

PART-II SECTION-A

QUESTION-1

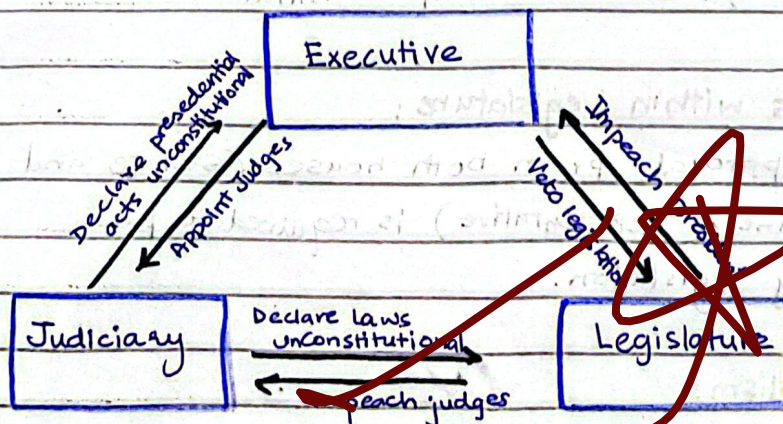
Foundation of System of Checks and Balances in U.S Constitution:

The U.S. constitution (1789) has institutionalized system of checks and balances to prevent tyranny, concentration of power and to ensure accountability. Legislature, Executive and Judiciary have their defined authorities, ensuring each branch can restrain other from overreach. Despite occasional tensions and limitations, the system has succeeded in avoiding the concentration of power.

Background:

The farmers, who were deeply influenced by Montesquieu, feared majoritarian dominance and executive authoritarianism. Their design placed an 'intentional friction' in system for transparent governance.

Key Constitutional Mechanisms:



Article 1, 2 and 3 deal with powers of Executive, Legislative and Judiciary implying and imply that they are authorized to implement to make law, make laws and interpret laws.

1) Legislative checks on Executive:

- i) Legislation can override presidential veto by 2/3rd majority.
- ii) Legislation controls budget.
- iii) Congress can impeach President & Judges.
- iv) Appointments of Judges, Ambassadors, etc., International treaties, are made by President are only approved after ratification by Senate.

2) Executive checks on Legislative:

- i) President can veto legislation, especially President's power of pocket veto, can halt any law.
- ii) President has the ability to convoke and convene congress.

3) Judicial checks:

- i) Judicial review can strike down any law terming it unconstitutional on violation of
a) Fundamental Human Rights.
b) Basic essence of Constitution.

4) Checks within Legislature:

- i) Approval from both houses (Senate and House of Representative) is required to pass any legislation.

5) Federalism:

Powers divided between Federal and units prevents centralized dominance.

Effectiveness of US. system of Checks and Balances :

Successes :

i) Prevention of Executive Dictatorship:

The System has so far been successful in preventing concentration of power in hands of executive, authoritarianism. Impeachment trials of (Bill Clinton, Donald Trump) demonstrate that even highest office holders can be held accountable.

ii) Judicial Review as Guardian of Liberty:

Authority of Judiciary has made it strike down several unconstitutional law e.g.

Brown v. Board of education (1954) → ~~abolition~~ of racial segregation in educational institutions unconstitutional.

iii) Congressional Oversight:

Congressional hearing, budget control & executive committees show constant investigative capacity to check executive excess.

Limitations and Criticism:

i) Partisan Gridlock:

When a same party governs different branches oversight weakens.

ii) Excessive Presidential Power in Foreign Affairs:

Excess President has excessive power in case majority of senate is from his party. He can exercise all the actions "independently".

which need Senate's oversight, e.g.; ratification of appointments, foreign policy, ratification of international treaties, etc.

iii) Spoils System:

Spoil System ^{was} most prevalent is Andrew Jackson (1829) period as president. It was a system where all the civil offices belonged to President's supporters with no merit appointment. When a president would leave office, so did his supporters.

iv) Judicial Conservatism & Polarization:

The ~~int~~ politicization of judicial appointment over the time has raised concerns about ideological bias. Secondly, Judges serve for the life time often clashing with the point of view of new generation. Wade v. Roe was a case in which abortion was abolished, considered violation of human rights.

Lessons for Pakistan:

1) Civil-Military Balance: