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Nautiyal



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Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

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More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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ANALYSIS OF THE SCOPE OF PUBLIC LAW: A COMPARATIVE STUDY OF INDIA AND U.S.A.

AUTHORED BY: ANAMIKA MISHRA

LL.M

(COMPARATIVE LAW)

Abstract:

Public law is very important in forming the basic laws of countries. It also helps governments control and rule through rules. This abstract is about a comparative study of the scope of public law in two diverse and influential nations: India and the United States. In India, the main source of public law comes from a mix of common law ideas and its own constitution. The Indian Constitution, which started in January 1950 is the base of legal rules. It talks about what powers and duties each part of government have while also setting out important rights for people to follow. The study of Indian law looks at how it has changed over time to handle the problems of a growing and different country. But, America has a big history of running things by its constitution. It has a unique method for handling public law. The US Constitution, created in 1787. It is the most important rule in our country, the U.S. Constitution, made in 1787. It is the top rule in our country, focused on keeping power parts apart and guarding personal freedoms. This abstract shows how the American legal system uses and demonstrates ideas from their constitution. It focuses on federalism - which divides power between national, state/provincial and local governments to keep balance by recognizing when things countries or states should govern themselves instead of all being controlled nationally. And it talks about changes in law going up down ladders (federal vs state This study looks at how history, culture and politics affect the growth of public law in two countries. It also examines different approaches to areas like rule-making laws, court checks and protection for people's rights. The study wants to give an idea about how different legal systems handle the big issues of today's governance and individual rights by looking at two separate laws. In the end, this side-by-side look helps us understand better how public law changes and works in different situations.

Keywords: Comparative Legal Analysis, History, Culture, and Politics, National, State, and Local Governments, Rule-making Laws, Legal History

Hypothesis:

Hypothesis: Looking at India's laws and America's can help us see how they link up. Both of them want to follow the rules in their countries' constitutions, keep people's rights safe, teach law at school and have a fair legal system. However, different histories or ways of life caused their laws to develop differently from each other. This research shows that India and America have their own paths. They mix rules with long-standing traditions while also dealing with modern problems in a different way from each other's public laws. This idea also shows us that long-term changes in rules of both countries, influenced by world links, advancements in technology and changing community needs are really important. They assist in choosing where future public rules will be sent. The study will closely examine these factors to help us understand how law systems change. This helps with hard governance problems and protecting people's rights in different culture situations and history times.

Research Questions

1. How has history, culture and law in India differ from United States? These differences have helped shape public laws that guide on governing the people as well rights of individuals.
2. How does comparing public law in India and the United States show how globalization, new technology changes and people's needs affect development of legal systems in various cultural backgrounds?

Introduction: -

In the big picture of laws, public law is a key part. It helps make the rules that countries have and controls what government does with them. This study embarks on a comparative exploration of the scope of public law in two influential nations with distinct legal traditions: India and the United States. Public law, a key part in every country uses their special laws and history to make them unique. In the big picture of laws, public law is a key part. It helps make the rules that countries have and controls what government does with them. This study embarks on a comparative exploration of the scope of public law in two influential nations with distinct legal traditions: India and the United States. Public law, a key part in every country uses their special laws and history to make them unique.

On the other hand, America - with its history of well-made governing rules going back to 1787 when

they made their Constitution - has a different way of handling public law. The U.S. Constitution is the highest law, stressing how powers are divided and guarding personal freedoms. This topic looks into the complicated relationship between federal and state rules. It looks at how key thoughts in the U.S.'s law rules are used, with a main focus on federalism. The side-by-side study checks how history, culture and politics have affected the growth of rules for people in both countries. The study wants to learn how these things change ways we handle big issues like government rules, checking courts and safeguarding people's rights.

Definition and Scope of Public Law

In India and the USA, public law covers rules about how government works with its people. In India, laws for the public mainly come from rules set down in their constitution. This includes important rights and directives that guide how the government has power and duties. It covers areas like administrative law, constitutional law and questions about public interest cases. Likewise, in America or the USA, public law comes from their Constitution. It stresses separating powers between parts of government and protecting people's freedom while also focusing on states working together with the national government. It includes rules about constitutions, laws for government operations and controlling federal departments. Both countries agree to follow the law, guard citizens' rights and make sure leaders are responsible for their actions.

Public law in India

Indian law is closely connected to its constitution. The constitution acts as the top legal paper in India that shows what powers, jobs and limits the government has. In 1950, India got the Constitution. It made a system for everyone to vote freely and have basic rights as citizens while also setting up how their government works together.. In India, public law within the frame of its constitution includes administrative law, constitutional issues and questions about using government power.

