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# A CRITICAL STUDY ON FEDERAL AND STATE COURTS OF THE UNITED STATES OF AMERICA

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## ABSTRACT

Constitution of United States of America came into force on September 17<sup>th</sup>, 1787 after conflicting views, heated debates and difference in ideas. Prior to the same, Articles of Confederation, 1781 is the governing document, lacks enforceability and it imparted weak central government without executive and Judiciary as a result, states in United States of America operated like individual countries. Concerned with the same Justice James Madison articulated for revised Constitution and as a result, Philadelphia in the year 1787 proposed “Virginia Plan” suggesting to form three branches of Government legislative, executive and Judiciary and outlined the need for bicameral legislation. In 1787, Constitution of United States of America came into force. It bifurcated the US court system into two i.e., Federal and State courts and it further divided subordinate courts in its individual branches. Having two set of court system it been difficult to demarcate the boundaries in dealing the cases and to ensure separation of powers, to identify policy making boundaries. United States of America being federal and complete democratic country it implies different policy implementation barriers. This paper seeks to critically study the difficulties in federal and state courts of United States of America.

**Keywords:** Federal court, subordinate courts, Constitution, Bicameral legislation, Executive.

## CHAPTER- I:

### 1. INTRODUCTION:

The federal system of Government that decentralises the power of governance between the central and state and federalism is considered as basic structure of American Government. The government structure is not centralized in USA it divided its powers between federal, state and local governments. There are fifty states in USA and all of them have different constitutions, separate laws and flags. It pertains to many confusions in bringing state laws as it conflicts with individual laws of state. Similarly, several laws including gay and lesbian marriages and age limit for using alcohol differs from state to state<sup>1</sup>. The United States Constitution establishes Judicial branch, which consist of District Court or trial court, Circuit Court or first court of appeal and Supreme Court<sup>2</sup>. And state courts are divided into trial court, court of intermediate appeal and court of last resort or state Supreme Court. The structure of federal and state courts exhibits notable differences, not only between the federal and state judiciary but also among the various states themselves. While federal and state courts typically function independently, there exists no absolute separation between the two judicial systems. State courts often adjudicate matters pertaining to state law, whereas federal courts address issues related to federal law. This, complexity paves way for confusion in selecting forum for redressal of disputes. This paper seeks to critically study the challenges faced in selecting Jurisdiction in complex court system, policy making boundaries and implementation barriers.

#### 1.1 RESEARCH QUESTIONS:

1. Whether the Federal system of Governance paved way of effective Justice?
2. What impact does judicial independence in federal courts have on the interpretation of constitutional rights, and how does this compare with the influence of state courts?
3. How do federal and state courts interact when issues of jurisdiction and concurrent authority arise, particularly in cases involving constitutional rights and state law?
4. Whether the policies made by the federal and state courts is implemented against all

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<sup>1</sup> Introduction to federal court system, <https://www.lawteacher.net/free-law-essays/constitutional-law/the-federal-system-of-government-constitutional-law-essay.php>, accessed March 23<sup>rd</sup>, 2026

<sup>2</sup> US. CONST. art III

implementation barriers?

5. How does judicial review in federal courts is leading to Judicial over reach and its impact in states with contrary laws?

## **CHAPTER II: HIERARCHY IN FEDERAL AND STATE COURTS**

### **2.1 HISTORICAL DEVELOPMENT OF FEDERAL COURTS:**

Articles of Confederation is the legal governing document prior to U.S. constitution but it lacks its regularity power having lack of executive and Judicial structure. After enforcement of U.S constitution another issue raised in regard to set up Judicial structure. As a result, the federal judiciary moved promptly after the Constitution was passed. Judicial organization was the first of the new Congress's main concerns when it met in 1789. Senate Bill 1 discussion featured many of individuals and areas of contention as the judicial debates at the Constitutional Convention. The issue arose once again was that whether the federal claims be considered in state courts first or should lower federal courts be established at all. As the result Congress was divided into two groups in an effort to settle this dispute.

