
BALANCING POWER: A COMPREHENSIVE ANALYSIS OF THE RELATIONSHIP BETWEEN THE JUDICIARY AND PARLIAMENT ACROSS DEMOCRATIC SYSTEMS

Kholmatov Yulchi Abjalil oqli

Republic of Uzbekistan, Tashkent city Tashkent State Law University
Master's degree and part-time education Advocacy course 1st year student

Abstract:

This extensive article dives deep into the multifaceted relationship between the Judiciary and Parliament. By drawing from diverse global experiences and international standards, we aim to shed light on the delicate balance of power and mutual interactions that underpin the proper functioning of democratic systems. The article examines the roles, responsibilities, powers, challenges, controversies, and debates that shape these two pillars of democracy.

Keywords: Judiciary, Parliament, Interdependence, Global perspective, International Standards, Parliamentary Sovereignty, Judicial Review, Democratic Balance, Constitutional Custodianship, Judicial Activism.

Introduction

The foundations of democracy rest on a tripartite division of power—among the Executive, Legislature, and Judiciary. These institutions, each independent yet inextricably interwoven, form the structure of democratic governance (Lijphart, 2012). The focus of this exploration is the intricate relationship between the Judiciary and Parliament. This connection signifies an intriguing balancing act of power and responsibility, observed in various forms worldwide (Bickel, 1962).

Roles and Responsibilities

Parliament

Parliament, an elected body, holds the mandate to create laws that govern a nation, representing the collective voice of its citizens (Russell, 2001). Its role in proposing, debating, and enacting laws makes it a critical entity that mirrors societal norms, expectations, and aspirations (Griffith, 2001). This representation, coupled with its law-making authority, bestows it with considerable power and responsibility.



Judiciary

In contrast, the Judiciary is responsible for interpreting these laws, ensuring their consistent application, and safeguarding the fundamental rights of citizens (Hirschl, 2004). The Judiciary stands as the ultimate arbiter of the constitution, providing the final interpretation of the laws passed by Parliament (Tushnet, 2005). This role paints the Judiciary as the guardian of the constitution, entrusted with the responsibility to protect and uphold constitutional principles.

Interdependence and Interaction: A Global Perspective

The interaction between the Judiciary and Parliament can be visualized as an intricate dance, with both partners maintaining their rhythm while respecting each other's space. This delicate equilibrium is a ubiquitous feature in democratic systems worldwide (Stone Sweet, 2000).

Parliament holds the authority to make laws, and the Judiciary interprets and applies these laws in individual cases. This interaction births a sturdy system of checks and balances. Democracies like the United States and India empower the Judiciary with the right of 'judicial review,' allowing it to strike down laws deemed unconstitutional (Whittington, 2007).

Conversely, the principle of parliamentary sovereignty, predominant in democracies such as the United Kingdom, grants Parliament the ultimate authority in law-making. While the Judiciary can scrutinize the constitutionality of these laws, it cannot overturn Parliament's legislative power (Waldron, 2006).

International Standards and Diverse Experiences

Across the globe, the dynamics between the Judiciary and Parliament are shaped by myriad factors, including constitutional frameworks, historical legacies, and societal contexts. While the essence of this relationship – a system of checks and balances – remains consistent, the mechanisms employed to maintain this equilibrium vary significantly.

The Venice Commission, an advisory body of the Council of Europe, plays a key role in outlining international standards related to democratic institutions. In its "Report on the Rule of Law," the Commission recognized the principle of judicial independence while acknowledging the legislative sovereignty of the Parliament (Venice Commission, 2010). The report articulates guidelines on the functioning of the judiciary, the appointment and dismissal of judges, and the relationship between the judiciary and other branches of government. These standards act as a compass



guiding countries to structure their judiciary-parliament relationship while respecting their unique constitutional and historical contexts.

Several countries have navigated this intricate balance with distinct approaches:

United States

In the United States, the relationship between the Judiciary and Parliament (Congress in the U.S. context) is shaped by the Constitution's separation of powers doctrine. The U.S. Supreme Court, through judicial review, can deem legislation passed by Congress unconstitutional. This power of judicial review, established in the landmark case *Marbury v. Madison* (1803), equips the judiciary with a powerful tool to check the legislature (Whittington, 2007). It has led to significant court decisions affecting civil rights, federal-state relations, and the scope of executive power.

