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# INSTITUTIONAL CONFLICTS IN INDIA: CONSEQUENCES OF HYBRIDIZED SEPARATION OF POWERS

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## ABSTRACT

The separation of powers, a fundamental principle of democratic government, attaches each power to separate organs to enable checks and balances among the legislature, the executive, and the judiciary. The Indian Constitution, however, contrasts with this strict separation in that it presents itself as hybridist in the sense of overlapping functions and sharing responsibilities and interactions between institutions. Thus, a hybridization that provides flexibility also leads to institutional conflicts between policy paralysis or policy gridlock, judicial overreach, and political crises. This paper studies the historical evolution, constitutional provisions, and the practical functioning of the separation of powers in India and gives several case studies of clashing institutions. It argues that while hybridization enhances functional cooperation, if left unchecked, there will be excessive overlaps on the expense of accountability and the rule of law and hence democratic governance. The study delineates the grey areas of structural disarray, interpretative difficulties, and the intrinsic value of political and judicial discretion as an area for reform.

**Keywords:** Separation of Powers, Hybrid Separation, Institutional Conflicts, Checks and Balances, Judicial Overreach.

## INTRODUCTION

### BACKGROUND ON SEPARATION OF POWERS

The separation of powers, in short, represents the principle upon which modern democratic governance rests, having been most famously conceptualized by Montesquieu during the 18th century. At the essence of the doctrine is to prevent the concentration of power in a single authority, distributing the different governmental functions among the three independent branches: legislature for law-making; the executive for policy implementation and administration; and the judiciary for interpreting laws and defending constitutional principles. The conception behind the division was that by creating mutual checks and balances, each branch acts as a counterweight against the other in making them all accountable, thus preventing abuses of power and infringement on individual rights. Globally, this principle finds various modes of implementation, yet at its core remains the same: there should be no single organ that governs the process, with powers being exercised within specific constitutional parameters. The principle behind this division is to establish a system of checks and balances wherein each branch checks the others, demanding accountability and discouraging abuses of power. Worldwide, this principle is followed in different forms, but the essence remains-the process of governance does not let anyone organ dominate, and powers are exercised within certain defined constitutional limits. In the Indian framework, the said doctrine was given concrete form in the Constitution in a slightly modified way to meet the peculiar historical, political, and social realities of the country so that a system would evolve which is neither rigid nor completely flexible.<sup>1</sup>

#### 1.2 Hybridization in the Indian Context

Separation of powers in India is described as a hybrid or partial separation of powers as opposed to absolute. Whereas the classical model envisages clear-cut boundaries between the three branches, the Indian Constitution deliberately allows overlaps and interactions among the organs to ensure the functional governance of a vast, heterogeneous, and pluralistic democracy. For example, in a parliamentary system, the executive is drawn from the legislature, and ministers may hold positions in both branches simultaneously. In the same vein, the judiciary, through Article 13 and 32, reviews legislative and executive actions and

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<sup>1</sup> M Kumarappan, "History of conflict between the legislature and the judiciary" 5(6) *International Journal For Multidisciplinary Research* 1-5 (2023).

intersects with law-making and administrative functions.<sup>2</sup> On the other hand, in their hybrid form, such institutions will be able to cooperate with each other, allowing each to be more flexible, swift in responding to policy needs; but in this respect, it will also cause confusion about where precisely one institutional boundary lines. At times, the scopes of confluence can cause clashes among institutions when interpretive divergences occur concerning constitutional mandates, policy priorities, or the ambit of authority of each branch. Ergo, in the Indian context, the very idea of hybridization presents both a more pragmatic take on the separation of powers and a likely source of institutional friction.<sup>3</sup>

### 1.3 Literature review

The literature highlights Montesquieu's *The Spirit of Laws* (1748) as the foundation of separation of powers, aimed at preventing tyranny and ensuring liberty. However, modern democracies largely follow hybrid models—such as the U.K.'s parliamentary fusion, France's dual executive, and Germany's cooperative federalism—rather than strict separation. India too adopts a hybrid approach, balancing accountability with flexibility, though ambiguities like the Governor's powers, judicial activism, and executive influence over oversight bodies often trigger conflicts. Comparative studies, especially from South Africa and Brazil, show that transparency in appointments and codified conventions help reduce such frictions, underscoring the need for similar reforms in India.

