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How to protect new democracies against their erosion

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Since the beginning of 1974 about 90 worldwide countries have been travelling from tyranny to democracy. The optimistic is that nearly 1 billion and 400 million people have been liberated. The pessimistic, that only 27 percent of those countries successfully consolidated their democracies. This essay is considering why as much as 73 percent of attempts are not consolidated with the success.

The article made the attempt to show and then sum up almost forty years experiences in consolidating new democracies in: Latin America, Central and Eastern Europe, and Central Asia in order, first, to show why they are hybrid and not consolidated and, second, to advance hypothesis about the most optimal institutional, especially constitutional, engineering in fledgling democracies.

Keywords: new democracy, autocracy, democratic transition, democratic consolidation, erosion of democracy, presidentialism, superpresidentialism, semipresidentialism, parliamentarism, westminsterian parliamentarism, short-time winner, short-time losers.

Introduction

Since 1974, when general Ernesto Geisel gave up the Brazilian junta and shortly after dictatorships collapsed in Portugal and Greece, about 90 worldwide countries have been on a journey from tyranny to the political harbor known as democracy. Both great optimism and substantial pessimism have grown

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from these journeys. The obvious positive is that nearly fourteen hundred million people have been liberated from tyranny and now have legitimate influence over their own states and societies. The negative is that only 27 percent of those countries successfully consolidated their democracies. The majority of countries are stuck somewhere between autocracy and democracy. In these various hybrid regimes, the formal institutions are all, to some extent, democratic but the practice is not. Because of their weakness and discretion, these institutions are permanently abused and manipulated, unfortunately, primarily by incumbents democratically elected to govern. Very often it was the unavoidable autocratic heritage which influenced either the designing of the democratic institutions or their every day practice. For several years, I have been considering why as much as 73 percent of attempts of democratization are not consolidated with the complete success. At the present time is very important also what kind of experiences we – coming from little older new democracies – can share with our younger friends, for instance, in: Tunisia, Egypt, Libya or Burma (Myanmar).

This article attempts to summarize almost forty years of experience in consolidating new democracies in Latin America, Central and Eastern Europe and Central Asia. Its goal is first, to show why they are hybrid and not consolidated and, second, to advance the hypothesis about the most optimal institutional and, more importantly, constitutional designs in fledgling democracies.

The basic hypothesis is as follows: free and equal human beings, in a situation where the dictatorship has been overthrown, should build strongly balanced and well de-concentrated democratic regimes for themselves. The some kind of *semipresidential* model is supposed to be optimal formula. Namely, this one shaped in presidential scenery but within parliamentary logic. This combination occurs when a popularly elected president never tries to take part in the every day governing of the state. And this last entirely belongs to government which is exclusively accountable to parliament. Leaving other less important things aside, so called *premier-presidential* seems to be most proper for new democracies.¹ The question is, of course, why exactly this model can be in new democracies postulated?

First, because of too frequent the *separation of powers* principle breakings. And this is just *semipresidentialism* which can bring back this fundamental rule to the political regimes. This exactly happens when a head of state has enough strong veto power to be overruled necessary by qualified

number of deputies' votes larger than governing majority in parliament. This is real achievement of *semipresidentialism* because this weak point of *parliamentarism* is overcome here. Government (and its majority) no longer possesses legislative power which is handed back over to parliament.

Interestingly, *semipresidentialism* can also help to overcome the second danger of a young democracy, the “executive dominance” syndrome. Specifically, I call this an “organizational dominance” over the game of appointment-dismissal. Because in this regime, the democratic practice is to share this kind of power between two branches of executive power: president and separated government.

Now I will focus on what can tell us some worldwide transitional experiences and why there are so many unconsolidated democracies. Only several, but mutually connected, aspects will be considered here.

Democracy as the *By Product* for Winners

Montesquieu, unfortunately, in his “*De l’esprit des lois*” was only partly correct when he wrote that everyone who has the power is prone to abuse it. He did not say that everyone is prone to abuse power before they have it. During the transactional process to establish state power, the transactional positions coming from *ancien régime* were used: chairmen of post-communist supreme councils, politicians appointed by military juntas, “coup d’état” winners, and the last, but not least: winners of first democratic elections. It appeared that democratization can be only *by product*² of transactional games of power achieved in order to impose the power of one onto others. That such a process brought about the erosion of democracy from the very beginning. While only consensually polarized and representative, pro-democratic then subordinated to *rule of law* regime social elites, gave the chance to consolidate democracies. It was competitiveness which counteracted to discretionary law giving keeping the risk that such law can be used by opposition in their own political purposes after taking over the power. This usually happened when incumbents were under permanent threat to lose the coming elections.

