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Separation of Powers in Presidential and Parliamentary Systems: A Comparative Constitutional Analysis

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ABSTRACT

This paper undertakes a comparative constitutional analysis of the principle of separation of powers in presidential and parliamentary systems of governance. Rooted in Montesquieu's theory, the doctrine aims to prevent the concentration of power by dividing governmental functions among the executive, legislature, and judiciary. While the presidential system, exemplified by the United States, adheres to a strict separation with a strong system of checks and balances, the parliamentary system, as seen in India and the United Kingdom, operates on a fusion of powers where the executive emerges from and remains accountable to the legislature. This study explores the structural, functional, and practical distinctions between these models, evaluating how each ensures accountability, maintains the rule of law, and responds to democratic demands. By analyzing judicial interpretations, constitutional provisions, and political practices, the paper assesses the strengths and limitations of both systems and highlights the evolving nature of separation of powers in modern democracies.

Introduction

The doctrine of separation of powers is a foundational principle in constitutional theory and practice, aimed at ensuring that no single branch of government can dominate or undermine the others. First articulated systematically by Montesquieu in his seminal work *The Spirit of the Laws* (1748)¹ the principle seeks to divide governmental authority among the legislative, executive, and judicial branches to safeguard liberty and prevent tyranny. Over time, this concept has been interpreted and institutionalized differently across political systems, particularly in presidential and parliamentary democracies². In a presidential system, such as that of the United States, the separation of powers is rigid and formalized. The executive, legislative, and judicial branches function independently, with well-defined constitutional boundaries and a system of checks and balances designed to prevent overreach. Conversely, in parliamentary systems, like those in the United Kingdom and India, the doctrine is applied more flexibly. The executive is drawn from and remains accountable to the legislature, resulting in a fusion of powers that emphasizes political accountability over institutional independence. This comparative constitutional analysis explores how the separation of powers operates within these two systems, highlighting structural differences, mechanisms of accountability, and the evolving dynamics of governance. By examining constitutional texts, institutional frameworks, and judicial interpretations, this study aims to provide a nuanced understanding of how different democracies reconcile the demands of effective governance with the need for constitutional balance.³

Theoretical Framework

The theoretical foundation of the separation of powers is primarily attributed to Baron de Montesquieu, who advocated for the division of government into three distinct branches—legislative, executive, and judiciary⁴—as a safeguard against tyranny. This principle serves as a structural mechanism to prevent the concentration of power, promote accountability, and protect individual liberties in democratic governance. Each branch should perform distinct functions—legislation, execution, and adjudication. Each organ must be independent in its domain, without undue influence from others. Each branch should have mechanisms to restrain the powers of the others, ensuring mutual accountability. In classical presidential systems (e.g., the United States), the separation is formal and strict. The President is directly elected and does not sit in the legislature. Laws passed by Congress can be vetoed by the President, but Congress can override vetoes. The judiciary, particularly the Supreme Court, acts as a neutral arbiter of constitutional conflicts.⁵

¹ Montesquieu, *The Spirit of laws* (Thomas Nugent trans., Hefner Press 1949), (1748)

² Gonzalo Villalta Puig, *Parliamentary versus Presidential Government*, AIPS, Vol. 74, No. 5, (page no. 2), (Sept. – Oct. 2002)

³ Elijah Ben Zion Kaminsky, *On the Comparison of Presidential and parliamentary governments*, PSQ, Vol. 27, No. 2, (page no 3), (Spring 1997)

⁴ Torten Persson, Gerard Ronald and Guido Tabellini, *Separation of powers and political Accountability*, QJE, Vol. 112, No. 4, (Page no. 29), (Nov. 1997)

⁵ Eric A. Posner, *Presidential leadership and the separation of powers*, Vol. 145, No. 3, (page no. 5), (Summer 2016)