### 1.4 Methodology

The study adopts a doctrinal research methodology, examining constitutional provisions, landmark case laws, and institutional practices in India. It uses textual analysis of constitutional articles, judicial review of cases along with a comparative study of hybrid governance models in the U.S., U.K., France, Germany, South Africa, and Brazil. Through this approach, it critically evaluates institutional conflicts, including executive overreach, judicial activism, credibility issues, and challenges to the independence of oversight bodies.

### 1.5 Research Questions

1. How does India's hybrid separation of powers model contribute to both functional

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<sup>2</sup> Dr. K. Shanthi, Dr. Sukhvindir singh , Dr. Prashant dage “Higher judicial appointments and judicial independence: tussle between judiciary and executive,” 11 *Russian Law Journal* (2023).

<sup>3</sup> Shylashri Shankar, “The judiciary, policy, and politics in India” 70–90 (Routledge, 2012).

governance and institutional conflicts?

2. What lessons can India draw from other hybrid constitutional systems (France, UK, US) to mitigate institutional frictions while preserving democratic accountability?

## 1.6 Importance of Studying Institutional Conflicts

Understanding the institutional conflicts arising out of India's hybridized scheme of separation of powers is of critical importance for several reasons. Firstly, it directly impedes efficient governance; conflicts between institutions result in delay in policy implementation, block decision-making, and engender uncertainty in the process of administration. Secondly, the conflict hence affects constitutional accountability, democratic legitimacy, and the rule of law adversely; if the state actors must choose between an allegedly judicial overreach in policy matters or an executive infringement of legislative power, both put into question the very foundations of constitutional democracy.<sup>4</sup> Thirdly, the study of these conflicts offers an insight into the power dynamics of a hybrid system and brings to the fore the ways in which the Indian institutional design affects political and legal outcomes. Lastly, a study of such conflicts is warranted for formulating proposals that will reduce the level of friction between the institutions while retaining the way they function with flexibility and efficacy.

By looking at historical cases, modern-day crises, and current debates, scholars and policymakers feel that they can better understand how to maintain a balance between independence, accountability, and cooperation among the legislature, executive, and judiciary in India.<sup>5</sup>

## 2. THEORETICAL FRAMEWORK

### 2.1 Classical Doctrine vs. Hybrid Models

In its classical formulation, the separation of powers doctrine, most famously enunciated by Montesquieu in *The Spirit of Laws* (1748), postulates that government functions should be separated into three corporations, legislature, executive, and judicial, acting independently

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<sup>4</sup> Nidhi Singh and Anurag Vijay, "Separation of Powers: Constitutional Plan and Practice" 3(11) *International journal of scientific and research publications* (2013).

<sup>5</sup> Rajkumar Singh, "Dimensions of Indian Judicial Activism," 13 *Cross-cultural Communication* 20–4 (2017).

and free from reprobation or interference by each other in their attires.<sup>6</sup> In brief, the principle was designed to ensure that power did not coalesce in the hands of a single organ, so as to avoid tyranny and ensure liberty by means of checks and balances. But very few contemporary states seem to adhere rigidly to the doctrine. What seem to have emerged are hybrid models that partly emphasize separation and partly interdependence. Hybridization allows certain coordination to overlap between organs of government so that governance is not impaired. For example, parliamentary systems are characterized by a fusion of executive and legislative powers; the semi-presidential system, on the other hand, embraces a dual executive that straddles a half-way position between presidentialism and parliamentarism. India illustrates this hybrid theory where its constitutionally sanctioned separation exists in theory, but necessary overlap has been planned into it as an attempt to strike a balance between democratic accountability and administrative efficiency.

