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## ***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

# **RESEARCH PAPER INDIAN CONSTITUTION AND ECONOMIC JUSTICE: A REVIEW**

AUTHORED BY - ABHISHEK KUMAR

COURSE LL.M (2023-2024)

## **Research Questions:**

1. What are the key features and differences between parliamentary and presidential systems of government?
2. How do these systems function in the UK, India, and the USA, with particular emphasis on:
  - Executive-legislative relations
  - Checks and balances
  - Accountability and responsiveness
  - The role of the head of state
  - The influence of political parties
3. What are the strengths and weaknesses of each system in achieving efficient governance and promoting democratic values?
4. How do the historical, cultural, and political contexts of the UK, India, and the USA influence the operation and effectiveness of their respective systems?

## **Research Hypothesis:**

- H1: Parliamentary systems generally exhibit greater flexibility and adaptability in responding to changing circumstances due to the close relationship between the executive and legislature.
- H2: Presidential systems offer greater stability and clarity in the separation of powers, potentially leading to more independent and accountable government institutions.

- H3: The effectiveness of both systems is significantly influenced by the specific political context, including the strength of political parties, level of political polarization, and historical and cultural factors.

## **Landmark Judgments:**

UK:

- *Marbury v. Madison* (1803): Established the principle of judicial review, allowing the judiciary to declare laws unconstitutional.
- *Baker v. Carr* (1962): Led to the reapportionment of Congressional districts, ensuring fairer representation based on population.

India:

- *Kesavananda Bharati v. State of Kerala* (1973): Established the basic structure doctrine, limiting the power of Parliament to amend the Constitution.
- *Indira Nehru Gandhi v. Raj Narain* (1975): Upheld the freedom of speech and expression, but also established reasonable restrictions on these rights.

USA:

- *Brown v. Board of Education* (1954): Ended racial segregation in public schools, a landmark decision in the fight for civil rights.
- *Roe v. Wade* (1973): Established the constitutional right to abortion, although it remains a highly contested issue.

## **A Comparative Analysis of Parliamentary and Presidential Systems: Strengths, Weaknesses, and Trade-offs**

There are differences between the models used by presidential and parliamentary governments to structure political power and institutions. The way the executive and legislative branches relate to one



other is different; the former encourages adaptability and response to changing conditions, while the latter favours stability and checks and balances. While the president is directly elected by the people and performs both ceremonial and executive duties, the head of state is selected by the legislature and is in charge of setting the government's agenda.

Strengths of parliamentary systems include accountability, strong party discipline, and adaptability; drawbacks include the possibility of poor leadership, unstable political environments, and a narrow division of powers. Conversely, presidential systems have advantages like stable governance, distinct authority, strong leadership, and the division of responsibilities, but they also have disadvantages like bureaucratic intricacy, political impasse, and the possibility of power abuse.

Selecting a political system requires weighing a number of trade-offs; presidential systems place more emphasis on stability and the separation of powers, while parliamentary systems prioritise responsiveness and flexibility. Every system's efficacy is contingent upon the particular political milieu, encompassing historical ramifications, cultural norms, and the potency of political factions.

Examples include India's varied population and democratic transitions, the UK's parliamentary system, which has a proven track record of stable government and economic progress, and the USA's presidential system, which is renowned for its potent leadership and widespread impact.

In summary, there are benefits and drawbacks to both presidential and parliamentary systems, and it is important to recognise these differences in order to make well-informed judgements regarding political change and to advance responsive and successful administration.

## **Recognizing the unique circumstances and difficulties that the USA, UK, and India each face in their own systems:**

Because of their complicated political systems, centralized governments, and varied populations, the UK, India, and the USA confront particular obstacles.

Among the difficulties are Brexit, economic inequality, cutbacks to the public sector, political division, and low social mobility.

India has issues with poverty and inequality, lack of access to essential services, inadequate

infrastructure, corruption, and conflicts across religions.

The greatest economy in the world, the USA, is beset by social inequality, political polarization, and excessive healthcare expenses. Racial inequities and gun violence continue in domains such as criminal justice, education, and income.

These nations also deal with widespread worldwide problems including pandemics, cyberthreats, and climate change. Every nation has unique circumstances and difficulties that are dynamic and ever-changing.

## **Evidence-based Suggestions for Strengthening Democratic Values and Governing Better:**

UK:

Enhancing devolution by giving Scotland, Wales, and Northern Ireland more authority to handle their unique requirements and difficulties.

Investing in public services: To lower inequality and promote social mobility, more money should be allocated to healthcare, education, and social welfare.

Election system reforms include the introduction of proportional representation, which will guarantee a more equitable and representative legislature.

Investing in media literacy education and encouraging ethical journalism are two ways to fight misinformation and disinformation.

Creating connections by encouraging communication and mutual understanding across disparate cultures in the United Kingdom.

