

A COMPARATIVE STUDY OF ELECTION OF THE PRESIDENT OF INDIA VIS A VIS U.S.

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INTRODUCTION TO THE TOPIC

Constitution can be said as the fundamental law of land. Constitution forms the base for all other laws and its enforcement. It lays down certain specified procedure that has to be followed in order to complete a desired task. The Indian Constitution lays down the procedure that has to be followed in order to elect the Central Executive authorities. The USA and India, both are world's largest democratic countries. Both these countries have laid down their own system of Governance and their own procedure to be followed to elect the executive authorities within their country. India has a codified constitution like the USA but it is lengthier than the American constitution. However, India is younger to the USA when it comes to being a Democratic nation. Despite being Democratic nations, both India and USA differs on several aspects to carryout the system of Governance. One such example of the same is the election procedure that has to be followed while electing the President of the respective nation. The way in which the President of India is elected is totally different from that of the procedure followed to elect the President of the USA.

Through this research project a researcher has tried to make a comparative study of the election procedure that is followed for electing the President of India to that of the procedure followed to elect the President of the United States of America. In the research project there are certain technical terms used by the research scholar. The terms are explained in brief as under:

1. **ELECTORAL COLLEGE**: It consists of the members who take part in the election of the President and votes for the same.

2. **STATE PRIMARIES**: It is the initial stage of the election of the President of the USA. In this stage there takes place a public meeting and voting within the Parties to select the candidates eligible for the post of the President. Among the all selected candidates only one is selected at the later stage to contest for the post of the President on behalf of a party.
3. **CAUCUSES**: It is another initial stage to the election of the President of the USA. Caucuses are exactly opposite to that of State Primaries. In Caucuses there takes place a closed meeting of the party members to elect the candidates to contest for the post of the President.
4. **NATIONAL CONVENTION**: This stage comes after the State Primaries and Caucuses. In the National Convention all the selected candidates within the parties for the post of the President are present along with other Delegates and Super Delegates and from each Party one most eligible Candidate is selected to contest for the Post of the President from each of the Political Party.
5. **SUPER DELEGATES**: Super Delegates are usually the Ex Presidents of the United States of America.
6. **SUPER TUESDAY**: It is the first Tuesday after the first Monday in the Month of November on which the election of the President of the USA takes place. On this day the people of the USA votes for the Electoral College.
7. **PLEDGED DELEGATES**: Those who are required to support the candidate to whom they were awarded through the primary and caucus.
8. **UNPLEDGED DELEGATES**: Those who are free to support any Presidential candidate of their choice.
9. **LOK SABHA**: Lower House of Indian Parliament. Also known as House of People.
10. **RAJYA SABHA**: Upper House of Indian Parliament. Also known as Council of States.

11. **SENATE**: Upper House of Congress.
12. **HOUSE OF REPRESENTATIVES**: Lower House of Congress.
13. **RASHTRAPATI BHAVAN**: Official residence of the President of India.
14. **WHITE HOUSE**: Official residence of the President of the United States of America.

PROCEDURE FOR ELECTION OF THE PRESIDENT OF INDIA.

Introduction

The President and the Council of Ministers headed by the Prime Minister forms the Central Executive. The President is the head of the State and the formal executive. All the Executive actions at the central level are taken in his name.¹ The Constitution vests several functions in the President but the President has got no discretion to discharge such functions alone. He has to act on the advice of his Ministers whom he has chosen. This makes the Prime Minister and the Council of Ministers the real and effective executives. The structure of the Central Executive is similar to that of the British model. Under the Preamble to the constitution of India, India is announced as a “Sovereign Socialist Secular Democratic Republic”. India, being a republic State shall have no hereditary monarch as the head of the State of India. Thus, there is the institution of the President.

Article 52 of the Indian Constitution creates the place for the office of the President of India. The President is elected indirectly by the Electoral College and not directly by the people.² The constitutional framers faced many hurdles while deciding the mode of the election of the President. They faced obstacles while deciding that whether the President shall be elected directly by the people or not. To highlight the ministerial character of the executive in the way that the power resides in the Ministry and not in the President as such.

