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CHECKS AND BALANCES SYSTEM AND THEIR LARGER POLITICAL EFFECTS IN THE USA, THE UK AND FRANCE

Abstract

The article explores the political systems of the USA, UK, and France, focusing on their institutional structures and balance of power among branches. In the USA, power is divided among Congress, the President, and the Supreme Court, with clear delineations of authority outlined in the Constitution. Congress holds significant legislative power, while the President's authority is more limited and subject to congressional oversight. The judiciary interprets laws and the Constitution, ensuring adherence.

In contrast, the UK operates under an unwritten constitution, with Parliament, the Prime Minister, and the Supreme Court as key institutions. Parliament, consisting of the House of Lords and the House of Commons, holds legislative power, while the Prime Minister wields considerable influence, responsible for executing party plans. The judiciary's role is constrained compared to the US, as laws passed by Parliament supersede judicial precedent.

France has a written constitution and a unique political system, with power vested in the National Assembly, the President, and the Constitutional Council. The executive branch, led by the President, holds significant influence, with the Prime Minister acting as a proxy. The legislative branch, while bicameral, tends to be dependent on the executive, potentially compromising checks and balances.

Overall, the institutionalist approach considers how political systems are shaped by various groups and influences. The USA's system limits group influence through horizontal separation of powers, while France's system is vulnerable to majority authority due to direct elections of the executive branch. In the UK, power is indirectly concentrated in the Prime Minister's hands, with occasional criticisms of majority authority. Each country's political system reflects its historical and cultural context, with varying degrees of checks and balances.

Keywords: *political system, balance of power, Westminister system, majority authority, branch of government, direct elections*

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Yoxlama və balans sistemi və onların ABŞ, Böyük Britaniya və Fransada geniş siyasi təsirləri

Xülasə

Bu məqalədə ABŞ, Böyük Britaniya və Fransanın siyasi sistemləri onların institusional strukturları və hakimiyyətlər bölgüsü nəzərə alınmaq araşdırılır. ABŞ-da Konstutsiyada təspit olunmuş səlahiyyətlər üzrə hakimiyyət Konqres, Prezident və Ali Məhkəmə arasında bölüşdürülür. Konqres əhəmiyyətli qanunvericilik səlahiyyətinə malikdir, prezidentin səlahiyyətləri isə daha məhduddur və Konqresin nəzarəti altındadır. Məhkəmə hakimiyyəti isə qanunları və Konstitusiyanı şərh edir bütövlüyün təmin olunmasına nəzarət edir.

Böyük Britaniya yazılı olmayan konstitusiya tətbiq olunmaqdadır və əsas qurumlar Parlament, Baş Nazir və Ali Məhkəmədir. Lordlar Palatasından və İcmalar Palatasından ibarət parlament qanunvericilik səlahiyyətinə malikdir, Baş nazir isə partiya planlarının icrasına cavabdeh olan əhəmiyyətli təsirə malik şəxsdir. Parlamentin qəbul etdiyi qanunlar məhkəmə presedentini əvəz etdiyi üçün məhkəmə sisteminin rolu ABŞ ilə müqayisədə məhduddur.

Fransada hakimiyyətlər bölgüsü Milli Assambleyaya, Prezidentə və Konstitusiya Şurası arasında aparılmışdır və bu konstitutsiyada öz əksini tapmışdır. Prezidentin rəhbərlik etdiyi icra hakimiyyəti əhəmiyyətli təsirə malikdir, Baş Nazir isə etibarlı tərəfdaş rolunu oynamaqdadır. Qanunvericilik qolu ikipalatalı olsa da, icra hakimiyyətindən asılı olmağa meyllidir.

Ümumilikdə, institusionalist yanaşma bizə siyasi sistemlərin müxtəlif qruplar və təsirlər tərəfindən necə formalaşdığını öyrənmək imkanı verir. ABŞ siyasi sistemi hakimiyyətlərin üfüqi bölünməsi yolu ilə qrupların təsirini məhdudlaşdırır, Fransa siyasi sistemi isə icra hakimiyyətinin birbaşa seçilməsi səbəbindən çoxluq hakimiyyətinə qarşı həssasdır. Böyük Britaniyada hakimiyyət dolayısı ilə baş nazirin əlində cəmləşib və ara-sıra əksəriyyət hakimiyyəti tənqid olunur. Hər bir ölkənin siyasi sistemi onun tarixi və mədəni kontekstini hakimiyyətlər bölgüsü üzərində müxtəlif dərəcədə əks etdirir.

Açar sözlər: *siyasi sistemlər, vestminister sistemi, çoxluğun hakimiyyəti, hakimiyyətlər bölgüsü, birbaşa seçkilər*

Introduction

Checks and balances system is a historical product of the political philosophy which one is applied into the modern democracies, especially in their antecedent the UK, France, and the USA. In this paper, I am going to discuss check and balance and separation of power for all three given states. After the clear explanation of the mechanism of the system, the comparison will be made for the conclusion.

