

Q) Amongst the Congress, the Judiciary, and the Executive branches of the United States Government, which one of the government branches is much more powerful and why? Elaborate through the prism of the US Separation of Powers and Checks and Balance systems.

Answer

- 1) Introduction
 - 2) Necessity of Division of Power
 - 3) Congress as the much more powerful branch of government
 - a) Powers endowed to Congress (w.r.t to Executive and Judiciary)
 - b) How Congress Keeps a check on Executive powers. and vice versa.
 - c) How Congress Keeps a check on Judiciary. and vice versa.
 - 4) Congress maintains a harmonious balance
 - 5) Conclusion
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1) Introduction:

For any governance system, a system of division of powers and checks and balance is necessary to ensure that the power doesn't accumulate in the hands of a few elites - This is because of the fear that such systems can promote abuse of power by those at the helm. In this regard, American system is known for its balanced division of power amongst three institutions of government - Each of these institutions ensures that the others work in their realm and do not

exceed their limits.

2) Necessity of Division of Power.

The idea of division of power is not new to America. In fact it dates back to late 1700s when French Political theorist Montesquieu present it under "The Spirit of laws". He warned against the perils of centralized authority and called for its division into several instⁿ institutions.

The same idea was picked by James Madison. In Federalist paper no. 47, Madison argues that accumulation of power will lead to tyranny.

3) Congress as a much more powerful branch of government.

A fleeting look at the powers of three branches of USA government tells us that Congress (legislative) is the more powerful branch of government. This is evident by the powers it exercises and the jurisdiction it has over Executive and Judiciary.

a) Powers endowed to Congress (w/out Executive and Judiciary)

The Congress' powers include:-

- i) Power of the purse meaning that they can impose taxes and decide when and where to spend them.
- ii) It has the power to pass bills.
- iii) It ratifies treaties.
- iv) It can declare war(s).
- v) It can impeach the president.
- vi) It can "Advise and Consent" on the judicial appointments made by the president.

Compared to these powers, the powers of Executive and Judiciary are relatively less.

The President (Executive) can:

- i) Execute the laws pass by legislative
- ii) Veto these laws
- iii) Appoint federal judges
- iv) Declare Emergency.

The powers of Judiciary include:

- i) Interpreting the laws to decide prisoners' disposition
- ii) Reviewing the laws passed by legislative
- iii) Determine how laws may be interpreted in different cases.

b) How Congress Keeps a check on Executive
(and vice versa)

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Congress keeps a check on the actions of Executive in several ways :-

- i) It can refuse to pass the laws that the president wants
- ii) It can refuse to disburse funds for Executive programs.
- iii) It can investigate the activities of Executive and his officers.
- iv) It can impeach and remove the president.
- v) It can review judicial and official appointments made by the president.

However the actions of Legislative do not go completely unchecked by Executive. The president exercises some controls too :-

- i) Can veto the bills passed by Legislature
- ii) Can call a congress session (but cannot force them to pass laws against their will)

c) How Congress Keeps a check on Judiciary (and vice versa) :-

Judiciary is considered the weakest branch in US governance system. This

is because it exercise limited powers but the other two branches can exercise several powers over Judiciary -
The Congress can:-

- i) Change the jurisdiction of Federal courts
- ii) Change the composition of Federal courts
- iii) Can override the decisions of Supreme court like it did by passing Constitutional ammendment no. 13, 14, 15 against Dred Scott decision.
- iv) Can impeach or remove judges
- v) Senate can reject nominees (for the position of judges)

Contrary to these wide-ranging powers of Congress, the Judiciary can exercise only one power over Congress i.e, Declaring laws unconstitutional. Besides that Chief Justice also has the power to preside over the ^{impeachment} trial of president in the senate.

4) Congress maintains a harmonious balance:
The powers of Congress elaborated above and the checks it commands over Executive and Judiciary clearly indicate that it is the more powerful branch compared to the others. But there is a reason for endowing this branch

with so much powers and controls.

In Federalist Papers : 51 , Madison writes :-

" You must first enable the government to control the governed and in the next place oblige it to control itself."

The "controlling of itself" that Madison points to is primarily carried out by Congress. Since it is most democratic institution of government, it is best to allow it to keep a greater control on the other two branches of government.

However, despite being the most democratic of the three branches, Congress is also subjected to some checks by the other two branches. This ensures a perfect balance between all three branches such that none exceeds its limits.

5) Conclusion:-

The framers of the constitutions were afraid of delegating too much power to

one branch of government fearing that it might become tyrannical. They solved this issue by elaborating a system of division of powers and checks and balances - Legislature works as the main component of this system and ensure smooth government functioning.