It would have been abnormal if the President were to be elected directly by the people and not to give the President any real powers. Also, had the President been elected directly by the

¹JAIN MP, INDIAN CONSTITUTIONAL LAW (5th ednlexisnexisbutterworths 2008) 122

²JAIN MP, INDIAN CONSTITUTIONAL LAW (5th ednlexisnexisbutterworths 2008) 123

people, it would have been a very costly and energy consuming method. Another reason being that in course of time a directly elected President may emerge as a centre of power in his own right. Hence, the constitutional framers thought that it would be adequate to have the President elected indirectly. The constitutional framers also did not want the President to be elected merely by the Parliament alone as that would have been a very biased basis to elect the President and also Parliament being dominated by one political party would have chosen a candidate from the ruling party itself. The President would not have been given a national consensus in such a case.

Qualifications for the office of President

The following qualifications are needed for a candidate seeking election to the office of the President:

1. He shall be a citizen of India.
2. He shall be at least 35 years of age.
3. He should be qualified for becoming a member of Lok Sabha.
4. He shall not hold any office of profit.
5. He shall not be a member of the Parliament or of a State Legislature.³

Electoral College

An electoral college elects the President. It consists of the elected members of both Houses of Parliament and of the State Legislative Assemblies [Art. 54]. There is system of proportional representation by means of single transferable vote by secret ballot.⁴ The votes cast by all members of the Electoral College are not of uniform value. Votes are apportioned amongst them according to the following two principles.

1. Evenness in the scale of representation of all States.

The Constitution has provided the value of vote of an MLA of each state to be in proportion to the population of that concerned state. The following formula is used in order to determine the value of each vote.

³ghai k k, "President of India: Method of Election, Stages and Powers of the President" (www.yourarticlelibrary.com) <<http://www.yourarticlelibrary.com/political-science/president-of-india-method-of-election-stages-and-powers-of-the-president/40358/>> accessed September 24, 2017

⁴ghai k k, "President of India: Method of Election, Stages and Powers of the President" (www.yourarticlelibrary.com) <<http://www.yourarticlelibrary.com/political-science/president-of-india-method-of-election-stages-and-powers-of-the-president/40358/>> accessed September 24, 2017

Value of vote of an MLA of a state = Total population of a state /Number of elected MLAs of state ÷ 1000

By using this formula, the value of the vote of each MLA of each state is calculated and then the total value of votes of all the MLAs of all the states is aggregated.

2. There is parity in the value of votes of all MPs and all MLAs:

It has been laid down that the total value of votes of all the elected members of Parliament (MPs) shall be in proportion to the value of votes of all the MLAs of all the states. The following formula helps in determining the same.

Value of vote an MP = Total value of votes of all MLAs of all states/Total number of elected MPs of Lok Sabha and Rajya Sabha

A candidate has to secure a minimum fixed quota of votes in order to win a Presidential election. It is calculated as under

Wining quota = Total number of valid votes polled/Number of seats + 1

Single vote system:

Each voter casts only one vote in a Presidential election. However, the value of every vote differs from voter to voter. The value of the vote of an MP will be uniformly the same whereas the value of the vote of an MLA differs from one state to another. For an example, the value of the vote of an MP from Gujarat would be the same as that of any other MP from any other state but the value of the vote of an MLA from Gujarat would be different.⁵

Indication of preferences by the electors:

Every member of the Presidential Electoral College while casting his or her vote shall also indicate the preferences like I, II, III, IV, V and so on. The vote will first go to the candidate whom the voter has given first preferences. The vote will get transferred to the second preferred

⁵ibid

candidate for the post of President in case the first preferred candidate fails to comply with the required winning quota.⁶ The same will continue, as long as the process requires.