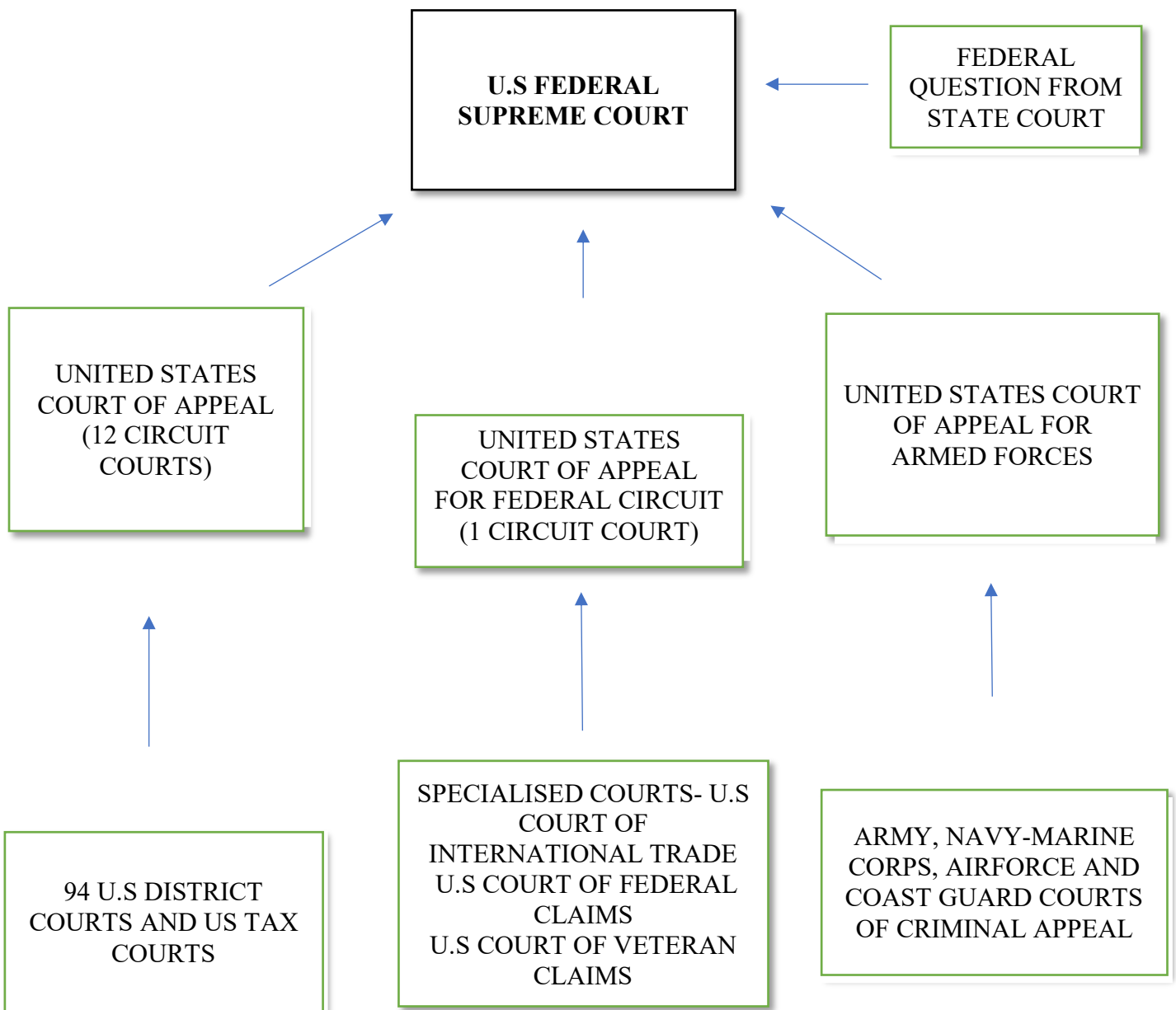
One group, which believed that federal law should be adjudicated in the state courts first and by the U.S. Supreme Court only on appeal, expressed the fear that the new government would destroy the rights of the states. The other group of legislators, suspicious of the parochial prejudice of state courts, feared that litigants from other states and other countries would be dealt with unjustly. This later group naturally favoured a judicial system that included lower federal courts.

The law that emerged from this debate, the Judiciary Act of 1789, set up a judicial system composed of a Supreme Court, consisting of a chief justice and five associate justices; three circuit courts, each comprising two justices of the Supreme Court and a district judge; and 13 district courts, each presided over by one district judge. The power to create inferior federal courts, then, was immediately exercised. Congress created not one but two sets of lower courts.

While federal and state courts typically function independently, there exists no absolute separation between the two judicial systems. State courts often adjudicate matters pertaining to state law, whereas federal courts address issues related to federal law. Nonetheless, state courts are also empowered to hear a variety of federal law claims, and there are instances where

federal courts may apply state law. Furthermore, federal courts possess the authority to review decisions made by state courts that may be at odds with the U.S. Constitution or federal statutes. “Individual” is the top most priority in American society that is any policy devised would firstly think how it actually benefits the individual living inside the American state.

