



Individual Advanced Research Opportunities Program

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“Explaining Semi-Presidentialism in Post-Communist Europe: Russia, Ukraine, and Moldova in Comparative Perspective”

• Topic of research:

My project examines the origins of semi-presidentialism in post-communist Europe. This is a constitutional separation of powers system that contains a dual-headed executive, so that a president (potentially) must share power with a prime minister, although the way the system works in practice varies from country to country. Whereas comparative constitutional engineers have long debated whether it is better for a new democracy to adopt a presidential or parliamentary form of government, in the post-communist world the majority of states actually adopted neither of these models. Rather, in 22 out of the 28 cases, they adopted a semi-presidential constitution instead. Until recently, however, this phenomenon was left unexplained because scholars of comparative politics have tended to approach the comparative study of constitutions from the wrong angle. Most studies have typically taken the constitutional separation of powers model a new country adopts as their starting point (at time t) and asked what its effects are on democracy, cabinet stability, economic reform, and so forth at a later point in time ($t+1$). While studies like this are important because they allow scholars to discern which constitutional models are best suited to democracy, they fail to provide information about why framers have tended not to adopt the models most preferred by policymakers and

scholars. To remedy this disjuncture between theory and reality, I make the separation of powers system the endpoint of my inquiry and work backwards from there, using a variety of methodologies, to explain why a particular country may have adopted it in the first place. Specifically, my project focused on three post-communist cases—Russia, Ukraine, and Moldova—which in the mid-1990's wrote new constitutions using radically different methods. In Russia the process was driven by the executive branch, in Moldova by the legislative, and in Ukraine it was binary. We thus would expect each country to have adopted a different constitutional model, and yet each chose semi-presidentialism. Using the grant I received from IREX, I journeyed to these three countries to conduct interviews with politicians, framers, and specialists (defined as advisors who participated in, or academics who are knowledgeable about, the constitutional process) to gauge what influenced post-Soviet constitution-makers in choosing a separation of powers model.

• **Relevance and contribution to field.**

1. *Relevance and contribution to the field*

Ever since the publication of Samuel Huntington's *The Third Wave of Democratization* in 1991, scholars have had a tendency to view democracy as coming in "waves." That is to say, they have argued that the experience of one country influences that of the next so that clusters of countries experience democratic transitions at similar points in time. My research shows a similar phenomenon can be witnessed regarding constitution-making. Of the world's existing countries, only 15 promulgated their current constitutions prior to World War II, while 14 more adopted their current constitutions prior to 1960. Between 1960 and 1974, fifty additional countries adopted new constitutions. This means that the world's 120 or so remaining countries all possess constitutions that were adopted after 1974, and that the vast majority of constitutions today are thus less than 30 years old. This boom in constitution-making has correlated, as Figure 1 shows, with an explosion of semi-presidential regimes. Although my research deals with the penetration of this constitutional model mainly in post-communist Europe, semi-presidentialism has also cropped up in Africa, in East Asia, and in the Caribbean. The new prevalence of this separation of powers system has altered the world's constitutional landscape. Today, countries with semi-presidential constitutions not only comprise a larger percentage of the world's states than ever before, but they also make up a greater percentage of the world's *democratic* states. In a recent survey, two scholars found that of the 139 states in the world that were rated "free" or "partly free" by Freedom House in 2003, 65 (47%) possessed parliamentary constitutions and 35 (25%) possessed pure presidential constitutions, while 39 (28%) possessed semi-presidential constitutions. Figure 2 charts the rise of semi-presidential regimes as a percentage of the world's states since 1974. The fact that the number of democratic states with semi-presidential constitutions now surpasses the number with pure presidential constitutions signals the policy relevance of this research topic. For despite the rise of this constitutional system, scholars seem to know very little about how it works or—equally importantly—why it has become so popular. Answering this latter question marks my contribution to the field.