Transfer of votes in case no candidate gets the required winning quota:

During the Presidential election process, sometimes it happens that no candidate gets the required winning quota in first count. In such a case, the candidate with the lowest vote count gets eliminated and his or her votes are then transferred among the other remaining candidates according to the second preferences as recorded by the voters.

This process is carried out till one of the candidates gets the required winning quota. This method of transfer of vote has been used only once till date at the time of the fifth Presidential election held in 1969. This process has not been used thereafter because each Presidential election has given a clear majority to one candidate.

Disputes Concerning Presidential Election

The Supreme Court has the power to decide upon the doubts and disputes arising out of the election of the President and its decision shall be final [Art. 71(1)]. The Supreme Court shall entertain no petition challenging the Presidential election before the election process and the declaration of the result. Under section 14 of the Presidential and Vice-Presidential Elections Act, an election can be called into question only by the candidate or by 10 or more electors at such election. A person who is neither a candidate nor an elector shall therefore not be allowed to file a petition challenging the Presidential election. A petition challenging the Presidential election shall be initiated only within 30 days of the declaration of the result.

When to hold Presidential Election

Election to the President's office must be held before the expiry of the tenure of the President in office [Art. 62(1)]. If the office of the current President falls vacant due to death, resignation or removal or otherwise, then the election to fill in the vacant office of the President shall be taken up within six months from the date of occurring the vacancy. The new President so elected shall remain in office for the term of five years from the date the newly elected President takes the charge of the office.

⁶Ghai k k, "President of India: Method of Election, Stages and Powers of the President" (www.yourarticlelibrary.com) <<http://www.yourarticlelibrary.com/political-science/president-of-india-method-of-election-stages-and-powers-of-the-president/40358/>> accessed September 24, 2017

Stages in a Presidential Election

1. Notification:

The President notifies the election and the responsibility for conducting the same is with the Election Commission of India.⁷ The Election Commission in turn appoints a returning officer and fixes a date for filing the nomination papers, the last date for withdrawal and polling schedule.

2. Filing the Nomination papers, Scrutiny and Withdrawal:

Each candidate has to file his or her nomination papers with the returning officer within a specified date. Each name has to be proposed by 50 electors and has to be seconded by another 50 electors. Then, a sum of Rs. 15,000 has to be deposited as security money. The nomination papers are then scrutinised in order to determine the eligibility of all the candidates. After scrutinising the nomination papers, the incomplete and wrong nomination papers are then rejected and the candidates are then permitted to voluntarily withdraw from the contest within a specified date.

3. Election Campaign:

After the Election Commission accepts the nomination papers of the candidates, the eligible candidates are then allowed to conduct their election campaigns through their respective political parties.⁸

4. Polling:

The polling is held on a specified date. The concerned voters cast one vote and also indicate his or her preferences on the ballot paper. The voting done by the electors is secret in nature.

5. Counting of votes:

⁷Ghai k k, "President of India: Method of Election, Stages and Powers of the President" (www.yourarticlelibrary.com) <<http://www.yourarticlelibrary.com/political-science/president-of-india-method-of-election-stages-and-powers-of-the-president/40358/>> accessed September 24, 2017

⁸ibid

The counting of votes takes place after the polling is finished. The valid votes are counted and the quota is determined. The first preference votes of all the candidates are counted and calculations are done taking into account the value of each vote, as it may be determined. The candidate completing or surpassing the required winning vote gets elected. In case, no candidate gets the required winning vote then the transfer of vote takes place as per the preference given by the voter at the time of polling.

6. Notification of the result:

The result of the election is then notified in the Gazette of India.

7. Oath taking:

Before taking the charge of the office, the President has to take an oath or affirmation in the specified manner in the presence of the Chief Justice of India, or in his absence, of the senior most Judge of the Supreme Court available at that time.⁹ The President is entitled to the free use of his residence and also to emoluments, allowances and privileges as Parliament may determine by law.