**FEDERAL COURTS:**

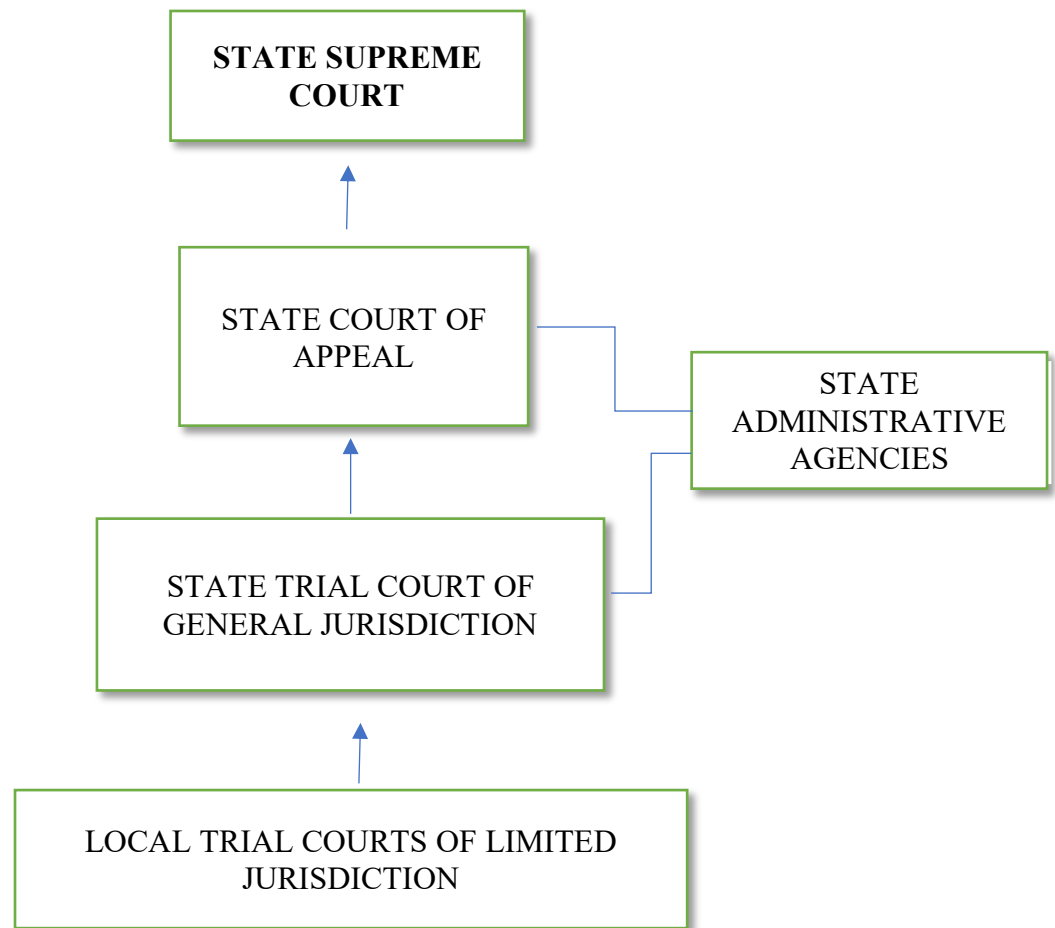


## **2.2 HISTORICAL DEVELOPMENT OF STATE COURTS:**

The Historical perspective of State Courts can be traced from colonial period. These are non-constitutional courts and no two states are hard to have three tier court system as that of Federal system of Judiciary. During colonial period Governors acted as legislature and highest redressal authority, underneath them local judges including magistrates and Justice of peace. During this period grand and petit Juries introduced. On 18<sup>th</sup> century, legal education started to develop and in early American revolution (1775-83) the real conflict between legislature and Judiciary started to arise, where Legislatures supported debtors and Judiciary started to support creditors leads to abolished specific courts. From the period of Civil war (1861-1865) to 20<sup>th</sup> century industrialisation and Urban development emerged and importance of agrarian society developed and as a new strategy multiple geographical courts in different societies and subject matters emerged and it paved way for dispute between different state courts on overlapping jurisdictions. Early in 20<sup>th</sup> century, people began to protest against fragmentation of courts and the program of reforms started for unification movements and it divided court system into four court of general jurisdiction, court of limited Jurisdiction, court of appeal and court of last resort. The people of both the State governments and the federal government are both made up of individuals. As per Article 1, Section 10, Clause 3(18) of the US Constitution states that the Central government has the ultimate power over defence and diplomacy<sup>3</sup>.

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<sup>3</sup> Vidushi Joshi, Comparative Analysis of Federalism in India v. USA, International Journal of Advanced Legal Research (AJALR), Vol III, p.2582.



**CHAPTER III: JURISDICTIONAL ISSUES IN FEDERAL AND STATE COURTS:**

**3.1 JURISDICTION OF FEDERAL COURTS:**

**3.1.1 DISTRICT COURT:**

District courts have original Jurisdiction over trying civil and criminal cases having federal question of law. Any party can appeal before court of appeal or Supreme court but the first resort is to approach the district or trial court. Unlike court of appeal, the trial court don't have to frame policies the basic objective of the court is to enforce norms of public importance. The facts of the case are usually determined by the Juries in criminal cases<sup>4</sup> and civil cases<sup>5</sup>.

The grand jury is a group of men and women convened to determine whether there is probable cause to believe that a per son has committed the federal crime of which he or she has been

<sup>4</sup>Section 2, Judiciary Act, 1789, 6<sup>th</sup> Amendment

<sup>5</sup>Section 2, Judiciary Act, 1789, 7<sup>th</sup> Amendment

accused. Grand jurors meet periodically to hear charges brought by the U.S. attorney. Petit jurors are chosen at random from the community to hear evidence and determine whether a defendant in a civil trial has liability or whether a defendant in a criminal trial is guilty or not guilty. Federal rules call for 12 jurors in criminal cases but permit fewer in civil cases. The federal district courts generally use six-person juries in civil cases.

**CRITICAL ANALYSIS:** The Jury includes common people and it lacks justice to parties that common elderly people of the society deciding the facts in criminal trial and taking evidence for civil trial.

