle of democratic systems, which posits that each power must be balanced against the others. The impeachment of the president exemplifies this theory. The concept Rule of Law underpins the principle that no one is above the law, not even the president. The Political Responsibility Theory asserts that executive leaders should be accountable for their actions to the public. While extensive research exists on the U.S. presidential impeachment process, there is sparse research on Afghanistan that compares specific legal, political, and administrative challenges with international experiences. The most significant gaps in Afghanistan are: The legal framework for presidential impeachment has not been put into practice. The enforcement of the law is largely subject to political pressures. The absence of judicial independence and the political structure of the Wolesi Jirga impede its practical application. These differences and gaps create a pressing need to examine the issue of presidential impeachment from a constitutional standpoint, informed by applicable legal mechanisms and international experiences.

Presidential impeachment is a topic that has been widely discussed in advanced democracies, especially in the United States. The US Constitution, federal court decisions, and congressional documents indicate that the president can only be tried for treason, bribery, or serious criminal offenses ^[1]. On the other hand, in Afghanistan, although the 1382 Constitution explicitly provides for the trial of the president (particularly through Article 69), little scholarly and practical research has been conducted in this area. Most of the writings are theoretical and provide little guidance for practical implementation. The Rule of Law principle states that no one, not even the president, is above the law. The three branches of government should be independent and accountable to each other. The president and executive leaders should be accountable to the people for their actions ^[2]. The Constitutionalism theory emphasizes that the government should operate within the framework of the constitution, and the trial of the president is a test of this theory ^[3]. The Checks and Balances is a fundamental principle of democratic systems, based on which institutions control each other and do not dominate ^[4]. The legal framework for presidential trials in Afghanistan has not yet been implemented in

practice. The implementation of the law is subject to political pressures. The weak role of the Wolesi Jirga and the lack of independence of the judiciary are obstacles to the practical implementation of trials. Most of the literature on Afghanistan is only theoretical and lacks practical solutions or applicable experiences. The impeachment process in Afghanistan is politically motivated, while in the United States it has a legal framework. This section provides an important foundation for a comparative study of presidential trial processes between the two countries, and assesses the rule of law, the principle of accountability, and the independence of institutions. If desired, this section can be aligned with or expanded upon in the rest of the research document

Constitutionalism and Presidentialism

Constitutionalism is a fundamental political and legal theory that limits the powers of the state within the framework of the constitution and guarantees the rule of law. This theory argues that all government officials, including the president, must act in accordance with the constitution and be accountable to the law ^[5]. The principle of constitutionalism is that there is a structured agreement (constitution) between the state and the people, which specifies the structure of government, the division of powers, the rights of citizens, and the ways in which leaders are held accountable ^[6]. In particular, this theory provides a legal framework for the impeachment of the president, under which the president can be tried and removed for breaking the law, treason, or corruption ^[7]. In both countries, Afghanistan and the United States, the constitutions set out clear conditions for the impeachment of the president, but the way in which they are implemented varies depending on the strength of the political culture and system. The impeachment of a president is an important test of these principles, based on which it is assessed: is a system truly constitutional or not? Constitutionalism in the United States is a vital part of the structure of government. The US Constitution has a clear mechanism for trial (for example, Article II of the Constitution and the principles of impeachment in federal laws), according to which Congress can try the president for treason, corruption, or other serious crimes ^[8]. Historical cases such as the resignation of Richard Nixon, the trial of Bill Clinton, and the two impeachments of Donald Trump demonstrate that constitutionalism has not only theoretical but also practical validity ^[9]. In contrast, in Afghanistan, despite the 2003 Constitution containing Article 69 for the trial of the president, the principles of constitutionalism have not yet been institutionally strengthened. The concentration of power, the dominance of political interests, the weak role of parliament, and the relative lack of independence of judicial institutions have led to the trial of the president becoming more like a political taboo than a legal principle ^[10]. Constitutionalism is a fundamental theory that can be used to guide the research. This theory allows the researcher to not

¹ Felknor, “Impeachment of a President | Britannica.”

