

Semi-Presidentialism and Democratisation in Poland

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Introduction

Polish semi-presidentialism evolved from a pacted transition between the leadership of the communist regime and the Solidarity opposition movement. The mechanics of semi-presidentialism, as well as its effect on democratisation, depend upon the constitution, the party system and the personality of the president. Poland has had three semi-presidential constitutions, a variety of relationships between president and government as well as government and parliament, and two very different presidents. In the early years, the absence of the conditions for stable semi-presidentialism had a negative effect on democratisation. Later on, conditions were more supportive, and semi-presidentialism began to play a more positive role. Before the introduction of semi-presidentialism in November 1990, Polish elites had already established a firm consensus on democracy, which was buttressed by consensus on the economic system and international relations. Therefore, the conflicting legitimacies generated by semi-presidentialism delayed but did not prevent, or seriously threaten, democratic consolidation in Poland.

Origins

Some of the concrete institutional characteristics of contemporary Polish semi-presidentialism are to be found in Polish constitutional history and in the constitutions of other contemporary European democracies (Hayden 2006, p. 174; Sanford 2002, pp. 76-77). However, semi-presidential institutions were not chosen from a set of available constitutional models. Rather, Polish semi-presidentialism is the result of a series of highly political decisions taken under very different and unforeseen circumstances. The first and most important decision was the deal agreed between the communist and Solidarity sides at the Round Table talks from February to April 1989. The centrepiece of the agreement was a parliamentary election on the basis of a unique system of “compartmentalised competition” (Olson 1993). It reserved 65 per cent of the seats in the elections to the lower house of parliament (the Sejm) for the communist party and its satellites, while 35 per cent was to be open to competition amongst opposition candidates. Meanwhile, election to a new Senate would be entirely free. The communist side sought the introduction of a new presidency, designed for their leader General Jaruzelski. It would provide a guarantee and reassurance to the party-state and the Soviet Union. The agreement created a potentially powerful presidency to be elected by a joint sitting of the houses of parliament (Salmonowicz 1989, pp. 10-11). Thus, the deal established a dual executive, rather than semi-presidentialism.

Both sides had very vague ideas about how the system would operate in the immediate future (Osiatyński 1996, p. 58). The agreement simply notes that the agreement is “an important step towards the creation of a new democratic order” (Salmonowicz 1989, p. 11). In the scenario of democratisation, it was consistent with

the explicitly “evolutionary” logic of the round table (Salmonowicz 1989, p. 6) that existing institutions would be democratised. One method of democratising the presidency would be direct election, thereby establishing semi-presidentialism. Democratisation could also have proceeded by simply democratising the parliament, which could then provide democratic legitimacy for a new president elected by its members. Another option would have been to simply abolish the presidency.

Competition was not as compartmentalised as had been planned. In the June 1989 election, Poles not only voted overwhelmingly for Solidarity, they voted against communism by crossing out names on lists reserved for the communist party. Humiliatingly, Jaruzelski had to rely on spoiled Solidarity votes for election to the presidency. The hitherto supine satellite parties defected to the opposition, allowing the election in August 1989 of Solidarity’s Tadeusz Mazowiecki as the region’s first non-communist prime minister for forty years. As communism fell in neighbouring countries, the communist president Jaruzelski increasingly became an anachronism.

A parliamentary system was the preference of the intellectual wing of Solidarity, which dominated Mazowiecki’s government. By the time Jaruzelski’s role in reassuring the Soviets was obviously superfluous, this wing of Solidarity was in open war with the charismatic leader of the Solidarity trade union, Lech Wałęsa. Mazowiecki thought he would have a better chance against Wałęsa in a popular election than in an election by the two houses of parliament (Wolek 2004, p. 126). While initially calculating that he could win an election according to the original method, Wałęsa, who saw himself very much as a tribune of the people, also came out in favour of direct election. His justification for doing so was the illegitimacy of the

“contract Sejm” and the gradualism of the Mazowiecki government. In September, the Sejm changed the constitution to allow the direct election of the president. Wałęsa, won 74 per cent of the vote in a run-off against the previously unknown émigré populist, Tymiński in December 1990. Prime minister Mazowiecki had been eliminated in the first round with a disastrous 18 per cent.

As early as autumn 1989, the contract Sejm formed a consensus on the procedure for writing a new constitution. There was to be a joint committee of 10 Senators and 46 Sejm deputies, whose draft would have to be passed by a two-thirds majority in a joint sitting of both houses of parliament. The final requirement was a simple majority in a national referendum. The 1997 Constitution was produced by an essentially similar framework adopted by the freely elected Sejm in April 1992. In both the contract Sejm and its successor, political fragmentation precluded any progress. Moreover, a new constitution was simply not necessary for democratisation to proceed. Like its neighbours, Poland was able to proceed on the basis of an amended communist-era document. However, a new constitution was desirable, especially as regards the institutions of semi-presidentialism. In 1992, the Sejm and Senate passed a substantial set of constitutional revisions, known as the Little Constitution. The principal aim of these amendments was to regularise the vague and conflict-ridden relationship between president, government and Sejm. This was an explicitly temporary measure. Nonetheless, the Little Constitution’s achievement of a consensus on an adjustment and clarification of the basic political structure made fundamental changes under a new constitution less likely.