## 2.2 Comparative Perspectives (UK, US, France)

Various types of state powers may unfold under different history of experiences and political need. The US may be viewed as the classical model of rigid separation of powers, where the executive, legislative, and judiciary function as truly independent organs operating under strong checks and balances. Thus, the President is not accountable to Congress, and at the same time, ministers cannot be members of the legislature, ensuring the independence of these two institutions. In contrast, the United Kingdom represents a parliamentary system based on unwritten constitutional conventions, without much idea of separation, shall parliamentary sovereignty reign supreme; the executive (Prime Minister and Cabinet) being drawn from the legislature is really a fusion of the legislature and executive rather than a separation. France, in contrast, under its Fifth Republic offers a kind of semi-presidential system which is a hybrid, in that the President is supposed to have quite considerable powers alongside a Prime Minister who is accountable to the legislature. Ordinarily during cohabitation, the Prime Minister has domestic policy dominance while the President is in charge of foreign and defense policy. The comparative viewpoints illustrate how the doctrine of separation of powers has been variously adapted to suit differing governance needs: strict independence in the U.S., fused powers in the U.K.,<sup>7</sup> and an inter-woven model in France. The comparative viewpoints illustrate how

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<sup>6</sup> Priyanka Goel and Shaheed Bhagat, "Doctrine of Separation of Powers: Global and Indian Perspective" (2014).

<sup>7</sup> Asmita Subhash Gadhave, "A Comparative Study on separation of power in India, UK and USA Constitution" 3(3) International scientific journal of engineering and management 1-9 (2024).

the doctrine of separation of powers has been variously adapted to suit differing governance needs: strict independence in the U.S., fused powers in the U.K., and an inter-woven model in France.

### **2.3 Rationale Behind India's Hybrid Separation**

India's constitutional setup deliberately builds upon a hybridized power separation model and does not adhere to a rigid paradigm. There was the influence of colonial experiences, socio-political pluralism, and the necessity for a strong yet accountable government. In one sense, the Constitution insists on the independence of each organ: Parliament to legislate, the Executive to implement those laws, and the Judiciary to ensure their constitutionality. However, some overlaps were deemed necessary to maintain flexibility and prevent stalemates in a massive democratic setup. For instance, the Council of Ministers is collectively responsible to the Lok Sabha, aligning with the principles of parliamentary accountability. On the other hand, the discretionary powers of the President and Governors bear traces of separation. While the Judiciary enjoys independence, it also employs judicial review to restrain any infringement of the constitution by either legislative enactments or executive directions. The necessity for this merged system was considered vital to India's administration as a strict separation would have weakened administrative competence, whereas uncontrolled fusion would have meandered towards authoritarianism. Thus, India is singular since the separation constitutionally follows Spirit-Matter dualism but theoretically the letters can mix or some balance where-functionally-terminating concepts are lost in split theory.<sup>8</sup>

## **3. CONSTITUTIONAL AND LEGAL BASIS IN INDIA**

### **3.1 Articles Governing the Legislature, Executive, and Judiciary**

According to the Constitution of India, it is these three organs of state that divide power between them: legislative, executive, and judiciary. Now, the executive power of the Union is vested in the President by Article 53, where the President is known as the constitutional head of the State. In practice, however, this power is exercised by the Council of Ministers set up by the Prime Minister, in terms of Article 74, which proclaims that the President shall act in accordance with the aid and advice of the Council of Ministers. Similarly, Article 154 states

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<sup>8</sup> Shriya Singh and Mukund Sarda, "A Study on the Doctrine of Separation of Power of Montesquieu in Reference to Current Plans and Practices," 8 *Advance Research Journal of Social Science* 90–106 (2017).

that at the state level, the Governor shall be the executive authority; but by virtue of Article 163, the Governor will also act upon the advice of the state council of ministers. These provisions ensure parliamentary nature to the Indian executive where real power is vested in elected representatives to claim their democratic legitimacy.<sup>9</sup> On the judicial side, Articles 124-147 establish the Supreme Court of India, while Articles 214-231 provide for the High Courts in the States. The judiciary has constitutionally been given the protection from interference by the executive or legislature, with tenure, salary, and conditions of service being safeguarded for judges, further ensuring independence. The legislature is empowered to make laws for the Union and for the States under Article 249 with respect to matters in the Concurrent List, or in cases where Article 246 otherwise provides for so doing, and if still there is a residual field of legislation, that power will lie with Parliament by virtue of Article 248. The existence of detailed provisions thus in Part V-(Union), Part VI-(States), and Part XI-(Relations between Union and States) ensures that the Indian Constitution attempts to strike a proper balance between functional autonomy and necessary overlaps of these organs.<sup>10</sup>

