
DOCTRINE OF SEPARATION OF POWERS: COMPARATIVE EVALUATION BETWEEN PRESIDENTIAL AND PARLIAMENTARY SYSTEMS

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ABSTRACT

The Separation of Powers Doctrine is one of the key foundational principle of constitutional law that ensures the allocation of government functions among three independent organs — the legislature, the executive, and the judiciary — in order to avoid the concentration of power and maintain checks and balances. This paper explores the historical evolution and philosophical origins of the doctrine, from Aristotle and Montesquieu to its modern constitutional applications. Through a comparative analysis between the **Presidential system** (the United States) and the **Parliamentary system** (the India), the study highlights how both systems embody this doctrine differently.

While the **Presidential model** upholds a rigid separation of powers promoting stability and accountability, it often risks political gridlock. Conversely, the **Parliamentary model** integrates executive and legislative functions for efficient governance but is vulnerable to political instability and party dominance. Judicial pronouncements in landmark cases like *Marbury v. Madison* (U.S.) and *Kesavananda Bharati v. State of Kerala* (India) reaffirm the doctrine's centrality in upholding constitutional supremacy. The paper concludes that while both systems aim to preserve democratic governance through separation and interdependence of powers, their effectiveness depends largely on institutional integrity, political culture, and adherence to constitutional values.

Keywords: Separation of Powers, Checks and Balances, Presidential System, Parliamentary System, Legislature–Executive–Judiciary

Introduction

In India, the term Doctrine of Separation is not defined in the Constitution of India but the Constitution makers embedded the doctrine in Article 50 of the constitution which states that the judiciary is to be separated from the executive, the constitutional scheme does not embody any formalistic and dogmatic division of powers.¹Hence, several constitutional provisions continue to declare that the Indian Constitution does not assert rigid separation of powers. There is no such provision in Indian Constitution that confers the legislative and judicial powers on any particular body.

In simple terms, this doctrine of separation of powers refers to the division of powers, duties and authorities between the three branches of government that are the executive, the legislative and the judiciary. It establishes the system of checks and balances between the different organs of the government. Independence of Judiciary in the hands of the executive and the legislative is prerequisite for the establishment of the rule of law.

The Doctrine of constitutional Law also referred as the Doctrine of Separation of Powers under which the three branches of organs i.e. the Legislative, the Executive and the Judiciary are distinct from each other. This doctrine also knows a system of checks and balances because every branch of government possesses the power to monitor the abuse of authority by others, ensuring that none can become so dominant as to act in an autocratic way. Every branch possesses unique powers and typically, no branch is permitted to wield the power of the other branches.

Aristotle was the initial thinker who proposed the notion of mixed or hybrid government, which John Calvin later supported as a governmental system distributing powers between democracy and aristocracy. However, the idea of separation of powers was introduced by the French Philosopher Baron De Montesquie. He introduced the idea of a tripartite system, which Montesquie detailed in his work “The Spirit of The Laws²”, outlining the different ways of distributing political power among the legislature, executive and judiciary.

The following are some provisions in the Indian Constitution that illustrate the aim of the

¹ Upendra Baxi, *The Constitutional Quicksands of Kesavananda Bharti and the Twenty-fifth Amendment*, 4 *IJCL* (2010); (1974) 1 *SCC (Jour)* 45

² Montesquieu, *The Spirit of Laws* (Thomas Nugent trans, Hefner Press 1949), (1748)

drafters of the fundamental law. In the Constitutional Assembly, the debate was going on for the insertion of the Doctrine of Separation of Powers in the Indian Constitution, but the proposal was rejected by the majority of ministers. Again, this reflects the intention of the framers of the Constitution; they were always opposed to enforcing a strict division of powers in India.³

The idea of separating powers has captured the attention of countless philosophers, politicians, and those who write constitutions, with many people offering their own interpretations throughout history. This theory is basically about splitting up different works and responsibilities among separate parts of government. There are three main branches: the executive, the legislature, and the judiciary.

This whole theory came about because people realized three important things were needed to keep a country running smoothly.

First, no single person should belong to more than one branch of government.