In the 1993 parliamentary elections, the one-third of voters that opted for the divided mainstream anti-communist right found themselves without parliamentary representatives. A “constitutional coalition” of the post-communist left, peasants, and the liberal (ex-opposition) centre took advantage of the opportunity to pass a new constitution. Their work was further facilitated by post-communist Aleksander Kwaśniewski’s victory over Wałęsa by 51.7 to 48.3 per cent in the second round of the November 1995 presidential election. The 1997 constitution reduced the president’s power to the benefit of the prime minister but most importantly it confirmed the semi-presidential system in Poland.

Low turnout and highly disproportional result meant that the Sejm that produced the Constitution represented only one third of eligible voters (Jasiewicz 2000, p. 112). The Constitution itself was passed by a 53 per cent majority on a 43 per cent turnout. Within months the extra-parliamentary right, which had bitterly contested the Constitution, had won an election and returned to power. Thus, many have questioned the legitimacy and permanence of the 1997 Constitution (Wyrzykowski 2001). However, much of this dissensus related to ideological and historical symbolism (see the Constitution’s almost schizophrenic preamble) rather than the division of power between institutions (Osiatyński 1997). For example, the constitutions drafted by the post-communist left and the Solidarity Trade Union in 1994 are very similar to each other and the 1997 Constitution, in terms of major presidential powers such as veto override, presidential election, government nomination and dismissal. The big difference is that the right supported presidential control of defence, while the left wanted to place defence under the government (Chrusciak 1997).

Constitutional Powers

The greatest potential power afforded to the president by the amended communist constitution was to dissolve the Sejm if he judged it to be threatening his ability to carry out his responsibilities to safeguard the sovereignty, security and international alliances of the state or if it failed to approve a prime minister, a national plan or a budget within three months (Article 30.2). The president also had the exclusive right to nominate and propose the dismissal of the prime minister to the Sejm (32.1) and must be consulted by the prime minister in the appointment of all ministers (37). The president had the power to act in foreign affairs and defence without the co-signature of the prime minister. He had very significant powers of non-ministerial appointment, with and without the necessity of parliamentary approval (32.f.1, 40, 61.4, 65.1). The president had a right of legislative initiative (20.4) and could refer a bill to the Constitutional Tribunal for a decision on its constitutionality (27.4). The Sejm needed a two-thirds majority to override his legislative veto. There was no line-item veto.

I will now mention the principal changes introduced by subsequent constitutions. According to the Little Constitution (signed into law in November 1992), the president could no longer dissolve the Sejm for interfering with his responsibilities, or for not producing a national plan. A new more complicated system of government formation was introduced. Initially, the president nominates the prime minister. The Sejm must approve the prime minister and his cabinet by absolute majority. If the president's nomination is unsuccessful the Sejm can choose a prime minister and cabinet by absolute majority. If it fails to do so, the initiative returns to the president, whose choice, together with his cabinet, can, this time, be approved by simple

majority. Upon failure, the Sejm needs only a simple majority for its candidate. If the Sejm again fails to appoint a prime minister, the president can dissolve the Sejm immediately or appoint a prime minister without the confidence of the Sejm. If the prime minister and his cabinet do not win a confidence vote within six months, the president is obliged to dissolve the Sejm (Articles 57-62). To remove the government, the Sejm was given the option of passing either a simple or a constructive vote of no confidence. If the vote was not constructive, the president could choose to accept the resignation of the government or to dissolve the Sejm (Article 66). The prime minister was only required to consult the president about the appointment of the ministers of foreign affairs, defence and the interior ministry. The president was to exercise “general supervision” of defence and international affairs, and foreign policy was to be conducted “through” the minister of foreign affairs. There were some reductions in the president’s powers of appointment. The government could drastically shorten the legislative procedure by simply declaring the matter “urgent” (16).

The 1997 constitution shortens the process of government formation. If the Sejm’s candidate fails to gain an absolute majority, the president can nominate a candidate, whose cabinet can be approved by simple majority. If this candidate is unsuccessful the president is simply obliged to dissolve the Sejm (Article 155). A constructive vote of no confidence is the only way of removing the government (Article 158). The president is given no role in the appointment of ministers (Article 154). There is another vague downgrading of the President’s special responsibilities (Article 133.3, 134.2). In contrast, he receives greater powers of appointment (Article 144.20-27). The veto override is reduced to a three-fifths majority of the Sejm (Article 122.5).

Presidential acts, which require co-signature, can only be signed by the prime ministers, rather than relevant ministers as previously was the case. In 1999, a number of legislative and administrative changes were implemented with the effect of significantly increasing the prime minister's control over the cabinet (Sanford 2002, pp. 156-157).

[Table 1 about here]

Functioning of the system

The constitution is of only limited use in understanding how Polish semi-presidentialism actually works. Most scholars of Polish semi-presidentialism react to the limits of constitutionalism by providing a narrative of political events (Jasiewicz 1997; Michta 1998; Millard 1994; Millard 2000; Van der Meer Krok-Paszkowska 1999; Wiatr et al. 2003). Instead of repeating and extending these excellent narratives, I adopt a more analytical approach, which argues that the operation of Poland's semi-presidential system can be understood as the interaction of four factors: the constitutional powers of the president, the holder of the presidency (Millard 1999, pp. 31-32; Millard 2000), the relationship of the government to the president and the relationship of the government to the Sejm. Nine permutations of these factors occurred in practice (see Table 2). In other words, the functioning of the system has varied very substantially over time. This section will begin with a brief outline of the personality and party political factors. It will then proceed to evaluate the roles of the president and prime minister in Polish government and politics.