There is no doubt that democratic transitions are burdened by autocratic heritage. The prognosis is usually better when a state has had historical experiences with democracy in the past. Unfortunately, the autocratic heritage is strengthened when the “winner-take-all” and “zero sum game” mentality is grounded

in social routine. This means that people are not prone to negotiate and compromise. It is not surprising that among post-communist societies in 1990s, about 57 percent of the population held in high regard their *ancien règimes* and 38 percent supported strong rulers.³ In Latin America, to the same extent, people were poisoned by so called *caudillismo* tradition. There is enough serious danger that *welfare state* authoritarianism would be accepted.

We have a substantial problem with understanding the public opinion scrutiny related to supporting democracy in new democracies. People too often have a vague concept. It is difficult to discern between supporting democracy in theory and in practice. For example, only a few mention *checks and balances* as important for democracy. However, every day practice seems to be more decisive. When people were convinced that politicians were corrupt, only 22 percent supported their democracies; when there were not such negative opinions, as much as 68 percent supported their democracies.⁴ The level of satisfaction with the present government is the dominating factor.

The erosion of democracies occurred in two areas: in *horizontal* and *vertical* accountability. Electoral laws were often dishonest and unfair. In Latvia and Estonia, Russian speaking people who were borne after World War II were excluded from voting for a few years. In Kyrgyzstan, president Askar Akayev diminished the membership of parliament by 70 percent in order to minimize the oppositional clans' chances. As a result, the Uzbek population got three times less MPs than earlier. In 2003 the proportional electoral law was completely suspended. The *winner-take-all* philosophy clearly won.

The excessive concentration of executive power became the phenomenon of young democracies in last forty years of democratic transitions. Basing on some econometric models (for instance Witold Henisz models) it achieved the level of 64 percent in Latin America, 77 percent in post-communist countries and even 87 percent in sub-Saharan Africa.⁵ An analysis of presidential power throughout the world showed that Latin American presidents have two (and in legislative power even three) times more power than US and Finish heads of state, and five times more than the president of France. In turn, South American presidents became two times (and three times in legislative power) outdistanced by Central Asian executives. This clearly means that a dominant executive power that is proactive in legislative processes, can be recognized as a basic reason for the erosion of young democracies. Executive dominance which was very often caused by dominant or hegemonic party syndrome. But the important

question arises: what would cause such an accumulation of power in executive branches? In the area of post-communist states, *prima facie* evidence suggests that the high concentration of short-term benefits and dispersion of short-term costs of economic reforms in larger part of these societies are the main cause of accumulation of executive power. This occurred in situations where reform was partial and inconsistent. A significant correlation was found between the freezing of reform and an increase in the Gini Index (illustrating the growth of income disparities in the society), a weak or absent party system, and a high concentration of executive power, mainly in the office of president. However, a causal relationship between the presidential system and the increase in the Gini Index has not been confirmed. But evidence of the opposite is there. In a situation of rapid, short-term income inequalities, the beneficiaries of reform could freeze them, investing politically not in parties, but in a strong executive power (in terms of its stability and control over the legislative agenda), which would protect their interests, by isolating the power from the claims of short-term losers. One of the researchers (Joel Hellman) proposed an even bolder hypothesis that the cause of excessive concentration of the executive power originates not from the desire to isolate power from political losers but from the elite's expectation that their own short-term benefits are secure and will become permanent.⁶ In large part of young democracies, the sharp rises in the Gini Index, the significant concentration of executive power and oligarchy have become facts.

