


Research Article

The Presidential Form of Government

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Abstract

This study offers a comparative examination of the presidential form of government, tracing its historical foundations, institutional features, and global challenges. It analyses the defining attributes of presidentialism – separation of powers, fixed executive tenure, and direct mandate – alongside jurisprudential milestones such as *Marbury v. Madison* and *United States v. Nixon*. The paper evaluates how presidential systems respond to crises of legitimacy, accountability, and executive dominance, drawing lessons from diverse jurisdictions. In dialogue with India's constitutional experience, the research highlights why the parliamentary framework was adopted, while reflecting on what presidentialism reveals about safeguarding constitutionalism, limited government, and institutional balance. The study concludes that while presidentialism promises stability, its vulnerabilities underscore the importance of political culture and checks on executive power.

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INTRODUCTION

Every society needs rules and order. Without structure, power is either scattered with no control or concentrated in one hand with no limits. Both chaos and tyranny make life insecure. As Thomas Hobbes argued, life in the “state of nature” would be “solitary, poor, nasty, brutish, and short.”^[1] That is why philosophers asked how authority can be organised to protect people and remain accountable.

John Locke explained this through his idea of the state of nature. In that condition, people had rights but no impartial

authority to protect them. To escape insecurity, they agreed to form a government based on consent. The ruler, however, was only a trustee. If he abused power, the people could withdraw their trust^[2]. This is the foundation of constitutionalism – government limited by law and answerable to the people^[3]. When written constitutions appeared, Locke's theory was translated into institutions. Montesquieu argued for the separation of powers^[4], and James Madison in the Federalist Papers added the idea of checks and balances^[5]. The United States Constitution of 1787 became the first to put these ideas

into practice by creating an independent President, directly elected and serving a fixed term^[6]. This became the model of the presidential form of government.

Over time, many countries adopted this form: the United States, Brazil, Mexico, Argentina, Nigeria, the Philippines, South Korea, and Indonesia are examples^[7]. Each built variations, but the U.S. is treated as the archetype because it is the earliest, most stable, and most studied system. Its constitutional text, court rulings, and political practice supply the benchmarks against which other presidential constitutions are compared^[8].

This paper, therefore, uses the U.S. model as the baseline to study presidentialism, its global adaptations, and its relevance for India.

Origin and evolution of presidentialism

The presidential form of government originated in the American constitutional experiment of 1787, which consciously drew from earlier political theories to design a new model of executive authority. Locke supplied the idea of government as a trust derived from the consent of the governed^[9]; Montesquieu contributed the doctrine of separation of powers^[10]; Rousseau insisted on the sovereignty of the people^[11]; and Madison refined these principles into a practical system of checks and balances^[12].

The framers at Philadelphia created a President elected through an independent mechanism, serving for a fixed term, and not dependent on the confidence of the legislature^[13]. The office was made both head of state and head of government, uniting ceremonial and administrative functions. To prevent executive overreach, the Constitution distributed countervailing powers: Congress retained legislative supremacy and financial control, the President was granted a qualified veto, and the judiciary held authority to interpret the Constitution^[14]. This interdependence was deliberate. As Madison argued, liberty could only be preserved if “ambition must be made to counteract ambition.”^[15]

The United States thus produced the first enduring presidential system, combining direct executive legitimacy with institutional checks. Its relative success encouraged constitutional borrowing. Latin American states such as Brazil, Mexico, and Argentina adopted presidential constitutions in the nineteenth century, often closely imitating U.S. provisions^[16]. After decolonisation, the model spread to Africa and Asia, including Nigeria, the Philippines, South Korea, and Indonesia^[17].

Yet presidentialism outside the United States often faced difficulties. Weak legislatures and pliant judiciaries allowed executives to dominate, confirming Linz’s observation that presidentialism carries the “perils” of rigidity and concentration of power^[18]. In Latin America, this frequently produced cycles of constitutional suspension and authoritarian rule. In Africa, Nigeria experimented with presidential constitutions in 1979 and again in 1999, explicitly referencing the U.S. design but facing persistent challenges of corruption and ethnic conflict^[19]. In Asia, South Korea introduced impeachment procedures and term limits after experiencing military rule, and Indonesia

reformed its constitution to reduce presidential dominance after the fall of Suharto^[20].

The evolution of presidentialism demonstrates two central themes. First, the U.S. Constitution remains the archetype, providing the structural vocabulary – direct election, fixed term, dual executive functions, and checks and balances – those later systems adopted or adapted. Second, the performance of presidentialism has varied widely depending on the strength of supporting institutions. Where legislatures, parties, and courts function effectively, the model promotes accountability and stability.²¹ Where they are weak, presidentialism has too often entrenched authoritarianism.²²

Features of presidentialism

Presidentialism is defined by a distinct set of features that separate it from parliamentary and hybrid systems. These features give the executive a unique form of authority, create structural stability, and shape the balance of power with the legislature and judiciary. The following sections set out the principal elements of this system as they operate in practice.

