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Subject- Legislative and Quasi Judicial Powers of Administration

Class- LL.M. II Semester

Topic- Comparative Study of United Kingdom, United States and India

Comparative Study of United Kingdom, United States and India

UK, US and India, all three of these countries are democratic countries of the world, United States is the oldest democratic country of the world and its constitution was made in 1789. Where India was the Colonial state of the United Kingdom till 1947 and the Indian Constitution came into force in 1950. But situation in United Kingdom is different. Although, UK is the democratic country but the head of the state is monarch. Besides this one of the uniqueness of the

UK's constitution is that it's not codified

like the US and India having. The UK Parliament can make any law or amendment by simply passing it by majority and then send to the monarch for his assent, which is just the formality part. Another difference among these three countries is that United States is a true federal country, where each state has its own constitution; India is quasi federal there only one constitution for whole country but area of operation is divided between the Union and the State governments. Whereas UK is not having the federal structure, it has the unitary setup of government. In Federal system of governance, state legislatures have a say in amending the constitution but in unitary setup it's only the Parliament which has supremacy for amending the constitution. The British parliament has the power to change and the constitution by the ordinary process of legislation. As opposed to the UK, the constitution amendment has an important place under the written Constitution like that of the US and India. Its importance increases where the system is Federal. In Federal system, additional safeguards like the involvement of Legislatures at the state level, are also provided for with a view to ensure that the Federal set-up does not get altered only at the will of the Federal Legislature. Now, to compare the amending procedure of these three countries, we will discuss the amending procedures separately of each country as provided under their Constitution.

Amending Procedure under US Constitution

The Article V of the US Constitution provides for changing (amending) the Constitution. Article V: "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of these several States, shall call Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of several States, or by Conventions in three-fourths thereof, as the one or other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

The Procedure provided under this article is of two kinds and the US Congress has a liberty to choose any one the procedure provided under this Article. The Article provides that the Constitution can be amended either through a) an act of Congress (US Parliament) b) a national constitutional convention. Under the first option by an act of Congress, any Member of Congress may propose to amend the Constitution by introducing a joint resolution. The legislation is treated like any other in terms of committee consideration, floor scheduling and debate. Passage, however, requires a 2/3 vote in each chamber. If all were present that would mean 290 out of 435 Members of the House and 67 out of 100 Senators. These super-majorities are very difficult to obtain. And once passed, the proposed amendment is not sent to the President like it is done in India or like in UK send to the Royal head of the UK. Instead, it is sent to the states. Three-fourths -- or 38 -- of the states must ratify the proposed amendment. Congress is given the authority by Article V to select one of two methods for the states to use in the ratification process: ratification by vote of the state legislatures or ratification conventions called for that purpose. Only one amendment -- the 21st (repealing Prohibition) -- was ratified using the state convention method instead of being ratified by the state legislatures. The second option for amending the US Constitution, the call of a National Constitutional Convention as described in Article V, a National Constitutional Convention requires 2/3 of all state legislatures (34) to petition US Congress to convene a National Constitutional Convention. But the Article V contains no guidelines for how such a National Convention would be run. This method of amendment has never been implemented successfully. There has only been one constitutional convention to date - the original 1787 Constitutional Convention, which produced the U.S. Constitution. The rigidity of the US Constitution can be understood by this fact that since 1789, over 10,000 amendments to the US Constitution have been introduced in Congress. Of those, only 33 were adopted and sent to the states for ratification, and only 27 were ultimately ratified. For amending the constitution in US, state legislatures have a major role to play and it's not the absolute power of the US Congress. Whereas under Indian Constitution States has a role to play for amending the constitution but not in all matters. And there is complete different picture in UK, because it's does not have the federal structure of government so que

tion of state ratification comes. Another important aspect, is the role of head of the state in amendment, in

US and India the President is the head of the state and in UK, it's the Monarch who is the head of the state. In US President does not have major role to play in Constitutional amendments except in voting as the Congressman. Whereas in UK and India, any amendment passed by the Parliament with due procedure as provided by under their constitution is sent to the President or the Royal head, as the case may be, for their assent. And the amendment becomes the part of constitution only after the assent has been given but in US any amendment becomes part of constitution only after it is ratified by the requisite no. of states.

Amending Procedure under Indian Constitution

. The makers of the Indian Constitution were neither in favour of the traditional theory of Federalism, which entrusts the task of constitutional amendment to a body other than the Legislature, nor in prescribing a rigid special procedure for such amendments. Similarly, they never wanted to have an arrangement like the British set-up where the Parliament is supreme and

can do everything that is humanly possible. Adopting the combination of the 'theory of fundamental law', which underlies the written Constitution of the United States with the 'theory of parliamentary sovereignty' as existing in the United Kingdom, the Constitution of India vests

constituent power upon the Parliament subject to the special procedure laid down therein. The Constitution of India provides for a distinctive amending process as compared to the leading Constitutions of the world. It may be described as partly flexible and partly rigid. It is Article 368 of the Indian Constitution which provides the procedure through which an amendment can be brought in Indian Constitution. Article 368: Power of Parliament to amend the Constitution and Procedure therefor: (1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article. (2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill: Provided that if such amendment seeks to make any change in: (a) article 54, article 55, article 73, article 162 or article 241, or (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or (c) any of the lists in the Seventh Schedule, or (d) The representation of States in Parliament, or (e) the provisions of this article, the amendment shall also require to be ratified by the Legislatures of not less than one-

half of the States... by resolutions to that effect passed by

those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

