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President in the Polish Parliamentary Democracy

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Summary

Part of the package of the democratic changes accepted at the Polish Round Table in 1989 was the reintroduction of the presidency, abolished in 1952 by the Constitution of the communist era. Since then, Poland has had three presidents and four presidential elections. General Wojciech Jaruzelski ran unopposed in the only presidential elections by the National Assembly in July 1989. In 1990, the Constitution was amended to introduce presidential election by universal ballot. "Solidarity" leader Lech Walesa was elected for a five-year period (1990-1995). In 1995 he lost the elections to the then leader of the Alliance of Democratic Left Aleksander Kwasniewski, who in 2000 successfully ran for re-election. During this period, the position of the President of the Republic evolved. The new Constitution of 1997 defines the system of the Polish Republic as a parliamentary-cabinet one but with broad prerogatives of the president. The actual position of the president depends not only on the norms of law but also on the political support he has in the society and on his relations with parliamentary parties. The Polish experience of the last ten years shows the possibility of a relatively strong presidency without the presidential control of the executive branch of government. It also argues against both extremes: presidentialism (the president being the chief executive or controlling the prime minister) and a weak, symbolic presidency.

In the discussion on the institutional conditions of democratic consolidation in new democracies the question of executive-legislative relations and, more specifically, the choice between presidentialism and parliamentarism have been discussed both on the theoretical level and on the ground of empirical studies. Fred W. Riggs argued in 1988 that the success of American presidentialism was due to the specific conditions of the American society and that it was unlikely that its imitation elsewhere would result in similar success (Riggs 1988). Later on he added the empirical evidence from a large

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group of "new democracies" demonstrating that those that had chosen the parliamentary system of government had considerably better chances to successfully consolidate as democracies than the ones that had opted for a presidential system of government (Riggs 1997). In the discussion that followed, several scholars developed the argument in favor of parliamentarism. My own contribution to this debate (Wiatr 1999) pointed to the experience of the postcommunist states which clearly demonstrates the validity of Riggs' argument.

In the present paper, I shall discuss the evolution of the Polish constitutional system from a version of "mixed" semi-presidentialism at the beginning of the democratic transformation to the parliamentary system of government under the Constitution of 1997 which gives full control of the executive branch to the Prime Minister but reserves considerable powers for the President in other fields of governance. The changes in the constitutional arrangements, as I intend to demonstrate, have been affected by political developments: from a highly fragmented multi-party system to the recent two-bloc party system.

1. The origins of the semipresidential system

The idea of returning to the institution of the president emerged in Poland during the last years of the communist system. In 1980, the small Democratic Party (allied to the ruling Polish United Workers' Party) proposed constitutional reform which would include restoring presidency, abolished in 1952 by the new constitution of the Polish People's Republic. The idea failed to attract wider support and was abandoned for the time being. In 1987, a team of intellectuals working within the framework of the Patriotic Movement of National Rebirth (PRON) formulated a number of institutional proposals, including the restoration of presidency with strong prerogatives. The idea behind the proposal was that a strong president would be able to reduce the power of the ruling party and gradually prepare the process of democratic transformation through contractual arrangements which would allow the democratic opposition to participate in the legal political life (Wiatr 1988). The proposal met with mixed reception. Some critics argued that such a strong presidency would be detrimental to the healthy development of the democratic system, while others accepted it as a useful way of creating a bridge between the party-state system and pluralistic democracy.

Life, however, changed faster than the reformers (like myself) expected. In late 1988, following a new wave of strikes and within the framework of a more liberal Soviet policy toward the other socialist states, the decision was reached to open the negotiations between the representatives of the governing parties and those of the Solidarity-based opposition. On the 6th of February 1989, the Round Table talks were officially started, culminating two months later in the Accord which blueprinted the democratic transformation. Poland became the first communist state to experiment with the reforma pactada, based on the scenario according to which during the initial years power would be shared by the formerly ruling parties and the democratic opposition. Several Western scholars have studied this experiment within the context of the negotiated democratic transformation (Colomer & Pascual 1994, Linz and Stepan 1996: 264-269). As a par-

ticipant in the political committee of the Round Table, I was able to observe directly the process of negotiations leading to the institutional change.