Second, these three branches shouldn't meddle in each other's business.

third, each branch should stick to doing what it's supposed to do and not try to take over another branch's responsibilities.⁴

The constitution forms the basis of all policies, government bodies and institutions functions and decisions are made in terms of, and in general, covers all aspects of the political system of a country. The presidential system is one of the two types of government that exists in all countries of the world, the other being the parliamentary form of government and both are efficient for good governance, the presidential form of government is followed in countries like USA, France, Argentina, etc. and the parliamentary form of Government is followed in countries like India and UK, etc.

In a presidential system of government, the head of the state also serve as the head of government and oversees an executive branch that is distinct from the legislative branch, for instance, the United States follows the presidential structure whereas in a parliamentary

³ Vinita Choudhary, Separation of Powers: A Comparative Study of India, USA, UK and France, NLU Law Review, VOL I 2010

⁴ The Separation of Power: Indian Constitution, https://www.cusb.ac.in/images/cusb-files/2020/el/law/w2/The_Separation_of_Powers2_iv_sem.pdf

structure, the political party that wins the majority of seats in the parliament forms the government and elects one of its members to be the prime minister (the head of government), such as in India.⁵

History of Separation of Power

The idea of separating power goes way back in history, much further than we might think. People also called this separation of power "trias politica." Ancient Greece first came up with this theory, and the Roman Republic using it pretty widely too. This whole concept didn't just appear overnight - it took hundreds of years of people talking about it and working through the ideas.

The Aristotle (384-322 BC) in the book "The Politics" mentions "There are three elements in each constitution in respect of which every serious lawgiver must look for what is advantageous to it; of these are well arranged, the constitution is bound to be well arranged, and the differences in constitutions are bound to correspond to the differences between each of these elements. The three are, first, the deliberative, which discusses everything of common importance; second, the official; and third the judicial element."⁶

During Edward I's rule in England from 1272 to 1307, the idea of dividing government power first appeared with the creation of Parliament. Baron Montesquieu later championed this idea of splitting up power, which he named "Montesquieu's tripartite system." His theory was mostly inspired by how the English system worked. Montesquieu really cared about protecting people's political and basic rights. He argued that when executive and legislative powers are combined, it leads the executive branch toward becoming tyrannical. He also pointed out that mixing legislative and judicial powers doesn't protect citizens from government overreach. So basically, Montesquieu believed that human freedom can only survive if we can stop too much power from ending up in the hands of one person or small group.

Ancient India actually had its own version of separating different types of government power. These ideas are way back in the Vedas, and the Narad Smriti talks about splitting up authority too. Back then, they had a Deewan who ran the executive side of things, while the Senapati

⁵ Dev, "Comparative Study between Parliamentary and Presidential Form of Government"

⁶ Historical Development of Separation of Powers, Law Teacher, <https://www.lawteacher.net/freelawessays/constitutional-law/historical-development-of-separation-of-powers-constitutional-law-essay.php> (last visited Jan 18, 2021)

took care of keeping law and order, and someone called a Kaji handled the court system. Of course, the king was still the big boss over everyone else and made all the major rules, kind of like how we have legislatures today. So even in those ancient times, people understood the importance of dividing up government jobs and responsibilities among different people.

Research Methodology

This study is **doctrinal and analytical** in nature. It primarily focuses on legal principles derived from constitutional texts, judicial decisions, and scholarly writings. It also incorporates a **comparative constitutional analysis** between the **Presidential (U.S.)** and **Parliamentary (Indian)** systems to identify structural and functional distinctions. The evidentiary basis for this inquiry is drawn from a wide range of primary and secondary sources. Primary sources are the foundational legal instruments that form the direct subject of the analysis. **Constitutional documents:** The 1950 Constitution of India and The 1789 Constitution of the United States of America. **Official records, government reports, and legal proceedings** relating to constitutional interpretation. Secondary sources are used to support the analysis and provide context. These comprise scholarly books and peer-reviewed articles from academic journals, reports and relevant case laws. Scholarly books, journal articles, law review papers, commentaries, and research publications on constitutional law and political systems. Online academic databases such as JSTOR, HeinOnline, SCC Online, and legal research portals (e.g., Legal Service India, LawTeacher.net). **Notable Judicial pronouncements:** Landmark cases such as *Marbury v. Madison* (1803), *United States v. Nixon* (1974), *Kesavananda Bharati case* (1973), and *Indira Gandhi case* (1975).