This model emphasizes: A clear demarcation of powers, Fixed terms of office for the executive and legislature, A robust system of legal and political checks. In parliamentary systems (e.g., the United Kingdom and India), the executive is typically drawn from the legislature and remains politically accountable to it. The separation here is functional, not institutional, with a fusion of powers between the executive and legislative branches. This model emphasizes: Political responsibility over institutional independence, Collective accountability of the executive to the legislature, Judicial review as a mechanism of legal restraint (particularly in systems like India). While the theory suggests binary distinctions, modern constitutions often blur the lines: India, for instance, displays quasi-federal and semi-separationist characteristics.⁶ The United Kingdom, with its unwritten constitution, relies heavily on conventions and parliamentary sovereignty. Thus, the theoretical framework of separation of powers must be contextualized within each country's constitutional history, governance needs, and judicial interpretations, recognizing that no system applies the doctrine in absolute terms.

Parliamentary Systems

A parliamentary system of government is a form of democracy where the executive derives its legitimacy and authority from the legislature (parliament). Unlike in a presidential system, where the executive (the president) and the legislature are distinct and operate independently, in a parliamentary system, the two branches are interconnected and the executive is accountable to the legislature. Here's a breakdown of key features of parliamentary systems: In parliamentary systems, the executive and the legislature are fused. The prime minister (the head of government) is usually the leader of the majority party or coalition in the lower house of parliament. The cabinet (composed of ministers) is drawn from the parliament and is accountable to it⁷. This fusion means the executive is directly dependent on the legislature for its mandate, and it is subject to the legislature's confidence. Head of State: In many parliamentary systems, the head of state is a monarch (e.g., the United Kingdom) or a ceremonial president (e.g., India, Germany). The role is largely symbolic with very limited executive powers. Head of Government: The prime minister (PM) is the head of government and holds the executive authority. The PM leads the government, implements policies, and directs national affairs. Confidence and Accountability: The government must maintain the confidence of the majority in the lower house of parliament to remain in power. If the government loses a vote of confidence (e.g., during a no-confidence motion), it must resign, triggering the formation of a new government or new elections. Parliamentary Oversight: The prime minister and the cabinet are constantly accountable to parliament. Parliamentary debates, questions, and select committees ensure government accountability and transparency. The cabinet is composed of ministers who are appointed by the prime minister and typically belong to the parliament. The cabinet collectively makes decisions and is responsible for proposing laws, policies, and overseeing the civil service⁸. In bicameral parliaments, the cabinet is generally accountable to the lower house, where the majority government resides. Cabinet decisions are usually made collectively, and the government must act with the support of the majority in parliament. Parliamentary systems generally feature regular elections for members of the legislature, often using proportional representation or first-past-the-post methods. Political parties are often crucial in these systems, as the majority party or coalition will select the prime minister. If no party has an outright majority, a coalition government is formed. The prime minister is the central figure in the executive branch and has significant influence over policy-making. The prime minister: Leads the government's legislative agenda, Represents the country in foreign affairs, Appoints ministers to the cabinet, However, the prime minister's authority is not absolute. It is contingent on the support of parliament and the ability to form and maintain a stable coalition⁹. Examples of Parliamentary Systems, United Kingdom: A classic example of a parliamentary system, where the Prime Minister is the head of government, and the Monarch is the ceremonial head of state. India: A parliamentary democracy with a President as the ceremonial head of state, and the Prime Minister is the head of government. Canada: A constitutional monarchy where the Prime Minister is the head of government, and the Monarch (represented by the Governor-General) is the head of state. Germany: A parliamentary republic, where the Federal Chancellor is the head of government and the Federal President is the head of state. Efficiency in Legislation: The fusion of powers typically allows for more efficient passage of laws, as the executive is aligned with the majority in the legislature. Accountability: Frequent votes of confidence or no-confidence motions ensure that the executive remains accountable to the legislature and, indirectly, to the public. Flexibility: Parliamentary systems can be more flexible in addressing political instability, as governments can be replaced through votes of confidence without the need for a full-scale presidential election¹⁰. Risk of Instability: Coalition governments can sometimes lead to political instability, as multiple parties may struggle to agree on policies, leading to frequent elections. Limited Separation of Powers: The fusion of powers between the executive and legislature can weaken the independence of the executive, leading to potential risks of executive overreach. Dominance of Political Parties: The role of political parties is paramount, potentially sidelining smaller parties or individual leaders. The parliamentary system is characterized by a fusion of executive and legislative powers, with the prime minister holding significant authority while remaining accountable to parliament. While it offers advantages in terms of political stability and efficiency in governance, it also has challenges, especially related to coalition dynamics and the central role of political parties.¹¹ Ultimately, the success of a parliamentary system depends on the ability to balance power and maintain political accountability.