### **3.1.2 COURT OF APPEAL:**

By Judicial Act of 1789, the circuit courts were established each consist of two judges from Supreme Court and one Judge from district court and they usually deal with cases of appeal from district courts. The circuit Court Act, 1802 was passed and in addition new circuit courts got established and stated that the court shall be presided by single district Judge which turn consequently implied the cases are dealt by same judge in both federal and state courts. On March 3<sup>rd</sup>, Evarts act, 1891 was passed, which mandates that the decision of appellate courts will be presided by one Supreme Court Judge, one circuit court Judge and one district court Judge. The next step in the evolution of the courts of appeals came in 1911. There are now 12 regional courts of appeals, staffed by 179 authorized courts of appeals judges. The courts of appeals are responsible for reviewing cases appealed from federal district courts (and in some cases from administrative agencies) within the boundaries of the circuit. A specialized appellate court came into existence in 1982 when Congress established the Federal Circuit, a jurisdictional rather than a geographic circuit.

The court basically has Grand Jury and Petit Jury who are selected from Voting List and it is their obligation to decide the facts in criminal cases and to take the evidence in civil cases to decide whether it is prima facie case or not. Having no knowledge with regard to judicial procedures and legal education it ultimately leads to injustice for parties who genuinely have the problem to get resolved. And when the case is decided prima facie it moves the docket for screening process and submission of written and oral arguments. Maximum of only fifteen to twenty minutes is granted for the parties to deliver the oral arguments. And the judge will decide on this matter.

Another issue that arises during process is that the circuit court basically comprises of three Judges and what if all the three judges have different opinions. In such a case the En Banc proceeding (old French term means high seat) will proceed in which the Circuit Court will have sitting with all circuit Judges and the majority opinion will be the decision in a particular case. It is close to impossible to bring all the twelve Judges in a single forum practically.

## **POLICY MAKING –**

Most of cases from district courts are reviewed under the court of appeal for two important objectives:

1. For error corrections- Judges from different court of law shall be called in interpret and correct the errors in decisions of district courts. In doing so, the courts of appeals do not seek out new factual evidence, but instead examine the record of the lower court for errors. In the process of correcting the error, the court of appeals also settle disputes and enforce national law.
2. The second function is sorting out and developing those few cases worthy of Supreme Court review. The circuit judges tackle the legal issues earlier than the Supreme Court justices and may help shape what they consider re view-worthy claims. In comparison, the federal government of the United States is more decentralized, giving each state more autonomy and power. The US Constitution gives state governments considerable authority in areas like social welfare, health care, and education<sup>6</sup>.

### **3.1.3 SUPREME COURT OF USA:**

It is the only constitutional court in USA, and it basically deals with resolving disputes between two different states, disputes between federal and state laws and cases involving foreign citizens. It hears appeal from military court and court of appeal involving civil and criminal cases. Originally no appeal can be brought before the Supreme Court of United States when the decision is made before the last resort of appeal in State court. But it has exception by filing writ of certiorari, in which the review and seeks to send the complete record of case from lower

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<sup>6</sup> Dhruv Goel, Federalism in India and USA: A Comparative Analysis, *Indian Journal of Integrated Research in law*, Vol III, 6.

court and this power of Supreme Court is Discretionary in Nature and it happens only in rare cases. Another important power of the Supreme Court is that, the lower court can ask for certification regarding any federal question of law. The main disputes between the forums arising during dispute between state laws and dispute between federal and state law in other words dispute in diversity and concurrent Jurisdiction. In concurrent Jurisdiction both the federal and state courts have the ability to try the cases.

### **3.2 JURISDICTION OF STATE COURTS:**

The state court Jurisdiction is divided on the basis of three important levels i.e. Infractions (least serious offence), felonies (most serious offence) and misdemeanours (more serious offences). The court system is divided into Trial Courts with general and limited Jurisdiction, court of appeal or court of intermediate appeal and finally the Court of last resort or State Supreme Court.

#### **3.2.1 TRIAL COURT OF LIMITED JURISDICTION:**

Limited to minor cases and it also includes Peace Court, Magistrate Court, Municipal Court, City Court and Juvenile Courts and it deals with both civil and criminal cases. In criminal cases it basically deals with Infractions and misdemeanours and it has the ability to impose fine not more than \$1000 and jail sentence up to 1 year. It also handles cases in civil nature having limited jurisdiction over traffic violation, domestic violations and Juvenile cases.

**CRITICAL ANALYSIS:** This court lacks infrastructure and usually takes place in hotels, restaurants and it is not recorded, the Judges don't have formal legal training, lacks resources and in case either of the party wishes to make appeal on the decision, appeals lie in the trial court of general Jurisdiction ("de novo"- a new trial). Since the proceeding is not recorded the case will be heard as hearing first time as a result the very purpose of the trial court with limited Jurisdiction gets defected and consequently at the end have no value and time consuming and labour waste.

#### **3.2.2 TRIAL COURT OF GENERAL JURISDICTION:**

Handle cases of serious with more serious criminal and civil cases and it has subject matter Jurisdiction over civil and criminal cases, matrimonial, probate and it also hear cases challenging administrative policies. The court is further divided in Rural and Urban areas. In

rural areas it holds courts in different parts of the territory and in Urban areas Judges will hold court in prescribed place throughout the year.