Statement of Objective

The primary aim of this research is to comprehensively investigate the role of international law as a fundamental driver of globalization. To achieve this, the study pursues the following specific objectives:

1. To trace the historical evolution of the Doctrine of Separation of Powers from ancient political philosophy (Aristotle and Montesquieu) to its adoption in modern constitutions.
2. To analyze how the doctrine is implemented and functions within Presidential

and Parliamentary systems of governance.

3. To conduct a comparative evaluation of how the doctrine functions in the United States (Presidential system) and India (Parliamentary system), highlighting similarities, differences, and hybrid features.

4. To assess the extent of separation and interdependence among the three organs of government — legislature, executive, and judiciary — within both systems.

Presidential Form of Government

In a presidential system of government, the executive (headed by the president) is independent from the legislature; the branches of government are clearly separated, with the president, who is elected separately, holding substantial executive authority and being accountable to the legislature for the routine administrative purposes. These checks and balances ensure interbranch accountability. The presidential structure incorporated strict separation of powers among the executive, the legislature, and the judiciary⁷.

To prevent one branch from becoming more powerful, the institutional checks came into play so that no branch of government accumulates more power in itself. In comparison with the parliamentary structure of government, in which the head of the state i.e President (executive), emerges from the legislature, in a presidential structure, the president is elected through a separate/independently electoral process and the legislature has its separate powers⁸. In a presidential structure, the president typically serves as both the head of state, in other words, a symbolic representation of the nation and the chief executive officer will be the government head, whereas in a parliamentary structure, these functions are frequently split between the ceremonial head and the prime minister, who is the head of government⁹.

In a Presidential Structure, the president is elected by direct popular election by the people (via an electoral college in the U.S.) and so has a mandate from the people, unlike parliamentary systems in which the prime minister, who is the government head, is elected by the legislature

⁷ Eric A. Posner, Presidential leadership and the separation of powers, Vol. 145, No. 3, (page no. 6), (Summer 2016)

⁸ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 3), (Spring 1997)

⁹ Eric A. Posner, Presidential leadership and the separation of powers, Vol. 145, No. 3, (page no. 2), (Summer 2016)

itself. The President in the U.S.A typically holds office for terms of four years in the U.S. and he cannot be easily removed from office except through the impeachment process in the U.S. or other constitutional procedures which the U.S. Constitution may specify. The legislature and the judiciary serve as checks on the president's broad executive powers, which include the implementation of laws, issuance of executive orders, management of foreign relations with other nations around the globe, and leadership of the armed forces. Although the president has considerable executive power/authority, the system is built with checks and balances and a constitutional framework.¹⁰ For instance, the legislative body has the power to override executive vetoes, ratify or refuse the presidential appointments, and conduct investigations with the help of the various committees, while the judicial body has the power to declare the actions of the president as unconstitutional with the help of the judicial review, for example, in the U.S. system. In the presidential structure, the legislature, whether the Congress or Parliament, is separate from the executive body, and the removal of the president from his office is only done through the process of impeachment for high crimes and misdemeanors (e.g., U.S. Constitution, Article II).¹¹¹² The majority of countries with a presidential structure for instance the U.S. and Brazil follows the bicameral legislature, with a lower house for example the House of Representatives in the U.S. and an upper house i.e. the Senate in the U.S., with each branch acting as a check and balance on the other, and with the legislature making laws, the president signing or vetoing laws, and the ability for Congress to override a presidential veto with a supermajority vote (e.g., a two-thirds majority in the U.S. system), an independent judiciary with the power of the judicial review it can declare presidential or legislative act unconstitutional if they are in violation of any fundamental law of the land, and the impeachment of the president for “high crimes and misdemeanours” (e.g., in the U.S. system). In a presidential structure, through direct elections, the president is elected by the people of the nation, which is usually by popular vote. Whereas this shows the independence of the president from the legislative branch means that the president is not dependent on a parliamentary majority to hold their office¹². Presidents hold fixed terms, which are generally four or five years, and they cannot be dismissed by the legislative branch except through an impeachment process, which is based on evidence of major wrong doing which results in the removal of a president from his office. Impeachment in the United States is initiated in the

¹⁰ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 4), (Spring 1997)

