

Like Parliamentary Democracy, a US Modelled Presidential Republic will Never Solve Pakistan's Problems

The discussion for the need of an "Islamic Presidential System" can be heard reverberating in the political medium of Pakistan, with a petition filed in the Supreme Court (SC) on 28 August 2020, urging Prime Minister Imran Khan to hold a nation-wide referendum for introducing presidential system in the country. Apparently, it is presented in a manner as if the presidential system is able solve the chronic issues of ruling in Pakistan. Some Muslims in Pakistan are fond of the presidential system, considering it "nearer to" Islam compared to parliamentary democracy. The US' presidential system is the foremost example of this ruling system in the world, presented as an exemplary model by its advocates locally. Within the Muslim states, the presidential system is currently in place in Turkey, where Prime Minister, Erdogan, first got himself legally elected as president towards the end of his term as PM. Then Erdogan successfully acquired a constitutional majority in the 2018 elections, in order to replace the parliamentary system of Turkey with a presidential one. General Sisi presides over a presidential democracy, whereas General Musharraf was president of Pakistan previously, with recurrent rumors of a restoration of presidential democracy in Pakistan rampant nowadays. Now that the US elections are nearing, we will explain the US Presidential System in depth, differentiating it from the parliamentary system.

An overview of all the world's states shows that the US leads them in terms of the economy, military might, media and communications influence and rate of growth of scientific research. Its economy is the largest among all the economies, its military power comprises of the most destructive weapons of the world, its media and communications set the global political agenda and its scientific research is consistently considered the finest in the world. Both the East and the West have bowed down to the US' international order after World War II.

Starting as a newly born state built upon certain ideals, it took two centuries to emerge as a global super power. Its presidential system, comprising of checks and balances, ensures the separation of powers. The US state administration, legislature and judiciary are fully empowered within their circles, preferring to function within their circles, with institutional rivalries being generally disliked so as to lend to strong institutions. In case of mutual dispute between institutions, they refer to the constitution and consider it as the pinnacle of the rule of law.

The US administration comprises of the president, vice president and fifteen secretaries. With the help of this cabinet, the US president effectively runs the world. Aside from the president and the vice president, none of these officials are elected to their particular post but are appointed. The US president himself is elected after a long election campaign, stretching over a period of many months. These election campaigns require a substantial amount of money from the candidates, whether of their own or pooled from giant corporations and lobbies, or donated by their respective parties. Usually in the beginning of a presidential campaign, both of the political parties of the US, the Democratic Party, with its most common mascot symbol being the donkey or jackass, and the Republican Party, symbolized by the elephant, elect a presidential candidate each. Then both of these presidential candidates move on to compete in national elections. If there is any independent candidate, he too can also compete against them but due to lack of any support from any political party, it is now close to impossible for an independent candidate to win the US elections. Only once, in 1789, did George Washington, one of the founding fathers of America, become the US President as an independent candidate. Since then, no presidential candidate has ever become US president without the backing of a political party.

Although due to the impact of the Coronavirus pandemic, activities of the presidential campaigns by the candidates are relatively reduced in recent days; they are expected to pick

up steam again once the pandemic regresses. Joe Biden is representing the Democratic Party whereas Donald Trump is representing the Republican Party in the race for US president. As for vice presidents, Joe Biden has nominated Senator Kamala Harris as his running mate, while Trump is all but sure to nominate the current Vice President, Mike Pence, as his running mate.

Although the US president enjoys considerable powers, his election campaign is completely separate from the election campaigns of the United States Congress, which is the bicameral legislature of the federal government of the United States and consists of two chambers, the House of Representatives and the Senate. The president does not have the authority to legislate, as the position of the President is purely an executive post. This essentially means that his primary task is only to execute laws which have been legislated by the Congress. Within the bounds of these laws, he is completely sovereign and is not under any pressure in selecting his cabinet members. In fact, he can appoint any individual as his cabinet secretary, temporarily for six months. And if this secretary obtains the consent of the US Senate, the upper house of the bicameral legislature, then this temporary appointment becomes concurrent with the tenure of the president. All such appointments are at the president's disposal. If the president deems so, he can remove any member of his cabinet without seeking anyone's permission, approval or consultation.

