Introduction: some thoughts on presidentialism in postcommunist Europe

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Studying presidential systems

Since the publication of my essay "Presidential or Parliamentary Democracy: Does it Make a Difference?", from the early version to the more definitive one in my book with Arturo Valenzuela entitled *The Failure of Presidential Democracy*, I have become known as a critic of presidentialism.[1] I am, therefore, not an unbiased contributor to this volume, although the catchy title of the book was perhaps too strongly worded a revision of the more skeptical formulation contained in the title of my essay.

I have not said that presidential democracies cannot consolidate, be stable, and even function reasonably well, nor that parliamentary systems are always a guarantee of stability of democracy. The facts I myself have analyzed prove this. I have argued only that basic structural characteristics of presidential systems make it more likely that they will encounter serious difficulties and that, under certain circumstances, to be specified in each case, they might contribute to the breakdown of democracies that, with adequate parliamentary institutions, might have had a better chance to survive. The crises of parliamentary systems are crises of government, the crises in presidential systems are more likely to be crises of regime. This means that I am not predicting the imminent breakdown of the presidential regimes in the postcommunist states. I would, however, have prophesied that some of the serious crises of postcommunist democracies are related to the option exercised for presidentialism, even when they have not led to a breakdown of democratic processes. I would also argue, on the basis of the available evidence, that a significant number of the postcommunist democracies that have been consolidated or are on the way toward consolidation are parliamentary or, at the most, semi-presidential functioning largely as parliamentary democracies. I do not dare quantify this conclusion, given the ambiguity of the constitutions and the constitutional practice in many postcommunist countries, and the uncertainties about whether democracy has been consolidated or is on the way

to consolidation, using the criteria Alfred Stepan and I have developed.[2]

If all this were not sufficient to make an analysis of the consequences for democracy of the constitutional options discussed in the case studies of this book and several others that have recently been published difficult,[3] there is a prior question: are we really talking about regimes that satisfy the basic definition of exhibiting the characteristics of democracy besides the holding of more or less free and fair elections? Particularly in the case of the former members of the Yugoslav Federation and of the Soviet Union – some of them now members of the Commonwealth of Independent States – very different answers to the question, of whether presidentialism or parliamentarism makes a difference, could be discovered. There is no clear consensus on which countries can be considered democracies beyond an electoralist definition. Although there is some consensus that a number of countries which were part of the Soviet Union and Yugoslavia do not satisfy any reasonable definition of democracy, it happens that a number of them have opted for presidential or semi-presidential constitutions, and that their presidents are the most powerful office-holders in those countries. Can we venture the hypothesis that the option for presidentialism was a result of prior undemocratic or anti-democratic tendencies, or that the failure to progress in a democratic direction was the result of having opted for presidentialism or semi-presidentialism? I, for one, would not like to advance an answer without a thorough analysis of the political developments in some of those countries. For my analysis, it would be convenient to argue the second answer. Using the data from the rating of twenty-six postcommunist countries on political rights and civil liberties, I could make a case for the conclusion that the option for presidentialism and/or strong presidential powers is associated with those countries located below the threshold of democracy.[4]

However, I want to insist that my analysis of the difficulties, if not failure, of presidentialism is not based on such a quantitative analysis. That is why I do not consider the continuity of democratic institutions or the formal breakdown of those institutions a test of my approach to the problem of presidentialism. I would, however, argue that the frequency and intensity of crises in the political system and the quality of democratic political processes should be related to the type of regime.

As Jon Elster writes in the concluding chapter to this book, it is easier to give answers to the question of why the political actors choose, at some point, one or another type of institutions and the calculations, correct or mistaken, influencing their decision, what he has called "the upstream question." It is much more difficult to give an answer to the question of what difference it makes. The "downstream question" is more complex

in systems that only recently have enacted their constitutions, which are sometimes still in the constitution-making process, systems which provide us with only a short historical record, in which particular power constellations or particular incumbents may explain more than institutional structures do. Therefore, my comments are more questions for future scholarly work than answers to the basic question of what difference constitutions and institutions make. Even so, I do not think that the reader of this book or of other works on the constitutions and politics of postcommunist Europe will not have the feeling that some of the doubts about the advisability of presidentialism in new democracies were totally unjustified. I cannot here call attention to specific cases and events which would be relevant, I will leave this to the reader and future scholarly work. Implicit in any such analysis is the difficult question of counter-factuals: would things have been different if those states had started with parliamentary institutions? It is well known that counter-factuals cannot be proven.