Part of the deal concerned the position of the president in the transition from the communist party-state to a democracy. The idea of a strong presidency was proposed by the government side and was matched with the proposal to allow partially free elections for the Lower Chamber of the Parliament (Sejm) as well as fully free elections for the newly established Upper Chamber (Senate). The opposition agreed in principle to the reestablishment of the presidency and implicitly (in verbal agreement, never put in writing) accepted the proposal that the first president would be nominated by the ruling party and would run unopposed. The opposition insisted, however, on reducing the power of the president, while the government side tried to give the president as broad prerogatives as possible. The compromise achieved after both sides had scaled down their expectations, provided for a mixed system of government with the position of the president. This system was patterned after the model of the French Fifth Republic, with some alterations, the most important of which was the weakening of the right of presidents to shorten the term of the Parliament and to call for new elections. Unlike the French Constitution, the amended Polish constitution allowed the president to use this power not at his pleasure but only after the Parliament has jeopardized his possibility to perform his constitutional duties. The term, however, was broad enough to allow the president to shorten the term of the parliament if he so desired.

The most important difference, however, was the difference in the actual constellation of political forces. During the Fifth Republic, French presidents largely enjoyed the support of the parliamentary majorities of the same political orientation; the three periods of cohabitation (1986-1988, 1993-1995 and the present one since 1997) being exceptions rather than the rule. In Poland, however, the crushing defeat of the Polish United Workers' Party and its allies in the June 1989 election resulted in the imbalance between the politically weakened president (General Wojciech Jaruzelski) and the strong Prime Minister Tadeusz Mazowiecki from Solidarity. In fact, the election of General Jaruzelski to the presidency (by the secret vote in the National Assembly, composed of all senators and deputies) was possible only due to the implicit support offered to him by some of the representatives of Solidarity. For a little more than a year, the President and the Prime Minister collaborated exceptionally well. During this period, the balance of power moved in the direction of the Prime Minister, particularly as in May 1990 he was able to replace the ministers of defense and of internal affairs (high-ranking generals and close collaborators of the President) with people of his own choice.

In mid-1990, in the context of rapid political changes in other communist states, pressure mounted in Poland for the termination of the power-sharing arrangements of the Round Table. Unable and probably unwilling to oppose such pressure, President Jaruzelski agreed to the shortening of his term and proposed that the new president be elected by the universal ballot (in the two-rounds system patterned after the French model). After the Parliament had amended the constitution, the first presidential elections took place.

Six candidates ran. The pre-election polls strongly favored the Solidarity leader Lech Walesa, with Prime Minister Tadeusz Mazowiecki considered the most likely run-

ner-up. The four other candidates were: Wlodzimierz Cimoszewicz, nominated by the Democratic Left; Roman Bartoszcze, the leader of the Polish Peasant Party; Leszek Moczulski, the leader of strongly anticommunist Confederacy of Independent Poland; and the unknown businessman from Peru Stanislaw Tyminski, running on a populist platform. On the election day (November 25, 1990), Tyminski surprised everybody, running second to Lech Walesa and depriving Prime Minister Mazowiecki of the chance to enter the run-off. Walesa, on the other hand, was deeply disappointed by the result, since he had hoped to win in the first round. The results of the first round were as follows:

Lech Walesa:	6 569 889 votes	(39.96%)
Stanislaw Tyminski:	3 797 605 votes	(23.10%)
Tadeusz Mazowiecki:	2 973 264 votes	(18.08 %)
Wlodzimierz Cimoszewicz:	1 514 025 votes	(9.21 %)
Roman Bartoszcze:	1 176 175 votes	(7.15%)
Leszek Moczulski:	411 516 votes	(2.50%).