### 3.2 Doctrine of Checks and Balances in Indian Jurisprudence

While the doctrine of separation of powers is not referred to in the Indian Constitution, it contains the idea of separation of powers in the documents through a system of checks and balances where all the organs of government have the capacity to limit the powers of another organ in order to prevent power from being concentrated in any one body. For example, while law making is vested in Parliament and the state legislatures, the judiciary is entitled to engage in judicial review of the constitutionality of such laws. The judicial review doctrine is a part of the basic structure of the Constitution which was laid down in *Kesavananda Bharati v. State of Kerala* (1973) and affirmed in cases such as *Indira Gandhi v. Raj Narain* (1975). Further, while the executive has wide powers to implement policy, the executive is accountable to the legislative body through question hour, no-confidence motions, and various committees.<sup>11</sup>

Checks and balances also play out internally in institutions. For instance, although the President is the top executive power, the office may not act without the Ministerial Council's

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<sup>9</sup> Asmita Subhash Gadhave, "A Comparative Study on separation of power in India, UK and USA Constitution" 3(3) International scientific journal of engineering and management 1-9 (2024).

<sup>10</sup> Shubhankar Dam, "Making Parliament irrelevant: a postcard from India," 4 *The theory and practice of legislation* 65-78 (2016).

<sup>11</sup> Nidhi Singh and Anurag Vijay, "Separation of Powers: Constitutional Plan and Practice" 3(11) International journal of scientific and research publications 1-5 (2013).

advice, which limits executive decision-making. The judiciary, while generally independent from the executive or legislative branches, is still limited by the principle of constitutional amendment powers which the legislature possesses, although subject to the basic structure doctrine. Even the appointment of judges has also developed a collegium system through the judicial branch itself, evidencing a struggle between the executive and judiciary, presenting a non-static form of checks and balances that is clearly seen in the Indian model. This reflected interlocking artificiality demonstrates a hybridized separation of powers that serves not to fully separate institutions but rather fosters collaboration and mutual restraint amongst institutions and government while keeping each in check under constitutional authority.<sup>12</sup>

## 4. MANIFESTATIONS OF INSTITUTIONAL CONFLICTS

### 4.1 Executive Overreach via Legislative Tools

In India's changing constitutional framework, one of the most important developments can be summarized as the increased assertion of the executive branch's power through legislative means, often described as executive overreach. The legislature is traditionally thought to comprise a deliberative forum to hold the executive accountable, while the judiciary is described as the principal guardian of the constitution. However, the relationship between the legislature and the executive and the other branches has blurred, as seen in recent pronouncements and initiatives to expand executive authority at the expense of the constitution. Recently proposed amendments regarding the disqualification of elected officials from office during pre-conviction detention are direct examples of this blurring. Such amendments propose that elected representatives (i.e., legislators or ministers) be required to vacate their office if they are detained for an extended period of time, even if the court has not secured a conviction. This idea appears to be plausible because it promotes integrity and probity in public service, ensuring persons with serious criminal allegations are not members of government. The larger concern, however, relates to the executive detaining persons for political reasons under the (debatable) code of preventive detention and using the legislation to marginalize political opponents and destabilize coalition government. This introduces a basic separation of powers concern: the executive moves to gain influence over the makeup of legislatures and ministries by connecting a legislative member to a ministerial post through

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<sup>12</sup> Shriya Singh and Mukund Sarda, "A Study on the Doctrine of Separation of Power of Montesquieu in Reference to Current Plans and Practices," 8 *Advance Research Journal of Social Science* 90–106 (2017).



executive controlled detention proceedings.

The move has the effect of eroding the presumption of innocence, allowing for an overwhelming pro-executive shift in power and affecting democratic accountability. It also reduces the role of the judiciary, as the courts reactively assess detentions once political damage has been inflicted, instead of proactively assessing such detentions.

