

Unit 3

Other Democratic Models of Governance

Overview

The main objective of this unit is to analyse the Westminster model of parliamentary democracy in relation to other democratic models of governance. The unit explores various forms of governance in relation to the Westminster model. In particular it offers a comparative examination of the American Presidential model, the Mixed French system, as well as parliamentary modifications in New Zealand, Israel and South Africa, among others. Finally, the unit shifts to an examination of federalism and the adoption of a Charter (e.g. Canada) or Bill (e.g. Britain, South Africa) of Rights.

Learning Objectives

After you have completed this unit you should be able to achieve the following:

1. List the distinguishing features of the American presidential model.
2. Discuss the features of the French mixed presidential and parliamentary models.
3. Explain how the Westminster model has been modified in New Zealand, Israel and South Africa.
4. Describe how federal systems and written constitutions can affect the operation of parliamentary systems.

Commentary

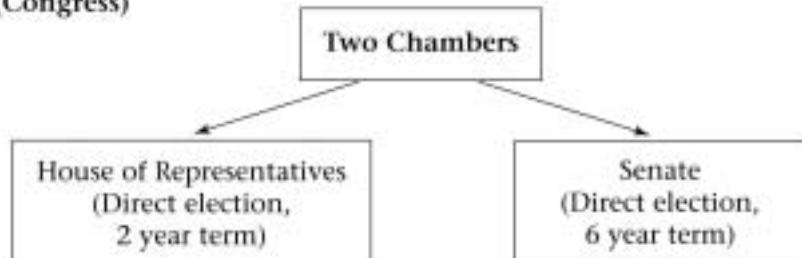
Although the British Parliament has been described as the ‘mother of all parliaments,’ many of the democratic systems in place today do not follow a parliamentary model, while others that can be described as parliamentary have not fully adopted the Westminster model. In this section we shall explore some of the competing models.

The American Presidential Model

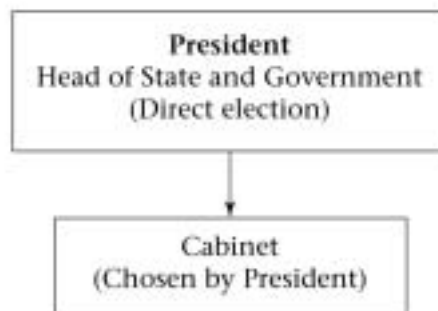
The leading alternative form of government organisation is the presidential model pioneered with the American constitution. In the aftermath of the

American Revolution, the United States organised its government in a way that would ensure no individual component could dominate the system.

**Legislative Branch
(Congress)**



Executive Branch



Judicial Branch

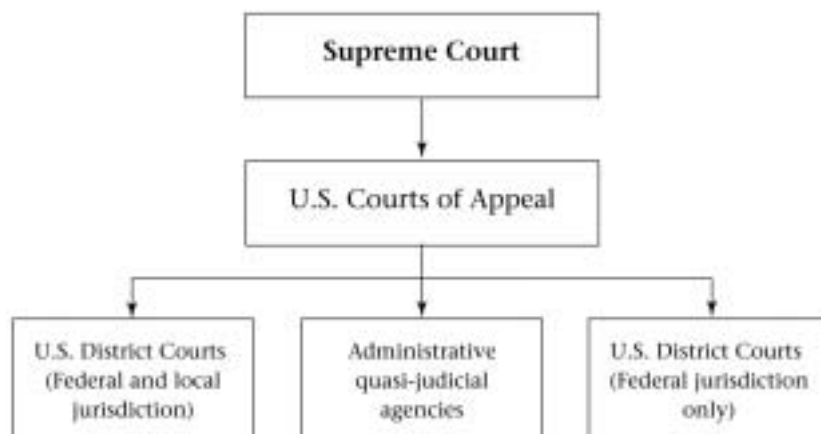


Figure 3.1 American Presidential Model

A great emphasis was placed on creating a network of ‘checks and balances.’ This model differs from the contemporary Westminster model in a number of important features. The same person, the President, fills the positions of

head of state and head of government. This position is filled on the basis of a direct election and is in no way dependent on the composition of the legislative assembly. (Actually the voters select members of an Electoral College and this college chooses the president. But this has become a formality since college members are simply individuals elected from slates committed to the various presidential candidates.)

The President alone chooses cabinet members. The Cabinet, who together with the President form the executive, are not drawn from the legislature, are not responsible to the legislature, and cannot be dismissed by the legislature. In essence, the executive is independent of the legislative branch. (Congress has the authority to remove a president from office if the Senate convicts the president on articles of impeachment approved by the House of Representatives. This has never happened.) However, in the postwar period two presidents have been challenged by impeachment. One of them, Republican President Richard Nixon, resigned rather than face impeachment. More recently, Democratic President William Jefferson Clinton survived a vote of impeachment, although it damaged the reputation of his presidency.

