

USA Constitution

"The American constitution is the horse and buggy affair projected into a motorised era."

(Munro)

The present constitution of the United States of America was adopted at the Philadelphia convention held in 1787. It came into force in 1789; after that it had been ratified by the minimum required number of states. It is one of the briefest constitutions in the world.

• Salient features of USA constitution

Following are some of the salient features of the constitution of USA.

① Written

Constitution

The constitution of the USA is written

in its form, like other federal constitutions in the world. It is a brief document consisting of seven Articles and twenty-seven Amendments. It is in fact a model of draftsmanship, of constitutional elegance, of brevity and of apparent clarity. It has also been adequately clothed with conventions, customs, Judicial decisions and legislative measures. The unwritten element in the form of conventions has played a vital role so much so that the very nature of the constitution is changed now. To take an example, the fathers of the constitution provided for indirect election of the president but as a matter of convention the election has now become direct.

② Rigidity

The constitution of the USA is the

most rigid constitution in the world. It is amended by a two-thirds majority of both houses of the parliament. The States of USA. In a parliament if the bill is passed by the states but not by the parliament, the bill will be sent back to the states. Neither the president nor the states have the right to amend the constitution. Only twenty amendments have been made in the

③ Federal

most rigid constitution in the world. It can be amended by a lengthy and cumbersome process. First of all, an amendment bill is sent to the parliament of USA. If the bill passes by the two third majority of the two houses of parliament, the bill will send to all the fifty states of USA. In USA, every state has a parliament. If the thirty seven parliament of the states pass the bill by two third majority, the bill will final. After the above process, neither the president nor the congress have the right to refused this bill. So, the rigidity of the constitution is obvious from the fact that only twenty seven amendments have been made in the constitution.

③ Federal Character

④ The constitution of the USA is federal in its nature. In this form of government, powers are constitutionally divided between centre and units. USA is a federation of fifty states. All the powers not delegated to the centre or not reserved for the people are exercised by the states. The constitution creates a weak centre because residuary powers have been given to the units.

④ Supremacy of the Constitution

The constitution of the USA is the supreme law of the land. Neither the centre, nor the states can override it. A law or an executive order repugnant to the constitution can be declared unconstitutional and invalid by the American Supreme Court.

⑤ Separation of Powers

The constitution of the USA is based on the doctrine of 'separation of Powers'. In USA constitution powers are divided into three categories: legislative, executive and judiciary. Firstly, The Congress is the legislative organ. Article one of the USA constitution deals with the power of legislature. This article grants the congress various enumerated powers and the ability to make the law. Secondly, the President is the head of executive. Article two of the USA constitution deals with the power of executive. This article gives executive the right to implement the law. Thirdly, Article three of the USA constitution deals with the power of supreme court. This article gives supreme court the right to interpret the law.

⑥ Checks and Balances

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The fathers of the USA constitution introduced 'Checks and Balances' for recognising the importance of close coordination among three organs of the government. The powers of one organ were so devised as to exercise a check upon the powers of others. As for example, the president can veto the Bills passed by the congress. The Senate shares with the president this powers of making appointments to the various federal offices and conclusions of treaties with foreign states. All these treaties must be ratified by two-thirds majority in the state. Through this power, the Senate controls the internal administration and external policy of the President. The organisation of Judiciary is determined by the congress and the judges of Supreme Court are appointed by the President with the consent

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of the Senate. The Supreme Court can declare the laws passed by the Congress and executive action taken by the President ultra vires. In this way, the three organs of the government have been interlocked and inter-checked.

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⑦ Republicanism

Unlike UK where a hereditary monarch is the head of the State, the USA is a republic with the President as the elected head of the state. The constitution derives its authority from the people. Moreover, the constitution makes it binding upon every constituent state to have the republican form of government.

⑧ Presidential Form of government

According to the constitution of USA, there is a Presidential form of government in

USA. All executive powers are vested in the President. The President is not constitutionally responsible to the Congress in the manner in which the executive is responsible to the legislature in England or Pakistan. He does not attend its sessions, nor initiates legislation directly, nor answers questions. The Congress cannot remove him during the term of his office which is fixed for four years. On the contrary, the President cannot dissolve the Congress. The members of his cabinet are neither members of the Congress nor answerable to it. They are his errand-boys who have been rightly termed as the 'family' of the President or his 'Kitchen Cabinet'.

⑨ Dual Citizenship

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American is the citizen of the USA or also of the state where he or she is domiciled.

It is in contrast with the idea of single citizenship as incorporated in the constitution of Pakistan which establishes a federal form of government as well.

⑩ Popular Sovereignty

The constitution of the USA is based on popular sovereignty. The preamble of the constitution runs as follows:

"We the people of the USA in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and posterity, do ordain and establish this constitution for USA."

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So, the ultimate sovereignty in USA is thus attributed to the people.

⑪ Bicameral System

Like UK, USA too has a bicameral legislature.

Its lower house is termed as the 'House of Representative' whereas the upper house is known as 'Senate'. The upper house of USA, Unlike other upper chambers in the world, is more powerful than the lower. It is equipped with legislative, executive and Judicial powers. It is described as the most powerful upper chamber in the world. Its tenure is six year unlike that of lower house which is elected only for two years. Moreover, it is a compact house consisting of 100 members whereas lower house consists of 435 members.

Thus, the constitution is a model entirely stability in the sense. Some of the debates Pakistan opted for whole discussion who says:

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Thus, it can be concluded that American constitution is a unique constitution presenting a constitutional model entirely different from that of UK. Its stability is the envy of the world constitutions. Some of the developing countries like Sri Lanka and Pakistan opted for it. In short, we sum up the whole discussion in the remarks of Lord Byce who says:

“Yet, after all deductions, it ranks above every other written constitution for the intrinsic excellence of its scheme, its adaptation to the circumstances of the people, its simplicity, and precision of language, its judicious mixture of definiteness in principle with elasticity in details”

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