

Comparison of Veto Power of Indian and US President

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ABSTRACT

Manner of election

US president is more or less directly elected whereas the Indian president is indirectly elected. The advantage of the directly elected head of the government is the stability of the government. Unlike Indian Prime Minister American President is not overpowered by the “compulsions of coalition politics”

Head of the State

The US President is both the Head of the State and Head of the Government, whereas the Indian president is only the head of the State. President of the US is the real executive. Indian President like the British monarch is only a titular head.

Term of office

American President holds the office for 4 years and he can seek re-election only once, while the Indian president holds the office for 5 years and is eligible for re-election any number of times.

Responsibility to Legislature

The US president is not part of any legislature and is not responsible to the legislatures. In India, the Parliament includes the President and the two houses- Lok Sabha and Rajya Sabha.

Removal process

Both the American and Indian Presidents can only be removed from the office through impeachment. In India either house can initiate impeachment proceedings against the president and with the concurrence of the other house can impeach the President. In US the power to impeach solely lies with the Senate (upper house).

Emergency powers

Indian President wields huge powers during emergency situations. He can proclaim both external and internal emergencies. Indian President can declare emergency in a state, dissolve state legislature and dismiss the state council of ministers. During financial emergency, he has the power to reduce the salaries of all the government officials including that of the Supreme Court and High Court judges. He has a formidable list of executive, financial and legislative powers which he can exercise on the advice of the cabinet during emergency.

Independence of office

The Indian President needs to act as per the advice of the Council of Ministers (CoM) while discharging his duties. The CoM takes all the decisions pertaining to the affairs of the country and executes them under the President's name.

In the US, the members of the cabinet are not members of the Congress and are not responsible to it. The cabinet members are appointed by the President and they are liable to be dismissed by the President. The American President has the power to determine the policy of his government independently without any external interference.

Veto power

Indian President has comparatively lesser veto power than the President of US. The President of US can veto a bill passed by the Congress. He needs to sign the bill if it is once again passed by two-thirds majority of both the houses.

The Indian President on the other hand can send the bill for reconsideration only once. If the bill is passed again even by a simple majority in the Parliament he is obliged to sign the bill.

Pocket veto

US President can exercise his pocket veto power by not signing the bill for 10 days if he knows the session of the congress will end within 10 days. In such cases the bill dies.

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Indian President can keep the bill for indefinite period as there is no constitutionally prescribed time limit to give his assent. The President can use his pocket veto if the fall of the government appears imminent. However, he has to act as per the advice of the new government and cannot take his own decision if the current government falls. Pocket veto was first exercised by the President Giani Zail Singh with respect to the Indian Postal Bill which was passed by the Rajiv Gandhi government. Subsequently, the new government withdrew the bill in 1989.

State bills

Certain state bills need the previous consent of the president and he possess absolute veto power with respect to some types of state bills. The US President does not have such powers.

Dissolving the legislature

The Indian President can dissolve the Parliament while the US President does not have such powers.

KEYWORDS: Indian, US, veto, power, emergency, head, independence, office, term, manner, election, bills

I. INTRODUCTION

Compare and contrast the veto of the President of India with that of his counterpart in the United States of America. President of India is a ceremonial institution while the American President has real powers. The veto powers of the Indian President are absolute (rejection), suspensive (returning the Bill for repassage after which it is binding on the President to assent to it) and pocket veto which is not giving a decision as there is no time limit for giving the decision. There is a consensus of opinion in India that Presidential veto is exercisable only on the advice of the Council of Ministers (Art.74) as ours is a British type of Westminster system of parliamentary democracy.¹

After the Congress passes a bill, the President may take no action on the bill for ten days. It then becomes law. Congress must be in session for a bill to become law in this way. A bill dies after ten days if the President ignores it while Congress is not in session. It is called pocket veto. Congress cannot override a pocket veto.² Thus, it is an absolute veto. Second, the president can issue a regular veto, sending a message to Congress that the bill is unacceptable. Congress can override a presidential veto when at least two-thirds of both the House of Representatives and Senate vote to do so. The bill becomes law after a Congressional override. 'Veto' in Latin means 'to forbid'. A Presidential veto is a type of constitutional mechanism that authorizes the President of India to refuse assent to a legislative bill that the legislature has passed but not yet finally enacted. When both houses of Parliament pass a bill, it can become an act only if it receives the assent of the President. In the Indian Parliamentary system, the Power of Veto is an executive tool to overrule the acts of legislature by the executive authority. The provisions related to the President and Governors' Veto power are among the most important topics from the perspective of UPSC Prelims, General Studies Mains and Political Science and International Relations (PSIR) optional paper. Time and again, questions have been asked from this section.³

This article will discuss in detail the types of veto powers of the President of India and the comparison between his veto powers with that of the Governor of the state and that of the President of the US.

