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## Semi-Presidentialism: A Pathway to Democratic Backslide

Connor McAfee

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**SEMI-PRESIDENTIALISM: A PATHWAY  
TO DEMOCRATIC BACKSLIDE**

*By Connor J. McAfee\**

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I. INTRODUCTION

By the late 1990s, the United States hoped to improve relations with the Russian Federation following the Cold War. Continuing a process that began under his predecessor, former-President Mikhail Gorbachev, President Boris Yeltsin further pushed the Russian Federation towards a new, democratic future. At the time, there was no reason for U.S. President Bill Clinton to suspect that the nascent

democracy forming in Russia would soon slide back into authoritarianism. However, when Yeltsin announced his stunning resignation on New Year's Eve 1999,<sup>1</sup> the direction of the Russian Federation fundamentally changed, as did the global geopolitical landscape. Yeltsin's successor, President Vladimir Putin, quickly and efficiently managed to undo many of the democratic reforms that his predecessor had achieved, thus commencing Russia's democratic backslide.

But what is democratic backslide, and why is it important? Democratic backslide, or democratic decay, is the antithesis of democratic reform. It is the removal of democratic safeguards and procedures in an effort to centralize more control within the government.<sup>2</sup> This shift is achieved through "executive aggrandizement," a methodical weakening of checks on executive power that prompts a series of institutional shifts that later impede an opponent's ability to challenge executive power.<sup>3</sup> In essence, a leader takes over through a democratic process and then, incrementally removes the process's safeguards to retain power. Many times, these shifts are not blatant, such as the outright removal of elections, but rather more subtle, often removing the rather important democratic aspects of "freedom" and "fairness" from those elections.<sup>4</sup>

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<sup>1</sup> Celestine Bohlen, *Yeltsin Resigns, Naming Putin as Acting President to Run in March Election*, N.Y. TIMES (Jan. 1, 2000), <https://www.nytimes.com/2000/01/01/world/yeltsin-resigns-overview-yeltsin-resigns-naming-putin-acting-president-run-march.html>.

<sup>2</sup> Nancy Bermeo, *On Democratic Backsliding*, 27 J. DEMOCRACY 5, 5 (2016).

<sup>3</sup> *Id.* at 10-11.

<sup>4</sup> See Andrew Shepard, *Russian Electoral Conditions Not Conducive to Free or Fair Duma Elections*, U.S. MISSION TO THE ORG. FOR SEC. AND COOP. (Sept. 23, 2021), [osce.usmission.gov/Russian-electoral-conditions-not-conducive-to-free-or-fair-duma-elections/](https://osce.usmission.gov/Russian-electoral-conditions-not-conducive-to-free-or-fair-duma-elections/) (explaining that the United States reported findings of ballot stuffing, voter coercion, and the targeting of independent journalists as "media foreign agents"); see also Diego Cupulo, *What Turkey's Election Observers Saw*, THE ATLANTIC (Apr. 21, 2017), [theatlantic.com/international/archive/2017/04/turkey-erdogan-referendum-kurds-hdp-fraud/523920/](https://www.theatlantic.com/international/archive/2017/04/turkey-erdogan-referendum-kurds-hdp-fraud/523920/).

One example of this is Turkey under President Recep Tayyip Erdogan. Since Erdogan rose to power, he has repealed many laws that have been in place to hold Turkish executives accountable, including freedom of press laws and judicial autonomy.<sup>5</sup> Erdogan undertook many of these rollbacks under the veil of comprehensive reform but in doing so, made himself much more powerful, limiting the amount of influence and resistance any of his opponents can truly pose.<sup>6</sup>

This comment will explore semi-presidential systems and the effects these systems have on democracy in the nations that utilize them. Specifically, this comment will argue that semi-presidential systems are more likely to backslide democratically than are parliamentary systems, due to an increased likelihood of power struggles between the prime minister and the president, a loss of faith in institutions by the general public, and the subsequent attempted centralization of power that a president often tries to achieve when frustrated by the legislature. Nations using semi-presidential systems that experience populist waves are also more likely to backslide into authoritarianism, as presidents can often use “the will of the people” to attempt to consolidate power behind themselves.

In essence, semi-presidentialism is the merger of presidential and parliamentary systems.<sup>7</sup> There are two types of semi-presidential systems: a president-parliamentary system in which the president is the stronger of the two heads of government and a premier-presidential system, in which parliament and the prime minister are generally stronger than the president.<sup>8</sup>

This comment will examine the nations of France, Russia, Ukraine, and Poland and explain why semi-presidential systems are more likely to experience democratic decay. France serves as the positive constant; an example of how semi-presidential systems can be effective democratic systems. Russia acts as the negative constant, the

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<sup>5</sup> Bermeo, *supra* note 2, at 11.

<sup>6</sup> *Id.*

<sup>7</sup> Maurice Duverger, *A New Political System Model: Semi-Presidential Government*, 8 EUR J. POL. RES. 165, 165 (1980).

<sup>8</sup> Matthew S. Shogart, *Semi-Presidential Systems: Dual Executive and Mixed Authority Patterns*, 3 FRENCH POL. 323, 338-42 (2005).

premier example of a country backsliding into authoritarianism. Poland and Ukraine serve as more neutral examples, as they are not as outwardly positive or negative in their maintenance of democracy since adopting the semi-presidential systems, and both nations have experienced waves of populism,<sup>9</sup> with outside nations also exerting their influence in recent years.<sup>10</sup> Further, Ukraine serves as an example of both a President-Parliamentary system and a Premier-Presidential system example,<sup>11</sup> while Poland serves as a Premier-Executive example. This allows us to evaluate the effects both types of semi-presidentialism systems have on democracy.

In sum, this comment seeks to prove that semi-presidential systems are more likely than strict parliamentary systems to suffer from democratic decay and slide backward toward authoritarianism. While the backsliding of democracy in many nations cannot be attributed solely—or even primarily—to the style of government the nation chooses to employ, there is a correlation between nations that employ semi-presidential systems and democratic decay. While factors such as external influences from other nations (such as Russia), wars, and

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<sup>9</sup> See Wojciech Moskwa & Rodney Jefferson, *Poland's Populist Turn*, BLOOMBERG (Oct. 31, 2020), [bloomberg.com/quicktake/Poland](https://www.bloomberg.com/quicktake/Poland). Poland's populist swing had a strong conservative flare. The ruling Law and Justice Party mobilized followers by calling for a stronger assertion of Polish national identity, maintaining the nation's Catholic values, and restricting immigration amidst the surge of Middle Eastern refugees attempting to flee into Europe. See Andreas Umland, *The Zelensky Enigma: A Different Kind of Populist*, EUR. COUNCIL ON FOREIGN RELS. (Apr. 16, 2019), [https://ecfr.eu/article/commentary\\_zelensky\\_enigma\\_ukraine\\_election\\_president/](https://ecfr.eu/article/commentary_zelensky_enigma_ukraine_election_president/).

<sup>10</sup> *Conflict in Ukraine*, COUNCIL ON FOREIGN RELS. (Nov. 8, 2022), <https://www.cfr.org/global-conflict-tracker/conflict/conflict-ukraine>. One primary example of foreign influence in Ukraine stems from the Russian war campaign being waged on the country, starting in 2022. Russia has bombed major Ukrainian cities such as Kiev, Kharkiv, and Mariupol, causing massive distress for both the Ukrainian government and its citizens. Nonetheless, Ukraine continues to valiantly fight back. Another example of Russian interference in Ukraine comes via the 2014 Russian annexation of Crimea, using what most in the international law field believe to be illegitimate means. *Id.*

<sup>11</sup> See Sujit Choudhry et al., *Semi-Presidentialism and Inclusive Government in Ukraine: Reflections for Constitutional Reform* 17 (2018), <https://tinyurl.com/frxu5ymh>. Ukraine has used both a president-parliament system (1996-2006, 2010-2014) and a premier-presidential system (2006-2010, 2014-present). *Id.* at 9.

corruption undoubtedly contribute to nations' democratic backsliding, nations that employ semi-presidential systems are less suitably equipped to handle and defend against those factors impacting their state of democratic well-being.

## II. BACKGROUND

### A. Why is Democratic Backslide Important?

Why is democratic backslide an issue worthy of scholarship? Simply put, if global democracy is what the world strives for—which research shows to be the case—then democratic backslides arguably represent the biggest threat to achieving that goal.<sup>12</sup> A state's backslide from democracy is actually worse to most pro-democracy supporters than a state that has always been mired in autocracy or semi-authoritarianism. Countries experiencing backslide were democratized at one time and have now lost that positive progress, whereas states that have never been democratized have far less progress to lose. This is important for many reasons, one of which is stability in international relations. Democratic nations tend to have good working relationships and understanding of each other's wants and needs on the global scale.<sup>13</sup> In contrast, autocracies often prove harder to work with than democracies.<sup>14</sup> As such, a nation's shift from democracy to autocracy can have sizable impacts on international relations.

While there is substantial philosophical debate on whether people inherently prefer democracy to autocracy, the prevailing thought is that people believe more democracy is better.<sup>15</sup> The stories and opinions of defectors from authoritarian states, such as Cuba, the

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<sup>12</sup> See Richard Wike et al., *Globally, Broad Support for Representative and Democracy*, PEW RES. CTR. (Oct. 17, 2017), <https://www.pewresearch.org/global/2017/10/16/globally-broad-support-for-representative-and-direct-democracy/>; see also *infra* note 15.