² Oussema Othmeni, “Presidential Impeachment in the American Political Arena.”

³ Sherman, “Afghanistan’s Constitutions a Comparative Study and Their Implications for Afghan Democratic Development.”

⁴ Oussema Othmeni, “Presidential Impeachment in the American Political Arena.”

⁵ Mesquita Ceia, “Populist Constitutionalism in Brazil and Peru.”

⁶ Савчин, “Third Ukrainian Republic.”

⁷ I. Zaznaev, “Politicizing Presidential Impeachment in the Contemporary World.”

⁸ Oussema Othmeni, “Presidential Impeachment in the American Political Arena.”

⁹ Ginsburg, Huq, and Landau, “The Comparative Constitutional Law of Presidential Impeachment | the University of Chicago Law Review.”

¹⁰ Sherman, “Afghanistan’s Constitutions a Comparative Study and Their Implications for Afghan Democratic Development.”

limit the case of the trial of the president to the analysis of a single legal article, but to assess whether the constitution is actually applicable? Are the institutions independent? And is the ruler subject to the law? According to constitutionalism theory, the trial of the president should be part of the legal mechanism, not a means of political pressure or revenge^[11]. In the United States, although the impeachment process has a political nature, it does not depart from the framework of the law. But in Afghanistan, this theory has largely remained on paper, with limited capacity for implementation. As a result, constitutionalism provides a profound and effective framework for research through which to compare the presidential trials of Afghanistan and the United States; it explains why and how accountability of the rulers is considered a sign of a nation's legal progress^[12]. Constitutionalism is a political-legal theoretical framework that emphasizes: "Every act of the state must be carried out in accordance with the law, and especially the constitution, and no one – the ruler, the president, or the state – is above the law." This theory advocates for the principles of limiting state power, protecting citizens' rights, and establishing checks and balances among institutions^[13]. Rule of Law mandates that all people, including the president, must be subject to the law. Limitation of Power requires that the executive, legislative, and judicial branches remain independent and monitor each other. Accountability dictates that the president and other officials must answer for their actions, including facing trial. Supremacy of the Constitution asserts that the Constitution is the basis for all government actions, and no law or decision should contradict it. Protection of Civil Liberties ensures that individuals are safeguarded by the Constitution from government oppression, corruption, or tyranny^[14]. This analysis positions the trial of the President as not only a political act but also a legal obligation. Constitutionalism serves as a practical principle; if the President violates the law, he can be tried by Congress^[15]. The impeachments of Nixon, Clinton, and Trump demonstrate that the President is also subject to the law. Institutions are independent, the Constitution is enforced, and political pressure is limited^[16]. The Constitution permits the possibility of impeaching the President, but this theory often proves impractical. The executive branch is quite powerful, while the judiciary and parliament are frequently weak. Trials are hindered by political pressure, security vulnerabilities, and administrative corruption. Enforcement of the law through this theory enables researchers to assess whether the Constitution wields real influence or exists merely as an empty document. Legal legitimacy of the trial requires that the president's trial must rest on legal grounds rather than political motives^[17]. Constitutionalism clarifies this distinction. Independence of institutions, according to constitutionalism, endorses that trials are viable only if judicial and parliamentary institutions maintain independence^[18]. Accountability of the ruler

emphasizes that the president, like everyone else, must be responsible for his actions. This principle forms the core of constitutionalism. Constitutionalism delivers a robust theoretical framework for presidential trials. It elucidates not only why trials are essential but also how a system built on a constitutional foundation limits power and guarantees democracy^[19]. This theory offers a basis for comparative studies of countries such as Afghanistan and the United States, where the commitment to rule of law, institutional integrity, and political pressures can be evaluated. Presidentialism is a political theory that describes the characteristics of a presidential system; in this system, the president is the head of both state and government and is directly elected by the people. This theory believes that the president should have executive power separate from parliament, but be subject to the law and accountable^[20]. An important part of the presidential system is that the president not only has high authority, but also remains accountable through legal mechanisms, such as impeachment^[21]. In Afghanistan and the United States, this system defines the powers of the president broadly, but also considers the impeachment process as a means of checks and balances. In the United States, impeachment of the president is an active process, administered by Congress, while in Afghanistan, impeachment of the president was legally possible, but was often not implemented due to political influence, weak institutions, and legal loopholes.