USA.

In the United States of America legislative, executive and judiciary power is vested according to one of the smallest Constitution of the world as following, Congress, President and Supreme Court. Their main duties are explained by the Articles, 1, 2, 3. USA Constitution in comparison with other two democratic states are clearer with defining the core elements of a branch of the government. Legislative body – Congress – is divided into the two parts, House of Representatives and Senate, those representatives are elected by qualified citizens of the country. The bicameral legislature has an enormous right which is enumerated in the Article 1, Section 8, such as to regulate commerce with foreign countries, to establish post roads, to state war, to raise and support Armies. Either Senate or House of Representatives has a sole power of impeachment.

When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two-thirds of the Members present.

In contrast to the legislative body, the executive branch of the state that is elected direct votes of the population has fewer rights and should act with the consent of Congress mainly in all circumstances. He has a power, with the advice and consent of the Senate to make treaties. President should appoint an ambassador, other ministers, and Councils, Judges of Supreme Court again by and with the Advice and Consent of Congress. On the other hand, President time to time should inform Congress about annual affairs and in extreme cases might be removed from office in extreme cases such as treason, bribery or other high Crimes (France Constitution: France's Constitution of 1958 with Amendments through 2008, 2017).

Judicial Power influence covers whole cases we from constitution to laws and treaties. The Supreme Court have original jurisdiction on Ambassadors, public Ministers, Consuls, and for all others appellate Jurisdiction.

The United States Constitution allocates power horizontally among the three branches of government (Hawkins, Bast, 2010). Governments are divided to the three branches, and they

interplay with each other regarding with the lawmaking process, both locally and federally. Legislature regarding the public issue could make statutes but before execution Supreme Court should interpret and decide possibility of applying statute for adjusting problems. All statutes which are accepted by the president or legislative branch may be specified invalid by both federal and state courts if it conflicts with the Constitution of the country.

Executive body have a right to shape political game with proclamations and executive orders. President may deny legislative documents with veto right and to override veto, legislative body should vote with sufficient votes. President influences on legislation with informal way through funding and publicity. However, at the end, all legislations which are initiated by President became interpreted by federal courts (Knapp, Wright, 2017).

Supreme Court judges are appointed by other political branches for the end of the life. President appointments must be ratified by Senate.

Separation of power and check and balance history of America is about her historical creation – period of colonialism. Historically, separated states of the America had been regulated by governors which are appointed by Crown after the capture. Each governor performed his execution as an oligarchy, instead of being chosen by the council, he selected its members. This process was carried another step with the creation of an elected assembly in 16I9, the first representative legislature in America (Wright, 1933: 171).

Extension of effects of English and French philosophers on the fulfilling of the division of powers in America is less clear, but this is obvious that works of publicist played a significant role in the formulation process of the system and constitution itself. Between I776 and the formation of the national Constitution in I787 each of the States, except Connecticut and Rhode Island, adopted at least one constitution (Wright, 1933: 176).

UK.

British model of the political system has many differences with the USA, but there exist proxies also. Referring to constitution, it is not possible to define role of branches for UK, due to unwritten constitution. UK legislative, executive and judiciary power are vested as a following, House of Common, Prime Minister and Supreme Court of the United Kingdom.

As in the United States legislative body is bicameral body with 659 members, which consist of House of Lords and House of Commons. House of Lords or upper house are appointed by the Queen and has very few capacities to influence decision of the parliaments. The last time that they played a significant role in British politics was in 1910 when The House of Lords blocked a high-spending welfare budget passed by the House of Commons (Kopstein, Lichbach, 2017: 2). Legislative body should submit itself general election which occurred once every 5 years. In the UK, in contrast to the USA, parliament not a legislation initiator body but mostly dealing with voting and discussion of plans which is derived by prime minister.

The prime minister, who is coming from winning party after the election, is accountable to the parliament and should be listened in the Parliament for political accounting each week. He is responsible for executing party plans regarding with the external and internal policy (USA Constitution: US Government Publishing Office, 2016: 6).

In the USA both federal and state courts can override legislation that violates Constitution. In the UK, Judicial branch has the limited role to intervene political process of Westminster. Lack of written constitution and bill of rights prevent reference ability of the court. Any act that is passed in three readings by the Commons and Lords and signed into law by the queen supersedes all preceding laws and precedents and must be implemented by the judiciary (Kopstein, Lichbach, 2017: 2).

As mentioned before, Congress has impeachment right for every action that occurred by President, and sometimes it brings deadlock for US government. However, the UK, and other common law jurisdictions, the executive and legislature are closely entwined (Benwell, Gay, 2017: 3). Prime minister is both head of the executive branch and legislative body as winning party leader and that makes him more effective.