<sup>13</sup> Sean M. Lynn-Jones, *Why the United States Should Spread Democracy*, BELFER CTR. FOR SCI. & INT'L AFFS. (Mar. 1998), <https://www.belfercenter.org/publication/why-united-states-should-spread-democracy>.

<sup>14</sup> *Id.*

<sup>15</sup> Natalie Wenzell Letsa & Martha Wilfahrt, *Popular Support for Democracy in Autocratic Regimes: A Micro-Level Analysis of Preference*, 50 COMP. POL. 231, 247 (2018).

Soviet Union, and North Korea, all lend credence to the theory that democracy is preferred to autocracy. Data collection further suggests why democracy would be generally favored over autocracy: the life expectancy and quality of life of those who live in democracies are far higher than those that live in autocracies.<sup>16</sup> As Dr. Esteban Ortiz-Ospina, Senior Researcher and Head of Operations at Our World in Data, states:

[T]here is a general correlation [between democracy and health]: In 2019, the countries with a Liberal Democracy Index of at least 0.7 [on a scale of 0-1] also enjoyed life expectancy of at least 70 years; and conversely, all countries whose life expectancy was less than 60 years had a Liberal Democracy Index under 0.50.<sup>17</sup>

Further data also shows that life expectancy improvements are slower in autocracies than democracies.<sup>18</sup> In fact, among nations that were at one point democratized but have since fallen back into autocracy, life expectancy has fallen on average by at least two percent.<sup>19</sup>

Human rights are also more likely to be protected in democratic societies than in autocratic ones.<sup>20</sup> Leaders in autocratic nations enact policies that promote their own power at the cost of democratic progress.<sup>21</sup> In this same manner, because autocratic leaders

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<sup>16</sup> Esteban Ortiz-Ospina, *Does Democracy Lead to Better Health?*, OUR WORLD IN DATA (June 24, 2019), [ourworldindata.org/democracy-health](https://ourworldindata.org/democracy-health). Dr. Ortiz-Ospina completed his doctoral studies at the University of Oxford, which is one of the leading partners of Our World in Data.

<sup>17</sup> *Id.*

<sup>18</sup> Thomas J. Bollyky et al., *Autocracy is Hazardous for Your Health*, COUNCIL ON FOREIGN RELS. (Dec. 4, 2019), <https://www.cfr.org/article/autocracy-hazardous-your-health>.

<sup>19</sup> Some of these countries include Turkey, Honduras, Nicaragua, and Venezuela. *See id.*

<sup>20</sup> Kenneth Roth, *World's Autocrats Face Rising Resistance*, HUM. RTS. WATCH (2019), <https://www.hrw.org/world-report/2019/country-chapters/global>.

<sup>21</sup> Michael J. Abramowitz, *Democracy in Crisis*, FREEDOM HOUSE (2018), <https://freedomhouse.org/report/freedom-world/2018/democracy-crisis>.

restrict liberal democratization in their own country, they are less likely to speak out against human rights violations done in the name of power centralization in other burgeoning autocratic states.<sup>22</sup> In fact, autocratic nations typically end up aligning themselves with and defending other autocratic nations' actions. One example is Russia and China's consistent backing of Syrian dictator Bashar al-Assad's war on his own citizens.<sup>23</sup> Both Russia and China have stayed quiet on the atrocities that Assad has committed while issuing statements of public support for Assad numerous times, as well as ensuring that Syria avoids consequences from the United Nations Security Council.<sup>24</sup>

The 2010s provide an excellent modern frame of reference for democratic backsliding around the globe. Many of the ramifications can be traced back to the Arab Spring in the early-2010s, where citizens of states that had largely only ever known authoritarian rulers took to the streets in mass protest.<sup>25</sup> Because of the massive chaos within the region due to the subsequent civil conflicts, many Middle Eastern families from all different socio-economic statuses attempted to flee to Europe and the United States.<sup>26</sup> The Arab Spring has also been credited as catalyzing the rise of the Islamic State (ISIS).<sup>27</sup> The refugee

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<sup>22</sup> *Id.*

<sup>23</sup> Yixiang Xu, *Evolving Sino-Russian Cooperation in Syria*, U.S. INST. OF PEACE (Oct. 3, 2017), <https://www.jstor.org/stable/resrep20214>.

<sup>24</sup> See Tom O' Connor, *Russia, China Offer Support to Syria Amid Biden Moves in Afghanistan, Iraq*, NEWSWEEK (July 26, 2021), <https://www.newsweek.com/russia-china-offer-support-syria-amid-biden-moves-afghanistan-iraq-1613205>; Bessma Momani, *Russia and China Provide Cover for Assad's Syria*, BROOKINGS (Jan. 31, 2012), <https://www.brookings.edu/opinions/russia-and-china-provide-cover-for-assads-syria/>.

<sup>25</sup> Kali Robinson, *The Arab Spring at Ten Years: What's the Legacy of the Uprisings?*, COUNCIL ON FOREIGN RELS. (Dec. 3, 2020), <https://www.cfr.org/article/arab-spring-ten-years-whats-legacy-uprisings> (explaining that the Arab Spring caused regime change in four middle eastern nations, as well as turmoil and conflict between governments and citizens in numerous others).

<sup>26</sup> Laura Zanfrini, *Europe and Refugee Crisis: A Challenge to Our Civilization*, UN.ORG (2019), <https://www.un.org/en/academic-impact/Europe-and-refugee-crisis-challenge-our-civilization>.

<sup>27</sup> Shadi Hamid et al., *Islamism After the Arab Spring: Between the Islamic State and the Nation-State*, BROOKINGS (Jan. 2017), <https://www.brookings.edu/research/Islamism-after-the-arab-spring-between-the-islamic-state-and-the-nation-state/>.



crisis and the rise of ISIS, as well as burgeoning nationalism and scorn for international organizations, were ultimately large factors in a wave of conservative populism across the globe,<sup>28</sup> resulting in a movement that changed the landscape of foreign policy.<sup>29</sup>

The mid-2010s saw the first semblances that conservative populism was a legitimate ideology to be reckoned with, as Andrej Duda, the candidate from the Law and Justice party, was elected President in Poland.<sup>30</sup> France too dealt with a populist wave, as Marine Le Pen of the far-right political party the National Front threatened to win election to France's highest office before Emmanuel Macron was ultimately elected President.<sup>31</sup>

Ukraine, meanwhile, experienced a populist wave of its own through national self-determination. In 2019, President Volodymyr Zelenskyy was elected in a landslide, running on a platform that Ukraine would neither be "Russia's little sister" nor "a corrupt partner of the West."<sup>32</sup> Zelenskyy's election came on the heels of a Ukrainian

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<sup>28</sup> See Yasmeen Serhan, *Populism is Morphing in Insidious Ways*, THE ATLANTIC (Jan. 6, 2020), <https://www.theatlantic.com/international/archive/2020/01/future-populism-2020s/604393/>. Conservative populism is an ideology that is based around the tenets of nationalism, social conservatism, economic conservatism, and isolationism. Often in the United States, conservative populism manifests itself in far-right white nationalist, neo-Nazi groups who are vehemently anti-immigration. In Europe, conservative populism has manifested itself in the surge of support for isolationism resulting in Brexit for the United Kingdom, the rise to power of the anti-immigration Law and Justice Party in Poland, and the continued prominence of nativist far-right parties who have threatened to take power in France and Italy on numerous occasions. Conservative populism has seen a dramatic rise since the mid-2010s. *Id.*; see also Galston, *infra* note 29; Szary, *infra* note 30.

<sup>29</sup> William A. Galston, *The Rise of European Populism and the Collapse of the Center-Left*, BROOKINGS (Mar. 8, 2018), <https://tinyurl.com/y888ha98> ("It is . . . evident that populism draws strength from public opposition to mass immigration, cultural liberalization, and the perceived surrender of national sovereignty to distant and unresponsive international bodies.").

<sup>30</sup> Wiktor Szary, *Poland's New President Heralds Shift to the Right*, REUTERS (May 24, 2015), <https://tinyurl.com/28k5eyj8>.

<sup>31</sup> Nicolas Chapuis, *Presidential 2017: Relive the Election of Emmanuel Macron, New President of the Republic*, LE MONDE (May 8, 2017), <https://tinyurl.com/yuz8f68b>.

<sup>32</sup> Konstantin Skorkin, *Victory for Zelensky in Ukraine – But the Real Battle Starts Now*, CARNEGIE MOSCOW (Apr. 24, 2019), <https://carnegiemoscow.org/commentary/78963>.

conflict with Russian separatists that Russia allegedly covertly supported, as well as the annexation of Crimea.<sup>33</sup> Furthermore, since Zelenskyy's election, Russia has launched a full-fledged war aimed at annexing further parts of Ukraine.<sup>34</sup> The war has devastated much of Ukraine and complicated governance of the nation.<sup>35</sup> Much of the West stands united in giving Ukraine the support it needs to withstand Russia's aggression.<sup>36</sup>

The Putin regime in Russia has consistently tightened censorship laws,<sup>37</sup> colluded with former President and Prime Minister Dmitry Medvedev to allow Putin to remain in effective control of the government,<sup>38</sup> and ensured that political opposition stays

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<sup>33</sup> COUNCIL ON FOREIGN RELS., *supra* note 10.