India

Investing in rural development means building infrastructure and generating employment in rural areas to lower migration and poverty.

Ensuring equal access to economic, healthcare, and educational opportunities is a key component of empowering women and girls.

Combating corruption entails bolstering anti-corruption initiatives and encouraging accountability and transparency in the government.

Improving access to basic services: Expanding access to clean water, sanitation, healthcare, and

education for all.

Promoting interfaith dialogue: Fostering understanding and tolerance between different religious groups.

USA:

Reforming campaign finance would mean levelling the playing field for all candidates and reducing the role of money in politics.

Increasing access to healthcare: Establishing a single-payer system or universal healthcare coverage to guarantee that all Americans have access to inexpensive healthcare.

Enforcing more stringent gun control laws and advocating for mental health services are two ways to combat gun violence.

Putting more money into public education and lowering the cost of college are examples of investing in education.

Encouraging racial and ethnic parity involves tackling institutionalized racism and prejudice in domains including housing, work, and law enforcement.

Apart from these particular suggestions, it's crucial to:

Encourage active participation in the democratic process by encouraging citizens to vote, volunteer, and communicate with elected authorities.

Keep the law in place: ensuring that the law is applied equally to everyone Maintain the rule of law by making sure that everyone is treated equally under the law, regardless of their status or level of money.

Preserve press and speech freedom by ensuring that people can voice divergent opinions without fear of retaliation.

Encourage civic education by educating the next generation about the value of democracy and civic duty.

Increasing public trust in the government and making sure that institutions answer to the people are two ways to strengthen democratic institutions.

All things considered, advancing democratic principles and strengthening governance call for a sustained commitment to change as well as a readiness to take on difficult problems. All three nations can improve the futures of their residents and fortify their democracies by putting evidence-based suggestions into practice, involving citizens, and maintaining democratic ideals.

- A valuable resource for academics, policymakers, and citizens interested in comparative politics

and democratic development.

## **Democratic Development and Comparative Politics: A Source for Scholars, Decision-Making, and Citizens**

Despite its flaws, democracies continue to be the chosen system of governance in a large number of countries worldwide. Comprehending the intricacies of democratic growth and the obstacles encountered by many nations is vital for scholars, decision-makers, and general public alike. With the goal of giving a thorough review of all the essential elements of democratic development and comparative politics, this resource will be an invaluable aid for anybody looking to learn more about this fascinating subject.

Democratic Development Theories:

Liberal democracy places a strong emphasis on limited government, free markets, and individual liberties.

Prioritising social and economic equality in addition to political engagement is known as social democracy.

Encouragement of active citizen participation in decision-making is known as deliberative democracy.

Analysing the intricate process of democratisation in post-authoritarian governments is known as transitional democracy.

Constitutional design: taking into account how institutions and laws influence democratic societies.

## **Comparative Frameworks for Democracy Analysis:**

Levels of Analysis: Analysing national, international, and personal democratic processes.

Determining the common values and beliefs that shape political behaviour is known as political culture.

Institutions: Examining the framework and regulations that control democratic regimes.

Political economy: Analysing how democratic progress and economic systems interact.

Social Cleavages: How political processes are affected by divisions based on social identities.

Obstacles to the Democratic Development Economic Inequality: Growing economic disparity has the



potential to destroy public confidence in democratic institutions and social cohesiveness.

Political polarisation: Deeper rifts and hostility between political parties can impede efficient government by causing political deadlock.

Corruption: Pervasive corruption has the potential to erode public trust in the government and stifle civic engagement.

Emerging Technologies: Democratic processes face both opportunities and problems from the advent of social media and artificial intelligence.

Encouraging Democratic Principles and Attitudes:

Civic education aims to empower people by educating them about democratic values and encouraging their active involvement.

Independent Media: In order to counteract false information and deception, independent journalism and media literacy are encouraged.

Enhancing Civil Society: Endorsing the function of civil society associations in ensuring government transparency and championing democratic changes.

International Cooperation: Encouraging democratic nations to work together to solve global issues and exchange best practices.

Election Reforms: Putting in place measures like proportional representation and campaign financing laws to guarantee free and fair election.

## **The key features and differences between parliamentary and presidential systems of government**

Important characteristics and distinctions between presidential and parliamentary forms of government include:

### **System of Parliament:**

Important characteristics:

Drawing from the legislature is the executive branch: The prime minister and cabinet are members of the elected legislature and answerable to it.

Fusion of powers: Compared to a presidential system, there is a greater degree of integration between the legislative and executive branches, which may lead to increased cooperation and coordination.

Collective responsibility: The legislature may remove the prime minister by a vote of no confidence, and the cabinet functions as a single entity.