⁶ Eric A. Posner, Presidential leadership and the separation of powers, Vol. 145, No. 3, (page no. 2), (Summer 2016)

⁷ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 4), (May, 2005)

⁸ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 2), (May, 2005)

⁹ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 5), (Spring 1997)

¹⁰ Torden Persson, Gerard Ronald and Guido Tabellini, Separation of powers and political Accountability, QJE, Vol. 112, No. 4, (Page no. 23), (Nov. 1997)

¹¹ Torden Persson, Gerard Ronald and Guido Tabellini, Separation of powers and political Accountability, QJE, Vol. 112, No. 4, (Page no. 27), (Nov. 1997)

Presidential System:

A presidential system of government is a democratic governance structure where the executive, led by the president, is separate and distinct from the legislature. This system emphasizes the separation of powers among the branches of government, with clear distinctions between the executive, legislative, and judicial branches. The president, elected independently, holds significant executive authority and is not accountable to the legislature for day-to-day governance, though checks and balances ensure mutual oversight. The presidential system operates on the principle of a strict separation of powers between the executive, legislature, and judiciary¹². This model limits the powers of each branch to prevent any one branch from becoming too powerful. Unlike in parliamentary systems, where the executive is drawn from the legislature, the president in a presidential system is elected independently of the legislature and has separate powers¹³. In the presidential system, the president typically serves both as the head of state (symbolic representative of the nation) and the head of government (chief executive officer). This concentration of roles in one person sets the system apart from parliamentary systems, where these roles are often split between the monarch/president (head of state) and the prime minister (head of government)¹⁴. The president is typically elected through direct elections by the people (in the case of the U.S., via an electoral college system). This gives the president a mandate from the people, which is a key difference from parliamentary systems, where the head of government (prime minister) is chosen from the legislature. Presidents usually serve fixed terms (e.g., four years in the U.S.) and cannot be easily removed from office, except through impeachment (e.g., in the U.S.) or other constitutional procedures. The president exercises broad executive powers, including enforcing laws, issuing executive orders, conducting foreign affairs, and commanding the military. These powers, however, are subject to checks by the legislature and the judiciary. While the president has significant authority, the system is designed with checks and balances¹⁵. For example, the legislature can override presidential vetoes, approve or reject presidential appointments, and hold investigations through committees. The judiciary can declare presidential actions unconstitutional through judicial review (e.g., in the U.S. system). In the presidential system, the legislature (Congress or Parliament) is independent of the executive. It cannot remove the president from office except through the impeachment process for high crimes and misdemeanors (e.g., U.S. Constitution, Article II¹⁶). Most countries with a presidential system (e.g., the U.S., Brazil) have a bicameral legislature. The legislature typically consists of a lower house (e.g., the House of Representatives in the U.S.) and an upper house (e.g., the Senate in the U.S.), both of which check and balance the powers of the executive. The legislature in a presidential system is responsible for creating laws, while the president can either sign them into law or veto them. Congress can override a presidential veto with a supermajority vote (e.g., in the U.S. system, a two-thirds majority in both houses). The judiciary in a presidential system is independent and has the power of judicial review—the ability to declare presidential or legislative actions unconstitutional. This is a key mechanism for maintaining the balance of power among the branches. The system allows for the impeachment of the president if they are found guilty of “high crimes and misdemeanors” (e.g., in the U.S. system). This ensures that the president remains accountable to the law and constitution. In a presidential system, the president is typically directly elected by the people, often through a popular vote. The independence of the president from the legislature means they do not rely on parliamentary majority to stay in office¹⁷. The president serves a fixed term (typically four or five years) and cannot be removed by the legislature unless impeachment proceedings are initiated, which require evidence of major wrongdoing. In cases of serious misconduct, a president can be removed from office through impeachment. In the U.S., impeachment begins in the House of Representatives, and a trial is held in the Senate to determine whether the president should be removed from office. Examples of Presidential Systems, United States: The U.S. is the archetype of the presidential system. The President is both the head of state and the head of government, elected separately from the legislature¹⁸. The president has significant executive powers but is subject to checks and balances by the legislative and judicial branches. Brazil: Brazil follows a presidential system with a bicameral legislature and an independent judiciary. The president is elected for a fixed term, and executive powers are distinct from legislative powers. Mexico: Mexico operates under a presidential system where the president holds executive authority separate from the legislature, similar to the U.S. system, although the political structure may vary in practice. The distinct separation of powers between the branches helps prevent the concentration of authority in a single branch, reducing the risk of tyranny. The president’s direct election by the people provides a clear and direct mandate for leadership and decision-making, which can enhance legitimacy and political stability. Since presidents serve fixed terms, there is greater political stability, as they cannot be easily removed from office except through impeachment procedures¹⁹. While there are checks and balances, the executive can still sometimes overstep its authority, particularly in the absence of effective checks by the legislature or judiciary. The separation of powers can lead to political gridlock, especially when the president and the legislature are controlled by different political parties, making it difficult to pass legislation. In some cases, a president with strong control over the executive can undermine the system of checks and balances and erode democratic norms. The presidential system is characterized by a strict separation of powers between the executive, legislative, and judicial branches. While it offers the benefits of political stability, accountability, and a clear mandate for leadership, it also poses challenges such as potential gridlock, executive overreach, and the risk of authoritarian tendencies²⁰. Ultimately, the success of a presidential system depends on the strength and independence of the institutions that provide checks and balances, ensuring that power remains constrained and democratic governance is upheld.