For the system to function effectively there must be a measure of cooperation between the executive and legislature, a cooperation that is a given in the Westminster model. The two Houses of Congress can introduce and pass legislation in whatever form they desire. However, the President has the constitutional authority to veto congressional legislation. This does not end the issue since if both Houses of Congress again pass the vetoed legislation with a two-thirds majority, the veto can be overridden.

In the case of a disagreement between Congress and the President, the President cannot call new congressional elections. The timing of all elections is based on the Constitution and could only be changed by an amendment to that document. When one party controls the presidency and another party controls Congress, a good deal of compromise is required to keep the system operating smoothly. Clearly no President has the same ability to get desired legislation approved as does the Prime Minister in a parliamentary model.

Finally, both executive decisions and congressional legislation are subject to a process of judicial review. American courts can review such measures to determine whether they are consistent with the constitution. If they are not, the courts can invalidate them. Thus, in the American presidential model, it is the Constitution which is sovereign, rather than the President or Congress.

	Legislative branch can be checked by:	Executive branch can be checked by:	Judicial branch can be checked by:
Legislative branch can check:	NA	<ul style="list-style-type: none"> • Can overrule veto (2/3 vote) • Controls appropriations • Controls by statute • Impeachment of President • Senate approval of appointments and treaties • Committee oversight 	<ul style="list-style-type: none"> • Controls appropriation • Can create inferior courts • Can add new judges • Senate approves appointments • Impeachment of judges
Executive branch can check:	<ul style="list-style-type: none"> • Can veto legislation • Can convene special session • Can adjourn Congress when chambers disagree • Vice-president presides over Senate and votes to break ties 	NA	<ul style="list-style-type: none"> • President appoints judges
Judicial branch can check:	<ul style="list-style-type: none"> • Judicial review of legislation • Chief justice presides over Senate during proceedings to impeach president 	<ul style="list-style-type: none"> • Judicial review over presidential actions Power to issue warrants • Chief justice presides over impeachment of president 	NA

NA= Not applicable

Source: Lowi & Ginsberg, *American Government*, Third Edition

Figure 3.2 Checks and Balances in the American System

The American model is not the only example of the presidential system in operation. Countries such as France, Finland and Russia have modified presidential systems. We will touch briefly on the French example.

The Mixed French System

In France, as in the United States, the President and the legislature are elected separately and the President's position is not threatened by the composition of the legislature. In recent years it has not been uncommon for the President to be from one party, while the other party controls the legislature. This has been described as 'cohabitation.'

The President possesses powers that are independent of the legislature, but unlike the American model, in France the positions of head of state and head of government are separate. The President, of course, is the head of state while the Prime Minister is the head of government.

The Prime Minister and his or her cabinet are drawn from the legislature and are in effect nominated by the legislature (subject to presidential approval) and they are responsible to the legislature. The legislature has only a limited ability to force Prime Ministers and cabinets from office and cannot insist on a vote on amendments it makes to government legislation. The President does not act as though he or she is bound by legislative desires in the composition of government. As former French President Georges Pompidou made clear: "The President of the Republic takes the composition of the Assembly into consideration [but] he is not its slave."

The President maintains a direct role in political decisions and possesses formidable powers, including the right to preside over meetings of the Council of Ministers. The President can dismiss and shuffle cabinet ministers, and in the face of clear conflict with the legislature, can dissolve it and hold new legislative elections. The legislature has no corresponding ability to force a presidential election. Finally, the President has an independent ability to force a referendum on legislative proposals, enabling the population to voice their views on subjects the president deems appropriate. The French model basically mandates a twin executive, with power shared between the President and the Prime Minister. The careers of prominent French politicians make clear that the position of President is more powerful than that of Prime Minister. Sitting Prime Ministers—including current President Jacques Chirac—have sought the presidency, indicating their assessment of which role is more desirable.

Figure 3.2 presents a comparison between parliamentary and presidential systems of government.

Parliamentary	Presidential
Strengths	
<ol style="list-style-type: none"> 1. With a majority, the government has the power to govern. 2. The non-confidence vote provides a check on the government. 3. The lines of responsibility for passage or defeat of legislation are clear. A voter can make decisions on the basis of party stance. 	<ol style="list-style-type: none"> 1. Separation of powers discourages concentration of power. 2. Checks and balances limit the power of branches of government. 3. Without strict party discipline, members can be more constituency-oriented.
Weaknesses	
<ol style="list-style-type: none"> 1. The system may be unstable if a majority is not obtained. 2. The power of a government with a large majority is very great – it is possibly insensitive to public desires. 3. Because party loyalty is necessary, individual members may have to vote against the wishes of their constituents. 	<ol style="list-style-type: none"> 1. Separation of powers fragments the system, often rendering it immobile. 2. Voters cannot pin responsibility on any one party. 3. Without a non-confidence vote, the electorate must wait for an election to unseat an unpopular President or member of Congress.

