

**LEGAL-HISTORICAL AND LEGAL-POLITICAL PREREQUISITES
OF THE FORMATION OF PARLIAMENTS**

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Abstract

This article examines the historical evolution of parliamentary governance, focusing on key stages such as the Athenian Assembly, the Roman Senate, the English Revolution, and the French Revolution. It traces the development of democratic and representative systems from their early forms in ancient Greece and Rome to the modern parliamentary systems of the 19th and 20th centuries. The Athenian Assembly, or Ekklesia, is analyzed for its influence on direct democracy, while the Roman Senate highlights the transition from advisory roles to formal governance. The article then explores the English Revolution as a pivotal moment in the establishment of parliamentary supremacy, leading to the Glorious Revolution of 1688. Finally, the French Revolution is considered for its role in shaping modern parliamentary systems, particularly through the creation of the National Assembly and its contributions to constitutional governance. The impact of these historical developments on contemporary parliamentary frameworks, including the division of powers between the executive and legislative branches, is also discussed.

Keywords: Athenian Assembly, Democracy, Legislative Body, Roman Senate, Parliamentary Systems, Political Evolution

Introduction

Profound examination of parliamentary system at first requires understanding of what is a “parliament,” how it evolved during the time and what historical events made significant impact on its development. In the framework of political science, parliament refers to a formal assembly of representatives, who are assigned with a task to make laws, debate over political issues and oversee the work of the executive branch. States with two houses of representation are usually called countries bicameral system of representation, while others operate with a single house (unicameral). Parliament members (hereinafter referred to as PM) are elected by the people and they are obliged to represent and protect the interests of the people. The term “parliament” is originated from the old French word “*parlement*” which means “discussion” or “speaking”. However, the French word itself was derived from the Latin “*parliamentum*” which is linked to the verb “*parlare*” (to speak). The word itself reflects the primary function of the assembly, which serves as a forum for the dialogue and deliberation on governance and legislative matters. In its essence, forms of representative governance can be traced back to ancient civilizations starting from Greek cities, and Roman Senate, where the elected representatives were engaged in discussions.

Theoretical Framework

Meantime, it should be noted that a couple of principles underpin the formation of parliaments, and the first one is the representation, which is critical for parliamentary system. The prominent thinker in this field Edmund Burke distinguished between delegate and trustee models. While in the context of delegate model the representatives act strictly based on the wishes of constituents, trustee model prescribes that representatives implement their judgement in order to act for the best interest of the public, even if it diverges from immediate demands [Rehfeld]. Modern parliaments in their essence blend these models to balance local interests with national priorities. At the same time, the legitimacy of the parliament stems from the expression of popular will. Here a reference could be made to Rousseau's concept of "general will", according to which parliaments aggregate different interests into collective decision-making authority [Caporioni]. In this context, elections serve as consent mechanism in order to ensure that legislator reflects the societal preferences. Needless to say, that parliaments are deliberative bodies where different perspectives are considered, and that is why in this context Jurgen Habermas's theory of communicative action may be implemented in order to emphasize rational discourse [Bolton]. In their essence, parliaments facilitate this discourse by providing a structured environment for debates.

Based on the aforementioned, the following could be stated that structures of parliaments vary and are influenced by theoretical and practical considerations. For instance, states may have bicameral or unicameral systems. Bicameral parliaments like UK with its House of Lords and House of Commons draw from federalist theories as it ensures the representation of diverse interests (like regional or class-based). While unicameral systems prioritize direct representation. In this context, electoral system is essential as well, as the choice of the system – proportional representation, first-past-the-post, or mixed system – reflects debates on fairness and stability. Proportional system aligns with pluralist theories, which ensures that the voices of minorities are heard, while majoritarian systems prioritize governability. Parliaments operate within legal constraints which could be constitutional or other (like in case of Israel the work and scope of legislator is regulated by the Basic Law), which are inspired by liberal democratic theories. For instance, the Congress of the United States reflects Federalist principles of checks and balances, which is outlined in the Federalist Papers written by Hamilton, Madison and Jay.