<sup>34</sup> *Id.*

<sup>35</sup> Mykhailo Minakov, *Ukraine's Wartime Governance Dilemma: Balancing Military and Socioeconomic Needs*, WILSON CTR. (May 26, 2022), <https://tinyurl.com/94c3a2e2>.

<sup>36</sup> Ivo H. Daalder & James M. Lindsay, *The West Holds Firm: Why Support for Ukraine Will Withstand Russian Pressure*, FOREIGN AFFS. (Sep. 15, 2022), <https://www.foreignaffairs.com/russian-federation/west-holds-firm-ukraine-support>.

<sup>37</sup> *Online and on All Fronts: Russia's Assault on Freedom of Expression*, HUM. RTS. WATCH (July 18, 2017), <https://www.hrw.org/report/2017/07/18/online-and-all-fronts/russias-assault-freedom-expression#>.

<sup>38</sup> See Reuters Staff, *Russia's Medvedev Says Putin Should Become PM*, REUTERS (Dec. 11, 2007) <https://tinyurl.com/mr2sn6cd>; see also Will Englund & Kathy Lally, *Medvedev Confirms He Will Step Aside for Putin to Return to Russia's Presidency*, WASH. POST (Sep. 24, 2011), <https://tinyurl.com/2kbbn4.2kbbn4>. Putin was constitutionally term limited to six years after taking over the presidency from Yeltsin in 2000. Medvedev, one of Putin's closest allies was Putin's top choice to succeed him as President. In return for Putin's support, Medvedev publicly pitched that Putin should become Russia's Prime Minister after Putin's presidential term ended. Rather than run for President again at the end of his first term, Medvedev supported Putin once again becoming President, while Medvedev settled in as Prime Minister. *Id.* Medvedev served as the Prime Minister before assuming a new role on the Russian Security Council in January of 2020. See Dmitry Medvedev, GOV'T. OF THE RUSSIAN FED'N, <http://government.ru/en/gov/persons/183/bio/> (last visited Mar. 19, 2023).

silent.<sup>39</sup>

Given the massive political changes around the globe and the rise in influence of autocratic powers such as Russia and China, it is necessary to monitor the level of global democratic backslide. Since autocratic nations often find it easier to ally with other autocratic nations, adversaries of the West such as Russia, China, Iran, and North Korea would like to see more states around the world struggle to maintain their democracy.<sup>40</sup>

## B. The Issues of Presidential Systems vs. Parliamentary Systems

Understanding democratic backslide is only one piece of the puzzle, however, as understanding the perils of presidentialism and its relative instability in democracies is equally as important. There are multiple facets of presidential systems that lead to an increased likelihood of democratic backslide. One of them, according to Juan Linz,<sup>41</sup> is that presidents in presidential systems can mask actions that may not be healthy to a country's political institutions.<sup>42</sup> This is because the president is popularly elected, which gives them the ability to frame their actions and policies as "the will of the people's."<sup>43</sup> The other is a president's fixed term in office.<sup>44</sup> A fixed term can lead to a number of issues, ranging from an individual's reluctance or unwillingness to cede power after their term, to the rigidity and lack of flexibility in responsiveness to issues.<sup>45</sup>

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<sup>39</sup> Andrew E. Kramer, *More of Kremlin's Opponents Are Ending Up Dead*, N.Y. TIMES (Aug. 20, 2016), <https://www.nytimes.com/2016/08/21/world/europe/moscow-kremlin-silence-critics-poison.html>.

<sup>40</sup> James Kurth, *Western Civilization, Our Tradition*, INTERCOLLEGIATE STUD. INST. (Oct. 8, 2003), <https://isi.org/intercollegiate-review/western-civilization-our-tradition/>. "The West" is a cultural moniker referring to democratized, developed nations such as the United States and the E.U.

<sup>41</sup> *Juan Linz*, ENCYCLOPEDIA BRITANNICA (Dec. 20, 2021), <https://www.britannica.com/biography/Juan-Linz>. Linz was a highly renowned political science professor at Yale University who specialized in the research of authoritarian regimes and democratization.

<sup>42</sup> Juan J. Linz, *The Perils of Presidentialism*, 1 J. DEMOCRACY 51, 53 (1990)

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 54.

<sup>45</sup> *Id.*

These presidential system issues are not typically as prevalent in parliamentary systems. Rather, as convoluted and complex as parliamentary politics can be in dealing with both the executive and legislative branches, parliamentary systems are inherently more stable and less likely to fall victim to democratic decay.<sup>46</sup> This is because parliamentary politics and the ruling or dominant party in parliamentary systems must maintain responsiveness to the general population and parliament itself due to the lack of term limits. In parliamentary systems, “[t]he continuity and salience [of the legislative body] affect the durability of public support for the regime, which in turn affects regime stability.”<sup>47</sup> Essentially, parliamentary leaders only stay in power as long as they have the confidence of their peers, and parliament politicians only stay in parliament as long as they have the confidence of the people. If confidence is lost, the politicians are voted out and a new parliament elects a new prime minister with no set term to lead them. Thus, if a prime minister and parliament have the long-term support of the people, there will be longevity and continuity. If not, there will be turnover. Under this system, a parliamentary leader would find it incredibly difficult to consolidate and centralize power behind them to ensure they remained powerful due to the need to be responsive to the citizenry, as the people can easily shift the balance of power within parliament.

It seems evident then that parliamentary systems are much more stable than presidential systems (with the exception of the United States, the lone long-term stable presidency).<sup>48</sup> With the issues that presidential systems have, they have a much more clear-cut path to devolving into autocracy. One of the best examples of the perils of presidential systems is Turkey under President Erdogan, whose

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<sup>46</sup> *Id.* at 68-69.

<sup>47</sup> Gerhard Loewenberg, *The Influence of Parliamentary Behavior on Regime Stability: Some Conceptual Clarifications*, 3 COMP. POL. 177, 190 (1971).

<sup>48</sup> Linz, *supra* note 42, at 51-52. (“[T]he only long-term presidential democracy with a long history of constitutional continuity is the United States. . . . Aside from the United States, only Chile has managed a century and a half of relatively undisturbed constitutional continuity under presidential government—but Chilean democracy broke down in the 1970s.”); *see also* John Gerring et al., *Are Parliamentary Systems Better?*, 42 COMP. POL. STUD. 327, 355 (stating that there is a “higher quality of governance observed in parliamentary systems”).

sweeping reforms have only further emboldened and empowered him at the expense of democratic integrity in Turkey.<sup>49</sup> When Erdogan took office, Turkey was a parliamentary system. However, in 2017, a constitutional referendum removed the Office of the Prime Minister, created additional powers for the president, and allowed the president “to serve as the head of the ruling party.”<sup>50</sup> There have also been persistent questions about the legitimacy and fairness of Turkey’s elections since Erdogan ascended to the presidency.<sup>51</sup> Erdogan also attempted a coup in 2017 to declare a state of emergency, which was then used to broaden his powers and shut down dissention, particularly in the Turkish media, in the name of national security.<sup>52</sup>

So, if presidentialism is generally susceptible to democratic decay, and parliamentarianism maintains stability against such decay, how exactly does semi-presidentialism figure into democratic backslide? The concept behind semi-presidential systems would seem to promote stability and democracy. It would combine the responsiveness and flexibility of parliamentary systems with the autonomy and patience of a presidential system. However, there is a concerning trend that many nations which employ the semi-presidential system of government experience some form of democratic decay over time.

### C. The Basics of Semi-Presidentialism

Semi-presidentialism is one of the most popular systems that states employ when establishing their governmental foundations in their constitutions.<sup>53</sup> A combination of presidentialism and parliamentarianism, semi-presidential systems consist of two head of states, both a president or chief executive who is elected by popular vote and a prime minister tasked with leading—and elected by—

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<sup>49</sup> Bermeo, *supra* note 2, at 11.

<sup>50</sup> Kemal Kirişçi & Amanda Sloat, *The Rise and Fall of Liberal Democracy in Turkey: Implications for the West*, BROOKINGS INST. (2019), <https://tinyurl.com/2p96zuur>.

<sup>51</sup> *Id.* at 4-5.

<sup>52</sup> *Id.* at 5.