FIGURE 1: THE UNIVERSE OF SEMI-PRESIDENTIAL REGIMES, C. 2006

Africa	Americas	Asia/Middle East	W. Europe	E. Europe/ex-USSR
Algeria (1976)	Dominican Republic (1966)	East Timor (2002)	Austria (1926)	Armenia (1995)
Angola (1992)	Guyana (1980)	Lebanon (1926)	Finland (1919)	Azerbaijan (1995)
Benin (1990)	Haiti (1987)	Maldives (1998)	France (1958)	Belarus (1994)
Burkina Faso (1991)	Peru (1993)	Mongolia (1992)	Iceland (1944)	Bulgaria (1991)
Cameroon (1972)		Singapore (1959)	Ireland (1937)	Croatia (1990)
Cape Verde (1992)		South Korea (1948)	Portugal (1975)	Georgia (1995)
Chad (1996)		Sri Lanka (1978)		Kazakhstan (1993)
Central African Republic (2004)		Taiwan (1946)		Kyrgyzstan (1993)
Gabon (1991)		Yemen (1991)		Lithuania (1992)
Guinea-Bissau (1984)				Macedonia (1991)
Madagascar (1992)				Moldova (1994)
Mali (1992)				Poland (1997)
Mauritania (1991)				Romania (1991)
Mozambique (1990)				Serbia & Montenegro (2003)
Namibia (1990)				Slovakia (1998)
Niger (1999)				Slovenia (1991)
Sao Tome & Principe (1990)				Russia (1993)
Senegal (2001)				Tajikistan (1994)
Rwanda (2003)				Turkmenistan (1992)
Tanzania (1977)				Ukraine (1996)
Togo (1992)				Uzbekistan (1992)
Tunisia (1959)				

2. Scholarly impact of and policy significance of the research

If US policymakers hope to influence democracy abroad, it is important for them to understand why constitutional framers adopt particular constitutional models. This is, after all, something they presumably need to know in order to provide framers in developing countries with information about what kind of constitution is most likely to lead to democratic stability, not to mention about what kind can most realistically be adopted. Yet although scholars have more or less tackled the first issue, they have not yet convincingly tackled the second. Do new democracies choose their separation of powers models based on constitution-makers' understanding of what would be "best" for their countries? Are they chosen because of "foreign influence" (from the United States or the European Union, for example) to adopt certain constitutional norms over others? Or do new democrats instead design constitutional systems based on path-dependency, so that new institutions significantly resemble a country's political institutions of the past?

If the last of these explanations is the most salient, then one might conclude that the advice provided by American policymakers should have rather limited effects.

Figure 2: Semi-Presidential Constitutions as a Percentage of the World's States			
Year	Number of States in the World	Number That Are Semi-Presidential	Percent that are Semi-Presidential
1974	145	11	7.6
1990	165	22	13.3
1991	183	30	16.4
1992	186	38	20.4
1993	190	42	22.1
1994	191	45	23.6
1995	191	48	25.1
1996	191	50	26.2
1997	191	51	26.7
1998	191	53	27.7
1999	191	54	28.3
2005	195	62	30.7

• **A concise summary of your approach and research methodology including a list of research sites.**

1. Approach and Research Methodology

My study relied on “process-tracing” to retrace each country’s constitutional process from its earliest beginnings until the adoption of each post-independence constitution in the 1990’s. Process-tracing is a method that attempts to explain outcomes by identifying the mechanisms at play between the causal variable and the outcome variable. In practice, it involves examining histories, archival documents, interview transcripts, and other primary sources of data to see how looking at history might explain an outcome. Several different types of process-tracing techniques exist. One takes the form of a detailed narrative, often presented as a chronicle of events that purports to throw light on an outcome. This type of analysis often implies the existence of linear causality, or an explanation going directly from the chain of events to the outcome. Yet most phenomena of interest in politics are characterized by more complex causality and may be difficult to explain by linearity. By contrast, an outcome can also result from a convergence of several different causes, or from the interaction of several variables which cannot function independently. A third type of causality transpires when a sequence of events occurs in a given order. Such sequences may foreclose some paths in the process of political development and steer it in certain directions. When this happens, an outcome is said to be the result of “path-dependency.” My study tried to find in path-dependency theory an explanation of why framers in the post-Soviet world wrote their constitutions.

2. List of research sites visited

I visited half a dozen libraries in three countries for my study, including the Lenin Library and INION library in Moscow, the law library of the Ukrainian Legal Foundation in Kyiv,

and the Parliamentary Library, Chisinau city law library, and National Library of Moldova in Chisinau. In addition, I visited the archives, and talked to specialists, at a dozen think tanks and NGOs in the three countries, including the Carnegie Endowment, INDEM, the Institute for Law and Public Policy, the Ukrainian Legal Foundation, the Ruzumkov Center, the Central and East European Law Initiative (CEELI) of the American Bar Foundation, the Institute for Public Policy, ADEPT, the National Democratic Institute, the National Republic Institute, and others. Most importantly, I interviewed more than 40 people in the three countries, including not only politicians but also, critically, members of the Working Group of the Constitutional Commissions in each case to find out what happened behind the scenes during their constitutional processes in the mid-1990's.