Thus, the premises of justice of the “well ordered society”⁷ in young democracies and the phenomenon of partial economic reform demonstrate the potential role for the “short-term losers” to participate in the reform processes. As can be justified on the grounds of political economy, the democratically elected government is guided by its own interests, which are mainly based on re-election, maintaining power, and indirectly keeping the social peace⁸. Therefore, it is likely that these governing politicians will try to satisfy only the “winners”, by maintaining social calm and guaranteeing re-election, to the detriment of other communities. So, if the losers are not a threat to the processes of reform but short-time beneficiaries, who may soon create a flawed (reduced significantly) middle class, and all of this together result in the dominance of the executive and, in turn, the erosion of democracy; thus, we have a ready-made conclusion to the constitutional design. It would be very important, also with respect to the *rule of law*, to admit the losers to the transactional decision-making process within a pluralistic

organization of power. This was more successfully demonstrated by a significant correlation between the positive result of market reforms (eg. privatization), a coalition style of governance (Hellman) and, more generally, a greater number of opponents with different opinions involved (Gehlbach, Henisz, Malesky, Metelska-Szaniawska)⁹. I also hope that it can be shown that no justice paradigm really correlates with the domination of the executive power, with its concentration, duration nor its excessive control over the legislative process.

The Winners of Transition Should Be as Well Pro-democratic as Divided

Some historical experiences may suggest that the most effective transitions took place where there was a definite advantage of pro-democratic elites and especially if they were consensually polarized and divided. That is because it is impossible to dictate a well-balanced democracy by one dominant political camp, even if it is an expressly pro-democratic camp like the Polish “Solidarność” Movement was in 1990s. In Poland, the first good semipresidential constitution was established in 1992 under the conditions of opposition within the former "Solidarność." There was sharp competition between supporters of President Lech Walesa and former Prime Minister Tadeusz Mazowiecki. Additionally, during the process of constitutional designing, there was rivalry among the state institutions as such: the office of the president and the two chambers of parliament. Previously, as a result of a complete political marginalization of former communists, Poland was threatened to be under the domination of the "Solidarność." Only a few people understood the essence of democracy based on competitiveness and, thus, the capability of a peaceful transfer of power in the hands of the opposition. Although at that time we felt disappointed with political divisions and the prospect of losing government, from today's point of view it is clear that a constitution based on the *ancien régime* – only few amended before 1992 - would make of Walesa and "Solidarność" a political hegemony for many years. Yet, the level of consolidation of democracy is often estimated at least after the first and more often after the second successful rotation of power.

Poland is a specific European example but we can find another geographically and culturally remote case in Mongolia. Theoretically they should never have succeeded. The country is three times larger than France with only 2.6 million people, half of which lived in the capital. During the communist past, it was completely dependent on Moscow. So, in 1990 the future perspective seemed to be similar to the past. In the transitional period, Mongolia was decisively poor with only 500 USD GNP *per capita*. Despite those facts, the Mongolians built, in 1992, a relatively good semipresidential democracy with a strong parliament and a socially mandated president with veto power. How did they become so historically advantaged? The answer, of course, is not so simple. Yet two arguments can be developed here. First of all, the Mongolians' transitional elites were exactly consensually divided into three fractions: two post-communist and one liberal.¹⁰ The coalitional government was their response to street manifestations in 1990, not shooting. Secondly, the process of constitutional designing uncovered a serious fear of overwhelming executive power coming from the past. Additionally, they could fall under the political dominance of Russia or China. In short, we can say that the Mongolians paved the way for a transition with sharp but consensual divisions and a strong aversion to a dominant executive branch.

Unfortunately, there is a well known global problem called the "rotten door" transition (as opposed a "hard door")¹¹, when the ruling elites of *ancien regime* have achieved, during the dictatorship, such a severe level of "rot" that upon the turnover the power they cannot create valuable opposition, but rather spread into many other political parties or complete exit from politics. The key concept is that new post-revolutionary camps, if united, almost always try to write a constitution and other fundamental rights "for themselves" to gain easy re-election or to maintain the government for longer. To these ends, they also issue laws that either explicitly authorize their discretion or are difficult to interpret because of their vagueness. They forget that, in democracy, they actually handover the government to the opposition. During the 1990s, there were the so-called "non cooperative" transitions in some sub-Saharan Africa states and also in Europe: in Romania, Serbia and Croatia. Of course, the building of democracy is also prevented by too large and too dominant an influence on the process of transition of elites ruling under a dictatorship. Brazil experienced this after coming directly out of a military junta. And in Chile, General Pinochet had secured in the constitution (through the configuration of the second chamber of parliament)

