

## PART II

### SECTION - A

#### Q No. 2

Analyze the strength and weakness of the U.S federal system of government. How does the system of checks and balances function to prevent concentration of power?

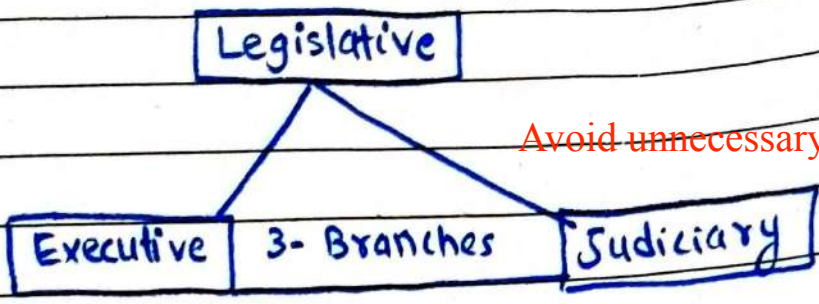
#### ① Introduction

The federal system of the United States was introduced in 1787 to strengthen the central government while maintaining the authorities of the states. It is a balanced system with division of power among branches of the government i.e. legislative, executive and judiciary. The separation of powers prevents tyrannical behaviour and reduce concentration of power in one hand. It is a cooperative system of government in which checks and balances maintain rule of law and constitutional safety.

#### ② US - Federal System of government

The U.S federal system of government

is a system of checks and balances. That is divided into three separate branches



Avoid unnecessary headings

① Legislative branch

Write proper paragraphs

This branches consist of bicameral system containing of two houses.

① House of Representatives (HOR)

② Senate

Powers of legislation

The legislative branch control major policies and laws. It formulate and amend the laws for the government. The amendment procedure in the United States is complex but with 2/3rd majority in both house, it can be passed. Legislative has power to impeach the president if the president becomes despotic. Congress has power to declare war and peace. Hence, both legislative and executive work

separately while maintaining checks and balance.

## (ii) Executive branch

The executive in the United States ~~contrast~~ has function of implementation of policies. The president is both <sup>the</sup> elected and constitutional head of the government. He can veto the laws and policies of the congress. ~~He~~ has powers to control the foreign policy but with the approval of senate. He can veto the laws but approval of senate is required. The executive can make appointments in his cabinet, that is called spoils system. He can introduce policies with the support of public if congress had refused. Hence, president is the real head that enjoys superior authority with the concomitant check and balance by the senate (legislative)

## (iii) Judiciary Branch

The judiciary is the supreme institution in the U.S government. It ~~is~~ interpret laws and policies of both the executive and legislative.

### @ Power of Judicial Review

The supreme court has authority to review all the actions and policies of both the executive and the legislature. It can stop the unconstitutional principles and laws in the congress. If any law is inappropriate, and it is passed by both house and it has got assent from the president still judiciary has power to ~~can~~ declare that law null and void.

### (b) Rule of law

In U.S constitution, no one is supreme and everyone is equal before law. There is no discrimination on the basis of colour or social status.

The Supreme court can call ~~worsted~~ ~~business~~ businessman for example the United States Supreme court ~~has~~ called Mark Zuckerberg, Elon Musk in the court. It proved the ~~the~~ system of ~~law~~ rule of law in the United States.

### (3) Federalism System

In U.S there is a federal

institute that consist of three branches as discussed above. There are also state system. The crucial matters of the state such as foreign policy, budgetary issues, weaponaries, international relations and defence and security are controlled by the federal. The other matters are under the authority of states. Hence, both the centre and federating units form a strong federation in America.

#### (4) Prevention of concentration of power in federalism of the U.S

The U.S constitution is based on doctrine of "separation of powers". All the institutions are inter-dependent but completely separated. The functions are separated among three branches so that power is not concentrated in one hand. For example if the powers of legislative and executive are vested in the hands of one leader, he can make oppressive rules and implement them with force. Legislative make laws and implementation powers are vested in the executive hands. Both

the executive and legislative are reviewed by the judiciary to maintain lawfulness and protect the rights of the public.