Historical Context: *The Athenian Assembly*

The evolution of governance has been shaped through political structures with Greek city states serving as early examples of democratic principles that could be compared with contemporary parliamentary systems. These assemblies, especially in Athens were slightly close to what modern parliamentary governance that emphasize representation, legislative functions, public debate and civic responsibility. The Athenian Assembly (otherwise called *Ecclesia*) used to be a sovereign governing body which was open for all citizens. During the meetings the citizens were allowed to address the Assembly, hear their compatriots regarding different affairs of state agenda and vote on the proposed ideas [Pollard]. During those meetings the representatives were allowed to discuss various topics starting from economic affairs and finishing by public festivals, religion and war. However, the Ecclesia as an institutional legislative body did not function properly until the reforms of 594 BC. Solon, who initiated the series of reforms aimed to decrease the social unrest in Athens and as one of the solutions, he allowed all male citizens to participate in the meetings of Ecclesia [Sagstetter, 84-86]. However, it was not until 462 BC that Athenian Assembly turned into a genuine legislative body. At first the Assembly was used as a stage for people to express and share their opinion, while the laws and bills were enacted by the aristocratic council. After the transformation of

Ephialtes the council transferred part of its power to the Assembly, which was a start of institutionalization of legislative body, which became the cornerstone of Athenian democracy [Hornblower]. The Athenian Assembly in the end turned into ultimate authority that were empowered to govern the people. Compared to contemporary parliaments, the Assembly relied on the belief of equality and ability to rule the citizens. However, the majority of the population was excluded from the voting process [Pritchard, 144-146]. Frequently, citizens voted based on the popularity of the speaker rather the rationality of his proposed ideas and policies.

Although Ecclesia functioned in a very different context compared to modern parliaments, there are key several notable parallels that could be drawn between these two. First one is the fundamental idea of representative participation. In modern parliaments citizens elect the representatives for service like in House of Representatives in the UK or Congress in the US. While, in the Athenian Assembly participation was direct as citizens were allowed to directly participate in the debates and share their opinions, points of views and also be involved in the decision-making process. However, both systems have the priority that the will of the people is central in decision-making process. Another parallel could be drawn regarding the functionality of the two bodies [Bouricius, 12-14]. In Athens, Ecclesia was vested with an authority to propose and enact laws like modern parliaments. The legislative procedures both in ancient Athens and today included the suggestion or proposals, debates, and in the end voting. Still in modern parliaments, this process is too formalized as in order to enact a law or the bill the parliaments adopted general procedures such as readings, reviews of the committees and amendments [Tridimas, 10-12]. In Greece this process was more informal as citizens gathered at one place and debated with each other about different topics. In the end, citizens voted and by the majority of votes the proposal was either approved or rejected.

In other words, Athenian Assembly was the first legislative body which made the decision-making process available for some part of the population and institutionalized that process. It laid the groundwork for direct democratic participation; while its predecessor, Roman Senate re-shifted the tendency towards more aristocratic form of governance, where the power was concentrated on the hands of small group of selected people called elites. Such dramatical shift provides a fascinating contrast of evolution of political institutions, highlighting the differences in representation.

Roman Senate

The Roman Senate is believed was found by Romulus, the first king of the Rome around the 8th century BC. However, the clear year of its foundation is not clear. Early Roman history always refer that Senate was founded as a mere advisory body for the king. Only since 509 BCE, after the fall of the monarchy and the establishment of the Republic the power of the Senate grew significantly. Like in the Athens it was subjected to the transformation and became institutionalized as in terms of public governance it gained significant influence over both domestic and foreign policy. Nevertheless, during the imperial period starting 27 BCE the Senate lost much of its power, as emperors tried to have absolute power in the country. The situation especially worsened with the rise of Augustus, who turned Senate into a mere symbol of Roman tradition and returned to its role of advisory body.

