

THE BROOKINGS INSTITUTION  
BROOKINGS CAFETERIA PODCAST  
WHAT IT MEANS TO IMPEACH A PRESIDENT

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## PROCEEDINGS

DEWS: Welcome to the Brookings Cafeteria, the podcast about ideas and the experts who have them. I'm Fred Dews.

You may have heard that an impeachment inquiry is underway in the House of Representatives into the conduct of President Donald Trump with regard to Ukraine. On today's episode Senior Fellow Elaine Kamarck helps makes sense of this in the context of impeachment's history, from its inclusion in the U.S. Constitution to how impeachment was used in the cases of Presidents Andrew Johnson, Richard Nixon, and Bill Clinton.

Kamarck also answers the question of whether Congress should even be considering impeachment when President Trump faces reelection in less than a year.

Also on today's show Martha Ross, a fellow in the Metropolitan Policy Program, shares her new research on the low-wage workforce, including its size, how much workers earn, and who holds low-wage jobs.

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And now, on with the interview.

Elaine, welcome back to the Brookings Cafeteria.

KAMARCK: Well, thanks for having me, Fred.

DEWS: We find ourselves this week in the midst of an impeachment inquiry in the House of Representatives against President Donald Trump. I want to spend a

lot of time in this podcast, though, talking about impeachment more from the historical point of view, kind of basic principles, but feel free to talk about current events as you think warranted.

So let's start off by talking to listeners and clarifying for them what impeachment means. So if the House votes to impeach the President, is he still the President?

KAMARCK: Yes, he's still the president. So impeachment is like an indictment, and that's how I think the listeners should think of it. It's like an indictment in a criminal case. It says we, the House of Representatives, believe that the President has done some things wrong. Now, that wrong does not necessarily have to be violation of a criminal statute because the Constitution lays out a vague term called "high crimes and misdemeanors, bribery," and so there's a generality to this that is a little bit beyond the actual criminal law.

When a House does decide to impeach --

DEWS: And it's a majority vote, simple majority vote.

KAMARCK: Simple majority vote in the House, they will vote out Articles Of Impeachment and the articles of impeachment are akin to an indictment. And then it goes immediately over to the United States Senate. The Chief Justice of the Supreme Court comes over to the Senate and presides over a trial. So the Senate goes instantly into a kind of judicial body, a kind of odd judicial body because it can make the rules up as it goes along by majority vote.

But basically the House managers, that's what they're called, will present the

case to the senators. And the President will have a lawyer and the President can cross-examine and that's where the President will produce his defense.

DEWS: And what kind of vote is required in the Senate to convict the President on those charges?

KAMARCK: A two-thirds vote to convict. Okay?

DEWS: And that's something like 67 senators?

KAMARCK: Sixty-seven senators, which means that in the current Senate if all the Democrats vote to convict, you'd need 20 Republicans voting to convict.

DEWS: And if the President is convicted by the Senate, what happens?

KAMARCK: He is removed from office. He immediately leaves office. The Vice President is given the oath of office and the Vice President immediately becomes President. That's who the Constitution has it play out. And the President has to basically leave and move out.

DEWS: Now, there's this question I've heard, a President has never been convicted by the Senate. But if the President were, let's say if the current President were to be convicted by the Senate, Mike Pence would become President. But could Donald Trump run for President again, even in 2020?

KAMARCK: Well, he could, yes, because he hasn't fulfilled two terms, right? He's actually just in his first term, so, of course he could run for President in 2020 if he could get the nomination of his party. But there a little piece of history might be instructive.

So Andrew Johnson was also in his first term. He was the very first President

to be impeached. He became President when Abraham Lincoln was assassinated and he was intending to run in the 1868 election. And he was not convicted; he was acquitted by one vote. But he found that the Republican Party went ahead and nominated unanimously Ulysses S. Grant and the Democratic Party that Andrew Johnson thought maybe would be kind to him after this impeachment thing, he got about four votes at their convention. So he kind of had aspirations for running for President in 1868, but he couldn't get the nomination of either political party.

