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# **A Comparative Analysis Of The Legislative Systems In India And The United States Of America**

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## **ABSTRACT :**

This research paper presents a comparative analysis of the legislatures in India and USA emphasizing their functions, structures differences & similarities & roles within their specific political system. The legislative system of both is fundamental to their particular democracies. This study analyses these aspects giving perception into how each system functions & its significance for governance. Both have bicameral structures for democratic governance but their different approaches to representation and political party systems relinquish different government results. The study also evaluates India's multi-party landscape & USA mainly following a two-party system. India's parliamentary system highlights responsibility to the legislature while the separation of powers promote independence among branches of government in the US. Understanding these differences gives perception of how each country approaches governance & law making & how the legislative process shapes the political perspective in each country.

**Keywords:** Democracies, Democratic Governance, Parliamentary System, Legislative Process, Bicameral Structure, Legislature, Government

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## **Research Methodology :**

The research method used in writing this paper is the Doctrinal Method i.e., secondary data was collected from different commentaries, books, research papers, and websites and was used in doing research and writing this paper, along with the data case laws were also referred and taken as reference in order present the data in a much more understandable way and this also helps readers in understanding the concept by comparative analysis approach<sup>1</sup> which focused on differences between the two systems<sup>2</sup>.

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## **Research Questions :**

1. What part do the committees play in the legislation process of USA & India & how successful are they in controlling/ conducting the legislation?
2. What are the phases of the legislative process in India in comparison to the USA & how do these phases impacted the approval of laws?
3. What are the main differences in structure of the US Congress & Indian Parliament & how do these differences effects on the efficiency of the legislature?

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## **Research Objectives :**

1. To assess the structure composition of the US Congress & the Indian parliament concentrating on individual members, roles and chambers. Focused on election method, appointment job qualification & term of tenure.
2. To review the India and USA legislative procedures assessing the steps, phases of the debates, the bill formation consent & identification of the main similarities & differences. Comparing duty of the American President & Indian President in the process of legislation.
3. To examine the operations & efficiency of committees in both houses of Congress determining how they impact liability & legislation. Comparison of the impact & accountability in India parliamentary district and USA.
4. Determine the balances & checks between executive and legislative in USA - India. Evaluate how the legislature points to the executive liable and evaluate how both legislatures manage the execution of policies & laws.

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<sup>1</sup> J Hood - **Indian JL & Legal Rsch.**, 2021 – HeinOnline

<sup>2</sup> Verma, Aastha, **Judicial System Unveiled: A Comparative Analysis of USA & India** (October 14, 2024). Available at SSRN: <https://ssrn.com/abstract=4986401> or <http://dx.doi.org/10.2139/ssrn.4986401>

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### Hypothesis :

The legislative systems of India and the United States, while both operating under democratic frameworks, exhibit significant differences in their structure, functioning, and approach to lawmaking. These differences can be attributed to their unique political, historical, and cultural contexts.

The hypothesis suggests that the legislative systems in India and the United States are shaped by their distinct political ideologies and institutional arrangements, leading to divergent patterns of governance, lawmaking, and public engagement.

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### Literature Review :

A comparative analysis of the legislative systems<sup>3</sup> in India and the United States examines the structural and functional differences and similarities between the two nations legislative frameworks. Both India and the United States operate under federal systems, but the specifics of their political and legislative processes differ significantly due to historical, cultural, and constitutional distinctions.

This literature review will explore key aspects of their legislative systems including the organization of the legislature, the process of lawmaking, the relationship between the executive and the legislature, and the role of political parties.

India and the United States are two of the countries that are compared due to the presence of a congressional or parliamentary form of government. In the first instance, both the United States and India follow a federal system.

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### Introduction :

The comparative study of the respective legal systems of the USA & India aims to focus on functional & structural components test their roles in lawmaking in both the countries. The legislative i.e. law is passed by the law-making body pass laws carried out at that time by the executive. Bicameral parliaments present in the USA & India i.e. bipartisan legislatures with a double mandate and three-member states. The US Congress is divided into 2 chambers: House of Representatives & Senate

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<sup>3</sup> AK Vishwakarma - Educational Administration: Theory and Practice, 2024 - kuey.net  
and the Indian Parliament is divided into 2 houses: Rajya Sabha - Lok Sabha.