¹¹ US Const. Art. 2

¹² Eric A. Posner, Presidential leadership and the separation of powers, Vol. 145, No. 3, (page no. 4), (Summer 2016)

House of Representatives and is tried in the Senate. Presidential Structure, in the United States: The United States is the classic example of a presidential structure of government. The president would be the state head and government head, and he is separately elected from the legislature¹³. The president holds substantial executive powers, but it is subjected to the checks and balances by the legislative body and judicial body. In Brazil: The Brazil has a presidential structure with a two-chamber or bicameral legislature and an constitutional independent judiciary; executive powers are separate from legislative powers. Mexico: Mexico has a presidential system, although the political structure may not function exactly like the U.S. system. The separation of powers between the branches ensures that no branch of government is able to amass too much power and become tyrannical. Direct election by the people gives the president a mandate from the people that is clear and direct, which may make the presidency more legitimate and politically stable. Because presidents serve fixed terms, political stability is increased, since they cannot be easily ousted from office except through impeachment process¹⁴. The executive can sometimes overstep its authority, although there are checks and balances in place, particularly in cases where the legislature or judiciary are not effectively checking the executive. The separation of powers can result in political gridlock, particularly if the president and the legislature are of different political parties, and can potentially be eroded by a president who exerts too much control over the executive branch and weakens democratic norms. The presidential system has the benefit of political stability, accountability, and a clear mandate for leadership, but it can also result in gridlock, executive overreach, and the danger of authoritarian tendencies¹⁵. Whether or not a presidential system succeeds will depend upon the strength and independence of the institutions that perform the checks and balances.

Parliamentary Form of Government

Parliamentary structure of government is a type of democracy in which the executive branch derives its legitimacy or legality and authority from the legislative branch i.e. parliament, unlike a presidential structure in which the executive branch i.e. the president and the legislative branch are separate and independent from each other, and in a parliamentary

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. 7), (Summer 2016)

¹⁵ Torten Persson , Gerard Ronald and Guido Tabellini , Separation of powers and political Accountability, QJE, Vol. 112, No. 4, (Page no. 23), (Nov. 1997)

structure, these two branches are integrated and the executive branch is responsible to the legislative branch. Parliamentary systems have the following features: In parliamentary structure, the executive branch and the legislative branch are integrated with each other; the government head i.e. the prime minister is typically the leader who would have gain the majority party/seats in lok sabha or coalition government in the lower house of parliament i.e lokh sabha; the council of ministers i.e. cabinet are selected from parliament and is responsible to them.¹⁶

This mixture makes the executive branch wholly reliant on the legislative branch for its mandate and subject matters to the confidence of the legislative branch. The State Head: In many parliamentary structures, the state head is either a monarch, which is mostly practised or seen in the United Kingdom or a ceremonial president that is seen in India and Germany, who has limited executive power vested in them. Government Head: The prime minister (PM) is the government head, and further, he is the leader of the government, who is responsible for the administration of the government, implements various policies in the public interest, and manages the national affairs for the peace and security of the nation. The Confidence and Accountability of the government: The government who is in power at the centre must retain their confidence in the lokh sabha which is the lower house of the parliament and if any unforeseen circumstances came where government loses its power at the centre due to any reason which is also known as no confidence motion, he have to resign from his office and new elctions will be conducted to form a new government. The Parliamentary Oversight: In which the prime minister and the council of minster i.e. cabinet, are held constantly accountable to parliament through mechanism such as the parliamentary debates, questions, and select committee hearings¹⁷.

In two houses of parliament, the council of ministers i.e cabinet, is typically responsible and accountable to the Lok Sabha, also known as the lower house, wherein the majority government sits, and cabinet decisions are generally made collectively, and the government is required to support the acts of the majority in parliament and implement the act accordingly. Typically, parliamentary structures include periodic elections for the legislative members, generally based on the proportional representation or the first-past-the-post electoral methods, and in a

¹⁶ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 4), (May, 2005)

¹⁷ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 2), (May, 2005)

democratic country like India, there should be different political parties, and the party which is in the majority or coalition chooses their prime minister and if there is no party who attain majority the, a coalition government is formed. The prime minister who is the head of the government plays a leading role in the executive branch and has considerable power over policy-making: he or she directs the legislative agenda of the government, represents the country in foreign affairs, appoints ministers to the cabinet, but the prime minister does not act independently; his or her authority is dependent on the support of the parliament and the capacity to form, sustain and maintain a stable council of minister i.e. cabinet¹⁸.