Checking the laws in India by judges is an essential part of public law.. The top court and higher courts make sure that laws, actions by officials and government rules are in line with the constitution. Courts can check the actions of other branches using their power called "judicial review". This helps to make sure they follow rules set out in a constitution.

The top power in the legal system, especially writs like certiorari and mandamus helps courts do checks on laws. People and groups can ask the courts for help when the government does unfair or wrong things against them. Big decisions by Indian judges have made their power to check government rules wider. This helps strengthen important values in the constitution and keeps governments from going too far. The change in Indian public law shows a powerful mix between the rules of the constitution, laws made by politicians and how judges understand them. This helps to make sure that state power is controlled fairly for people living there.

Public law in USA

In the United States, public law comes from its Constitution. This is considered the highest rule in country and sets up how government works and what it can do. Written in 1787 and changed over time, the U.S. Constitution sets out how power should be divided among leaders who make laws, judges and others different roles work together. This stops any one group from taking too much control while protecting personal freedoms at the same time as it makes sure things keep moving smoothly without anyone becoming all-powerful or abusing their job response.

In the U.S., constitutional law is a key part of public law that explains how much control government has and what it can't do. The first 10 changes to the Constitution, called Bill of Rights guarantees basic rights and freedoms for people in U.S. In the U.S., public law covers things like rules for how government works, laws related to the constitution and problems with regulations that affect people.

In the U.S., judges checking laws is really important in public law. It gives federal courts mainly the Supreme Court power to check if laws, actions by leaders and government plans are okay constitutionally. The judiciary, through important court decisions, explains the Constitution and makes sure people follow its rules. In *Marbury v. Madison* (1803), it was decided that courts can check if laws agree with the Constitution, showing how important abiding by our highest law is for everyone.

The U.S. law system uses something called stare decisis that makes bigger courts' decisions guide lower ones to copy them in the future. This maintains uniformity and steadiness when reading and using public law. People can question government moves using the law, claiming their rights in local

and national courts.

In the U.S., public law keeps changing by adding to its constitution, making new laws and interpreting decisions in courts. The changing relationship between rules in the Constitution and how judges explain them helps make laws. This shows a strong desire to keep law above everything else, protect personal freedom while not messing with America's big book of rights.

Comparative analysis

Looking at the law rules of India and United States they share some things, but also very different. This matches the unique history, culture or laws each place has in its past.

Constitutional Framework:

India: India's laws are created from a written constitution accepted in 1950. It sets up a government system with strong central leadership. The Indian Constitution promises basic rights and shares powers between the national and state governments, focusing on a parliamentary system.

USA: The USA runs under a Constitution adopted in 1787. It emphasizes a federal system with the executive, legislative and judicial branches being separate from each other. The US Constitution has a set of rules named the Bill of Rights. This protects personal freedom and stops authorities from having too much power.

Judicial System:

INDIA: The Indian court system has levels. The top is the Supreme Court, then comes High Courts in each state and smaller courts underneath them. The court system is important for understanding the Constitution and can make decisions about it.

USA: In the United States, we have a court system managed by the federal government. The Supreme Court rules at the top level and oversees other courts like circuit appeals courts and district ones. The US legal system checks laws and actions by the government to make sure they follow the constitution.

Legal Education and Profession:

India: Law school in India follows rules by the Bar Council of India and law is a popular subject to learn. The legal job has lawyers and judges. Best are the Supreme Court and High Courts that have advocates who can do their work.

USA: In the US, you typically need a law degree from school called Juris Doctor (JD) for learning about laws. The law job includes lawyers and judges. The American Bar Association (ABA) is very important in controlling how legal work happens.

Legal Codes and Systems:

India: India uses a mixed legal system that includes English common law, Hindu law and Islamic law. The laws in the legal codes cover many areas of law and are often made from rules called statutes.

USA: The United States works with a common law system, mostly taken from English common law. There are rules in place on the national and local levels. Important court cases that have been tried before help shape laws called "case law".

Legal Reform and Challenges:

India: India has changed its laws to deal with society's changes and problems. The law system has problems like too many cases, getting fair play and needing easier ways to solve disagreements.

USA: USA: The United States changes its laws often to fit with what's happening in society. Problems in the process of choosing judges, arguments about how laws should be understood and making sure everyone can get fair access to justice are some difficulties.