A. Independent Executive Authority

The most fundamental feature of presidentialism is the independent source of executive authority. Article II, Section 1 of the U.S. Constitution vests the “Executive Power”^[21] in a President elected for a fixed term. Unlike a prime minister dependent on the legislature, the President derives legitimacy directly from the people. James Madison described this independence as essential to prevent legislative dominance^[22].

This independence enabled strong action in times of crisis. Abraham Lincoln’s suspension of habeas corpus during the Civil War illustrated the scope of presidential authority^[23]. Although challenged in *Ex parte Merryman*^[24], Chief Justice Taney’s opinion rejecting unilateral suspension was ignored by Lincoln, who justified his actions as necessary to preserve the Union. The episode shows how the independent executive can act even when judicial or legislative opposition exists, with subsequent political and legal validation.

It also produces “divided government” when Congress is controlled by the opposite party. This division has become a recurrent condition of American politics, shaping the bargaining dynamic between the President and the legislature^[25].

B. Fixed Tenure

The fixed term of office provides stability by insulating the presidency from ordinary political fluctuations. The President cannot be removed by a vote of no confidence; removal is possible only in extraordinary circumstances through impeachment for “treason, bribery, or other high Crimes and Misdemeanours.”^[26] The Johnson impeachment of 1868 tested this safeguard. The House approved articles of impeachment, but the Senate fell short of conviction by a single vote.^[27, 28, 29] This failure established that impeachment requires an overwhelming consensus, preventing it from becoming a partisan device.

Later impeachments confirmed this principle. President Bill Clinton was acquitted by the Senate in 1999 despite a political scandal ^[30], while President Donald Trump was impeached twice and acquitted both times ^[31]. Charles Black famously described impeachment as a “constitutional emergency power,” ^[30] intended to be rarely invoked but indispensable when misconduct strikes at the heart of governance. The rigidity of fixed tenure thus stabilises executive authority but also risks entrenching a President even when political legitimacy erodes.

C. Veto Power

The presidential veto is a qualified negative. Article I, Section 7 authorises the President to return bills to Congress, subject to override by two-thirds of both houses ^[31]. The veto, therefore, compels negotiation across branches.

Historical practice illustrates both its limits and uses. Andrew Johnson issued more than 20 vetoes during Reconstruction, including the Civil Rights Act of 1866, which Congress overrode ^[32]. The overrides demonstrated legislative supremacy where consensus existed, while Johnson’s frequent use of the veto signalled deep institutional conflict. Franklin Roosevelt, by contrast, wielded the veto strategically. Between 1933 and 1945, he issued 635 vetoes, most of which were sustained, shaping the contours of New Deal legislation ^[33]. The veto remains a crucial bargaining instrument that forces Congress to consider presidential preferences even when lacking supermajorities.

D. Authority in Foreign Affairs and National Security

Presidential authority is at its broadest in foreign affairs and national security. Article II, Section 2 designates the President as commander-in-chief and empowers him to make treaties (with Senate consent) and appoint an ambassador.³⁶ Presidents have used this authority expansively, often relying on executive agreements and unilateral actions.

The limits of this authority have been contested. In *Youngstown Sheet & Tube Co. v. Sawyer* ^[34], the Supreme Court invalidated President Truman’s seizure of steel mills during the Korean War, holding that executive power must operate within statutory limits. By contrast, in *United States v. Curtiss-Wright Export Corp.*, ^[35] the Court upheld broad executive discretion in foreign relations, famously describing the President as the “sole organ” in external affairs. Together, these cases illustrate the fluctuating boundaries of presidential power, narrower in domestic contexts and broader in external ones. This flexibility had real-world consequences. During the Cuban Missile Crisis of 1962, President John F. Kennedy managed nuclear confrontation through rapid decisions and confidential diplomacy, later chronicled by Arthur.

Schlesinger as proof of the advantages of presidential leadership in external affairs ^[36].

Presidentialism grants the executive formidable powers, but these powers are circumscribed by the separation of powers. Congress restrains the President through the power of the purse, oversight hearings, the Senate’s advice and consent, and ultimately impeachment. The judiciary enforces constitutional

limits through judicial review, first established in *Marbury v. Madison* ^[37] and applied in *United States v. Nixon* ^[41], which compelled the President to release the Watergate tapes despite claims of executive privilege. Richard Neustadt famously characterised the system as one of “separated institutions sharing power,” where authority is not monopolised but continually contested across branches ^[38]. The endurance of presidentialism lies in this tension: a strong executive capable of decisive action, yet confined by legislative and judicial counterweights that secure constitutional balance.

