



Comparative Study of Indian Constitution

India and Britain

India and Britain

United Kingdom= Great Britain+ Northern Ireland

Great Britain= England+ Wales + Scotland



India and Britain

Features	India	Britain
Type of Constitution	Written	Unwritten
Dynamism	Can be changed with limitation	Evolutionary Constitution
Administrative Structure	Federal With Unitary Bias	Unitary
Flexibility	Blend of flexibility and rigidity	Highly flexible- any constitutional provision can be amended with simple majority itself
Parliamentary Executive	Present	Present
Parliamentary Sovereignty	All three organs works on system of checks and balance:	Parliamentary Sovereignty

Features of British Constitution

- Parliamentary form of Government
- Constitutional/Limited Monarchy
 - Head of State
 - Part of Parliament
 - Can summon, prorogue and Dissolve Parliament
 - No legally codified veto
- Highly flexible- Unwritten

Parliamentary Sovereignty

- Parliament is highest law-making body
- No Judicial Review
- But can not pass anti people law
- Technically power lies with cabinet
- Popular opinion are real sovereign

Composition of Parliament

House of Commons	House of Lords
650 Members	Approx. 750
FPPS	Unelected (All)
Direct Election	Members are called Peers
All citizens above 18 can elect and contest	Appointed by King/Queen on advice of PM
Once a speaker always a speaker	Also an independent selection commission to scrutinize prospective peers

Powers

Money Bill:

- **Can be held back by House of lords max 30 Days**
- Can be introduced **only in HoC**

Non-Money Bills

- If rejected by HoL, then HoC has to pass in two successive sessions
- At least one year gap between two sessions

Judiciary

- **Single Judiciary**
- In October 2009, **The Supreme Court replaced the Appellate Committee of the House of Lords as the highest court in the United Kingdom.**
- **Now explicitly separate from both Government and Parliament.**
- The Court **hears appeals for the whole of the United Kingdom in civil cases**, and for **England, Wales and Northern Ireland in criminal cases.**
- Additionally, it hears cases on devolution matters under the Scotland Act 1998, the Northern Ireland Act 1998 and the Government of Wales Act 2006. This jurisdiction was transferred to the Supreme Court from the **Judicial Committee of the Privy Council.**

Judiciary

12 Judges- Appointed by Monarch in advice of PM after nomination from Judicial Commission which is headed by the president of the court (i.e., Chief Justice)

Qualification:

- 2 years as High Court Judge or
- 12 years as advocate

Retirement: 70 Years

Removal: By parliament

But lack of judicial review

In case of violation of Human Rights courts can issue Declaration of Incompatibility

Executive

England mostly have
single party majority rule

PM and Finance minister
necessarily from House
of Commons

Others can be from any
house

Three levels:

Cabinet Ministers

Minister of State

Parliamentary Secretary

Our Constitution Inspired from British Constitution

- First Past the Post
- Parliamentary Form of Government
- The idea of the rule of law
- Institution of the Speaker and his role
- Lawmaking procedure
- Single citizenship,
- cabinet system
- prerogative writs, parliamentary privileges and bicameralism.



Comparative Study of Indian Constitution

India and USA

India and USA

Features	India	USA
Type of Constitution	Written	written
Separation of Powers	Not Strict, Checks and Balances	Strict, Checks and Balances
Administrative Structure	Federal With Unitary Bias	Fully Federal
Flexibility	Blend of flexibility and rigidity	Highly Rigid
Parliamentary Executive	Present	Presidential System- Executive not dependent on legislature
Veto	Suspensive, Absolute, Pocket	Absolute, Qualified, Pocket**
Parliament	Bi-Cameral	Bi-Cameral
Bills	Introduced and after first reading its sent to committees	After Introduction directly sent to committees

Comparing Presidents

By constitution it was set to be indirect by convention it has become Direct

Common election for the president and VP.

The VP candidate is selected by the Presidential candidate, and he is called his running mate.