### **3.2.3 INTERMEDIATE COURT OF APPEAL:**

They hear appeals from lower trial court and typically review appeals on issues like legal errors, improper procedures or misinterpretation of laws but they generally do not re-examine the facts of the case. The court does not retry the case or consider new evidence, rather it re-examines whether the trial court correctly applied the law and whether the proceedings were fair.

### **3.2.4 COURT OF LAST RESORT OR STATE SUPREME COURT:**

This court is the court of last appeal in state level and it typically has the jurisdiction to review the legality of cases involving state laws. It has same power as that of U.S Supreme Court. It has typically three to nine Judges from states and they have good discretion over deciding the case suitable for resort. The litigants are supposed to submit their oral arguments and written submission. Then, upon reaching a decision, the judges issue written opinions explaining that decision.

**CRITICAL ANALYSIS:** Nearly 99 percent of the work load is within the State courts and it greatly impacts the public policy. In 1970s number of cases brought before the federal court challenging the constitutionality of state laws is more due to conflict of laws. In *San Antonio Independent School District v. Rodriguez*<sup>7</sup>, the unequal distribution of sums by the state Government was challenged and ultimately resulting in racial discrimination between the children. Litigants were instructed 28 times in 24 states. But only in fourteen states the State Supreme court invalidates them, the state method of financing education and thus requiring the reallocation of billions of dollars.

### **3.3 CONFLICTING JURISDICTIONAL ISSUES:**

Even though the court has separate jurisdictions and independent judges to deal cases in central and state level, they exist a jurisdiction called concurrent and diversity jurisdiction where the real conflict usually arises. In concurrent Jurisdiction both the state and federal holds Jurisdiction to deal with the matter and it ultimately leads to conflict between the courts and

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<sup>7</sup>In *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973)

laws to be applied. In diversity Jurisdiction the U.S Supreme Court faces heavy dilemma in deciding cases involving conflict of laws between two or more states.

For example, death penalty is legalized in one state and it was abolished in another state and if 'A' committes an offence in three different state, which law shall be applied and what punishment shall be made is highly controversial question and its complexity leads to injustice to either of states. The conflicting Jurisdictions are dealt as follows:

### **3.3.1 DISPUTE BETWEEN FEDERAL AND STATE LAW:**

The Supremacy clause states that “it establishes that the Constitution, federal laws and treaties are the Supreme law of the land<sup>8</sup>” and it follows the doctrine of pre-emption in general sense of deciding the cases.

Federal Pre-emption: It basically states that federal overrides the state laws as provided under the constitution of United Sates of America. It basically divided into two types i.e. field emption and conflict emption. Field emption is when the federal law occupies an entire field of regulation and it leaves no room for applying the state laws. Conflict emption is basically that it is impossible to comply with both federal and state laws or where the state law stands as an obstacle for the accomplishment and execution of federal laws and its objectives and consequently get invalidated to the extent it actually conflicts with the federal law.

**CRITICAL ANALYSIS:** This Supremacy clause also leads to shortcoming for the states genuinely implementing the policies for public goodness including health and safety of public and also declares certain labour laws, environmental laws and consumer protection laws implemented for welfare as unconstitutional and sometimes the Federal Supreme Court overreach its power to domains in which legislation is still to be enacted and conflicts with legislative domains. In *Arizona v. United States of America*<sup>9</sup>, the Federal Court ruled that partes of Arizona controversial Immigration laws were pre-empted by federal immigration laws because it conflicts with federal authority to regulate immigration.

Anti-Injection Act, 1887: The main aim of the Act is to restrict the power of the Supreme Court interfering with the matters involving the conflict between the federal and state laws. It restricts

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<sup>8</sup> Article VI, clause 2 of United States of America Constitution

<sup>9</sup> *Arizona v. United States of America*, 567 U.S. 387.2011

the federal Supreme Court to interfere and stop the proceeding by passing injunction. It exclusively gives rights to the state courts to deal with matters involving federal laws.

**CRITICAL ANALYSIS:** On one hand the Supremacy clause and in another hand anti injection act, it more of conflicting domains and the act itself to be declared as void, violating Constitution of United States of America. In *Gonzales v. Raich*<sup>10</sup>, under federal law possession of marijuana is federal crime but several states legalized marijuana for medical and recreational purposes, creating conflict between the states. In this case, California declared legalisation of possession of marijuana for medical purposes. The USA federal Court declared the legalisation void has conflict with the federal law. In *Obergefell v. Hodges*<sup>11</sup>, certain state laws are conflicting having in one state legalisation and illegal in another state this conflict brought before the U.S Supreme Court, the court held that same sex marriage as legal and further stated that it is the constitutional right of every citizen.

### 3.3.2 JURISDICTIONAL CONFLICT IN CROSS BORDER CRIMES:

Criminal activity that crosses state border or involves multiple Jurisdiction can lead to conflicts over which jurisdiction the case shall be prosecuted. For example, in case of human trafficking, drug trafficking and other organised crimes. For example:

If 'A' is suspected for indulging in across multiple crime such as human trafficking in such a case 'A' can be prosecuted either in state court or federal court.

The real problem arises when the criminal defendant faces multiple charges over different Jurisdictions resulting in conflicting sentence or conflicting legal procedures. And federal court may allow certain kinds of evidence such as antecedents of the criminal shall be taken into consideration or certain kinds of expert testimony shall be used against the criminal but individual states may exclude based on local rules, creating legal discrepancies. This creates conflict consequently results in biased opinions and decisions.