<sup>53</sup> Thomas Sedelius & Jonas Linde, *Unraveling Semi-Presidentialism: Democracy and Government Performance in Four Distinct Regime Types*, 25 DEMOCRATIZATION 136, 137-38 (2018).

parliament.<sup>54</sup> The earliest known instances of nations employing semi-presidential systems date back to 1919 when Finland and the Weimer Republic both employed an early model.<sup>55</sup> However, the semi-presidential system was not popularized until the Fifth French Republic adopted it in their new constitution in 1958.<sup>56</sup> Maurice Duverger, a world-renowned political scientist, first coined the term “semi-presidentialism” in 1980 while undergoing an examination of French politics and broke down the criteria of a semi-presidential system:

A political regime is considered as semi-presidential if the constitution which established it, combines three elements: (1) the president of the republic is elected by universal suffrage, (2) he possesses quite considerable powers; (3) he has opposite him, however, a prime minister and ministers who possess executive and governmental power and can stay in office only if the parliament does not show its opposition to them.<sup>57</sup>

These criteria have evolved a bit over time, and the examination in 1980 contained a level of vagueness in its analysis that has been clarified over the forty years since the original examination of semi-presidentialism took place. Nonetheless, these three criteria remain the backbone of semi-presidentialism, regardless of the type of semi-presidentialism that a given state uses.<sup>58</sup>

There are two types of semi-presidential systems: premier-presidential and president-parliamentary.<sup>59</sup> Under the premier-presidential system, “the prime minister and the cabinet are *exclusively* accountable to the assembly majority.”<sup>60</sup> Under this type of semi-presidentialism, the president may choose the prime minister and his cabinet, but only the parliament may approve them and subsequently

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<sup>54</sup> Duverger, *supra* note 7, at 165.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 166.

<sup>58</sup> Shogart, *supra* note 8, at 323.

<sup>59</sup> *Id.* at 329.

<sup>60</sup> *Id.*

remove them from office.<sup>61</sup> Thus, this system is closer to parliamentarianism than presidentialism, as the parliament acts as a constant check on the president, who must ensure he retains a healthy and workable relationship with the parliament to accomplish his policy goals. In contrast, under the president-parliamentary system, “the prime minister and cabinet are *dually* accountable to the president and the assembly majority.”<sup>62</sup> In president-parliamentary systems, the president selects the prime minister and the cabinet but also holds removal power.<sup>63</sup> Thus, this system trends much closer to presidentialism than parliamentarianism, as the president has some power to remove what he perceives as hindrances to implementing his policy agenda.

One of the primary structural centerpieces of a semi-presidential system is an elected president that has a cabinet responsible to the parliament.<sup>64</sup> This is the case regardless of which system of semi-presidentialism a nation may use. The difference between the two types of semi-presidential systems primarily comes down to the amount of influence the president has on his cabinet and how much responsibility the cabinet has to the president. The more responsibility a cabinet has towards the president, the closer the system is to a president-parliament system, while more responsibility towards parliament over the president moves the system closer to premier-presidentialism. While other political scientists have broken down semi-presidentialism since Duverger’s initial publication on it, this comment will focus largely on the basics mentioned in this section.

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<sup>61</sup> *Id* at 331.

<sup>62</sup> *Id* at 329.

<sup>63</sup> *Id* at 331. The parliament also retains removal power in a president-parliamentary system. The primary difference is that the president also holds removal power. Thus, it becomes a balancing act. The president must retain a good relationship with the parliament, because the parliament may remove those cabinet members whom they consider incompetent or too close to the president in order to check the president’s power. However, the president may also remove those cabinet members that he considers to be impeding political progress in implementing the president’s policy agenda. *Id*.

<sup>64</sup> Shogart, *supra* note 8, at 329.

## D. Current Use of Semi-Presidential Systems Among States

Semi-presidentialism has seen a fast rise as the preferred system for states establishing a new governing system when drafting constitutions. In particular, semi-presidentialism became the heavily favored government system in Europe in the 1990s, particularly for former Soviet satellite countries then saddled with the responsibility of establishing their nascent democracies.<sup>65</sup> Currently, over thirty states worldwide employ semi-presidentialism as their governmental system: Russia, France, Poland, Ukraine, Portugal, Azerbaijan, Kazakhstan, Mongolia, Haiti, Romania, Austria, and Turkey, among others.<sup>66</sup>

France is one of the very few—perhaps the only—example of a nation using a semi-presidential system without experiencing any true, long-term democratic backslide. France has maintained their democracy despite the presidency of Charles De Gaulle, who was not one to shy away from centralizing power behind himself,<sup>67</sup> and the rather extensive history of corruption among politicians in positions of power in France.<sup>68</sup> France's democratic stability while employing a semi-presidential system, one with a strong president, makes it a

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<sup>65</sup> Thomas Sedelius & Olga Mashtaler, *Two Decades of Semi-Presidentialism: Issues of Intra-Executive Conflict in Central and Eastern Europe*, 29 E. EUR. POL. 109, 109-10 (2013). In fact, as of 2011, there were at least twenty post-communist countries employing semi-presidential government systems, with some other post-communist states having previously attempted but ultimately aborting their own semi-presidential experiments.

<sup>66</sup> Sedelius & Linde, *supra* note 53, at 154.

<sup>67</sup> See Ben Clift, *The Fifth Republic at Fifty: The Changing Face of French Politics and Political Economy*, 16 MOD. & CONTEMP. FR. 383, 389 (2008). De Gaulle so thoroughly made the President a centerpiece of politics that it fundamentally changed how politics were conducted in France.

<sup>68</sup> See John Lichfield, *How Corrupt is French Politics?*, POLITICO EUR. (May 20, 2021), <https://www.politico.eu/article/corrupt-trial-france-politics-former-french-president-nicolas-sarkozy/>; Robert Zaretsky, *Why Is France So Corrupt?*, FOREIGN POL'Y (Feb. 1, 2017), <https://foreignpolicy.com/2017/02/01/why-is-france-so-corrupt-fillon-macron-le-pen/>. France is ranked only ahead of Portugal, Spain, and Italy in terms of corruption in Western Europe by Transparency International. Five of the last six center-right presidents have seen criminal charges against them, three of them convicted. *Id.*



necessary inclusion in any analysis of semi-presidentialism and democratic backsliding.

On the opposite end of the spectrum, Russia serves as an example of a nation that has backslid dramatically into autocracy. While Russia made dramatic strides towards democratization during the end of the Soviet Union under Gorbachev's glasnost and throughout the Yeltsin presidency of the 1990s, Putin has worked tirelessly to undermine democratic ideals and safeguards since taking over the presidency in 2000 (and again in 2012).<sup>69</sup>

Ukraine serves as an example of both president-parliament and semi-presidential systems. Due to its extensive experience using both types of semi-presidential systems, Ukraine is an excellent case study on the perilous impacts that semi-presidentialism presents to democratic stability and allows for direct comparison between the two systems within the same country. Ukraine has also consistently dealt with the outside influence and aggression of Russia,<sup>70</sup> a populist wave,<sup>71</sup> and corruption.<sup>72</sup> The combination of the usage of both types of semi-presidential systems, and the often-challenging circumstances surrounding the nation, make Ukraine perhaps the preeminent nation to study regarding the effectiveness of semi-presidential systems.

Finally, Poland serves as the examination subject for a nation that employs the premier-presidential type of semi-presidential system, where the parliament is generally much stronger than the president. Poland is a fascinating case study into the struggles of semi-presidentialism and democratic maintenance. As a former soviet

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<sup>69</sup> Michael McFaul, *Russia's Transition to Democracy and U.S.-Russia Relations: Unfinished Business*, CARNEGIE ENDOWMENT FOR INT'L PEACE (Sept. 30, 2003), <https://carnegieendowment.org/2003/09/30/russia-s-transition-to-democracy-and-u.s.-russia-relations-unfinished-business-pub-1363>.

<sup>70</sup> *Conflict in Ukraine*, *supra* note 10.

<sup>71</sup> Konstantin Skorkin, *Ukraine's Unpopular Populist: What's Next for Zelensky*, CARNEGIE MOSCOW (Jul. 17, 2020), <https://carnegiemoscow.org/commentary/82317>.

<sup>72</sup> *Corruption Perceptions Index*, TRANSPARENCY INT'L (2020), <https://www.transparency.org/en/cpi/2020/index/ukr>. Transparency International has Ukraine ranked the 117<sup>th</sup> best nation in the world regarding corruption, making it one of the most corrupt countries in Europe and only slightly better than Russia.

satellite, Poland struggled mightily with the conception of democracy at first, and its semi-presidential system floundered.<sup>73</sup> However, Poland ultimately established and maintained a high level of democracy for fifteen to twenty years before seemingly backsliding in recent years.<sup>74</sup>

### III. ANALYSIS

#### A. Semi-Presidentialism in Use

##### 1. Semi-Presidentialism in France

When France adopted the constitution for its Fourth Republic in 1946, it was painfully clear to Charles de Gaulle that the Republic was doomed to fail.<sup>75</sup> Between the collapse of the French colonial empire in Algeria and Indochina, a stagnant economy hampered by inflation, and an ineffective parliament unable to accomplish anything of substance, the Fourth Republic necessarily came to an end in 1958 when De Gaulle convinced the French Assembly to dissolve it and draft a new constitution.<sup>76</sup> Still surviving today, the constitution of the French Fifth Republic adopted the semi-presidential system and became one of the earliest post-World War II examples of semi-presidentialism.<sup>77</sup>

Article 8 of the French Constitution establishes France as a premier-presidential system and ensures the balance of power between the president and parliament that has enabled France to remain stable.<sup>78</sup> Article 8 states: “[t]he President of the Republic shall appoint the Prime Minister. He shall terminate the appointment of the Prime Minister when the latter tenders the resignation of the Government.