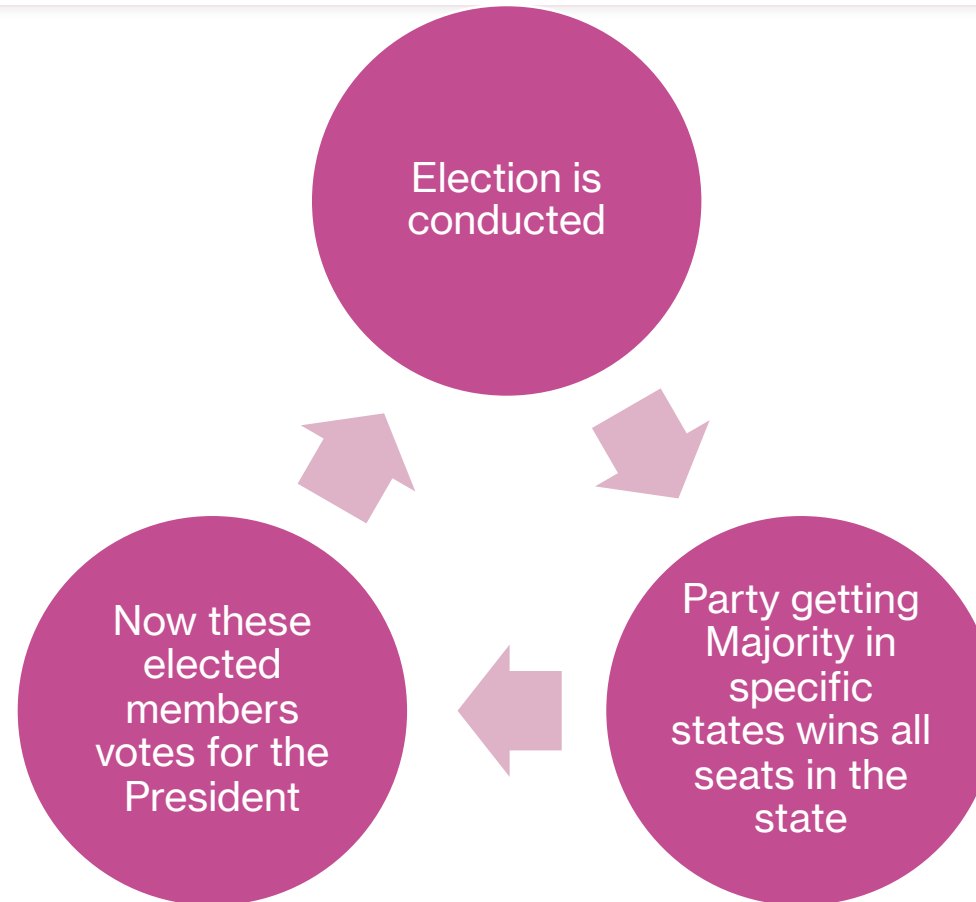
Qualification:

- Min Age: 35 years
- Natural Born Citizen of USA
- Should have stayed in USA for at least 14 years

Presidential Election

- Primary and Caucuses: to choose presidential Candidates
 - primaries are run by state and local governments. Voting happens through secret ballot.
 - Caucuses are private meetings run by political parties.
 - Then parties finally decides candidates at their National Conventions.

Election Process



Comparing Presidents(Election)

Electoral College

- 435 Electors from House of Representative
- 100 Electors from Senate (each state have 2 seats in Senate)
- 3 electors from District of Columbia

Winning Quota: 270/538

Winner gets all 48 states except Maine and Nebraska where proportional Representation is followed.

Comparing Presidents (Removal)

Grounds: Treason, Bribery or other high crimes.

Procedure:

- Can **only be initiated in House of representative**
- Resolution adopted by HoR by simple majority then trial is conducted in Senate.
- This trial is presided by the Chief Justice of Supreme Court
- Post Trial if senate passes the resolution by 2/3rd Majority then president has to leave office



Powers of President (USA)