It signals how legislative tools, instead of being real forms of democratic accountability, can be reformed to expand executive power, therefore undermining the essence of constitutionalism. These developments mean, the likelihood of an executive overflowing into legislative functions in a context where separation is already hybridized, heightens the chance of tipping the balance of power toward executive supremacy, thereby threatening the institutional balance envisioned in the constitution.<sup>13</sup>

#### **4.1 Judicial Overreach & Institutional Friction**

Recently, there is more discussion in India about the issue of judicial overreach, especially in cases where the Supreme Court has required constitutional authorities, such as the President or Governors, to provide consent to bills and had also specified timelines for providing such consent. Article 200 and Article 201 of the Constitution allows discretionary powers for the Governor (as does the President, under Article 111) when considering bills that have been passed by the legislature. The intention behind such discretion is not for it to be absolute, nor for the discretion to be for an indefinite period, however, the Constitution does not expressly impose a timeline on the exercise of such powers, and therefore, it has led to considerable delay as well as constitutes a bottleneck with respect to the administration of state in the nation. Such delays have also resulted in the political charge that Governors have acted as federal or/and political agents of the Union executive. Under these circumstances, the Supreme Court has stepped in and invoked its extraordinary powers under Article 142, as means of remedying this issue, through providing its own strict timelines for which Governors or the President must act on bills that have been passed in the respective legislature. On the one hand, the reasoning for intervention is aimed to uphold the spirit of parliamentary democracy in that it prevents

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<sup>13</sup> Neal Kumar Katyal, "Internal Separation of Powers: Checking Today's Most Dangerous Branch from Within," 115 *Yale Law Journal* 2314–49 (2006).

unelected representatives from indefinitely delaying the will of the elected legislature.<sup>14</sup>

Nonetheless, this shift has also generated significant institutional friction. The Union Government, along with several Governors, has vehemently objected to this development, contending that the judiciary is overstepping its bounds by intruding into the executive's domain and changing the constitutional design without a formal amendment. Many contend that by making timelines judicially "read in" when the Constitution is silent, the Supreme Court is revising the Constitution, rather than interpreting it, and thereby impacting the around the separation of powers. The Centre has clearly articulated its views to prevent this judicial encroachment, which it observes as an encroachment on the independence of constitutional offices like the office of the President and the Governor.<sup>15</sup>

The issue reflects a broader dilemma. Judicial activism in the past historically strengthened Indian democracy, and particularly, in its role as a protector of fundamental rights and in keeping the executive accountable—judicial activism raises the underlying question, however, of whether courts are taking on a somewhat quasi-legislative role. The debate, in this sense, evokes the tricky relationship between judicial innovation and judicial restraint and illustrates the tensions that arise within India's hybrid constitutionalism framework, when the question of protecting democracy is often more difficult to agree and define as a role, when limits begin to be crossed.<sup>16</sup>

#### 4.2 Electoral and Oversight Bodies' Structural Shifts

The erosion of independence of electoral and oversight bodies in India's institutional framework through changes in their appointment mechanisms is one of the most significant contemporary issues in India. This has been most hotly debated with respect to the recent amendment to the process through which Election Commissioners and the Chief Election Commissioner (CEC) are appointed. In the case of *Anoop Baranwal v Union of India* (2023), the Supreme Court of India had, in a was first time established a collegium-style selection committee for the Election Commission, consisting of the Prime Minister, the Leader of

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<sup>14</sup> Breakey, H. *Dividing to conquer using the separation of powers to structure institutional inter-relations* 12, Emerald Group Publishing Limited. 29–58 (2014). <https://doi.org/10.1108/S1529-209620140000012005> (Accessed on 1 October).

<sup>15</sup> Rebecca Ananian-Welsh, "Extraordinary powers without judicial oversight: a separation of powers dilemma," 27 *Public law review* 249–54 (2016).

<sup>16</sup> Anne Dennett, "Separation of powers" 7 oxford university press 143–62 (2024).