The parliamentary system is poles apart from the presidential system in this aspect. In the presidential system, the president gets the personal mandate to lead the entire country by competing in elections in every constituency of the country, whereas in the parliamentary system, the candidate for prime minister only obtains the personal mandate to represent his own constituency. If his party forms a majority or a coalition in the parliament, only then is he eligible to devise a cabinet to form the government. If in the parliamentary elections, the party is unable to secure majority through votes or unable to form coalition to acquire majority, then government cannot be formed. This was the case in Jewish entity last year, where, after consecutive three elections, Benjamin Netanyahu had obtained the mandate and that too to form the government with his political opponent, Benny Gantz, where Netanyahu will be the prime minister for first two years and Gantz will be the prime minister for next two years. Another problem with the parliamentary system is that if a government is formed, it is disproportionately dependent on its allies and the prime minister can face a no-confidence vote any point in his tenure. Contrary to this, the president is safe from any such pressure in the presidential system and is completely empowered within his domain.

Some advocates of the presidential system also argue that it can swiftly address continuously changing situations as compared to parliamentary system. A prime minister has to take the legislature into confidence before taking any important step or adopting any policy, whereas no such hurdle impedes the president. On the other hand, the critics of the presidential system present an alternate point of view. They argue that if the office of presidency and subsequently the bicameral legislature are controlled by different parties, then this can bring the process of legislation and decision making to a grinding halt.

The secretaries of the US president act as uncrowned monarchs of their departments. The secretariats of the navy, army and air force fall under complete control of US Secretary of Defense. At the command of the president, the defense secretary orders the US troops to start or end sea, land or air operations anywhere in the world. Similarly, the US Secretary of State organizes the US relations, alliances and disputes in the world on diplomatic levels, whereas the US Secretary of Treasury maintains the status of the US dollar as the global reserve currency. Dollar sanctions on any country of the world are approved by the US Secretary of Treasury. Although in the parliamentary system it was attempted to segregate institutional powers to some extent, by limiting and dividing them among legislature, judiciary and administration, the presidential system has taken this concept of separation of powers to a whole new level.

Aside from military rule, the people of Pakistan have lived most of their lives under parliamentary democracy, which is why the relationship between the US Congress and the

US President appears strange to them at first. Although the US president enjoys no legislative role, he can veto the said process to an extent. If in case the president is not in agreement with a certain law passed through the legislature, then only the supermajority, which is a 2/3 majority, of legislators in Congress can override his veto. It needs to be stressed here that US president does not enjoy absolute authority in the US political medium, rather he has a dependency on the US Congress in many matters.

The United States Congress is the bicameral legislature of the federal government of the United States and consists of two chambers: the House of Representatives and the Senate. The House of Representatives is closer to the general public, as compared to the Senate and it is formulated to reactively respond to needs of people. The House of Representatives have a tenure of two years and all laws pertaining to revenues are initiated from this house. The US itself consists of fifty states, with all states allocated seats in the House of Representatives in proportion to their population. States with small populations like Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont and Wyoming have only one seat each in the house, whereas US states with larger populations, like Texas has 36 seats, whilst the state with the largest population, California, has 53 seats in the House.

