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A COMPARATIVE ANALYSIS ON THE STATUS OF PRESIDENT AS HEAD OF THE STATE IN FEDERAL NATIONS WITH SPECIAL REFERENCE TO INDIA AND USA

Adv. Naveen Saju¹

“It is a great advantage to a President, and a major source of safety to the country, for him to know that he is not a great man”

– Calvin Coolidge

ABSTRACT

For every nation, there need some sort of governing system for the proper governance. The structure of governance differs from nation to nation based upon the status or form of the government which governs the said nation. The federal system of governance is one among the commonly accepted form of government in the world. While comparing the governing structure of both India and USA, we came to know there is a lot of difference among these two nations even though both of them are known to be those nations which follows the principle of federalism. There is a constant debate among the political thinkers and eminent jurists with regard to the structure of Indian governance as a pure federal or only as a quasi – federal one. Anyway, it is crystal clear that India is not a pure federal nation like that of the US where the separation of powers itself demarcates the true spirit of federalism. The office of the President in both the nations are a clear example to demarcate the essence of federalism which both the nations hold. Even though the President of India² and the President of US³ is the constitutional and executive head of the State, there are wide differences with respect to their powers, limitation, functions, appointment as well as even regarding the governing policies that they propose towards the nation.

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² Article 52, The Constitution of India, 1950.

³ Article II, The Constitution of the United States.

KEYWORDS: *Federalism, President, Parliamentary System, Presidential System, Executive Head of the State, Constitutional Head*

INTRODUCTION

There are lot countries in the world with different forms of governments which is having their own governing characteristics. Even though the governing structure differs from one nation to another, the principle laid down behind that will be the same, that is to govern the specified territory or commonly known as a nation. There are many systems of governance in the world like the presidential system, parliamentary system, hybrid system while there are also various forms or models of governments such as unitary, federal, dictatorial, monarchial, theocratic, fascist etc. The style of governance and role played by each of them will differ and there will be a lot of difference among the administrative proceedings also as the form or system of government changes. Sometimes, a nation following a particular system of governance will be changed or transformed to another system of governance by results of change in power of authority, takeover of the said nation by another nation, war, secession or any other forms of external matters which influenced the change of governing pattern.

While taking in depth regarding the aspect of federalism with special reference to USA and India, we came to know that USA is a pure federal nation where the fullest spirit and essence of federalism is being exercised in the United States in its fullest extent while the governing structure of India is unlike to that of USA and holds semi – federal or quasi–federal governing ideology where it is not fully federal in nature.⁴ According to Sir Ivor Jennings, India is a federation which has strong a very centralizing tendencies by the concerned union government.⁵

⁴ Sir Kenneth Clinton Wheare, *Federal Government*, p. 27; Jennings—Some Characteristics of the Indian Constitution.

⁵ Ram Sharma, Sir Ivor Jennings and Constitutional Laws of India, *The Indian Journal of Political Science*, April-June, 1953, Vol. 14, No. 2 (April-June, 1953), pp. 145-152,

According to Dr. BR Ambedkar even though the central government is having somewhat more prominent powers than that of the provincial or state level governments and is having overriding powers over the latter one, the also India is considered to be a federal nation.⁶ The entire system of governance in India and US is different with respect to the powers of the executive because India is a country which follows the parliamentary system of governance while the United States of America follows the federal system of governance. The President of America is one of the strongest and powerful executive authority in the whole world who is having a supreme set of subordinates, commonly known as the Secretaries to him. He is having imminent power in various matters relating to the governing and administration of US. While on the other hand, if we consider the President of India in comparison to that of the President of US, we came to know that the former one is considered to be a mere ceremonial head of the union government who governs the nation from time to time. In India, the President is the head of the state and not of the government. So, he is not having that much of wide powers as that of the President of the United States and he is limited by the union government at several point of time where he should need to merely act as a puppet of the union government in order to assent the bills which are passed in the parliament and to work according to the directions of the concerned union government who are there in power.