Opposition in the Lok Sabha and the Chief Justice of India (CJI). This was a momentous step to insulate the Election Commission from executive dominance over the appointment process, thereby putting in place a selection process that would balance the perspective of both ruling and opposition benches, alongside a judicial leg to the selection. This was meant to enhance the credibility of the Election Commission as a neutral constitutional authority, akin to the judiciary, free from political pressure in the appointment process.<sup>17</sup>

The government's legislative action, however, overturned this trajectory of independence in an abrupt and substantial manner. The constitution was amended to replace the Chief Justice of India with a minister from the Union Cabinet, thereby restoring executive control over the selection process. The new composition of this committee is comprised of the Prime Minister, a minister from the Cabinet who was appointed by the Prime Minister, and the Leader of Opposition. This arrangement creates a clear preponderance of the ruling party, relegating the opposition's voice to a mere minority opinion while removing the judiciary from the process altogether. This scenario raises concerns about turning the Election Commission into an executive entity, undermining its status as an impartial arbiter of disputes in the electoral sphere. We should not merely view this as a hypothetical consideration: the independence of the Election Commission is a foundational component to the future of democracy in India, and capturing it by a partisan interest could well threaten electoral integrity, public trust, and democratic legitimacy.

This dilemma represents a recurrent trend in governance institutions, be it the CVC, the CBI or the CAG, in which executive encroachment has steadily increased. Each institution was meant to act as a bulwark against government abuses but have gradually seen shifts in appointments and functioning leaning toward ruling powers. With respect to the Election Commission, the process is particularly worrying given that it strikes at the values of representative democracy: free and fair elections. It raises a larger constitutional question about whether India's hybrid system of government, which fuses parliamentary sovereignty with judicial control and constitutional supremacy can withstand the executive overreach and uphold democratic values.<sup>18</sup>

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<sup>17</sup> Kritika Sharma, "Appointment of Election Commission in India: Legal Issues and Challenges," 7 *International Journal for Multidisciplinary Research* (2025).

<sup>18</sup> Gayatri Sunkad, "The Election System in India," 7 *Journal of Political Sciences & Public Affairs* 1–2 (2019).

### 4.3 Judiciary's Credibility Under Fire

The judiciary in India has traditionally been considered the last bulwark of the Constitution and the most reliable of the pillars of democracy, especially at times when other branches of government are accused of overreach. However, in recent years, the judiciary's esteem has eroded as a result of scandals and accusations of dishonesty, such as the notorious cash-for-bail scandal involving a judge of the Allahabad High Court, in which a sitting High Court judge was accused of taking bribes to issue judicial orders favorable to the bail-seekers. Scandals such as these have a serious and corrosive impact on public confidence, which in turn undermines the judiciary's moral authority to act as a check on the legislature and the executive branches of government. Whereas elected bodies derive legitimacy from the ballot box, the legitimacy of the judiciary relies more heavily on its perceived impartiality, fairness, and incorruptibility. When that aspect of the judiciary's identity is polluted, it undermines public confidence in the judiciary as an institution in the minds of a section of the public, but not unreasonably so. These scandals have an effect that goes beyond reputational damage; they reveal structural weaknesses in the accountability mechanisms of the judiciary, especially with respect to the appointment process, the disciplinary framework, and the lack of transparency in collegium and oversight processes.<sup>19</sup> The judiciary has often argued against regulation from outside the judiciary, which it asserts, only to protect its independence from outside political influence. However, insulating the judiciary has created gaps for opacity and lack of accountability to warrant pressing inquiries, or action, against wayward judges. These issues further aggravate institutional tensions, signalling relationship problems, with other institutions: when the judiciary's own credibility is called into question, their interventions to restrain executive overreach and legislative arbitrariness are more easily tainted as illegitimate or as politically motivated.<sup>20</sup>

Furthermore, such controversies erode India's carefully constructed hybrid separation of powers model, where judicial review is arguably the most important check on any potential abuse of power. When the judiciary is taken to be compromised, the legislature and executive may well feel more liberated to invade into constitutional spaces, under the excuse of judicial weakness or bias. This potentially creates the beginnings of a vicious cycle where institutional

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<sup>19</sup> Judicial Activism as an Essential Tool for the Protection and Expansion of Human Rights in India," 10 *Kutafin law review* 88–109 (2023).