DEWS: Again, thinking kind of broadly speaking, but with a connection to the current case, there have been complaints from Republicans especially that the current process started in closed-door hearings before there were public hearings, and they claim that this makes the whole process illegitimate. Is there any rule in the Constitution itself or is it just congressional rules that kind of govern this private versus public process?

KAMARCK: No rules at all that govern this. The House leadership can do what they decide to do. What they did was they conducted the closed hearings akin to a grand jury. Grand jury processes are not open. The person being accused does not have the right to a defense in a grand jury. So essentially the first part of the Democratic process was akin to a grand jury. It was a closed process.

They now are presenting their evidence in an open process and Republicans are getting to, as we see every day on TV, are getting to challenge the witnesses and challenge the Democrats on their assumptions. And then, of course, when it moves to a trial the President will have a full-fledged defense.

DEWS: Did the process that we're seeing now, does it mirror in any way the processes that played out during the Nixon impeachment hearings and even the Clinton impeachment hearings?

KAMARCK: They're a little bit different. I mean, in the Clinton impeachment hearings the Republicans brought the articles of impeachment and they had the Starr Report. So the Starr Report had basically outlined the charges against the President lying to the federal government and trying to cover up his affair with Lewinsky. So that was a little bit different because they didn't have to do any discovery.

The Nixon impeachment proceeded with very, very heavily watched hearings conducted by a Senate committee under Sam Irvin. And they did that discovery in front of the American public as the months wore on.

DEWS: And I think I'll just note here for the record that Nixon wasn't technically impeached.

KAMARCK: No, that's right. There's a moment in history, which I'm sure if somebody hasn't already, they'll make a movie of, where Barry Goldwater and two other Republican senators go into the Oval Office in early August 1974 to say to President Nixon, look, we don't have the votes to keep you from being impeached. More importantly, we do not have the votes to get you an acquittal. In other words, you're toast.

And at that point, Richard Nixon decided to resign, and for good reasons. If you resign as opposed to being impeached, you get your full presidential pension,

you get a presidential library, and Nixon had a pretty standard post-presidency.

DEWS: Let's talk about impeachment in the historical sense. As you mentioned earlier, it's a clause in the U.S. Constitution from 1787, 1789. What do you think is important to know about the deliberations for the Constitution on whether to include the power of impeachment at all?

KAMARCK: Well, it was quite important. And the reason it was important is that the whole context of the writers of the Constitution was in an era when they had held the rebellion against King George. And what these guys, our Founding Fathers, were particularly obsessed with is preventing a leader from having enormous power and sort of king-like power over the government. That's why the first Article of the Constitution is not the presidency, it's the Congress, it's about the Congress.

And there's all sorts of checks and balances in the Constitution designed to check executive power. So the impeachment clause, which is kind of vague, but is done so for a particularly important reason, which is so that in any given era, Congress can check the power of the presidency.

DEWS: And it's not just about the President. Other officials could be impeached, as well.

KAMARCK: Yes, yes. And usually it's most commonly been used for federal judges. Okay? That's where we've seen most impeachments.

DEWS: The crimes, as you say, mentioned in that clause are vague. They are treason, bribery, or other high crimes and misdemeanors. I think we know what treason is. I think we know what bribery is. But what are high crimes and

misdemeanors?

KAMARCK: Well, it's funny because if we go to precedent, okay, we can basically kind of start to figure out some things there. First of all, looking at the Clinton precedent we can say that lying about sexual misconduct did not constitute a high crime and misdemeanor. I mean, in the end, as much as many senators and congressmen were appalled at Clinton's conduct, it was, frankly, purely personal. He did not use government money to try to hide this affair or promote this affair or whatever. It was personal and they decided that this did not warrant impeachment.

In the Nixon case you really have a case of abuse of power because Nixon was using powers that are unique to the presidency in order to cover up a pattern of misbehavior that had come out of his campaign for reelection.