IMPEACHMENT OF THE PRESIDENT

The President may also be removed from his office, before the specified term, for “violation of the Constitution” by the process of impeachment. There is a specified procedure, which has to be followed in order to remove the President from his office through impeachment.¹⁰

For the process of impeachment, the charge against the President shall be initiated by either House of Parliament [Art. 61(2)(b)]. The charge so initiated by either house of Parliament shall be put in form of a resolution of the House. The resolution shall be a written notice signed by not less than one-fourth of the total members of that House. The resolution shall be moved only after giving fourteen days written notice and not otherwise. When one house initiates the impeachment charges against the President, then it becomes necessary on the part of the other House to investigate the charges so framed by the former House. The investigation shall be

⁹ghai k k, “President of India: Method of Election, Stages and Powers of the President” (www.yourarticlelibrary.com) <<http://www.yourarticlelibrary.com/political-science/president-of-india-method-of-election-stages-and-powers-of-the-president/40358/>> accessed September 24, 2017

¹⁰JAIN MP, INDIAN CONSTITUTIONAL LAW (5th ednlexisnexisbutterworths 2008) 126

done by the House itself or by some authorised agency as appointed by the concerned House. The President has the right to appear and represent himself in the investigation.

After the investigation, if the House passes a resolution by a majority of not less than 2/3 of its total membership sustaining the charge, which was initiated, it would result in removing the President from his office from the date on which the impeachment resolution is passed [Art. 61(4)].

There is only a remote possibility to initiate an impeachment charges against the President, reason being that the President acts on the advice of his Ministers, who in turn are responsible to the Parliament. There shall be no impeachment charges as long as the President acts according to the advice of the Ministers.

The power to impeach shall be invoked in the event of the President acting independently of, or contrary to, ministerial advice, or for treason, bribery, or other high crimes.¹¹

PRESIDENTIAL PRIVILEGES

The office of the President is very important and so the Constitution attaches to it many privileges and immunities. The President is not answerable to any court for the exercise and performance of the powers and duties of his office, or for “any act done or purporting to be done by him” in the exercise and performance of those powers and duties.¹²

No court can compel the President to exercise or not exercise any power, or to perform or not to perform any duty. The court can also not issue any writ in respect of the President’s official acts or omission. No court can compel him to show cause or defend his action.

Government orders are issued in the name of the President. All executive actions of the Central Government to be expressed in the name of the President. But such order does not become orders passed by the President personally. It basically remains the order of the Ministers on whose advice the President acts.

No criminal proceeding whatsoever can be instituted against the President and no process for the arrest or imprisonment of the President can issue from, any court during his term of office.

¹¹ibid

¹²JAIN MP, INDIAN CONSTITUTIONAL LAW (5th ednlexisnexisbutterworths 2008) 127

No civil proceeding claiming relief against the President in respect of any act done or purporting to be done by him in his personal capacity can be instituted during his term of office until a two months notice in writing has been served on him stating the nature of the proceedings, cause of action, the name, description and residence of the party taking legal proceedings and relief claimed [Art. 361(4)].¹³

CONSTITUTIONAL POSITION OF THE PRESIDENT

The legal powers of the President are thus vast. Yet he is intended to stand in relation to the Union administration in the same position, as does the President of the United States of America. The President of India is the nominal head of the Government. His position is not like that of the President of the United States of America who is the real executive head and exercises the powers vested in him under the Constitution on his own initiative and responsibility.

In estimating the constitutional position of the President of India the provisions of article 53, 74 and 75 may particularly be referred to. Article 53 vests the executive power of the Union in the President, but he is required to exercise his powers in accordance with the Constitution. Article 74 of the Constitution says that there shall be a council of Ministers to aid and advise the President in the exercise of his functions and he has to act in accordance with such advice.