[Table 2 about here]

Presidents

President Wałęsa had a politically hyperactive conception of the presidency. He did not see his elevation to the presidency as requiring a more consensual political stance. He maintained a consistently, and sometimes stridently, right-wing position. Wałęsa frequently tried to go beyond his constitutional powers and to use them in ways that were never intended. Wałęsa won many tactical victories. Nevertheless, his aggressive politics, and spectacular failure to build alliances with individuals, never mind parties, meant that his presidency was largely conducted from a situation of embattled, but prominent, isolation. Wałęsa favoured the development of a strong presidency, but he never seems to have been tempted by the notion of a hands-on governing presidency. While he often interfered in government and ministerial policy, he clearly saw the ongoing co-ordination, development and implementation of policy as the responsibility of the government. He envisioned his role rather as laying the correct political foundations for correct policy.

Kwaśniewski's idea of the presidency was in many respects the opposite of Wałęsa's. His conception was consensual and strategic. He wanted to be the president "of all the Poles". Kwaśniewski had built the Democratic Left Alliance (SLD), post-communist Poland's, most, or even only, successful political party. He cultivated good relations with a wide range of politicians, as well as journalists, businesspeople and others. Unsurprisingly, he worked within the Constitution, since most of his tenure was under the 1997 Constitution, on which he was perhaps the greatest single influence. Kwaśniewski generally used his powers to further the aims of the general consensus on democracy, international integration, and free markets which embraced

most of the Polish political spectrum, but was also ready to exercise power for the benefit of the left. He rarely fought battles he could not win.

Poland's latest president, Lech Kaczyński, was once the right-hand man of President Wałęsa. The early months of his tenure suggest his conception of the presidency is more reminiscent of Wałęsa's active approach than Kwaśniewski's strategic approach. Kaczyński has aggressively pushed his constitutional powers to the limit in the pursuit of partisan advantage. In contrast to Wałęsa, Kaczyński has long been committed to political parties. The current minority government is based on the Law and Justice party, founded and controlled by the president and his twin Jarosław. This puts him in a much stronger position than that Wałęsa suffered for most of his term of office. So far, Kaczyński's tactical victories have not enabled him to provide, or to bypass, the parliamentary majority necessary to push through right-wing policies.

Party Competition

The next two factors, the government's relation to the president and the Sejm, are largely effects of party competition. The Polish issue space is basically two-dimensional (Kitschelt et al. 1999, p. 233), but political vocabulary is one-dimensional. The first dimension of Polish party competition is a continuum from secularist, universalist, post-communists to Catholic, nationalist, anti-communists. The second dimension is the familiar continuum of economic intervention. Polish parties are more clearly distinguished on the first than the second dimension (Szawiel 1999; Szczerbiak 1999; Szczerbiak 2003). The left is secularist and social democratic. It has consistently been represented by the SLD, which has also tended to be a party of business. The centre tends to be culturally moderate and pro-market.

The Democratic Union (UD), the Freedom Union (UW) and the Civic Platform (PO) have represented the centre. The right is Catholic. Some of its policies and rhetoric have been pro-market, while others have been pro-union or have increased social spending. Its party political representation has been fragmented and unstable. A diverse array of populist forces has been more difficult to fit into these dimensional schemes. The most consistently important of these parties has been the Peasant Party (PSL).

Throughout his term, President Wałęsa effectively had no party political base, with the minor exception of the Non-party Bloc for the Support of the Reforms (BBWR). Wałęsa began his tenure with a centre-right minority coalition government. He then cohabited with a right-wing minority coalition and centre-right minority coalition. These governments were not ideologically opposed to him, or, in terms of presidential elections, electorally opposed to him, but they were effectively rivals in the government of Poland. He ended his tenure cohabiting with a majority coalition of leftists and peasants. Kwaśniewski began his term with his own party as the senior governing party. He then cohabited with a majority centre-right coalition, which became a minority right-wing government, when the Freedom Union exited. The left-peasant coalition then returned to power. With the ejection of the peasants, this became a minority government.

Prime Ministers and Governments

In this sub-section, I examine various elements of the power of the Polish president and prime minister. The election of President Wałęsa highlighted the illegitimacy of the “contract Sejm” elected according to the Round Table agreement. It was

generally agreed that it would have to be replaced with a fully-freely elected parliament, but the timing of its demise, and the nature of the electoral system, which would replace it, were matters of protracted and bitter dispute. On both matters, the Sejm effectively won out over the president (Millard 1994, pp. 157-158). President Wałęsa dissolved the first (freely elected post-communist) Sejm when the Solidarity trade union representatives brought down Suchocka's government by mistake (Jasiewicz 1997, p. 148). The next three parliaments ran their full course. In 2004, in the aftermath of Miller's resignation, the opposition tried, but failed, to force the president to dissolve the Sejm by refusing to approve his candidate for the premiership. In January 2006, President Kaczyński used the threat to dissolve the Sejm on the controversial grounds that the budget had not been passed in time to convince two parties to support his party's minority government without receiving any ministerial appointments (Śmiłowicz 2006).