The election of a president: Afghanistan and the United States

The election of a president is considered a fundamental principle of any republican system, as the president is the head of the executive branch of government, the protector of the constitution, and a symbol of the unity of the nation. The method of electing a president is directly related to a country's political system, legal structure, and the principle of separation of powers^[22]. Both the Islamic Republic of Afghanistan and the Federal Republic of the United States have presidential systems, but the legal mechanisms, principles, and conditions for electing a president differ significantly from each other. The Constitution of Afghanistan of 1382 has defined a specific legal framework for electing a president. According to Article 60 of this law: "The President of Afghanistan is elected by the will of the nation through direct, general, secret, and free elections for a term of five years. The election of the president is regulated by the Independent Election Commission^[23]." Requirements (Article 62): Be a citizen of Afghanistan, meaning he/she does not have dual citizenship; be a Muslim; be at least 40 years of age; have not been convicted of treason, a crime, or a serious violation of human rights; have resigned from government service before running for office. The elections are direct, meaning that the people vote for presidential candidates directly. If a candidate receives 50% + 1 vote in

¹¹ University of Warsaw *et al.*, "Three Models of Presidential Impeachment in South America."

¹² Khan, Ahmad, and Gul, "Constitution of Afghanistan."

¹³ Mesquita Ceia, "Populist Constitutionalism in Brazil and Peru."

¹⁴ Jalili, Faizy, and Shenwari, "The Powers of the President against the Legislative Branch; According to the Constitution of Afghanistan."

¹⁵ University of Warsaw *et al.*, "Three Models of Presidential Impeachment in South America."

¹⁶ Oussema Othmani, "Presidential Impeachment in The American Political Arena."

¹⁷ Mesquita Ceia, "Populist Constitutionalism in Brazil and Peru."

¹⁸ Ginsburg, Huq, and Landau, "The Comparative Constitutional Law of Presidential Impeachment | the University of Chicago Law Review."

¹⁹ Widodo *et al.*, "The House of Representatives Supervision as the Initial Instrument to Impeachment the President and Vice President."

²⁰ Yang, "The Perils of Parliamentarism in Contrast to Presidentialism in Democratic Transition."

²¹ Jalili, Faizy, and Shenwari, "The Powers of the President against the Legislative Branch; According to the Constitution of Afghanistan."

²² Seddiqi, "The Legal Framework of Presidential Elections in Afghanistan."

²³ The Constitution of Afghanistan, article 60.

the first round, he or she is declared the winner. If no one meets this threshold, the election goes to a second round in which the two candidates with the most votes participate. Although this process is legally clear, its practical implementation is fraught with problems, such as: The deteriorating security situation; widespread allegations of fraud; Public distrust of the transparency and credibility of the elections; the existence of technical and logistical weaknesses ^[24]. Article II, Section 1 of the United States Constitution establishes a specific mechanism for the method of electing the president. Unlike in Afghanistan, elections here are indirect. Electoral College System, the people choose the electors instead of the president. Each state has electors based on its population; there are 538 total electors. To win, a candidate must win at least 270 electoral votes. If no candidate meets this threshold, the House of Representatives has the power to choose the president (according to the Constitution) ^[25]. Qualifications (Article II, Section 1, and Clause 5): A candidate must be a natural-born citizen of the United States; be at least 35 years old; have been a resident of the United States for at least 14 years ^[26]. The system reflects the federal balance, because states have shares based on their population. However, the Electoral College sometimes contradicts the direct will of the people; for example, in the 2016 election, Hillary Clinton won the popular vote, but Trump won the electoral vote. This system is well-organized and historically rich, and has ensured relative political stability ^[27]. Although both countries are republics, the legal and technical mechanisms for electing the president are fundamentally different. Afghanistan's elections are direct, but face serious practical obstacles; while the US's indirect system is legally stable, but has been criticized for its representation of the direct will of the people. Afghanistan needs to make its electoral process more transparent, technically advanced, and publicly credible, so that the principle of democracy remains based on the will of the people.