• A summary of your research findings and preliminary conclusions addressing the questions and issues raised in your research proposal. (minimum 3 pages)

1. Research Findings

My findings show that the post-communist states overwhelmingly adopted semi-presidential constitutions because they most resembled the late Soviet constitutional system and because the order of their transitions did not allow anything else. Institutions that are in place before, in other words, affect what is created subsequently. Often constitution-makers find it difficult to move away from previous institutions, for while they are changing and improving them, they are at the same time being influenced by them. To explain how the adoption of semi-presidentialism occurred in the post-communist context, I rely on path-dependency theory. Path-dependency is an extremely important, but often overlooked, factor determining what a state's constitutional framework will look like. Unfortunately, the concept of path-dependency is not a unified theory, so when referring to it we must be specific about which type of path-dependency we have in mind. Three dominant strains of path-dependency exist. The first, "increasing returns path-dependency," arises out of economics and is used to explain the inflexibility of institutions by focusing on small events taking place in the early stages of their development. This variant of path-dependency occurs when there are economies of increasing returns, so that increasing productive input yields more than a proportional increase in output. Increasing returns path-dependency has been used to explain stagnation and the lack of change. The persistence of the QWERTY keyboard is the most famous example of the consequences of increased returns path-dependency. Increasing returns path-dependency, however, cannot explain the creation of a new constitution because it does not adequately reveal why incremental change occurs. Path-dependency argues that decisions made at one time (t) influence decisions made at a later time ($t + 1$), which, in turn, influence the sequence of decisions made at an even later time ($t + 2$). And so on. Yet the theory does not posit that institutions at a later point in time ($t + 1$) should be exactly the same as earlier (t). To say that past institutions *influence* new institutions is not to say that they are the *same* as them. If they were, we would never observe innovation. To explain why new institutions may be based on old institutions and yet may also exhibit innovations that distinguish them, a second variant of path-dependency theory draws on biological evolution for inspiration. According to "evolutionary path-dependency," institutions evolve neither gradually nor incrementally. Rather, they are transformed by a "punctuated equilibrium," defined as a long period of stability followed by a sudden outburst of rapid change. The biologist Stephen Jay Gould argued that species change little during most of their existence, and yet their stability can become punctuated when one species suddenly breaks off from the mainstream and then quickly adapts to a new environment, from where it evolves along an entirely

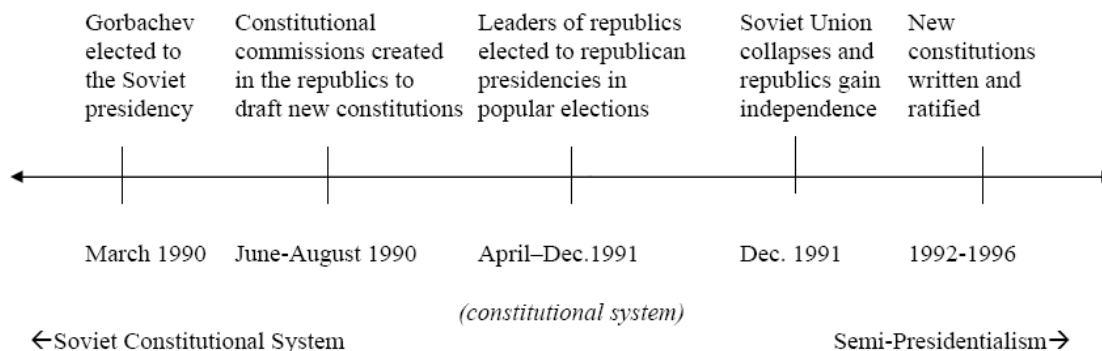
different path. Quite recently, change through “punctuated equilibrium” has been imported into the political science literature by a number of scholars. With punctuated equilibrium, however, as with the increasingly return path-dependency, the ultimate outcome of a process of change is usually indeterminate. Both theories are marked by the inability to predict or explain, either deterministically or probabilistically, the occurrence of a specific outcome. For this reason, we must turn to the third dominant strain of the theory, “sequencing path-dependency,” to explain the creation of new institutions. Sequencing path-dependency stands for the broad idea that an outcome or decision is shaped by the historical path that specifically or systematically leads to it. This variant of path dependency signifies the existence of a direct causal relationship between stages in a temporal sequence, where each stage critically influences the direction of the stage that follows. Whereas our first two variants could not predict identifiable outcomes, “sequencing path-dependency” finds that the order in which choices are presented can significantly affect later outcomes—and even predict them. *When* a particular event happens in a sequence is important because small events early on can have large effects later. During the early stages of a sequence things are relatively permissive, but they get more restrictive as one moves along the path. The further one moves, the more change becomes bounded. Sequencing path-dependency thus involves an event triggering a move toward a particular path, followed by a “period of reproduction” when positive feedback mechanisms reinforce movement along that path. However, the path might come to an end when a new event dislodges the old, long-lasting equilibrium. Every path begins and ends with a “critical juncture.” The identification of path dependence involves both tracing a given outcome back to a particular set of historical events and showing how these events are themselves occurrences that can be explained on the basis of prior historical conditions. All of this is to say that the origins of semi-presidentialism in the post-Soviet states can be traced to an early event. In this case, it was Mikhail Gorbachev’s superimposition of a presidency over the existing institutional architecture of the Soviet Union in March of 1990. Gorbachev created a presidency in a deliberate attempt to make the Soviet Union a semi-presidential republic. His decision eventually led to presidential institutions being copied in most of the USSR’s union republics. When it was time for these republics to write new constitutions as independent states, they also adopted semi-presidential constitutions. Thus the “original” semi-presidential institutions created by Gorbachev influenced the creation of all subsequent semi-presidential institutions at later points in time. The book that will come out of my research will explain how this process unfolded.