Elected representatives in the Senate have a six-year tenure. The objective of this duration being three times compared to that of the House of Representatives is to have a steady and calm composure in the Senate, compared to the fast paced legislative process in the house. It is intended to enable the Senators to observe the long-term impacts of laws, compared to the Representatives in the House. Each state, regardless of its population size, is equally represented by two senators who serve staggered terms of six years. There being at present 50 states in the Union; there are currently 100 senators. Any increase in taxes can be initiated from the house which is reviewed and approved by Senate whereas on the other hand, only the Senate has the right to approve foreign agreements, nominations of the positions in the cabinet of US President and judiciary, including those of the Supreme Court. This essentially means that whilst President has the right to nominate his cabinet and the federal judges, it is the Senate which has the right to approve them. When it comes to impeachment proceedings against the US President, such as against Andrew Johnson in 1868, Bill Clinton in 1998 and President Trump in 2019, it is the house which firstly decides if the impeachment process against the President can be initiated or not. If a simple majority of the house votes in its favour, then the process of impeachment starts. However, the House can only approve impeachment, whereas the actual impeachment hearings, its inquiry and judicial proceedings are carried out in the Senate. The Senate evaluates whether the president can be removed from his position based on said allegations or not. However, this is only possible with a supermajority of votes, i.e. 67 out of 100 votes, in favor of removing the president as a result of the impeachment process.

Little more than two centuries ago in the summer of 1787, the US politicians, known today as the founding fathers, gathered in the city of Philadelphia to formulate the constitution of the newly born state. Their debate is mentioned on the website of US Senate. The participants of the constitutional convention in Philadelphia established equal representation in Senate and proportional representation in the House of Representatives. This was named as the "Great Compromise" or the "Connecticut Compromise". This plan of representation of Congress resolved the most disputed point in the drafted constitution, because the representatives of larger states earlier opined for a size-based representation of all states in the Senate, whereas the representatives of smaller states demanded the protection of their rights in the confederate system. It was the fear of the ruling of majority that caused the smaller states to demand equal representation in Congress, whereas some representatives wanted a compromise between the powers and representations of smaller and larger states. On 16 July 1787, the representatives presented a plan of mixed representation in which the senate was based on equal votes for all states, whilst the house was based on votes in proportion to the state population. Similarly, the six-yearly tenure of the senate was also a compromise among legislators. It was a compromise between those who wished for a strong and independent senate and those who feared the senate becoming

so powerful and distant from the public that it may start oppressing people. It was intended in such a way that the house represented the general public, whereas the senate represented the elite.

The presiding officer of the US Senate is responsible for maintaining discipline in the Senate, allowing the opportunity to speak for members and representing the principles, processes and precedents of the Senate. Being a presiding officer in Senate is considered only a responsibility and not an office in itself. Any of the following three officials can perform the responsibilities of the presiding officer, the Vice President, the Senate Majority Leader or any other appointed Senator, and the Chief Justice of the United States. The US constitution has primarily delegated the responsibility of senate presiding officer to the vice president. In a situation of equal votes both in favor and against any bill of legislation, the vote of the vice president is the deciding vote. As recently as last year manipulation of the process can be seen. The entire process of the impeachment of President Trump in Senate was presided by the Chief Justice of the Supreme Court, John Roberts. This is even though the Speaker of the House is a constitutional office but the recent disputes of current the speaker, Nancy Pelosi, with Trump are quite well-known. Moreover, the order of succession in the federal government, starts from the President, to the Vice President and then Speaker of the House.

The Congress has the power to order any citizen to appear before its powerful committees for investigation or interrogation over any specific matter. Failure to comply with this order can result in imprisonment for up to a year. Although the indictment proceedings of such cases takes place in official judicial forums, the courts themselves take to task the persons charged with "contempt of Congress" very seriously. Most of the work of the Congress is carried out in its committees. Both the House and Senate constitute standing committees, special committees, conference committees and joint committees. Standing committees are of a permanent nature. The members of congress serving longer durations protect their powers and authorities through these committees. Basic committees of the House include the budget committee, revenue committee and armed services committee, whereas of the Senate includes committees of expenditures, foreign relations and judicial committees. Some committees co-exist in both houses such as committees of budget, armed services and veterans' affairs. Special committees are temporary, formed for the investigation, analysis or appropriation of a specific matter. When legislation is approved in both the House and the Senate, then conference committees are formed to finalize the legal language used in the legislation. Joint committees include members from house and senate.

