

Q2] Discuss the salient features of the judicial system in France. How does it differ from that of the Britain and Pakistan? (20)

Introduction

In every government judicial, executive and legislative are considered as the organ. One organ (legislative) makes law other (executive) implement law and third organ (judiciary) interpret the law. It represents the separation of power. According to Montesque separation of power ensures the stable and free society. However, in France judiciary is not a separate organ but it is lowest form of government. It is the largest part of large administrative which implement laws and ensures the enforcement of law at local level. Hence, judiciary ensures transparency and justice at different level for smooth running of society.

Historical Background of France Judicial system

Historically France was the under the influence of Roman Empire. Its judicial system was not advanced and it had the foot print of Roman empire. After French Revolution **Napoleon Bonaparte** strengthen the judicial system of France. It has the influence of Napoleon Bonaparte. He introduced codes for judicial system.

Salient features of French Judiciary system

1) Codified Law

The judicial system of France is based on written laws comprises of codes. These codes for laws were introduced by the Napoleon Bonaparte.

2) Inquisitorial Judicial system

In France contrary to adversarial system there is inquisitorial system. where judges play important roles in investigation, evidence collection and questioning the parties by themselves.

3) No separate civil and criminal courts

In France there are no separate civil and criminal courts as both civil and criminal cases are being heard in all courts. one exception is to cassation courts

Civil and Criminal courts

→ Deals with both civil and criminal laws

Administrative court

→ Deals with cases of Government employees and

Types of court in France

4) Administrative Courts (Administrative law)

In France there are two different laws one deals with common

people while other administrative law which deals with the government servant. Administrative laws deal with the cases which are against the state.

5) Civil law

Contrary to common law which follow the precedents. French law does not follow the previous rulings rather it is based on the codes.

6) Judge as a separate profession

In France judges are chosen among the lawyers. Rather, one has to choose either they are going to pursue lawyer profession or judge as the profession. However, in other countries judges are selected from lawyers.

7) Independence of Judiciary

To ensure fair justice the independence of judiciary is crucial.

Hence, judiciary is separate from the other branches rather it is considered as the lowest form of government. It is the part of largest administrative structure.

8) Principle of college-ability

In France it is believed that one judge can corrupt not the number of judges. However, each case is presented before three judges rather than one.

9) Jury system

In other countries there is a jury system where there are twelve judges in a jury. In France there is hardly a concept of jury system. But there is constitutional council which is semi-legislative and semi-judicial.

10) Absence of Habeas Corpus

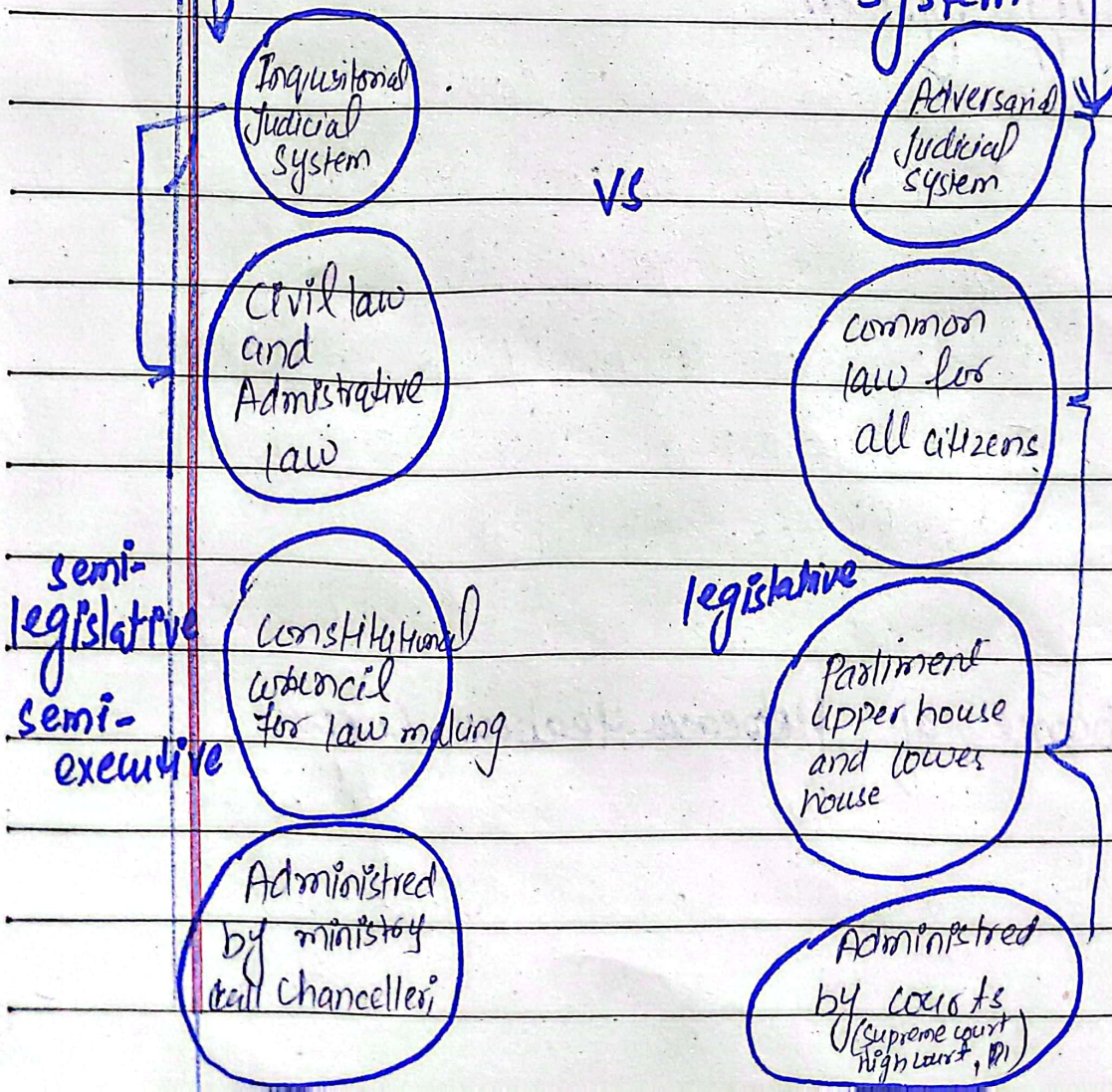
In other states there is concept of Habeas Corpus but in France there is absence of Habeas