'enclaves' which gave him an autocratic influence over the decisions of the state (including the budget of the army) and his own impunity for years. Burma is the next perfect example of the threats coming from transitions “from the top”.¹²

The Executive Dominance: the *Separation of Powers* Abused

There is also another crucial issue, from the young democracies point of view, that decisively lessened their quality as democracies as it resulted in “executive dominance” syndromes¹³. The executive dominance appeared in Latin America, Eastern Europe and Central Asia. It became the obvious enemy of so called *horizontal* and *vertical* accountability of powers mechanisms. There are three contexts of dominance related to the different tools of power concentration:

- 1) Too long duration in power of one political option: in presidential systems as a result of rigid term and/or unrestricted re-elections, and in the parliamentary systems as a result of the syndrome of dominant party rule,
- 2) The proactive appointment - dismissal power to enable a decisive influence on the appointment and / or dismissal of the bodies belonging to the system of *checks and balances*¹⁴,
- 3) The proactive legislative power conferred by law to issue decrees or unilateral announcement of referenda (presidents) or the syndrome of dominant parties (governments). In the case of the presidential system, this clearly breaks the "separation of branches" mechanism and serves to bypass "disobedient" parliaments, thus depreciating them in their legislative competence. In parliamentary systems, which in principle violate "separation of powers", they have to also break, in light of the dominant party, the "separation of purposes", in other words, the pluralism of political options (parties). And this gave rise to further deviations (for example in Anglophone sub-Saharan Africa). If elected by universal suffrage, presidents became the prime ministers,

but without the parliamentary control, thus breaking the parliamentary system entirely.

At the same time, as was typical for the parliamentary system, they usually used the lack of *incompatibilitas*, then employed in governments (much better paid); thus, many MP's were needed to achieve dominance in parliament.¹⁵

All those deviations consisted of exclusion from legislative processes particular *veto-actors* and *veto-players*¹⁶ which, in turn, served to increase the intensity of clientelism, neo-patrimonialism, state capture and its exploitation for the strict political purposes of incumbents. The independence of the judiciary branch was often also abused in order to reduce the transactional costs of political procedures.

The Dominant Party Syndrome: the *Separation of Purposes* Destroyed

The blame for democratic erosion lands squarely on the constitutional law, which not only builds the legislative and organizational dominance of the executive power but also possibly opens up opportunities for such a exploitation. This violates the principle of *separation of powers* among the legislative, executive and judicial branches, thus highlighting a process that can be extremely detrimental to young democracies. This process limits the plurality of options to the dominant party system, which would further speak against the *Westminsterian* model of reception.¹⁷ It was the fault of the constitutional law which, rather than encouraging the development of political pluralism (political parties), supported the personalization of electoral law (mainly in single member constituencies). Instead of program and organizational compactness of political parties, there was nonpartisanship, clientelism and, ultimately, domination or hegemony. This breaking of political pluralism and subsequent “separation of purposes” can be considered as the second cause of the democratic erosion, after the legislative dominance of the executive branch. Finally, because of the well established culture of *winner – take - all*, there was a clear lack of respect for the *rule of law*, mainly among the elected politicians. This is a practice related to the so-called “delegative” or illiberal democracy.

Lethal (Super)presidentialism and *Westminsterian* Parliamentarism

It is quite interesting that a presidential system (other than the United States'), a British parliamentary model (other than Great Britain) and a chancellor rule (other than Germany), became the major causes of crises in the young democracies of the world, as first seen in the countries of South America, Eastern Europe and Central Asia, and later seen in Central Europe (eg Hungary) and the Anglophone part of sub-Saharan Africa. Today we know that the reason for these crises was excessive "executive dominance" (presidents or dominant party syndromes) affecting the *checks and balances* systems. This was often caused by a poor constitutional design or a distortion of classical models which mixed presidential and parliamentary regimes.