In the Johnson impeachment, and I expect in this one coming up, I expect in the Trump impeachment one of the high crimes and misdemeanors will be the treatment of Congress because the President here and Andrew Johnson more than 100 years ago were very dismissive of Congress. They maintained that this whole thing was illegitimate. They refused to turn over documents. Trump has gone through a lot of contortions to try and get people in this government to not appear before Congress. And, of course, what two of them have done, John Bolton being the most famous, has been to go to the courts and say tell us what we have to do because we are caught here between two big branches of government.

DEWS: That all underscores the truth of the idea that impeachment, although it can be about criminal acts, it's mostly a political tool, a political act.



KAMARCK: Well, it's a constitutional act, I would say that. It's constitutional more than political. I mean, in other words, it's pretty well established that you can't impeach a President because you don't like his healthcare plan or you don't like his tax proposals. Right? These are not impeachable offenses. Those are just political differences.

The impeachable offense comes when it looks like the President is using the power of his office for some sort of personal gain. So in this instance, clearly, it is that it looks like he's using the power of his office and the money appropriated by Congress to get the Ukrainians to do something that will benefit him in a personal political way.

And the crux of the Nixon impeachment, the real smoking gun, was when he was heard on tape saying to Haldeman, his Chief of Staff, look, tell the CIA to tell the FBI to back off the Watergate investigation. That was a clear obstruction of justice. He clearly knew how to get the federal government to do it and he was using his power in the federal government to try and cover him for what his political campaign had been doing, including the Watergate break-in, but, frankly, there were a lot of other things there, too.

DEWS: Mm-hmm. So was the Watergate break-in itself one of the articles of impeachment?

KAMARCK: No, it wasn't the break-in itself. It was the obstruction of justice.

DEWS: It was the cover-up.

KAMARCK: It was the cover-up, yes. And, in fact, ever since then in Washington, people always have the saying, "It's not the crime, it's the cover-up."

Nixon himself talked about the Watergate break-in as a third-rate burglary. But he and his allies went to great lengths to cover up the trail behind Watergate. And the reason was that it turns out that his reelection committee had committed other crimes, other breaking-and-entering, such as into the offices of Daniel Ellsberg, who released the Pentagon Papers, and that he was trying to cover this up. So it was the cover-up that was much, much more serious.

DEWS: So Nixon was elected -- reelected in 1972 with a huge electoral --

KAMARCK: A huge landslide.

DEWS: -- landslide victory. And he was pretty popular in 1973, as I've read public support for the idea of impeaching Nixon was very low. And then as they had the public hearings starting in late '73, going into '74, public support increased. And we're hearing a lot of talk about that because today we're wondering, well, what is the level of public support for impeachment?

Can you talk about those swings in public opinion and whether they really matter in terms of whether Congress decides to impeach and decides to convict or not?

KAMARCK: Yeah. In some ways, you have to look at this in two parallel tracks. On the one track is the President's popularity, and that obviously is important because members of the Senate especially, who will have to vote on whether to convict or acquit, are going to be looking at what their voters back home say. So you

can pretty much say even now that senators from deep red states are not going to be inclined to vote to convict the President.

On the other hand, there is the constitutional legal and sort of higher minded track where members of the Senate especially are going to have to look at the trial and listen to the trial and say do we as the United States Senate want to condone the kind of behavior that we've seen this President engage in in foreign policy? Is this something we want to sort of bless or is it something we want to make a clear stand on and, therefore, preserving our constitutional equality with the President?

And so there are bigger issues here that I think members of the Senate are going to take very seriously, members of the House are taking very seriously. And on these issues I think they will lead the public, not following the public.

DEWS: So as the process unfolds currently in the House, we don't know for how much longer, what are you looking for in terms of what the House is doing? And then what will you be looking for assuming that the House votes to impeach the President?

KAMARCK: Uh-huh.

DEWS: What will you be looking for when it goes to the Senate?

KAMARCK: Well, in terms of what the House is doing now, one of the things to look for is what will they decide in terms of articles of impeachment? Okay. Clearly, off the Mueller Report alone you could have made an article on obstruction of justice. The Ukraine situation lends itself to not so much obstruction of justice because the President's admitted this, the facts are not really at issue here,

but is it is an abuse of power? Is it an abuse of power to use money appropriated for a foreign policy objective, which is supporting the Ukrainian government against the Russians, is it is abuse of power to use that money or hold it back to help the President in his campaign against Joe Biden?