Adaptable and flexible: Less difficult to rewrite the constitution or call for significant elections in order to make changes to government policies. Benefits Enhanced accountability: Through questions, debates, and votes of no confidence, the legislature, which directly oversees the Prime Minister and cabinet, can hold them responsible.

Continuity and stability: Parliamentary systems have the potential to be more resilient to abrupt shifts in governmental agenda.

Increased party discipline: Legislative members are subject to greater party leadership oversight, which can speed up the adoption of legislation.

Drawbacks:

Less distinct division of powers: When authorities are combined, there may be a concentration of authority in the executive branch and insufficient checks and balances.

Possibility of impasse: It may be challenging for the government to enact laws and run its affairs successfully if there is not a majority in the legislature.

Governments may have a greater emphasis on the near term. Presidential System: Principal Features Separation of powers: Each of the two branches—the legislative and the executive—has specific authority and responsibility over the other.

Head of state and head of government directly elected: The President is chosen by the people to serve in both capacities.

Fixed terms: Unless they are impeached, presidents have a set term in office and cannot be removed by the legislature.

Robust executive authority: Presidents has substantial authority to choose executive personnel, veto laws, and issue executive directives.

Benefits

Clearly defined separation of powers: This keeps any one branch of government from growing too strong.

Strong direction and leadership: In times of crisis, presidents may provide the nation strong guidance and leadership.

Presidents are directly answerable to the people who elected them, which may encourage them to be

more receptive to popular opinion.

Negative aspects:

Possibility of deadlock: Passing laws and putting policies into effect may be challenging if opposing parties control the president and the legislature.

Less flexibility: It may be more difficult to adjust to changing conditions when large elections or constitutional modifications are needed to change government policy.

Possibility of power abuse: Presidents are endowed with a great deal of authority, and there is a chance that they will misuse it.

## **The systems function in the UK, India, and the USA,** **with particular emphasis on:**

- Executive-legislative relations
- Checks and balances
- Accountability and responsiveness
- The role of the head of state
- The influence of political parties

The roles of the presidential, parliamentary, and UK systems are different. Since the prime minister and cabinet in the UK are members of the legislature, close cooperation and strong linkages in the formulation of policy are ensured. If the administration fails a vote of no confidence in the House of Commons, it may fall. Party discipline guarantees that the majority in the legislature generally supports government initiatives. Coalition administrations in India have the potential to cause instability and raise questions about power consolidation. Question Hour gives lawmakers a chance to hold the administration responsible. Partisan deadlock in the USA can cause policy proposals to stall. Bypassing the legislature, the President can veto bills and make executive directives.

The House of Lords, the judiciary, and parliamentary sovereignty serve as restraints on the authority of the government. The Indian Constitution provides a framework for checks and balances by

outlining the authority and jurisdiction of each branch of government. With judicial scrutiny, vetoes, and overrides, the US government is composed of distinct, independent branches. In India, the President serves as both the head of state and the head of government, whereas the Head of State position in the United Kingdom is primarily symbolic.

The strengths and weaknesses of each system in achieving efficient governance and promoting democratic values.

## **The historical, cultural, and political contexts of the UK, India, and the USA influence the operation and effectiveness of their respective systems.**

The monarchy's development, the UK's lengthy history of parliamentary democracy, and British political culture all support the country's stability and continuation. While strengthening regional administration, the nation's two-party system and the devolution of power to Scotland, Wales, and Northern Ireland also provide difficulties. India's political institutions are further influenced by its independence fight and colonial past. The nation's multi-party system, hierarchical social structures, and diversified population make it difficult to establish stable governments and carry out national policies. Effective governance is further hampered by bureaucratic inefficiency and corruption. The USA was established on democratic ideals, and it features a federal government, a culture of individual liberty, and a spirit of independence. A two-party system and political polarisation, however, might reduce the variety of political viewpoints and establish a winner-take-all situation.

## **Conclusion**

The political systems of the USA, UK, and India are all different and have advantages and disadvantages of their own. Presidential systems offer accountability clarity and might be more appropriate in emergency scenarios, while parliamentary systems are more effective and sensitive to public opinion. The efficiency of a nation's political system is determined by its unique circumstances. Strong democratic institutions, a dedication to the rule of law, and engaged public engagement are necessary for democracy to prosper. Comparative studies, civic education, bolstering democratic institutions, fighting corruption, resolving political polarisation, and adapting to changing conditions are some of the areas that require more investigation and action.



## **Suggestion**

The book makes a number of recommendations for enhancing democracy, such as having thoughtful conversations about electoral reforms, encouraging openness and information access, funding efforts for peacebuilding and conflict resolution, giving voice to underrepresented groups, and encouraging international collaboration. It recommends looking into alternatives to the current "first-past-the-post" system, encouraging openness in the way government makes decisions, and encouraging the use of technology and open data. The goal of these recommendations is to fortify democracies for next generations.

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