Thus, superpresidential or superchancellor regimes were formed, where the concentration of power in the hands of the executive went far beyond a resident of the White House or the chancellor of united Germany. Finally, an important question arises: why excessive dominance of the executive and all the associated problems described here do not affect the U.S., Great Britain and Germany. In all cases, the answer surely is a long democratic tradition, the tradition of the *rule of law*, etc. And again, the U.S. does not breach the "separation of powers." The presidency is a "persuasive" voice and not almighty. Congress sets the legislative agenda and the president does not even have the formal right to initiate legislature. Furthermore, after the midterm elections in parliament, it is very rare that the president's party even holds a majority in both houses of parliament, thus reducing the president's power even more. This means, of course, *cohabitation* and the appearance of *horizontal* veto-actors and *vertical* veto-players. England has no written constitution, so the standards of democracy cannot be changed by the majority in its favor. In Germany, in turn, there is the upper chamber of parliament, the Bundesrat, which is another strong veto-actor because it is recruited independently by local "lands" politicians.

To conclude, the most important factor which stimulated the excessive concentration of executive power appeared to be the lack of respect for the "separation of powers" rule, which as seen in

superpresidential regimes, came from presidents with proactive legislative power and, in turn, in parliamentary models, from lack of *incompatibilitas* and governments which became the agenda setters. The dominant party syndrome was also especially responsible for such a results.

The Remedy of Semipresidentialism?

Transactionality of the process of transformation in new democracies is justified, theoretically, by practical involvement of the short-term losers and goals of a polyarchy. On the other hand, excessive concentration of executive power threatens democratic consolidation. This suggests a paradigm shift in the constitutional design for the new democracies. Yet due to political practice in new democracies, the discourse on the two great models, presidential and parliamentary, seems to lose its importance, in favor of the more detailed arrangements of individual *veto-actors* and *veto-players* from the system of *checks and balances*. Both their large number and veto power defend against political hegemony and decide the fate of the losers, making politics more stable, representative, and conducive to economic reform, at least during the initial and very important period of transition.¹⁸

Because of the weakness of parliamentary opposition, which, of course, is usually in the minority, a new paradigm would include the standard coalitional governing. This is because the coalitional partner is the important partisan veto-player. The proposed paradigm, as I mentioned at the outset, suggests to design a semipresidential system within the constitution of young democracies. This encourages the possibility of departing from a “singular chain” of delegation and accountability of power and introducing the transactional game. In contrast to the New Institutional Economics, which refers negatively to transaction costs in economy, in politics, such costs are advantageous. They, along with the *veto-actors* and *veto-players*, stabilize and mitigate policy on both a macro and micro level. The constitutional design of *veto-actors* and *veto-players* gives value to a new, more flexible, democratic system, not the least because of different provenances of elites who are compromising or competing.

Now, it is necessary to reiterate the version of a semipresidential system, in which the president, in all cases does not participate in the current governing. He or she is not the head of government, has no decrees and no influence on the government: neither the right to dismiss it nor the right to convene its meetings. Why? Because, in both of these cases, the president will begin to dominate the executive or the governing will fall to disorder. This is dangerous because then the executive power goes beyond the control of parliament. For the safety of the young democracy, the president may be only the arbiter, having the right to bring cases before the Constitutional Tribunal, or the moderator, to help with the creation of the government.¹⁹

Detailed analysis also showed that in the optimal version of the semipresidential system, the head of state should not be proactive in legislative or appointment-dismissal activities. Thus, only the parliament should be responsible for the council of ministers. This minimum requirement must be met if the young democracy does not want to end up in anarchy or in the arms of some autocracy. In this theater, stage directions belong to the presidential system and the actors play within the logic of parliamentarism.

The head of state should only be reactive in the legislative process by having a relatively strong veto power. Because, in a parliamentary system, the executive branch breaks the principle of *separation of powers* when it becomes a setter of the legislative agenda. And, as occurred in young democracies, this phenomenon is conducive to democratic erosion. In summary, it is better to weaken the executive power (government) in its proactive approach while adding in the constitution the head of the state as a veto-actor.