Corpus.

How France ~~and~~ judicial system is different from the Britain and Pakistan.

As Pakistan was former Britain colony. Hence, it has the foot-prints of Britain system and it has many similarities in this regard.

France judicial vs Britain and Pakistan judicial system



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1) Judicial System. Adversarial vs Inquisitive

In France Inquisitorial system judges play active role in investigation, questioning and evidence collection. In

Pakistan and Britain there is Adversarial system where two parties confront each other defend each other before court.

Administrative vs Common law

France follows two laws one for general public which is civil law while other is for government servants which is administrative law.

Constitutional council vs Parliament for laws

In France constitutional council act as semi-legislative and semi-executive which approves or disapproves law. while in Britain ^{and Pakistan} Parliament passes law. and executive authority implement the law.

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Administration Structure

In France courts are administered by ministry known as Chancellerie while in Britain and Pakistan courts are administered by other supreme court, high courts.

Judicial Review

In France there is no concept of judicial review. While in Pakistan and Britain there is the concept of judicial review.

Conclusion

The France judicial system with its features have been discussed. All judicial system share some values or there are some similarities and contrast in judicial systems. Each system has its own advantages and disadvantages. Hence, there are also some contrast exist between France and other two states (Pakistan and France).

Q#3 The Senate of USA is the most powerful upper House in the world.

Can you justify this statement? Explain your answer with reference to upper House of India and Pakistan?

Introduction

The USA constitution prescribes the composition of Congress into two houses one is House of Representative and other is Senate. It is federal form of government where power is divided between states and central. Similarly, the Indian parliament is also divided into two houses Rajiv Shaba (upper house) and Lok Shaba (lower house). Moreover, Pakistan's Parliament is also divided between two house National Assembly and senate. The USA has the presidential form of government while Pakistan and India have the Parliamentary form of government. But still USA

is most powerful house of the world.

USA Senate most powerful upper House in the world

1) Small Size:

The USA upper house is small in size and greater in power. As the senate is comprises of **100** senators and they are allocated from 50 states of USA.

2) Elected through Direct Election:

USA senators before 1939 were elected through indirect election but after **17 Amendment** in USA constitutional now senators are directly elected through direct election for **six years**. As they are directly elected and represent the states, they have more powers than the other countries senators like

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Pakistan and India who are elected through indirect elections.

3) Quasi-Permanent House:

Senate or upper house is not subject to dissolution.

As members are elected for 6 years. The election for $\frac{1}{3}$ members held ^{after} every two years.

Hence, it is the continuous house. Senators complete their terms of six years.

4) Freedom of Speech or Filibusters or Filibuster:

As in USA senate there are 100 senators, ~~and~~ two senators from each state. They have the right to freedom of speech. They can address to senate non-stop. No one can interrupt their speech. The Filibuster is used for senators that they can delay the laws through unlimited speech on floor.

of house.

5) Equal Representation:-

In House of Representatives the seats are allocated on the basis of population. While in USA Senate the senators have the equal representation. As each state has two representatives regardless of their its population.

6) Equal powers in legislative

The USA senators play pivotal role in money bill. The is the power makes the senator most powerful over other senates in the world. However, other senators can not intervene in the budgetary bills.

7) Special Powers

The USA Senators have the special powers in Foreign Policy, treaties and international organizations.

as they can impact on the decision of President. The failure of League of Nations was that senators did not approve the ^{President} Woodrow Wilson's decision regarding League of Nations.

cii) Courteous permission in appointment

The executive power of president is that he can appoint any person but president is required to get the courteous permission of senators.

(iii) Role of Senate in Impeachment

The role of senate is also as the role of court. Due to corruption charges the president can be impeached by senators. $\frac{2}{3}$ majority is required in impeachment. $\frac{67}{100}$ senators votes are required.