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<sup>73</sup> See Iain McMenamin, *Semi-Presidentialism and Democratisation in Poland*, DUBLIN CITY U. SCH. OF L. & GOV'T. 1, 1 (2008); see also Wojciech Przybylski, *Explaining Eastern Europe: Can Poland's Backsliding Be Stopped?*, 29 J. DEMOCRACY 52, 52 (2018).

<sup>74</sup> *Id.*

<sup>75</sup> Edward W. Fox, *The Failure of the Fourth Republic*, 36 CURRENT HIST. 267, 267 (1959).

<sup>76</sup> *Id.* at 267-71.

<sup>77</sup> Duverger, *supra* note 7, at 165.

<sup>78</sup> 1958 CONST. 8 (Fr.).

On the recommendation of the Prime Minister, he shall appoint the other members of the Government and terminate their appointments.”<sup>79</sup> The president of France, therefore, can choose his own prime minister, but he does not possess the ability to remove him without either the Prime Minister’s resignation or a vote of no confidence from Parliament.

Article 12 of the French Constitution also gives the president the power to dissolve parliament after consulting with the prime minister and the leaders of parliament.<sup>80</sup> The president does not need the consent of the prime minister to dissolve the Assembly, only prior consultation. Thus, despite not having the power to rid themselves of a prime minister they cannot work with, the president still holds a powerful leveraging tool over parliament if he believes the Assembly refuses to cooperate with the preferred agenda.

Meanwhile, Article 21 of the French Constitution states that the prime minister “shall direct the actions of the government, [and that] [h]e shall be responsible for national defense.”<sup>81</sup> Article 21 also allows him to delegate certain powers to ministers in the Cabinet.<sup>82</sup>

When the French drafted this current constitution, they aimed to create a system where the executive power surpassed the power of parliament in order to ensure a decision could be made in the event of parliamentary gridlock, while at the same time designing the system so that there were also periods of time that parliament would be the more powerful political body.<sup>83</sup> As the first President of the Fifth French Republic, de Gaulle changed the political calculus of France immediately after the constitution was ratified, making the presidency much stronger than anticipated. Unlike the original vision of the presidency, de Gaulle effectively made the president the figurehead and organizer of his political party as opposed to a more neutral arbiter

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<sup>79</sup> *Id.*

<sup>80</sup> 1958 CONST. 12 (Fr.). (“The President of the Republic may, after consulting the Prime Minister and the Presidents of the Houses of Parliament, declare the National Assembly dissolved.”).

<sup>81</sup> 1958 CONST. 21 (Fr.).

<sup>82</sup> *Id.*

<sup>83</sup> Clift, *supra* note 67, at 385.

and aid to his party's parliamentary wishes, which is what was originally envisioned.<sup>84</sup>

In theory, the president should have only had formal powers, but de Gaulle and his successors successfully gained additional influence. Since presidents are popularly elected, they have the ability to impose their political will on parliament on the basis that they are effectively implementing the "will of the people."<sup>85</sup> France's constitutional system creates a situation where the president can maintain the appearance that he is above the political fray, all the while interjecting himself and manipulating constitutional ambiguities.<sup>86</sup> However, parliament can neutralize the president's power when political circumstances at the time warranted such neutralization (i.e. cohabitation or a strongly united parliament). France designed the system to have unequal power so that one of the two branches of government is stronger than the other at any given time.<sup>87</sup> While at first glance that may seem like a questionable setup for long-term democratic stability given that it essentially incentivizes one branch to strengthen itself at the detriment of the other, the fact that neither branch has been able to weaken the other over a long period of time is a testament to the French system working as intended to maintain democratic institutions.<sup>88</sup>

Another facet of the semi-presidential system is the possibility of cohabitation. Cohabitation occurs when the president and the prime minister come from different political parties, which happens when the majority party in parliament differs from the party of the president. France has only had three periods of cohabitation during the Fifth French Republic.<sup>89</sup> During times of cohabitation, French presidents often "deferred to the parliamentary majority and retreated into []

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<sup>84</sup> *Id.* at 386-89.

<sup>85</sup> Céline Lageot, *The Lack of Political Responsibility of the French President Under the Constitution of 1958 and the Old Article 68*, 118 UNIVERSITAS 217, 219-20 (2009).

<sup>86</sup> Clift, *supra* note 67, at 385.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> See Jean V. Poulard, *The French Double Executive and the Experience of Cohabitation*, 105 POL. SCI. Q. 243, 243 (1990); Robert Elgie and Iain McMenamin, *Explaining the Onset of Cohabitation Under Semi-Presidentialism*, 59 POL. STUDS. 616, 619 (2011).

ceremonial role[s]. . . . develop[ing] a safety valve . . .” that has worked to the nation’s advantage to maintain stability even during times of political uncertainty and upheaval.<sup>90</sup> In 2000, France modified their constitution in order to make cohabitation less likely in the future.<sup>91</sup> This constitutes a positive development because it (1) reduces the risk of the president trying to consolidate greater power behind themselves to resolve impasses and (2) will likely lead to greater cohesiveness and less gridlock in the nation’s political processes.<sup>92</sup>

## 2. Semi-Presidentialism in Russia

In the late 1980s, Soviet Premier Mikhail Gorbachev knew that the Soviet Union (U.S.S.R.) was crumbling and in need of major government reform. This reform finally came to pass with constitutional amendments in December of 1988, which created a semi-presidential system modeled after the Fifth French Republic.<sup>93</sup> Given their political history and structure, the Soviet Union decided to switch to a semi-presidential governance system.<sup>94</sup> Gorbachev wanted to maintain his power and influence, and a parliament, albeit a weak one, already existed, even if it performed legislative functions in name only.<sup>95</sup>

Despite initially modeling the French system of semi-presidentialism, Russia strayed from the French facets of government and lost stability. As Eugene Huskey, Professor Emeritus at Stetson University, states in a report for the United States Department of State:

A directly elected president shares executive responsibility with a prime minister, who needs the support, or more accurately the forbearance, of the parliament. But the rules governing the generation and

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<sup>90</sup> EUGENE HUSKEY, DEMOCRACY AND INSTITUTIONAL DESIGN IN RUSSIA 6 (The Nat’l Council for Soviet and East European Rsch. 1995).

<sup>91</sup> Elgie & McMenemy, *supra* note 89, at 617.

<sup>92</sup> Robert Elgie, *Semi-presidentialism, Cohabitation and the Collapse of Electoral Democracies, 1990-2008*, 45 GOV’T AND OPPOSITION 29, 31 (2010).

<sup>93</sup> HUSKEY, *supra* note 90, at 3.

<sup>94</sup> *Id.* at 4.

<sup>95</sup> *Id.* at 3-4.

accountability of the Government reduce to a minimum the parliament's ability to limit executive authority. . . . Although parliament retains the formal right to reject a president's appointment to the office of prime minister, or to express no confidence in a sitting Government, it can do so only under the most unappealing conditions. According to Article 111.4, a president may insist on his candidate for prime minister through three successive rejections by the lower chamber, the State Duma, after which the president installs an interim prime minister, dissolves the parliament, and calls new elections. Moreover, Article 117.3 grants the president the option of ignoring the Duma's first vote of no confidence in the Government. Should a second no confidence motion pass within three months, the president may opt to dissolve the Duma rather than sacrifice his prime minister.<sup>96</sup>

While France maintained democratic stability with the swaying power between their executive and legislative branches of government, Russia put far more power into the president than into their parliament and then gave parliament little power to control the president.

Article 83(b) of the Russian Constitution gives the president the power to appoint his own prime minister so long as the Duma approves.<sup>97</sup> However, Article 117.2 establishes the Russian Federation as a semi-presidential system by giving the president the power to “[m]ake a decision on the resignation of the Government of the Russian Federation.”<sup>98</sup> Thus, the president not only has the ability to pick his prime minister but also has the power to dismiss them if the prime minister is not supportive enough of the president's agenda. Article 90 further cements the president's power and establishes that the president shall issue decrees and orders and that those decrees and orders are “obligatory for fulfillment in the whole territory of the

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<sup>96</sup> *Id.* at 8.

<sup>97</sup> KONSTITUSIJA ROSSIJSKOJ FEDERATSII [KONST. RF] [CONSTITUTION] st. 83 (Russ.).

<sup>98</sup> *Id.* at st. 117.

Russian Federation” so long as they do not run counter to the Constitution and federal laws.<sup>99</sup> Nonetheless, some decrees have actually altered laws passed by the parliament, another example of how Russian presidential powers can dwarf those of the Duma.<sup>100</sup>

Since establishing this president-parliamentary system, Russian presidents have historically struggled to share power with parliament. Boris Yeltsin preferred to enact his democratic reforms via presidential decree rather than through the mechanisms of the Duma.<sup>101</sup> Nonetheless, Yeltsin staunchly committed himself to democracy,<sup>102</sup> and while wary of an equal parliament in governance, he ensured respect for the institution and maintained some level of influence.<sup>103</sup> Yeltsin’s successor, Vladimir Putin, distrusts equal parliament to the executive even more, and he has worked tirelessly to diminish parliament’s role in governance whilst enhancing his own.<sup>104</sup> A former Russian Intelligence officer in the KGB (the main security agency for the Soviet Union), Putin has dismantled many of the democratic reforms that Yeltsin implemented,<sup>105</sup> established strict censorship

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<sup>99</sup> *Id.* at st. 90.