### 3.3.3 DISPUTE BETWEEN STATE LAWS:

Article IV, section 1 of U.S Constitution deals with "Full Faith and Credit Clause", the primary objective of the article mandates that each state must recognize the public Acts, records and

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<sup>10</sup> *Gonzales v. Raich*, 545 U.S. 1 (2005)

<sup>11</sup> *Obergefell v. Hodges*, 576 U.S. 644 (2015)

judicial proceedings of each state i.e. Judgement of one state must be generally respected by each of other states in United States of America. The traditional method to resolve the conflict is “Lex Loci Contractus”, the jurisdiction of the court is where the contract has been made and in “Lex Loci delicti”, the jurisdiction of the state court lies over the place in which the wrongful act is committed in case of tortious wrong.

The other principles used to resolve the dispute is doctrine of ‘Comity and Reciprocity’, provides discretion to state court to recognize the decision of other state courts and other mechanisms include case by case analysis, determination of location of parties, subject matter in dispute and interest of the parties shall be taken into consideration for deciding the state law which shall be applied. And in cases in which more than one states is getting affected, the state whose greater interest is affected shall be taken into consideration.

**CRITICAL ANALYSIS:** It greatly affects the companies and business entities incorporated in more than one state having different incorporation and registration procedures, imposition of tax, leading to inconsistency. The pitfalls of states having different conflicting laws are

- a) Lack of uniformity
- b) Forum shopping and manipulation- The plaintiff shall appear before the court that he would get favoured decision, denying the opportunity of the defendant and it greatly undermines fairness and leads to manipulation of legal system.
- c) Inconsistent outcome in similar cases especially in the cases of contracts like difference in punitive damages.
- d) State applying its own law shall lead to interstate dispute shall lead to fragmentation in legal system, making it difficult to achieve uniformity in areas that may benefit from national regulations.
- e) Complexity and confusion between litigants, creates greater hardship for litigants for approaching the higher forums for appeal especially for business entities and individuals.

## CHAPTER IV: JUDICIAL REVIEW AND JUDICIAL RESTRAINT IN USA

### 4.1 JUDICIAL REVIEW:

“The judicial power shall extend to all situations, in law and equity, arising under this Constitution, the United States' laws, as well as the, and the treaties made or to be formed, under this authority.”<sup>12</sup>

The concept of Judicial Review emerged in the United States of America in the year of 1803 in the case of *Marbury v. Madison*<sup>13</sup>. The doctrine of Separation of Powers is emerged for making centre of checks and balances that no branch exceeds its constitutional authority enshrined between congress, executive and judiciary. In order to ensure validity of legislative measures made by congress and executive actions i.e. to protect civil rights guaranteed under the constitution and Civil Rights Act, 1964 and also to ensure checks and balances between three organs of Government this concept emerged. “It does not support or oppose any legislative policy, according to Chief Justice Marshall. Its delicate and difficult task is to decide whether legislation complies with or violates the provisions of the Constitution, once that is accomplished, its work is done”. The concept of Judicial review is not restricted to only scrutinization of federal and state laws its scope is wider in perspective and keeps away the interference of political influence ensuring fairness and protects the public welfare. The main object of Judicial review in administrative actions takes place

- a.) To scrutinize the intention of legitimate exception
- b.) To scrutinize the rationality
- c.) To identify the jurisdictional error
- d.) To understand the rationality and proportionality
- e.) To determine the propriety of procedure<sup>14</sup>

In USA the Judges aggressively review the statute and will reject the legislation if founds to be

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<sup>12</sup>U.S. Const. Article III, Section 2

<sup>13</sup> *Marbury v. Madison*, 5 U.S. 137 (1803)

<sup>14</sup> Jaimin Zaveri, The idea of Judicial Review in USA and India, Vol.5. IJRPR, 4961, 4962-4966, April (2024)

inconsistent with the constitution, philosophy, due process clause and common law principles.

#### **4.2 JUDICIAL RESTRAINT:**

Advocates limited Judicial intervention in matters that primarily will lead to intervention of Judiciary in other branches domain. Judicial review greatly protects the will of the people and Judicial review has high risk of political influence and unelected external forces. In order to protect the rights of other domains and to stop Judicial overreach its quite important for the Judiciary to have control over its body or judiciary must restrain itself from others domain.

In the case of *Windsor v. United States of America*<sup>15</sup>, in this particular case the defence of Marriage Act (DOMA) and same sex marriage was challenged, the court scrutinized the definition of marriage and declared the Act as unconstitutional stating that marriage is not narrowed between men and women and it held it also include same sex marriages and all benefits shall be availed to couples of same sex marriages.

**CRITICAL ANALYSIS:** Under 5<sup>th</sup> Amendment which states equal protection is guaranteed to all citizens even though it lacks legislation at that time, even though at that particular period there was no legislation or amendment which recognised same sex marriages.