Powers and Responsibilities of the President (in Afghanistan and the United States)

The president is the most important member of the executive branch of a republic, who is considered a symbol of national sovereignty, political stability, and the implementation of the constitution ^[28]. Although the characteristics of each country's political system determine the powers and responsibilities of the president, in general, the president is responsible for leading the state, implementing the law, and organizing foreign policy. In this regard, the powers of the presidents of Afghanistan and the United States are compared based on their constitutions. Afghanistan is an Islamic republic according to the Constitution of 1382. The main basis for the powers and responsibilities of the president is Articles (60), (67), and (64) of the Constitution ^[29]. According to Article 60 of the Constitution, the president is the chief executive of the state, the commander-in-chief of the armed forces, and the

symbol of the unity of the state ^[30]. According to Article 64, the President is responsible for the implementation of the Constitution, the implementation of laws, and the leadership of general policy. Based on the same article, the President appoints ministers, the Chief Justice, the Attorney General, judges, the Governor of the Central Bank, and other high government officials, who require the approval of the Wolesi Jirga. According to Article 64, the President is the Commander-in-Chief of the Armed Forces of Afghanistan. The President has the authority to appoint ambassadors, sign and ratify international treaties, and officially recognize foreign states ^[31]. Based on Article 79 of the Constitution, the President can issue legislative decrees for emergencies during the recess of the National Assembly, but these must be approved by the Assembly ^[32]. Under Article 64, the President may grant pardons or commutations of sentences to criminals upon the recommendation of the judiciary ^[33]. The U.S. Constitution outlines the powers and responsibilities of the President in Article II, which outlines the President's executive, foreign policy, and military powers ^[34]. Under Article II, Section 1, the President is the chief executive of the federal government and is responsible for the administration of the federal agencies ^[35]. Under Article II, Section 2, the President is the commander-in-chief of the Army, Navy, and National Guard (when federalized). The President appoints ambassadors and signs international treaties, but requires a two-thirds vote of the Senate to ratify them ^[36]. The president signs or vetoes laws passed by Congress (Article I, Section 7) ^[37]. The president has the power to appoint federal judges, including Supreme Court justices, who must be confirmed by the Senate (Article II, Section 2) ^[38]. Although not explicitly stated in the Constitution, it has historically been customary for the president to issue executive orders in emergencies. Although the presidents of Afghanistan and the United States have similar responsibilities as heads of republican systems, their concentration of power, legal limitations, and oversight mechanisms differ. In Afghanistan, the president is given relatively broad executive authority, especially in the appointment of ministers and judges, while in the United States, the separation of powers is very clear, and the Congress, Senate, and Supreme Court balance the president's powers. Despite these differences, both systems try to define and limit the president's powers based on the constitution, so that the will of the people can be implemented through law, and tyranny is prevented.

The Trial of the President: Legal and Political Grounds in the Light of Afghan and American Laws

The rule of law and effective oversight ensure the legitimacy of the impeachment process ^[39]. So, the rule of law and effective oversight are necessary for impeachment to have legitimacy, meaning that the public accepts it and does not perceive it as an unfair or political act. The trial or impeachment of the president is an important legal and

²⁴ The Constitution of Afghanistan, article 62.

²⁵ Constitution of the United States, article 2, section 1.

²⁶ Constitution of the United States, article 2, section 1, Clause 5.

²⁷ Oussema Othmeni, "Presidential Impeachment in the American Political Arena."

²⁸ Besharat and Danishmal, "The Role of Political Culture in Afghanistan's Political Development from (2001-2021)."

²⁹ Jalili, Faizy, and Shenwari, "The Powers of the President against the Legislative Branch; According to the Constitution of Afghanistan."

³⁰ The Constitution of Afghanistan, article 60.