Global challenges in presidentialism

Presidentialism is built on fixed terms, direct election, and separation of powers. On paper, these features promise stability. In practice, the model has produced recurring challenges across the world. A comparative view shows how different contexts create distinct risks.

A. The United States: Gridlock and Divided Government

The United States represents the original model of presidentialism. The President and Congress are elected separately and cannot dismiss each other. This ensures stability, but also creates the possibility of “divided government,” where opposing parties control the branches.

This condition has been described as a recurrent feature of American Politics ^[39].

In practice, this has often led to gridlock. Budget disputes caused shutdowns in 1995–96 and 2018–19, when federal operations halted for weeks ^[40]. The separation of powers that preserves independence also blocks compromise. The U.S. shows how presidentialism survives institutional deadlock, but often at the expense of responsiveness.

B. Latin America: Hyper-Presidentialism and Democratic Breakdown

Many Latin American states adopted presidential constitutions modelled on the U.S., but added broader powers for the executive. Presidents were given decree authority, emergency powers, and dominance over patronage. Scholars have termed this *hyperpresidentialism* ^[41].

In practice, hyper-presidentialism hollowed out legislatures and courts. Instead of a stable rule, it destabilised democracy. Coups in Chile (1973) and Argentina (1976) followed periods of executive overreach that eroded representative institutions ^[42]. Venezuela later showed how elected presidents could exploit broad mandates to weaken checks and consolidate dominance ^[43]. The region demonstrates how too much presidential power can lead to collapse rather than endurance.

C. Nigeria: Authoritarian Drift and Military Collapse

Nigeria adopted a presidential constitution in 1979 to replace its earlier parliamentary system, hoping to reduce ethnic tensions through a directly elected executive. On paper, it mirrored the U.S. model. In practice, the presidency became the centre of rivalry and patronage. Elections in 1983 were marred by fraud and violence, while weak legislatures failed to restrain the

executive ^[44]. The military intervened and ruled for sixteen years, suspending the constitution. When civilian presidentialism returned under the 1999 Constitution, the same weaknesses persisted. Presidents continued to stretch emergency powers and undermine accountability ^[45], showing how fragile institutions can turn presidentialism into a platform for drift toward authoritarian control.

D. South Korea: Impeachment as a Check

South Korea operates a presidential system with a single five-year term for the executive. The legislature may impeach the President, but removal requires confirmation by the Constitutional Court ^[46].

This design has been stress-tested. In 2004, the Court struck down the legislature's impeachment of President Roh Moo-hyun ^[47]. In 2017, it upheld the impeachment of President Park Geun-hye for corruption ^[52]. These cases show impeachment functioning as a safeguard, but they also reveal how presidential systems may repeatedly reach a crisis, with governance suspended until courts resolve the dispute.

E. France: Semi-Presidential Cohabitation

France's Fifth Republic created a dual executive, with a directly elected President and a Prime Minister responsible to Parliament. The President leads foreign policy, while domestic authority is shared ^[53].

This design has produced "cohabitation," when the President and parliamentary majority come from different parties. In such times, the President loses influence over domestic matters but retains control over defence and foreign affairs. Cohabitation has prevented authoritarian dominance, but at the cost of divided leadership and inconsistent policy direction ^[48].

F. Russia: Super-Presidential Dominance

Russia's 1993 Constitution established a semi-presidential system, but in practice, the President dominates. The office commands decree powers, appoints governors and judges, and can dissolve the Duma under certain conditions ^[49].

This has produced what scholars call super-presidentialism. Unlike Latin America's hyper-presidentialism, which often collapsed under its own weight, Russia entrenched executive supremacy.⁵⁶ Elections and formal institutions remain in place, but checks are too weak to function. The Russian case shows how presidentialism, in the absence of genuine accountability, can evolve into long-term authoritarian stability masked as constitutional rule ^[50].

Monarchies as a Contrast

Monarchies help highlight what makes presidentialism unique. In constitutional monarchies like the United Kingdom or Sweden, the monarch is ceremonial and executive power lies with Parliament. In absolute or hybrid monarchies such as Saudi Arabia or Morocco, rulers hold sweeping powers without an electoral mandate. These resemble presidential dominance but lack the fixed terms and popular legitimacy that presidential systems claim as safeguards ^[51].

Across contexts, presidentialism has revealed more vulnerabilities than strengths. If it fosters gridlock in strong democracies and authoritarian drift in weaker ones, the real question is whether presidentialism is a model of governance – or a gamble society continue to take.