Studying semi-presidential/semi-parliamentary systems comparatively, I confront the difficult question of the working of semi-parliamentary/semi-presidential regimes or, to use the terminology of Matthew Shugart and John Carey, the premier-presidential, and the even more complicated type they define as president/parliamentary.[5] There have been relatively few regimes that could be so characterized. If one ignores (as one should) the newly independent states in interwar Europe that introduced semi-presidentialism but which functioned in practice as parliamentary systems in spite of the direct election of the president and the considerable powers which, in some cases, were given to those presidents in the constitutions, it is not possible to make empirically based generalizations. Let me leave out Ireland, Iceland, the more complex case of Finland (until recent reforms), and Portugal (where the 1982 reforms to the 1976 constitution and political practice have moved the system closer to parliamentarism). Although I accept some of the objections of Giovanni Sartori[6] to the dominant thesis that the premier/presidential or semi-presidential/semi-parliamentary regimes have tended to function alternatively as presidential or parliamentary, it is difficult to evaluate systematically how those regimes have performed.

We are basically left with the two cases of the successful Fifth Republic in France after 1958, and the Weimar Republic, a case of failure, in post-World War I Germany. It is, therefore, difficult to make generalizations on the basis of previous cases of semi-presidentialism, particularly since one can debate the extent to which the transition to presidential cabinets without parliamentary support under Hindenburg in Germany represented a breakdown of democracy even before the appointment of

Hitler as chancellor. Besides, in the case of Germany, it is debatable whether the abdication by the Reichstag of its function to provide a government having parliamentary support and its toleration of the Brünning presidential government was possible thanks to Article 48 of the constitution. In any case, until we have more semi-parliamentary/semi-presidential regimes, it will be difficult to analyze systematically how they work, and to question the preference that some scholars, on the basis of the French experience, express for this type of system and the choices made in its favor by a number of postcommunist regimes.

Even so, we should not forget that semi-presidential systems share at least two of the characteristics of presidentialism: the dual democratic legitimacy of the presidency and the legislature as a result of popular election and, with some modifications, the rigidity in the time for which presidents are elected.

In addition, presidential and semi-presidential regimes share the unique personal character of the office (with the exception of Bosnia, with its three-person presidency). This again makes comparisons extremely difficult since, unless there have been several elections and different incumbents, it is not possible to distinguish the characteristics of the office from the personal idiosyncracy of the incumbents.

In my view, the postcommunist regimes did well in not choosing a complex hybrid like the new Israeli system.[7] It is a system that, despite the direct election of the prime minister, in the view of Sartori (with which I can concur), is not presidential since the prime minister is still subject to parliamentary confidence or non-confidence votes. On the other hand, he is not comparable to a prime minister having parliamentary confidence as in a semi-presidential system, since he might be tolerated while neutralized for the four years for which he is elected, with only the possibility of dissolution automatically leading to his downfall. The expectations of the designers of this system were that on the "coat-tails" of his election, the prime minister would be able to obtain a strong representation for his party or supporting coalition in the Knesset. The hope was also to weaken the minor parties that had so much blackmail potential in the formation of governments in Israel. This, at least in the first election under the new system, has not happened. Perhaps the voters, having chosen "their" premier, felt freer to vote for particular parties close to their more specific interests, in this way strengthening the minor parties. The prime minister must make do with the support or non-support given to him in the Knesset by the electorate.

Heads of state in parliamentary democracies

A number of the countries included in this study of postcommunist democracies are parliamentary republics and as such have as head of state a president indirectly elected or, in some cases, popularly elected, but apparently with very limited powers. Even in the cases in which presidents are heads of state of a parliamentary republic – not to be confused with presidents in presidential or semi-presidential regimes – they have been provided with somewhat greater powers or roles than in traditional parliamentary republics or, on account of their personality (as in the case of Havel), enjoy considerable prestige, influence and thereby potential power.