The Senate was composed of senators who were initially formed from the Roman aristocracy, more particular from the people who represented the wealthiest and most power families in Rome (similar method was widely practiced in Sparta as well) [Britannica "Senate"]. However, within time, the election process underwent an evolution, during the Republic the number of senators increased which contributed to the occurrence of the phenomenon when representatives of lower class

(like wealth plebeians) inducted in the Senate. The Senate had around 300 members at its peak and the membership usually was determined by wealth and social standing, sometimes based on fact whether the person held public office or no. In order to become a Senator a candidate passed the course of honor known as “*curus honorum*”. The course by itself included whether the candidate held a public office such as quaestor, aedile, praetor or consul. The appointment process was not like in contemporary parliaments as senators were appointed for life; though the history knows cases when senators voluntarily resigned from their position. Compared to pre-Republican and post-Republican era, the selection process of new senators took place among former magistrates [Canavan, 7-9]. Usually, a small number of aristocratic families like the family of Julius, Cornelius, Fabii and Claudius dominated the Senate throughout its existence but during the late Republic situation changed as based on the diversification of the composition of the body, wealth plebeians started to gain more power.

In terms of structure, the Senate had a chairman, but the meetings of the members were presided over the consuls. During their absence, the other magistrates had a right to preside. The leader of the Senate, the “*princeps senatus*” was usually the elder senator has the right to speak first, or conveying it into modern language, have an opening speech. This role did not confer executive power, but still it gave the senator significant influence during the debates [Vermeule et al.]. The meetings were held on regular bases, usually in the large meetings halls like in the Roman Forum; though it did not convene daily. The meetings usually took place based on the necessity, if urgent decision or important issue has to be made. Compared to modern parliaments, the Senate did not have a power and authority to make laws directly, instead based on its advisory function, it guided the government of Rome to make necessary actions. As a primary function, Senate issued “*senatus consultata*” (decrees) which served as recommendations or instructions to the authorities. However, those decrees did not have a binding power, they were not obligatory unless they were ratified by the people. During the imperial period, those decrees started to have mere symbolic meaning as emperors governed the state unilaterally, though sometimes they may appeal to the Senate for an advice on the matters of policy [Munore, 40-42]. However, the power of Senate was much more visible regarding the issues of foreign policy and wars, as the body was vested with an authority to declare war, send ambassadors and negotiate treaties. Though consuls led the armies and were responsible for the command of the troops, without the approval of the Senate to initiate a military campaign was regarded as a violation of traditional rules and disrespect to the body itself, as Senate oversaw the allocation of funds. For instance, the disastrous failure of Lucius Lucullus in 69 BC was severely condemned by the Senate as the consul not only lost the war, but also spoiled relations with the Armenian Empire. During the times of crisis, the Senate could appoint dictator, who would be vested with the absolute authority for a limited time in order to handle the specific situation.

The English Revolution as the Beginning of Modern Parliamentarism

The third major event that contributed to the formation of modern parliamentary system was the English Revolution of 1642-1651. It played a pivotal role not only in the history of England but also contributed to the transformation of modern concept of democracy and parliamentary governance. Compared to the French Revolution with its radical and substantive changes (will be discussed below) the absolute monarchy was abolished and the governance of the state was passed to specific privileged mass of people. That is why some prominent scholars such as Christopher Hill, David Hume, John Hilton and Hellen Miller consider the English Revolution as the key event that shaped the parliamentary governance [Morrill, J. S. et al]. While the revolution did not result in

immediate changes in the political landscape it resulted a series of political, legal and social changes that shaped the role and power of parliament.

During the reign of king Charles I the tensions between the court and parliament reached its apogee, as the king firmly believed to the divine rule of the monarch who has to govern the people alone, and who should accountable only to God and not to any earthly authority like the Parliament. His arrogance resulted to ultimate rule without considering the Parliament in state affairs, which led to unpopular decisions like forced loans, increase of taxes and usage of royal prerogative to govern. A large sector of the English society was alienated in the state, and that is why majority of them appealed to the Parliament for more flexible governance, which gave the legislator strong, firm base in the society. Within time, the court attempted to bypass or even dismiss Parliament created a sense of discontent, especially among the Puritans, who tried to reform the English Church and strongly opposed the lavish lifestyle of the king.

