

# A COMPARATIVE STUDY OF PARLIAMENTARY STRUCTURE AND LEGISLATIVE PROCESS OF INDIA AND UNITED KINGDOM

ABDU RAHIMAN N

School of Law

CHRIST Deemed to be University

BENGALURU, INDIA

## ABSTRACT

A nation is built on various pillars and structures. The law making body , the implementing authority , the judicial structure , the electoral system , all these forms the base of the nations existence. India , as a nation has very unique kind of polity in all. Though it has adopted provisions , ideas and concepts from various nations around the world , in its application, India has brought in changes of its own , with consideration of its special nature. The parliamentary system of india is by adopting the idea from US Polity. However , even in this, India has kept itself unique. This paper attempts to make a comparative analysis of the legislative process of India and United Kingdom. The study reflects how there is a difference in protocols as well as in procedural functions of both India and United Kingdom, despite the similarity in the system in itself. It further depicts how different types of privileges, functions , procedures and parliamentary immunity are practiced in both countries.

## INTRODUCTION

India is a nation with parliamentary democracy in it's political structure. Parliamentary democracy poses a system of polity in which there is representation of people in it's legislative functions . A democracy portrays a governance where in people of the nation plays prominent role .As a nation India have stood unique from the world nations ,in terms of it's nature and structure of governance. It's a fact that ,after India got it's independence from the British rule , it referred back to various world nations and it's constitutions while it was making it's own . In this process , the framers of the constitution adopted ideas from various nations like UK , United States of America ,France ,Switzerland etc. There fore similar concepts and frame works of the constitutions of these nations can be seen in Indian constitution .however, India never forgot to maintain it's uniqueness . To take few examples , the concept of fundamental rights ,preamble, directive principles of state policy ,fundamental duties ,all these can be traced back to some of these world constitutions .But, changes have been made , keeping in mind the special context of Indian society .The parliamentary form of governance that is followed in India is by referring to United Kingdom's system of polity .As mentioned earlier ,the parliamentary system of India also keeps itself different from that of UK . The legislative process of both nations also has a line of difference between them.

## LITERATURE REVIEW

Sirnivasrao, M. (2011). PARLIAMENTARY DEMOCRACY AND COALITION GOVERNMENTS IN INDIA. *The Indian Journal of Political Science*, 72(4), 961-970. Retrieved November 9, 2020, from <http://www.jstor.org/stable/41856532>

The author quotes Prof Harold J Laski in his article . He says that in the classic by Prof. Harold J Laski , on the topic Parliamentary Government, he says that It is the function of parliament to help to form the government , which is based on the support of Majority of elected members. It also gives a vigilant and effective opposition to hold the executive or political executive under the surveillance. The article gives a clear picture about the changing nature of India's political field. The author notes about the party system that has been evolved in India and especially about the coalition systems. He remarks that the parliamentary democracy in India is continuing to work as a stable system of government and also it has reached a position to adjust very well with the methods of coalition politics.

Mathenjwa, M. (2016). The constitutional phenomenon of parliamentary privilege and immunity in South Africa: A comparison with jurisdictions in Britain, Canada and France. *The Comparative and International Law Journal of Southern Africa*, 49(3), 387-408. Retrieved November 9, 2020, from <https://www.jstor.org/stable/26367608>

The author notes that the parliamentary immunity and parliamentary privileges in its fullest form is based in bill of rights itself. Its mentioned in the article , how the privileges is practiced in british system. Hardt's view on Parliamentary Privilege is quoted. According to Hardt , Parliamentary Privilege refers to proceedings in parliament. It includes "all words spoken and acts done in the Course of , or for the purpose of or necessarily incidental to , transacting the business of either house of parliament or of a committee"

## METHODOLOGY

The research is a pure doctrinal research .Methods of quantitative study are extensively used . Methods of comparison in terms of quantitative data analysis are utilized as well. In terms of collection of data, the major source is legal journals and articles. An inductive method is practiced in order to reach the outcome. Constitutions of both countries are another major source. An explorative study is conducted by comparing the similarities and differences.