In analyzing these president-heads of state in parliamentary regimes such as in Hungary and the Czech Republic, we face the difficulty that there are few studies of heads of state in parliamentary democracies. There is no systematic analysis of the role of monarchs in long-time stable parliamentary regimes such as the United Kingdom, Scandinavia, the Benelux countries, and Spain after Franco. There is no systematic comparative study of the heads of state in parliamentary republics, although there are interesting studies and biographies of the presidents of the Federal Republic of Germany[8] and Italy that would show how different incumbents have perceived their role; there are probably comparable materials for the Third and Fourth Republics in France. We cannot compare the role of Göncz and Havel with Theodore Heuss in Germany, Luigi Einaudi or Sandro Pertini in Italy, or René Coty in France, among many others. We cannot say how similar or different in the conception of their role the presidents-heads of state in the new parliamentary democracies of postcommunist Europe are from their Western counterparts in similar periods. Such a comparison should be incorporated into the comparative study of parliamentary postcommunist states.

One of the great questions for a comparativist to ask is to what extent the United States is a paradigm to compare presidential systems, as the Fifth Republic in France is a paradigm to compare semi-presidential systems. If we would argue, as Fred Riggs does,[9] that the United States has a unique combination of institutions and political practices that have made presidentialism work, perhaps even in spite of some of the structural problems connected with presidentialism, such a comparison would be, in many ways, misleading. American exceptionalism, which includes a two-century-old constitution and a profound commitment to constitutionalism, a strong and generally respected Supreme Court, a federal system that disperses power, a distinctive two-party system of largely non-ideological and not highly disciplined parties, etc., makes it difficult to see

to what extent presidential regimes in postcommunist Europe would be comparable and similar to the United States model. Even in the case of the French Fifth Republic, the politicians who created it had long experience in democratic politics under the Fourth Republic; the party system pre-dated the introduction of presidentialism, and there was a capable and, to some extent, independent bureaucracy, among many other factors.[10] It may be objected that such a focus on "my country is different" prevents comparative analysis. But there can be no question that a better understanding of the uniqueness of the models would help us understand the new democracies in which they are more or less imitated and where institutional arrangements are borrowed piecemeal. Such a focus would perhaps stimulate more systematic comparison across postcommunist presidential and semi-presidential systems.

Among the many reasons to be cautious at this point about a comparative analysis of postcommunist presidencies is the uncertainty about the emerging party system, the volatility in some of the countries of the electorate, and the possibility of changes in the electoral laws. In addition, there are uncertainties about the political articulation of nationalist, autonomist, or secessionist demands which, in many cases, should favor the introduction of proportional representation but which, as we know, is not particularly congruent with presidentialism.

Addressing the downstream question

I am somewhat frightened to travel downstream in the troubled waters of transitions and consolidations of the new presidential or semi-presidential systems in postcommunist Europe. Who is to tell whether the political process will take place within the channels generated by institutions and not overflow those channels or, in the course of events, take another way fully outside of the institutional channels being created.

Some readers might feel that, after all, neither presidentialism nor semi-presidentialism has failed in the former Soviet Union and Eastern Europe. If we define failure as not holding elections, the assumption of power by presidents without electoral legitimation, or the violent overthrow of elected presidents rather than their impeachment or resignation without a coup, this has not happened except in some of the new states in the Caucasus and Central Asia. Leaving that part of the world aside, the new systems have worked rather less well in other cases too.

