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Comparative Study of the Presidential Election in India and U.S.

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ABSTRACT

Presidential election in India and U.S. are different in various perspectives. Like India and U.S. both have democracy form of government and they both have people from different community. On the other hand, there are differences also. India is developing country and U.S is developed country. U.S is among super power country. Whereas India is still struggle with basic issues like, poverty and employment. When we focus on law; in Constitution of India under Art 53; it states about the executive head of country i.e. President. And in U.S law, as per constitution, under Art 2 Sec (1). President is the executive head of the country. By the analysis, it been seen that there are some similarities and also differences in the election process. In both countries President is elected indirectly by the people. It can be seen in both countries, that representatives of common people are given power to elected President. This shows the democracy nature of these countries. As representatives have to follow public desire. It includes many steps. Every system has its pros and cons. As already discussed, U.S is a super power whereas; India is just a developing country, which have its own issues like poverty, unemployment, illiteracy. This shows that, they have their different need and requirement as per the administration system and economic condition. India is vast country with so much diversity and challenges. In my suggestion Indian Presidential election process is much better comparing to hold directly election.

Keywords: Constitution, Administration, President, Election, Representation.

I. INTRODUCTION

This article is been made to provide the “comparative study of the Presidential election in India and U.S.”. These two countries are different in various perspectives. Like India and U.S. both have democracy form of government and they both have people from different community. On the other hand, there are differences also. India is developing country and U.S is developed country. U.S is among super power country. Whereas India is still struggle with basic issues like, poverty and employment. When we focus on law; in Constitution of India under Art 53; it states about the executive head of country i.e. President. And in U.S law, as per constitution, under Art 2 Sec (1). President is the executive head of the country. So, in both countries

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President are executive head. Therefore, election is the major issues and as good leader is required, to lead in better direction. Presidential election should go through a chain of phase. Whole process includes the nomination, registration, voting and at end taking oath as a president.

There are various provisos regarding the qualification of President under the constitution of both the country. By the analysis, it been seen that there are some similarities and also differences in the election process. In both countries President is elected indirectly by the people. It can be seen in both countries, that representatives of common people is given power to elected President. This shows the democracy nature of these countries. As representatives have to follow public desire. It includes many steps.

II. ROLE OF PRESIDENT AS PER CONSTITUTION IN INDIA

President is the first person of country. He is also the executive head of the country. Besides the executive power, President had financial and judiciary power also. Part V of the Constitution of India provides for the full details of the President (Articles² 52- Article 62).

He is the supreme commander of the all the three defense force i.e., Army, navy, Air Force). President is responsible and empowered to appoint some of the important personal like Governors of States, Chief Justice of India, Judge of High court and Supreme are also appointed by him. Attorney General, The Comptroller and Auditor General. The Chief Election Commissioner and other Election Commissioners are other personal. He also declares there types of emergency – national, state, financial. All money bills originate in Parliament upon the recommendations of the President of India. And no money bill can be introduced in Parliament without the President assent. President of India also have clemency power which is to pardons, reprieves, respites or remissions of punishment. There are various responsibility to the President stated un constitution of India.

III. LAW RELATED TO PRESIDENTIAL ELECTION IN INDIA

Article 52 of Constitution in India states that, there shall be a President of India. The executive powers of the Union shall be vested in the President. He, as the head of a state, symbolizes the nation. In some democratic systems, the head of the state is also the head of the government and, therefore, he will also be the head of the political executive. The US Presidency represents same form. In British, monarch is the symbolic head. The powers of the Government are vested

²*Constitution of India, 1949*, ADVOCATE KHOJ, (Oct. 20, 2023, 10:04 AM) <http://www.advocatekhoj.com/library/bareacts/constitutionofindia/index.php?Title=Constitution%20of%20India,%201949>

in the political office of the Prime Minister. As Indian is the Parliamentary democracy form of government. President is elected by the representatives of the people through an Electoral College. There are some of the important Article related to appointment of President in India. Article 56 of the Constitution of India provide for tenure of his office; upto a term of 5 years from the date on which he enters upon his office.

As per Article 54 of the constitution of India the President shall be elected by the members of an electoral college consisting of:

- (a) The elected members of both Houses of Parliament and
- (b) The elected members of the Legislative Assemblies of the States (including National Capital Territory of Delhi and the Union Territory of Pondicherry, as per Constitution 70th amendment Act, 1992).

Eligibility³ conditions to contest the election of the President of India:
as per (Art. 58),

- Should be a citizen of India
- Should have completed the age of 35 years
- Should be qualified for election as a member of Lok Sabha
- Should not be holding any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

IV. DIFFERENCE BETWEEN GENERAL ELECTION AND ELECTION OF PRESIDENT OF INDIA

In general elections in India, each person casts one vote. However, in Presidential elections, each elector (MPs and MLAs) indicates their choices in case of multiple candidates, in an order of preference. As per the Article 55(3) of Indian Constitution: the President should be elected by means of the single transferable vote, by following the system of proportional representation. *The principle is made to prevent the exclusion of minorities from the benefits of the State, and to give each and every minority group an effective share in voting.* It is been implemented to, provide every division of suggestion on behalf of people by their representative, and works as electors in the election. This is the main aim of proportional representation. In the ordinary

³ELECTION COMMISSION OF INDIA, (Oct. 20, 2023, 10:04 AM) <https://eci.gov.in/faqs/elections/presidential-election/faqs-presidential-election-r9/>

election known as "straight voting system", a candidate having support of the numerically largest group is elected, although the combined strength of all other candidates representing different other parties may far out-number his supporters. The result is that the elected candidate cannot be said to represent the opinion of the majority of the electorate as a whole.