Objective Behind Veto Power

There are two objectives behind conferring veto power to the President –

- 1) To prevent the legislature from hasty and ill-considered legislation.
- 2) To prevent legislation not in the spirit of the Constitution of India.

Articles of Constitution of India behind Veto Power

Article 111 – When both Houses of Parliament have passed a Bill, it shall be presented to the President for his/her assent.⁴

Article 201 – When a Governor reserves a Bill for the consideration of the President, the President shall declare either that he/she assents to the Bill or withholds assent.

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As per Article 111, the President of India has three types of veto powers when approving bills. For a bill to become a law, it must be passed by both houses of Parliament and receive the President's approval. If, for any reason, the President declines to sign the bill, it cannot become law. The President's veto power aims to ensure that legislation is not rushed or poorly considered and to prevent laws that go against the spirit of the Indian constitution.⁵

II. DISCUSSION

Veto Power of President is the most important power given to the President when considering the parliament bills. The President can use an absolute veto to reject any bill approved by the parliament in both houses or another law-making body. If any bill has to become law or act, then it has to be passed by both houses along with the approval of the President. This right of the Indian President to approve a bill, return it, or withhold their approval on the bill is known as the Veto Power of President.

The President's veto power refers to the President's decision regarding the bill's passage. Absolute Veto, Suspensive Veto, and Pocket Veto are the three types of Veto Power of the President as per the Constitution. In this article, we are going to discuss all types of Veto Power of the President in-depth, the use of the veto, and the Veto Power of the governor as well.⁶

According to Article 111, there are three types of veto powers of the President of India that he can exercise during the bill approval. To become law or act, the bill should be passed by the parliament of India in both houses and have the President's approval; if due, for any reason, the President refuses to sign the bill, then it is not eligible to become law or act.

The objective behind the Veto Power of the President of India is to prevent the legislation from being hasty and ill-considered legislation and to prevent legislation that is not in the spirit of the constitution of India. The Veto power of the President of India allows him/her to refuse assent to a bill passed by Parliament.⁷

Types of Veto Power of President

The President of India possesses limited veto power, which is outlined in the Indian Constitution under Article 111. The President has three types of veto powers:

1. Absolute Veto Power
2. Suspensive Veto Power
3. Pocket Veto Power

The different types of veto powers vested in the President of a country typically serve various objectives. Veto Powers of the President are designed to safeguard constitutional principles, ensure proper scrutiny of legislation, maintain a balance of power, and prevent the enactment of potentially harmful or unconstitutional laws.

Absolute Veto Power of Indian President

The President exercises absolute power when any bill is presented to him after getting approved by the parliament and refuses to approve or reject it. Therefore, it will not lead the bill to become law or act. When the Absolute Veto of the President is used, the bill becomes stagnant and dead because even after it is passed in the parliament, it does not get the President's Assent.⁸

Cases in which the Absolute Veto Power of President is used:

1. When the parliament passed the private member bill.

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2. If the cabinet resigns before getting approval from the President, the bill gets rejected because the new cabinet will not demand to pass the bill left by the old cabinet.
3. India used Absolute veto power earlier. For example, Dr. Rajendra Prasad used it in 1954, and K Venkatraman used it in 1991.

Suspensive Veto Power of President

Under the Suspensive Veto, the President sends back the bill to the parliament for reconsideration. Still, if the parliament repeatedly proposes the same bill to the President without making any amendments, the President will have to pass that bill.

- This advantage is not given to the state legislature where, if state legislation represents the bill with or without amendment, the President can again withhold its approval or refuse to approve the bill under Suspensive Veto power.⁹
- President follows only an ordinary majority, not a higher majority while considering the bill. The Suspensive Veto Power of President cannot be used on the money bill.

Pocket Veto Power of President

In Pocket Veto, the President can withhold the bill presented to him by the parliament for an infinite time without telling reason or rejecting it, if he does not want to act upon it. For better understanding, the president can use the Pocket Veto in India and keep the bill in their pocket without taking action.

