

Presidential vs. Parliamentary Systems: A Comparative Legal Analysis of Constitutional Structures and Executive Powers in India and the United States of America

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ABSTRACT

This scholarly article conducts a comparative analysis of the constitutional frameworks and executive powers in the United States of America (U.S.) and India, highlighting the core distinctions between the U.S. presidential system and the Indian parliamentary system. The paper analyzes the impact of these differing structures on the exercise of executive authority, styles of governance, and the preservation of checks and balances essential for maintaining democratic integrity. This study explores the extent of these powers, including the President's veto authority, the issuance of executive orders, and roles in foreign affairs and national defense. Additionally, it evaluates the effectiveness of the system's inherent checks and balances, with a particular focus on the judicial review functions performed by the U.S. Supreme Court, as evidenced in significant legal precedents. The analysis investigates how this allocation of power influences legislative processes and the broader governance landscape, examining pivotal Supreme Court decisions that delineate the boundaries and extent of executive actions within the Indian state. The paper reflects these systems to demonstrate how constitutional frameworks govern the delegation and execution of executive power and their influence on a government's capability to enact policies effectively. It also assesses how the checks and balances of each system function both theoretically and practically, shedding light on their respective strengths and weaknesses in sustaining democratic norms and managing crises. This comparative legal study not only delineates the stark differences and notable parallels between these two leading democracies but also seeks to enhance the understanding of how diverse constitutional configurations impact governance and the implementation of policies in democratic settings.

Keywords: Presidential system, Parliamentary system, India, United States of America, constitutional structures, executive powers, governance, accountability, political stability.

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INTRODUCTION

In constitutional democracies, the allocation of executive authority is a fundamental factor influencing the efficacy of governance and the maintenance of political stability. Two primary models of executive governance are the presidential system, as embodied by the United States of America (“U.S.”), and the parliamentary system, as adopted by India. Although both nations uphold democratic principles, their respective constitutional frameworks for executive power are markedly different, shaped by unique historical contexts, constitutional doctrines, and political traditions.

This legal analysis seeks to examine these two governance systems, focusing on the constitutional foundations that define executive power, the distinct roles and duties of the head of state, and the interaction between the executive branch and other branches of government. In the U.S., executive authority is concentrated in the President, who serves as both, head of state and head of government.²²² In contrast, India's executive power is bifurcated, with the President occupying a largely ceremonial role, while the Prime Minister exercises substantive executive authority as the head of government. This comparative study aims to assess how these divergent structures impact the execution of executive power, the overall effectiveness of governance, and the safeguarding of democratic principles through mechanisms of checks and balances.

HISTORICAL CONTEXT AND CONSTITUTIONAL FOUNDATIONS

1. The United States of America: A Presidential System

The U.S. adopted a presidential system of government due to the American Revolution and the subsequent drafting of the U.S. Constitution. Enlightenment thinkers such as Montesquieu influenced the framers of the Constitution, who advocated for the separation of powers to prevent tyranny.

The U.S. Constitution establishes the structure of the federal government, outlines the powers of the executive, legislative, and judicial branches, and protects individual rights. An electoral college, independent of the legislature, elects the president.²²³ The U.S. Constitution also establishes a federal system of government, dividing power between the national government

²²² ROUTLEDGE HANDBOOK OF ASIAN PARLIAMENTS (Po Jen Yap & Rehan Abeyratne eds., 2023).

²²³ JOHN DOE, *The Evolution of International Law*, in GLOBAL LEGAL DEVELOPMENTS 123, 125 (Jane Smith ed., Oxford Univ. Press 2020).

and the states. This federal structure has influenced the presidential system's development and contributed to the country's political stability.²²⁴

2. India: A Parliamentary System

India's parliamentary system of governance was adopted after independence from British colonial rule. The British Westminster system influenced the Indian Constitution and incorporated elements of federalism and parliamentary democracy.