The winning candidate - the elected President of India - needs to secure a certain quota of votes which is 50% of the valid votes polled +1. Thereafter, each vote cast is given a value which is based on various factors such as the first preference order, value of vote of each electorate (voter), etc. For example, each Uttar Pradesh legislator's vote has a value of 208. The value of votes from their counterparts in Arunachal Pradesh is just 8. Same goes for Parliamentarians. State to state it differ. After getting elected, as per Article 60, Every President takes oath in front of the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court available.

Election Commission of India in one instance states that in presidential election anti-defection law do not apply⁴. Clarify that in Presidential elections, electoral college is been followed, which consists of elected members of both House of Parliament and elected members of the State Legislative Assemblies (Article 54 of the Constitution). The electors of this Electoral College vote at the Presidential election. similar to the process of election of Rajya Sabha election.

V. PRESIDENT AND AMERICAN CONSTITUTION

The constitution of U.S provide for the executive head of country to be President. Article II of the constitution directly states about the President of America. President is the chief-commander and have various role to play in legislature, executive and guardian of the economy. He is sworn as the Commander-In-Chief and so head of all forces i.e. Army, Navy, Air Force, Coast Guard, and Marine Corps. President have power to influence congress to make law and can also impulse congress to pass certain laws. He is chief executive and appoints head of executive department, like ambassadors, justices of the Supreme Court C.I.A, F.B.I. he also has pardoning power. President has to suggest law and guidelines for foreign policy.

(A) Presidential election in U.S and Related Laws:

As per the Article II ⁵of constitution of United (Section 1: Clause 1) The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the

⁴ *Anti-Defection Law Does Not Apply To Presidential Elections*, LIVE LAW (Oct. 20, 2023, 10:04 AM), <http://www.livelaw.in/anti-defection-law-not-apply-presidential-elections-eci-issues-clarification/>

⁵ *The Constitution of the United States*, CONSTITUTIONUS (Oct. 20, 2023, 10:04 AM) <http://constitutionus.com/>

Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows; (Clause 2) Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

(B) Overview of the Presidential Election Process⁶

The process of election begins with the First Phase that include, primary elections and caucuses and moves forward by nominating conventions (national convention), during which political parties each select a national nominee to represent the party. The nominee also announces a name for Vice Presidential candidate. Now the campaign start, and the candidates travel across the country. They express their views and agenda to voters and also participate in debates with from other parties candidates.

During the general election, Americans head to the polls to cast their vote for President. But the tally of those votes—the popular vote—does not determine the winner. Instead, Presidential elections use the Electoral College. To win the election, a candidate must receive a majority of electoral votes. In the event no candidate receives the majority, the House of Representatives chooses the President and the Senate chooses the Vice President.

(C) Qualification to Become President of the United States:

The U.S. Constitution's (Art II section 1⁷) provide the Requirements for a Presidential Candidate:

- At least 35 years old
- A natural born citizen of the United States
- A resident of the United States for 14 years

1. First Phase: Presidential Primaries and Caucuses⁸

Candidates for President go through a series of state primaries and caucuses, before the general election, primaries and caucuses are run differently, they both serve the same purpose—to allow the states to help choose the political parties' nominees for the general election.

- State primaries are run by state and local governments. Voting occurs through secret

⁶ *Presidential Election Process*, UNITED STATES GOVERNMENT, (Oct. 20, 2023, 10:04 AM), <https://www.usa.gov/election>

⁷ *The Constitution of the United States*, CONSTITUTIONUS (Oct. 20, 2023, 10:04 AM) <http://constitutionus.com/>

⁸ *Presidential Election Process*, UNITED STATES GOVERNMENT, (Oct. 20, 2023, 10:04 AM), <https://www.usa.gov/election>

ballot.

- Caucuses are private meetings run by political parties. In most, participants divide themselves into groups according to the candidate they support, with undecided voters forming into a group of their own.

National Conventions: After the primaries and caucuses, political parties hold national conventions to finalize their choice for their Presidential and Vice-Presidential nominees. The national conventions typically confirm the candidate who has already won the required number of delegates through the primaries and caucuses.