The Sejm has dominated the choice of prime minister. Five prime ministers were clearly choices of the Sejm. Pawlak (1993), Oleksy and Buzek were the choices of clear coalition majorities opposing the president. Pawlak's nomination may have been an attempt to placate the president and the political opponents of the left more generally. Even so, this was a case of self-restraint. Olszewski and Suchocka were both nominated by the extremely fractious first Sejm. During that Sejm, Wałęsa's nominee, Pawlak (1992), failed to gather enough support to even propose a cabinet (Millard 1994, pp. 104-105). Kwaśniewski nominated Cimoszewicz, but this was considered an uncontroversial choice. Miller and Kwaśniewski were effectively from the same party but Kwaśniewski surely would have nominated another prime minister if he had felt able to. Poland's first prime minister under semi-presidentialism,

Bielecki, was clearly the president's choice (Podolak 1998, p. 52). He had only minimal support in the contract Sejm, but it lacked the legitimacy and consensus to resist the president. Marek Belka was also a presidential appointment. Although a member of the SLD, he was the president's, not the party's, man. The Sejm initially rejected his cabinet. However, after the Sejm failed to produce an alternative candidate, Belka was re-nominated by the president. Splinter parties from the SLD, which had done badly in the 2004 European elections, changed their position, thereby giving Belka a majority (Jasiewicz and Jasiewicz-Betkiewicz 2005, pp. 1154-1155). After the 2005 parliamentary and presidential elections, Prime Minister Marcinkiewicz was appointed in a situation where seems to have been full agreement between the president and his twin brother, the head of, Law and Justice (PiS), the largest party in the Sejm. It gained support from other parties without bargaining about the premiership.

The Sejm has been even more important in the removal of prime ministers than it has in their appointment. Bielecki, Cimoszewicz, Buzek and Belka were all effectively removed from office by parliamentary elections. Suchocka suffered a vote of no confidence. Oleksy resigned but was anticipating his removal by the Sejm. President Wałęsa had a role in his downfall as he seems to have been partly responsible for fomenting accusations that Oleksy was a Russian spy. Miller resigned when a split developed in his party: he too was recognising that he had lost the confidence of the Sejm. In a constitutionally superfluous move, Wałęsa added his name to a motion of no-confidence against Olszewski (Jasiewicz 1997, p. 141). Wałęsa also conspired against Pawlak in 1995, but again he could not have been successful without the support of the SLD, which was the largest party in the Sejm.

President Wałęsa, rather than prime minister Bielecki, was the key person in choosing the first semi-presidential cabinet (Podolak 1998, p. 69; Wołek 2004, p. 127). Since then the prime minister has dominated appointments. Olszewski ignored Wałęsa's insistence that the Jaruzelski-appointed admiral Kołodziejczyk stay on as defence minister (Millard 1994, p. 100). In contrast, his successor Suchocka accepted the president's three nominations in his areas of special responsibility. While Wałęsa was not ideologically opposed to the Olszewski and Suchocka governments, he was clearly opposed to Pawlak's coalition of his own peasant party and the much larger post-communist SLD. The coalition accepted the president's nomination of three ministers, who, to a great extent, stood outside the government. Later, Wałęsa tried to exploit intra-coalition tensions and expand his own powers, when he refused to appoint the SLD nomination to replace the finance minister fired by Pawlak (Van der Meer Krok-Paszkowska 1999, pp. 182-183). Eventually, after a prolonged standoff, Wałęsa got the SLD to produce a new nomination for finance minister, while he accepted coalition-nominated deputy ministers in the presidential ministries. Under president Kwaśniewski the prime minister has had the decisive say. Nonetheless, the president does seem to have had a real influence on SLD appointments (Wiatr et al. 2003, p. 93).

Both the prime minister and the president are substantial actors in foreign policy. In contrast to domestic affairs, the very strong consensus on foreign affairs in general and EU accession in particular makes it difficult to assess the relative roles of president and prime minister. Although there have been conflicts between foreign ministers and the president (Millard 2000, pp. 48-49, 51), co-operation in

international affairs has generally been harmonious (Wiatr et al. 2003, p. 95). There is a relatively settled division of labour between the government and the president in international relations. The prime minister meets other prime ministers, while the president meets other executive presidents. The prime minister attends the European Council but the president rather than the prime minister has conducted meetings with the American and Russian presidents.

Defence and internal security were the subjects of some of the greatest conflict between President Wałęsa and governments (Herspring 2000; Jasiewicz 1997, pp. 100-103; Millard 1994). Overall, the president perhaps won most of the rounds. However, he never established a clear division of labour with, never mind dominance over, the government in this area. In 1996, Kwaśniewski approved a decisive shift towards government and Sejm by reactivating a statute which Wałęsa had previously vetoed (Herspring 2000, pp. 93-94). Conflict over the security services has been more important, since Poland's security services have both autonomously, and under the direction of politicians, made vital interventions in the career of political and business leaders. Their actions have frequently set the political agenda under both Wałęsa and Kwaśniewski. In contrast to defence, this is an area in which the government has usually managed to outmanoeuvre the president.