<sup>20</sup> Aayush Kumar and Anirudh Singh, "The Impact of Political Influence and Power on the Indian Judiciary" 9(1) *Indian journal of law and sciences* (2023).

disputes are more about power gathering than promoting constitutionalism. Therefore, protecting the integrity of the judiciary is not only an internal issue, but a constitutional necessity to keep a balance among the three organs of government and allowing India's hybrid separation of powers to continue to function, to protect democracy.<sup>21</sup>

## 5. CONSEQUENCES OF HYBRIDIZED SEPARATION

### 5.1 Governance Inefficiency and Policy Delays

Governance inefficiency and chronic policy delays are among the most salient manifestations of India's separated powers hybrid. While the thesis of the separation of powers rests on clear distinctions among the branches of government, there is no strict separation of powers in India; the executive and legislature are intimately intertwined, while the judiciary has the authority of review at the behest of the other two branches.

This invariably creates an ongoing push-and-pull between branches of power. For instance, the Governors' habitual delay in granting approbation to state bills, or the judiciary's review and dismissal of ordinances passed by the executive would stall the legislative process and impede implementation of the law. The ad hoc nature of a functioning Parliament resulting from the need for coalition politics often leads to an incapacity to proceed with parliamentary proceedings, being either disrupted by members or in walkouts, or debate being stalled or poorly scrutinized prior to the passage of law that may later be subject to legal challenges under constitutional law. Such opportunity loss and delays morph into policy paralysis generating discontent with governance structures and inciting deeper public scepticism of democratic institutions through first-hand acknowledgment of public policy paralysis in health care, infrastructure, and employment, among other critical areas. Accordingly, while hybrid forms of governance aspire to balance powers, it often turns into a hybrid of deadlock and paralysis.

### 5.2 Judicial Overreach and Judicialization of Politics

A second impact is the increasing tendency of judicial overreach usually referred to as the judicialization of politics. The absence of distinct constitutional boundaries has allowed the Supreme Court and High Courts to broaden their authority, particularly through Public Interest

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<sup>21</sup> Proteek Motilal and Swati Kaushal, "Preserving Judicial Independence in India: A Constitutional Critique of the Appointment Process," 7 *International Journal For Multidisciplinary Research* (2025).

Litigations (PIL), to encroach into arenas which should have remained the domain of the executive or legislature. In some cases, such interventions have protected rights and sought to influence behaviours of Government (for example, through Environmental Regulation or electoral reform). On the other hand, it has also resulted in allegations of judges starting to make policy rather than simply interpreting law. For example, the courts have issued directions to stipulate time-lines for Governors' assent to bills or ordered monitoring of policy schemes by the courts. Such interventions run the risk of transforming what is judicial review into the function of governance. This trend can blur the lines of separation of powers as political accountability shifts from elected politicians to unelected judges - creating a scenario where courts have a degree of power in shaping public policy that is disproportionate to their political accountability.

### **5.3 Political Polarization and Erosion of Accountability**

Furthermore, the hybrid model can exacerbate political polarization, which further erodes accountability across the institutions. Generally, under a majority government, dominant executives make the legislative accountability of government actions less intense when the executive is dominant and the legislative accountability is lower, allowing the ruling party to impose contentious policies with insufficient scrutiny. Furthermore, in these instances, the judiciary is often the only checked relied upon, but its decisions, too, become politicized and interpreted through the lens of government support or opposition. This only increases polarization, as now even routine judicial checks become viewed through the partisan scope from which both the government and the courts exist. This leads to a lack of accountability, as now the executive can deflect any criticism, as it can accuse the judiciary of playing the role of government and interjecting itself into an otherwise political process. The judiciary can deflect accountability as well, as it here again frames the decision as one required by broad constitutional principles. Ultimately, while the hybrid model blurs clear lines of accountability, it also makes it nearly impossible for citizens to determine which institution (executive or judiciary) is to blame when a governing body violates the constitution or fails to effectively govern.

### **5.4 Public Perception of Institutional Legitimacy**

Ultimately, the hybridized system influences the public's assessment of the legitimacy of the institution. The public has the expectation that every branch of government will operate in

accordance with its constitutional role— legislatures pass laws, executives carry them out, and the courts interpret them. When governors hold state bills or wait months to sign them, when Parliament passes legislation without appropriate consideration and deliberation, when judges issue broad orders of policy, the public begins to see those institutions as either incompetent or maladaptive.