The conflict between the “legislative” and “executive” ultimately erupted in 1642, when king ordered to arrest five members of the Long Parliament. Coupled with the military engagements and king’s failure to secure lasting peace contributed to the eruption of the English Civil War, which separated the country into two camps: Royalists and Parliamentarians. Eventually, the war ended with the defeat of Royalists and execution of the king in 1649, and the winners established a Commonwealth under the leadership of Oliver Cromwell [*History*]. The new leader, declared the creation of the republic and absolute monarchy was temporarily abolished, but the essence of monarchism did not perish. The Lord Protector (Cromwell declared himself the protector of the Commonwealth) did not hesitate to use military power and centralization of the government, which gave him significant power. Nevertheless, he managed to initiate important changes, which secured parliament’s rights to have a weight in the country. For example, he attempted to integrate the military power with a parliamentary framework, which meant that parliament would decide how and when the military forces should be used [*Sewell*]. However, this attempt to share the power between separate branches failed with the return of Charles II in 1660, who now had to recon with the parliament.

Almost two decades after, in 1688 with the disposition of king James II, who attempted to restore the absolute monarch, the role of the parliament as one of the leading actors within a state became inscrutable. Relatively bloodless coup of 1688 eliminated the head of state, which made the Parliament to invite William of Orange and his wife Mary to take the throne, though with a condition that new monarchs had to accept the Bill of Rights, which was presented and adopted in 1689 [*Morrill et al.*]. This document in its essence, established critical principles that defined the modern British “constituent” (Basic Law). It included the prohibition of the court’s interference into the election process, established a requirement that parliamentary sessions should be held on regular basis, and established that changes in taxation policy should occur only with the consent of the parliament. Those changes which are called the results of Glorious Revolution terminated the possibility to establish an absolute monarchy in England. 1689 marked the definitive shift from monarchy to parliamentarianism and creation of a constitutional monarchy, where king and queen ruled in conjunction with the legislator. In its turn, the Bill of Rights became the first codified document that prescribed the functions and responsibilities of the parliament. In the context of modern parliamentarian systems, the English Revolutions created a wholesome image of how the power had to be shared between legislative and executive. At first, a clear separation was established that executive (monarch) could no longer govern the whole state without being accountable to the

parliament. Its power is no longer unlimited, a sort of balance was established. Second, the idea that parliament should control financial matters like taxation and expenditures.

The French Revolution, Republican Model, and the Legislative as Models for the Modern Parliamentary System

After relatively calm two centennials a new wave of changes started to take place in Europe. In 1789 a famous French Revolution started which is considered as one of the most transformative events in world history. Similarly, to the England, the purpose of the Revolution was to create a system where the power would be shared by the king with the elected representatives from the people; however, Alexis Tocqueville considered that French Revolution aimed at first to eliminate the social division between nobility, clergy and third class. Prior the revolution, France like England was ruled by an absolute monarch Louis XVI who held unchecked power and the governance was centralized around the royal authority. Like the English Parliament *Les États Généraux* (The Estates-General) served as a representative body where the elected representatives of three classes – nobility, clergy and third class gathered and made a decision regarding different state affairs; however, in reality that body had no real power [Xiong & Hou]. The social system in medieval France was deeply hierarchical and inequitable, as the nobility and clergy enjoyed the wide privileges while the common people lacked political rights and also faced heavy taxation.