HISTORICAL DEVELOPMENT OF FEDERALISM IN USA AND INDIA

The origin of federalism is considered to be a cornerstone in the world history itself regarding the governance of different nations. The federalism is not a novel concept but can even be traced back to the ancient times where there was some sort of separation from one state to another while it was all collectively united together for various other matters. Thus, the origin of existence cannot be pointed out as a very

<https://www.jstor.org/stable/42743350>.

⁶ Constituent Assembly Debates Vol.4, p.133 & Vol.5, pp.33-36.

single point but is from time immemorial antiquity. The major setback for the development of federalism can be seen with the ideologies by eminent philosophers during the late 1770's in America.

The concept of "*E Pluribus Unum*" which means "*one out of many*" was emerged during these times. This motto was proposed mainly to propose a very strong statement of the American determination to form a single nation from a collection of states commonly known as the "*united states*."⁷ This was proposed as the first great seal of the United States of America by Sir John Adams, Sir Benjamin Franklin and Sir Thomas Jefferson in the year 1776. This movement was a cornerstone in making the US a federal nation by collectively uniting many states to for the "*United States of America*." Even the theory federalism with its true spirit and essence was adopted in America as a full-fledged one for the very first time.⁸ Thus proper governing system with a pure federal structure was first adopted in the US in the year 1776 and the United States got its independence from the British America on 04th July 1776. The Constitution of the United States was drafted in the year 1776, it gets ratified in the year 1778 and finally it came into operation in the year 1789. George Washington, Thomas Jefferson, John Adams, Benjamin Franklin, Alexander Hamilton, John Jay and James Madison can be considered as the founding fathers of the US Constitution who provides innumerable contributions towards the development of the United States as the strongest federal nation in the whole world. Sir James Madison, the fourth President of the United States of America is considered to be the "*Father of the US Constitution*" who strengthens the true essence and spirit of federalism in the US Constitution by proposing the first twelve major amendments in which ten were accepted by the congress in 1789, which is collectively known as the Bill of Rights. Since, the United States is a pure federal nation, the President of the United States will be the

⁷ Forrest McDonald, *E Pluribus Unum: The Formation of the American Republic, 1776-1790*, LIBERTY FUND.

⁸ Philadelphia Convention, which opened on May 25, 1787.

highest authority and is considered to be the head of the state as well as the head of the government. He enjoys immense powers because the secretaries and the senate are also under him where he is the supreme authority in making decisions while he is also having the public support since he is being elected to the office through direct elections unlike that of one which prevails in India.

While we are coming to the federal structure and governing system of India, we will come to know that the Constitution of India establishes a parliamentary form of government which is distinguished from the American presidential model of government. The origin and development of the Indian Constitution can be traced back from time immemorial. Even though the Norway rulers, the Portuguese rules, the Mughal emperors and certain rules from other princely states rules India at different point of time, the Britishers were the one who implemented the idea of the federal principle, that is, the unification of different princely states and other territories into a single union which was then popularly known the All – India Federation in which Sir VP Menon and Sardar Vallabhbhai Patel also plays a key role.⁹ The Government of India Act of 1919 and Government of India Act of 1935 influenced the present-day Constitution of India a lot and some of the provisions from the latter is being directly enacted in the Constitution of India after India became Republic in the year 1950.

India after its independence adopted the principles of democracy as well as federalism like that of the United States but it proposed to follow the Parliamentary system of governance instead of the Presidential system which is followed by the United States. Since India was a British Colony under the British Queen for a very long time, it tries to adopt so many principles from England including the Parliamentary system of

⁹ P. D. Gupta, The Story of the Integration of the Indian States by V. P. MENON, The Indian Journal of Political Science, July-September 1956, Vol. 17, No. 3 (July-September 1956), pp. 291-293.

governance. The interesting fact is that India can neither be termed as a pure federal state as that of the one in the United States nor as a nation which completely follows the Parliamentary system of governance as that of the Britain. The essence of the Parliamentary system of governance in India is that, the President of India will be the head of the state and is considered to be the executive head as well as the constitutional head.