³¹ The Constitution of Afghanistan, article 64.

³² The Constitution of Afghanistan, article 79.

³³ The Constitution of Afghanistan, article 64.

³⁴ Constitution of the United States, article 2.

³⁵ Constitution of the United States, article 2, section 2.

³⁶ Constitution of the United States, article 1, section 1.

³⁷ Constitution of the United States, article 1, section 7.

³⁸ Constitution of the United States, article 2, section 2.

³⁹ Palamone, Presidential Impeachment in Latin America.

political mechanism that is considered a fundamental principle of the stability and accountability of a republican system in the event of abuse of power, legal violations, or the loss of public trust^[40]. The Constitution of Afghanistan has established a limited legal basis for the impeachment of the president. Article 69 of Chapter 16 of the said law states: "The president may be accused of national treason. For the investigation of the charge of national treason, upon the proposal of one-third of the members of the House of Representatives and the votes of two-thirds of all members of this House, the matter shall be referred to the Supreme Court. The Supreme Court shall investigate the matter and the Senate shall decide on it^[41]." According to this article, only treason is considered a legal reason for impeaching the president, and the process has three stages: Proposal by 1/3 of the members of the House of Representatives. Confirmation by 2/3 of the members of the House of Representatives. Investigation by the Supreme Court and decision by the Senate. Although other articles of the Constitution mention the duties of the president, they do not contain a specific definition for impeachment, such as: Article 84: Powers of the Senate^[42]. Article 91: Supervisory powers of the House of Representatives, but not impeachment of the president^[43]. The United States Constitution clearly describes the legal framework for impeachment of the president. This issue is addressed in Article 4 of Chapter II of the Constitution: "The President, Vice President, and all civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors^[44]." Here are three legal grounds: Treason, Bribery, and other high crimes and misdemeanors^[45]. The impeachment process consists of the following steps: The House of Representatives issues a motion to impeach the president by a simple majority vote. The Senate holds a trial; if 2/3 of the senators agree, the president is removed from office^[46]. Although legal reasons form the basis of an impeachment, political circumstances often provide the basis for an impeachment. In both countries, the following political factors can lead to an impeachment: Political opposition: Increased opposition from parliament or opposition parties. Loss of public trust, demonstrations, and public pressure. Display of poor leadership during national crises (e.g., pandemic, war, economic problems). The role of the media, social networks, and civil society^[47]. In Afghanistan, these factors largely create political pressure, but impeachment is rare due to legal constraints^[48]. In contrast, in the United States, several presidents have been impeached due to political circumstances, such as: Andrew Johnson (1868), Bill Clinton (1998), and Donald Trump (2019, 2021). However, none have been removed from office, because a 2/3 majority in the Senate is not achieved

^[49]. The trial of a president is a mixed legal and political process^[50]. In Afghanistan, the narrow definition of the constitution means that impeachment is possible only in cases of national treason, while in the United States, the broad definition of the constitution and effective legal mechanisms have made the process transparent and practical. It is important for any democratic system that the trial of a president is carried out only within the framework of the law, in accordance with political prudence and the will of the people, so that not only the rule of law remains supreme, but also to prevent abuse of power.

Legal Mechanisms of Impeachment: In Afghanistan vs. In the United States

The impeachment or trial of the president is one of the most important constitutional measures, which aims to ensure the legal and political responsibility of the head of the executive branch (the president)^[51]. This process is generally based on the clarity of the constitution, the definition of crimes, and the separation of powers^[52]. Here, we compare the legal mechanisms of impeachment of the president of Afghanistan and the United States in light of the legal provisions. Article 69 of the 1382 Constitution of Afghanistan is considered the only legal basis for the impeachment of the president. This article is stated as follows: Article 69: "The president may be accused of committing treason. This charge must be brought upon the request of one-third of the members of the Lower House and with the approval of two-thirds of the members of the said House. After approval, the charge is submitted to the Special Court of the Supreme Court. The Supreme Court investigates the matter and submits its report to the Senate. If the Senate decides by a two-thirds majority, the president is removed from office^[53]." Limited definition, only "treason" is mentioned, the legal definition of which is vague. Judicial and legislative participation, all three branches (House of Representatives, Supreme Court, and Senate) play a role in this process^[54]. Non-transparent process, Lack of clarity, transparency, and enforcement mechanisms. No practical experience, No president has yet applied this article, although there have been cases of political pressure^[55]. The U.S. Constitution, Article II, Section 4, clearly states that the President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors^[56]. The impeachment and trial process of the President of the United States is considered one of the most important constitutional courts, which has a unique political and legal structure^[57]. The process begins with the House of Representatives, where the bill of impeachment of the President is prepared. If the members of the House of Representatives agree with the impeachment bill by a simple