<sup>100</sup> HUSKEY, *supra* note 90, at 10.

<sup>101</sup> *Id.* at 9.

<sup>102</sup> Anders Åslund, *Boris Yeltsin: The Flawed Hero Who Gave Democracy to Russia*, POLITICO EUR. (May 2, 2007), <https://www.politico.eu/article/boris-yeltsin-the-flawed-hero-who-gave-democracy-to-russia/>.

<sup>103</sup> HUSKEY, *supra* note 90, at 10.

<sup>104</sup> Pierre Hassner, *Russia’s Transition to Autocracy*, 19 J. DEMOCRACY 5, 7 (2008).

<sup>105</sup> Brian Grodsky, *Russia, Putin Lead the Way in Exploiting Democracy’s Lost Promise*, THE CONVERSATION (May 22, 2018), <https://theconversation.com/russia-putin-lead-the-way-in-exploiting-democracys-lost-promise-94798>.

laws,<sup>106</sup> imprisoned political dissidents,<sup>107</sup> and extended presidential term limits since he has been in office.<sup>108</sup>

The imbalance of power in favor of an unusually strong president in the Russian semi-presidential system has enabled presidents like Putin, autocratically inclined, to further expand and maintain power within the constitutional scheme of Russia. The inability of parliament to provide an effective check on executive power has inherently undermined democratic stability and allowed Putin to almost close off the policy-making process completely and drag Russia back into an autocracy.<sup>109</sup>

### 3. Semi-Presidentialism in Ukraine

Ukraine may be the most fascinating case study among nations that have used semi-presidential systems. Ukraine, along with most other former Soviet satellite states, chose a semi-presidential system after achieving independence. Since then, Ukraine has flipped back and forth between president-parliamentary and premier-presidential systems, often requiring out-of-the-ordinary procedures or processes that catalyze this back-and-forth. A 2018 report conducted by the International Institute for Democracy and Electoral Assistance explains these shifts well:

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<sup>106</sup> Baurzhan Rakhmetov, *The Putin Regime Will Never Tire of Imposing Internet Control: Developments in Digital Legislation in Russia*, COUNCIL ON FOREIGN RELS. (Feb 22, 2021), <https://www.cfr.org/blog/putin-regime-will-never-tire-imposing-internet-control-developments-digital-legislation-russia>.

<sup>107</sup> Anton Troianovski, *Exile or Jail: The Grim Choice Facing Russian Opposition Leaders*, N.Y. TIMES (Aug. 30, 2021), <https://www.nytimes.com/2021/08/30/world/europe/russian-opposition-leaders-exile.html>.

<sup>108</sup> Emma Anderson, *Putin Wins Right to Extend His Rule Until 2036 in Landslide Vote*, POLITICO (July 1, 2020), <https://www.politico.com/news/2020/07/01/putin-wins-right-to-extend-his-rule-until-2036-in-landslide-vote-347151> (“Russians voted by a landslide to pass constitutional changes that will allow Vladimir Putin to run for President twice more. . . . The outcome of the election was never in doubt: Copies of Russia’s new constitution went on sale in bookstores days before the results were known.”). Russian opposition leaders have called the results illegitimate. *Id.*

<sup>109</sup> Timothy J. Colton & Cindy Skach, *A Fresh Look at Semipresidentialism: The Russian Predicament*, 16 J. DEMOCRACY 113, 118-20 (2005).



After independence from the Soviet Union, Ukraine adopted a president-parliamentary Constitution, in 1996. In the wake of the Orange Revolution, the Constitution was amended in 2004 to create a premier-presidential system, which was in force between 2006 and 2010. In October 2010, the Constitutional Court annulled the 2004 constitutional amendments on procedural grounds, bringing back the president-parliamentary system, previously in force between 1996 and 2006. That system continued from 2010 until 2014. The Euromaidan protests led to yet another return to a premier-presidential system in early 2014 when parliament re-enacted the voided 2004 amendments.<sup>110</sup>

Article 85.12 of Ukraine's constitution grants the Verkhovna Rada, the parliament of Ukraine, both the power to appoint to office the prime minister and approve the resignation or termination of the prime minister.<sup>111</sup> Article 85.13 grants the parliament the authority to oversee and "exercise control over the Cabinet of Ministers of Ukraine."<sup>112</sup> Meanwhile, Article 106.9 allows the president to choose the prime minister with the consent of the parliament, but gives the president no authority to dismiss the prime minister without that same consent.<sup>113</sup> As such, the current constitution possesses the basic feature of premier-presidentialism: the inability of the president to dismiss the prime minister at will.

Ukraine has generally seen more stability under premier-presidentialism than president-parliamentarism. However, presidents have attempted to broaden their powers, oftentimes unconstitutionally, under both systems, which has led to Ukraine waffling back-and-forth between a strong democracy and authoritarianism.<sup>114</sup> The core of the issue of semi-presidentialism in

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<sup>110</sup> Choudhry et al., *supra* note 11, at 17.

<sup>111</sup> KONSTITUSIIA UKRAINE [CONSTITUTION] art. 85 (Ukra.)

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at art. 106.

<sup>114</sup> Choudhry et al., *supra* note 11, at 17.

Ukraine has largely been the lack of consensus on how large a role the president plays in national politics.<sup>115</sup>

From 1994 to 2005, Leonid Kuchma was Ukraine's president, and he very willingly used his unchecked dismissal power of the prime minister to his advantage, cycling through seven prime ministers in eleven years in order to shift the blame for poor policy progress from himself to the parliament and prime ministers.<sup>116</sup> When combined with president-parliamentarism's deference to the president, the Ukrainian president would often become the de facto policymaker for both foreign and domestic affairs while also distancing himself from negative ramifications of that policy.<sup>117</sup> During Ukraine's second attempt at president-parliamentarism, President Victor Yanukovich attempted to strengthen his party's control of parliament to ensure there were no barriers to his influence, much to the detriment of "political pluralism and democratization."<sup>118</sup> Several reports stated that Yanukovich rigged elections to ensure favorable outcomes for his party, and "harassment, intimidation, and misuse of administrative resources" were used to prevent many candidates and parties from getting their message to voters.<sup>119</sup>

While Ukraine has generally functioned poorly while using a president-parliamentary system, the nation has experienced its share of struggles using premier-presidentialism as well.<sup>120</sup> Many conflicts between the branches during Ukraine's first attempt at premier-presidentialism surfaced due to conflicting desires regarding cabinet members and policies between President Victor Yushchenko and then-Prime Minister and future president Victor Yanukovich.<sup>121</sup>

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<sup>115</sup> *Id.* at 17-18

<sup>116</sup> *Id.* at 20.

<sup>117</sup> *Id.* at 21.

<sup>118</sup> Sedelius & Mashtaler, *supra* note 65, at 116 ("Yanukovich is trying to follow the Putin model.").

<sup>119</sup> Editorial Board, *Ukraine Slides Away from Democracy*, WASH. POST (Nov. 8, 2012), <https://tinyurl.com/4mf4e4ru>.

<sup>120</sup> Sedelius & Mashtaler, *supra* note 65, at 115.

<sup>121</sup> *Id.* at 120. One conflict was a dispute revolving around Foreign Minister Borys Tarasiuk. Tarasiuk was President Yushchenko's trusted Foreign Minister and held generally anti-Russia viewpoints on foreign policy. Prime Minister Yanukovich

Other problems have plagued Ukraine beyond just the inability to choose between premier-presidentialism or president-parliamentarism. Corruption remains a constant issue, and politicians have made maneuvers to stay in power regardless of the semi-presidential system in use.<sup>122</sup> Nonetheless, Ukraine's democracy had seemingly begun to stabilize since reverting back to premier-presidentialism for the second time in 2014.<sup>123</sup> While it is too early to know the long-term impacts on Ukraine's democracy that Russia's war will cause, there are some worrying signs of potential backslide.<sup>124</sup> One example is President Zelenskyy's consolidation of the nation's television outlets, as well as his dissolution of rival political parties.<sup>125</sup> Despite this, Zelenskyy has effectively transitioned from a pariah of a president to a national hero, bravely leading Ukraine against unrelenting Russian aggression.<sup>126</sup> Ukraine's democracy steadily improved and stabilized in the recent past even in the face of continued Russian influence campaigns,<sup>127</sup> as well as a prior illegal annexation of

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had pro-Russia foreign policy preference, so Yanukovich dismissed Tarasiuk. Yushchenko both disagreed with the dismissal and believed that the prime minister did not have the authority to fire members of the executive cabinet and had Tarasiuk reinstated both by decree and court decision. Yanukovich and the parliament refused to recognize the reinstatement and Tarasiuk ultimately resigned. Relations between Yushchenko and Yanukovich remained frosty from thereon.

<sup>122</sup> Brian Mefford, *UKRAINE AT 30: Europe's Frontline Democracy*, ATLANTIC COUNCIL (July 6, 2021), <https://www.atlanticcouncil.org/blogs/ukrainealert/ukraine-at-30-europes-frontline-democracy/>.

<sup>123</sup> Inst. for Dem. and Electoral Assistance, *Supporting Ukraine's Democracy After the War* (Oct. 2022), <https://www.idea.int/sites/default/files/publications/supporting-ukraines-democracy-after-the-war.pdf>.

