

## **'The U.S system checks and balance is inefficient'**

### **Discuss.**

The American constitutional system includes a notion known as the Separation of Powers. In this system, several branches of government are created and power is shared between them. At the same time, the powers of one branch can be challenged by another branch. This is what the system of checks and balances is all about.

There are three branches in the United States government as established by the Constitution. First, the Legislative branch makes the law. Second, the Executive branch executes the law. Last, the judicial branch interprets the law. Each branch has an effect on the other.

The Senate has the power to try impeachments. The compensation of executive officials and judges is determined by Congress, but Congress may not increase or diminish the compensation of a President, or diminish the compensation of a judge, during his term in office.

The President exercises a check over Congress through his power to veto bills, but Congress may override any veto by a two-thirds majority in each house. Vetos are rarely over turned for example Bill Clinton used his veto 37 times while he was in power and it was only overridden twice. When the two houses of Congress cannot agree on a date for adjournment, the President may settle the dispute.

The President appoints judges with the Senate's advice and consent. He also has the power to issue pardons and reprieves. Such pardons are not subject to confirmation by either the House of Representatives or the Senate, or even to acceptance by the recipient.

The President is the civilian Commander in Chief of the Army and Navy of the United States. However, it is the Congress that has the power to raise, fund and maintain the armed forces, and to prescribe the laws and regulations under which the armed forces operate, such as the Uniform Code of Military Justice. Congress also has the sole power to declare war, and requires that all Generals and Admirals appointed by the President be confirmed by a majority vote of the Senate before they can assume their office.

Courts check both the executive branch and the legislative branch through judicial review. This concept is not written into the Constitution, but was envisioned by many of the Constitution's Framers. The Supreme Court established a precedent for judicial review in *Marbury v. Madison*. There were protests by some at this decision, borne chiefly of political expediency, but political realities in the particular case paradoxically restrained opposing views from asserting themselves. For this reason, precedent alone established the principle that a court may strike down a law it deems unconstitutional.

A common misperception is that the Supreme Court is the only court that may determine constitutionality; the power is exercised even by the inferior courts. But only Supreme Court decisions are binding across the nation. Decisions of a Court of Appeals, for instance, are binding only in the circuit over which the court has jurisdiction.

The power to review the constitutionality of laws may be limited by Congress, which has the power to set the jurisdiction of the courts. The only constitutional limit on Congress' power to set the jurisdiction of the judiciary relates to the Supreme Court; the Supreme Court may exercise only appellate jurisdiction except in cases involving states and cases affecting foreign ambassadors, ministers or consuls.

The Chief Justice presides in the Senate during a President's impeachment trial. The rules of the Senate, however, generally do not grant much authority to the presiding officer. Thus, the Chief Justice's role in this regard is a limited one.

The power of different elements of the political system to block each other can lead to gridlock if no political interest has enough power to prevail over the others. In 1997 and early 1998, for example, the Senate refused to take action on many of President Bill Clinton's appointments of new federal court judges. Although the Senate's power to approve or reject federal court nominees is one of the key checks on presidential authority, the dispute between Clinton and the Senate meant that there were not enough federal judges to handle the court's workload.

Another example of the system being ineffective was increase in the federal debt of the United States that occurred during the presidency of Ronald Reagan. Arguably, the deficits were the product of a bargain between President Reagan and Speaker of the House of Representatives O'Neill, agreed not to oppose Reagan's tax cuts if Reagan would sign the Democrats' budget. Each side could claim to be displeased with the debt, plausibly blame the other side for the deficit, and still tout its own success

Many observers believe that federal budget surpluses of the late 1990s in the United States were a direct result of divided government. A Republican Congress refused to allow Democratic President Bill Clinton to increase domestic spending, while Clinton refused to allow Congress to cut taxes. The combination of spending restraint and high revenues led to the elimination of the annual budget deficit.

All of these checks and balances are inefficient, but that's by design rather than by accident. By forcing the various branches to be accountable to the others, no one branch can usurp enough power to become dominant that is how the founding fathers intended the country to be run.