¹² Eric A. Posner, Presidential leadership and the separation of powers, Vol. 145, No. 3, (page no. 6), (Summer 2016)

¹³ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 3), (Spring 1997)

¹⁴ Eric A. Posner, Presidential leadership and the separation of powers, Vol. 145, No. 3, (page no. 2), (Summer 2016)

¹⁵ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 4), (Spring 1997)

¹⁶ US Const. Art. 2

¹⁷ Eric A. Posner, Presidential leadership and the separation of powers, Vol. 145, No. 3, (page no. 4), (Summer 2016)

¹⁸ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 3), (Spring 1997)

¹⁹ Eric A. Posner, Presidential leadership and the separation of powers, Vol. 145, No. 3, (page no. 7), (Summer 2016)

²⁰ Torten Persson, Gerard Ronald and Guido Tabellini, Separation of powers and political Accountability, QJE, Vol. 112, No. 4, (Page no. 23), (Nov. 1997)

Landmark cases

landmark cases related to the separation of powers in Presidential and Parliamentary systems. These cases highlight how courts have interpreted and enforced the doctrine of separation of powers in different political systems.

Presidential Systems (e.g., United States)

In *Marbury v. Madison* (1803)²¹ case, U.S. Supreme Court : Established the principle of judicial review, reinforcing the judiciary's independence and setting a clear boundary between judicial and executive powers. In *Youngstown Sheet & Tube Co. V. Sawyer* (1952)²² case, U.S. Supreme Court : Limited the President's power to seize private property without Congressional approval, reinforcing checks and balances between the Executive and Legislature. In *United States v. Nixon* (1974)²³ case, U.S. Supreme Court : Limited the scope of executive privilege, affirming that the President is not above the law and must comply with judicial subpoenas. In *INS v. Chadha* (1983)²⁴ case, U.S. Supreme Court : Struck down the legislative veto as unconstitutional, preserving the separation between the legislative and executive branches.