Two weeks later, in the run-off, Walesa defeated Tyminski by a strong majority of 74.25% votes to Tyminski's 25.75%, but with a low turnout of 53.4% (as compared to 60.6 % in the first round), which reflected the dissatisfaction of some voters with both candidates.

2. President versus Parliament during the Second Presidency

The five years of Lech Walesa's presidency could be divided into three periods. The first was from the beginning of his term (December 1990) to the elections of October 1991 and the formation of the Cabinet of Prime Minister Jan Olszewski in December 1991. The second period covered the term of the Parliament elected in October 1991 and ended with the new parliamentary elections of September 1993. The third period began with the 1993 elections and ended when Walesa lost the presidential elections of 1995.

Only during the first period were the relations between the president and the Cabinet good and marked by the superiority of the president, unchallenged by the new Prime Minister. Tadeusz Mazowiecki resigned after his defeat in the presidential elections and the President appointed a new Prime Minister – a relatively unknown young liberal from Gdansk, Jan Krzysztof Bielecki. During Bielecki's term, President Walesa dominated the executive branch and the system worked like a presidential one. In the parliamentary elections of October 1991, however, the pro-Walesa party "Victoria" failed to win seats and the new Parliament was highly fragmented, with the majority belonging to a number of small Right-wing parties. President Walesa tried to impose himself as Prime Minister (an idea not explicitly illegal, but would constitute an important departure from the semipresidential type of government). Having failed in this attempt, due to the opposition from all political parties, President Walesa turned to the prominent politician of the Democratic Union Bronislaw Geremek to form the Cabinet. Geremek

failed, however, to obtain the necessary parliamentary support and Walesa was forced to abandon his second idea. The right-wing parties formed a coalition forcing Walesa to appoint as Prime Minister a rightist lawyer Jan Olszewski. The relations between the President and the new Prime Minister were bad from the beginning and resulted in two open crises. First, the Minister of Defense Jan Parys sent into retirement his predecessor Admiral Piotr Kolodziejczyk, without even informing the President in advance. He also accused the president's aides of plotting with top military behind the minister's back. After a public exchange of accusations, minister Parys was dismissed. Soon after, the Minister of Internal Affairs Antoni Macierewicz accused Lech Walesa, several of his ministers and a number of parliamentarians, of having been agents of communist secret services. An open crisis erupted, culminating with the vote of nonconfidence against Olszewski's Cabinet, passed by the Parliament upon the President's request.

In the next attempt to increase his power, President Walesa nominated as new Prime Minister the young new leader of the Polish Peasant Party Waldemar Pawlak, counting probably on Pawlak's lack of experience and his willingness to subordinate himself to the President. Waldemar Pawlak was accepted by the Parliament, but found himself stymied in his attempt to build the governing majority. After 33 days Prime Minister Pawlak resigned. The initiative went to the largest parliamentary party, the Democratic Union, which successfully built a broad coalition of centrist and moderately rightist parties.

The next Cabinet, headed by the liberal Prime Minister Hanna Suchocka depended heavily on the President's support. Based on the fragile coalition of seven small parties, it needed presidential support for passing legislation and for its very survival. This gave President Walesa a very strong position vis-a-vis the Cabinet, which in most cases acted according to his wishes. Less than one year after its formation, Suchocka's Cabinet suffered defeat in Parliament and lost the nonconfidence motion by a bare vote. Instead of accepting the resignation of Prime Minister Suchocka, President Walesa dissolved the Parliament and called for early elections.