<sup>124</sup> Emily Feng, *Zelenskyy has Consolidated Ukraine's TV Outlets and Dissolved Rival Political Parties*, NPR (Jul. 8, 2022), <https://tinyurl.com/2p8rjdru>.

<sup>125</sup> *Id.*

<sup>126</sup> Skorkin, *supra* note 71; *see also* Yuri Panchenko, *Zelenskyy's Approval Ratings Soar Amid War*, INST. FOR WAR & PEACE (Feb. 2, 2023), <https://iwpr.net/global-voices/zelenskys-approval-ratings-soar-amid-war>. Zelenskyy's approval rating was at roughly 27 percent in December 2021 but was upwards of 85 percent in December 2022. *Id.*

<sup>127</sup> Sam Sokol, *Russian Disinformation Distorted Reality in Ukraine. Americans Should Take Note.*, FOREIGN POL'Y (Aug. 2, 2019), <https://tinyurl.com/mrx32avw>.

their territory,<sup>128</sup> so there remains hope that Ukraine might emerge with their burgeoning democracy intact and stable.

#### 4. Semi-Presidentialism in Poland

During the formative years of post-communist Poland, the success of a semi-presidential system remained unclear. The origins of the system that Poland would continuously adapt and morph into, their current iteration of semi-presidentialism, began in the late stages of Soviet control.<sup>129</sup> Under this arrangement, the system reserved sixty-five percent of the lower house for the Communist Party, as well as the presidency, which was intended to be strong.<sup>130</sup> Throughout the 1990s, Poland amended their constitution to ensure that the people directly elected the president and stripped him of some of his powers to ensure the legislature had a more equitable power balance.<sup>131</sup> These amendments brought Poland's system under the premier-presidential scope, where the president has the ability to nominate the prime minister, but the parliament was the ultimate arbiter in determining the acceptability of his appointment.<sup>132</sup> Further, the Sejm, the lower house of parliament, can dismiss the cabinet with a vote of no confidence, a power the president does not enjoy, leaving the president's cabinet more responsible to parliament than the executive branch.<sup>133</sup>

The Polish Constitution is remarkably deferential to the parliament. In fact, the constitution heavily subjects the president's commander-in-chief and defense powers to statutes passed by parliament.<sup>134</sup> Article 146 of the Polish Constitution confers the power of conducting internal affairs and foreign policy to the Council of Ministers, the president's cabinet, ruled by the prime minister and

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<sup>128</sup> COUNCIL ON FOREIGN RELS., *supra* note 10

<sup>129</sup> See McMenemy, *supra* note 73, at 2-3.

<sup>130</sup> *Id.* at 2.

<sup>131</sup> *Id.* at 4-5.

<sup>132</sup> Oleksii Sydoruk, *The Impact of Semi-Presidentialism on Democratic Consolidation in Poland and Ukraine*, 22 DEMOKRATIZATSIIA: THE J. POST-SOVIET DEMOCRATIZATION 117, 122-23 (2014).

<sup>133</sup> *Id.* at 123.

<sup>134</sup> ROZDZIAŁ VII, KONSTITUCJA RZECZYPOSPOLITEJ POLSKIEJ [CONSTITUTION] art. 134 (Pol.)

ultimately responsible to the parliament rather than the president.<sup>135</sup> The president still retains powers, such as nominating the prime minister and cabinet members, enforcing the laws of the land, and driving policy direction. However, much of the real power in government lies with the legislature.

It would be disingenuous to suggest that the president is a largely ceremonial figure in Poland, but it is accurate to say that he is not the central power player in the Polish semi-presidential system. Throughout the 1990s, President Lech Wałęsa repeatedly attempted to consolidate more power behind himself because of his dissatisfaction with his ability to implement and use his presidential powers, as well as his frustration with parliament's decisions.<sup>136</sup> His attempts would backfire as a "stable coalition" formed against him, ultimately strengthening the roles of the prime minister and parliament even more in the face of Wałęsa's power-grab attempts.<sup>137</sup> Despite the consternation at the president's relative inability to exercise his powers without parliamentary interference and the struggles it initially created, Poland settled into a relatively stable democracy thereafter, with Wałęsa eventually conceding that parliament was ultimately in control.<sup>138</sup> During the early years of the post-communist period, while there was plenty of turnover, periods of cohabitation, and confusion about the president's ultimate authority of powers, Poland avoided slipping into "autocratic rule or constitutional chaos" and found long-term stability under the more reserved, strategic presidency of Aleksander Kwaśniewski.<sup>139</sup>

Through the mid-2010s, it appeared that Poland's premier-presidentialism had allowed for the consolidation of democracy.<sup>140</sup> There is no doubt that the constitutional framework that empowered parliament over the president was crucial to Poland's democratic stabilization and avoidance of a backslide into autocratic rule, something that former presidents Wałęsa and Lech Kaczyński could

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<sup>135</sup> *Id.* at art. 146 (Pol).

<sup>136</sup> Sydorchuk, *supra* note 132, at 124.

<sup>137</sup> *Id.* at 125.

<sup>138</sup> *Id.* at 126.

<sup>139</sup> *Id.*; see McMenamain, *supra* note 73, at 9-10.

<sup>140</sup> Sydorchuk, *supra* note 132, at 139, 142.

have pulled Poland towards if not for the checks on their power.<sup>141</sup> However, since the mid-2010's, when Law and Justice Party leader Jarosław Kaczyński—former president Lech Kaczyński's twin brother—cemented power behind himself as the most influential politician in Poland,<sup>142</sup> the nation has experienced democratic backslide. This has included “undermin[ing] the independence of the judiciary by subordinating it to the executive and the Legislature,”<sup>143</sup> the antagonization of western European democracies, particularly Germany,<sup>144</sup> and a populist turn to the right.<sup>145</sup>

As the Law and Justice Party has continued gaining supporters and cementing their grasp on political power in Poland, the party has imposed some of the strictest abortion laws in all of Europe, increased media censorship, called for citizens to preserve “the Polish identity,” uphold Catholic values, and limited immigration, particularly towards middle-eastern refugees.<sup>146</sup> Donald Tusk, a former prime minister of Poland, has stated that the Law and Justice Party represents “a pitiful parody of dictatorship,”<sup>147</sup> and he has expressed concern that the Law

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<sup>141</sup> *Id.* at 142. It must be noted that Wałęsa and Lech Kaczyński “never attempted to increase [their powers] outside existing legal boundaries.” Rather, they were just more inclined to interpret their powers more broadly. To call either president an autocrat would be highly unfair. However, both presidents attempted to consolidate greater power behind them, and it is certainly possible that, if not for the checks in place on presidential power, either president could have succeeded in making the president a much more important authority on many issues, which could have had long term effects of eroding parliamentary power and led to an undesirable inequality of power in favor of the president that has been seen in other semi-presidential nations, such as Russia.

<sup>142</sup> Connor Murphy, *Poland's de Facto Leader Slams President, Wants to Restore Moral Order*, POLITICO EUR. (July 28, 2017), <https://tinyurl.com/5bjumbn5>.

<sup>143</sup> Press Release, Nils Muiznieks, Comm'r for Hum. Rts., Council of Eur., Commissioner's Statement on Poland's Judiciary Laws (Dec. 8, 2017), <https://www.facebook.com/CommissionerHR/posts/900488426793735>.

<sup>144</sup> Stephen Blank, *Backsliding on Democracy Imperils Security in Ukraine and Poland*, ATL. COUNCIL (Dec. 20, 2017), <https://www.atlanticcouncil.org/blogs/ukrainealert/backsliding-on-democracy-imperils-security-in-ukraine-and-poland/>.

<sup>145</sup> See Moskwa & Jefferson, *supra* note 9.

<sup>146</sup> *Id.*

<sup>147</sup> Zosia Wanat, *Tusk Returns to Polish Politics Denouncing 'Evil' Ruling Party*, POLITICO EUR. (July 3, 2021), <https://www.politico.eu/article/donald-tusk-poland-politics-civic-platform/>.

and Justice Party and Kaczyński could lead Poland back to the “dark” side.<sup>148</sup> The European Union has also expressed concern over the possibility of a democratic backslide in Poland, going so far as “pursu[ing] . . . disciplinary measures against Poland for failing to adhere to democratic values.”<sup>149</sup>

Some observers have feared that current president Andrzej Duda operates as a stand-in or figurehead president while Kaczyński actually pulls the strings,<sup>150</sup> though there has been strife between Duda and Kaczyński, and Duda has vetoed a number of Kaczyński-sponsored and led bills.<sup>151</sup> Regardless, it is indisputable that Kaczyński wields massive influence on Polish politics, far more than a Deputy Prime Minister ordinarily would.<sup>152</sup> Kaczyński wields considerable influence on who becomes prime minister and other deputies and played a key role in the nomination and election of Duda to the presidency.<sup>153</sup> Because of this influence, Kaczyński has pushed through numerous laws that have catalyzed Poland’s democratic backslide, including the judiciary reform laws, laws that “weakened the freedom of assembly by effectively allowing authorities to give preference to favored groups and gatherings,” and laws that “increase the role of political appointees in the country’s election-administration bodies.”<sup>154</sup> State-owned media, as well as most other public companies, are now run by Law and Justice Party loyalists, whom Kaczyński helped attain those positions.<sup>155</sup> Other censorship laws, including those prohibiting accusations or statements that Poland was complicit in Nazi war crimes or other crimes against Jews, are now punishable by

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<sup>148</sup> Remarks, Donald Tusk, President, Eur. Council, Remarks by President Donald Tusk after his meeting with President of Poland Andrzej Duda (Jan. 18, 2016), <https://www.consilium.europa.eu/en/press/press-releases/2016/01/18/tusk-remarks-president-poland-duda/>.