Likewise, scandals surrounding judicial corruption, misuse of the investigatory crown, or Parliament operating as a rubber stamp rather than a deliberative institution diminishes trust. This presents a dangerous implication that there is no fully independent or trustworthy institution, which endangers the very essence of constitutional democracy. Once citizens lose faith in the neutrality or effectiveness of the institutions, the legitimacy of the democratic system is called into question and erodes stability and long-range governance.

## **6. COMPARATIVE ANALYSIS**

### **6.1 Lessons from Other Hybrid Systems**

The experiences of other hybrid constitutional systems present important lessons for India regarding its distinctive governance model. The semi-presidential system in France is illustrative of the potential benefits and challenges of merging parliamentary and presidential attributes. When actors are aligned politically, the President has preeminent power; when they are misaligned— called “cohabitation,” when the President and majority of parliamentarians are from rival political parties—power-sharing is unavoidable. This can create friction but also ensures that no one institution retains preeminent power. The system in South Africa is another important case; it blends parliamentary institutions and structures with strong constitutional review powers to show how a judiciary can be activist, provided there are transparent methods of jurisdictional appointments and bureaucratic inventory efforts. These systems tell us that hybrid forms can create friction but generate institutional negotiations and cooperation instead of unchecked one institution's authority. After examining these experiences, the Indian system serves as a reminder that advisory hybridization is not inherently dysfunctional but must bear in mind the executive's conditions for mandated power and the judicial capacities to intervene to direct bureaucratic policy outcomes, especially as State-Society claims for governance of public policy converge.

## **How Other Democracies Mitigate Institutional Conflicts**

Other democracies have implemented specific measures to navigate and reduce institutional conflict in hybrid or mixed systems. France has constitutional councils and defined rules of cohabitation to establish proper relationships between the executive and legislature, which can lead to a smoother balance of power. In Germany, as a parliamentary democracy with federal elements, the Bundesrat (upper house) formalizes the voices of the states in national legislation to reduce conflicts between the center and the states and promote cooperative federalism. In South Africa, the independence of the judiciary is legitimized through the transparency of judicial appointments, which is overseen by a Judicial Service Commission, composed from representatives of Parliament, the executive, and civil society, which balances independent accountability. Brazil balances a presidential system like India, with strong judicial review, through reforms of fixed time limits of passage for the legislation and limitations on executive decrees, to avoid institutional deadlock. All of these examples share a formal codification of institutional boundaries, checked the power of the executive, and maintained accountability through, at least, transparency. India, on the other hand, has left many critical grey areas (the role of the Governor, the appointment of judges, the independence of oversight bodies) undetermined or unclarified, thus leading to higher rates of conflict. Using the comparative examples, India could clarify institutional conflict by formalizing established conventions into laws, conducting transparent appointments, and creating formal avenues of dialogue to institutionalize interinstitutional dialogue to resolve conflict. Based on these comparisons, India can lessen institutional conflicts by codifying conventions into statutes, by assuring formalized appointments with clarity, and by establishing stronger points of inter-institutional dialogue, to restore the balance and legitimacy of its system of hybrid separation of powers.

## **CONCLUSION**

This research dives into the intricate dynamics of hybridized separation of powers in India, highlighting how the mix of parliamentary sovereignty, executive dominance, and judicial review has both strengthened and exposed vulnerabilities within the constitutional framework. The framers of the Constitution aimed for flexibility to foster stability in a diverse democracy, but this very flexibility has often led to institutional conflicts. The study reveals that these clashes take various forms: disputes between the executive and legislature over ordinance powers and budget issues; tensions between the judiciary and legislature through judicial



review and activism; and conflicts between the judiciary and executive regarding appointments and contempt matters. Additionally, changes in electoral and oversight bodies, judicial scandals, and the strategic use of constitutional ambiguities by Governors or the Union executive have intensified these conflicts. A comparative look at countries like France, Germany, South Africa, and Brazil shows that hybrid systems don't have to be unstable; they thrive when checks and balances are clearly defined, appointments are made transparently, and accountability mechanisms are strong.