Constitution regarded as supreme in India and USA. In India the legislature and executive have a close relationship in a parliamentary system of government. India is supreme democracy in the world where the USA is the oldest democracy. In India the Lok Sabha holds the real executive with e.g. PM & Council of Ministers responsible. USA is managed by a presidential system. In USA the president who is the actual executive is not accountable to legislature.

The president is elected for a fixed term and can be removed by the legislature through the impeachment process. In many aspects the senate i.e. majority of the seats must be divided, but not just one for the other. The lower chamber of the US Congress overwhelmingly is strongly contrary to the Rajya Sabha.

Difference between both the US and India Govts & Legislative context In India there is a parliamentary form of government & in the USA there is a presidential form of government. In USA the PM appointed cabinet members and sent them to the senate for verification. In the context of the legislative body. In India the supreme legislative body is known as Parliament. In the US Congress is the legislature.

In India bicameral legislature comprised of the President Rajya Sabha & Lok Sabha. The USA has 2 chambers house of representatives. Members of the Lok Sabha are directly members of the cabinet non congress members in India. There are 100 of smaller and regional political parties in Indian politics. The 2 current national parties are the BJP (Bhartiya Jnata Party) & INC (India National Congress).

The prime minister is responsible for government decisions i.e. the government is the cabinet officer of the government. the elected head in India. In the USA president is known as head of state - the head of executive command. The constitutional head of state is the president of India. In USA citizens in every state can assign their vote by method of popular votes i.e. primary referendum or election day. The electoral college then placed his electoral vote in its turn to determine the president.

Citizens made their votes to vote for their representatives in the Lok Sabha. The winning party which wins the majority of the seats in the LS gets invitation from President to make the government. The leader of the electing party or the winning party becomes the prime minister. In the USA the president takes office for a 4-year

term. In general, the Lok Sabha elections are held in terms of 5 years.

The US senate is regarded as the world's leading chamber of state and is second in size. In USA senate i.e. In the Rajya Sabha Parliament is dissolved. It is fully elected and there are no nominated or hereditary members but in the Rajya Sabha it lacks hereditary. In consultation with the senate President Donald Trump appointed five judges to the Supreme Court. The President of India like US appointed the Supreme Court judges for the Constitutional Court on the suggestion of the PM.

In India and USA, the judiciary is divided from other branches of government. Delegated Legislation in India means it is the procedure by which the legislative power is transferred by the state legislature or parliament to the different executive authorities i.e. Regulatory authorities and government departments to establish regulations & rules for the execution of the laws. The constitutionality of the delegated legislation in India is the question which has been subjected to judicial scrutiny and formation over the years.

Legislative Authority. Delegated Legislation assists several crucial functions in the legislative process: 1. It reduces the burden of workload on the parliament by giving peculiar details to the designated management. 2. Expertise: By delegating the legislative powers to experts in their specific fields, legislation can be framed with a deep understanding of the subject material. 3. Delegated legislation can be particularly helpful in emerging situations which allowed for quick responses to the changed circumstances or the unexpected events which is important in retaining efficient governance. Flexibility 4. It allows the legislative framework to remain appropriate & operative by addressing situations that the parliament perhaps didn't anticipate when the drafting of the primary legislation. Delegated Legislation varies remarkably among these jurisdictions and represents opposing approaches to governance, responsibility & balance of power between administrative bodies & legislature.

In India parliament can transfer powers where delegation is formed & the delegation must stick to the specific guidelines assuring that the delegation is formed within the parameters of the constitution make sure that the delegation is motivated and limited in scope. In USA it is the same pattern of system like Indian where congress could not transfer/delegate infinite powers.

The delegation must stick to the definite guidelines ensuring that administrative agencies function within the defined limits by continuing a balance between legislative authority and administrative discretion. In India, to be meant as valid the delegated legislation validity of the parent law must itself be valid for the officials for subordinate legislation. If the parent act is constituted to be invalid or unconstitutional it would also be treated as invalid any legislation from it.

Any kind of information may be made by an Indian Parliament for every part of its territory. There are 3 lists present in Schedule Seventh of the constitution which are union list, concurrent list and state list. These lists mentioned the numerous subjects of which laws are made by the state legislature or parliament in which they were made.

The Senate is one of the major branches of separation of powers in the USA which Montesquieu defined. The American constitution defines the legislative branch as consisting of the United States Congress (Senate & House of Representatives) where the legislative branch can gain the power to make laws. Its primary role involves the enactment of the legislation (law making), the impeachment and verification of nomination of president elections. It enjoyed understanding of the executive branch through the hearings in congress proceedings of the committee, the investigation and the discussions.