The President of India is not as strong as the President of United States and he is not having that much of power which is enjoyed by the latter because in India, the real executive powers are vested with the Council of Ministers headed by the Prime Minister. Thus, Prime Minister is considered to be the head of the government in India and not the President. Even though for the namesake, the executive power is vested with the President of India, he can only exercise these powers within the aid and advice of the council of ministers.¹⁰ The members of Council of Ministers are actually elected by the people and they are the members of the legislatures¹¹ while the President of India is not being elected through direct elections unlike that of USA. Thus, the President of India lacks the supreme power that can be exercised in a federal nation like that of what the President of United States holds while governing the nation.

THE STATUS OF PRESIDENT IN A FEDERAL NATION

The President of a federal nation is having immense role in the administration and governing system of a country. The President has so many roles to play in each and every circumstance based upon the structure of the governing system. In countries like the United States of America, the President is being considered as the chief citizen and chief executive of the state where he is having ultimate authority and powers in matters relating to executive and administrative matters which are implemented for the proper governance of the nation. He should need to

¹⁰ Article 74, The Constitution of India - Council of Ministers to aid and advise President.

¹¹ Article 79, The Constitution of India - Constitution of Parliament.

act as the head of the state as well as the commander – in – chief of the armed forces. He is thus responsible for the implementation and enforcement of the laws written by the congress and thus will be implied with the duty with regard to the appointment of the federal agencies including the cabinet also. Some political thinkers called the President of the United States as the most powerful man in the world. Even though there are conflicting view on the said idea, undoubtedly anyone can say that the President of US is the most powerful person who holds the presidential office as compared to the authorities who holds the presidential position in other parts of the world. He is the one who actually puts into effect the laws which are passed by the Congress in United States. The term for the President is for only four years and he can only be reelected once after the completion of the said period and cannot be reelected more than once.

In India, the scenario is quite different. The Britishers ruled India for around 190 years after the Battle of Plassey of 1757. The Independent India was born in 1947 after the Indian Independence Act of 1947 was passed. After India became republic in 1950, the last tie between Britain and India was also broken. On that day of declaration of India as a republic nation, there was neither king or emperor in India nor viceroy or Governor General of India.¹² The said two offices were terminated in India by the assumption of the new President of the republic of India who is being selected by independent sovereign constituent assembly under the provision enacted under Article 380 of the Constitution of India.¹³ Dr. Rajendra Prasad holds the position as the first Independent President of the Republic of India in 1950 where he was vested with so many powers and considered to be the nominal head of the State with ultimate

¹² B M Sharma, The President of The Indian Republic, The Indian Journal of Political Science, October-December 1950, Vol. 11, No. 4 (October-December 1950), pp. 1-9, <https://www.jstor.org/stable/42743250>.

¹³ Article 380, The Constitution of India - Provision as to President, Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (with effect from 1-11-1956).

executive powers. The President of India is also being considered as the first citizen of India and is thus considered to be the titular head who will be represented as a symbol of the unity, solidarity and integrity of our nation. The President's term for office is five years and he is having the right to hold his office till his successor takes over the office of the President of India.¹⁴

The President of India like the President of the United States is considered to be the supreme commander of the defense forces of the union. All the executive actions in the country are formally taken in his name even though he is not having the supreme status or absolute power as that of the President of United States enjoys. Thus, the President of India is having predominant status as a ceremonial head but not as a pure executive head is a drawback in India.

ELECTORAL COLLEGE AND PRESIDENTIAL ELECTION

There is a lot of difference while we are concerning the election process for the office of the President in India with that of the United States of America even though both are having the idea of electoral college system. In all other elections except to that of the President and Vice President of the United States, the direct elections will take place where the said authorities are being directly elected by the citizens themselves. But when we look on to the matters of presidential election, the idea of electoral college comes into place. The President of the United States is actually being selected by the electors through the process of electoral college system. The concept of electoral college is dated back with the introduction of the Constitution of the United States itself because the founding fathers of the US Constitution actually needs to make a compromise between the election of the President by a vote in congress and in another way by the election of the president by the common

¹⁴ Article 56, The Constitution of India - Term of office of President.

popular support, that is, the vote casted by the qualified citizens.¹⁵ The electoral college initially select the electors through the process of selection of the electors.¹⁶ After the electors are being selected, the election for the President and Vice President will takes place where the said electors cast their votes and the votes are being counted by the Congress.