In the case of *Pentagon paper case*<sup>16</sup>, the key issue is about freedom of Press and Government Secrecy. The New York Times published certain documents about United States of America involvement in Vietnam war. The Supreme Court of USA held that it is the exclusive right provided Under 1<sup>st</sup> Amendment guaranteed to the press and held the state cannot prevent the same by enacting any legislation,

**CRITICAL ANALYSIS:** The Judiciary extended its power over and protected the interest of the press and guaranteed the freedom of expression as guaranteed in the US Constitution and emphasised it over the national security which is great threat for social security. Judicial restraint in USA is a failed mechanism in this aspect.

So, the Judicial review and Judicial restraint must go hand in hand to ensure balance between protection of rights of the citizens and to have effective control of Separation of powers and one should not enter into the domain of others. Arbitrary power exercised by any organ must

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<sup>15</sup> *Windsor v. United States of America*, 570 U.S. 744 (2013)

<sup>16</sup> *New York Times co v. United States*, 403 U.S. 713 (1971)

be avoided for fair and equitable Justice.

### 4.3. USAGE OF PRECEDENT AND ITS NEGATIVE IMPLICATIONS

Sources of law in United States of America includes law, custom, precedents and common law principles. Precedents or Stare Decisis mandates the court to apply law of higher court in same manner in that of lower court. Under the USA Constitution, any law made by the Federal Supreme Court and Court of Last resort in state court shall be binding on all the lower courts and State courts and the court shall apply the law in same manner of that of Federal Supreme Court. But sometimes it consequentially leads to inconsistent application of law or wrong application of law since the higher court made such policy. Having areas of inconsistency between the federal and state laws it is very difficult to implement policies made by the higher courts. And in certain cases, the courts use precedents irrespective of its legal errors over a period of many years. For example, criminal procedures and sentencing principles varies from state to state and it becomes unpredictable in application of law.

In *Roe v wade*<sup>17</sup>, in 1969 one Mc Corvey who was pregnant of her third child challenged the Texas Anti-Abortion law challenging and claimed that she was raped. The State Court decided that she cannot abort the child without giving birth unless the women life is in danger. And the same case also filed by another Gorgein women. The U.S. Supreme Court finds that the state abortion laws are more rigid and violates the rights of privacy guaranteed to every citizen<sup>18</sup>. And three categories are brought as policy in abortion law.

1. The absolute right for abortion for first trimester (first three months)
2. Right of abortion in second trimester is any state regulation allows
3. No right to abortion states to restrict or ban abortions in the last trimester as the foetus nears the point where it could live outside the womb and established that in the final trimester, a woman can obtain an abortion despite any legal ban only if doctors certify it is necessary to save her life or health<sup>19</sup>.

This case was overriding by another case only after fifty years in another important case in the

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<sup>17</sup> *Roe v wade*, 410 U.S. 113 (1973)

<sup>18</sup> Abraham L. Davis, Barbara Luck Graham, *The Supreme Court, Race and Civil Rights* 164 (1995)

<sup>19</sup> *Roe v Wade: What is US Supreme Court ruling on abortion*, BBC, 24<sup>th</sup> June,2022

year of 2022 in *Dobbs v. Jackson Women's Health Organisation*<sup>20</sup>, the U.S. Supreme Court reviewed the Mississippi's Gestational Age Act, 2017, which actually banned abortion above fifteen weeks with an exception of any medical emergencies or fetal abnormalities. This case overruled the earlier *Roe v Wade* case and gave importance to rights of unborn child and further held no federal constitutional right to an abortion only after fifty years.

**CASE ANALYSIS:** Above mentioned former case was found reasonable on one hand and the same was adopted as precedent for more than 50 years. In later case, it took over the rights of women over unborn child rights and it impliedly forces women including rape victims to give birth to the child irrespective of moral principles and privacy rights.

In landmark Judgement of *Plessy v Ferguson*<sup>21</sup>, the issue in this particular case, an act was passed mandating to provide separate train cage for blacks and white and one Mr. Plessy an African American on his train travel has refused to sit in separate cage for black. The SC held controversial Judgement that it upheld the constitutionality of segregation by applying the principle of "separate but Equal.

The court Subsequently in the case of *Brown v. Board of Education*<sup>22</sup>, this case is the consolidation of five cases in which the doctrine of "separate but equal" was challenged and all are affected De Jure institutional discrimination due to black skin. The brown case was a class action suit firstly and this case was filed in US District Court of Kansas. Here the petitioner is a parent of a child who was denied to get admission in elementary school, which was near to her house. The court upheld the doctrine of Separate but equal. On appeal to United States Supreme Court held that in the field of education no discrimination shall be made and it is violative of equal protection clause under 14<sup>th</sup> Amendment and also held there shall be no doctrine of equal but separate in educational institutions. Racial discrimination is still a controversial topic in United States of America.

**CASE ANALYSIS:** The most inseparable discrimination in USA is racial discrimination. The court arbitrary adopted the doctrine of separate but equal, which itself is unconstitutional for a period of eighty years. The court lacked in proper interpretation of constitution which mandates

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<sup>20</sup> *Dobbs v. Jackson Women's Health Organisation*, 597 U.S. 215 (2022)

<sup>21</sup> *Plessy v Ferguson*, 163 U.S. 537 (1896)

<sup>22</sup> *Brown v. Board of Education*, 347 U.S. 483 (1954)

no discrimination.