The laws pertaining to the House are relatively stricter, when compared to the Senate. The duration for discussion is limited in the House and agendas are decided beforehand, over which the discussion is limited. The Senate allows the use of "filibuster;" when a senator is allowed to speak, he or she can speak on any topic for any length of time, during which no other legislative proceeding can take place in the Senate. This filibuster is generally used to obstruct a potential legislation until the speaking senator is hopeful about gathering votes in his favor. The provision of this filibuster has produced many interesting situations in US legislative history. For example, in 2013 during the proceedings on an act, Senator Ted Cruz spoke continuously for twenty one hours without break, during which he also read out a children's book "Green Eggs and Ham"!

Technically, the US considers itself constitutionally as a republic, rather than a democracy. Although it is common for many people, including US politicians, to refer to US ruling system as a democratic one, this is technically incorrect. In a pure democracy, any law can be amended by the will of the majority. However, the basic constitutional structure of a republic includes some checks and balances which either cannot be amended at all, or are almost impossible to amend. For example, the US Bill of Rights, which is considered as part of basic constitutional structure can be amended or changed in only two cases; either through a constitutional convention from the states, which was never invoked after the constitution of US was written, or through an amendment approved by a two-thirds majority in both chambers. In both of these cases, the amendment will only be approved when three-quarters of states of the US approve it. The objective of introducing such checks and

balances in constitutional amendments by the founders of the United States was also because they disliked pure democracy. They considered it a mob rule, or specifically “tyranny of the majority.”

The US Supreme Court consists of the Chief Justice of the United States and his eight fellow judges. Every Supreme Court Judge holds this position for life i.e. until he resigns or retires or dies or is dismissed from his office, he will continue to be the judge in the court. Every judge has one vote to judge on the arguments in cases. The case is decided based on the majority of the judges and the fact that majority of the judges are liberal or conservative has had a profound effect on the nature of the decisions in the United States history. For example, in the case of Roe vs. Wade in 1973, the decision by the majority of liberal judges made abortion easily accessible for women in the entire US. The Supreme Court cannot take suo moto actions; rather, it has to wait for hearings on cases for a few years, until a case reaches it through the lower and appeals courts. The past decisions of the Supreme Court have had significant impact on US culture. As a result of the decision in Brown v Board of Education, the separation of black and white students in the primary and secondary educational institutions ended. Also, as a result of the decision in the Pentagon Papers, all newspapers including New York Times were given the right to openly write on the role of the US troops in Vietnam.

Although US armed forces are considered an arm of the US administration, their pivotal role in expanding and projecting US power in the world demands a separate mention. The US military forces include the Army, Marine Corps, Navy, Air Force, the newly formed Space Force, as well as the Coast Guard. The US President is the Commander in Chief of all military forces and formulates military policy with the Department of Defense and the Department of Homeland Security. The chain of command of the US military extends from the President as Commander in Chief, to Secretary of Defence, to Combatant Commanders, to officers, all the way to fresh recruits. The Unified Combatants Command (UCC) is a command of US military, which comprises of units from at least two service branches and this organizes on geographical area of responsibility or functionally on special operations, power projection or transport. SPACECOM, NORTHCOM, INDOPACOM, EUCOM, CENTCOM and SOCOM all operate under the UCC structure. The patrolling of the naval fleets in international waters is also carried out under its auspices.

After all, the US' position as the leading state is due to the politically strong constitutional foundation emanating from the capitalist ideology, but not due to its presidential republic alone. Other co-existing factors are a huge national economy and connective markets, suitable geographic position, vast natural resources, significant development in the local production of shale oil and gas, a huge population and active civil society, decent per capita income, scientific and technological advancement, coalition networks in entire world, important military capabilities. Other major powers may possess one or two or a few of these capabilities, but none possess all of them in the same manner as the US. Irrespective of the fact that US power is second to none, its presidential republic is still a product of human mind just as parliamentary democracy is. An Islamic Dawah Carrier can observe the inherent structural weaknesses within it upon study and contemplation.

