

An Analytical Study of the Legislative and Executive Impact on Judiciary

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Abstract: *This paper presents an insight into the significance of the structure and operation of the institutions of government within both spheres of government in all federations. In the context of Indian democracy, the legislative, executive, and judiciary, while distinct, are interconnected and vital for a balanced system of governance, with each branch playing a crucial role in law-making. The separation of powers is a key principle in the governance of India, ensuring that the legislative, executive, and judicial branches operate independently yet collaboratively. This structure is vital for maintaining checks and balances, preventing any single branch from becoming too powerful. Understanding how these branches function and interact is essential for grasping the complexities of Indian democracy. In comparing federal institutions, the similarities are clear enough. Each country has a federal political system, and each has key institutions that, at one level, are broadly similar in kind. The differences are more complex and demand more careful attention.*

Keywords: federation, legislative , executive, judiciary, democracy, federal

I. INTRODUCTION

In the Indian democracy, the legislative, executive, and judiciary branches are interdependent, yet distinct in their functions. This separation of powers ensures that no single branch becomes too powerful, but they must work together to ensure the smooth functioning of the democratic system. Modern Parliamentary System of Government envisages administrative accountability to Parliament which means a general political control over government. Parliamentary control involves the detailed examination of government activities which may cover both preliminary interventions, i.e., before a policy is adopted and ex post facto supervision after the policy has been implemented. The executive branch also includes various government departments and agencies that carry out the laws made by the legislature. These bodies ensure that the laws are implemented effectively. Here are some key functions of the executive:

- Implementing laws passed by the legislature.
- Formulating policies to govern the country.
- Managing public services and administration.

In India, a separation of functions rather than of powers is followed. Unlike in the US, in India, the concept of separation of powers is not adhered to strictly. However, a system of **checks and balances** have been put in place in such a manner that the judiciary has the power to strike down any unconstitutional laws passed by the legislature. Today, most constitutional systems do not have a strict separation of powers between the various organs in the classical sense because it is impractical.

Let's explore the interdependence among these branches in the context of the Indian democracy:

Legislative-Executive Interdependence:

- **Executive Responsibility to Legislature:** In India, the executive is drawn from the legislature. The Prime Minister and Council of Ministers are members of the Lok Sabha (Lower House) or Rajya Sabha (Upper House). They are responsible to the legislature for their actions. This means that the executive is accountable to the legislature, especially the Lok Sabha, through mechanisms like the vote of confidence or no-confidence motions.

- **Legislation and Governance:** The executive, headed by the Prime Minister, implements laws made by the legislature. While the legislature makes laws, the executive ensures that they are effectively enforced. For example, a law passed by Parliament might require administrative actions or regulations by the executive branch.

Legislative-Judiciary Interdependence:

- **Judicial Review of Legislation:** The judiciary has the power of judicial review, which allows it to review laws passed by the legislature to ensure they are in compliance with the Constitution. If any law is found to be unconstitutional, the judiciary can strike it down. This acts as a check on the power of the legislature.
- **Legislature's Role in Judicial Appointment:** While the judiciary is independent, the legislature plays a role in the judicial system through the process of appointing judges. For instance, judges of the Supreme Court and High Courts are appointed by the President of India, but the appointments are made based on the recommendations of the collegium system, which includes judicial input. The legislature also participates in confirming or rejecting certain judicial appointments through the process of impeachment.

Executive-Judiciary Interdependence:

- **Judicial Review of Executive Actions:** The judiciary can review the actions and decisions of the executive. If the executive takes any action that violates the Constitution or exceeds its authority, the judiciary can intervene and declare the action unconstitutional. This is one of the most important checks on the executive.
- **Role of Judiciary in Administrative Functions:** Courts also play a role in ensuring that the executive follows the laws of the land. If the executive fails to adhere to the law, the judiciary can order corrective action through writs like mandamus, certiorari, or prohibition.
- **Executive Implementation of Judicial Decisions:** Once the judiciary makes a ruling, it is the responsibility of the executive to implement that decision. For instance, the executive must ensure the enforcement of court orders.

The Judiciary: Structure and Functions

Supreme Court of India

The Supreme Court of India is the highest court in the country and plays a crucial role in upholding the Constitution. **It ensures justice and protects the rights of citizens.** The Supreme Court has the power to interpret laws and has the final say in legal matters. It consists of the Chief Justice and other judges appointed by the President of India.

High Courts and Subordinate Courts

India has a hierarchical structure of courts. Each state has a High Court, which oversees the subordinate courts. These courts handle various cases, including civil and criminal matters. The structure is designed to ensure a systematic and efficient administration of justice.

Judicial Review and Interpretation

Judicial review is a significant function of the judiciary. It allows the courts to examine the constitutionality of legislative and executive actions. This power acts as a check on the other branches of government, ensuring that they do not exceed their authority. The judiciary interprets laws to ensure they align with the Constitution, maintaining the balance of power.

