

Amongst the Congress, Judiciary and the Executive branches of USA Government which one is more powerful and why. Elaborate through the prism of US separation of powers and the system of checks and balances.

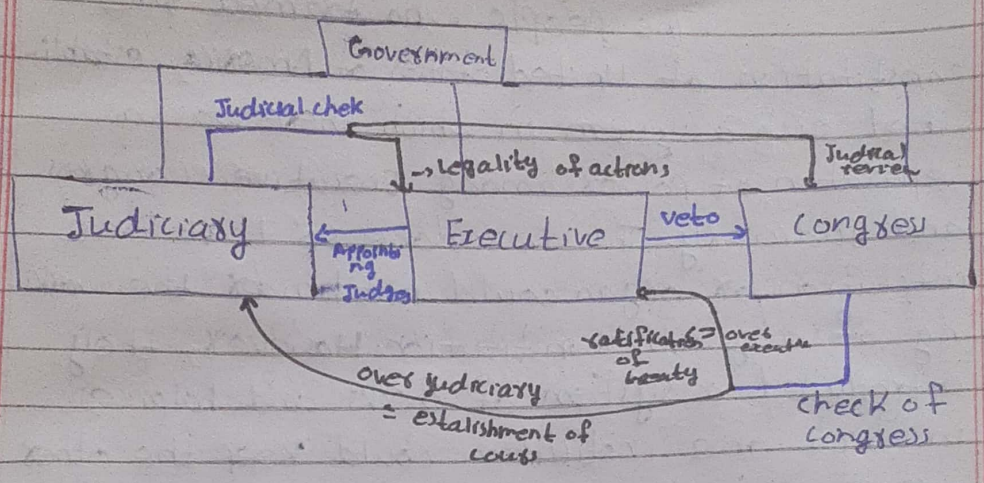
### 1) Introduction

The people who framed the constitution of United States of America established such a system in which there was a separation of powers among Executive, Congress and Judiciary. This was done so that one institution or organ could not hinder the working of any other institution. However, they introduced a system of checks and balances in which one institution could keep the other organ in check whenever the latter tried to use its powers beyond its scope. So, despite of executive being very strong, the system of checks and balances has established a balance of powers among all three organs of the government.

### 2) Separation of Powers and system of checks and Balances

The first three articles of the constitution of United States of America enuse separation of powers. As Congress does all the law making the executive is not involved in law making. Similarly, Congress cannot

hold the executive accountable, in a manner parliament in a parliamentary system does. The judiciary is also independent in its working. However, all the organs have been provided with certain powers through which one organ of government is able to keep others in check.



### a) Checks of Congress

Congress has many powers through which it is able to keep in check the judiciary and executive

#### i) checks on Executive

##### a) Overriding the veto

Through 2/3rd majority congress can override any veto by president. During Reconstruction era many of vetos by Andrew Johnsons were nullified by Congress.

## b) Ratification of Treaty

A treaty by executive can only come to enforcement, when it is satisfied by senate.

Senate did not satisfy treaty of Versailles.

## c) Impeachment of President

Both the houses are involved in impeachment of president.

## d) Imposition of taxes

It requires approval of the house of representatives.

## ii) checks on Judiciary

### a) Approval of Judges Appointment

Although, judges are appointed by President, for their final appointment approval from senate is required.

### b) Salary of Judges

Salary of judges is regulated by congress.

### c) Amend Judicial Act

Congress can amend act that is responsible for the functioning of judiciary.

## Checks of Executive

### i) On Congress

#### a) Veto and Pocket Veto

President can neutralize legislation using veto and pocket veto.

Andrew Jackson excessively used pocket veto, and thus often called as 'King Andrew'.

#### b) Calling the Emergency Session

President has the power to summon the session of congress in any emergency, when congress is not in session.

#### c) Recommendation regarding Legislation

In his address, or in written communication President can call the attention of congress to the issues which require legislation.

### ii) Check on Judiciary

#### a) Appointment of Judges

Under the constitution, President has the right to appoint judges; however, approval of Senate is also required.

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b) Powers of granting Pardon  
President can grant pardon to Federal convicts. Thus, over-ruling Judiciary.

## Checks of Judiciary

### i) On Executive

a) Legality of Executive orders and Actions  
Courts have authority to suspend such orders and actions by executive which appear to be against the spirit of constitution.

b) Chief Justice Presides the Impeachment Trial in Senate

The trial is carried out in Senate, and it is presided by chief justice.

### ii) On Legislature

#### a) Judicial Review

Can judge legality of legislation.  
Can term any legislation void that appears to be against the constitution.

In *Marbury vs Madison* the Judicial Act was declared unconstitutional by court.

## Conclusion

So, the constitution of USA