Upon being elected, each President has to face the daunting task of appointing nearly 4,000 new officials in various departments in his first year in office. These are other than diplomats, head of departments and cabinet members which are approved by the Senate. Departmental change on such big scale almost paralyzes the US administration within the first year. This is one of the reasons that in US history, none of the new Presidents could implement a significant policy change in their first year, unless he could rally significant political capital due to an emergency situation, as in the case of 9-11. Substantial progress on important policies for any president is only possible in subsequent years of the Presidency, whether it were Obamacare or the Joint Comprehensive Plan of Action (JCPOA), known as the Iran deal, of President Obama, the Iraq War of Bush Senior or the United States–Mexico–Canada Agreement (USMCA) of Trump.

A libertarian think tank, the CATO Institute, mentions regarding the US's judicial system that criminal justice system was formulated on the concept of trial by jury. However, now, only 10% of cases today face trial in US courts, whilst the remaining 90% cases are handled by the prosecution through striking deals with the convict, by offering a lesser sentence, or threatening a harsher one in case of the case going to trial. This has made a significant portion of the system of criminal justice of the US judicial system as semi-redundant, whilst 1% of the total US population is still in jail due to a high rate of convictions, which is itself a world record and depicts the ills and corruption of the society well. Whilst 12% of the US population is Afro-American, 37% of the penitentiary population is disproportionately Afro-American, which shows major racial and economic discrimination amongst the racial classes within the US judicial system. The system of Islam organizes the public matters in such a harmonizing manner that mutual disputes are negligible, compared to capitalist system.

Severe disagreements over the application of freedoms on a societal level have produced internal discord within the social fabric of the United States. The liberal pro-choice lobby considers a woman to have an inviolable right over her own body, whilst considering that aborting the unborn child in the womb is justifiable, even in the last days of pregnancy. On the other hand, the pro-life conservative lobby strongly protests against aborting the embryo right from the very first day of pregnancy. Although US higher courts have pronounced verdicts on such social issues, such as the 1973 Supreme Court verdict in favor of abortion in *Roe v Wade*, they ultimately ended up strengthening the opposing views, rather than building a consensus. Today, 47 years post this decision, the situation is such that on the one hand, there are pro-choice marches in the streets demanding an end to women oppression, whereas on the other hand, there are conservative states making it difficult for women to access abortion. On one hand, there is an increase in the birth of illegitimate children, whereas on the other hand, there are attacks on abortion clinics. This rift in US society is widening day by day. The US presidential republic has failed to solve or build consensus upon this matter. Instead, the political parties have capitalized on these disputes in partisan politics, further fueling further rifts within the society.

Despite producing immense wealth, the US economic system is unable to distribute it justly. Concentration of wealth is so great that despite the Federal Reserve taking exceptional care, financial crises are worsening. When people demand a political change as a result of such crises, it is not always aligned with the interests of the US establishment. Some analysts have declared President Trump's election a direct result of the 2008 financial crisis. After coming into power, politicians like Trump further the social, ethnic, gender and economic divisions to maintain their popularity. This results in increasing hatred in opposing factions of the society, which eventually results in weakening of the entire system, whose signs have appeared in the US today.

Lack of basic healthcare has been a consistent problem in the US. Although the Affordable Care Act (ACA) of 2010 attempted to remove the weaknesses in health coverage system, people without health insurance increased from 25.6 million in 2017 to 27.5 million in 2018. The problem is due to the fact that healthcare is seen primarily as a commercial product in America, rather than a basic need. It enables large pharmaceutical companies to invest in the presidential republic to ensure legislation which prevents government-funded competing health facilities from being established. Lobbying in the US legislature is merely a sophisticated form of bribery, providing well-funded lobbies opportunity to collaborate with the legislators, in order to enact legislation suiting their interests, extracting exorbitant profits from the public. The US presidential democracy has essentially legalized a substantial means of corruption, rather than eliminating it.