In the United States, the electoral college consists of 538 electors and in order to hold the position of the President, the candidate should need to get at least of 270 electoral votes for attaining the majority to hold the said office of the President of United States. If no candidates receive the majority of vote during the electoral college, then the vote will go on to the house of representatives. The House will choose the next President of the United States from the top three candidates and the Senate will select the Vice President from the remaining two candidates.¹⁷ Sometimes, it is possible to win the electoral college but may lose in the popular vote.¹⁸ This is because the electoral college totals determine the winner by counting the votes casted by the electors and not the statistical plurality or majority of the candidate in the national popular vote. In order to make any changes in the electoral college system, proper amendments should need to be made there under the Constitution of the United States of America.

In India also, the election of the President not conducted through the direct election method but through the electoral college system like that of in the United States. But the functioning and regulation of the Indian electoral college is not exactly similar to what is proposed in the

¹⁵ Maria Lynn McColleston, Counterpoint: Preserving the Electoral College, *International Social Science Review*, 2007, Vol. 82, No. 3/4 (2007), pp. 182-186, <https://www.jstor.org/stable/41887328>.

¹⁶ Article XII, The Constitution of the United States of America.

¹⁷ Happened only in once in 1824, when John Quincy Adams was selected as the 6th President of the United States.

¹⁸ Happened five times in the History of US – 2016, 2000 and three times in 1800's, <https://www.usa.gov/election>.

United States. Actually, the election of President in India represents a compromise between the methods of electing the chief executive as the head of the state by the by the electoral college and vote of the legislature itself. The electoral college consists of the elected members of both the houses of the parliament as well as the elected members of the concerned state legislative assemblies.¹⁹ Thus, there is a wide difference in the method of choosing the President of India from that of the President of the United States. Here, neither the parliament nor the electoral college can solely appoint the President but can only be done through their collective efforts. Thus, the electoral college in India does not have the predominant status as that of the said system which is existed in the United States. The Indian President is actually elected by the system of proportional representation by single transferrable vote²⁰ while the President of the United States is being elected by the straight vote system which cannot be find in the Indian scenario.

When we trace back to the historical aspects in matters regarding the provisions of the office of the President of India and the appointment of the President, we will come to know that many founding fathers as well as political thinkers supports the direct election system for electing the President rather than the indirect system that is being followed in India as of now.²¹ Some of the prominent members of the constituent assembly headed by KT Shah pointed out that a country like India should need to have direct election for the office of President rather than having an indirect one. According to the, this will bring more unity in the mind of the people and the country by focusing attention on this matter of common interest to all.²² Many of the members of the constituent assembly stated that the electoral college will not uplift the true spirit and essence of the democracy because the members of union parliament

¹⁹ Article 54, The Constitution of India - Election of President.

²⁰ Article 55(3), The Constitution of India.

²¹ Vide Pundit Jawaharlal Nehru's Speech, Constituent Assembly Debates. Vol. IV, pp. 734.

²² Constituent Assembly Debates. Vol IV, pp. 826-836.

as well as those from the state legislatures assemblies will not be able to hold people's will thereby decreases the chance for having a greater democratic participation. Thus, there was actually conflict between the members of the constituent assembly itself while choosing whether direct or indirect method of election should need to be implemented for the Presidential election in India. According to them, a directly elected President would command some great moral prestige throughout the world.²³ Then also, the constituent assembly did not support these suggestions even though the opposition pointed out that the direct election will deem to be a more democratic one and for a democratic country like India, the upholding of the principles of democracy are also important.

Pundit Jawaharlal Nehru strongly dissented these ideas and supports the Indirect election of President in India through the electoral college system because according to him, it will be a sheer wastage of time, money and expenses in conducting that election which is not having any particular good or adequate results and he also added that even though the American election procedure pointed out their strongest symbol of power an unity, India does not needs the same at this current point of time. He was also not prepared to the fact that the President cannot visit and checks the status of each and every voter where the population rate was around 158.8 million where the United States was only having around 75 million at the same point of time.²⁴ Thus, he bitterly criticized the system of direct election while appointing the President of India where this Presidential candidate will not be able to cover the length and breadth of the country including the political system that will be implemented all over the nation while leads to generation of the concerned party feelings.