⁴⁰ Ginsburg, Huq, and Landau, "The Comparative Constitutional Law of Presidential Impeachment | the University of Chicago Law Review."

⁴¹ The Constitution of Afghanistan, article 69.

⁴² The Constitution of Afghanistan, article 84.

⁴³ The Constitution of Afghanistan, article 91.

⁴⁴ Constitution of the United States, article 4 chapter 2.

⁴⁵ University of Warsaw *et al.*, "Three Models of Presidential Impeachment in South America."

⁴⁶ Palamone, Presidential Impeachment in Latin America.

⁴⁷ Oussema Othmeni, "Presidential Impeachment in the American Political Arena."

⁴⁸ Seddiqi, "The Legal Framework of Presidential Elections in Afghanistan."

⁴⁹ Palamone, Presidential Impeachment in Latin America.

⁵⁰ Soete, "After America: Domestic Instability in the Trump Era and the Future of U.S. Leadership in the Indo Pacific."

⁵¹ Seddiqi, "The Legal Framework of Presidential Elections in Afghanistan."

⁵² Jalili, Faizy, and Shenwari, "The Powers of the President against the Legislative Branch; According to the Constitution of Afghanistan."

⁵³ The Constitution of Afghanistan, article 69.

⁵⁴ Yang, "The Perils of Parliamentarism in Contrast to Presidentialism in Democratic Transition."

⁵⁵ Duignan, "What If the President Is Impeached? | Britannica."

⁵⁶ Constitution of the United States.

⁵⁷ I. Zaznaev, "Politicizing Presidential Impeachment in the Contemporary World."

majority (i.e. 50% plus one vote), the impeachment becomes official and the case is sent to the Senate. In the second stage, the Senate assumes the status of a trial of the President, and the trial is presided over by the Chief Justice of the Supreme Court. If two-thirds of the Senate members find the President guilty, he is removed from office^[58]. Some of the important features of this process are that the definition of crimes against the President is broad and includes "treason, bribery, and other high crimes and misdemeanors." Also, these stages of the trial are clear, orderly, and pre-defined, which preserves the principle of separation of powers^[59]. History is witness that several presidents have been impeached in American history; for example, Andrew Johnson, Bill Clinton, and Donald Trump were impeached, but none of them were removed from office by the Senate. The only president who resigned before impeachment was Richard Nixon^[60]. This process is not only a demonstration of the rule of law, but also shows that in a developed democratic system, powers are under control and no official is exempt from accountability^[61]. The trial of the president is a fundamental legal mechanism used to maintain the balance of power, accountability, and public trust^[62]. Article 69 of the Afghan Constitution is the only provision for the trial of the president, but due to legal clarity, enforceability, and political pressures, this process has remained largely inactive^[63]. In contrast, US law has clear definitions, stages, and an enforceable system for impeachment, which has ensured the transparency and practical experience of the legal mechanisms. The legal mechanisms for the trial of the president in Afghanistan are limited, vaguely defined, and politically pressured, while in the United States this process has legal clarity, effectiveness, and political maturity. It is essential for Afghanistan to clarify the articles related to impeachment in light of the constitution and strengthen the independence of the branches of government so that the presidential trial process becomes transparent and enforceable.