The US presidential democracy has not saved the US' collapsing military status in the world. The US navy, army, air force and marine forces are supposedly the strongest in the world. However, their weakness was exposed to the world, after these forces failed to defeat the pious Afghan Mujahideen in their Jihad, despite fighting for the last two decades. The situation became so dire that America had to beg for face saving dialogue.

As far as the idea of this US presidential system being nearer to Islam, as understood by some. In their view, the responsibility of the Khalifah is to implement laws, which is the same as of a president. Therefore, they say that if he is only given the laws of Islam, then the president will also be bound to implement these laws, just like a Khalifah. What adds to the confusion of these people is the fact that some early Muslim revivalist thinkers like Allama Iqbal (may Allah (swt) have mercy on him), who is a source of political thought for many, has also promoted similar concept in his book “The Reconstruction of Religious Thought in Islam.” According to Iqbal, if elected representatives of the Ummah in the parliament are bound to legislate in line with Islam, then this would be a modern form of Ijtihad, and the administration of the elected ruler would be bound to implement the same Ijtihad. So, they consider giving right of legislation to an Islamic parliament and limiting this right to only extracting the rules of Islam as sufficient for the implementation of Islam. Due to them being affected by the implementation of Democracy, they are unable to realize that the Council of the Ummah does not legislate in an Islamic State. Its role is limited to advising the ruler and accounting him according to Islam.

As far as Erdogan of Turkey and the powerful Pakistani military leadership are concerned, their affiliation with the presidential democracy is so that they can hold sway over parliament, making the president an uncrowned king in his domain. The Pakistani military leadership has experienced such in the era of Ayub Khan’s presidency, carrying a strong desire for a return of that era until the present day. This is why, from time to time, some quarters within the media parrot the narrative that that the presidential republic is superior to the parliamentary democracy. The presidential republic ensures elite capture wherever it is implemented. Elite capture can be seen in the impact of military industrial complex on US foreign policy, or the role of oil lobby in US politics, or the affect of US pharmaceutical industry on healthcare legislation in order to suit their interests, or investment banks of Wall Street causing the crisis, or the manipulative tactics by Congress to protect their interests in such crises. Just like parliamentary democracy, presidential republic implements the will of capitalists through the capitalists for the capitalists. The majority of the public spends their entire lives in the struggle from one paycheck to another. The US presidential republic is unable to stop all this corruption and injustice. Instead the presidential republic patronizes it.

Instead of leaning towards British parliamentary democracy or the US presidential republic, the Islamic Ummah must move towards the one and only system of the Khilafah, as extracted from the Quran and Sunnah. It abolishes elite capture because legislation is not in the hands of anyone as laws are derived from the Quran and Sunnah, rather than from the whims and desires of self-serving, limited human-beings. The world is afflicted by the fact that sovereignty for deciding what is legal and illegal is in the hands of human-beings. The issue of the forms and divisions of authority is entirely secondary to that. In other words, both parliamentary democracy and presidential republic are based on the sovereignty of assemblies or houses making law, which is the source of the problems the world faces. The entire legislative process is manipulated by the elite to secure its interests. However, the Khilafah is unique and superior to all ruling systems in the world because sovereignty is for the Law of Allah (swt). The Khaleefah is bound to implement laws that are derived from the Quran and Sunnah, closing the door for elite capture. It is the ruling system by which the Islamic Ummah remained as a global super power for over a thousand years on this earth, and will do be again, by the will of Allah (swt). Allah (swt) ordered, **﴿وَأَنْ أَحْكَمَ بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ وَأَحْذَرُهُمْ أَنْ يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ﴾** **“And judge between them by what Allah has revealed, and do not follow their desires, and beware (O Muhammad) that they might seduce you from some of what Allah has sent down to you.”** [Surah al-Maidah 5:49]

**Written for the Central Media Office of Hizb ut Tahrir by
Shahrukh Hamdani – Pakistan**