Thus, the election of President in India is a very planned one and

²³ Constituent Assembly Debates, Vol. VII, pp. 997-998.

²⁴ Constituent Assembly Debates. Vol. IV, pp. 846.

one is having the multiple chances to serve as the President if we won the elections. In India, if once the President holds the office, then he can hold his office for 5 years of period. If now new President is being elected even after the completion of the concerned term, he can hold the office until a new successor arrives to the office. The only criteria that were mentioned under the Constitution of India regarding the qualifications of Individuals regarding the presidential election is that the considered candidate should need to be an Indian Citizens and he should need attain a minimum of 35 years of age. He should also need to be supported by the parliament, that is, the elected representatives of the parliament. Under the term of Presidentship in India, the concerned President should not hold any office of profit which are specified under the central government, state government, or any public authority who is there in India which was once established for the proper Indian Governance.²⁵

THE SIGNIFICANCE AND ROLE OF THE PRESIDENT: INDIA AND USA

In every federal nation, there will be a chief authority to look after and regulate the governing matters of the country. He will be the head of the state and considered to be the chief of the executive wing of the nation. He is commonly referred as the President of the concerned federal nation. There is a lot of difference between the President of the United States with that of the President of India event though both of them are considered to be the head of the state as well as the chief executive of the nation considering the fact that both the nations follow the principle of federalism in their governance structure.

The President of the United States is one among the most powerful authority in the world itself. He is the ultimate superior head of the superpower in the world, that is, the United States of America itself. He will be responsible to enact the laws passed by the congress from time

²⁵ Article 58, The Constitution of India, 1950.

to time since the powers of the executive branch is vested with the President himself considering him as the executive head of the state.²⁶ He is also considered to be the commander-in-chief of the armed forces of the United States of America. There will be fifteen executive departments under the presidential office headed by the President who look after the matters of the day-to-day regulation of the nation. Each of the said department will be led by an appointed member from the cabinet of the President. In addition to these fifteen executive departments, the President of the United States solely possess the ultimate power over the very two executive wings in US, that is, the Central Intelligence Agency (CIA) and the Environmental Protection Agency (EPA) in which the ultimate head and sole reporting authority is the President himself.²⁷

The President of the United States is vested with immense power in the implementation and regulation of laws in the country unlike that of in India where the President acts as a mere ceremonial head to the concerned ruling government. In the United States, the President has the power to either assent the bill passed by the congress by signing it which makes the legislation into a law or even have the power to veto the bills which was enacted by the Congress even if the Congress overrides the veto with a two-third majority votes from both the houses.²⁸ The President can exercise two forms of veto which can be classified as the regular veto and the pocket veto. In case of regular veto, the President can dissent the bill passed by the Congress and send back to the originating house with a note of disapproval or veto message within a period of 10 days starting from the moment which he reluctant to assent the bill. The congress has the right to override the regular veto by passing a two-third majority in the houses.²⁹ The other one is known as

²⁶ Article II, Constitution of the United States of America.

²⁷ Section 2, The Central Intelligence Agency Act, 1949.

²⁸ Article I, Section 7, Constitution of the United States of America.

²⁹ Clinton Rossiter, *Powers of the United States President and Congress*, Pakistan Horizon, Second Quarter, 1962, Vol. 15, No. 2 (Second Quarter, 1962), pp. 85-92, <https://www.jstor.org/stable/41392704>.

the Pocket veto which is considered to be the most powerful weapon that the President can use against the Congress and the houses. It is an absolute veto and cannot be overridden by the Congress. The said veto becomes effective when the President dissents the bill and did not sign on the same after the Congress has adjourned and hence it is unable to override the veto. The latter form of veto cannot be exercised by the President of India unlike that of the situation existed in the United States.