The economic crisis caused by the drought and insufficient funds to subsidize the farmers due to heavy investment in the American War for Independence created a tense situation in country which made the king to summon the Estates-General. Overall, the body failed to address the presenting issue of time due to various reason, one of which was because of suggestion to lower taxes. The nobility and clergy refused to accept this suggestion. The rising tensions contributed to the disruption. Third Estate declared itself the National Assembly and asserted the right to represent the French people. This act marked the first step towards representative democracy and parliamentarianism, as well as the sovereignty of the people and their right to have a voice in governance [Mark]. The National Assembly took on significant legislative power during its existence. One of the famous achievements was the adoption of the Declaration of the Rights of Man and of the Citizen in August of 1789, a revolutionary document that declared that the power of the state emanated from the people and that all men have an inherent right of liberty, property and the pursuit of happiness. This document serves as a philosophical backbone for the contemporary parliamentarianism as it emphasizes the central role of individual rights and popular sovereignty.

In its essence, the National Assembly started to perform the key functions of the parliament in the country, in the turmoil of the Revolution and constant wars outside the country, the legislative body started to implement radical reforms to eliminate the remnants of the old regime. It was not created only as a symbol of resistance, but its actions created key precedents for contemporary parliamentarian bodies. For instance, at first the Assembly enacted sweeping reforms and abolished the feudal privileges, established civil constitution of the clergy in 1790, which placed the church and its property under state control [Britannica “National Assembly”]. These actions initiated the start of legislative supremacy in France – an idea central to modern parliaments, where elected representatives have an authority to enact laws, reform the state and represent the will of people. Alongside with the major changes implemented by the National Assembly, it also played an important role in establishing the concept of constitutionally limited government. The Constitution was adopted as a binding document for the monarch, an obligation that his power has to be shared among legislative and judicial branches. Establishment of the constitutional monarchy in 1791 was an early

attempt at reconciling the ideals of the revolution within the existing political structure; though it failed. In 1792 the monarchy was abolished and France declared itself a Republic.

National Assembly established the culture of representative governance in France it transformed into National Convention with more large authorities and power. After the establishment of the Republic the Convention was responsible for drafting a Constitution and restructuration of French Republic in accordance with the principle of Montesquieu. However, in some cases the Convention acted outside of its jurisdiction. Taking into consideration that during *La Terreur* (reign of terror) Robespierre aimed to eliminate all the counter-revolutionary elements and subsequently granted the legislative body a right to trail people and condemn to death [*Britannica* “*National Convention*”]. Even the king was trailed and sent to death by the National Convention, which caused heated debates and arguments between Girondists and Jacobins who argued whether the National Convention should have such ultimate authority or no. Compared to National Assembly, the Convention tried to solidify the principle of representative governance, but eventually in the Convention radical elements took the majority of seats (Jacobins) and turned the legislative body into a “new king”.

The French Revolution and its republican model were key moments in the evolution of modern parliamentary systems. One of the fundamental and enduring legacies of the revolution was the idea that government should be based on the will of the people. The establishment of National Assembly, and later the National Convention materialized this idea and introduced the notion that legislative bodies may play a central role in governance, alongside or even in place of the monarch. Modern parliamentary systems, especially in Europe and the Americas owe much to the invocations created by the Revolution, as the concepts of bicameral legislature with upper and lower houses spread into Europe from France. However, the most important idea and the approach solidified by the Revolution was the idea of meritocracy. The notion that political and military leaders should be elected based on their merits rather than birth allowed France to become one of the strongest and developed country in the world. This approach allowed talented and legendary people such as Napoleon Bonaparte built a career and give the world his famous work *Code Civil*.