Parliamentary Systems (e.g., India)

In *Kesavananda Bharati v. State of Kerala* (1973)²⁵ case, Supreme Court of India : Established the Basic Structure Doctrine, ensuring Parliament cannot destroy the basic features of the Constitution, including separation of powers. In *Indira Nehru Gandhi v. Raj Narain* (1975)²⁶ case, Supreme Court of India : Invalidated a constitutional amendment that sought to exempt the Prime Minister's election from judicial review, reinforcing judicial independence. In *S.P. Gupta v. Union of India* (1981)²⁷ case, Supreme Court of India : Discussed judicial appointments and emphasized the independence of the judiciary from the executive. In *State of Rajasthan v. Union of India* (1977)²⁸ case, Supreme Court of India : Examined the limits of central power over state governments, touching on federal aspects and executive overreach.

Comparative Analysis of Parliamentary and Presidential Systems

The parliamentary system and the presidential system are two of the most prominent forms of democratic governance around the world. Both systems seek to distribute power and safeguard democratic ideals, but they do so in fundamentally different ways. This comparative analysis will explore the structure, functioning, advantages, and drawbacks of both systems, focusing on key aspects such as the role of the executive, separation of powers, accountability, and political stability.²⁹ In parliamentary systems, these roles are often separated. The head of state is usually a ceremonial monarch (e.g., in the UK) or president (e.g., in India), while the head of government is the prime minister, who holds significant executive authority. The prime minister is the leader of the majority party or coalition in the lower house of parliament. The prime minister's powers are derived from their ability to command the confidence of the legislature, and they are typically appointed by the parliament³⁰. The prime minister selects the cabinet members, who are often members of parliament themselves.³¹ The cabinet is collectively responsible for decision-making. In presidential systems, the president serves as both the head of state and head of government, consolidating the executive functions in one individual. The president is usually elected independently of the legislature, giving them a distinct mandate from the electorate. The president holds significant powers, including the ability to appoint key officials and lead the country's foreign policy and military. The president's authority is often enshrined in the constitution, and they are typically not accountable to the legislature on a day-to-day basis. The president appoints a cabinet (often known as secretaries or ministers) to help manage the executive branch, but these officials are typically not members of the legislature. The executive and legislative branches are fused. The prime minister and cabinet are drawn from and accountable to the legislature. The government remains in office as long as it retains the confidence of the majority in the lower house of parliament. The prime minister and their cabinet are directly accountable to the parliament. If the government loses a vote of confidence or is subject to a no-confidence motion, the government must resign, and new elections or a new government formation may take place. The parliamentary system allows for greater political flexibility since the executive can be replaced without the need for a general election, leading to more rapid responses to shifts in political dynamics. The presidential system is characterized by a clear separation of powers between the executive, legislature, and judiciary. The president is independent from the legislature and cannot be removed from office except through the impeachment process. While the president is not accountable to the legislature on a day-to-day basis, they are held accountable through the checks and balances system, including oversight by the legislature and judiciary. However, the rigid separation can sometimes lead to political gridlock when the president and legislature are controlled by opposing parties³². The president serves for a fixed term, which can provide stability but can also make the removal of a president more difficult compared to the parliamentary system. Parliamentary systems can provide greater political stability when there is a strong majority party or coalition in power. However, if the coalition is weak or there is frequent turnover in leadership, political instability can arise.

²¹ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, (1803)

²² *Youngstown Sheet & Tube Co. V. Sawyer*, 343 U.S. 579 (1952)

²³ *United States v. Nixon*, 418 U.S. 683 (1974)

²⁴ *INS v. Chadha*, 462 U.S. 919 (1983)

²⁵ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India)

²⁶ *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1 (India)

²⁷ *S.P. Gupta v. Union of India*, AIR 1982 SC 149 (India)

²⁸ *State of Rajasthan v. Union of India*, AIR 1977 SC 1361 (India)

²⁹ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 4), (Spring 1997)

³⁰ Karan tragic, The doctrine of separation of powers and its relevance in time of coalition politics, IJPS, Vol. 69, No. 3, (page no. 4), (July - Sept 2008)

³¹ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 2), (May, 2005)

³² Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 4), (Spring 1997)