<sup>149</sup> Moskwa & Jefferson, *supra* note 9.

<sup>150</sup> See Szary, *supra* note 30.

<sup>151</sup> See Murphy, *supra* note 142; see also Rick Lyman, *The Polish Parliament Reshapes Courts, Drawing Criticism*, N.Y. TIMES (Dec. 8, 2017), [https://www.nytimes.com/2017/12/08/world/europe/poland-laws-courts.html?\\_r=0](https://www.nytimes.com/2017/12/08/world/europe/poland-laws-courts.html?_r=0).

<sup>152</sup> Przybylski, *supra* note 73, at 57.

<sup>153</sup> See *id.* at 58.

<sup>154</sup> *Id.* at 58-59.

<sup>155</sup> *Id.* at 60.

imprisonment.<sup>156</sup> Kaczyński has also led more subtle movements to eliminate his political rivals, current and past, from historical narratives in Poland, including omitting former president Lech Wałęsa's name from government publications and modifying exhibits in the Museum of the Second World War that were spearheaded by former prime minister Donald Tusk.<sup>157</sup>

The pace at which Poland has backslid is somewhat stunning. As recently as 2014, the nation was considered a beacon of democracy in Eastern Europe.<sup>158</sup> Making the backslide even more surprising is that Poland employs the generally more stable premier-presidential system, and the parliament is far stronger than the president. Nonetheless, Jarosław Kaczyński's influence has permeated so deeply throughout Poland's political structure that he has managed to pull Poland back towards authoritarianism and centralized governmental control, a somewhat remarkable and stunning accomplishment for someone who has not held the office of president or prime minister during his reign of influence.

#### B. Pitfalls of Semi-Presidentialism

Centralization is often the chief concern of backsliding within semi-presidentialism. The more deferential a semi-presidential system is to executive power, the higher the likelihood that the nation slides into authoritarianism. Russia's constitutional framework is highly deferential to the president, and Putin has taken massive advantage of that deference, enacting incredibly strict censorship laws, imprisoning his political opponents, and amending the constitution to extend his term limits.<sup>159</sup> Ukraine struggled to gain stability when employing a president-parliament system and often found the president acting alone, becoming a *de facto* policymaker for basically all domestic and foreign affairs of the state.<sup>160</sup> Even Poland, utilizing a premier-presidential system, has struggled with centralization, as Jarosław

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<sup>156</sup> *Id.* at 61.

<sup>157</sup> *Id.* at 60-61.

<sup>158</sup> *Id.* at 52.

<sup>159</sup> See Rakhmetov, *supra* note 106; Troianovski, *supra* note 107; Anderson, *supra* note 108.

<sup>160</sup> See Choudhry et al., *supra* note 11, at 18.



Kaczyński has managed to control nearly every national political decision from behind the scenes, leading to rapid democratic decay.<sup>161</sup> France has also seen attempts at centralization of power behind the president, particularly when de Gaulle was president, but has remained stable throughout, with a well-balanced system of power between the executive branch and parliament.<sup>162</sup>

Semi-presidential systems also raise concerns about cohabitation. The potential for crippling gridlock looms large when the president and parliament are politically at odds with each other. While Russia has not dealt with any periods of cohabitation, France, Ukraine, and particularly Poland have.<sup>163</sup> Generally speaking, cohabitation has not proven disastrous for democracy, but it typically happens in the more stable premier-presidential system than the president-parliament system.<sup>164</sup> Regardless, cohabitation is almost always a negative side effect in semi-presidential systems. Even if it does not degrade democracy outright, it can erode public trust in government institutions during periods of gridlock and ineffectiveness.

Corruption is another pitfall of semi-presidentialism. Evidence suggests that where semi-presidentialism is used, corruption follows.<sup>165</sup> While France largely experiences finance-related corruption,<sup>166</sup> Russia and Ukraine have both experienced severe electoral corruption,<sup>167</sup> and Poland has placed political appointees in supervisory positions regarding elections.<sup>168</sup> Corruption occurs in every nation around the globe, but it is particularly prevalent in semi-presidential nations, especially those with a strong executive, such as Russia and Ukraine.

Collusion represents a challenge somewhat unique to semi-presidential systems. While not particularly common, it can be very damaging to democracy when employed. The chief example of

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<sup>161</sup> See Przybylski, *supra* note 73, at 58.

<sup>162</sup> See Clift, *supra* note 67, at 385.

<sup>163</sup> See Elgie & McMenemy, *supra* note 89, at 630.

<sup>164</sup> *Id.* at 633.

<sup>165</sup> *Corruption Perceptions Index*, *supra* note 72.

<sup>166</sup> See Zaretsky, *supra* note 68; see also Lichfield, *supra* note 68.

<sup>167</sup> See Shepard, *supra* note 4; see also Editorial Board, *supra* note 119.

<sup>168</sup> Przybylski, *supra* note 73, at 58-59.

collusion in a semi-presidential system is Russia, where Putin and Medvedev conspired to keep Putin in charge despite term-limitations.<sup>169</sup> In spite of the president acting as the power player in Russian politics, Putin still called the shots as prime minister, and Medvedev eagerly stepped aside as soon as Putin could run again.<sup>170</sup> While semi-presidentialism seeks to maintain a shared balance of power between the executive and the legislature, autocracy can quickly take root if the parliamentary leader and president collaborate with one another to further the grasp on the power one of them possesses. This has led to swift and extreme backsliding into autocracy. Poland offers another example of possible collusion that aims to further empower one person's authority. While it is inconclusive whether Duda is in league with Kaczyński to further the latter's power, there is little doubt that Kaczyński is the puppet-master of Polish politics and runs the country as he sees fit.<sup>171</sup>

Susceptibility to populism is not solely a semi-presidentialism problem. Throughout the mid-to-late-2010s, most of the globe experienced a wave of populism.<sup>172</sup> However, semi-presidential nations do seem more susceptible to the negative ramifications of populism. Savvy and strong-willed politicians have always used populist waves to stir support for their policies and have often used claims of a mandate from the people to ram through legislation that benefits themselves and their grip on power. Russia's Putin and Medvedev have instituted many of the anti-democratic laws in the name of Russian security, nationalism, and popular mandate.<sup>173</sup> Poland's Duda rode a populist wave to the presidency, but it is Kaczyński, the party leader of the widely supported Law and Justice Party, who wields the real power in Poland. Ukraine elected current President Volodymyr Zelensky in a populist wave despite his lack of governing experience. While Zelensky has struggled to achieve a signature policy victory, he has led Ukraine

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<sup>169</sup> See Reuters Staff, *supra* note 38.

<sup>170</sup> See Englund & Lally, *supra* note 38.

<sup>171</sup> See Pryzbylski, *supra* note 73, at 57-61.

<sup>172</sup> Adam Taylor, *The Global Wave of Populism that Turned 2016 Upside Down*, WASH. POST (Dec. 16, 2016), <https://www.washingtonpost.com/news/worldviews/wp/2016/12/19/the-global-wave-of-populism-that-turned-2016-upside-down/>.

<sup>173</sup> See *Online and on All Fronts*, *supra* note 37.

with bravery and dignity during the war, earning himself international renown for his strong leadership.<sup>174</sup>

#### IV. CONCLUSION

Democratic backslides in semi-presidential nations are not inevitable, as France shows, but they are at an increased likelihood of happening quickly, as exhibited in the cases of Poland and Russia. France, Russia, Ukraine, and Poland, four of the most prominent European semi-presidential nations, have all experienced the pitfalls of semi-presidentialism: centralization, cohabitation, corruption, collusion, and susceptibility to populism. Of those nations, only France has been able to maintain democratic stability. Russia has dramatically backslid into autocracy. Ukraine has struggled to have a stable democracy since its post-communist era began, having flipped between different variations of semi-presidential systems, all with limited success. Poland struggled initially to democratize before stabilizing, but it was eventually considered nearly as big of a success story in semi-presidentialism as France. However, Poland has experienced a sharp democratic decline since 2015, and power-hungry politicians still exploit the system in place. The harsh reality is that while semi-presidentialism is an increasingly popular governmental structure, it is ill-equipped to establish or maintain democracy. The four most prominent semi-presidential nations in Europe each have a success rate of twenty-five percent in maintaining democratic stability. The experiences of Poland, Ukraine, and Russia should cause concern for any nation that seeks to employ semi-presidentialism and raise apprehension for those who support democracy around the globe.

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<sup>174</sup> See Skorkin, *supra* note 71. But see Erica A. Fox, *Ukraine's Zelensky is the Master of Transformational Leadership*, FORBES (May 19, 2022), <https://tinyurl.com/5zxd5cmm>.