The parliamentary elections of September 1993, the third since the beginning of the transition, ended in a heavy defeat of the post-Solidarity parties. The defeat was a result of two factors. First, because of the social consequences of the radical economic reforms, the widespread dissatisfaction of the poorer classes turned the public opinion away from the post-Solidarity parties and toward the parties which had their roots in the communist system of the past. The Democratic Left Alliance and the Polish Peasant Party benefited from this shift, receiving 20.41 and 15.4% of votes respectively. Second, the new electoral law which favored stronger parties through the five percent threshold, d'Hondt system and the creation of smaller constituencies, had been introduced on the eve of the dissolution of the Parliament. The parties of the right failed to take into consideration those changes and ran several lists of candidates, most of which failed to pass the threshold. Consequently, the two winning parties received most of the seats (303 out of 460) and formed the governing coalition.

The consequence of these developments was an uneasy cohabitation between President Walesa and two consecutive Cabinets of the Center-Left coalition, headed respectively by Prime Ministers Waldemar Pawlak (Polish Peasant Party) and Jozef Oleksy (Alliance of Democratic Left). The relations between the President and the parliamen-

tary majority were strained, with several instances of open clashes. In early 1995 President Walesa forced Prime Minister Pawlak to dismiss the Minister of National Defense Piotr Kolodziejczyk who had lost the President's confidence. This resulted in the decision of the Alliance of Democratic Left to force the change of the Prime Minister, who was eventually replaced by the former Speaker of the Sejm Jozef Oleksy. The relations between the President and the new Prime Minister were bad from the beginning. Lacking sufficient parliamentary support Walesa was unable to successfully use his veto. The two years of uneasy cohabitation weakened Walesa's political position. He was often seen as the spoiler, acting against the Cabinet which benefited from economic recovery. The sharpest conflict came at the end of Walesa's term when his follower and Minister of Internal Affairs Andrzej Milczanowski publicly accused Prime Minister Oleksy of having been an agent of Soviet and Russian intelligence, the charge eventually dropped during the legal investigation.

In November 1995, Poles went to the polls to elect a new president. There were thirteen candidates, many with only a marginal support. From the beginning, public opinion polls favored the leader of the Democratic Left Alliance Aleksander Kwasniewski, who in the first round (November 5) received 6.275.670 votes (35.11%). Lech Walesa finished second with 5.917.328 votes (33.11%) followed by the veteran dissident Jacek Kuron of the Union for Freedom (1.646.969 votes – 9.21%), the candidate of extreme right Jan Olszewski (1.225.453 votes – 6.86%) and the leader of the Peasant Party Waldemar Pawlak (770.419 votes – 4.31%). Other candidates received from 0.07% to 3.53% of the popular vote.

Before the run-off several defeated candidates declared their support for President Walesa but this did not help him to overcome Kwasniewski's lead. In the run-off on November 19, Kwasniewski received 9.704.439 votes (51.72%) against Walesa's 9.058.176 (48.28%) and became Poland's third president of the era of democratic transformation. His victory constituted a watershed in Poland's recent history. For the first time, a former high ranking politician of the communist regime (minister in the two last Cabinets before the transition) defeated the legendary leader of the Solidarity.

3. President and Parliament during the Third Presidency

Aleksander Kwasniewski's election to the presidency terminated the uneasy cohabitation between the president from the right and the cabinets of center-left. For almost two years, President Kwasniewski co-operated closely with the center-left Cabinet, headed (after the resignation of Josef Oleksy in January 1996) by Wlodzimierz Cimoszewicz. Ideological closeness and personal friendship between the President and the Prime Minister allowed them to create the perfect conditions for effective collaboration. During Prime Minister Cimoszewicz's tenure President Kwasniewski never used his veto power but he played an important role in the Cabinet's decision-making. This was the time when the co-operation between the President, the Cabinet and the parliamentary majority was the closest.

During this period a new Constitution of April 1997 was adopted by the Parliament and confirmed in the referendum of May 1997. The Constitution terminated all the re-

sidual elements of the mixed (semi-presidential) system. The executive power was put in the hands of prime ministers and cabinets. Prime ministers received substantial prerogatives vis-a-vis cabinet ministers, including the unlimited right to dismiss them, to appoint their successors and to change the fields of their responsibilities. In addition, the Constitution in article 158 restricted the right of the Parliament to pass the vote of non-confidence only to the situation in which a new Prime Minister is named in the motion to dismiss the incumbent. The president lost his power to influence the choice of ministers of foreign affairs, defense and internal affairs and was cut off from the control of the executive branch of the government.