PROCEDURE FOR THE ELECTION OF THE PRESIDENT OF UNITED STATES OF AMERICA

Introduction

The United States of America is considered the most powerful nation in the world and thus the President of the United States is considered the most powerful person in the world. Unlike the Indian President, the President of the United States is the real executive head of the State and has vast powers. American politicians claim that the way they choose their President is one of the most open and democratic processes in the world. But for the foreigners it can also be one of the most baffling. The election race in few countries takes just a few weeks whereas US

¹³JAIN MP, INDIAN CONSTITUTIONAL LAW (5th ednlexisnexisbutterworths 2008) 127

Presidential candidates undergo a political marathon, negotiating primaries, party conventions and an electoral college along their way. The United States constitution states that a President shall be elected every four years. Candidates interested to go for the most powerful job in the world shall not be less than 35 years of age and a US citizen born in the United States of America. Political candidates form an 'investigative committee' to gather support from sympathetic party followers. If they believe that they have enough support, they inform the concerned federal authorities that they are in the race and get on with serious fundraising and state-to-state campaigning for their party's nomination.

Election basis

Election for the President of the United State starts over more than a year in advance. It is a lengthy process. One of the major basis of election is that, it is said that free and fair elections are the keystone of democracy. Elections give citizens a voice in their government in the most fundamental way by letting the citizens to decide who shall govern the nation. Elections help to ensure that power passes in a serene, organized manner from citizens to their elected representatives and from one elected official to his or her successor. The U.S constitution gives certain powers to the Federal government and reserves others for the individual states, and the people. In many countries, national government set education and health policies but in the U.S it is in the hands of the 50 States to have primary responsibility in these areas. National defence and foreign policy are such examples of the federal responsibility. The American voting system may appear complex but at the same time it ensures that voters have a voice at all levels of government. In the United States, the citizens do not vote the President directly. The citizens elect the members of the Electoral College and the elected members of the Electoral College in turn votes and elects the President.¹⁴

When George Washington was elected as the first President of the U.S in 1789, only landowning men over age of 21 had the right to vote in all the 13 original states. In today's scenario the U.S Constitution guarantees that all the U.S citizens above the age of 18 shall be allowed to vote in federal, state and local elections.

Election of the President of the U.S.A

¹⁴"Presidential Election Process" (www.usa.gov) <<https://www.usa.gov/election#skiptarget>> accessed September 24, 2017

The basic process of selecting the President of the United States is spelled out in the U.S Constitution and it has been modified by the 12th, 22nd and 23rd amendments. Many additional steps have been added over the passage of time by custom and by state laws. The process has changed quite a bit over time. An election for the President of the United States takes place every four years on Election Day, held on the first Tuesday after the first Monday in the month of November. The 2016 Presidential election will be held on 8th day of November.

The Presidential election process begins with the primary elections and caucuses and moves to nominating conventions, during which the political party nominates a candidate for the Presidential election and to unite behind the nominated candidate from that political party.¹⁵ State primaries and caucuses is the primary stage of the Presidential election. Before the general election, the candidates for the post of President undergo a series of state primaries and caucuses. The purpose of running state primaries and caucuses is however same although they are run differently. Both the primaries and the caucuses helps the states to choose the political parties nominees for the general election from that particular party and the concerned political party then unite behind the selected candidate. Primaries and caucuses is a process, which happens within the political parties to decide the candidate for Presidential election and not between the political parties. Some states only undertake primary election whereas some states only undertake caucuses. There are states, which also go for both the ways to nominate the candidate from a political party. There takes place two primaries and two caucuses in each state by each political party.

State government and local government run state primaries. State primaries involves a secret ballot voting system in which the members of a political party cast their vote in favour of a member within the political party to nominate him or her as a candidate for the Presidential election from that particular political party. There are basically three ways in which the State primaries can be conducted.