I shall ignore the Gorbachev presidency of the USSR as this was *not* a democratic presidency. He had not been elected by the people of the USSR nor even by a fully democratic legislature. It therefore becomes difficult to say if the crisis of Gorbachev's authority, the disintegration of

the USSR, and the coup against him were related or not to the presidential character of his office. The participation of his vice-president in the conspiracy against him shows some similarity with other cases of vice-presidents elected to balance the ticket representing a different political orientation, and ultimately coming into conflict with the president. It could be argued that the choice of a presidential regime by Gorbachev and his advisers contributed to his disinterest in using the widespread mobilization of civil society in the USSR, or at least parts of it, to build a party supporting a democratic transition to democracy. It would be interesting to analyze to what extent the introduction of the presidential model into many of the republics of the USSR, with the exception of the Baltic states, contributed to creating a personalized leadership of former secretaries-general of the party or leading nomenklatura members, who, to legitimize themselves, had to turn to nationalism. In any case, I would not like to use the failure of Gorbachev to support the thesis of the failure of presidentialism.

The case of Yeltsin provides more evidence for several of the arguments against presidentialism. First of all, the success of introducing, through a referendum, the question of creating the presidential office, the subsequent election of Yeltsin to the presidency in June 1991, and his conception of the office after his moment of glory, during the coup attempt against Gorbachev, had decisive consequences for political developments in Russia. One of them was that Yeltsin missed the opportunity to transform the democratic political forces that supported him in the election into a political party, at a time when the Communist Party had lost its prestige even though it could not be fully outlawed. By conceiving the presidency as above party and even introducing, as in other postcommunist constitutions, the principle that the president could not be the leader of the party, he missed a great opportunity. Ever since, it has been difficult to create a single block of moderate party supporters of democracy.

A second consequence was that, in exchange for support for some of his economic reforms, Yeltsin allowed the sitting Russian Soviet to continue to exist rather than calling for elections and ensuring the enactment of a constitution by a democratically elected body or at least, reform of the constitution. Swift parliamentary elections at the time of his highest popularity might have allowed him to obtain the support of a large block of deputies elected with his support. Instead, preserving the existing Soviet made possible the continuity of a diarchy, a situation which made it difficult for Yeltsin to govern. This dual power structure led to the compromise of the April 1993 referendum, which allowed Yeltsin to claim a victory in public opinion but *not* to eliminate the source of conflict between the Soviet-inherited legislature and the presidency. The fester-

ing conflict culminated in the confrontation with parliamentary speaker Ruslan Khasbulatov that ended with the bombing and assault on the White House in October 1993. In addition, the logic of presidentialism had earlier led Yeltsin to run in June 1991 on a ticket with former general Aleksandr Rutskoi who, from the beginning, did not share his views but brought to the ticket a balance and probably some voters.[11] Obviously, presidential regimes exist without vice-presidents but in an uncertain situation, such as that in 1991, vice-presidents can generate this kind of problem. A logical conclusion drawn from the 1993 crisis by several postcommunist presidential systems has been to abolish the office of vice-president. With it has been lost one of the possible advantages of presidentialism: assuring continuity for the period of the mandate of the president and the holding of elections only every few years, thanks to the device of the transfer of the office of president to the vice-president in case of death or incapacity.

A further consequence of the victory of President Yeltsin was that the constitution-making process did not take place with the participation of a deliberative body. Rather, the draft constitution would be proposed directly by the president to the people. It thereby derived all of its legitimacy from the December 1993 referendum and the relatively narrow and even dubious victory in that referendum. It could be argued that the disasters that marked the first presidency of Yeltsin seriously threatened the stability of democracy, and probably contributed to a delegitimation of new democratic political institutions among important sectors of the population. They were part of the difficulties of the transition. The coexistence of institutions, some based on the constitution and the political structure of the old regime, with the new democratically elected presidency, can be seen as part of the unfinished transition. Again one can claim this was not a failure of presidentialism.[12]

We will have to wait to see how the Russian presidency evolves after the December 1995 legislative elections and the 1996 presidential election. We will observe the forms that cohabitation takes between the Duma and the president, and a prime minister caught in conflicts between president and legislature. Will it lead to "flexible diarchy," Sartori's characterization of the working of the French system? But the problem remains of the possible divided power and dual legitimacy of the two chambers of the Russian parliament, derived from the federal character of the Russian Federation. It is therefore much too early to talk about the success or failure of the Russian constitutional system as becomes even clearer from reading Stephen White's chapter.