Interestingly, the Central European democracies needed, on average, 11 years in order to achieve the current level of consolidation. Southern European democracies (Greece, Spain, Portugal) required 14 years and Latin American democracies as much as 26 years.²⁰ Poland, as an example, needed this much time largely due to the fact that work on revisions of the Constitution was focused on preventing the most dangerous agents of erosion of democracy which turn out to be:

- 1) disregard or complete breaking of the principle of *separation of powers* (by the legislative proactivity of the executive power, which included the right to self-decrees or to unilateral holding of the

referendum by the presidents of such regions and countries as Latin America, Central Asia, Belarus, Russia and Ukraine);

2) excessive dominance of the executive power (presidents in the presidential systems and governments in the parliamentary systems), often resulting in attempts to paralyze basic functions of the democracy as well as the *horizontal* and *vertical* mechanisms of *checks and balances*; this, in turn, resulting in the depreciation of the positions of parliament and the judiciary within the constitution;

3) admission to the "dominant party" syndrome, destroying the "separation of purposes" rule.

The answer to these common threats to the young democracies in Central and Eastern Europe that managed to build successful democracies, has become, essentially, a semipresidential system founded in the logic of parliamentarism. This system took hold in eight of eleven countries (the others being purely parliamentary regimes). Professional indexes of consolidation and quality of democracy (Bertelsmann Transformation Index, Nation in Transit, Freedom House) give the highest ratings to these semipresidential models: Slovenian, Polish and Slovak Republic (after 1998) and to these parliamentary republics: the Czech Republic and Estonia. In the world rankings of the top ten new democracies, the top half of the regimes are semipresidential (except Uruguay and Spain): Slovenia, Portugal, Poland and, a little bit later, Mongolia.²¹

Why is that? In my opinion, it is first because the semipresidential system has the most reasonable mechanism of balance of powers (*checks and balances*), which protects against the return of dictatorships, despite the appearance, here and there, of attempts at autocratic practices. Secondly, it is because of the proportional electoral system, which protects fair and honest elections as well as the distribution of political power among different social options. This is extremely important for young democracies, especially those with a high risk of dominant party syndrome, for example, Tunisia, Egypt or Libya who all have post-Islamic parties. Thirdly, with the exception of the Czech Republic, it was decided as soon as possible to have decentralization of power through general elections of local authorities (municipalities), securing them with independent budgets which create independence from their capitals. It is also

meaningful to remember that the erosion of democracy can proceed at the local level in similar or even identical manner as that of state.

The semipresidential model seems to depict the most well-developed mechanism of balance of power and accountability. It introduces to the transactional democratic "game" a super strong veto-actor, the president, coming straight from a general election. To be meaningful, however, a veto-actor must be equipped with a significant (ie. hard to overrule) veto power. Secondly, the election of the president should take place in the mid-parliamentary term so as not to influence the parliamentary majority. Thirdly, as was mentioned at the beginning, such semipresidentialism (with a president armed by strong veto) brings back to the parliament the position of the legislative agenda setter and "separation of powers" simultaneously.

Conclusions

The mere even introduction of the next agent of voters, the presidential veto-actor, somehow limits, in a young democracy, the threat of concentration of power. Simply because, among other things, it pluralizes the political leadership. Additionally, avoiding a proactive president's formula also minimizes the risk of erosion, as seen in the so-called superpresidential systems where the heads of state provoke wars with parliaments. Rather, in the semipresidential system, the policy of the state, according to the theory of veto players, becomes, in the long run, more stable and more representative. The introduction of the presidential veto-actor to the political system, be it in the semipresidential system or parliamentary system (for rigid terms), produces another important effect: a more consistent *separation of powers* in the decision-making (legislative) process. Without it, the executive based on governing majority becomes the agenda setter and controller and is, *de facto*, in the position of the legislature. This means that this proactive legislative power belongs, this time, to the governmental part of executive which further depreciates parliament. In that way, the dominant executive usually emerges. So, this is the phenomenon that, by definition, cannot be left out of the design of parliamentarism. But, it can be weakened by the adoption of the *incompatibilitas* principle, for example. However, to install a strong president with enough

legislative veto power such that it calls for a supermajority to exceed the governmental power, seems **to restore, in the parliamentary system, the principle of "separation of powers."** Up until now, we have allowed, of course, such a violation of this principle in these systems. But given the experience of new democracies, must we still reconcile with that?

In situations requiring decisiveness necessitating, for example, market reforms in new democracies, the institutional designing should be accompanied by an agreement among the strong legislative agenda setter (preferably the ruling majority in parliament) and the other veto-actors and partisan veto-players (coalition) as to the general directions of change.