The President is also having the power to negotiate and sign the international treaties with other nations through diplomacy where the Senate ratifies the same. He is the one who possesses immense power to issue executive orders or to make clarification on the further existing laws. At extreme points, the President can exercise pardoning powers to extend pardons and clemencies for the federal crimes by the offenders in the United States. Any person who is or above the age of 35 years and is a naturally born citizen of America who must have lived at least for fourteen years in the United States can stand as a candidate for the Presidential election. Even though he is not directly being elected by the people, but through the electoral college system, there is some sort of people's participation is that those electors are the actual representatives of the people.³⁰ Currently, there are 538 electors in the electoral college of the United States. In every consecutive four years, the first Tuesday coming after the first Monday in the month of November will be the election day of the United States where the electors will be selected through the process of direct election.³¹ Thus, the President of United States can be called as one amongst the most powerful citizen in the whole world itself because of his unextending powers given by the Constitution of the United States. He will be the one who represent the

³⁰ Vincy Fon, *Electoral College Alternatives and US Presidential Elections*, Supreme Court Economic Review, 2004, Vol. 12 (2004), pp. 41-73, The University of Chicago Press, <https://www.jstor.org/stable/3655317>.

³¹ Christopher Hollis, *The American Election*, The Irish Monthly, Vol. 64, No. 762 (Dec., 1936), pp. 788-792, <https://www.jstor.org/stable/20514037>.

nation in foreign talks and matters of external affairs and he is being imposed with so much duty to enforce good and welfare schemes in the nation since it is the responsibility of the chief executive of a state to look after all the governing matters.

The President of India cannot be compared with the President of the United States in the same angle because there are a lot of difference between both the positions even though both the countries are following the principles of federalism and both the authorities are holding the same presidential office which is having the same status in the federal ideology. The President of India is actually being termed as the titular head or as a mere ceremonial head of the ruling government at the union level in India. He is not as powerful as that of the United States to defend the union government even if he wishes so. The Constitution of India itself provides that the President of India should need to act under the aid and advice of the council of ministers where the Prime Minister of India heads the council of Ministers.³² This itself states that the President is being limited by the ruling party in several matters and we neither did not follow the same parliamentary supremacy which is being followed in the United Kingdom nor we follow the pure federal system of governance which is being followed in the United States of America. Thus, at some point of times, the President of India can be seen as a mere puppet of the union government who is there to assent and sign those bills which will be passed by the parliament where the ruling government, at certain times has a very clear majority in the floor of the houses.

The President of India is considered to be the head of the State while the Prime Minister of India is considered to be the head of the government. Even if the former is being considered as the head of the state, he cannot act directly in matters of the governance of the nation

³² Article 74, The Constitution of India - Council of Ministers to aid and advise President.

since an authority is there to hold the head position of the government who will be known to as the Prime Minister of India to look after these matters. He is considered to be the chief citizen of India and is the chief head of the executive wing of the Indian nation.³³ He is vested with so many executive powers like the appointment of many eminent authorities in India such as the Comptroller and Auditor General of India (CAG), Chief Election Commissioner and other Election Commissioners, Chairman and members of the Union Public Service Commission, State Governors, as well as the chairman and members of the Finance Commission of India. He is the one who calls the leader of the majority party after the election to form the government and he appoints the leader of the majority party in the Lok Sabha as the Prime Minister of India who will be the head of the government.

The President of India is also vested with some of the legislative powers where he plays a key role in the legislative relation between the parliament and state legislatures as well as in between the government and the common citizens also. The President of India is having the power to summons or prorogues the Parliament and dissolve the Lok Sabha if the situation needs such an action.³⁴ He can also summons a joint sitting of both the houses together, that is, the Lok Sabha and the Rajya Sabha in case of any sort of deadlock arises.³⁵ He can also make special addresses in the parliament, generally at the commencement of first session after the general election takes place.³⁶ He is also being vested with the ordinance making power where he can promulgate ordinances which is having the same effect of the legislation which is passed by the legislature through the parliament and he can do the same if both the

³³ V D Kulshreshtha, *A Plea for the Study of Powers of the President of India*, Journal of the Indian Law Institute, JULY-SEPTEMBER 1970, Vol. 12, No. 3 (JULY-SEPTEMBER 1970), pp. 400-410, <https://www.jstor.org/stable/43950083>.

³⁴ Article 85, The Constitution of India - Sessions of Parliament, prorogation and dissolution.

³⁵ Article 108, The Constitution of India - Joint sitting of both Houses in certain cases.