The examples of Parliamentary Structure are the United Kingdom (UK): A parliamentary system with a head of government (Prime Minister) and a state head (Monarch), India: Operates or Functions as a parliamentary democracy in which the state head is the President and the government head is the Prime Minister. Canada: Follows a constitutional monarchy wherein the Prime Minister is the government head and the Monarch, who is represented by the Governor-General as the state head. Germany: Germany follows the parliamentary republic with a Federal Chancellor as government head and a Federal President as state head. Legislative efficiency: The merging of powers generally facilitates more efficient or effective passage of laws, as the executive branch is aligned with the legislative branch, which is in majority. Accountability: Regular votes of confidence or no-confidence motions keep the executive branch accountable to the legislative branch and indirectly to the electorate. Flexibility: Parliamentary structures are more flexible in nature and their response to the political instability because, while votes of confidence may replace governments, there is no need to go through a full-scale presidential election¹⁹.

Instability: A coalition government may be prone to instability if the multiple parties cannot find consensus on policies, which may mean further elections. Limitation on Doctrine of Separation of Powers: The blurring of lines between the executive branch and legislative branch, which may weaken the independence of the executive branch and create the possibility of executive overreach. Dominance of Political Parties: Political parties are the most significant actors, and smaller parties or individual leaders may be sidelined. In the parliamentary system, executive and legislative powers are fused, with the prime minister possessing strong powers

¹⁸ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 5), (Spring 1997)

¹⁹ Torten Persson , Gerard Ronald and Guido Tabellini , Separation of powers and political Accountability, QJE, Vol. 112, No. 4, (Page no. 23), (Nov. 1997)

but being responsible to parliament. Although the parliamentary system provides benefits in terms of political stability and efficient government, it presents challenges, most notably those associated with coalition dynamics and the dominance of political parties²⁰.

Comparative Evaluation Between Presidential Form and Parliamentary form

The parliamentary structure and the presidential structure are the two most widely and commonly practised forms of democratic governments globally around the world. Further, both systems attempt to diffuse their powers and protect democratic principles or values, but they perform it in wholly or fundamentally different approaches. This comparative study between both the systems will include the structure or form, the powers, functioning, operations, the advantages, and the drawbacks or lacuna in both systems, in particular, it emphasises the role of the executive, separation of powers, accountability, and political stability²¹. In parliamentary systems, these roles are typically distinguished, with the head of state being a largely ceremonial monarch (e.g., in the UK) or president (e.g., in India), while the head of government is the prime minister, who wields considerable executive power, because he or she commands the confidence of the legislature, and is appointed by the parliament²². The prime minister chooses the members of the cabinet, who are often members of parliament themselves²³. The cabinet as a whole shares responsibility for decision-making. Presidential systems combine the roles of state heads and governmental head in one individual, the president, who is usually elected separately or independent elections from the legislative body and has a separate mandate from the electorate, although the president may have a number of important powers, such as the power to appoint key officials and to lead the foreign and military policy of the country, which are often codified in the constitution. The president also appoints a council of ministers i.e. cabinet (mostly referred to as secretaries or ministers of houses) for assistance in administering the executive body, but they do not generally having legislature membership. The executive body and the legislative body both are merged. The prime minister and council of ministers, i.e. cabinet, are selected from and are responsible or accountable to the legislative body. When the prime minister and council of ministers, i.e. cabinet, enjoys their majority in

²⁰ Torten Persson , Gerard Ronald and Guido Tabellini , Separation of powers and political Accountability, QJE, Vol. 112, No. 4, (Page no. 27), (Nov. 1997)

²¹ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 4), (Spring 1997)

²² 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)