The president Richard Nixon was impeached.

8) Senate can summon anyone:

The senators of USA can summon anyone. Any celebrity, social media star or businessman. They are

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bound to come to summon
issued by senate

9) Solidarity among Senators

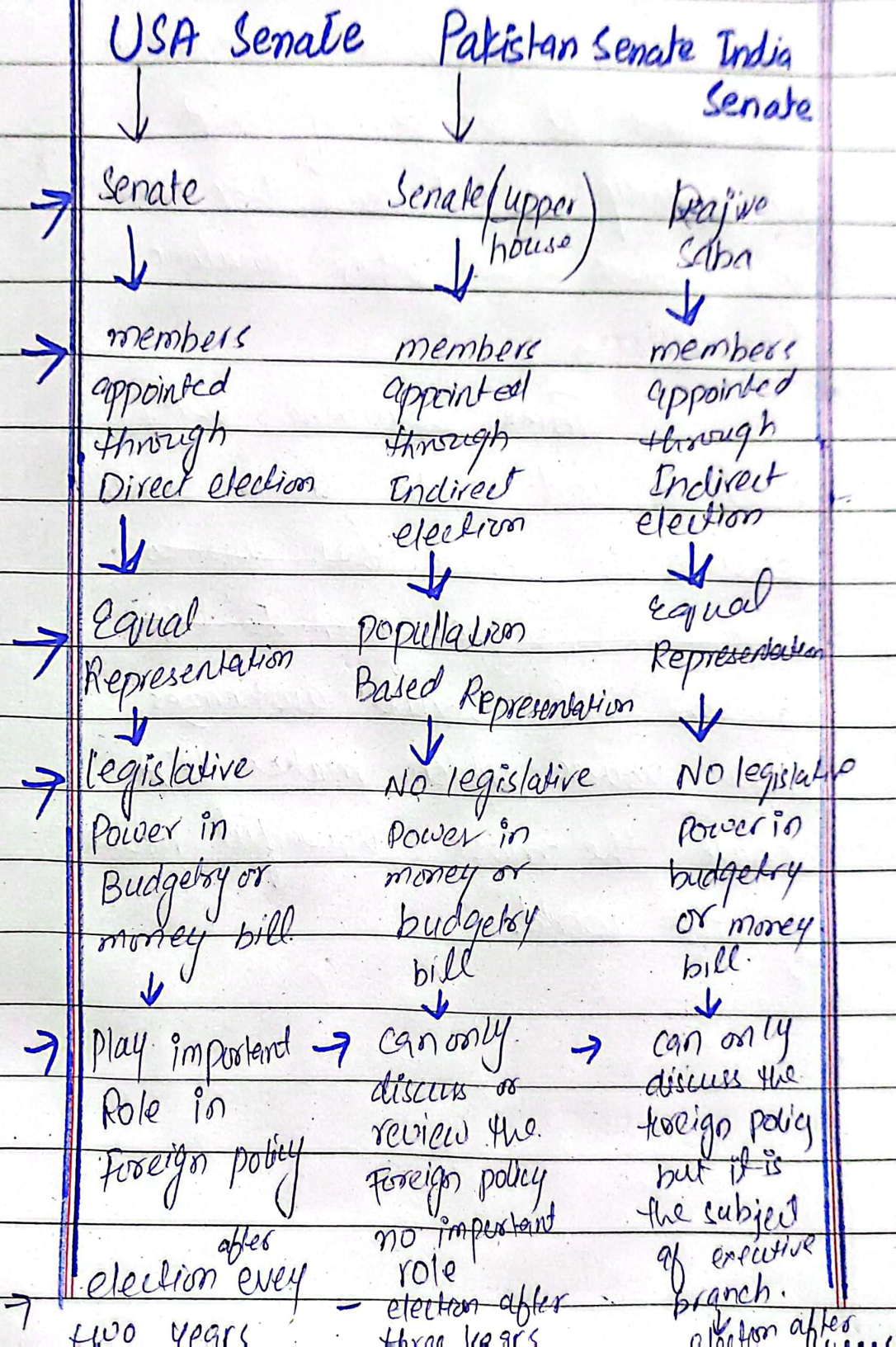
There is solidarity among the senators. Their main motive is to serve the national interest of country over the state's interests.

These are powers exercised by the USA senate. No one can by pass the ~~the~~ senate but senate can by pass House of Representative and president.

As President veto is by passed by $2/3$ majority of senators and House of Representative.

How USA Senate is powerful in
reference with Pakistan and India
Upper House

USA Senate	members	Tenure
USA Senate	100 memb	06 years
Pakistan Senate	96	06 year
Indian Senate	250	06 years



What makes USA senate most Powerful

The ^{considerable} power of appointment, role in budget or money bill and role in foreign policy makes the senate of USA most powerful in the world. As senators of USA are directly elected. Hence, they have more power than other senators.

Conclusion:

Three countries USA, Pakistan and India shares same feature in senate. (~~But due to some extra power given to USA~~) However, USA senate authorizes extra power which makes USA senate the most powerful house of the world.