In comparison with the USA totally, British model is not understandable through the legal documents, such as constitutions which define roles of each branch very accurately. But an explanation of system merely laying within the history. One of the burning documents in the UK history was Magna Carta, which is used nowadays as basic documents by the judicial system. Parliament had been settled by Oliver Cromwell, against the King, to defense rights of the feudal (Watts, 2003).

France.

Whereas the United States has had only one constitution with 26 amendments in two hundred years, France has experimented with three monarchies, two empires, and five republics, as well as 13 written constitutions, during the same time period (Kopstein, Lichbach, 2017: 2). In contrast to USA, and UK, France has the specific constitution and a unique political system. Last small amendments to the last constitution were held in 2010, and since 1958 keep in force. As a USA constitution French one is preferable to understand not only duties of the branch of the government, but also procedure that exists among the bodies. In the France legislative, executive and judiciary power are vested as a following, National Assembly, President, and Constitutional Council (9).

The executive body has the huge influence in the interplay among the bodies, such as dissolvent of the assembly (Article 12), make referendums (Article 11). Additionally, a president is responsible for setting political agenda for an elected 4 years. Prime minister of the government and other civil and military servants' posts are filled by appointment of the President (Article 13). When the majority is favorable, the president can, as it were, manipulate the government machine from outside. In France, president hearings in parliament are not imaginable as happened in the UK each week, or president acts are not able to be prevented by the judiciary branch, as usually observed in the USA. Appointed prime minister generally is proxy to the president and responsible for national defense and implementation of legislation (Article 21) (Madison, J., Hamilton, A., Jay, 2001).

National Assembly, as a legislative branch is a bicameral system, consist of Senate which is elected indirect suffrage and National Assembly that members shall be elected by direct suffrage (Article 24). Parliament decides, discuss and could make a legislation regarding with the national education, state budget expenditure, system of ownership, amnesty, civil rights, the independence of media (Article 34) (Yoho, 1995: 587-605).

If the general functions of a democratic parliament are to play a major role in initiating legislation, to oversee the executive branch, and to represent its given constituencies, then the French legislative branch tends to fall short on all counts (Kopstein, Lichbach, 2017). Despite these broad spheres of activity, in crucial situation parliament depend on the president of the government who can deadlock process with Senate. Either prime minister or members of the parliament has a right to in state law. As in the USA, declaration of war should be ratified by Parliament (Congress in the USA) (Article 35).

Judiciary body - Constitutional Council in comparison with USA and UK, has not much right to involve to the checks and balances system and operated under the control of the executive body. Because of the republican tradition in France was hostile to the judiciary as agents first of the monarchy and then of counterrevolutionary regimes, the judicial branch has overall been subordinated to the executive branch (Kopstein, Lichbach, 2017: 2).

Conclusion – Institutionalist Approach for Comparison.

Institutionalist approach emphasis on the institutions that exist in the society, which shape political system, affect population choice and define the role of the branches. The main question for institutionalists is how political system influenced by political or non-political groups? How can the state defend itself against fluctuation?

In USA, effect of groups on the check and balance system is very limited due to horizontal separation of powers that exist not only in the central administration though also within the states. Majority authority has been one of the discussion points on the Federalist Papers, after the adoption of Constitution. Especially, in the federalist No. 10 by the James Madison, give attention to public and personal liberty, unstable governments, conflicts of rival parties. Madison understood claims

about ruling system – "that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority (Knapp, Wright, 2017: 2). For a solution for strong state, he defend constitution and put forward the idea, that, huge number of citizens and broad territory which exist under the republican form of government would prevent combinations of the majoritarian authority.

France political system is more vulnerable than her counterparts in term of majority authority because of direct elected executive branch - president who also not responsible for accounting on the parliament. Both parliament and legislative body are elected direct suffrage of population, which bring with itself powerful executive control over the judiciary. Parliament that consists mainly left and right parties' members mostly dependent on the executive branch plans. On the other hand, for most of the 170 years between the Revolution and the establishment of the Fifth Republic in 1958, France suffered from a lack of consensus about the nature of the régime under which the country should be ruled (Knapp, Wright, 2017: 2). Subgroups such as church, social classes, conservatives have their own view on the regime type for country.

Conclusion

In the Westminster system, power is accumulated in the hand of the Prime Minister, indirectly. He is coming from, elected parliament of the country which is mainly dominated by Conservative, Labor and little sized Liberal Party members. Criticism for majority authority on the check and balance system time to time sounded in the UK political environment. When this is done prime ministerial power can be seriously circumscribed and dependent on the circumstances of the time (Watts, 2003: 80).

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