This, however, does not mean that the position of the president was reduced to symbolic functions only. The Polish president has several important rights outside the field of the executive power. The most important of them are the following.

First, he can play an essential role in the formation of new cabinets. It is the president's prerogative to appoint the prime minister who then must seek the vote of confidence (by absolute majority in the Lower Chamber). In case a prime minister fails to obtain such vote, the Parliament has two weeks to elect a new one, but if the Parliament fails to do this, the right to appoint the prime minister returns to the president. In such a case, the options for the Parliament are either to approve the prime minister (by plurality vote) or to reject the proposed head of government in which case the president calls for a new election (article 154).

Second, the president has the right to either veto bills passed by the Parliament or send them for review to the Constitutional Tribunal. If the president vetoes a bill, the Lower Chamber can repass it by the three-fifths majority.

Third, the president is the Supreme Commander of the Armed Forces (art. 134), executing this command in peacetime through the minister of national defense and through the commander-in-chief in wartime.

Fourth, the president has the power to appoint several key office-holders, including the first president of the Supreme Court, the president and vice-presidents of the Constitutional Tribunal, the president and vice-presidents of the Chief Administrative Court, members of the National Security Council, members of the Council of Monetary Policy, some members of the National Council of Radio Broadcasting and Television, Chief of General Staff, commanders of branches of the armed forces, judges etc. The president has also the exclusive right to nominate the candidate for the president of the National Bank of Poland (to be elected by the Parliament).

Soon after the adoption of the new Constitution, the parliamentary election of 20 September 1997 once again changed the political balance of power. The ruling coalition suffered defeat and the new Cabinet headed by Prime Minister Jerzy Buzek was formed on the basis of a new coalition of the Electoral Action Solidarity (AWS) and the liberal Union of Freedom. The AWS received 33.83% of votes and won 201 seats, while the Union of Freedom received 13.37% of votes and 60 seats. On the opposition side, the Alliance of Democratic Left received 27.13% of votes and 164 seats, and the Polish Peasant Party 7.31% of votes and 27 seats. The remaining seats went to the extreme

right-wing Movement for Poland's Reconstruction and to the German Minority. In the Senate, AWS won the absolute majority of 58 seats (out of 100).

The electoral victory of the right put President Kwasniewski in the situation somehow similar to that of President Walesa after the 1993 election. A new period of cohabitation began. This time, however, it was to be a very different cohabitation.

The main difference resulted from the fact that the President enjoyed the support of a very strong parliamentary minority, sufficient to defend his veto whenever he decided to use it. Consequently, President Kwasniewski was able to affect legislation much more successfully than his predecessor.

The second difference reflects the divergent patterns of the popularity of the two presidents during their respective terms in office. Lech Walesa was elected with a very strong majority, kept losing his popularity with the passing of time. This was due to Lech Walesa's personality, ill-suited for the role of a president within a democratic system (Boyes 1994). Aleksander Kwasniewski, elected by a very small margin, was able to build up his popularity to the extent that in the middle of his first term he has become the most trusted and the most popular Polish politician.

The combination of these two factors allowed him to influence the process of governing in a way that has been fully consistent with the constitutional provisions of the parliamentary type of government and at the same time demonstrated to the public how much the President can do to promote policies he committed himself to.

In December 2000 the first term of Aleksander Kwasniewski expired. On the 8th of October 2000 he easily won the presidential election in the first run. Of the twelve candidates only four have attracted significant support. Aleksander Kwasniewski received 9.485.224 votes (53.90%), followed by the centrist former Minister of Foreign Affairs Andrzej Olechowski (17.30%), AWS leader Marian Krzaklewski (15.57%), and the new leader of the Polish Peasant Party Jaroslaw Kalinowski (5.95%). The remaining candidates received between 3.05% and 0.10% of the votes; Lech Walesa ended seventh with barely 1.01% of the votes.