Materials And Methods

This study is an applied legal-analytical study that compares

the constitutional laws, political structures, and legal mechanisms of Afghanistan and the United States with the processes related to the trial of the president. The study is primarily qualitative, and relies on document analysis to compare the legal structures, problems, and experiences of the two countries. The data was collected through two basic sources: Primary documents: the constitutional laws of Afghanistan and the United States, legal materials related to the trial, government documents, and legal provisions. Secondary sources: academic articles, law books, political analyses, international studies, and scholarly opinions. These sources were collected from libraries, academic databases, and official websites. The study is not based on the entire country, but two specific political systems (the republican system of Afghanistan and the federal system of the United States) were selected as the analysis samples, both of which have the right to trial based on the power and responsibility of the president. The legal documents and political experience of both systems are the main samples for the analysis. The data was analyzed through Content Analysis and Comparative Legal Analysis. The concepts, rules, and implementation experiences of the constitution, laws, and political structures were compared. The institutions of presidential trials, legal processes, executive agencies, and practical aspects of law enforcement were examined. The differences and similarities were analyzed to highlight the strengths and weaknesses of both systems.

Result

This comparative study reveals that there are profound differences between the United States and Afghanistan in the process of impeaching a president. In the US system, impeachment is a transparent, legal, and systematic process that is carried out on specific grounds set out in the Constitution (such as treason, bribery, and serious criminal offenses). In contrast, Afghanistan, although the Constitution defines the nature of the presidential impeachment process, this process has not yet been implemented and faces numerous legal and political obstacles.

Table 1: Comparative Overview of Presidential Election Systems in Afghanistan and the United States

Criterion	Afghanistan	United States
Type of Election	Direct elections	Indirect elections (Electoral College)
Legal Basis	Articles 60 and 62 of the 2004 Constitution	Article II of the U.S. Constitution
Eligibility Requirements	Citizen, Muslim, 40 years old, no criminal conviction	Natural-born citizen, 35 years old, 14 years of residency
Election Transparency	Faces challenges and allegations	Relatively transparent, though Electoral College is criticized
Alternative in Case of Failure	Second round of elections	House of Representatives has final decision-making power

In the US: The impeachment process is transparent, legally clear, and politically balanced. Both houses of Congress play an important role, and the judicial branches also make independent decisions. In Afghanistan: Although the 2003 constitution explicitly provides for the impeachment of the president, there is little political will, an independent judiciary, or a functioning parliament to implement the law.

The limited authority of the lower house, the dysfunctional judiciary, and the presence of political interference have made this process impractical. The analysis also shows that the Afghan legal system still lacks the necessary mechanisms for impeachment, while in the US system these mechanisms are active and have been used several times (such as the Nixon, Clinton, and Trump cases).

⁵⁸ Trautman, "Presidential Impeachment."

⁵⁹ Widodo *et al.*, "The House of Representatives Supervision As The Initial Instrument to Impeachment The President and Vice President."

⁶⁰ Palamone, Presidential Impeachment in Latin America.

⁶¹ Felknor, "Impeachment of a President | Britannica."

⁶² Mesquita Ceia, "Populist Constitutionalism in Brazil and Peru."

⁶³ Besharat and Danishmal, "The Role of Political Culture in Afghanistan's Political Development from (2001-2021)."

Table 2: Comparative Analysis of Presidential Qualifications and Election Transparency

Powers and Responsibilities	Afghanistan (2004 Constitution)	United States (U.S. Constitution)
Executive Leadership	Based on Articles 60 and 64	Article II, Section 1
Commander-in-Chief of the Armed Forces	Article 64	Article II, Section 2
Legislation and Ratification	Article 79 (Legislative decrees) and Article 64	Article I, Section 7 (Veto and Ratification)
Appointment of Judges and High-Ranking Officials	Articles 64 and 69, subject to approval by the Wolesi Jirga	Article II, Section 2 (Requires Senate confirmation)
Leadership of Foreign Policy	Article 64	Article II, Sections 2 & 3
Granting Pardons	Article 64	Article II, Section 2 (Power to grant pardons)

The main research question was: “Is the presidential impeachment process in Afghanistan comparable to the US judicial system?” Based on the findings and analysis, the answer is that there are fundamental differences in the institutions, implementation, transparency, and trust between Afghanistan and the US in terms of judicial institutions,

implementation, transparency, and trust. The US experience is very different from Afghanistan’s in terms of rule of law, judicial independence, and democratic values. Afghanistan still lacks the basic conditions to hold the president accountable.

