



The Separation of Powers Reconsidered: Presidentialism and the Rule of Law

Maxwell A. Cameron, Ana-Maria Blanaru and Lesley Burns
Department of Political Science, University of British Columbia

Introduction

Presidential democracies are more unstable and less enduring than parliamentary democracies, but for reasons that are unclear (see Stepan and Skach 1993, 1-22; Cheibub 2002, 284-285; Cheibub and Limongi 2002, 151-153; Carey 2003b, 26; Cheibub, Przeworski, and Saiegh 2004, 580; Bunce 2000, 710-11; Valenzuela 2004). We argue that the “problems of presidentialism” (Linz 1994) are linked to the rule of law. Specifically:

- (1) There is a positive relationship between regime stability and the rule of law: regimes are most stable under an enduring rule of law;
- (2) In most presidential democracies the rule of law is very weak.

Definitions

- In a presidential system the executive and legislature are elected separately and for fixed terms.
- In a parliamentary system, the executive is selected by the legislature, subject to a vote of non-confidence.

Democracies and the rule of law

- There is a positive relationship between regime stability and the rule of law: regimes are more stable when the rule of law is strong.
- Presidentialism is the most widely embraced constitutional type among democracies where the rule of law is weak.

Table 1: Democratic Survival and the Rule of Law by Type of Constitution (1973-2004)

This table shows both systems are stable under the rule of law, most presidential systems are unstable because the rule of law is below average.

	Type of Constitution during Democracy			
	Pure Parliamentary	Pure Presidential		
Countries democratic for at least one year during 1973-2004	61	50		
Number of countries from above set continuously democratic for ten consecutive years in this period	53	23		
Democratic Survival Rate:	87%	46%		
	Rule of Law			
	High (N=42)	Low (N=19)	High (N=16)	Low (N=34)
	39	14	13	10
Democratic Survival Rate:	93%	74%	81%	29%

Table 2

A. Democratic Survival Rates: Chi-Square Results

	Parliamentary	Presidential	SUM
Democracy survived	53	23	76
Democracy did not survive	8	27	35
SUM	61	50	111

Chi-square = 21.3, Degrees of Freedom = 1, p = .000

B. Democratic Survival Rates and the Rule of Law in Parliamentary Systems: Chi-Square Results

	High Rule of Law	Low Rule of Law	SUM
Democracy survived	39	14	53
Democracy did not survive	3	5	8
SUM	42	19	61

Chi-square = 4.2, Degrees of Freedom = 1, p = .04

C. Democratic Survival Rates and the Rule of Law in Presidential Systems: Chi-Square Results

	High Rule of Law	Low Rule of Law	SUM
Democracy survived	39	14	53
Democracy did not survive	3	5	8
SUM	42	19	61

Chi-square = 11.8, Degrees of Freedom = 1, p = .001

The differences between the cells are all statistically significant.

Table 3: Democratic Stability and the Rule of Law by Type of Constitution (1973-2004)

Using World Bank data, we find the same result: both systems are stable under the rule of law, most presidential systems tend to be unstable because the rule of law is weak.

	Type of Constitution during Democracy			
	Pure Parliamentary	Pure Presidential		
Total number of countries democratic for at least one year during 1973-2004	61	50		
Number of countries from above set with above average levels of political stability under democratic rule between 1996-2004	47	16		
Democratic Stability Rate:	77%	32%		
	Rule of Law			
	High (N=42)	Low (N=19)	High (N=16)	Low (N=34)
	39	14	13	10
Democratic Survival Rate:	93%	74%	81%	29%

Table 4

A. Political Stability Rates: Chi-Square Results

	Parliamentary	Presidential	SUM
High Stability	47	16	63
Low Stability	14	34	48
SUM	61	50	111

Chi-square = 21.3, Degrees of Freedom = 1, p = .000

B. Political Stability Rates and the Rule of Law in Parliamentary Systems: Chi-Square Results

	High Rule of Law	Low Rule of Law	SUM
High Stability	39	8	47
Low Stability	3	11	14
SUM	42	19	61

Chi-square = 19.1, Degrees of Freedom = 1, p = .000

C. Political Stability Rates and the Rule of Law in Presidential Systems: Chi-Square Results

	High Rule of Law	Low Rule of Law	SUM
High Stability	13	3	16
Low Stability	3	31	34
SUM	16	34	50

Chi-square = 26.2, Degrees of Freedom = 1, p = .000

Again, the differences between the cells are all statistically significant.

Summary

- (1) presidential systems are more brittle
- (2) both systems have a higher chance of survival where the rule of law is strong
- (3) the rule of law is weaker, on average, in presidential democracies

Loose Causal Relationships

- Regression analysis shows that growth is a strong predictor of the rule of law. After controlling for growth and the rule of law, the difference between presidential and parliamentary systems does not predict much variance in democratic instability (see Table 5).
- Democratic stability is correlated with the rule of law, and presidentialism is negatively correlated with both.
- The type of constitution influences economic growth rates. Growth may enable improvements in the rule of law, enhancing stability, which in turn has a reciprocal effect on growth.

Hypotheses for Further Research

- Presidential systems may be more prone to violations of the separation of powers.
- Presidential system without checks and balances become “delegative democracies.”
- Parliamentary systems without parliamentary supremacy become “elective dictatorships.”
- Delegative democracies are more likely than elective dictatorships to rule at the margin of the constitution and erode the rule of law.