The president's powers of appointment to vital and controversial institutions such as the National Bank of Poland and the National Broadcasting Council (KRRiTV) have sometimes enabled him to resist the government's plans in these areas and to bargain with the government for other policy changes (Jasiewicz 1997, pp. 151-152; Wiatr et al. 2003, p. 93; Wołek 2004, pp. 144-148). The prime minister's powers of (non-

ministerial) appointment are political rather than constitutional. Party leaders like Miller have been able to make huge numbers of appointments throughout the state apparatus and the economy (Przasnyski 2002). When the party leader of the chief governing party has stayed outside of government, they have tended to retain control of appointments that are formally made by the government or by ministries.

The Polish executive as a whole is a relatively weak legislator for a regime where the government is responsible to parliament. The government has weak powers to protect its legislation from parliamentary amendment, and to prevent the passing of bills by parliament that contradict government policy. Within the government, the cabinet and the chancellery of the government, centred on the prime minister, have an extremely limited capacity to control, never mind direct, the legislative activities of ministries. This is in spite of the frequent use of the urgent procedure. The Sejm never granted the decree power envisaged by the Little Constitution. The president's involvement in legislation has been marginal (Goetz and Zubek 2005). However, he has been able to successfully veto important bills on a handful of occasions in every parliament. The veto was at its most effective when Kwaśniewski cohabited with the weak Buzek government from 1997 to 2001. In this parliament, 17 out of 24 vetoes were successful (Balicki 2001, pp. 144-146; Goetz and Zubek 2005, p. 40) and several of these were on vitally important issues.

Effects of the system

There is a number of putative advantages and disadvantages of semi-presidentialism. Advantages include the ability to provide checks and balances within the executive and for the president to provide substitute executive authority between governments

and when governments are very weak. The weakening of the party system, policy deadlock and delegitimation are the principal disadvantages. In this section, I will concentrate on delegitimation as this is the most relevant to democratic consolidation.

Delegitimation is caused by intra-executive conflict. Intra-executive conflict is always possible in semi-presidentialism. As Linz and Stepan point out, it is especially likely when the president is not the leader of a parliamentary majority; when the prime minister is not supported by a majority; when the constitutional text is vague; and when there is no established constitutional practice (Linz and Stepan 1996, pp. 278-280). To this I add when the president has a hyperpolitical conception of his office. All of these conditions pertained from December 1990 to October 1993. Arguably, not all of them were removed until the beginning of the Miller government in 2001, at which point, the president's party was in government with a majority under a only moderately vague constitution with over one parliamentary term's constitutional practice.

The tendency to question the legitimacy of other groups is a tendency of the Polish right-wing: the left were and would always be "communists" and, for some rightists, the centre's initial insistence that a "thick line" be drawn between the present and the communist past placed a question mark over their legitimacy. Wałęsa's hyperpolitical attitude was partly an expression of this right-wing tendency, even though a major reason for his conflict with the Olszewski government was its more extreme anti-communist stance. Wałęsa tended to question the legitimacy of any political forces that disagreed with him, left, right or centre. The conditions of Polish semi-

presidentialism tended to facilitate this right-wing tendency to delegitimise, as there was a right-wing representation in the presidency or the government from 1990 to 1995.

The left has frequently revelled in demonstrating its democratic credentials and political maturity by maintaining a largely dignified stance in response to right-wing attacks on their right to participate in politics and to rule. Thus, from 1993, the left did not conduct aggressive attacks on the legitimacy of the president because of his political opinions or background. When cohabitation returned in 1997, the centre-right coalition that cohabited with Kwaśniewski, did not suggest that the popular president, or his narrowly defeated political party, was straightforwardly illegitimate. Nonetheless, the right-wing Solidarity Electoral Action had campaigned on the need for a more decisive break with the communist past. A similar emphasis reappeared in the campaign of Law and Justice in 2005.

Related to the right-wing belief in the illegitimacy of its enemies has been a reluctance to acknowledge the legitimacy of institutions controlled by those enemies or constraining right-wing politicians (Śpiwak 1997, p. 90). Again, President Wałęsa was an extreme case: “[His] chief legal advisor ... compared himself to a sergeant in the army, who always followed the orders of his commander-in-chief. In other words, his philosophy was ‘every decision of the president may be justified legally’” (Jasiewicz 1997, p. 155). Related to the reluctance to acknowledge existing institutions was a preference for substantial constitutional revisions. This lack of certainty undermined the legitimacy of institutions, even among actors who did not share Wałęsa’s instrumental attitude to the law. Notably, some on the left argued for

the abolition of the elected presidency until a relatively late date. Again, the election of Kwaśniewski reduced this type of conflict. The 1997 Constitution was fiercely contested by the right, which in its mainstream form had no parliamentary representation during the drafting process. However, the main conflicts in advance of the Constitution's finalisation were about its symbolic elements rather than its fundamental political institutional architecture (Sanford 2002, pp. 90-91). While the currently governing Law and Justice party favours a more presidential regime, all major blocs have in practice accepted the Constitution's overall balance between president, government and Sejm. There is little prospect any proposal achieving a two-thirds majority of a joint sitting of the Sejm and Senate necessary for constitutional change (Majda 2006).