Closed primaries: In this type of primary, only the party members take part in the selection of the Presidential candidate from a political party.¹⁶

¹⁵ibid

¹⁶“Presidential Election Process” (www.usa.gov) <<https://www.usa.gov/election#skiptarget>>accessed September 24, 2017

Semi closed primaries: In this type of primary, some citizens who do not belong to any political party are allowed to take part in the voting.¹⁷

Open primaries: In such a primary, any person registered with any political party can vote in the election. The political party members do not vote directly to the candidates but to the representatives.¹⁸

Caucuses on the other hand are private meetings run by each political party to nominate a candidate for the Presidential election. In most caucuses the participants divide themselves into groups according to the candidate they support, with undecided voters forming into a group on their own. Each group so divided gives speeches and arguments in support of the person whom they have decided to nominate and through the speeches they try to persuade others to join their group and support their nominated candidate. At the end of the caucus, the party controllers count the voters in each candidate's group and calculate how many delegates each candidate has won. Unlike state primaries, in caucuses only registered members are allowed to vote. In the caucuses there is manual counting at the end of the meetings, which is not there in the state primaries. Both primaries and caucuses can be conducted as "open" "closed", or mixture of the two.

The difference a primary and caucus is that the primary elections are executed by state and local governments whereas caucuses are private occurrences that are directly run by the political parties themselves.

State governments fund and run the primary elections in the same way they do the general election in the fall. Voters go to a decided polling place. They vote and then they leave.

On the other hand in caucus, individuals who are viewed favourably within the party are identified as potential delegates. After a broad discussion and debate, an informal vote is held to determine which candidates shall serve as delegates at the national party convention.

¹⁷ibid

¹⁸ibid

Traditionally, there were only few states, which held the Presidential primaries and caucuses. But, in today's scenario, all the 50 states and the District of Columbia undertake either primary or caucus. There are few states, which always undertakes primary elections like Washington, Montana, Florida, Oregon, California, South Dakota, Arizona, New Mexico, Texas.

States, which undertakes caucus mode every time, are Hawaii, Nebraska, and Iowa.

There are certain states, which undertakes both the modes. These are Nevada, Colorado, North Dakota, Kansas, Washington DC.

Qualifications for the office of President

1. The person wanting to contest election for the post of the President of the United States shall be an American citizen born on the American soil.
2. He or She shall not be less than 35 years of age.
3. He or She must have been a resident of the United States for 14 years.¹⁹

The Electoral College

The national Presidential election actually consists of a separate election in each state and the District of Columbia. In these 51 elections the voters are actually voting for the 'electors' assured to one of the tickets. These electoral make up the Electoral College. Each state has same number of electors as it has senators and representatives. There are two senators per state and the number of representatives depends upon the population of that state. The District of Columbia although is not a state but still it votes in the Presidential election. It has currently three senators.²⁰

In most of the states including the District of Columbia there is a rule of 'winner take it all'. It means that whichever party gets most of the votes in a state then it takes all the electors in that particular state. The Electoral College votes for the President and the Vice-President. Each elector casts one vote and it is called electoral votes. Each elector is assured to vote for particular candidates for President and Vice-President. Mostly, all the electors vote according to the pledge that they have made. It cannot be said clearly what would happen in the unlikely event where the electors would violate the pledge and vote differently. There shall be total 538

¹⁹"In Brief Elections" (www.share.america.gov) <https://share.america.gov/wp-content/uploads/2016/04/elections-usa_in-brief-series_english_lo-res.pdf> accessed September 24, 2017

²⁰"Presidential Election Process" (www.usa.gov) <<https://www.usa.gov/election#skiptarget>> accessed September 24, 2017

electors in the Electoral College. In order to win the Presidential election a candidate must have more than half (270) votes in his or her favour. If no candidate receives the required majority of votes then the House of Representatives elects the President from the three candidates who received the most electoral votes. The Senate elects the Vice-President from the two candidates who received the most electoral votes.

National Conventions

After the state Primaries and Caucuses, most political parties hold National Conventions in order to finalise their choice for the Presidential and Vice-Presidential candidate. The main objective of the party National Convention is to unite party members behind the nominees for Presidential election candidate and to decide the same.²¹ Thousands of delegates gather to support this rally. National Conventions usually takes place in the month of July before the Presidential Election. The National convention typically confirms the candidate who has already won the required number of delegates through the Primaries and caucuses. However, if no candidate has received the highest number of a party's delegates then the National Convention becomes the stage for choosing the party's Presidential nominee. Some parties require a specific number of delegates, which a candidate needs to win for his or her party's nomination. There are total 4765 delegates for the Democratic Party, so the concerned nominee needs at least 2383 delegates on his or her side to become a candidate for the Presidential election. On the other hand, there are 2472 delegates for the Republican Party, so the nominee must have at least 1237 delegates on his or her side to become a candidate for the Presidential election.