India and the debate on presidentialism

The framers of India's Constitution rejected the presidential model after intense debate in the Constituent Assembly. Dr B.R. Ambedkar and Jawaharlal Nehru argued that concentrating executive authority in a directly elected President would be "incompatible with

India's plural society," and could easily degenerate into authoritarianism ^[52]. Instead, the Assembly opted for a parliamentary system modelled on Westminster, where the executive is responsible to the legislature, thereby preserving cabinet accountability and reflecting the diversity of the nation ^[53].

This choice was institutionalised in Part V of the Constitution. Article 52 establishes the office of the President, but Articles 74 and 75 make it clear that real executive authority rests with the Council of Ministers headed by the Prime Minister, whose advice is binding ^[54]. The judiciary confirmed this interpretation in *Ram Jawaya Kapur v. State of Punjab* ^[55], holding that the executive is "co-extensive with the legislative power" but subordinate to constitutional limits. Later, in *Shamsher Singh v. State of Punjab* ^[56], the Supreme Court reiterated that the President and Governors act only on the aid and advice of the Cabinet.

The Supreme Court further entrenched parliamentary accountability through the basic structure doctrine. In *Kesavananda Bharati v. State of Kerala* ^[57], the Court held that separation of powers and judicial review form part of the Constitution's basic structure, immune from amendment. In *Indira Gandhi v. Raj Narain* ^[58], it added that free and fair elections are similarly essential. And in *S.R. Bommai v. Union of India* ^[59], the Court placed federalism and parliamentary responsibility within the protective scope of the basic structure, mandating floor tests to check abuse of presidential proclamations. South Africa's 1996 Constitution reflects a parallel concern: while it has an executive President, the office remains accountable to the legislature, a safeguard absent in classical presidential systems ^[67].

Indian political history, however, has tested these safeguards. The Emergency of 1975–77, declared under Article 352, concentrated extraordinary power in the hands of Prime Minister Indira Gandhi. Fundamental rights were suspended, opposition leaders jailed, and the judiciary cowed ^[60]. Scholars have noted that this period produced a form of "prime ministerial presidentialism," resembling the dominance of executives in fragile presidential systems elsewhere ^[61]. A useful comparison is Nigeria. Its 1979 Constitution adopted a U.S.-style presidency, hoping to transcend ethnic divisions by giving a direct mandate to the executive. Instead, weak legislatures and politicised courts allowed presidents to accumulate power, and after disputed elections in 1983, the military seized control. Civilian presidentialism was restored

under the 1999 Constitution, but similar problems of patronage, emergency powers, and institutional weakness persist^[70]. India's Emergency and Nigeria's collapses reveal the same lesson: without robust legislative and judicial checks, concentration of executive authority – whether in a Prime Minister or a President – threatens democratic survival.

At the same time, South Africa offers an instructive contrast. Its semi-parliamentary presidentialism ensures the President is elected by Parliament, thereby blending direct authority with legislative dependence^[62]. The Constitutional Court has actively policed executive power, as in *Economic Freedom Fighters v. Speaker of the National Assembly*^[63], where it held President Zuma accountable for ignoring remedial action by the Public Protector. This reflects a deliberate attempt to prevent the authoritarian drift observed in Nigeria while preserving effective executive leadership.

Calls for presidentialism in India periodically resurface. Advocates argue that a directly elected President would provide clarity, decisiveness, and insulation from coalition politics.⁷³ Yet critics respond that India's diversity and federal structure make such concentration of authority perilous. The comparison with Nigeria underscores the risks of personalist dominance, while South Africa highlights that hybrid solutions can provide stability only when institutions are strong.

Ultimately, India's parliamentary form, though imperfect, remains most compatible with its constitutional ethos. It channels executive power through cabinet responsibility, preserves legislative oversight, and relies on judicial review as a check. If presidentialism promises efficiency, its record in comparable societies suggests that for India, it would be less a solution than a gamble.

CONCLUSION

The comparative study of presidentialism yields a clear warning for India. Wherever presidential executives have operated without strong legislatures and courts, they have produced democratic collapse or authoritarian drift. Latin America's hyper-presidentialism hollowed out representative institutions; Nigeria's adoption of the U.S. model ended in military intervention; Russia entrenched executive dominance behind a constitutional façade.

These experiences show that direct executive mandates do not by themselves secure stability.

They magnify institutional weaknesses.

India's own history confirms the risk. The Emergency of 1975-77 demonstrated how easily concentrated authority can overwhelm rights and accountability. In such a diverse federation, where political and social pluralism requires constant negotiation, unchecked presidential power would threaten the very fabric of the Constitution.

At the same time, South Africa offers a contrast: its hybrid presidency works only because legislative dependence and judicial enforcement remain central. The lesson for India is that executive strength must always be balanced by enforceable accountability.

For India, therefore, presidentialism cannot be the remedy to political instability. It would be a gamble with democracy itself. The parliamentary system, for all its flaws, remains better suited to protect pluralism, federalism, and constitutional balance.

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