2. Explanation

Gorbachev created his presidency in 1990 not by writing a new constitution for the Soviet Union based on the separation of powers, but by superimposing his presidency onto an already existing Soviet constitution. By June of 1991, Yeltsin did the same for the Russian republic (RSFSR), and by December all of the other republics followed suit to created presidencies for themselves as well, usually by electing the chairman of their parliament or their communist party first secretary (in most republics they were one and the same) as president. By the end of 1991, the Soviet Union ceased to exist and all of these republics became independent states. Their presidents were now no longer leaders of mere republics, however, but rather presidents of independent countries. When it came time for these countries to write new constitutions, path-dependency ensured that it would be too difficult to adopt any constitutional system that did not have a presidency. As such, this institution was preserved in their new constitutions. Years later, scholars and policymakers in Washington would write books about how the strong presidential systems adopted by Russia, Ukraine, and the countries of the Caucasus

and Central Asia were a mistake. They served as a threat to democracy, hindering the democratic development of these lands. While that may be so, the reality is that no other choice was ever debated by their rulers. Their historical legacy dictated their choices. Figure 3 explains the steps as they occurred.

FIGURE 3: SEQUENCING PATH-DEPENDENCY DURING THE SOVIET TRANSITIONS



• **Suggestions for future research.**

As several scholars have noted, there is no general theory of constitution-making. Unlike theories of democratic transitions, which look at the experience of several countries from the comparative perspective, constitution-making as a phenomenon has been studied only on a case-by-case basis. Thus we know a lot about the American constitutional convention in 1787, about the French experience of writing a new constitution under de Gaulle in 1958, and about the Russian experience under Yeltsin in 1993, but there is no theoretical thread to compare these experiences and to tell us which aspects of which were the most useful. More research needs to be channeled into this question.

• **Recommendations for the US policy community.**

US policymakers should be careful when they try to influence another country to adopt a particular kind of constitution. In the last several years, many new states have had to go through the painful process of drafting new constitutions for themselves, including East Timor, Afghanistan, and Iraq. Harking back to the era following the Second World War, when Germany's and Japan's constitutions were written under US instructions and influence, it is easy to believe that a democratizing state will always be able to adopt the constitutional policy prescriptions it is given. But when this advice comes from ephemeral consultants who, no matter how knowledgeable they may be, spent an inadequate amount of time in the country they are advising and too little energy learning about its history and traditions, it is liable not to be effective. Writing a new constitution for a country is like having to build a new house for a family without having it move out while the construction is going on. While the new constitution is being debated, the old one must still somehow govern the country—and this old constitution's provisions cannot help but influence what will come next. As such,

it is always more helpful to build by improving existing structures than to suggest to the architects that society would be better served by tearing down all the entire building and starting all over again.