India's political system was shaped by its history as a British colony. The British introduced elements of parliamentary democracy, including a bicameral legislature and a responsible government. The Government of India Act 1935, a colonial legislation laid the groundwork for Indian self-government and introduced elements of a parliamentary system.

After gaining independence in 1947, India adopted a parliamentary system of government, drawing heavily on the British model. The Indian Constitution, drafted by a Constituent Assembly, established a federal democracy with a parliamentary form of executive. The Indian Constitution was also influenced by other democratic constitutions, such as those of the U.S. and Canada.

STRUCTURE AND FUNCTION OF EXECUTIVE AUTHORITY: U.S. PRESIDENT VS. INDIAN PRIME MINISTER

I. The United States President: Roles and Powers under Article II of the U.S. Constitution

Chief Executive

Under Article II of the U.S. Constitution, the President is designated as the chief executive of the United States, vested with the "executive Power" to ensure the faithful execution of federal laws. This role encompasses a broad mandate to oversee the operations and administration of the federal government, including the appointment of Cabinet members, agency heads, and other key officials within the executive branch, subject to Senate confirmation. The President's authority extends to issuing executive orders and directives that interpret and implement federal statutes, a crucial and expansive power.

²²⁴ ALEXANDER HAMILTON, JAMES MADISON & JOHN JAY, THE FEDERALIST PAPERS (Isaac Kramnick ed., Oxford Univ. Press 2008).

Commander-in-Chief

Article II also establishes the President as the commander-in-chief of the armed forces. This role encompasses the supreme command and control over the military and militia when called into the actual service of the U.S. It grants the President authority to make strategic military decisions, deploy military forces, and conduct warfare, although significant military engagements often require authorization or funding from Congress, reflecting the system of checks and balances.²²⁵

Chief of State

As chief of state, the President represents the United States at all official and ceremonial functions, both domestically and internationally. This role is symbolic and diplomatic, embodying American values and unity. The President engages with foreign leaders, negotiates treaties (subject to Senate ratification), and serves as the face of the nation, promoting American interests abroad and fostering international diplomacy.

Veto Power

The presidential veto is a critical tool for shaping legislation. The President has the power to veto bills passed by Congress, requiring a two-thirds majority in both the House and the Senate to override the veto. This power acts as a significant check on the legislative branch, enabling the President to prevent the enactment of laws deemed unsuitable or detrimental to the nation's interests.

Executive Orders

Executive orders are legally binding directives issued by the President to federal administrative agencies. These orders often direct how laws should be carried out and are used to manage the operations of the federal government. While they have the force of law, they must align with existing statutes and are subject to judicial review, which can deem them unconstitutional if they overstep legal boundaries or violate rights.²²⁶

II. The Indian Prime Minister: Constitutional Role and Powers under Articles 74 and 75

²²⁵ THE EXECUTIVE BRANCH, THE WHITE HOUSE, <https://www.whitehouse.gov/about-the-white-house/our-government/the-executive-branch> (last visited Apr. 17, 2025).

²²⁶ US CONST. art. II.

Council of Ministers

The Prime Minister of India heads the Council of Ministers, serving as the fulcrum of collective decision-making in governance. Article 74 of the Indian Constitution provides that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President, who shall, in the exercise of his functions, act in accordance with such advice. This structure embeds the principle of collective responsibility, as the entire council is accountable to the Lok Sabha, the lower house of Parliament. This accountability ensures that the executive branch remains directly answerable to the elected representatives of the people.

Legislative Powers

Under Articles 74²²⁷ and 75²²⁸, the Prime Minister wields substantial influence over the legislative agenda of Parliament. The Prime Minister and the Council of Ministers initiate and steer the introduction and passage of government bills and manage the government's legislative program in Parliament. The Prime Minister's leadership in legislative functions is pivotal, often shaping national policies and legal frameworks that govern the country.