2. Second Phase: **General Election Campaigning**

After the primaries, caucuses, and national conventions single nominee is chosen for the general election. These candidates also travel the country. Their main motive is to express their views and plans to the general population and trying to win the support of potential voters. Party conduct debates, rallies, and advertising

3. Third phase: **Electoral College**⁹

Similar to India, U.S. elections, the President and Vice President are not elected directly by the people. They are chosen by process called the Electoral College. National presidential election actually consists of a separate election in each of the 50 states and the Washington, D.C; in these 51 elections, the voters are really voting for "electors" . These electors make up the "Electoral College." The number of electors each state gets is determined by how many members of Congress (House and Senate) the state has. Including Washington, D.C.'s three electors. After that Electoral College then votes for President and for Vice-President, with each elector casting one vote; these votes are called electoral votes. Each elector is pledged to vote for particular candidates for President and Vice-President. more than half to win the Presidential election. After Every four years on January 20, Inauguration Day occurs. It venue is at the U.S. Capitol building in Washington, D.C. On this federal holiday, the President and Vice-President elected are sworn in and take office on that day.

Ray v. Blair, 343 U.S. 214 (1952): Courts says that, as per law, state authorizes a political party to choose certain qualifications fixed for been the candidates for presidential elector, and it not violation of the Federal Constitution.¹⁰ Presidential Elector to take a pledge to support the nominees of the party's National Convention for President and Vice-President or he will not get

⁹ *Presidential Election Process*, UNITED STATES GOVERNMENT, (Oct. 20, 2023, 10:04 AM), <https://www.usa.gov/election>

¹⁰ *Ray v. Blair*, 343 U.S. 214 (1952)

certificate to be elector is no volition of constitution.

(D) Similarities in election in India and United States

After analysis the whole process of the Presidential election, there are many issues arises regarding the process which is good for the election. Firstly, consider the common feature in both countries. These are the role of public in election process. It can be seen that, common man play no direct part in the election of the President and President is elected indirectly by the representatives or the people. In India, MLA & MP elect President. And in America, Elector plays the main role. Both of these countries follow the Electoral College system for the election. Representatives have their will to whom to select as best for the Office, after having consultation with their party member. *IN case Ray v. Blair, 343 U.S. 214 (1952)*, Supreme Court of U.S provides the statement that is on the will of the elector to whom to choose.

(E) Differences in election in India and United States

But from the study is found that there is also some difference in both countries in Presidential election. First difference that may be noted is that the election of the President of India is by the system of proportional representation, by the single transferable vote, as provided by Article 55(3) of the Constitution, while the American President is elected by the straight vote system. Indian the (proportional representation) is been introduce to represent all groups in equally ratio. But in U.S it's not like that, elector are elector as per the number of Congress in that state, without proportion. In U.S normally two party give there nominee. i.e. Republican Party and Democratic Party. But in India various national party have their nominee. The date of the election is fixed. In India Date is announced by the election, some time before election. US have two federal bodies i.e. the Federal Election Commission (FEC) and the US Election Assistance Commission (EAC). There is no centralised election management body like the Election Commission in India. ¹¹In U.S people can do Voting at polling stations on poll day, early voting in person, if absent can vote by mail¹². From state to state they have different Ballot design. Voting technology varies from direct recording electronic voting machines (like Indian EVMs) to paper ballots (marked by pencil or pen). The main reason of the success of Indian system is extreme simplicity in election process and centralized Election commission.

¹¹ *India and US, polls apart*, THE INDIAN EXPRESS, (Oct. 20, 2023, 10:04 AM) <http://indianexpress.com/article/opinion/columns/us-presidential-elections-hillary-clinton-donald-trump-india-election-system-4030161/>

¹²*India and US, polls apart*, THE INDIAN EXPRESS, (Oct. 20, 2023, 10:04 AM) <http://indianexpress.com/article/opinion/columns/us-presidential-elections-hillary-clinton-donald-trump-india-election-system-4030161/>

VI. CONCLUSION

From the above study it can be concluded that, Countries have their systems as per their requirements based on real situations in their countries. Every system has its pros and cons. As already discussed, U.S. is a super power whereas India is just a developing country, which has its own issues like poverty, unemployment, illiteracy. This shows that they have their different needs and requirements as per the administration system and economic condition. India is a vast country with so much diversity and challenges. In my suggestion Indian Presidential election process is much better compared to holding a direct election. With the second largest population, it is not possible to hold a direct election in India. Even in U.S. also, the President is elected by the Electors of the party. Electors play the main role in the election. Firstly, India has a centralised election management body known as the Election Commission in India. This commission controls the whole election without the fear of parties and government. They make their guidelines and rules regarding elections. It indicates uniformity in the process throughout the country. In U.S., voting technology varies from states to states, some have direct recording electronic voting machines similar to Indian EVMs). Others use paper ballots (marked by pencil or pen), which lead to confusion and complicate the whole process, and consume a lot of time. E.C.I. worked well for India is a fully empowered but fiercely independent and neutral election commission. The biggest reason, I thought for the success of the Indian system is uniformity and simplicity in the election process. Many countries take Indian elections as a model for a large part of the world. Because it has diversity with integrity. Some facts like, India gave equal voting rights to women from the first day of the constitution in 1950, but the US had taken around 144 years. Within 19 years India elected a woman prime minister, the US has not had a woman president yet. These are some of the important issues which should be taken under consideration while making a comparison between both countries.