Source: Mark O. Dickerson and Thomas Flanagan, *An Introduction to Government and Politics: A Conceptual Approach*, Fifth Edition (Toronto, London, Singapore: Nelson, 1998), p. 292.

Figure 3.3 Parliamentary versus Presidential Systems

The Westminster model of parliamentary democracy is not fully reflected in other parliamentary systems. To illustrate this, we shall look at a number of different examples drawn primarily from the Commonwealth. These include the unicameral system of New Zealand, the system of direct prime ministerial elections in Israel, the role of the South African President, and the federal divisions in Australia and India. We will also discuss the importance of a Charter of Rights for citizens in Canada and the Bill of Rights for citizens in South Africa.

Parliamentary Modifications in New Zealand, Israel and South Africa

The Westminster model is bicameral; that is, there are two houses in Parliament. This bicameral arrangement has been widely copied—not only in parliamentary systems, but also in presidential systems. The division of the legislature into two bodies weakens the powers of the prime minister to a degree, since he or she must have legislation approved by the second chamber for it to become law.

A bicameral legislature is not an essential component of a parliamentary regime. Since 1970, New Zealand's parliament has been unicameral. The legislative assemblies in the Canadian provinces are also unicameral. Indeed, many of the parliaments in the Commonwealth have only one chamber.

A unicameral parliament can simplify the parliamentary process. It eliminates discussion between chambers about amendments and ensures

that a bill approved by the elected chamber will go to the head of state for assent quickly and without amendment. Prime ministers have one less impediment to their ability to have their wishes become law. As in the Westminster model more broadly, the Prime Minister and cabinet are drawn from the legislative assembly and are responsible to the assembly.

Like New Zealand, Israel has a unicameral legislature, a division of the positions of head of state and head of government, and a Prime Minister and cabinet drawn from the legislature. The Israeli system, however, modifies the general operation of a parliamentary system in a number of ways. Unlike the unwritten Westminster model, the powers of the Prime Minister are set forth explicitly in Basic Law and are not based on historical tradition or convention. More importantly the Prime Minister is elected directly by the people rather than being put in place by the legislature. The legislature cannot determine who the Prime Minister will be, but it can force new prime ministerial elections by expressing non-confidence in the incumbent. Candidates for Prime Minister must be members of the legislature, or head the list of party candidates for the legislature during an election campaign. Thus, in spite of their direct election, Prime Ministers sit in the legislature.

The Prime Minister submits a list of ministers to the legislature for approval and possesses the right (with the approval of the head of state) to initiate elections.

South Africa does not possess a prime minister and, in the absence of this position, there is some disagreement with respect to whether it possesses a parliamentary system or a presidential system. In South Africa the positions of head of state and head of government are combined in the person of the President. However, the President is elected by the National Assembly and can be removed from office by a motion of non-confidence. The cabinet is also drawn from and responsible to the House of Assembly. Thus although there is no independent head of state, the operation of the South African system generally follows the norms of a parliamentary model.

The Israeli and South African models provide examples of parliamentary systems that have altered the Westminster model by changing the relationship of the Prime Minister to Parliament.

Federalism and Charters of Rights

Australia, Canada and India are parliamentary regimes that function within a set of federal arrangements. This places a distinct limitation on the power of the national parliaments. Under a federal system, sovereignty is divided between the national and the regional levels and each level of government gets to make the final decisions in some areas. As a result the national parliament is restricted to passing legislation relating to areas within its jurisdiction. Federations require formal divisions of power between levels and a body to settle disputes between the levels. Essentially, a constitution and a court to interpret the constitution are necessary. The division of powers and the interpretation of those powers are enforced by a judicial body. Since no single parliament can change the authority of the other level, parliamentary sovereignty is not complete. However, in India as well as elsewhere in the Commonwealth, there is a greater limitation on the power

of the states since it is possible for direct rule to be imposed on the states by the national government in the event of a crisis.

Parliamentary sovereignty is reduced to a greater extent in Canada than it is in the other examples. A federal system restricts the ability of courts to review parliamentary actions only by the division of powers. If the authority to act in a certain area is within a parliament's discretion, the courts have no basis to restrict parliamentary action. This was the case in Canada until 1982.