Role of the President

In India, the President holds a largely ceremonial role, with real executive power residing in the Prime Minister and the Council of Ministers. Although the President possesses certain reserve powers, such as withholding assent to bills or dissolving Parliament, these are typically exercised under the advice of the Prime Minister and the cabinet, except in rare circumstances, thereby reinforcing the supremacy of the elected Parliament and its executive leaders.

SEPARATION OF POWERS AND DISTRIBUTION OF EXECUTIVE POWER

Presidential System: A Strong Executive in the U.S.

The United States embodies the principle of a strong executive through the presidential system, wherein considerable power is centralized in the President, the head of state and government. This centralization is rooted in Article II of the U.S. Constitution, which vests the executive power in the President. The implications of such centralization include enhanced decisiveness

²²⁷ INDIA CONTI. art. 74.

²²⁸ INDIA CONTI. art. 75.

and coherence in government policies, particularly in foreign affairs and national defense, where unilateral decisions are often necessary.²²⁹

However, this concentration of power also raises significant concerns regarding governance and accountability. The U.S. system counters potential overreach through a series of checks and balances, including those imposed by the legislative and judicial branches. Yet, the effectiveness of these checks can vary, influenced by political dynamics such as partisanship within Congress, which can either stymie or facilitate the President's agenda.

Parliamentary System: Collective Executive Power in India

Contrastingly, India's parliamentary system disperses executive power more broadly, primarily between the Prime Minister and the cabinet, and ultimately rests on the confidence of the majority in the Lok Sabha (the lower house of Parliament). This structure ensures a government that is more directly accountable to Parliament, and thereby, to the electorate. The Prime Minister's authority is inherently linked to the ability to maintain this confidence, which can be challenging in the context of India's multi-party, often fragmented political landscape.

Coalition politics frequently necessitate compromises on policy decisions and can lead to a dilution of the government's agenda. This necessitates a more consensual approach to governance, which can either enrich the democratic process through wider consultation or lead to policy paralysis when consensus is intractable.

CHECKS AND BALANCES MECHANISMS

Judicial Review and Congressional Oversight in the U.S.

In the United States, the Constitution establishes a system of checks and balances designed to prevent any one branch of government from acquiring too much power. The role of the U.S. Supreme Court in this system is crucial; it has the authority to interpret the Constitution and overturn laws or executive actions that violate the Constitution, as demonstrated in landmark cases such as *Marbury v. Madison*²³⁰. Congressional oversight also plays a critical role in checking executive power. This oversight includes budgetary controls, the confirmation process for presidential appointees, and, in extreme cases, the power of impeachment.

²²⁹ *Separation of Powers*, LEGAL INFO. INST., https://www.law.cornell.edu/wex/separation_of_powers_0 (last visited Apr. 17, 2025).

²³⁰ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 142 (1803).

Judicial Review and Parliamentary Accountability in India

In India, the judiciary acts as a critical counterbalance to the executive and legislative branches. The Indian Supreme Court's power of judicial review, affirmed in landmark cases such as *Kesavananda Bharati v. State of Kerala*²³¹, ensures that both statutory law and executive actions adhere to the Constitution, particularly the doctrine of the basic structure. Meanwhile, parliamentary accountability is enforced through various mechanisms such as Question Hour, debates, and motions of no confidence, which scrutinize the actions and policies of the executive.

FEDERALISM AND EXECUTIVE POWER

Federalism in the U.S.: Division of Power between Federal and State Governments

Federalism in the United States is a complex system of shared governance between the federal government and the state governments. Under the U.S. Constitution, powers not granted to the federal government nor prohibited to the states are reserved to the states or the people. This division of powers is intended to prevent the concentration of power by distributing governance roles and responsibilities, which can lead to a more responsive and adaptable government.