The presidency is a single-person office that, in the absence of a simultaneously elected vice-president, can become vacant in case of

incapacity or death. The question of who is in charge in that situation is worrisome. In the Russian, as in the French constitution, the president, in case of temporary incapacity, can delegate his authority to a person of his choice. However, will such a person enjoy the same authority as the elected president? In the case of death, after an interim period elections are held to fill the office. It could be argued that in a parliamentary regime problems of transition would be less acute. Another member of the cabinet with the same parliamentary base would simply assume power. In case of death, the parliamentary majority could either confirm the same person or choose someone else.

The chapter on Poland by Krzysztof Jasiewicz shows the many problems that emerged from the confrontations between president Wałęsa, the Sejm, and the prime ministers who had support in the legislature. In spite of the fears expressed by many observers, that conflict did not lead to a breakdown of democracy in Poland. However, we have survey data showing the ambivalences of Polish citizens about their democracy and the conflict between those who favored the legitimacy of the president's powers versus those who supported the legislature.[13] It is not easy to say what legacy divided government left Polish citizens. We cannot speculate about the counterfactual that Wałęsa could have become the leader of a party which would have held together at least for some time, integrating sectors of the old Solidarity movement rather than, as happened, causing disintegration when Wałęsa ran against Mazowiecki in the 1990 presidential election. I do not think that anyone would question that the long delay in approving the constitution, which would have established clarity about the powers of all actors on the political scene and determine whether Poland would be a parliamentary or semi-presidential system, has been due largely to holding an early election for the president, rather than first enacting a constitution. Poland is now a clear case of a semi-presidential system in which the party or coalition supporting the president and the prime minister is the same and with it the potential conflicts derived from cohabitation disappear. We cannot say, on the basis of the early experience of Polish semi-presidentialism without a new constitution or with only the "little constitution," how the system will ultimately work.

A question requiring answers is to what extent in Russia and in Poland the conflicts between institutions and their incumbents, and delays in creating a well-defined institutional constitutional framework, have affected the capacity to generate, enact, and implement important policies. This question is also central in the evaluation of the political developments in Ukraine where, as Andrew Wilson notes, the type of confrontation which took place in Russia was avoided. Many observers would agree

that the intensity of conflict between the elites about the institutions and the distribution of power between different offices has delayed the formulation of policies at critical junctures, with a loss of efficacy for the political system as a whole.

Bringing the party system back in

Any analysis of the functioning of semi-presidential/semi-parliamentary systems has to focus on the party system at least as much or more than in the study of presidential systems. The success of a system having a predominance of the president, or his cohabitation with a prime minister with the support of the majority in parliament, is largely dependent on the party system and the relationship between the president and the parties. The regime can only work as presidential when the president has the support of a party or a solid party coalition with a majority in parliament. The president has to identify with the party, has to work for the success of his party in the legislative elections and, in the absence of a majority for a party identified with him, work for the building of a coalition in the legislature able to support his choice of prime minister. This means that a semi-presidential/semi-parliamentary system will not work very well in a highly fragmented party system or a polarized multiparty system. The provision in many constitutions of the postcommunist democracies that the president should not be a member of a party is in contradiction, therefore, with a prerequisite for effective presidential government. Furthermore, the conception of many of the incumbents is that they want to be presidents above parties, and they often loosen their ties with them after their own election is secured.

The assumption of a degree of alternation between presidential and parliamentary type of government in semi-presidential regimes assumes that there is a legislature able to give support to a prime minister of a different party or coalition than the one that has elected the president. It assumes that the legislature is able to provide that prime minister with a majority. Should this not be possible due to the fragmentation of the party system or a multiparty system that is polarized and unable to provide a majority coalition, the system is not likely to function with a prime minister resting on a parliamentary base. Power reverts to a president who will have to choose his prime minister from among the contenders, attempt to form a coalition supporting him/her, or at least prevent a negative majority from blocking his/her choice of prime minister through a vote of no-confidence. This last alternative can prove unstable and difficult, even when the prime minister is given some protection by restricting the legislature's ability to vote no-confidence or by sanctioning a legislature if it does so, such as through its dissolution.