In 1982 a revised Canadian constitution enshrined certain citizen rights in a Charter of Rights and Freedoms, and gave the Canadian courts the power to ensure that parliaments do not infringe on these rights. Courts can review the actions of Canadian parliaments in order to determine whether they are consistent with the written Charter of Rights. If they are not consistent, the court can strike down the legislation. Thus parliaments are not sovereign even within areas of jurisdiction in which they are permitted to legislate. The Supreme Court has the ultimate authority (subject to constitutional amendments) to restrict the actions of Parliament. This is in no way consistent with the parliamentary authority described by Bagehot with respect to the Westminster model.

In a discussion of the current South African system, David Welsh emphasises that the written constitution constitutes "a sharp break with the previous tradition of parliamentary sovereignty,... the constitution stipulates that it is the supreme law and that any act or law inconsistent with it is invalid" (1998: 616). Anirudha Gupta similarly notes the importance of a constitution for the functioning of the democratic system in India: "If democracy needs safeguards it is well served in India ... through the protection of its laws under the constitution of the republic" (2000: 186).

In a ruling on electoral boundaries in Canada the Alberta Court of Appeal outlined why they believed an entrenched constitution was necessary. In their words:

The essence of a constitutionally entrenched right is that it permits an individual to stand against even a majority of the people. Put another way, Canadians entrenched certain traditional rights for minorities because they do not trust themselves in all times and circumstances to respect these rights (Electoral Boundary Reference Case, 1994: 23).

From this perspective Parliament cannot be trusted to protect basic rights and therefore its authority must be legally limited. The principle of parliamentary sovereignty is substantially altered by the existence of constitutionally enshrined rights and a court that interprets those rights. Of course, as a Canadian Supreme Court Justice pointed out in a recent ruling, parliaments have acquiesced in this reduction of their authority. As Justice Iacobucci explained "it was the deliberate choice of our provincial and federal legislatures in adopting the Charter to assign an interpretive role to the courts and to command them under section 52 to declare unconstitutional legislation invalid" (*Vriend v. Alberta*, 1998, 38). This leads us into our next unit, which examines parliaments with respect to their legal basis.

Recommended Reading

Magstadt, Thomas and Peter Shotten. *Understanding Politics*. New York: Worth, 1999, 119-153.

O'Neill, Brenda. "Legislatures and Executives" in *Critical Concepts: An Introduction to Politics*, Janine Brodie (ed.) Scarborough, ON: Prentice Hall, 1999, 149-68.

Brzinski, J.B et al. "Federalism and Compounded Representation" *Publius* 29 (Winter 1999).

Study Questions

Based on your readings, see if you can answer the following questions. If not, read the commentary over again to find the answers.

1. What are the features of the American presidential model?
2. What features comprise the French mixed presidential and parliamentary models?
3. How has the Westminster model has been modified in New Zealand, Israel and South Africa?
4. How do federal systems and written constitutions affect the operation of parliamentary systems?

Internet Resources

Other Models of Governance

The English Bill of Rights, 1689

<http://wwlia.org/uk-billr.htm>

South Africa Bill of Rights (1996)

<http://www.polity.org.za/govdocs/constitution/saconst02.html>

The American Presidential System

The House of Representatives: <http://www.house.gov/>

The Senate: <http://www.senate.gov/>

The South African System

<http://www.parliament.gov.za/>

The Mixed French System (Assemblée nationale and Senate)

<http://www.assemblee-nat.fr/>

The Israeli Parliamentary System (The Knesset)

<http://www.knesset.gov.il/index.html>

The French Declaration of the Rights of Man and of the Citizen (1789)

<http://catalog.com/jamesd/french.htm>

The United States Bill of Rights (1789)

<http://Constitution.by.net/uSA/BillOfRights.html>

The Canadian Charter of Rights and Freedoms (1982)

http://www.pch.gc.ca/ddp-hrd/canada/guide/index_e.shtml

Web sites on national parliaments

<http://www.ipu.org/english/parlweb.htm>

<http://www.polisci.umn.edu/information/parliaments/>

Australia. Macquarie University. "A Comparison of the Australian, British, and American Political Systems"

<http://www.humanities.mq.edu.au/ockham/y67yan1.html>

New Zealand Government Online

<http://www.govt.nz/nzgovt/parli.php3>

New Zealand Parliament

<http://www.parliament.govt.nz/>

UNDP. Parliamentary Strengthening Reference Manual. "Governing Systems and Executive-Legislative Relations"

<http://mirror.undp.org/magnet/docs/parliaments/>

[governing%20system.htm](http://mirror.undp.org/magnet/docs/parliaments/governing%20system.htm)

UNDP. Parliamentary Strengthening Reference Manual. "Legislative Chambers: Unicameral or Bicameral"

<http://mirror.undp.org/magnet/Docs/parliaments/>

[Legislative%20Chambers.htm](http://mirror.undp.org/magnet/Docs/parliaments/Legislative%20Chambers.htm)