³⁶ Article 87, The Constitution of India - Special address by the President.

houses of parliament are not in session.³⁷

The major controversy regarding the power of President in India arises when there is a conflict between the ideology that the President is bound to assent the bills that are being passed by the parliament or not. It is considered to be a controversial problem in Constitutional law by the eminent political thinkers and renowned jurists because whether the power to assent or dissent the bill which is being passed by the legislature by the President is a real executive power or a legislative power where the President of India is only being considered as the head of the executive as well as the head of the state and not as the head of the government where the Prime Minister of India is deemed to possess that title with the majority party under him in the Lok Sabha.³⁸ He is having the power of veto and can reject the bill to the parliament for reconsideration but he does not possess the ultimate veto power known as the pocket veto which the President of America possesses because once the President of India dissents a particular bill passed by the parliament and rejects back the same to the parliament, if again it is being passed by the parliament after reconsideration with a majority, then the President of India is supposed to give assent to the bill. He is not having further right to dissent the same. This is actually the anti-thesis to the principle of pocket veto which the President of the United States possess where such a veto cannot be override by the houses.³⁹

The President of India is also having so many other powers like the financial powers, judicial powers, military powers, diplomatic powers and emergency powers. His prior permission is needed in order to

³⁷ Article 123, The Constitution of India - Power of President to promulgate Ordinances during recess of Parliament.

³⁸ Shreeram Chandra Dash, *The Power of Assent and President's Role in India*, The Indian Journal of Political Science, 1961, Vol. 22, No. 4 (1961), pp. 319-329, <https://www.jstor.org/stable/41853897>.

³⁹ James Hart, Ordinance Making Powers of the President, The North American Review, Jul., 1923, Vol. 218, No. 812 (Jul., 1923), pp. 59-66, University of Northern Iowa, <https://www.jstor.org/stable/25113061>.

introduce a money bill to the parliament.⁴⁰ He actually constitutes the finance commission once in every five years and the contingency fund of India is under his direct control. The Judicial powers of the President of India includes he is the one who is appointing the Chief Justice of Supreme Court and other Chief Justices of various High Courts by delivering them the oath to be taken. He can seek advice from the Supreme Court on specific matters but it is not binding on him. He is considered to be the highest diplomat of the national in international affairs and considered to be the commander-in-chief of the defense force in India which specifies his absolute predominant status in the armed forces, navel forces and air forces. The President is also vested with the powers to proclaim emergency in India, specifically the National Emergencies, State Emergencies and Financial Emergencies.⁴¹ Thus, the President of India can be considered as a powerful man but cannot be compared with that of the powers of the President of the United States even if both the nations are having a federal structure.

IMPEACHMENT OF THE PRESIDENT: SCENARIO IN USA AND INDIA

The United States of America is one among the countries in the world who is having concrete laws on the impeachment proceedings of the civil officers as well as the executive heads who holds prominent positions. The actual practice of impeachment was originated in England and later on it was used by many of the American colonial and state governments as well.⁴² The main theme behind the adoption of the said impeachment proceedings in the Constitution is that, the founding fathers and framer of the American Constitution believed that this congressional power is a

⁴⁰ K R Bombawall and K R Bombwall, *The President of India Limits of Discretion*, The Indian Journal of Political Science, July—September—December 1966, Vol. 27, No. 3/4 (July—September—December 1966), pp. 23-36, <https://www.jstor.org/stable/41854187>.

⁴¹ K P Misra, *President's Power in India: Its Nature and Extent*, The Indian Journal of Political Science, January—December, 1962, Vol. 23, No. 1/4 (January—December, 1962), pp. 168-178, Indian Political Science Association, <https://www.jstor.org/stable/41853923>.

⁴² Article I, Section 2 and Section 3, The Constitution of United States.

fundamental component of the “*checks and balances*” system in the United States. The Congress can charge offences like treason, bribery, or other high Crimes and Misdemeanors where these things are not clearly mentioned in the Constitution and thus is considered to be a subject of long debate from the very beginning of the adoption of the Constitution itself. In order for impeaching the President from his office, the house of representatives should need to initially charge the concerned offence against the President and after obtaining the simple majority, the articles of impeachment will be sent to the senate which acts as a High Court of impeachment to hear the matter from both sides.⁴³ For the presidential impeachment trials, the Chief Justice of the Supreme Court will preside the matter. In order to remove him from the office, the Constitution of the United States mandates to obtain two-third vote of the Senate and if he deemed to be convicted, he will be removed from the office as a penalty.⁴⁴ Sometimes, the Senate will disqualify the official or even the convicted President from holding any of the public offices in future. There can be no further appeal in the said matter to any of the judicial as well as executive wing in the United States.