In this case, the prime minister can be replaced by the legislature without a full election. Parliamentary systems are more flexible when it comes to political transitions.³³ For example, a prime minister can be replaced mid-term if they lose confidence in the legislature, avoiding the need for national elections. This enables a swift political response to changing circumstances. Presidential systems tend to provide greater political continuity because the president serves a fixed term, which can help avoid instability from frequent leadership changes. However, this fixed term also means that the political system may become rigid and resistant to change, particularly if the president faces strong opposition from the legislature. Once a president is elected, they serve for the full term unless impeached. This lack of flexibility can sometimes lead to prolonged political gridlock or conflict, especially when the president and the legislature are controlled by different political parties. The executive (prime minister and cabinet) is drawn directly from the legislature. This means that the prime minister and ministers are typically members of parliament, and their decisions are subject to parliamentary oversight and approval. Legislation is often passed more easily since the executive and legislature work closely together. The government can rely on the majority in parliament to pass its proposed legislation, which leads to efficient lawmaking.³⁴ The executive and legislative branches are separate and independent. The president and their cabinet do not sit in the legislature and have limited interaction with it. This independence can result in conflict between the branches, especially when different political parties control the presidency and legislature. The separation of powers can lead to gridlock, where the executive and legislature block each other's initiatives. For example, the president might veto legislation that the legislature passes, or the legislature might refuse to approve presidential appointments. The prime minister and cabinet are directly accountable to the legislature and can be removed by a vote of no confidence, ensuring responsiveness to public sentiment. The fusion of powers facilitates efficient decision-making and the easy passage of laws when the government has a parliamentary majority. Governments can be replaced without the need for a national election, providing greater political flexibility.³⁵ Coalition governments can sometimes be unstable, especially in countries with multiple political parties. Frequent changes in leadership can cause political uncertainty. If one party has a strong majority, it can dominate the legislature and government, which might undermine political pluralism. The fixed term of the president provides stability and avoids frequent changes in leadership. The clear separation of powers provides a strong system of checks and balances, helping prevent the abuse of power. The president's direct election by the people provides them with a clear mandate to govern, which can enhance their legitimacy. The separation of powers can lead to political gridlock, especially when the executive and legislature are controlled by different parties.³⁶ The fixed term of the president can create rigidity in the system, as political change is difficult to achieve without a full election cycle or impeachment. The president may attempt to consolidate too much power, bypassing the legislature or judiciary. Both the parliamentary and presidential systems offer unique advantages and present distinct challenges. The parliamentary system tends to be more flexible and efficient in terms of governance, but it can be susceptible to political instability, especially in multi-party environments.³⁷ In contrast, the presidential system provides greater stability through fixed terms and clear separation of powers but can be prone to gridlock and executive overreach. The choice between these systems depends largely on a country's political culture, history, and the value it places on flexibility versus stability.

Challenges and Contemporary Developments

The separation of powers is a foundational principle of modern democratic systems, ensuring that the executive, legislative, and judicial branches of government maintain distinct and independent roles. While the principle is a common feature in both presidential and parliamentary systems, the practical application, challenges, and contemporary developments vary significantly across these systems.³⁸ This comparative constitutional analysis examines the challenges that both systems face concerning the separation of powers and explores how contemporary developments are reshaping this principle in the 21st century. The presidential system is characterized by a clear and rigid separation of powers, with the president acting as the head of state and government, distinct from the legislature. The executive, legislative, and judicial branches are independent, each with specific powers and responsibilities.³⁹ This separation ensures that no single branch can dominate the others, but it can also lead to political gridlock when there is significant disagreement between the president and the legislature. In contrast, the parliamentary system typically features a fusion of powers between the executive and legislature. The prime minister and cabinet are drawn from and accountable to the legislature. The executive and legislative branches work closely together, which can lead to greater policy efficiency but can also reduce the checks and balances inherent in a more rigid separation of powers. The prime minister's power is contingent upon maintaining the support of the majority in the lower house, making the executive branch more susceptible to legislative influence.⁴⁰ In the presidential system, the executive and legislature are often controlled by different political parties, leading to conflict and gridlock. The executive and legislative branches may block each other's initiatives, stalling essential policies and reforms. The United States has experienced gridlock several times, especially when the president and Congress are controlled by opposing parties. The budget crisis and debates over healthcare reform are prime examples of how separation of powers can result in deadlock. Gridlock weakens the executive's ability to implement its policy agenda, frustrating voters and causing inefficiencies in governance. While the separation of powers provides checks and balances, it also allows the president to exert substantial authority, especially in matters of national security and executive orders. This can lead to executive overreach, where the president bypasses the legislature or judiciary. U.S. presidents have often invoked executive orders to advance policies without congressional approval, which raises concerns over the balance of power. The unchecked use of executive orders can undermine legislative authority