²³ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 2), (May, 2005)

the lower house, which is also known as the Lok Sabha, they are directly answerable to the legislative body. But if any unforeseen circumstances arise wherein they lose their government or a no-confidence motion is passed against them, then the government immediately have to vacate their office or resign in following the new elections, or a new government will form to run the nation. Since the executive body can be replaced without holding a general election, the parliamentary system provides more political flexibility and allows for more frequent or rapid responses to changes in institutional dynamics. In a presidential structure, there is a crystal clear doctrine of separation of powers between the executive body, the legislative body, and the judicial body, and the president is separate from the legislature and works independently, and it can be removed from office only by the constitutional process of impeachment of the president. Although the president is not subjected or accountable to the legislative body for his day-to-day work, the president would be held accountable through the checks and balances which are imposed upon him for transparency, with the help of legislative oversight and judicial reviews by the court of law. Nevertheless, the strict separation of powers can result in political deadlock or gridlock when the president and the legislative body are dominated or controlled by different parties²⁴. In the parliamentary system, greater political stability may occur under a strong majority party or coalition, but when the coalition is weak or there is frequent turnover of the leadership, political instability can result. The president serves a fixed term, which may provide stability but may also make it difficult to remove a president compared to the parliamentary system.

In this scenario, the prime minister could be replaced by the legislature without holding a full election. Parliamentary systems are more flexible in political transitions²⁵, for instance, a prime minister may be removed mid-term if she loses confidence in the legislature, and therefore political response to changing circumstances can be swift, while presidential systems often provide more political continuity due to the fact that the president serves a fixed term and thus limits the amount of instability that can occur from frequent leadership changes. But a fixed tenure may also make the political system not flexible and limit change, especially when the president is at odds with the legislature, as is often the case when the president and the legislative body are controlled by different or other political parties. The executive who is prime minister and the Council of minister i.e. cabinet is elected directly from the legislative

²⁴ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 4), (Spring 1997)

²⁵ 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)

body: the prime minister and the council of ministers are usually the members of parliament, and their decisions are subjected to parliamentary oversight and their approval, legislation or laws are often passed more easily as the executive branch and legislative branch are closely linked or related with each other, and the government can count the assent on the bill of the majority in parliament to pass the respective legislation it proposes, making for effective lawmaking²⁶.

The executive branch and the legislative branch are distinct from each other and are independent bodies; the president and the council of ministers i.e cabinet, do not sit or participate in the matters of the legislature and have limited engagement with it. Now this separation can produce inter-branch conflicts, especially when different/opposing political parties control the presidency and the legislature, as well as gridlock, whereby the executive and legislature prevent the other from initiating new actions (for instance, the president vetoing legislation passed by the legislative body or the legislative body refusing the approval of the appointment of the president). Whereas in the Parliamentary structure, the prime minister and the council of ministers i.e cabinet, are directly responsible or accountable to the legislative body and may be dismissed or removed by the vote of no confidence, ensuring the will of the public sentiment.

In a parliamentary framework, when there is a government in the centre and hold majority, then it automatically ensures the easy decision-making and the smooth enactment of the laws. The replacement of government without the necessity of a general election offers the greater political flexibility²⁷, and coalition governments or administrations would be instable and fragile. It mostly happens in countries which have many different political parties, leading to political uncertainty. A strong majority can be a problem for political pluralism, but a strong majority in one party can dominate the legislature and government. When the term of the president is fixed, it gives institutional stability and avoids frequent leadership changes.

The Doctrine of separation of powers support a strong system of checks and balances, that prevents abuse of power or mis-use of authority, while the president is elected through a direct elections by the people which gives the president a clear or strong mandate to govern that can

²⁶ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 3), (May, 2005)

²⁷ 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)

enhance his or her executive legitimacy, the doctrine of separation of powers can result in political gridlock or instability, particularly when the executive branch and the legislature branch are dominated by other parties, and the fixed tenure of the president will make the system rigid or inflexible, as a meaningful political change is hard to achieve without a full election period or impeachment process. Finally, the president may seek to accumulate the powers which would result at the expense of the legislative branch or the judicial branch. The parliamentary structure and presidential structure have distinctive advantages and present different or unique challenges in it. While parliamentary systems are more adaptable and effective in terms of governing, they are prone to political instability, especially in multi-party settings²⁸; presidential systems are more stable because of fixed tenures or term and the doctrine of separation of powers, but tend to be more prone to deadlock or gridlock and executive paralysis. The selection between these structures is thus largely a function of the political culture and country's historical experience and the relative weight it puts on adaptability as opposed to institutional stability.