And finally, one more note: **the president in the semipresidential model should be deprived of the tools to fight the parliament.** The government should be accountable only to parliament. The preferred system by the constitutional designers in a new democracies, therefore, may depict a *premier-presidential* model by Shugart and Carey. The appointment of government by the president cannot have too far-reaching freedom. It does not have to be so restrictively, as in Bulgaria, that the president is forced to designate the next prime minister of the winning party and afterwards successively. It cannot also be the case, as happened in 1998 in Mongolia, that the president was rejecting parliamentary candidates one by one. The solution in the Polish constitution, which seems to be the optimal formula, says that after rejecting a presidential proposal, parliament may nominate the government by itself. It is, of course, also possible to give the first move to parliament and then later on to the president.

Most of the generalizations and conclusions of the processes of democratic transition have been presented to the reader in the first part of this article. Here, we should remember that as much as 73 percent of the countries have not managed successfully to consolidate their democracies. This is due, in large part, to the errors of the institutional (constitutional) design, which opened up even the smallest opportunities to manipulate the institutions and move towards the erosion of democracy and the relapse into autocracies. Our new (and sometimes even old) democracies will always risk attracting politicians who are greedy for wealth and power until they realize that the respect for "democratic rule of law" can be also advantageous and favorable for them. Because, when they lose power, as a result of an election, no one will want to capture them or send them to international courts.

Due to the fact that the attacks on democracy are always a matter of attacks on the *horizontal* and *vertical* systems of balance of powers, both should be protected and properly developed, especially in young democracies. Guillermo O'Donnell has rightly pointed out that the **understanding of "democratic rule of law"**²² means also, and perhaps primarily, the protection of democracy as such.

NOTES

¹ It is on about, of course, regime, to the contrary, called first time by Matthew Soberg Shugart and John Carey *president-parliamentary* in: *Presidents and Assemblies. Constitutional Design and Electoral Dynamics*, (New York: Cambridge University Press, 1992).

² Remark gave by Anna Grzymala-Busse and Pauline Jones Luong, 'Reconceptualizing the State: Lessons from Post-Communism', *Politics and Society*, Vol. 30, No. 4 (2002), pp. 532, 547.

³³ See Bartłomiej Nowotarski, *Jak budować a jak burzyć demokracje. Studia nad konsolidacją nowych demokracji w XX i XXI wieku (How to Build and How to Destroy Democracies. The Study on Consolidation of New Democracies in the 20th and 21st Centuries)*, (Warszawa: Wydawnictwo Sejmowe, 2012), p. 233. The essay is mainly based on this book's conclusions.

⁴ See 'Parliamentary Ethics and Government Corruption: Playing with Public Trust', IDASA, Public Opinion Service Reports (2004), No. 3, pp. 12-13.

⁵ See Nowotarski, *Jak budować a jak burzyć demokracje*, pp. 146-150, 384-393.

⁶ Joel S. Hellman, 'Winners Take All: The Politics of Partial Reform in Postcommunist Transitions', *World Politics*, No. 50, (1998), pp. 203-234. What is meaningful Hellman partially developed his main thoughts into so-called "state capture economy" approach. See for example: Joel S. Hellman, David Kaufmann, 'Confronting the Challenge of State Capture in Transition Economies', *Finance and Development*, No. 38, (2001), pp. 1-8.

⁷ The concept comes from John Rawls, *A Theory of Justice*, (Cambridge, Massachusetts: Harvard University Press, 1972).

⁸ The conclusion made by Polish scientists Jerzy Hausner, Mirosława Marody, *Polski talk show: dialog społeczny a integracja europejska* (*Polish talk show: the social dialog and European integration*), (Kraków: Akademia Ekonomiczna 2001).

⁹ See Scott Gehlbach, Edmund J. Malesky, 'The Contribution of Veto Players to Economic Reform', *The Journal of Politics*, Vol. 72, No. 4 (2010), pp. 957-975; Witold J. Henisz, 'Constitutions and Economic Reform in Post-Communist Countries', *Economics and Politics*, Vol. 12., No. 1 (2000), pp. 1-31; Henisz, 'The Institutional Environment for Infrastructure Investment', *Industrial and Corporate Change*, Vol. 11, No. 2 (2002), pp. 355-389; Katarzyna Metelska-Szaniawska, *Konstytucyjne czynniki reform gospodarczych w krajach postsocjalistycznych* (*The constitutional factors of the economic reform in postsocialist countries*), (Warszawa: Wydawnictwo Uniwersytetu Warszawskiego 2008).