## PARLIAMENTARY STRUCTURE AND LEGISLATIVE PROCESS – COMPARATIVE ANALYSIS

With regard to the structure of legislation or bodies of legislation , both India and United Kingdom has two houses. In Britain , they are House of Commons and House of Lords. In the system of polity in UK, British Parliament is the only legislative body in the country . It is processed with unfettered power of legislation . In India as well, there are two houses known as Lok Sabha and Rajya Sabha. Comparing both nations gives an idea that , both houses has role in law making process. A bill can be introduced in any of the house in both India as well as UK. Legislations by parliament gives all powers to the local governments. Every member is a representative of a single geographical area, by a simple majority they wins. In fact there are no proportional representation. Whereas in India, it is proportional representation with single transferrable vote system. As in Indian system , all ministers are members of one or the other house . And its said that , therefore in UK, they undergo pressure on a daily basis. The role of the speaker is very significant. He presides over the chamber. Once the speaker is elected to that post , he has to live his party. Even in India this is similar. Speaker has to be neutral once he is elected to that post. He would never be rejoining. It is the discretion of the speaker to give chance to speak to the members of the house. He or she decides whether to allow the closure of debate , or whether to allow to ask urgent questions or whether to move for emergency debates., or who to speak or with regard to the amendments etc. In India as well Speaker has significant role to play. Here also speaker decides and it is in his description the course of the Parliament. It is speaker who decides whether a bill is a financial bill or not. In UK, each day one hour has been kept for questioning the cabinet ministers. Their turn for answering these questions comes about once in a month. Even the prime minister is answerable on the floor. Even in India ,there is a question hour which resembles the same practice. In UK, members can also ask question in written, for which they can

ask for written answers which should be given within a specific period of time. Thus, government always has a chance to defend their policies in the house.

The Clerk of the House was appointed by the Crown and headed the Department of some 55 Clerks and 100 other staff. This is one of the major difference .In India,all processes takes place within the house itself. It has involvement of only internal members or stakeholders such as members of house , president ,prime minister etc whereas ,in UK , the clerk of the house is appointed by a person outside the house .The crown also has involvement in various other aspects of governance as well . The House has remained a self-regulating body in which the Presiding Officer has no power to rule on matters of order. Order is in the hands of the House itself and its maintenance is crucially dependant on Members knowing and observing procedures and exercising self-restraint. It has to be said that this system of self-regulation was easier to operate when the House was less active. Increasing participation has placed it under strain. Two years ago a questionnaire was circulated to Members of the House inviting them to express their views on the procedure of the House .For this , members had a unanimous response that a Speaker with authority to enforce order should not be introduced and that the system of self-regulation should be continued.

In both India and UK ,the Speaker is elected from among the Members of the House.In the upper house of India ,that is rajya sabha ,the vice president is the presiding officer .He or she is known as the chairman of the house . The Speaker of the House of Lords is the Lord Chancellor, a member of the Cabinet appointed by the Prime Minister and the head of the judiciary in the UK. In UK , legislative process differs for each legislations based on whether it is a primary or secondary legislation. If it is a primary legislation ,it has to pass through both houses in the same form .Most of them are secondary legislation which are known as statutory instruments . For these secondary legislations ,there is a simpler parliamentary procedures .In India ,legislations does not have such classifications .With regards to difference in opinions between houses on a bill, the House of lords may reject the bill. If they reject the bill twice, the house of common has power to override it. When there is a disagreement between the two Houses, the bill in question travels back and forwards until a common text is agreed. Detailed discussion of legislation takes place on the floor of the House, so there are no legislative Committees. The Secretary-General of the House of Lords is called the Clerk of the Parliaments. He is appointed by the Queen on the advice of the Prime Minister.

## CONCLUSION

The parliamentary system is a system that is adopted by India from United Kingdom, when it was framing its own constitution. When we analyse the system of polity , specifically , the parliamentary structure from a comparative perspective , it can be found that , similarities are larger than that of differences. In terms of the procedures , there are many similarities such as in the process of passing bill etc. Whereas with regards to appointment , there is an involvement of crown in United Kingdom. Whereas , India has far moved away from Kingship. However , India also has kept itself unique and distinct.