Impact of the Historical Evolution of Parliamentarism in Contemporary Framework

The historical evolution of the parliamentarianism has had a profound impact on modern states starting from ancient Greece and Rome finishing by English and French revolutions. Transition from absolute monarchism into representative governance, where parliaments started to play significant and prominent role in governance and decision-making. Though it was mentioned that traces of early parliamentarianism could be traced back to Athens and Rome, contemporary parliamentarianism and modern approach to legislative branch traces back to medieval period where parliaments begun to emerge as institutions. Magna Carta of 1215 is often seen as the first step towards the limitation of the monarch’s power. Since the 13th and 14th centuries with the establishment of the English Parliament, which had an obligation to be the advisor of the king evolved over the time by growing in importance as House of Commons, composed of elected representatives increasingly played a key role in the balance of power between the monarchy and the people. Though the impact of the French Revolution on modern democracies was huge, it was the British Parliament that become the model for a democratic system worldwide. Since the introduction of the universal suffrage and the abolition of aristocratic privileges, the parliamentarian power expanded in Britain and set a stage for familiar developments in other nations. This system became more widespread, particularly in Europe and the states of Commonwealth especially after the World War Two when the last authoritarian states in Europe fall apart.

The spread of parliamentary system beyond the United Kingdom since the 19th century marks the globalization of parliamentary democracy. Newly emerged countries in Europe and especially in Asia, after the period of colonialism and proxy wars around the world during the Cold War many states opted for parliamentary models as a way to balance the executive branch and ensure the active participation of the people. Interestingly that countries that gained independence for constitutional monarchy like England or Republic like France aimed to create similar system in their countries. States like Canada, Australia, New Zealand and India adopted the parliamentary systems are based on the British model, while other countries aimed to adopt and modify parliamentary framework to fit their own political and social context. With the introduction of proportional representation and the development of multi-party system close to the 20th century the inclusivity in parliament increased as well, as traditional majoritarian rule was replaced by the proportional representation which enabled smaller political parties and insignificant political forces participate on the legislative process.

Furthermore, with the development of the office of prime-minister the nature of the parliamentary changed as well. Compared to the presidential system where the head of the state and head of the government is the same person, while in parliamentary systems, this role is divided between the prime-minister who serves as the head of the government and the president who is the head of the state. However, it could be stated that prime-minister serves as the executive leader while being directly accountable to legislature. Not only in UK, but also in states like Armenia, Israel and India with the parliamentary models of governance, the prime-minister should rely on support of the parliament to stay in power.

For example, the governance system of the United Kingdom is rooted in the medieval assemblies could be viewed as a serious lesson in the evolution of democratic governance system. The Magna Carta of 1215 established the principle of limitation of power, which would require consultation with nobles. This evolved into the Model Parliament of 1295. This was followed by the English Civil War of 1642-1651 and Glorious Revolution of 1688, which ensured the supremacy of the legislature over the monarchy. In the end, it was followed by the Great Reform Act of 1832 expanded suffrage, which marked a shift toward broader representation. Incremental approach of the United Kingdom prevented revolutionary upheaval in the late medieval era and allowed institutions to adapt while maintaining stability. Considering that UK does not have written constitution like Israel, this approach enabled flexibility, with Parliament as an ultimate authority, while this risk unchecked power without codified limits. In Westminster model, where executive (PM and the Cabinet) is drawn from legislature and ensures accountability, but it may also concentrate a significant power if unchecked.

Conclusion

In conclusion, the evolution of parliamentary system from the ancient Athens and Rome to transformative changes sparked by the English and French revolutions drastically shaped the modern framework of the governance. Although having fundamental Ekklesia differences from the modern parliament it serves as the first, institutionalized model of direct democracy where people had an opportunity to debate with each other and being engaged in the decision-making process. The idea of engagement of people in state affairs came from Athenian democratic model, while the Roman Senate was closer to modern parliaments by having elected representatives; though among the aristocracy. The third wave of changes took place after the English Revolution as its aftermaths were pivotal in establishing balance between the monarchy and parliament, which resulted to the creation of

constitutional monarchy and a parliament with documents framework of jurisdictions and rights. While the French Revolution on the other hand introduced more radical idea of who the governance should be based on the will of the people. This approach laid foundation for republicanism and the supremacy of the legislator. Today, the legacy of these transformative periods continues to shape how modern democracies functions by highlighting enduring prominence of parliamentary institutions in ensuring the participation of the people and maintaining checks and balances in the government.

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