¹⁰ See more M. Steven Fish, 'Mongolia: Democracy without Prerequisites', *Journal of Democracy*, Vol. 9, No. 3 (1998), pp. 127-141. See also his 'The Inner Asian anomaly: Mongolia's democratization in comparative perspective', *Communist and Post- Communist Studies*, Vol. 34 (2001), pp. 323-338.

¹¹ Concepts are taken from Lucan A. Way, Steven Levitsky, 'Why 'Democratic Breakthroughs' often fail to create democracies: Modes of Transition and the Prospect for Democratic Change', in Steven Levitsky, Lucan A. Way, *Competitive Authoritarianism: International Linkage, Organizational Power and the Fate of Hybrid Rule*, Manuscript, also available at <http://www.sais-jhu.edu/academics/regional-studies/europe/conferences/countering-regression/pdf/lucan-way-background.pdf>

¹² See for example Min Zin, Brian Joseph, 'The Democrats' Opportunity', *Journal of Democracy*, Vol. 23, No. 4 (2012), pp. 104-120; Mary Callahan, 'The Generals Loosen Their Grip', *Journal of Democrac*, Vol. 23, No. 4 (2012), pp. 120-132.

¹³ About „executive dominance” syndrome see Arent Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, (New Haven: Yale University Press, 1999). But Lijphart takes into account only executive duration. In this book I add two other categories: “organizational” power (to appoint and dismiss other *checks and balances* organs) and “legislative power” (for example to issue unilaterally decrees or to hold referendum). To be developed later in text. In this last aspect of “dominance” I was inspired by George Tsebelis and his *Veto Players. How Political Institutions Work*, (New Jersey: Princeton University Press, 2002).

¹⁴ Clearly observed presently in Hungary since Fidesz government has been established. See Miklós Bánkuti, Gábor Halmai, Kim Lane Scheppele, 'Disabling the Constitution', *Journal of Democracy*, Vol. 23, No. 3 (2012), pp. 138-147.

¹⁵ Cases well described by Oda van Cranenburgh. See for example Oda van Cranenburgh, 'Big Man' Rule: Presidential Power, Regime Type and Democracy in 30 African Countries', *Democratization*, Vol. 15, No. 5 (2008), pp. 952-973.

¹⁶ According to division did by Tsebelis in my description: “*veto-actors*” are the state-institutional and “*veto-players*” are partisan ones.

¹⁷ See Oda Van Cranenburg outstanding works about countries of sub-Saharan Anglophone Africa, for example ‘Democracy promotion in Africa: the institutional context’, *Democratization*, Vol. 18, No. 2 (2011), pp. 443 -461.

¹⁸ See Gehlbach, Malesky, ‘The Role of Veto Players in Economic Reform’, Paper for presentation at Annual Meeting of the International Society for New Institutional Economics, June 2007, p.11, available at www.isnie.org/assets/files/papers/gehlbach.pdf. Also Metelska-Szaniawska, *Konstytucyjne czynniki reform gospodarczych w krajach postsocjalistycznych*, pp. 173-174, 208-274.

¹⁹ Hypothesis supported at the area of post-communist countries by Mikhail V. Beliaev, ‘Presidential Powers and Consolidation of Post-communist Democracies’, *Comparative Political Studies*, Vol. 39, No. 3 (2006), pp. 375-398.

²⁰ See for example Wolfgang Merkel, ‘Against All Theories: The Rapid Democratic Consolidation in Central and Eastern Europe’, available at http://www.fphil.uniba.sk./file/admin/user_upload/edit .

²¹ Merkel, ‘Against All Theories: The Rapid Democratic Consolidation in Central and Eastern Europe’.

²² The concept was described by Guillermo O’Donnell. See his ‘Why the Rule of Law Matters’, *Journal of Democracy*, Vol. 15, No. 4 (2004), pp. 32-47.