³³ Karan tragic, The doctrine of separation of powers and its relevance in time of coalition politics, IJPS, Vol. 69, No. 3, (page no. 2), (July – Sept 2008)

³⁴ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 3), (May, 2005)

³⁵ Karan tragic, The doctrine of separation of powers and its relevance in time of coalition politics, IJPS, Vol. 69, No. 3, (page no. 2), (July – Sept 2008)

³⁶ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 4), (Spring 1997)

³⁷ Karan tragic, The doctrine of separation of powers and its relevance in time of coalition politics, IJPS, Vol. 69, No. 3, (page no. 6), (July – Sept 2008)

³⁸ Gonzalo Villalta Puig, Parliamentary versus Presidential Government, AIPS, Vol. 74, No. 5, (page no. 3), (Sept. – Oct. 2002)

³⁹ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 6), (Spring 1997)

⁴⁰ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 2), (May, 2005)

and concentrate too much power in the hands of the executive⁴¹. In presidential systems, the president serves a fixed term, and removal requires a lengthy impeachment process. This can be a challenge when the president is unpopular or engages in corruption or mismanagement. The impeachment proceedings against U.S. presidents such as Bill Clinton (1998)⁴² and Donald Trump (2019, 2021)⁴³ exemplify how difficult it can be to remove a sitting president, even when there are serious concerns about their conduct. The fixed term of the president can lead to prolonged political crises, preventing effective governance and undermining public trust in the political system. In parliamentary systems, the prime minister is dependent on the confidence of the legislature to remain in office. If the governing coalition loses support, the government can collapse, leading to new elections or the formation of a new government. In the UK, political instability following Brexit led to multiple changes in leadership, with Theresa May and Boris Johnson both facing challenges in maintaining parliamentary support. Constant shifts in leadership can create policy instability and uncertainty, particularly in a globalized world where long-term planning is crucial. While the parliamentary system features a fusion of powers, this can lead to the centralization of power in the hands of the prime minister and their cabinet.⁴⁴ The lack of a strong separation between the executive and legislative branches can undermine the principle of checks and balances. In India, the centralization of power under Prime Minister Narendra Modi has led to concerns about the concentration of power and the marginalization of opposition voices. This can result in decisions being made without sufficient scrutiny or accountability. The concentration of power in the executive branch can weaken democratic oversight and diminish the role of the legislature and judiciary in decision-making processes⁴⁵. In multi-party systems, coalition governments are common. However, coalition governments can result in weak leadership, as the prime minister must balance the interests of various parties, leading to compromises that may not reflect the will of the majority. In Italy, coalition governments have often resulted in instability, with frequent changes in leadership and policy direction. Coalition politics can lead to fragmented governance, where no single party holds enough power to enact bold reforms, resulting in policy paralysis. In both presidential and parliamentary systems, there has been a rise in executive power, especially in populist regimes. Leaders in both systems are increasingly using direct appeals to the electorate, bypassing traditional legislative processes to implement policy. Donald Trump in the U.S. and Viktor Orbán in Hungary have both exemplified the centralization of power and undermining of institutional checks in the name of populism. This populist trend often undermines the balance of power, as the executive may side line or weaken other branches of government to consolidate power. Courts have become increasingly involved in interpreting the constitution and acting as a check on executive power⁴⁶. Judicial review has expanded in many countries, giving courts the ability to evaluate whether executive actions or legislative acts comply with the constitution. In Brazil, the judiciary played a pivotal role in addressing corruption and checks on executive actions, such as in the Operation Car Wash scandal. While judicial review strengthens the system of checks and balances, it can also result in a judicial overreach, where courts interfere in political matters traditionally within the realm of the legislature or executive. Technology and globalization have made it increasingly difficult for traditional systems of governance to maintain effective separation of powers. Issues such as cybersecurity, data privacy, and trade agreements often require coordination between branches, blurring the lines of separation. The growing role of social media in political communication and the increasing regulation of big tech companies are examples of how executive, legislative, and judicial branches must collaborate on global issues. The rise of global challenges requires greater executive-legislative cooperation, potentially undermining traditional separations of power, especially when executive decisions are made in multilateral settings without sufficient oversight. Both presidential and parliamentary systems face distinct challenges in maintaining the principle of separation of powers. In presidential systems, challenges like political gridlock, executive overreach, and the difficulty of removing the executive remain central concerns. In parliamentary systems, government instability, concentration of power, and the complexities of coalition politics present significant challenges.⁴⁷ Contemporary developments such as the rise of populist leadership, judicial review, and the demands of globalization and technology are reshaping how the separation of powers is understood and implemented in both systems. The evolving nature of governance in the modern world calls for a rethinking of how to balance executive power, legislative authority, and judicial oversight to ensure democratic stability, accountability, and effectiveness. As democracies adapt to contemporary challenges, finding ways to strengthen the separation of powers while allowing for flexibility and responsiveness will remain a core issue for constitutional development and governance.⁴⁸