Amongst the political elite, the questioning of the legitimacy of actors and institutions did not extend to the questioning of democracy, defined as the choice of society's principal decision-makers through free and fair elections under universal suffrage. No substantial anti-democratic force has existed in post-communist Poland. Neither has there been a debate about the replacement of democracy, even with some sort of hybrid of authoritarianism and democracy. To be sure, there have been calls for "strong leadership". Wałęsa proudly compared himself to Marshal Piłsudski, who led Poland to independence in 1918, but then staged a coup against a fragmented and ineffective parliament in 1926. Nonetheless, Wałęsa never contemplated the replacement of elections with some other method of choosing leaders. Rather, he, and some others on the right, misunderstood, or refused to acknowledge, that democracy is a set of procedures that depends upon the rule of law.

The president's special responsibility for defence provided a particularly dangerous arena for the delegitimisation of actors, institutions and democracy itself amongst political elites. Doubts about the legitimacy of other actors were especially powerful with regard to national security. This was the central issue in the clash between Olszewski's defence minister Parys, who wanted to purge the army of communists, and Wałęsa, who tended to accept that the military was loyal to the new regime. This and other conflicts over the military were among the most spectacular examples of mutual delegitimisation by the central institutions of democracy. The conflict over the military also escalated to a point where it began to threaten the democratic consensus itself. At the notorious Drawsko lunch in 1994, President Wałęsa asked generals to vote on whether "the civilian leadership of the Ministry of Defence should be recalled?" (Herspring 2000, p. 92). This episode is the closest Poland got to a coup and was a direct result of intra-executive conflict.

There is good evidence that politicians' attempts to delegitimise each other and the institutions they operated had an impact on public opinion. Like their elite counterparts, survey respondents who identify themselves as right-wing have denied the legitimacy of their political opponents by supporting "lustration" and "decommunisation" policies (Szawiel 1999, p. 125; Szczerbiak 2002, pp. 559-561). This hostility has continued into the contemporary period. Comparative data shows, that at least in terms of right-left self-placement Poland a highly polarised polity, even more polarised than some Western European systems in the era of powerful communist parties (Szawiel 1999, pp. 131-132).

It seems likely that intra-executive conflict has contributed directly to the popular delegitimisation of institutions. The early period of semi-presidentialism brought about a plunge in popular approval of parliament, the government and the presidency (Linz and Stepan 1996, p. 284). Trust in government and the president in Poland was much lower than other East-Central European countries, in spite of a much higher approval of the economic system amongst Poles (Linz and Stepan 1996, p. 286). However, there was huge increase in trust in the presidency under Kwaśniewski (Plasser, Ulram, and Waldrauch 1998, pp. 116-117). It is difficult to disentangle Linz and Stepan's conditions for semi-presidential stability and the new president's undoubted political talents as explanations for this increase. In most polls, respondents were invited to give credit directly to Kwaśniewski himself (Centrum Badania Opinii Społecznej 2005; Cybulska et al. 2000, pp. 68-69). Government and parliament have never recovered their public prestige as the presidency has done, but some sources register an improvement since the establishment of the first majority government in late 1993 (Cybulska et al. 2000; Plasser, Ulram, and Waldrauch 1998, pp. 116-117). Moreover, since that date governments, and prime ministers, have had a substantial honeymoon period during which they have enjoyed the widespread public support (Cybulska et al. 2000, p. 70), although from an initially seemingly strong position the right-wing-led government of Buzek (1997 to 2001) and the left-wing-led government of Miller (2001 to 2004) have ended up as more unpopular than the highly fragmented governments of 1991 to 1993. The lack of trust in Polish institutions is no longer exceptional in a regional context, as other countries have descended to Poland's level (Plasser, Ulram, and Waldrauch 1998, pp. 116-117).

The early period of semi-presidentialism coincided with a decrease in support for democracy. In 1991, the number of those with a “negative assessment” of the political situation climbed permanently above those with a “positive assessment”. However, from 1996 to 1999, the dominant perception was that the situation is “neither good, nor bad” (Sęk 2000, p. 43). Also, from 1991 there was a rarely any but the slimmest majority for those who think that the political situation will improve over those who think it will worsen (Sęk 2000, p. 44). In the early semi-presidential period, Polish people were less likely to reject undemocratic alternatives than were their counterparts in the region and in other new democracies (Linz and Stepan 1996, pp. 284-286; Plasser, Ulram, and Waldrauch 1998, pp. 109-110). However, there has been a noticeable, but neither huge nor steady, reduction in such undemocratic opinions in the years since majority government was first established (Wiatr et al. 2003, pp. 274-276). By 1999, the European Values Survey indicated that Polish support for democracy was not substantially different from that in Western Europe (Wiatr et al. 2003, p. 284).