There are two types of Delegates:

1. **Pledged Delegates**: those who are required to support the candidate to whom they were awarded through the primary and caucus.²²
2. **Unpledged Delegates**: Those who are free to support any Presidential candidate of their choice. These are also called Super Delegates. Super Delegates are usually the former Presidents of the United States.²³

²¹"Presidential Election Process" (www.usa.gov) <<https://www.usa.gov/election#skiptarget>> accessed September 24, 2017

²²ibid

²³ibid

The National Conventions gives each party a fair chance to promote its nominees and to state its difference with the opposition. The National Conventions are largely televised and mark the start of the national Presidential campaigns. Americans do watch the National Convention on the television to hear speeches by party leaders and nominees, and also to know the nominee's Vice-Presidential candidate.

Citizens cast their vote

Presidential elections are held every four years on the first Tuesday, after the first Monday of the month of November. This day was decided long ago when many voters had to make a long and slow journey to the polling place. Many Americans and even foreigners think that the citizens of the United States, cast their ballot directly in the favour of the Presidential Candidate but they are in fact electing a group of electors in the Electoral College who would further vote in the favour of that candidate for whom they are elected to vote in favour of. The founding fathers of the United States wanted the Congress to elect the President whereas others wanted the President to be elected by the popular votes. Electoral College acts as the middle way to the conflict. The members of the Electoral College are chosen by popular votes. It is not necessary that an elector have to be a Senator, Representative or other person holding a US office. After the citizens have casted their votes in favour of electors, the elected members of the Electoral College cast their vote in favour of the pledged candidate on the first Monday, after the second Wednesday in the month of December. At least 270 votes are required in order to elect the President. In case the majority is not attained by any of the Presidential candidate then the House of Representative will elect the President.²⁴

After the Electoral College cast their ballots in favour of a candidate, the candidate having the majority of the votes would be elected as the new President of the United States. On the 20th day of January, the newly elected President takes the charge of the office of the President. There takes place a formal ceremony which is known as the inauguration. In the inauguration the newly elected President takes the Presidential oath. Earlier the inauguration used to take place on March 4, but with the 20th amendment in 1933, the inauguration date was changed to 20th January.

²⁴“Presidential Election Process” (www.usa.gov) <<https://www.usa.gov/election#skiptarget>> accessed September 24, 2017

CONCLUSION

Throughout the paper apparently there seems to be much in common between the President of USA and the President of India. Both the Presidents are the elected head of their State respectively. Both the Presidents have been vested with impressive list of powers. The President of the USA and India, both have the power to appoint their Ministers and all other required important officers of the Government. It is also to be noted that both the Presidents can be impeached for the breach of the Constitutional provisions. But, all this is just read on papers. In practicality the situation is completely opposite. In fact, there is nothing in common between the President of India and the President of the USA except their names. The real and actual position of the Indian President and the President of the USA is quite different. To start with, first of all their Presidential election procedure is totally different. The way in which the President of India is elected is totally different from the way the President of USA is elected. The elected members of the Parliament and the elected members of the State Legislature elect the President of India whereas the people of the United States of America elect the President of the USA. The President of USA is the real executive head of the State whereas the Indian President is merely a Nominal head of the Indian State; the Indian President has to work upon the advice of its advisors and cannot act otherwise. In the case of the President of the USA, this particular thing is not followed. Another noteworthy feature of the President of the USA is that the candidate who is elected to contest for the post of the President decides who would be the Vice-President of the USA. On the other hand, in India it is not so. The President of India does not elect the Vice-President. Further, the Indian Constitution has not separated the powers of the Legislature and the Executive unlike the American Constitution. Under the American Constitution all the Executive powers are vested in the hands of the President of the USA. Under the Indian Constitution the executive powers are exercised by the Council of Ministers, which is responsible to the Parliament. The American President chooses its ministers unlike that of the Indian President who chooses the ministers on the advice of the Prime Minister.