Challenges

The principle of separation of powers, a basic concept in the modern democratic structure of government, is a principle which exists in both presidential and parliamentary systems, but is applied and challenged in different ways and in new ways in the 21st century. In the presidential system, for example, the separation of powers is quite clear and rigid, with the president who serves as both the state head and the government head, and he is distinct from the legislature; each of the executive, the legislative, and the judiciary bodies works independently and has its own specific powers, functions and responsibilities²⁹. Although this division guarantees that no organ of government will be able to dominate the others, it can also result in political gridlock when there is a high degree of disagreement or conflicts arise between the president and the legislative branch.

While the parliamentary structure is a blend of the powers among the executive and the legislative body, wherein the prime minister and the council of minister i.e cabinet, are selected from the legislature and remain accountable to them, and both the branches are more closely

²⁸ 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)

²⁹ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 6), (Spring 1997)

integrated with each other, which promotes the smoother and more efficient policy making but it also reduces the checks and balances of a stricter doctrine of separation of powers. The power and authority of the prime minister are dependent or rest upon retaining the support of the majority of ministers in the lok sabha i.e lower house, thus rendering the executive body more susceptible to the influence of the legislative body³⁰. This can lead to conflict and gridlock, as the presidential system often puts the executive and legislature under the control of different political parties, which will seek to prevent the other branch from getting its way. Gridlock has occurred on several occasions in the United States, most commonly when the president and Congress are divided by party, such as during the budget crisis and debates over healthcare reform. Gridlock can also inhibit the executive from getting its policy agenda passed, which can frustrate voters and lead to inefficiencies in governance. The separation of powers can also lead to a system of checks and balances, but it also enables the president to exercise significant power, especially in areas of national security/peace and special executive orders, potentially leading to the executive overreach, where the president circumvents the legislative body or judicial branches. Executive orders have frequently been used by U.S. presidents to implement policies without congressional approval, raising the question of whether executive overreach is a threat to the balance of power. The unilateral use of executive orders can erode legislative authority and result in an imbalance of power between the branches³¹.

Landmark Cases

Presidential Systems (e.g., United States)

In *Marbury v. Madison* (1803³²), U.S. Supreme Court:

In this case, it establishes the judicial review, the independence of the judicial system, and draws the line between judicial and executive powers. In *Youngstown Sheet & Tube Co. V. Sawyer* (1952³³) case, U.S. Supreme Court: Reaffirmed checks and balances by limiting the President's power to seize private property without Congressional approval. In United States

³⁰ P. Parameshwar Rao, Separation of powers in a democracy The Indian experience, CMU, Vol. 37, No. 1, (page no. 2), (May, 2005)

³¹ Elijah Ben Zion Kaminsky, On the Comparison of Presidential and parliamentary governments, PSQ, Vol. 27, No. 2, (page no 6), (Spring 1997)

³² *Marbury v. Madison*, 5U.S.(1Cranch) 137,(1803)

³³ *Youngstown Sheet & Tube Co. V. Sawyer*, 343 U.S. 579 (1952)

v. Nixon (1974³⁴) case, U.S. Supreme Court: Limited executive privilege, and asserted that no one is above the law, including the President. In *INS v. Chadha* (1983³⁵) case, U.S. Supreme Court: Overturned and held unconstitutional the legislative veto powers, further separating legislative and the executive branches.

Parliamentary Systems (e.g., India)

In *Kesavananda Bharati v. State of Kerala* (1973³⁶) Supreme Court of India:

In this landmark case, the Supreme court propounded the Basic Structure Doctrine, in which the parliament has limited powers to amend the constitution of india and cannot alter the basic or fundamental features of the indian constitution which includes the principle of separation of powers (*Kesavananda Bharati v. State of Kerala* (1973)); Invalidated a constitutional amendment that attempted to take the election of the Prime Minister out of the purview of judicial review (*Indira Nehru Gandhi v. Raj Narain* (1975³⁷)); Discussed judicial appointments and emphasized the independence of the judiciary from the executive (*S.P. Gupta v. Union of India* (1981³⁸)); and Examined the limits on central power over state governments, which included issues of federalism and executive overreach (*State of Rajasthan v. Union of India* (1977³⁹)).