Semi-presidentialism and other factors

The pact transition in Poland is often blamed for general difficulties in democratic consolidation (Linz and Stepan 1996). It is also possible to minimise the independent effect of semi-presidentialism by dismissing it as an element of the pact transition. However, semi-presidentialism was an effect of an unnecessary transformation of the dual executive of the Roundtable agreement. Had the timing of Wałęsa’s bid for the presidency been slightly different he might have opted for his original plan for parliamentary election, or the idea of popular election could have been blocked by liberal and post-communist elements who favoured parliamentarism. The pact itself

was no longer directly relevant once both presidency and parliament had been freely elected. Semi-presidentialism was perhaps at its most damaging when Wałęsa faced the Olszewski government. Although Round Table agreement established a dual executive, Polish semi-presidentialism cannot be dismissed as an epiphenomenon of the pacted transition.

Obviously, a plethora of factors have affected Polish democratisation. A key factor in Polish democratisation has been elite consensus on the profoundly interlinked issues of democracy, the market economy and international relations. I will concentrate on elite consensus, because of its general importance, but also because of its relevance to the delegitimising effects of semi-presidentialism. To a great extent, this consensus developed in a complex interrelationship with the idiosyncratic nature of party-state-society relations in Poland. However, it was finally established by the Round Table agreement. The Round Table was based on the communist leadership's acceptance that some measure of democratisation was necessary to push through solutions to Poland's protracted and worsening economic crisis. In preparation for the Round Table, Jaruzelski and the leadership had won a major victory over the more conservative apparatus. The Solidarity opposition accepted that democratisation would be limited in the short-term because the communist apparatus could not be completely ignored and Poland's international situation as part of the Soviet bloc. The unexpected results of the Polish election and its aftermath played a key role in the collapse of communism regionally, and the virtual disappearance of a Soviet constraint on the political and economic structures of Poland. The electorate's comprehensive rejection of communist leaders further strengthened the younger reformists, who were committed to full democratic, market and Western-oriented

policies (Grzymała-Busse 2002). The election and the regional changes also facilitated a radical economic programme of “shock therapy”, which not only gained vital support from the West but also played a role in making Poland economically dependent on the West. The economic programme was so rapid and comprehensive in many spheres, that it largely prevented the emergence of a powerful quasi-capitalist class with an interest in stalling economic reform at a permanently transitional phase, a policy that in some of Poland’s neighbours required ambivalence about political democracy and pro-Western international relations (Hellman 1998; Vachudova 2005). The West preferred democratic regimes in Central and Eastern Europe. A relatively consolidated democracy was a condition for accession to the European Union. Therefore, by the time semi-presidentialism began to operate in Poland, an important element of democratic consolidation had already been achieved: for Poland’s elites, democracy was the only “game in town”. There was virtually no discussion, never mind agitation for, any alternative. Moreover, this consensus was buttressed by somewhat weaker agreement amongst the vast majority of the elite on the market economy and a Westward shift in international relations. Ironically, the dual executive was a key part of the deal that established this consensus.

This consensus meant that semi-presidential institutions were never consciously used to undermine democracy. The substantial consensus about economics and foreign affairs limited the amount of conflict over these questions, and the resulting relative consistency in policy improved the economic and diplomatic performance of the regime, during a period when the regime’s legitimacy was quite sensitive to its performance. From virtually the beginning, Poland’s new democracy was consolidated in the sense that for elites “democracy was the only game in town”. It

was not consolidated in the sense of an overwhelming consensus on the actual institutions of democracy until much later. Regardless, of the consensus on democracy itself, semi-presidentialism created incentives for conflict about basic issues of institutional design. This concrete element of democratic consolidation was arguably not achieved until a full parliamentary term had run under the 1997 Constitution. By general European standards, political rhetoric in Poland is particularly bitter, and procedural manoeuvres particularly aggressive. Most Poles wearily dismiss this behaviour as the nature of the “political game” and although it reflects party political polarisation, it probably does not indicate that Polish politicians have not accepted the basic constitutional settlement.

Popular attitudes to the democratic system as a whole did not converge with those in consolidated democracies until approximately the same date. Popular attitudes to the institutions of democracy have still not converged, with the exception of the presidency (and this might be an effect of the extraordinary popularity of Kwaśniewski). This comparatively negative popular attitude to political institutions is a general feature of post-communist democracy (Gerskovits 1998; Rose, Mishler, and Haerpfer 1998), even though Poland is usually shown to be an outlier in terms of its particularly negative attitude to parties.

Conclusion

Semi-presidentialism in Poland interacted with the constitutional and party system as well as the personality of the president. In the early, and most crucial years, of Polish democratisation, none of these conditions was supportive of stable semi-presidentialism. In more recent, and less crucial, years, most of the conditions of

stable semi-presidentialism have been present. In the early years, semi-presidentialism generated damaging conflicting legitimacies, while in later years it has played a relatively positive role. Overall, the main effect of semi-presidentialism seems to have been to delay democratic consolidation, in terms of agreement on concrete institutions, by several years. It may also have had a lasting negative effect on the quality of Polish democracy, but this is more difficult to gauge. A firm elite consensus on democracy, together with a supportive consensus on economics and international relations, prevented semi-presidential conflict from seriously threatening the democratic system.

