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 **Checks and Balances vs Separation of Power**

 The 20th century states consider “Separation of Power” as an instrument of constitutional practice that should be always present in the subject of Political Science. This doctrine was included in response to the rising tide of Nationalism that came after the French Revolution. In order to accomplish this particular feat of separation of powers, it is based on the foundations of independence and specialization. In essence, any form of power separation creates divisions and differences of government tasks into separate bodies to curtail any branch from interfering in the fundamental functions of another branch. The aim of this practice is to avoid the concentration of power in any state organ and provide for the concept of “Checks and Balances” and the formation of a sound democratic society.
**Background**

[James Madison](https://www.thoughtco.com/james-madison-4th-president-united-states-104742) knew from the British rule all too well the perils of unchecked power in the government. He thought that nobody should be trusted or entrusted by absolute power in any manner or situation, but interestingly he blamed power more than men. He thought the government should have the ability to help the people more than the people in the reigns of power (James Madison). The concept of separation of power starts with the age of enlightenment in  the late 1700s Revolutionary France, when the philosopher Baron de Montesquieu presented his renowned “Spirit of the Laws” (Montesquieu), which is without a doubt important in the subjects of Political Science and International Relations, The Spirit of the Laws is thought to be the stepping stone of the US Constitution. Indeed, the concept of framework of government presented by Montesquieu, had separated the workings of the state into three branches, namely the executive, the legislative, and the judiciary. He tried to explain that the separate operations of these three branches of the government was critical to the concept of liberty. This concept of separation of powers has so deeply entrenched itself in the modern concept of government that we observe it in many young democracies of the world.

**The “Checks and Balances” of the Three “Separate” Organs**

In the mentioned provisions of all organs of state power, namely the legislative, the executive, and the judicial, into the Constitution, the lawmakers expressed their idea of a firm government structure as guaranteed by a detailed system of “Separation of Powers” with the caveat of “Checks and balances”. James Madison thought that power should not be allowed to gather in a single personality or government body (James Madison)

In both, the mentioned theory in the constitution, and the practice of the US lawmakers, the power of each of the three branches of government is checked by the powers given to the others in many ways. Let us take an important example. The US President, who is the face of the government and head of the executives, can veto laws that are passed by the US Congress, which is the basic organ of the legislative branch. Similarly, the presidential vetoes can be overruled with a two-thirds majority vote of both The House of Representative and the Senate, which happen to be the parts of the US Congress. Likewise, the Supreme Court, the highest body of the judicial branch, can abolish laws approved by the Congress by declaring them illegal. But it should be noted that the powers of the Supreme Court are balanced by the stated provision that its serving judges must be selected by the US President with the consent of the Senate.

**The mentioned powers of all branches**

Let us discuss the Separation of Powers of different state organ through a series of Checks and Balances. In the Executive Branch of the US Government can check the Legislative Branch in a number of ways. The President can vote the laws passed by the Congress (as mentioned above). He can also propose new laws to the Congress and appoint federal officers, who carry out and enforce them. He also submits the Federal Budge to the House of Representatives for debate. Likewise, he appoints judges of the Supreme Court and the Federal Courts and grant amnesty or pardon US citizens convicted in the courts. The Supreme Court, in turn, have the right of reviewing unconstitutional laws and to rule presentational actions and certain treaties, if they are contrary to the National interest of the United States. The legislative commands a certain number of powers as well. It can rule out presidential vetoes and treaties with a two-third majority in both houses, reject the nomination of judges in the courts and can even impeach and remove the elected President (Freeman). In this case the House of Representative act as the Prosecutor and the Senate acts as jury. The Congress can singlehandedly setup lower courts, pass amendments in the Constitution to void the decisions made by the Supreme Court and also prosecute the judges serving in the lower courts.

**Conclusion**

In short, the concept of “Separation of Powers” is maintained through the mechanism of “Checks and Balances”, which mirrors the Founders’ understanding of a democratic form of government in which the all the branches of the state must be the restrained in one way or another. The Founding Fathers deeply believed that the Constitution, with the specific focus on “We the People”, gives the power to the people to govern themselves by practicing the very laws that are presented and passed in the Corridors of Power.

# Works Cited

Freeman, Anthony. "Impeaching Donald Trump: The Case For Firing an Unfit President." 2018. *Hollins Digital Commons.* Thesis.

James Madison, Alexander Hamilton. "The Federalist Papers No. 51." n.d. *Congress.Gov Resources.*

Montesquieu, Baron de. *The Sprirt of the Laws*. France, 1748.