- But the US president does not have such an option of Pocket Veto; they must return the bill within 10 days to the parliament. So unlimited time benefits are only for the Indian President. The Pocket Veto Power of President was also used in the past by Giani Zail Singh in 1986
- The President cannot use this power regarding the Constitutional Amendment Bill. This bill cannot be withheld from the President for any reason; the President has acted upon it quickly.¹⁰

Veto Power of Indian President of India Article

Under Article 111, veto power article, power is provided to the President regarding approving a bill when the parliament has passed it. President has three choices related to the bill.

- President can accept the bill
- President can withhold the bill
- President can return the bill
- And if parliament sends the bill again, the President has to accept the bill.

Suspensive Veto Power as per Article 111

If the President thinks parliament is violating constitutional law by making a bill, he can return the bill for reconsideration to parliament. The President cannot refuse to accept and approve the bill if it is of the constitutional amendment.

Pocket Veto in India: As per the pocket veto power meaning, the President can withhold the bill presented to him for an infinite time, which means the President can keep the bill with him as long as it won't if he does not want to act upon it.¹¹

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Types of Veto Power for Bill

President can use the veto power for approval in a different bill:

Type of Bill	Veto Power of President
Ordinary Bill	President has three choices 1) He can accept it 2) He can withhold it 3) He can return the bill
Money Bill	The President has the following choices – He can accept it – He can keep it pending – He can not return the bill; This bill cannot be returned for reconsideration.
Constitutional Amendment Bill	President must accept it

Qualified Veto Power of President

The difference between the power of Indian & American Presidents is that the President of the US has more veto power than the President of India, whereas India's President has only three types of Veto Power. The US president has four veto powers; the President of the US has qualified veto power as the fourth power.¹²

What is a Qualified Veto Power of President?

- In these cases, if the President sends back the bill to the parliament for reconsideration, then the parliament sends it back to the President with a special majority to override the President's veto power.
- The Indian President does not have any time limit within which they have to return the bill, but the President of the US has to return it within ten days after the parliament presents it.

Use of Veto Powers of President

Following are some instances when the Veto Power of President of India was exercised as per the constitution.

Use of Absolute Veto Power of President

Rajendra Prasad used it in 1954; he withheld the consent for the PEPSU appropriation bill, although the parliament passed the bill but revoked presidential approval. R Venkataraman withholds the sales allowance and pension of a member of the parliament bill.¹³

Use of Pocket Veto Power of President

Absolute Veto Power of President was used by President Zail Singh, who exercised power to withhold the bill because the bill has caused so much criticism as it violates the right to freedom & speech of the press. Gyani Zail did not take

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any action on the Indian post office amendment bill and withheld the bill with him for so long, exercising the Pocket Veto.

Use of Suspensive Veto Power of President

Suspensive Veto Power of President is the power in which the President sends the bill back to the parliament for reconsideration. If Parliament sends the bill again, then they have to approve it. While K Venkatraman used suspensive veto power in 1989 to send the India post office bill back for reconsideration, the national front government dropped the bill.¹⁴

Examples Related to Veto Power of President

Here are some examples related to the veto power of the Indian President:

- The speaker of Tamil Nadu has asked for the time frame within which the President should return the bill for reconsideration, which the governors reserved.
- Sometimes the governor reserved the bill for a very long period rather than passing it to the President; unlike in a constitutional provision, the governor should return them within a particular time frame limit.
- Governor is also taking months to reserve the bill for the President, although they need to send it immediately to the President. It affects the authority of legislation and the governors given by the union government.¹⁵

President Veto Power over State Legislation

Bill framed by state legislation can only become an act if the President passes it with the majority of the parliament. Article 200 & 201 gives the power to the governor to reserve the bill to get the President's approval. Although the President can withhold the bill, accept it, or send it for reconsideration, and if the parliament sends it again, the President has to accept the bill. But in the cases of state legislation, the president is not bound to approve even if they send the bill again to the President. According to article 200, the President has four choices in all

- To approve the bill
- To withhold the bill
- To return the bill for reconsideration
- To reject the bill altogether.

Veto Power of the Governor

The Governor can only reserve the bill if it derogates and endangers the high court's position; it means the governor can keep the bill to himself if it derogates the position of the High Court.

