



Mains Practice Question

Q. Compare and contrast the separation of powers, federal structure, and judicial review mechanisms in the Indian, US, and UK constitutional frameworks. Analyze their implications. **(250 Words)**

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Approach

- Begin the answer by introducing the constitutional frameworks in India, US and UK.
- Compare and contrast the separation of powers, federal structure, and judicial review mechanisms in India, US and UK.
- Analyze the implications of the separation of powers, federal structure, and judicial review mechanisms.
- Conclude as per the requirement of keywords.

Introduction

Separation of powers, federal structure, and judicial review are fundamental principles in constitutional governance across various countries. India, the United States (US), and the United Kingdom (UK) each have distinct frameworks for these principles, with implications that shape their political systems and governance.

Body

Separation of Powers:

- **India:**
 - India's Constitution embodies a system of parliamentary democracy with a fusion of powers.
 - While the Constitution envisages separation of powers among the legislature, executive, and judiciary, there's a significant overlap between the executive and legislature due to the parliamentary system.
 - The President, who is the head of state, exercises executive powers, but real executive authority lies with the Prime Minister and the Council of Ministers.
- **US:**
 - The US Constitution establishes a strict separation of powers among the legislative, executive, and judicial branches. Each branch has its own distinct powers and responsibilities outlined in the Constitution.
 - This separation is reinforced by the system of checks and balances, where each branch has the authority to check the powers of the other branches to prevent any one branch from becoming too powerful.
- **UK:**
 - Unlike the US, the UK does not have a codified constitution but operates under a system of parliamentary sovereignty.
 - While there is a nominal separation of powers among the legislature, executive, and judiciary, the fusion of powers is more evident.
 - The Prime Minister, who is the head of government, is also a member of the legislature

(House of Commons). This blurs the lines between the executive and legislature.

Federal Structure:

▪ **India:**

- India is a federal country with a strong central government. The Constitution delineates powers between the Union (central) government and the state governments.
- However, the Indian federal structure is characterized by a tilt towards centralization, with the Union government having more powers than the states, especially in crucial areas like defense, foreign affairs, and finance.

▪ **US:**

- The United States is a federal republic with a clear division of powers between the federal government and the state governments.
- The Constitution enumerates powers granted to the federal government, while all other powers are reserved for the states.
- This division of powers is designed to protect state autonomy while ensuring a strong central government.

▪ **UK:**

- The UK has a unitary system of government, meaning that power is concentrated at the national level, with little autonomy granted to subnational entities.
- While there are devolved governments in Scotland, Wales, and Northern Ireland with varying degrees of legislative power, ultimate authority still rests with the UK Parliament at Westminster.

Judicial Review Mechanisms:

▪ **India:**

- Judicial review, integral part of India's constitutional framework, provides Supreme Court the power to review the constitutionality of laws passed by the legislature and actions taken by the executive.
- The Supreme Court has delivered several landmark judgments that have shaped the course of Indian democracy and governance.

▪ **US:**

- The US Supreme Court is widely regarded as one of the most powerful judicial bodies in the world, primarily due to its authority of judicial review.
- The Court has the power to declare laws enacted by Congress or actions taken by the President unconstitutional.
- This power serves as a check on the other branches of government and ensures that they operate within the bounds of the Constitution.

▪ **UK:**

- Unlike India and the US, the UK does not have a codified constitution with explicit provisions for judicial review.
- However, the principle of parliamentary sovereignty allows the UK courts to review the compatibility of laws with EU law and the European Convention on Human Rights.
- Despite this, parliamentary supremacy remains a defining feature of the UK's constitutional framework.

Implications:

▪ **India:**

- India's parliamentary democracy allows for flexibility but can lead to issues of accountability and concentration of power in the hands of the executive.
- The federal structure strives to balance central authority with regional autonomy, but challenges such as inter-state disputes and center-state relations persist.

▪ **US:**

- In the US, the strict separation of powers and robust system of checks and balances have contributed to political stability and the protection of individual liberties.
- However, gridlock and polarization between branches of government can hinder effective governance.

▪ **UK:**

- The UK's fusion of powers and lack of codified constitution provide for strong executive leadership but raise concerns about democratic accountability and protection of rights, particularly in the absence of explicit judicial review provisions.

Conclusion

While the principles of separation of powers, federalism, and judicial review are foundational to constitutional governance, their implementation varies significantly across India, the US, and the UK. Understanding these differences and their implications is crucial for analyzing the strengths and weaknesses of each country's political system.

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