Table 3: Comparison of Presidential Powers and Responsibilities

Powers and Responsibilities	Afghanistan (2004 Constitution)	United States (U.S. Constitution)
Executive Leadership	Based on Articles 60 and 64	Article II, Section 1
Commander-in-Chief of the Armed Forces	Article 64	Article II, Section 2
Legislation and Ratification	Article 79 (Legislative decrees) and Article 64	Article I, Section 7 (Veto and Ratification)
Appointment of Judges and High-Ranking Officials	Articles 64 and 69, subject to Wolesi Jirga approval	Article II, Section 2 (Requires Senate confirmation)
Leadership of Foreign Policy	Article 64	Article II, Sections 2 & 3
Granting Pardons	Article 64	Article II, Section 2 (Power to grant pardons)

Thus, the study supports the research question and shows that although both countries have the constitutional principle of presidential impeachment, only the United States has the capacity to implement it.

Discussion

The study shows that the impeachment systems of the Afghan and American presidents are very different from each other. The Afghan constitution provides a somewhat broad framework for the responsibilities and accountability of the president, but due to political and administrative weaknesses, this framework is not practical. In contrast, the US constitution has clear steps for impeachment that have proven to be legally and politically effective. In the US system, the balance between the Senate, the House of Representatives, and the judiciary provides the basis for transparency in accountability, while this balance is incomplete in Afghanistan. Previous literature that focuses on political accountability, impeachment, and the concentration of power has always emphasized that effective democratic governance is not possible without transparent legal mechanisms. Research by Palamone (2024) suggests that the rule of law and effective oversight ensure the legitimacy of the impeachment process. In Afghanistan, despite the existence of legal documents, the process is often hampered by political interference, corruption, and executive constraints, which is consistent with the literature on this issue. This study has highlighted important analytical differences and needs in the impeachment processes of the two countries. For Afghanistan, this study suggests that the rule of law should be prioritized, political interference should be limited, and accountability institutions should be strengthened. In contrast, the US experience shows that even with transparent legal frameworks, political biases can affect the legitimacy of the impeachment process. The limitations of the research were that many legal documents, legal interpretations, and practical cases related to impeachment were not accessible in

Afghanistan, and due to political insecurity, the direct experience of students and officials could not be used. In addition, the lack of literature at the regional level was also an obstacle.

Conclusion

This study shows that although both Afghanistan and the United States have basic legal foundations for presidential impeachment, they differ significantly in terms of practical implementation, political stability, and administrative strength. The legal mechanisms for presidential impeachment in Afghanistan are defined in Article 69 of the Constitution, but this process has remained incomplete due to political interference, weak legislative experience, and administrative constraints. In contrast, the United States has a transparent, structured, and historically experienced system in which the impeachment process is carried out by the House of Representatives, the Senate, and the Supreme Court. This structure reinforces the principle of checks and balances. This study provides an analytical comparison of the Afghan and American systems of political accountability, rule of law, and presidential limitations, which will be a valuable reference for students of law, political science, and public policy, researchers, and policymakers. In addition, this study helps identify shortcomings and needs for reform in the Afghan legal system, and provides a comparison with effective international models. Future research should focus on practical cases of presidential impeachment processes, such as potential complaints or political pressures during the terms of Presidents Hamid Karzai and Ashraf Ghani. It is recommended that a separate study be conducted on the status of judicial independence and law enforcement in Afghanistan, in order to strengthen the accountability system. In addition, an analytical study should be conducted on the impeachment process from the perspective of the public and the role of the media. Comparisons with other countries in the region (such as India, Pakistan, or Iran) can

also provide new perspectives for reforming Afghanistan's legal system.

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