Commander in Chief of Defence forces

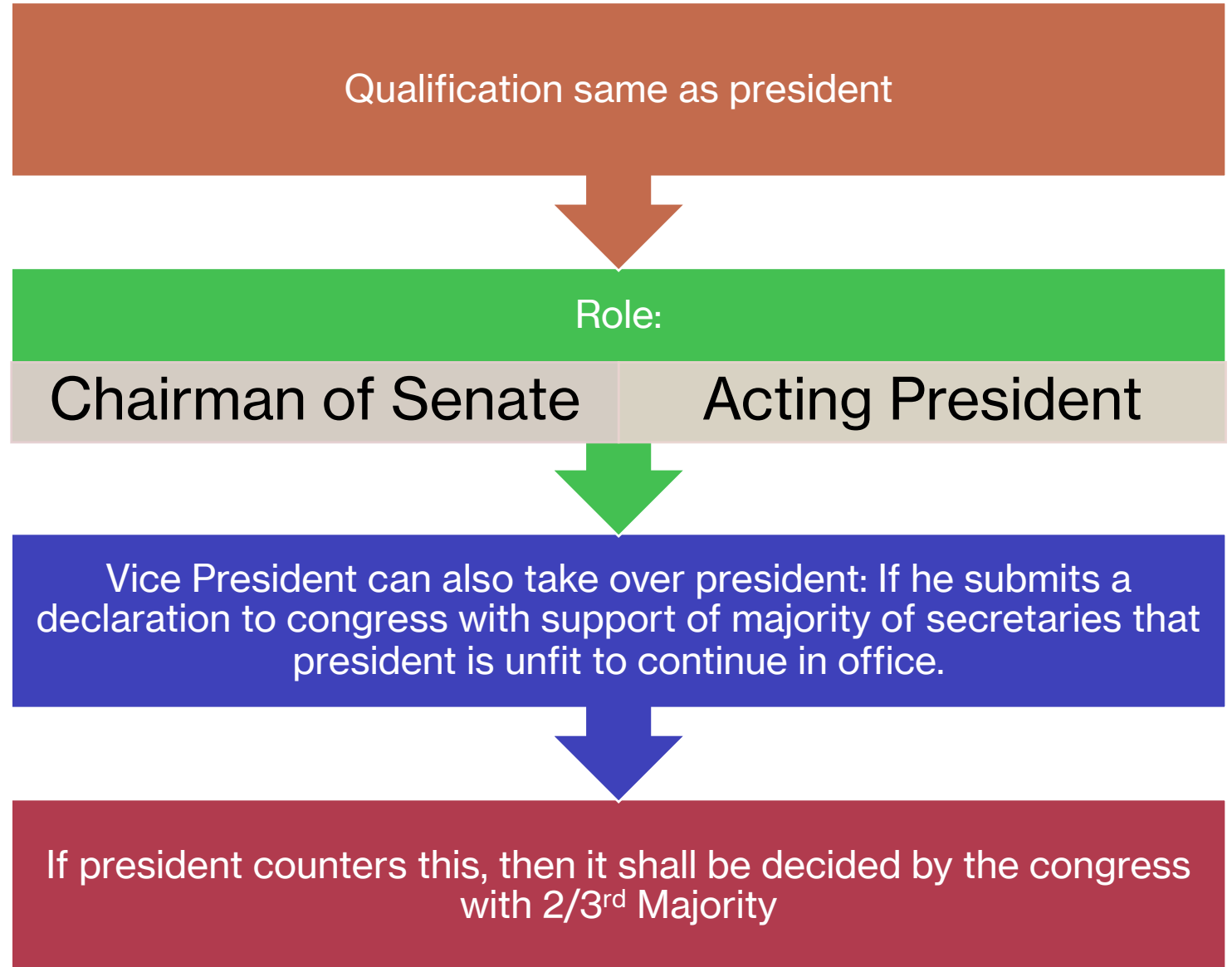
Appoints Executive and Judicial Persons

Can not dissolve or suspend the congress

Has the power of pardon

Has qualified veto as well

Comparing Vice President



Comparing Legislatures

- Senate:
 - 100 Members (All states equal)
 - Permanent
 - 6 years term
 - 1/3rd Retire after two years
 - Direct Election
- Qualification
 - 30 Years of age
 - Domicile
 - Citizen of USA
- HoR:
 - 435 Members
 - 2 years term
 - Elections held every two years
- Qualification
 - 25 Years of age
 - Citizen of USA