- Governors can reserve the bill to get approval from the President, and in many bills like the property bill, bills related to impositions of Taxation in India, and some others.
- Once the President reserves the bill, the governor has no role in it.
- Any bill sent by the state legislature to the President for approval, and if he returns the bill, and if the state again sends the bill,¹⁵ Then the President can again send it back to the state, withhold it, or reject it. So it shows that states do not have the power to override the president's veto power.

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Veto Power of President UPSC

The inclusion of the “Veto Power of President” in the Polity Syllabus for UPSC holds immense significance as it highlights a critical aspect of India’s constitutional framework. The President of India, as the head of the state, possesses the power to veto or withhold assent to certain bills passed by the Parliament.

Understanding the importance of veto power is crucial for aspiring civil servants, as it provides insights into the system of checks and balances within the Indian political system. By covering this topic from the right UPSC Polity Books, aspirants gain a comprehensive understanding of the President’s role in ensuring the constitutional validity and appropriateness of legislation.¹⁶

III.RESULTS

One of the most important topics specially from the Prelims perspective. Each and every minute detail and concept becomes very important for the exam. We have tried our bit to make it as interesting as possible.

The power of Veto refers to the power of the executive to override any act of the legislature. This is a very special privilege. Veto power can of the following types –

1. Absolute Veto – Withholding of assent to the Bill passed by the legislature.
2. Qualified Veto – Which can be overridden by the legislature with a higher majority.
3. Suspensive Veto – Which can be overridden by the legislature with an ordinary majority.
4. Pocket Veto – Taking no action on the Bill passed by the legislature.¹⁷

Article 111 in India’s Constitution governs the Veto powers of the President. It states that “When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare

Either that he assents to the Bill, or

That he withholds assent therefrom

The subsequent provision moderates this discretion: The President may return the Bill “as soon as possible” to the Houses with a message to reconsider it.

However, if the Houses enact the Bill with or without amendments and present it to the President for assent, “the President shall not withhold assent there from”¹⁸

The following observations can be made –

1. President may return the Bill to the Houses seeking reconsideration. This in some sense is a public statement that the President disagrees with the preferences of the two Houses.
2. Article 111 sets no definite timeline. The President can withhold assent. In case he decides to return the Bill, the provision nudges him or her to do so “as soon as possible”
3. It is clearly stated that if a Bill is returned to the President for the 2nd time, the President “shall not withhold assent there from”.

For a Bill to become an Act, the President must affirmatively assent. That naturally raises the possibility of “death” and not just delay by Presidential inaction. Unlike the US President, the Indian President can sit on a Bill indefinitely.¹⁹

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From the above discussion, it can be concluded that the President has Suspense Veto, Pocket Veto and Absolute Veto(not discretionary). He/she does not have Qualified Veto.

The table below highlights the Veto power available vizaviz the types of Bills.

	Suspensive	Pocket	Absolute
Ordinary Bill(OB)	Yes	Yes	Available regardless of the Bill but *not* a discretionary power. Usually exercised in the following cases a) Private Members' Bills b) Government Bills when the Cabinet resigns (after the passage of the Bills but before the assent by the President) and the new Cabinet advises the President not to give his assent to such Bills
Money Bill (Art 110)	No	Yes	
Financial Bills	Yes	Yes	
Constitutional Amendment Bill	No	No	

It should be noted here that the President has no veto power in respect of a Constitutional Amendment Bill. The 24th Constitutional Amendment Act of 1971 made it obligatory for the President to give his assent to a Constitutional Amendment Bill.

Controversies

Sharp disagreements erupted specially on the issue of whether the President could veto legislation passed by the Parliament.²⁰

1950 – Rajendra Prasad, India's first President, wrote to Jawaharlal Nehru, India's first Prime Minister, questioning elements of the Bihar Zamindari Abolition Bill. He believed the compensation was inadequate for those whose lands effectively stood nationalized. Nehru's Cabinet reconsidered the Bill and found the provisions to be fair. Nehru threatened to resign and that's when Rajendra Prasad gave in.