In USA, Congress has counted powers which are exclusively listed in the constitution. 10<sup>th</sup> Amendment hold all the powers to the states. In India, the parliament holds concurrent powers with the state legislatures. In USA, any member of congress can introduce a bill in house or senate but revenue bills must appear in the house of representatives. In India money bills ought to introduce in Lok Sabha. Process of the stage of the legislation is complexed in the USA because of the different procedures for each chamber.

Committees in USA plays an important role in analysing bills & organising hearings. There are many committees for chamber focusing in various areas. Parliamentary Committees in India retrospect the process of legislation & supervise the functions of the government.

In USA a bill must be approved by both the houses & the senate then was given to

the president for the assent. In USA, a bill ought to be passed by both houses of parliament & then acquired the assent of President. The president can give back the bill for revaluation but not in the matter of money bills but eventually has to approved in the case of passing the matter again.

## Legal Provisions & Case Laws :

**President Impeachment (Article 61):** It is the procedure by which the president can be impeached for violation of the constitution, requirement of the action is required from either house of parliament. In 1913 the establishment of a Bicameral Parliament for India consisted of the President Lok Sabha and Rajya Sabha. Judges are removed only by a procedure that requires a 2/3rd majority in both houses of parliament highlighting the preservation of Judicial Independence Article.

This enabled the parliament to form the process for examining the charges opposed to the judges assuring a formal procedure for the liability. it requires the president's assent for the bills related to taxation that can influence state interests. The federal structure of governance underlines the national structure. **A3** states that the parliament has the command to reorganize the states which reflect the evolving nature of the federal system. In **Kilbourn vs Thompson (1880)**: The legislature can not intrude or exert upon the operations of the judiciary & legislative branches. **Keshavananda Bharati vs State of Kerala (1973)**: It could not amend the basic structure assuring that parliament could not amend the basic structure **A356** allowed the implementation of Presidents rule in the states.

The Court decided in **Marbury vs Madison (1801)**: In this case it was decided that the legislation could be agreed upon by the courts. The judicial review was annulled by the courts. According to **A168** it defines that each state should have a legislature which should consist of a governor.

In accordance with the **A168** it stipulates that for each state there shall be a legislature which should consist of governor or commissioner. **A227 & A229** authorize the supreme courts to conduct their processes and the subordinate staff which approves for the effective judicial administration. This case decision was an important victory for those who believed in the significance of judicial review.

It was decided that the courts are the ultimate predisposers of the Constitution & consume the power to abolish laws. Legislative authority under the Indian Constitution is given to the parliament of the state legislature as per **A245**. Under **A246** the court explained that the power to transfer is restricted as important legislative purposes cannot be delegated. **A312** of the Indian Constitution grant parliament the authority to make laws for the establishment of the All-India Services Parliamentary Body under particular conditions.

K.N. Wanchoo observations in the case of **D.S Gerewal v State Punjab** show that the provision does not invalidate the legislature intrinsic powers to transfer the authority, consolidating the role Part 11th of the Indian constitution measures with regard to the relationship between the state's utmost union & the states. Parties are concerned as is the subject matter of laws formed by parliament or state legislatures.

**A 123** defines with the powers of the president to promulgate ordinances at the time of the holiday of parliament and the governor of the state can enjoy the same power to promulgate the ordinances. **A309** defines the conditions & employment of service for persons serving the state. This provision permits the president & governor to form the rules for a short time until formal legislation is approved.

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### Conclusion :

The legislature of USA & India shared similarities like bicameralism and federalism<sup>4</sup> which had different characteristics. India's parliament is framed by adopting the parliamentary system of the British i.e. British Parliament Council which is one of the Westminster Model has a strong connection between the executive and legislature branches. Congress in the US was formed with separation of powers. The Rajya Sabha in India is presented under the framework of central power where the US Senate plays a significant role in protecting the interests of the state. The dynamic nature of the legislative overviews & judicial review further differs between the 2 systems where India parliament though subjected to judicial review retained wide powers to change its constitution with the powers of amendment. In the end both the lawmakers reflect upon democratic principles & changing needs of the respected nations in the final.

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<sup>4</sup> [J Joseph](#) - Issue 6 **Indian JL & Legal Rsch.**, 2022 – HeinOnline

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