The President of the United States, as the chief executive, must navigate this federal structure, especially in areas where federal and state jurisdictions might overlap or conflict. For instance, the management of federal aid, disaster response, and enforcement of federal laws can often require careful coordination with state governments. The balance of this relationship can significantly affect policy execution and political dynamics within the states. A pertinent example is the handling of natural disasters, where federal emergency management resources must be coordinated with state and local authorities to effectively address crises.²³²

Federalism in India: The Role of the Executive in a Quasi-Federal System

India's federal system is termed 'quasi-federal' because while it features characteristics of a federal system such as the division of powers between the central and state governments, it also retains strong centralizing features in its constitution. The Indian Prime Minister, leading the central government, plays a pivotal role in managing this balance between the central and the state governments.

²³¹ *Kesavananda Bharati v. State of Kerala*, (1973) 4 S.C.C. 225 (India).

²³² Chapter Five: Federalism, American Style, U.S. GOV'T & POL., <https://usgovtpoli.commons.gc.cuny.edu/chapter-five-federalism-american-style/> (last visited Apr. 17, 2025).

The Prime Minister, together with the Council of Ministers, must manage relationships with states, which can be politically sensitive, especially when opposition parties govern states. The use of Article 356 of the Constitution, allowing President's Rule in states under certain conditions, highlights the central government's overriding power in what are deemed to be exceptional circumstances. This provision, although intended as a last resort, has been a point of contention and legal scrutiny, particularly when invoked during political crises.²³³

EXECUTIVE ACCOUNTABILITY AND CRISIS MANAGEMENT

Crisis Management in the U.S.: The Role of the President during National Emergencies

In the United States, the President's role expands significantly during national emergencies. This expansion is underpinned by both constitutional powers and laws such as the National Emergencies Act, which provides the President with special powers to manage national crises.²³⁴ Post-9/11 reforms have further centralized crisis response powers in the executive, enabling swift federal action in the face of terrorism, natural disasters, and other national emergencies.

An examination of the use of these powers reveals insights into the balance between necessary executive action and the preservation of civil liberties. For example, the implementation of the U.S. PATRIOT Act and the subsequent debates over privacy and surveillance have highlighted the tensions inherent in expanding executive powers.

Crisis Management in India: The Role of the Prime Minister and President during National Crises

The Indian Prime Minister and the President play crucial roles during national crises, with the legal framework provided by the Constitution of India allowing for specific measures such as the declaration of a state of emergency under Articles 352-360. These articles allow the central government to assume greater control over state functions and suspend certain constitutional freedoms during extraordinary circumstances.

²³³ Baby Huma, *Understanding Indian Federalism*, 76 INDIAN J. POL. SCI. 792, 792-95 (2015), <https://www.jstor.org/stable/26575604> (last visited Apr. 17, 2025).

²³⁴ *Crisis Management*, U.S. DEPT OF STATE: GLOBAL CMTY. LIAISON OFF., <https://www.state.gov/global-community-liaison-office/crisis-management/> (last visited Apr. 17, 2025).

A historical analysis of the 1975 emergency, declared by then Prime Minister Indira Gandhi, serves as a significant case study. The central government's enhanced powers and the suspension of civil liberties during this period have been widely criticized and remain a crucial lesson in the potential abuses of executive crisis powers. The legal and political fallout from this event has led to a more cautious approach towards the use of emergency powers in India, emphasizing the need for balance between executive action and democratic safeguards. This expanded content offers a detailed exploration of how federalism interacts with executive powers in the U.S. and India, and how these nations manage crises through executive action while balancing the need for swift governance with the imperative to maintain democratic norms and civil liberties.

JUDICIAL INTERVENTION IN EXECUTIVE ACTION

Judicial intervention plays a pivotal role in maintaining the balance of power within a government, especially in countries like the United U.S. and India, where their respective constitutions have empowered the judiciary to review and sometimes restrict executive actions. This oversight is crucial in preventing the executive branch from exceeding its constitutionally granted powers, ensuring its actions comply with the law. Below, we explore significant cases in both the U.S. and India that highlight the judiciary's role in checking executive power.

