

THE THEORY OF SEPARATION OF POWERS



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Political liberty in a democratic polity is possible only when the government is restrained or limited. The theory that the functions of government should be differentiated, and that they should be performed by distinct organs consisting of different bodies of persons so that each department should be limited to its own sphere of actions without encroaching upon the others, and that it should be independent within that sphere is called in its traditional form, the theory of the Separation of Powers.

The theory of SOP, therefore, implies division of the legislative, executive, and judicial functions of government among separate and independent bodies. Such a separation, it has been argued, limits the possibility of arbitrary excesses by government, since the sanction of all three branches is required for the making, executing, and administering of laws.

The doctrine may be traced to ancient and [medieval](#) theories of mixed government, which argued that the processes of government should involve the different elements in society such as [monarchic](#), [aristocratic](#), and [democratic](#) interests. The first modern formulation of the doctrine was that of the French political philosopher [Montesquieu](#) in *De l'esprit des lois* (1748; [The Spirit of Laws](#)), although the English philosopher [John Locke](#) had earlier argued that legislative power should be divided between king and [Parliament](#).

Montesquieu's argument that liberty is most effectively safeguarded by the separation of powers was inspired by the English constitution, although his interpretation of English political realities has since been disputed. His work was widely influential, most notably in [America](#), where it profoundly influenced the framing of the [U.S. Constitution](#). That document further precluded the concentration of political power by providing staggered terms of office in the key governmental bodies.

Modern constitutional systems show a great variety of arrangements of the legislative, executive, and judicial processes, and the doctrine has consequently lost much of its rigidity and dogmatic purity. In the 20th century, governmental involvement in numerous aspects of social and economic life resulted in an enlargement of the scope of executive power, a trend that accelerated after World War II. Some who fear the consequences of that development for individual liberty have favoured establishing means of appeal against executive and administrative decisions (for example, through an ombudsman), rather than attempting to reassert the doctrine of the separation of powers.

Ombudsman, ombud, ombuds, ombudswoman, ombudsperson or public advocate NB:
Ois an official who is usually appointed by the government or by parliament to investigate complaints and attempt to resolve them, usually through recommendations or mediation.