### ⑤ Weakness of U.S federal system

The U.S federation is a strong government that follows rule of law but there are some weaknesses.

### ⑥ Faulty decision-making of supreme court

The United States supreme court is the supreme institution that control all the laws and policies. It consists of total 9 judges. If 4 judges give decision on one side and other 4 judges on other side then only one judge will decide the final decision. Also, if the laws of Congress or president are not unlawful or unconstitutional, still Supreme court can reject them. This results in weakness of federation in decision-making authority.

## (ii) Appointment of judges for lifetime

9

In the United States judges are appointed for their <sup>whole</sup> life. There is no system of seniority or election. Despite their ~~old~~ old age, they remain judges of the supreme court and their decisions are binding for both executive and legislature. This weakens the federal system of the United States.

## (iii) Judicial review undemocratic

The decisions taken by democratic leaders can be rejected by the judges. This ~~can~~ undermine the democratic credibility and makes the system faulty.

## (6) Conclusion

The federalism of the U.S consists of the centre and federating units. Power are distributed and system of checks and balance exist that prevent concentration of power in one hand. The federal system of the U.S has some weaknesses, such as ~~undemocratic~~ undemocratic judicial review or ~~over power~~ overpowering of the judiciary. But overall system is strong that protect the rights of the public and maintain rule of law.

Judicial activism is the natural corollary of poor governance in Pakistan. Do you agree?

### ① Introduction

The judicial activism is the dynamics of judiciary against the social and political issues of weak governance. When the political and administrative institute fail to perform their duties efficiently and work unlawfully, then the judiciary in Pakistan can take action against those practices, called judicial activism.

### ② Poor governance in Pakistan leads to judicial activism

#### Ⓐ Administrative and institutional weakness

The inefficient administration and weak structural policies of the government compel judiciary to take notices against the unlawful moves or unconstitutional actions of the administration. It is the judicial



responsibility of the supreme court to interpret laws and policies and declare them null and void if they are against the legality of the state.

(b) Failure of accountability mechanisms

(i) Rampant corruption

The government institutions in Pakistan face widespread corruption and inefficiency. Due to lack of transparency and accountability, the executive fails to act, the judiciary intervenes to uphold the transparency.

(ii) lack of oversight

Due to the inefficient watchdogs and ineffective regulatory bodies, the system of oversight is weak, creating a vacuum for the corrupt practices and judiciary support is required to support the functioning of executive and legislature.

(c) Constitutional mandate of the judiciary

It is constitutional responsibility

of the judiciary according of article 184 (3) of the constitution of 1973 to hold the institutions accountable if they function unconstitutionally.

### ③ CASE In Point

The Panama leak case was a high profile case that exposed the corruption and capital outflow ~~by~~ by the former Prime Minister of Pakistan. The Supreme Court of Pakistan took ~~strict~~ strict decisions and held him accountable. The judgement and disqualification of the former prime minister highlight the judicial activism ~~to~~ to ensure the accountability where other branches have failed.

#### ④ Sou moto actions on the public interest issues

Judges frequently exercised sou moto jurisdiction under article 184(3) of the constitution to address issues ignored by the legislative and executive.

#### ① Actions against water crisis in 2018

The Supreme court's activism in issue of water crisis in 2018 is a case in point. Due to water crisis, Supreme court intervened for ensuring construction of dams, as responsibility of the executive. This highlighted judicial activism in the states inability to resolve critical ~~state~~ issues.

#### ② Karachi Garbage crisis; judicial activism

In 2019, ~~a~~ Sindh government was criticised by the ~~the~~ supreme court over inability to ~~address~~ manage waste in Karachi. The supreme court issued

directives to improve the crisis. The highlighted judiciary role in addressing issues caused by administrative inefficiency.

### 5) Conclusion

Judicial activism is the corollary of poor governance in Pakistan, when the state fails to address the inefficiencies of administration and executive, the judiciary intervenes to uphold the crisis and manage with efficiency.

12

All questions carry equal marks therefore length of answers should be proportional