If we have a look at the procedure of electing the Presidents of both the Nations it can be noted that the way the Presidents of both the Nations are elected is totally different. Under the USA, while the Presidential election is about to happen the procedure for the same starts well in advance and it lasts up to more than a year unlike the procedure which followed for electing the President of India. While electing the President of India, the existing Members of the

Parliament and the Members of State Legislature elects the President, whereas this is not the case when it comes to the USA. Under the American Constitution, the Members of the Senate and the members of the House of Representatives are firstly elected by the people, then the elected members of both the houses of the USA elects the President of the USA. So here, it can be easily seen that while electing the President of the USA, the members of both the houses are freshly elected first and then is elected the President, which is not the case in Indian Constitution. Another contrast we can see in the election procedure of both the Presidents is that there is no stage of Primaries and Caucuses under the election procedure of the Indian President. Under the Indian Constitution, the parties simply decide their candidate to the post of the President and then the voting takes place. This is not the case in the American Constitution. Under the American Constitution, the parties first decide their candidate for the post of the President by the way of Primaries and Caucuses. As discussed earlier, Primaries and Caucuses are the meetings held within the parties to elect the most eligible candidate for the Post of the President. This gives a fair chance to every eligible candidate to prove himself most eligible for the post of the President. There also takes place public meetings in which the concerned candidates express their policies and views about the enhancement of the Nation. This does not happen when it comes to India. There takes place no public meetings and discussion whereby the people can get chance to question the candidates. There also does not take place the National Convention while electing the President of India. After conducting the Primaries and the Caucuses in each state in the USA, there happens a National Convention where in which all the elected members within the Party for the post of the President are present along with other Delegates and Super Delegates and the final selection of the most eligible Candidate from each party is done by a unanimous decision. The candidate who wins at the National Convention is the final Candidate for the post of the President from that particular party. There is no such procedure under the election procedure of the Indian President.

When it comes to the re-election of the Presidents, under the Indian Constitution the President can be re-elected as many times as the concerned person enjoys the majority under the election for the Post of the President. This is not the case under American Constitution. In the American Constitution, a President can only be elected for maximum of two terms or 10 years. In the American Constitution there is the concept of “winner takes it all”. It means that if in any State the majority seats goes in the favour of a particular Party then, all the remaining seats also goes in the hands of that particular party only even if the remaining seats are won by the other party.

But, when it comes to India, this particular principle is not there. A minor yet noteworthy difference can be seen when the focus comes on the tenure of the Presidents of the USA and India. The President of India holds his office for a term of 5 years; where as the President of the USA holds his office for the term of 4 years.

Under the American Constitution, when the President dies the Vice-President becomes the President for the remaining term but in Indian Constitution if read carefully, it states that in case the President of India dies, the Vice-President acts the President until the new President is elected. There exists a lot of difference by using the words 'becomes' and 'acts' in each of the above case.

To conclude, the research scholar is of the opinion that though the procedure that is followed under the American Constitution is lengthy but at the same time it cannot be ignored that through this lengthy process will be elected the most eligible person from the whole nation for the Post of the most powerful person on Earth which may not be an outcome when it comes to India. The reason being that there takes place no public meetings and debates to test the eligibility of the candidates. Under the American Constitution, the Primaries and the Caucuses plays a major role in the election of the President. The procedure followed under the American Constitution may seem like a Redtapism but actually it is not. India has its own way of electing the President and the People have never questioned the way in which the President is elected. From this it can be said that the people of India have faith in the electors of the President and merely non-involvement of the people in electing the President does not make it a less effective process.