Conclusion:

The separation of powers is a cornerstone of democratic governance, serving as a safeguard against the concentration of power and ensuring a system of checks and balances between the executive, legislative, and judicial branches. Both presidential and parliamentary systems incorporate this principle, but they do so in fundamentally different ways, each offering distinct advantages and challenges. In the presidential system, the rigid separation of powers creates a clear distinction between the executive and legislative branches, fostering political stability and providing voters with a clear mandate through direct elections. However, this separation often leads to political gridlock when the president and legislature are controlled by opposing parties. The fixed term of office for the president also presents challenges in removing an ineffective or controversial leader, potentially leading to political stagnation. Additionally, the centralization of executive power can risk executive overreach, undermining the role of the legislature and judiciary. In contrast, the parliamentary system fosters a fusion of powers, where the executive is drawn from and accountable to the legislature. This often results in more efficient policy implementation and greater flexibility in governance, as the government can be replaced without the need for a national election.

⁴¹ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 6), (Spring 1997)

⁴² H.R. REP. NO. 105 – 830, at 1 (1998)

⁴³ H. R. REP. NO. 116 – 346, at 1 (2019)

⁴⁴ Karan tragic, The doctrine of separation of powers and its relevance in time of coalition politics, IJPS, Vol. 69, No. 3, (page no. 3), (July – Sept 2008)

⁴⁵ Karan tragic, The doctrine of separation of powers and its relevance in time of coalition politics, IJPS, Vol. 69, No. 3, (page no. 5), (July – Sept 2008)

⁴⁶ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 4), (Spring 1997)

⁴⁷ Karan tragic, The doctrine of separation of powers and its relevance in time of coalition politics, IJPS, Vol. 69, No. 3, (page no. 3), (July – Sept 2008)

⁴⁸ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 4), (May, 2005)

However, parliamentary systems are prone to political instability, particularly in multi-party environments where coalition governments may be weak and short-lived. The centralization of power in the hands of the prime minister, who may control both the executive and legislative agendas, can also undermine democratic checks and balances. Both systems face contemporary challenges, including the rise of populist leadership, increased judicial review, and the pressures of globalization and technology. These developments blur the lines between executive, legislative, and judicial roles, raising new questions about how best to maintain a proper balance of powers in an increasingly interconnected and complex world. Ultimately, the choice between a presidential or parliamentary system is not merely theoretical but is shaped by each country's unique political, historical, and cultural context. Each system has its strengths and weaknesses, and both require ongoing adaptation to address the challenges posed by modern governance. Ensuring the effective operation of the separation of powers in either system demands constant vigilance, constitutional refinement, and a commitment to democratic principles in the face of evolving political landscapes.

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