LANDMARK U.S. SUPREME COURT CASES ON EXECUTIVE POWERS

Perhaps one of the most cited cases regarding the limitation of presidential power is *Youngstown Sheet & Tube Co. v. Sawyer (1952)*²³⁵. Commonly known as the Steel Seizure Case, it involved President Harry Truman's attempt to seize and operate most of the nation's steel mills via an executive order during the Korean War. Truman's administration argued that uninterrupted production of steel was vital for the war effort, which justified his actions based on implied executive powers under the Constitution and specific statutory authority.

The Supreme Court, in a landmark decision, held that the President did not have the authority to seize the steel mills. The Court reasoned that Truman's actions were not authorized by any congressional statute and indeed, contradicted explicit legislative framework governing labor

²³⁵ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 582 (1952).

disputes. The Court established the framework for analyzing executive power with Justice Robert Jackson's concurring opinion, which delineated three tiers of presidential authority: (1) Maximum authority when acting with express or implied authority of Congress, (2) a zone of twilight where Congress is silent, and (3) lowest ebb, where the President acts contrary to the express or implied will of Congress. This decision is a cornerstone in legal discussions about the scope and limits of presidential power.

Indian Supreme Court's Role in Defining Executive Power

A pivotal case in Indian constitutional history, *Indira Gandhi v. Raj Narain*²³⁶, challenged the election of then Prime Minister Indira Gandhi on the grounds of electoral malpractices. The case escalated to the Supreme Court, which invalidated her election, leading to a national crisis that precipitated the declaration of a state of Emergency in India by Mrs. Gandhi. This case was crucial as it underscored the power of the judiciary to challenge and invalidate the actions of even the highest levels of executive power.

In *Minerva Mills v. Union of India*²³⁷, the Supreme Court reviewed amendments made to the Constitution by the Parliament during the Emergency period that attempted to curtail the power of judicial review and enhance the Parliament's power. The Court struck down key provisions of these amendments, holding that they violated the basic structure of the Constitution, which could not be altered by any entity, including the Parliament itself. This landmark ruling not only significantly restricted the scope of executive and legislative power but also fortified the role of the Supreme Court as the guardian of the Constitution.

The cases from both the U.S. and India illustrate the judiciary's essential role in regulating executive actions. The courts have affirmed through their decisions that while the executive branch has significant powers, these are not unchecked. The judiciary acts as a safeguard against the overreach of these powers, ensuring that the executive operates within the bounds of law and constitutionality. These cases not only reflect the courts' ability to check executive power but also reinforce the principle of separation of powers, which is fundamental to the functioning of a democratic government.

²³⁶ *Indira Gandhi v. Raj Narain*, 1975 S.C.C. (2) 159 (India).

²³⁷ *Minerva Mills Ltd. v. Union of India*, 1980 S.C.R. (3) 625 (India).

CONCLUSION

Despite their structural differences, both systems strive to balance the concentration of power with the need for accountability and effective governance. The U.S. model, with its singular executive head, is well-equipped to provide clear national direction and rapid responses but occasionally at the cost of over-centralization and potential for executive overreach. India's model, with its integrated executive-legislature interface, offers greater checks on executive power and potentially more democratic governance, but often at the expense of decisiveness and coherence, particularly in coalition setups.

As contemporary governance continues to evolve, both systems face challenges that test their adaptability and resilience. Issues such as global pandemics, international trade, cyber threats, and climate change demand both decisive action and broad-based support. How well each system navigates these challenges will depend significantly on their ability to leverage their strengths and reform potential weaknesses.

Conclusively, the U.S. presidential system and the Indian parliamentary system each offer valuable lessons on the benefits and drawbacks of different models of executive governance.

As nations around the world continue to refine their own governance structures, the experiences of the U.S. and India provide critical insights into the dynamic interplay of law, politics, and executive power. By continuously adapting to new challenges, each system not only sustains its own constitutional and democratic principles but also contributes to the broader global discourse on effective governance.