Kwasniewski's victory in the first round of the presidential election has been almost unprecedented. Neither Charles de Gaulle nor any of his successors was able to win the French presidency on the first ballot. Such result was due to the combination of two factors: the President's very high personal appeal and the growing support for the Democratic Left Alliance which, according to the recent polls, can count on the electoral support of approximately 50% of the voters.

The increasing support for the President takes place when the position of the Cabinet deteriorates. After a relatively good beginning, Jerzy Buzek's Cabinet encountered numerous problems, including the rapidly deteriorating economic situation. Its popularity plummeted. In May 2000, the Union of Freedom pulled out of the coalition, leaving Prime Minister Buzek at the helm of the minority Cabinet. All these developments contributed to the strengthening of the role of the President seen by many as the main, or even only, guardian of national interest. In such circumstances, the cohabitation gives the President an increasingly strong role in governing the state, without making him responsible for the negative effects of executive decisions.

4. Concluding Remarks

The Polish experience demonstrates that semipresidentialism is not the best constitutional design for a new democracy. It tends to create tensions between the president and the parliament with the cabinet and its head somehow suspended between these two authorities. There are three reasons why semipresidential, mixed system works well in France but does not work equally well in the postcommunist new democracies.

First, the system needs very clear constitutional delimitation of powers of all key institutions of the state. This has been done in the French Constitution, but has been missing from the constitutions of the postcommunist states, partly because of the lack of experience, but mostly because of the political pressures which forced the law-makers to adopt vague, compromise formulas.

Second, the system works well only in the political culture of democracy, the respect for law and the willingness to collaborate with political opponents. Such political culture exists in France but is missing in most postcommunist states. There are differences between the postcommunist states in this respect. Poland's political culture created somehow better conditions for semipresidentialism than the ones formed by the Russian political culture, as can be seen in much worse consequences of semipresidentialism in Russia than in Poland. In the countries were ethnic conflicts erupted at the beginning of the transition from the communist system, semipresidentialism tended to increase authoritarian and nationalistic tendencies, as evidenced by the experience of Croatia under late President Franjo Tuđman and Yugoslavia under former President Slobodan Milošević.

Third, the personality of the president plays a very important role in defining the conditions for a failure or a success of semipresidential systems. Lech Walesa's personality did not make him a good president in the system which requires the ability to work with political opponents, to build consensus and to avoid egocentric temptations. The anti-communist movements which played an important role in the politics of the postcommunist states were fertile grounds for the emergence of strong populist leaders, whose personalities allowed them to make an important contribution to the fall of communism but did not make them ideal leaders within the new democratic system. Lech Walesa is the best example of such a leader. Semipresidentialism, however, needs leaders of different type, more ready to compromise, less rigid in their ideological beliefs, prepared to work together with the former adversaries. Paradoxically, it is Aleksander Kwasniewski with his background in the communist system, rather than Lech Walesa with his anticommunist past, who has demonstrated personality characteristics better suited for the role of the president in a democratic system.

Poland's constitutional development also shows that the transition from semipresidentialism to the parliamentary system of government can work well provided that the role of the president is defined in a way which would allow the head of state to influence the policy of the state in a substantial way. Under the Constitution of 1997 the president of Poland can play a very important role and provides the essential function within the checks-and-balances system. This is due both to the way the president is elected (by the universal ballot rather than by the Parliament) and to the prerogatives given him by the Constitution. A strong presidency does not mean semipresidentialism

or a mixed system as long as the president is not the chief of the executive branch. Nevertheless, the president can still be one of the key actors in the process of governance. In this way, the Polish solution enriches the experience of the parliamentary system and should be considered by other postcommunist states in their search for the most viable democratic arrangements.

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