1951 – When Nehru sought to reform Hindu family law by legislation, Rajendra Prasad expressed his reservations. Prime Minister wrote to the President arguing that the latter had no "authority to go against the will of Parliament". Nehru read Article 111 as a "routine" provision; the President was to rubber-stamp his assent on Bills without applying his mind. And he lined up a battery of lawyers to make the same point on his behalf

1987 – Indian Post Office (Amendment) Bill 1986 which among other things gave the executive extensive powers to intercept personal communication. The provisions of the Bill, he felt, violated the right to privacy. He sat on it. On two occasions, he informally suggested certain changes to it. When nothing came of those efforts, he simply sat on the matter indefinitely. The President killed the Bill by sheer inaction

2006 – This was the first time a Bill was vetoed(suspensive veto) and formally returned. Office of Profit Bill, 2006 was passed by the Parliament. It enacted a self-serving piece of legislation that protected members from disqualification with retrospective effect. President A. P. J. Kalam, returned the Bill. However, the Bill was sent back to President again and was finally approved.¹⁸

Suspensive Veto – Officially used once by President APJ Abdul Kalam in the case of the Office of Profit Bill.

Pocket Veto – Used once by President Zail Singh in the case of the Indian Post Office (Amendment) Bill in 1986.

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Absolute Veto

Used twice –

1. In 1954, President Dr.Rajendra Prasad in the case of PEPSU Appropriation Bill. The PEPSU appropriation Bill was passed by the Parliament during the President's rule in the state of PEPSU(Patiala and East Punjab States Union).
2. In 1991, President R. Venkataraman in the case of Salary, Amendments, and Pension of Members of Parliament (Amendment) Bill. This Bill was passed on the last day before the Lok Sabha was dissolved and introduced without seeking prior recommendation from the President of India.

Veto over State Legislation

The President can direct the Governor to reserve certain Bills. Also, the Governor can reserve any Bill for the consideration of the President.

In 2 scenarios, the Governor has to reserve the Bill for the consideration of the President

1. A200 – If the Bill derogates the High Court and endangers its position
2. A31A, A31C – Law made by State Legislature wrt estates and property acquisition requires assent of the President.¹⁶

Article 201 of the Constitution talks about the role of the President in State Bills. It clearly states that the President has 3 choices.

1. he assents to the Bill
2. he withholds assent (provided that the Bill is not a Money Bill)
3. may direct the Governor to return the Bill to the House. If returned, the legislature has to consider it within 6 months. No obligation on the President if the Bill reaches him for the second time.

If the Governor reserved a Bill for consideration by the President then President can use any of the above veto power. But in case of a suspensive Veto, if the State legislature is again passed Bill with a simple majority then President is not bound to give assent to Bill. This is different from his powers wrt to a Union Bill where he is bound to give assent.¹⁴

IV.CONCLUSIONS

The President of the United States of America has the power of the veto, which means he can stop legislation from becoming law. The president's veto power is just one of the many separations of power, or "checks and balances" of the United States government. The legislative, judicial, and executive branches make up our government's separation of power.

Both the House of Representatives and Senate (collectively known as Congress) vote on bills to become law. When the House of Representatives proposes and then passes a bill, it continues on to the Senate. If the Senate also passes the bill, then the bill continues on to the president, who either signs it into law, or does not sign and vetoes the bill.¹³

Think of it in another way: Let's say your brother is the House of Representatives, you are the Senate and your parents are the president (of your family, anyhow). Your brother proposes and passes a bill stating that you and your brother should be given \$20 in allowance from your parents on weekly basis. The bill is sent along for your vote, and of course you also pass it. In order for this family bill to become "law," your parents (the president) must pass it. However, they both felt it was too large of an allowance, so they veto the bill. Your brother then revises the bill, for \$10 a week in

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allowance, and you both pass the bill. Your parents feel that this is more acceptable, and sign the bill, making it a "law."

Your parents "veto" power in this example is essentially the same power the president has over Congress.

You can find out more about how a bill becomes law and the president's veto power at the following links:

- How a Bill Becomes Law
- US House of Representatives — The Legislative Process
- Senate Bill-to-Law Flow Chart
- Veto (as described in Wikipedia)¹¹

India: The president has three veto powers: absolute, suspension and pocket. The president can send the bill back to parliament for changes, which constitutes a limited veto that can be overridden by a simple majority. But the bill reconsidered by the parliament becomes a law with or without the president's assent after 14 days. The president can also take no action indefinitely on a bill, sometimes referred to as a pocket veto. The president can refuse to assent, which constitutes an absolute veto. But the absolute veto can be exercised by the President only once in respect of a bill. If the President refuses to provide his assent to a bill and sends it back to Parliament, suggesting his recommendations or amendments to the bill and the Parliament passes the bill again with or without such amendments, the president is obligated to assent to the bill²⁰

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