In short, both India and the United States have some common legal ideas. However, their systems of laws are very different because they come from unique parts of history and what makes up their countries' rules. Learning about these differences is really important to understand the complexities and small details of each country's legal system.

Case Laws

Marbury v. Madison (1803):

In this important US top court case, William Marbury who was appointed by outgoing President John Adams wanted the Court to make James Madison's job as Secretary of State give him his certificate for being a justice. The top judge, John Marshall, along with the whole court agreed that Marbury had a right to get his commission. However, they said the court couldn't tell anyone to give it back. This decision set up the idea of checking things in court. It confirmed that the Court can read and explain what the Constitution says, telling Congress when their actions aren't allowed by it. Marshall's opinion said that the courts should keep an eye on other parts of government. This became a big part of legal rules in United States from there.

Brown v. Board of Education (1954):

In this important decision, all nine judges of the US top court agreed that state rules making separate public schools for black and white kids were illegal. The lawsuits were started against schools separating students by race, and the Court joined them together under Brown's name. Main Judge Earl Warren spoke out, saying that the idea of "separate but equal" had no place in schools because it always made and kept things unequal by default. The choice was a big change for the rights of people. It said that schools with different races are born to be unfair and ordered all public schools in America to mix race. The decision in Brown v. Board of Education was very important for breaking down legal separation made by law and set the stage for more laws to protect rights that came after it.

Keshavananda Bharati v. State of Kerala (1973):

In this important case, the top court in India talked about how much power Parliament has to change the Constitution. They then introduced a new idea called "basic structure." The person claiming Keshavananda Bharati faced off with Kerala's government over land reform laws that they tried to push through by changing parts of the constitution. The Supreme Court, with 13 judges deciding the case, said that even though Parliament can change parts of the Constitution it cannot mess up its important basic structure which comes from key ideas in what makes us a constitution. This choice was very important in Indian law history. It kept the main ideas of their constitution safe and stopped Parliament's ability to change things too much. The "basic structure" idea has been a main part of constitutional law in India since then.

Maneka Gandhi v Union of India (1978):

In this big-time case, the top court in India dealt with personal freedom under Article 21 of their Constitution. The government took Maneka Gandhi's passport without letting her speak up. The Supreme Court made a big decision that leaving your country is part of individual freedom. Any limits on this need to follow fair rules from nature's justice system. This choice made Article 21 bigger, stressing that the method of law for taking away someone's freedom must be good and just. The decision in Maneka Gandhi v. Union of India was very important for building ideas about keeping personal freedoms safe in India.

Conclusion and Suggestion

Finally, comparing public law in India and the United States offers helpful information on how different legal systems make these two big countries. Looking at the starting points of constitutions, justice systems, lessons about law and problems in society shows both same things and big differences. India has many different people and practices in society. They use common law rules from 1950 and a written constitution to guide them, while the United States uses ideas about government structure dating back to 1787 that focus on local power sharing with individual freedoms at heart.

The changes in public law of those two places show the moving connection between history, culture and politics. Judicial review is an important part of both legal systems. It checks if laws and government actions are correct according to the constitution. Learning important court cases like Marbury v. Madison in the U.S, Keshavananda Bharati and Maneka Gandhi in India shows big decisions that have made changes to how constitutions are understood.

Suggestions for Future Research:

This side-by-side look at public law in India and the United States gives a complete picture. But, more study can explore special topics further. Some suggestions for further exploration include:

Impact of Globalization: Look into how globalization affects public law changes in India and the U.S., paying attention to things like international deals, trade pacts, and what they mean for local laws of both countries.

Technology and Legal Systems: Look at how machines and technology are changing public rules. This includes things like computers that learn by themselves, watching people's activities closely, and laws related to the internet. Check out how these changes affect countries across the globe.

Access to Justice: Do a deep study on getting justice in India and the U.S., looking at how well legal help works, ending pile-ups of cases, and making sure that everyone gets fair treatment from courts.

Environmental Law: Look at how India and the U.S. deal with environmental problems using public law, looking at rules, efforts to save nature and laws for making things grow in a way that's good for everyone over time or 'green'.

Comparative Administrative Law: Pay attention to the different parts of rules for government departments in both countries. Learn about how things are done, who is responsible and how people get involved when making decisions by those working in administration.

Evolution of Human Rights Jurisprudence: Look into how human rights laws have changed in India and the U.S., paying attention to big cases that helped protect people's freedoms more strongly.

By investigating these topics, researchers can help make our understanding of the complicated parts in legal laws better. This will allow for a deeper international insight and encourage worldwide conversations about advances in law globally.

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