So I think we'll have definitely obstruction of justice. I think we'll have abuse of power. We may have an article that talks about essentially disregarding Congress. And this was one of the 11 articles in the Andrew Johnson impeachment, as well, where Johnson repeatedly thought that he could override Congress or ignore Congress or keep people -- Trump thinks he can keep people from testifying in front of Congress. That is a big constitutional issue because the constitutional issue is paramount.

And then there are some other ones emerging because Trump has a hard time being quiet. Right? So one of them is, was he engaged in witness tampering? When you're on the stand testifying and you're an unemployed former ambassador and the President of the United States starts calling you names, well, a lot of people would argue that that's witness tampering. And that is actually a crime, so you can impeach for crimes, too.

So the thing in the House to look for is what do they come out with the articles of impeachment? Against Clinton there were only two, against Nixon there were three and one got dropped. That was an article over the incursion into Cambodia. Again, more of a policy issue than a constitutional issue. Andrew Johnson there were 11 articles of impeachment. So we'll see how many there are.

Now, depending on how many there are, you know, they'll go to a trial in the Senate. And there are separate votes on each article of impeachment. So some of the Senate may say, no, we don't think that's really important, but some they may, in fact, vote to impeach.

DEWS: And I'll just let listeners know that you are following this extremely closely. I think you're writing a weekly piece for the Brookings website about what's going on in the impeachment process.

KAMARCK: "This Week in Impeachment," yes.

DEWS: "This Week in Impeachment." So look for "This Week in Impeachment" on our website.

Final question. Some critics of the impeachment of President Trump say that since he's up for reelection next year, less than a year from today, we should just let the people decide. We should let the electorate look at the facts that we have and just bake that into their calculation about whether Trump should continue to be President. We shouldn't have it in this hyper-partisan environment. How do you react to that idea?

KAMARCK: Well, that was the position, frankly, of the Democratic leadership all the way up until September. So the Democratic leadership looked at the Mueller Report and said, well, there's a lot of smoke here. It certainly doesn't look very good. On the other hand, the President doesn't seem to be personally involved. And, therefore, we're going to let the voters decide how they feel about the close ties to Russia.

That changed when this Ukrainian phone call came out. And the reason it changed is for two reasons.

First of all, the President himself was personally involved. You can't deny that. We don't have to discover that. He can't blame it on out-of-control rogue aides. I mean, he's on the phone call.

But the second thing is that that clearly was an impeachable offense. That was clearly a constitutional problem. When you have the President using his office for his own political means or for money or for whatever, that clearly is a violation of the Constitution. And so Congress could no longer ignore it.

I mean, I still think as a political matter a lot of Democrats would just as soon not have this happening and not have the base woken up and intense. They would just as soon wait until November. But there really is a feeling that there is a constitutional duty to put your foot down and say, no, President, you've crossed a line that presidents cannot cross and we don't want them to cross it in the future, which is why we're engaging in this.

DEWS: Elaine Kamarck, thanks again for your time today. Appreciate it.

KAMARCK: Well, thanks so much. It was great to be here.

DEWS: And now here's Martha Ross with another edition of Metro Lens.

ROSS: Hi, I'm Martha Ross, a fellow with the Brookings Metropolitan Policy Program. Jobs play a central role in the lives of most adults, but people have very different experiences in the labor market. The well-educated and technically savvy find ample employment opportunities, while those with lower levels of

education face a labor market that is much less welcoming, offering lower wages and less potential for career growth.

Against this backdrop, my colleague Nicole Bateman and I provide new data on the low-wage workforce in the United States and across nearly 400 metropolitan areas. One big takeaway in technical terms is that the low-wage workforce is huge, numbering 53 million people or 44 percent of workers ages 18 to 64. Their median hourly earnings are \$10.22 and their median annual earnings are just shy of 18,000. That is not a lot of money.