Conclusion

The doctrine of separation of powers remains the cornerstone of democratic government, preventing any one branch of government from exerting too much authority or subverting the rule of law, although Montesquieu envisioned a strict tripartite division that modern constitutions have adapted to their political and historical circumstances. In the presidential structure of government, such as the United States, the doctrine of separation of powers is more rigid/stricter in a visible manner, with each branch working in an independent, highly balanced system of checks and balances that guarantees institutional autonomy but may result in political gridlock when government is divided.

³⁴ *United States v. Nixon* , 418 U.S. 683 (1974)

³⁵ *INS v. Chadha* , 462 U.S. 919 (1983)

³⁶ *Kesavananda Bharati v. State of Kerala*, (1973) 4SCC 225 (India)

³⁷ *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1 (India)

³⁸ *S.P. Gupta v. Union of India* , AIR 1982 SC 149 (India)

³⁹ *State of Rajasthan v. Union of India* , AIR 1977 SC 1361 (India)

On the other hand, the parliamentary system, as practiced in India and the United Kingdom, is more fluid and collegial, with the executive drawn from and responsible to the legislature, which makes for more efficient and politically responsive governance but can blur institutional boundaries and encourage executive dominance. While the principle of separation of powers is not strictly followed in India, the structural arrangement of the Constitution and judicial interpretation, including the landmark cases *Kesavananda Bharati Case* and *Indira Nehru Gandhi Case*, uphold that the separation of powers constitutes a basic structure of the Constitution.

After all, the ultimate goal of both systems is the same: to preserve freedom from tyranny and ensure good governance. The success of separation of powers is not only based on the constitutional design but also depends on the strength, independence, and moral integrity of democratic institutions, the alertness of the judiciary, and the civic awareness of the people. What is required in both systems to sustain the spirit of constitutional democracy is a balanced interaction, not rigid compartmentalization.

References

Primary Sources

1. The Constitution of India, 1950
2. The Constitution of the United States of America, 1789

Cases

3. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803)
4. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952)
5. *United States v. Nixon*, 418 U.S. 683 (1974)
6. *INS v. Chadha*, 462 U.S. 919 (1983)
7. *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India)
8. *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1 (India)
9. *S.P. Gupta v. Union of India*, AIR 1982 SC 149 (India)
10. *State of Rajasthan v. Union of India*, AIR 1977 SC 1361 (India)

Secondary Sources

Articles

1. Upendra Baxi, *The Constitutional Quicksands of Kesavananda Bharati and the Twenty-Fifth Amendment*, 4 IJCL (2010)
2. Montesquieu, *The Spirit of Laws*, Thomas Nugent (Trans.), Hefner Press, 1949 (1748)
3. Vinita Choudhary, *Separation of Powers: A Comparative Study of India, USA, UK and France*, NLU Law Review, Vol. I (2010)
4. P. Parameshwar Rao, *Separation of Powers in a Democracy: The Indian Experience*,

CMU, Vol. 37, No. 1 (May, 2005)

5. Eric A. Posner, *Presidential Leadership and the Separation of Powers*, Vol. 145, No. 3 (Summer 2016)
6. Elijah Ben Zion Kaminsky, *On the Comparison of Presidential and Parliamentary Governments*, PSQ, Vol. 27, No. 2 (Spring 1997)
7. Torten Persson, Gerard Ronald, and Guido Tabellini, *Separation of Powers and Political Accountability*, QJE, Vol. 112, No. 4 (Nov. 1997)
8. Karan Tragic, *The Doctrine of Separation of Powers and Its Relevance in Time of Coalition Politics*, IJPS, Vol. 69, No. 3 (July–Sept 2008)
9. *Historical Development of Separation of Powers*, Law Teacher, <https://www.lawteacher.net/free-lawessays/constitutional-law>
10. Dev, *Comparative Study between Parliamentary and Presidential Form of Government*, <https://www.legalserviceindia.com>
11. MARYAM SANA, “Separation of Power according to the Indian Constitution and its Merits/Demerits” *International Journal of Law Management & Humanities* [ISSN 2581-5369] Volume 4 | Issue 3 2021
12. Prof. (Dr.) Seema Surendran¹, Sampa Dutta, “Separation of Powers in Presidential and Parliamentary Systems: A Comparative Constitutional Analysis” *International Journal of Research Publication and Reviews*, Vol 6, Issue 5, pp 6232-6238 May 2025