Law making Process

A bill except **revenue bills** can originate in either house

But even in revenue bills **both houses have equal powers**

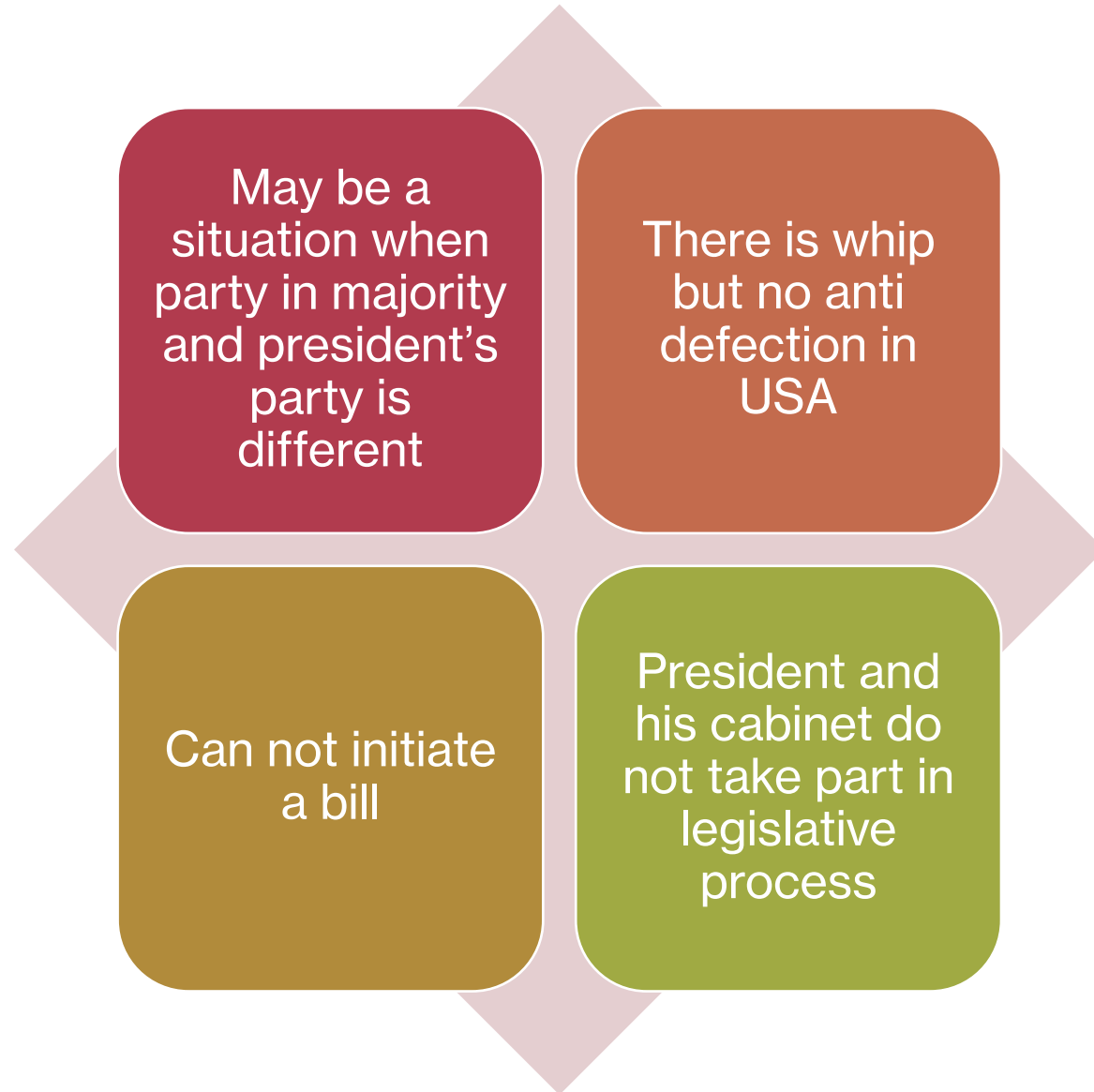
3 Stages:

- Stage I: Introduction and Committee stage
- Stage II: clause by clause reading
- Stage III: Voting
- All three stages in other house as well

Presidential Assent:

- Qualified and
- Pocket Veto

President- Congress Relation

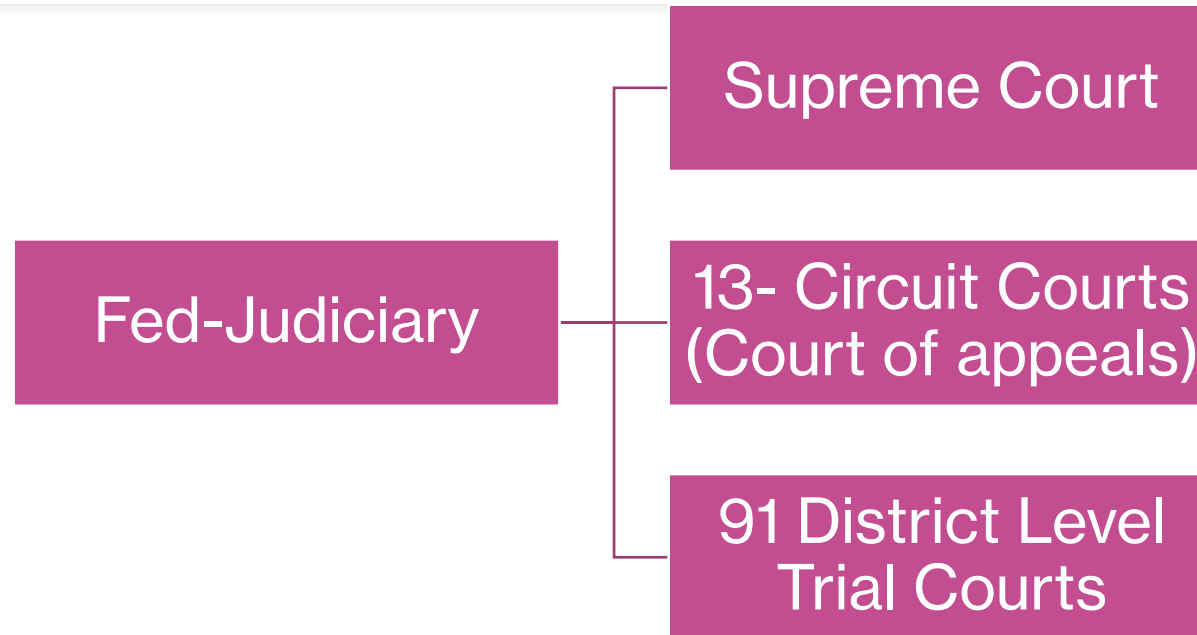


Judiciary (Supreme Court)

- Judges are **appointed by the president and then voted by the Senate**
- Judges may have different political ideologies and **sometimes appointment are also made on it**
- **Once a judge always a judge- for life- they can only resign- Death- or impeached by the congress.**
- Chief Justice and 8 Judges: **All judges sits in all cases in the bench**
- No qualification mentioned in the constitution
- **Removal by Congress**

- States have their own courts system and called state supreme courts.

Federal Judiciary for Federal Laws:



Decisions by district courts can be appealed in circuit courts, but the federal Supreme Court is usually under no obligation to hear appeals against circuit court decisions– it admits less than 1% of appeals made to it.

United States Constitution

- Charter of Fundamental Rights,
- Power of Judicial Review
- independence of the judiciary
- Independence of judiciary, judicial review,
- impeachment of the president,
- removal of Supreme Court and high court judges and
- post of vice-president.

India and France

Features	India	Britain
Parliament	Bi-Cameral	Bicameral (National Assembly and Senate)
Legislative Powers	Parliamentary Supremacy	Only a list is given to parliament rest others president makes laws
Political System	Political Homogeneity	Concept of Cohabitation- President and PM can be of different parties
Emergency Powers of the President	Limited by Constitution and need to be passed by the Parliament	• President assumes unlimited power
Separation of powers	A basic structure	• Legislature is subordinated to executive
Amendment	Blend of rigidity and flexibility	• Highly rigid, 3/5 th Majority

President

1. **The French President is the most powerful** within the French system as well as amongst all other executive across world democracies
2. Privileges of the Office of the President of US, i.e. security of tenure and being the **head of the Government as well as head of the State** is combined with the privileges of the Office of the British P.M. i.e., **power to dissolve the Assembly (which the American President doesn't enjoy)**
- **France has PM as well as President:-** French PM, unlike that in India and Britain, is assistant to the President. There is a division of functions, rather than

Election of President

- Directly Elected
- Universal adult suffrage
- To officially **be a candidate**, contenders must, among other things, be **nominated by at least 500 elected representatives (e.g. mayors, deputies)**.
- **if no candidate wins over 50% of the vote, a second round is organized- in second round only top two candidates are entered in voting.**

PM Vs Prez in France

PM is appointed by the President. The President doesn't have a completely free-hand in PM's election. The person appointed as PM must enjoy the confidence of the House.