Not that holding a low-wage job is always worrisome. It can be an entry point into the working world, particularly for young people. And it can provide a chance for people to do interesting and important things. A low-wage job can be a temporary waystation, a steppingstone, and it may not be a worker's primary source of financial support. Think of someone married to a higher earning spouse.

But for people supporting themselves and their families on low-wage jobs the picture is grimmer. Think of a nursing assistant with two kids, someone laid off from a maintenance job who can only find lower-paying work as a delivery driver, or a 50-year-old hospital housekeeper with no retirement savings.

Any group that numbers in the tens of millions, as low-wage workers do, is going to include a range of experiences and backgrounds. And in our analysis my co-author Nicole and I wanted to zero in on that.

The low-wage workforce is racially diverse: 52 percent are white, 25 percent Hispanic, 15 percent are black, and 5 percent are Asian-American. It also skews

female: 54 percent are women, which is higher than their total share of the workforce.

Nearly two-thirds are in their prime working years of 25 to 54, and much of this group, 44 percent, is raising children. Not surprisingly, given the links between education and income, people with low earnings are much less likely to have a bachelor's degree than those with mid and high earnings.

There are two really important questions when considering the prospects of low-wage workers. Is the job a springboard or a dead end? And does the job provide supplemental "nice to have income" or is it critical to covering basic living expenses?

We didn't analyze the first question directly, but other research is not encouraging. For a lot of people low-wage work is their career. Women, people of color, and those with low levels of education are most likely to stay in low-wage jobs.

In our analysis, over half of low-wage workers have levels of education that suggest they will stay low-wage workers. This includes 20 million workers ages 25 to 64 with a high school diploma or less and another 7 million young adults 18 to 24 who appear to be off-track. They aren't in school and they don't have a college degree.

And judging by family incomes, a substantial number of low-wage workers need the money. They're not just looking for a bit of extra cash. Sixteen million low-wage workers live in families with incomes below 150 percent of the federal poverty



line. That equals about 30,000 for a family of 3 and 36,000 for a family of 4. And 14 million low-wage workers are the only earners in their families, getting by on median annual earnings of about 20,000 a year.

I think we would feel better about the labor market if most low-wage workers were teenagers or people working for personal fulfillment or extra spending money, or in a low-wage job as a steppingstone. But that is not the case. Depending on your preferred definition of economic hardship, between one-quarter to more than one-half of all low-wage workers, representing 14- to 27 million people, are in trouble.

So what do we do about it? Expanding and improving education and training options is a perennial recommendation and, yes, we should do that. We actually know a great deal already about how to do this, although that's not to say it is easy. We need additional funds, a commitment to change the status quo, political will to reallocate funding towards programs backed by evidence, and greater employment involvement.

The conversation can't end there, though, with the assumption that if only workers had more skills, everything would be fine. Remember, the success of any job seeker depends not only on her skills, but on the strength of the economy, the number and types of open jobs, and the credentials and experience that employers look for. What kinds of jobs are we generating? Do they pay enough to live on? And to whom are they available?

Labor market conditions are not acts of god or inevitable. As my colleague Amy Liu has posited, the goal of economic development should be to support

growth that is shared and enduring, increases the productivity of firms and workers, and raises standards of living for all. This is obviously very hard to do and policymakers, researchers, and practitioners are actively working on it in real time.

I hope our data on low-wage workers shines a light on a segment of the workforce that is often overlooked. I also want to highlight its sheer size. Fifty-three million people, 44 percent of workers, they do not play a minor role in the labor market. As we create strategies to develop a more inclusive economy, we need to keep them in mind.

DEWS: The Brookings Cafeteria Podcast is the product of an amazing team of colleagues, starting with audio engineer Gaston Reboledo and producer Chris McKenna. Bill Finan, director of the Brookings Institution Press, does the book interviews, and Lisette Baylor and Eric Abalihin provide design and web support. Our intern this fall is Eowyn Fain. Finally, my thanks to Camilo Ramirez and Emily Horne for their guidance and support.

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Until next time, I'm Fred Dews.

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