United Kingdom

Contrasting the U.S., the United Kingdom operates under the principle of parliamentary sovereignty, where the Parliament is the supreme legal authority. The judiciary in the U.K., while having the power to interpret legislation, does not have the authority to strike it down. Instead, it can issue a "declaration of incompatibility" under the Human Rights Act 1998, highlighting a conflict between a statute and the U.K.'s human rights obligations. However, the final decision to amend the law rests with the Parliament, thus preserving its legislative sovereignty (Waldron, 2006).

Germany

Germany's Federal Constitutional Court presents a unique case. The Court developed the practice of "proportionality," a doctrine that balances conflicting constitutional rights when ruling on laws passed by the Bundestag, the German federal parliament. The principle of proportionality involves an assessment of whether the means employed by a law to achieve a specific goal are suitable, necessary, and commensurate. This mechanism provides a nuanced approach to resolving conflicts between legislative actions and constitutional rights (Kommers & Miller, 2012).

India

India's Supreme Court, drawing inspiration from both the U.K.'s parliamentary sovereignty and the U.S.'s judicial review, has carved a unique path. The Court has



the power of judicial review, and it has actively used this power to uphold fundamental rights. Over time, the Court has even reviewed and struck down constitutional amendments, asserting its role as the ultimate arbiter of the Constitution (Bhatia, 2016).

These diverse experiences illuminate the breadth of approaches to maintaining the balance between the Judiciary and Parliament. While the delicate equilibrium may tilt towards parliamentary power in some nations and judicial authority in others, the shared goal remains the same: to uphold the rule of law and protect democratic values.

Maintaining the Balance: Controversies and Debates

The equilibrium between Parliament and the Judiciary is crucial for upholding the rule of law and facilitating smooth democratic operations. However, this balance is often the epicenter of global controversies and debates.

The concept of 'judicial activism' has drawn both criticism and support. Critics argue that the Judiciary, by invalidating laws passed by democratically elected Parliaments, risks undermining democratic processes. However, proponents of judicial activism assert the necessity of such oversight to curb potential abuses of parliamentary power (Rosenberg, 2008).

Conclusion:

The relationship between the Judiciary and Parliament paints a complex landscape of power, responsibility, and checks and balances. Maintaining this delicate equilibrium is a prerequisite for the robust functioning of democracy. The resilience of this relationship, often tested by internal friction and conflict, is a testament to the strength of democratic systems designed to accommodate and resolve such discord. Recognizing and preserving this balance is pivotal for the long-term health of democracies worldwide.

References:

1. Bickel, A. M. (1962). *The Least Dangerous Branch: the Supreme Court at the Bar of Politics*. Bobbs-Merrill.
2. Griffith, J. A. G. (2001). *The Politics of the Judiciary*. Manchester University Press.
3. Hirschl, R. (2004). *Towards Juristocracy: The Origins and Consequences of the*



-
- New Constitutionalism. Harvard University Press.
4. Kommers, D. P., & Miller, R. A. (2012). *The Constitutional Jurisprudence of the Federal Republic of Germany*. Duke University Press.
 5. Lijphart, A. (2012). *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. Yale University Press.
 6. Rosenberg, G. N. (2008). *The Hollow Hope: Can Courts Bring About Social Change?* University of Chicago Press.
 7. Russell, M. (2001). *Building New Labour: The Politics of Party Organisation*. Palgrave.
 8. Stone Sweet, A. (2000). *Governing with Judges: Constitutional Politics in Europe*. Oxford University Press.
 9. Tushnet, M. (2005). *The New Constitutional Order*. Princeton University Press.
 10. Waldron, J. (2006). The Core of the Case Against Judicial Review. *Yale Law Journal*, 115(6), 1346-1406.
 11. Whittington, K. E. (2007). *Political Foundations of Judicial Supremacy: The Presidency, the Supreme Court, and Constitutional Leadership in U.S. History*. Princeton University Press.
 12. Venice Commission (2010). *Report on the Rule of Law*. Study No. 512 / 2009. Strasbourg: European Commission For Democracy Through Law (Venice Commission).
 13. Bhatia, G. (2016). *The Transformative Constitution*. HarperCollins.