France has PM as well as President:- French PM, unlike that in India and Britain, is assistant to the President.

How Powers are divided b/w PM and Prez?

The **French President deals with foreign policy and national concerns.** The PM, on the other hand, **deals with day to day routine functions of the Government and local domestic issues.**

Other Features

- A situation where the President and the PM belong to different political parties
- PM may choose his cabinet colleagues. None of the members of the Govt. can be a part of the legislature
- **Cabinet is presided over by the President.**
- The **Lower House** can pass the '**Censure Motion**' against the PM and his CoM, which would imply **that they must resign**
- **The President is elected for a fixed term.** Initially, the term **was 9 years, reduced to 7 years and at present is 5 years.**

Legislature of France: Bicameral- **National Assembly and the Senate**

- **National Assembly: 577 deputies** who are directly elected for a **term of five years** in **single-member constituencies**
- Government is **Responsible to National Assembly only**
- In the case of disagreement with the Senate, **the Government can decide to grant the National Assembly “the final say”** in the legislative procedure (except for constitutional acts and institutional acts concerning the Senate);
- **Financial Bills and social security financing bill** can be introduced in national assembly itself.

Senate

- In contrast to the National Assembly, **the Senate cannot be dissolved**
- **If president resigns then the president of Senate is appointed to discharge his duties**, till new election is conducted.

Other Pointers

- **The Legislature is clearly subordinate to the Executive in the French system.** Article 37 of the Constitution puts clear limitation on the legislative power of the French Parliament.
- It mentions that the **Parliament can make laws only on the matters enumerated in the Constitution.**
- On all other matters, the government can make laws by simple order or decree.
- The **President can directly influence the legislative functions of the assembly through the P.M.**
- If the assembly doesn't agree to a particular bill, it can be given for **referendum by the President.**

Amendment

- Rigid process
- **Both the Houses of Parliament have to pass a resolution by 3/5th majority.**
- The President may also choose to refer the amendment to people by referendum.

Borrowed from French Constitution

- Republic and the ideals of liberty,
- Equality and Fraternity

India and Canada

Features	India	Britain
Judiciary	Appointment by Prez on Advice of Collegium	By Governor General on advice of PM and Law minister
Kind of Government		The Supreme Court of Canada is the highest court and final authority on civil, criminal and constitutional matters.
		They serve until the age of 75.
House	Bicameral	<ul style="list-style-type: none">• Bicameral (House of Commons and Senate) (The Senate consists of 105 members, appointed by the Governor-General on the advice of the Prime Minister.

Canadian Constitution

- Federation with a strong Centre,
- vesting of residuary powers in the Centre,
- appointment of state governors by the Centre, and
- advisory jurisdiction of the Supreme Court

Irish Constitution

- Directive Principles of State Policy,
- nomination of members to Rajya Sabha and
- method of election of president.

Feature of Constitution	India	UK	USA	Japan	France
Written/Unwritten Constitution	Written	Unwritten	Written	Written	Written
Flexible/Rigid	Both	Flexible	Rigid	Rigid	Rigid
Unitary/Federal	Federal with Unitary Bias	Unitary	Federal	Unitary	Unitary
Parliamentary /Presidential Democracy	Parliamentary Democracy	Parliamentary Democracy	Presidential Democracy	Parliamentary Democracy	Quasi Presidential and Quasi Prime ministerial
Sovereignty of Parliament	Supremacy of Constitution	Supremacy of Parliament	Supremacy of Constitution		Parliament Subordinate to President
Republic/Monarch	Republic	Constitutional Monarchy	Republic	Constitutional Monarchy	Republic
President	Ceremonial		Real Executive		Executive
Election of President	Indirect		Direct Election	Direct Election	Direct Election
Dual Citizenship	Not	Not	Yes	Recognised	Recognised
Fundamental rights	Yes	Not Expressly Given	NO	Yes	Yes
Due Process of Law/Procedure established by Law	Procedure Established by Law	Rule of Law	Due Process of Law		



Thank You!!

