



Mains Practice Question

Q. Discuss the mechanisms through which the Indian Constitution establishes a system of separation of powers among the executive, legislative, and judicial branches. Evaluate how this separation functions as a check on parliamentary sovereignty in the Indian context. (150 words)

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Approach

- Start your answer by providing a brief introduction to the concept of the separation of powers and its significance in a democratic system.
- Elaborate on the specific mechanisms through which the system of separation of powers is established.
- You can conclude by highlighting the significance of this system in upholding the principles of democracy and the rule of law.

Introduction

The Indian Constitution, adopted in 1950, lays the foundation for a system of separation of powers among the executive, legislative, and judicial branches, albeit with certain unique characteristics tailored to the Indian context. This separation of powers mechanism serves as a crucial check on parliamentary sovereignty, ensuring a balance of power and preventing any one branch from becoming too dominant.

Body

Mechanism through which the Indian Constitution establishes a system of separation of powers:

- **Legislature Control:**
 - **On Judiciary:** Impeachment and the removal of the judges. Power to amend laws declared ultra vires by the Court and revalidating it.
 - **On Executive:** Through a no-confidence vote it can dissolve the Government. Power to assess works of the executive through the **question hour and zero hour**.
- **Executive Control:**
 - **On Judiciary:** Making appointments to the office of **Chief Justice** and other judges.
 - **On Legislature:** Powers under **delegated legislation**. Authority to make rules for regulating their respective procedure and conduct of business subject to the provisions of this Constitution.
- **Judicial Control:**
 - **On Executive: Judicial review** i.e., the power to review executive action to determine if it violates the Constitution.
 - **On Legislature:** Unamendability of the constitution under the **basic structure doctrine** pronounced by the Supreme Court in Kesavananda Bharati Case 1973.

How this separation of powers functions as a check on parliamentary sovereignty:

- **Parliamentary Sovereignty vs. Judicial Review:**
 - In India, parliamentary sovereignty is subject to the judicial review power of the Supreme

Court. If the judiciary finds a law passed by Parliament to be unconstitutional, it can be struck down. This limits the absolute sovereignty of Parliament and ensures that it operates within the boundaries set by the Constitution.

▪ **Executive Accountability:**

- The executive branch is accountable to the legislature, and the legislature, in turn, is accountable to the people. This accountability prevents the executive from exercising unchecked power and ensures that it operates within the framework of the law.

▪ **Bicameral Legislature:**

- The presence of the Rajya Sabha and Lok Sabha in the Indian Parliament, with different compositions and roles, adds an additional layer of checks and balances, preventing hasty or unilateral decisions by either house.

Conclusion

The Constitution establishes a system of separation of powers that functions as a significant check on parliamentary sovereignty. It ensures that no single branch of government can dominate, and each branch plays a vital role in maintaining the rule of law and protecting the rights and freedoms of the citizens. This system promotes a balanced and accountable government that respects the principles of democracy and the rule of law.

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