Nonetheless, it is not too difficult to suggest a counterfactual in which semi-presidential conflict would have provided a much sterner test of the democratic consensus. Ironically, the grossly disproportional election of 1993 facilitated a short and long-term stabilisation of Polish politics. In the short-term, there was a freely elected majority government for the first time. In the longer-term, there was a “constitutional coalition” with a sufficiently large number of seats, and sufficiently few parties, to write a constitution that would eliminate many of the institutional causes of conflict. In the quite likely scenario that slightly lower electoral thresholds had been adopted, or that right-wing parties had reacted a little more presciently to the incentives presented by the new system, the new parliament could have looked much more like its predecessor. Another few years of political chaos could have eroded the democratic consensus. Moreover, at this time, the economy was only beginning to stabilise and the European Union had not yet begun to exert active leverage on the political systems of East and Central Europe. However, as it was, Poland consolidated democracy in spite of semi-presidentialism.

Table 1:
Constitutional Powers of Polish Presidents according to Shugart and Carey's Scheme

	Amended 1952 Constitution	Little Constitution (1992)	1997 Constitution
Legislative Powers			
Package Veto	Veto with 2/3 majority override (2)	Veto with 2/3 majority override (2)	Veto with 3/5 majority override (1)
Partial Veto	None (0)	None (0)	None (0)
Decree powers	Outside of parliamentary session (but parliament was permanently in session) (2)	None (0)	None (0)
Budgetary powers	None (0)	None (0)	None (0)
Reserved Policy Areas	None (0)	None (0)	None (0)
Proposal of Referenda	No (0)	With approval of absolute majority of Senate (2)	With approval of absolute majority of Senate (2)
Non-Legislative Powers			
Cabinet formation	President nominates prime minister; prime minister must consult president prior to nomination of ministers; cabinet subject to assembly investiture (2?)	President has first right to nominate premier; prime minister must consult prior to nomination of ministers of foreign affairs, defence and the interior; assembly can nominate its own candidate premier; cabinet subject to assembly investiture (2?)	President has first right to nominate premier; assembly can nominate its own candidate premier; cabinet subject to assembly investiture (1)
Cabinet dismissal	Can propose dismissal of prime minister to assembly (2)	No powers (0)	No powers (0)
Censure	Unrestricted censure (0)	President can respond to non-constructive censure by dissolving assembly; cabinet must resign if Sejm refuses to sign off on government's accounts (2)	"Constructive" vote of no-confidence (1)
Dissolution of Assembly	Restricted: only if budget, socio-economic programme or government are not approved in the requisite period or if the Sejm passes motion preventing the president from carrying out his responsibilities regarding the sovereignty and security of the state and its international obligations (1)	Restricted: only if budget or government are not approved in the requisite period (1)	Restricted: only if budget or government are not approved in the requisite period (1)
Total	9/40	9/40	6/40

Table 2:

Presidents and Prime Ministers

Dates	President	Prime Minister	Parties in government	Relationship of government to president	Relationship of government to Sejm
Jan. 1991- Nov. 1991	Lech Wałęsa (Solidarity, non-party): politically hyperactive conception of presidency	Jan Krzysztof Bielecki (KLD)	KLD, PC, ZChN,	Presidential	Minority (but Sejm illegitimate)
Dec. 1991-June 1992		Jan Olszewski (PC)	PC, ZChN, PL	Cohabitation	Minority
June-July 1992		Waldemar Pawlak (PSL)	NA	Cohabitation	Government never approved by Sejm
July 1992- Oct. 1993		Hanna Suchocka (UD)	UD, KLD, ZChN, PChD, SLCh, PPG, PL	Cohabitation	Minority
Nov. 1993-June 1995		Waldemar Pawlak (PSL)	SLD, PSL	Cohabitation	Majority
June-Dec. 1995		Józef Oleksy (SLD)	SLD, PSL	Cohabitation	Majority
Nov.-Dec. 1995	Aleksander Kwaśniewski (SLD, non-party): strategic conception of presidency	Józef Oleksy (SLD)	SLD, PSL	Presidential	Majority
Jan. 1996- Sept. 1997		Włodzimierz Cimoszewicz (SLD)	SLD, PSL	Presidential	Majority
Oct. 1997- June 2000		Jerzy Buzek (AWS)	AWS, UW	Cohabitation	Majority
July 2000- Sept. 2001		Jerzy Buzek (AWS)	AWS	Cohabitation	Minority
Oct. 2001- Feb. 2003		Leszek Miller (SLD)	SLD, PSL	Presidential	Majority
Mar. 2003-Apr. 2004		Leszek Miller (SLD)	SLD	Presidential	Minority
May 2004- June 2004		Marek Belka (SLD)	SLD	Presidential	Minority
July 2004- Oct 2005		Marek Belka (SLD)	SLD, SDPL	Presidential	Minority
November 2005 -	Lech Kaczyński (PiS): active conception of presidency?	Kazimierz Marcinkiewicz (PiS)	PiS	Presidential	Minority

KLD – Liberal Democratic Congress; PC – Centre Alliance; ZChN – Christian National Union; PL – Peasant Alliance; UD- Democratic Union; PChD – Party of Christian Democrats; SLCh – Christian-Peasant Party; PPG – Polish Economic Programme; SLD – Democratic Left Alliance; PSL – Polish Peasant Party; AWS – Solidarity Electoral Action; UW – Freedom Union; SDPL – Polish Social Democracy; PiS – Law and Justice

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