When we look into the scenario in India, the President can be impeached and moved out of his office like that of the United States is clearly mentioned in the Constitution of India.⁴⁵ None of the Presidents in India is impeached till now after India got its independence. A resolution for the impeachment of the President of India can be originated from either of the houses with at least one-fourth member of the said house should need to sign the charges upon which the President is going to be impeached and the same should need to be given to the President in writing prior to fourteen days where they are intended to move the

⁴³ *To the President and Congress of the United States of America*, The William and Mary Quarterly, Oct., 1922, Vol. 2, No. 4 (Oct., 1922), pp. 244-256, <https://www.jstor.org/stable/1920308>.

⁴⁴ Martin H Levinson, Indexing and Dating America's "Worst" Presidents, ETC: A Review of General Semantics, April 2011, Vol. 68, No. 2 (April 2011), pp. 147-155, <https://www.jstor.org/stable/42579110>.

⁴⁵ Article 61, The Constitution of India - Procedure for impeachment of the President.

resolution in the said house. The said resolution should need to be passed with a two-third majority of the total membership of the house. When such a charge is being preferred by one house, the other house is having the right to investigate the said matter and the President is also having the right to appear and represent himself in the house for further clarifications on the charges that has being laid against him. After the thorough investigation by the said house, if the found that the President is being guilty of that particular charge, a resolution can be moved into the house and if it passes by a majority of not less than two-thirds of the total membership of the House, then the President will be removed from his office on the date of passing of such a resolution.⁴⁶ In this way, the impeachment proceedings will be initiated by the Parliament.

CONCLUSION

The system of federalism is considered to be one of the strongest models of governance which is existed in the present world. It always upholds the distribution and separation of powers between various levels or tiers of the government which actually led to the implementation of proper checks and balances in relation to the system of governance which is being followed in that particular nation.⁴⁷ The United States of America is considered to be the best among all other countries who followed the principles of federalism. The founding fathers of the Constitution of the United States of America gives a lot of importance to the federal structure and that is why they have implemented the federalism in such a great extent to the nation. The country follows the federalist system with that of the Presidential system of governance. Thus, the President of the United States is considered to be one among the most powerful and prominent authority in the world itself.

⁴⁶ V N Srivastava, *The President of India Impeachment*, The Indian Journal of Political Science, December 1980, Vol. 41, No. 4 (December 1980), pp. 803-814, <https://www.jstor.org/stable/41855058>.

⁴⁷ Woodrow Wilson, *Bryce's American Commonwealth*, Political Science Quarterly, Vol. 4, No. 1 (Mar., 1889), pp. 153-169, The Academy of Political Science, <https://www.jstor.org/stable/2139429>.

The Union of India also follows the principle of federalism but we cannot consider India as a pure federal nation as that of the United States. Indian federalism is being criticized by many of the political thinkers and eminent jurists by stating that it is not having a pure federal structure but is a blend of both the features of unitary as well as the federal system of governance. That is why, eminent philosophers like Sir Ivor Jennings stated that India is not a pure federal state, but can be considered as a quasi – federal or semi – federal state with a strong centralizing tendency by the union level of government. Unlike the United States, India is not following the presidential system, but is having a parliamentary system of governance. Thus, the President of India is not as powerful as that of the President of United States but is having somewhat similar powers based on the executive powers that is being vested in the Office of the President in a federal system.

It will not be able to compare the President of the United States with that of the President of India, but we can make a clear analysis on the powers and functions vested on them and to what extent they can exercise these things in their own nation who is following the federalist principles. Thus, it is not a matter to make comparison between them but it is a need to adopt the good principles of federalism from both the nations to make a strong federal structure having a good checks and balance system by pure separation of powers to monitor the governing system of the federal nation.