The judiciary acts as a guardian of the Constitution, ensuring that the rights of individuals are protected against any arbitrary actions by the state.

Key Functions of the Judiciary

- **Adjudication of Disputes:** Resolving conflicts between individuals, organizations, and the state.
- **Protection of Rights:** Safeguarding fundamental rights as enshrined in the Constitution.
- **Interpretation of Laws:** Clarifying and explaining the meaning of laws to ensure justice.

The judiciary in India plays a vital role in maintaining the rule of law and protecting the rights of citizens. Its structure and functions are designed to ensure a fair and impartial system of justice, which is essential for a democratic society.

Checks and Balances

The three branches of government in India—Legislative, Executive, and Judiciary—work together to maintain a balance of power. This system ensures that no single branch becomes too powerful. For example, the Legislative branch can create laws, but the Judiciary has the authority to review these laws to ensure they are constitutional. This creates a system of checks and balances that is essential for democracy.

Functional Overlaps

While each branch has its own distinct functions, there are areas where their roles overlap. For instance:

- The Legislative branch can impeach members of the Executive.
- The Executive can propose legislation to the Legislative branch.
- The Judiciary can interpret laws made by the Legislative branch.

These overlaps help to ensure cooperation among the branches, but they can also lead to conflicts.

Separation of Powers

The purpose of separation of powers is to prevent abuse of power by a single person or a group of individuals. It will guard the society against the arbitrary, irrational and tyrannical powers of the state, safeguard freedom for all and allocate each function to the suitable organs of the state for effective discharge of their respective duties.

Separation of powers divides the mechanism of governance into three branches i.e. Legislature, Executive and the Judiciary. Although different authors give different definitions, in general, we can frame three features of this doctrine.

- Each organ should have different persons in capacity, i.e., a person with a function in one organ should not be a part of another organ.
- One organ should not interfere in the functioning of the other organs.
- One organ should not exercise a function of another organ (they should stick to their mandate only).

Thus, these broad spheres are determined, but in a complex country like India there often arises conflict and transgression by one branch over the other.

II. CONCLUSION

Conferment of power in a single body leads to absolutism. But, even after distinguishing the functions, when an authority wields public power, then providing absolute and sole discretion to the body in the matters regarding its sphere of influence may also cause abuse of such power. The interdependence of the legislative, executive, and judiciary branches is crucial to the functioning of Indian democracy. While each branch has distinct powers, they are designed to work together and check each other to prevent any single branch from becoming too powerful. This system of separation of powers, along with checks and balances, safeguards democracy and ensures the protection of fundamental rights. The regulation of Separation of Powers should be deciphered in a relative structure. In the time of advancement, privatization and globalization, partition of intensity must be explained in a more extensive viewpoint. It ought not to be check to the rule of limitation or exacting order just yet a gathering power practiced in the soul of participation, coordination and in light of a legitimate concern for the government assistance of the state.

REFERENCES

- [1]. Bhansali SR (2015) Textbook on The constitution of India 1st Edn India 1.971.
- [2]. Anup Chand Kapur (2006) Principles of Political Science.20th Edn Reprint India.751.
- [3]. Srivastav S (1964) Separation of Judiciary from Executive In India with Particular Reference to the State of Uttar Pradesh. IJPS India Â 25 339-346.
- [4]. Vile MJ (2012) Constitutionalism and the Separation of Powers. Liberty Fund 2nd Edn India. 468.

- [5]. Merrill TW (2004) Rethinking Article I, Section I: From Non delegation to Exclusive Delegation. Colum L Rev United States 2097
- [6]. Mortenson JD (2019) Article II Vests the Executive Power, Not the Royal Prerogative. Colum L Rev Michigan 119 1169-1272
- [7]. Harrison J (1997) The Power of Congress to Limit the Jurisdiction of Federal Courts and the Text of Article III. U Chi L Rev Virginia 95: 203-256
- [8]. Nagel RF (1994) Judicial power and American character: Censoring ourselves in an anxious age. OUP United States 188
- [9]. McGee RW (1997) The ethics of tax evasion and trade protectionism from an Islamic perspective. Available at SSRN 461397 North Carolina: 11.
- [10]. Bakshi PM, Kashyap SC (2012) The constitution of India. Univ Law Publish. INDIA 494
- [11]. Jaiswal A (2012) Jurisprudence of Rights in Kesavananda Bharati Available at SSRN. India, 2022346:14.
- [12]. Naseem N, Qayoom S (2020) Judicial independence and impartiality. A sinking belief, India, 11: 318.
- [13]. Saksena RC (1995) Adjudication by tribunals in india. landmark in field of natural justice. jili. india 222-230
- [14]. Pandya K (2013) Separation of Powers-An Indian Perspective. Available at SSRN 2254941. India 49.