#### 4.4. INFLUENCE OF MEDIA AND PUBLIC OPINION

In United States of America public opinion and media are the key influencers or pressure groups in any implementation of policies. The political system of complete democracy placed a negative impact where people metaphorically sit in the position of Judges and decides cases and influences them in discussion making process being biggest barrier. And being complete democratic media are allowed to sit in court rooms.

In *Obergefell v. Hodges*<sup>23</sup>, which legalized same-sex marriage nationwide, was a significant win for LGBTQ+ rights. By 2015, there had been a significant change in the public's perception of same-sex marriage, with surveys indicating a rise in support for marriage equality, especially following years of LGBTQ+ community activity and advocacy.

**Media Influence:** Increased media coverage and awareness of LGBTQ+ issues contributed to this change. The public's perception of same-sex partnerships was altered by the media's representation of LGBTQ+ people and couples, as well as by well-known advocacy and personal accounts. The stories of couples pursuing marriage rights and coverage of well-known LGBTQ+ individuals were crucial in influencing public opinion and forcing the legal system to adapt to changing social norms.

In *Roper v. Simmons*<sup>24</sup>, restricted the use of the death penalty, finding it unconstitutional to execute individuals with intellectual disabilities and minors, respectively. These decisions reflected significant shifts in public opinion about the death penalty and the treatment of vulnerable populations.

**Media Influence:** Public perception of the moral and legal issues surrounding the death sentence was greatly influenced by media coverage of death penalty cases, particularly the accounts of youngsters on death row or people with intellectual disabilities. Growing resistance to the death penalty was influenced by public campaigns and media coverage of erroneous convict which forced the states to make changes in law. This opinion had prompted lawmakers in several states to reconsider and amend their death penalty laws in response to the Court's

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<sup>23</sup> *Obergefell v. Hodges*, 576 US 644 (2015)

<sup>24</sup> *Roper v. Simmons*, 543 U.S. 551 (2005)

decisions.

#### 4.5. CONGRESS INFLUENCE IN POLICY IMPLEMENTATION

Congress may interfere with the application of those policies in a number of ways, even though the Supreme Court of the United States has the authority to interpret the Constitution and render important rulings that influence the country's legal system. Although the Court's decisions have substantial legal significance, Congress has the authority to oppose or postpone the Supreme Court's decisions due to the Constitution's division of powers among the government's branches. The following are some significant ways that Congress can impede the implementation of policies established by the US Supreme Court by following ways

1. The courts frequently have to interpret federal statutes while rendering decisions. Occasionally, the Judicial interpretation may deviate from the intent of a congressional majority. In that case, Congress will amend the act into a new law that essentially overturns the court's original reading. However, Congress has no authority to alter the great majority of the federal judiciary's statutory decisions. For example, Congress played a key role in implementing, the Supreme Court's school desegregation policy by enacting the Civil Rights Act, 1964<sup>25</sup>, which empowered the Justice Department to initiate suits against school districts that failed to comply with the *Brown v. Board of Education* decision.
2. Another way that Congress responds to court rulings is by attacking federal courts generally and certain judges in particular. A member of Congress may launch these attacks verbally, threaten to remove current judges from office. This results in bias and injustice in other party.

Other implementation barriers include resource barriers, technological barriers, funding constraints, social and cultural barriers including systematic barriers, socio economic disparities, lack of public awareness and education. USA being federal state itself an institutional barrier for implementation of policies having federal and different state laws creates disparity and congress make amendments in response of any decision is great threat due process of law. Complex court system with complex law curtailing the principle of fair

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<sup>25</sup> Outline on US legal system, Bureau of International Information Programs United States Department of State, p.165

hearing and implementation of policies made for welfare of citizens. Jury systems adopted are prone to bias and political influences.

## **CHAPTER V: CONCLUSION AND SUGGESTION**

The United States of America like in all other countries has its own written Constitution developed and it has both positive and negative implications. Having two different court system and separate federal and individual laws is always being conflicting in nature and having traditional separation between blacks and whites, influence of congress on policy implementation made by Judges are still unresolved and silent dispute. States applying its own laws shall lead to cold dispute between inter states and it can pave way for fragmentation of legal system and states shall act as individual countries making it difficult to achieve uniformity in areas being great threat to national regulations especially in the field of business activities and criminal disputes. While both systems operate independently, the overlapping jurisdiction in certain cases raises important questions regarding the efficiency, accessibility, and fairness of the legal process. And having different state laws it limited the power of U.S Supreme Court to deals with state matters since the Judges can't be aware of all the state laws. A critical examination of the U.S. federal and state court systems reveals the need for ongoing reforms to streamline processes, ensure uniformity in legal interpretation, and promote access to justice. The evolution of both systems, influenced by changing societal, legal, and political factors, will continue to shape the landscape of American jurisprudence.

### **SUGGESTIONS:**

1. Uniform law can be adopted by Uniform Law Commission of USA especially in areas of contract and commercial disputes.
2. By expanding the scope and adopting the Alternative Dispute Resolution the parties shall resolve the disputes without confusion in choosing appropriate Court of Jurisdiction.
3. Reforms like choice of law reforms shall reduce the confusion and improve fairness to all disputing parties.

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