



Jasmine Foundation



dr Bartłomiej Nowotarski

THESES FOR CONSTITUTIONAL DEMOCRACY FOR NEW PROJECTS

(Based on the analysis of consolidation more than 80 young global democracies in the twentieth and twenty-first century)

Only 27% of countries, including those who had undergone a democratic transition since 1974, managed to consolidate their democracies. The remaining 73% could be called hybrid “autocratic-democratic.” The characteristic feature of political regimes was the excessive concentration of executive power at the expense of other contracting system “checks and balances” – the legislature in particular. This concentration has risen to 64% in the countries of South America, 77% in post-communists country and finally to 87% in the countries of sub-Saharan Africa.

Firstly it should be noted that the power comparison of presidential power in Latin America (Brazil, Paraguay, Colombia, Chile) shows that it is twice or even three times larger than Presidential power in the United States or five times larger than France.

Latin America, however, was overtaken by countries of Eastern Europe and Central Asia regarding presidential power related to appointments and resignations which proves to be more powerful in Latin America 25% . The Legislature, meanwhile, turned three times larger.

Thus, constitutions were not able to avoid the concentration of power are also judged as causes of unsuccessful consolidation. The dominance of the executive, dangerous for democratic consolidation, going through the following three phases:

- The executive level of proactive legislation
- The concentration of power is the result of the emergence of a hegemonic power
- Excessive proactive use the power of appointment and resignation by the executive.

I. The findings for the draft constitution of the Presidential and Parliamentary model

Theses can be used as bases for projects of political regime in the new democracies are:

1. The “J curve” Bremmer and interpretations (Appendix I);
2. The rejection of principles “zero sum games” and “Winner takes all”;
3. The inadequacy of the model “unique string” for delegations of authority and responsibility that results (in comparison with the transitional model), for the following reasons:
 - Limiting their representativeness (and legitimacy of power is less)
 - Hierarchical relationship between principals and agents causing the risk of “moral hazard” side of the agent system and the dominance of the “weak link”
 - Possibility of political instability in these countries
 - Risk of developing a dominant or hegemonic party
 - Concentration excessive executive based on the principles of “zero sum games” and “Winner takes all”;
4. The risk of presidential model generally point want rapid consolidation (Attached II) The need to reject the proactive model presidential unilateral power to implement the referendum
5. The legitimacy of the constitutional project on the basis of critical building transactional model veto players (Annex III and IV). This means that the distinction between “agenda setter” position and adaptation to it other “veto players.”

Based on the practice of presidential or parliamentary model, we can draw more specific guidelines for institutional projection in new democracies, including:

1. We must minimize the legislative power of the president, whether the presidential model, parliamentary or semi-presidential.

2. In the presidential model must constantly divide the power, which means that the President can not dissolve the parliament and the parliament can not make the president resign. In addition, members should not hold a position in the government and only the head of state should have the powers of appointment and resignation.

3. In the parliamentary model (post-Westminster, which is more risky for the new democracies), the hegemonic potential parties should be avoided. Thus, the electoral system is more balanced and the president could not dominate the government. Under no circumstances should you allow the president elected in the general elections to be at the head of the government instead of the Prime Minister (as in sub-Saharan Africa).

II. The findings for the semi-presidential model

After studying the parliamentary and presidential models, the following guidelines for draft constitutions for emerging democracies semi-presidential model:

1. Regarding the legislature, the president should get only reactive skills, such as the suspensive veto can not be rejected by a majority in parliament or legislative initiative and the right to conduct business in the Constitutional Court. The power to issue decrees or implement the referendum is unacceptable in this logic of division of power.
2. As the power of appointment and removal, the President can not resign the government or parliament, unless the latter is unable to take responsibility for the operation of government. No power given to the President can serve as a weapon to fight against the parliamentary majority. In accordance with the separation of powers, only parliament can decide on its own dissolution.
3. It is necessary to protect against the domination of parliaments or the hegemony of a political force. This is why we must ensure that parliamentary elections and

Presidential occur at the same time or at time intervals too tight. The characters should be proportional electoral law In addition, a balance avoiding overwhelming majorities in power and the principle of incompatibility prove desirable for better functioning.

III. Summary

Hypothesis: The free and equal men should choose only the democratic regime that is highly balanced and decentralized.

This balance not achieved through the unique contributions of traditional models such as the presidential and parliamentary, is actually based on the careful composition of various institutions named veto-players and veto-players (Annex III). Such a combination would benefit from the best aspects of two classical models – a parliamentary sense for the organization, with the foundations of the presidential system for decisions. Thus, it is the parliamentary majority that would be in charge of the legislative agenda (“agenda setter”).

To summarize, it is recommended to reject proposals for “Westminster parliament,” but instead borrow some solutions in the North American presidential system.

Let us recall the most specific guidelines:

It should minimize the legislative power of the president, whether presidential model, parliamentary or semi-presidential.●

In the presidential model must constantly divide the power, which means that the President can not dissolve the parliament and the parliament can not make the president resign. In addition, members should not hold a position in the government and only the head of state should have the powers of appointment and resignation.●

In the parliamentary model (post-Westminster, which is more risky for the new democracies), the hegemonic potential parties should be avoided. Thus, the electoral system is more balanced and the president could not dominate the government. Under no circumstances should you allow the elected President in the elections

General to head the government instead of the Prime Minister (as in sub-Saharan Africa).

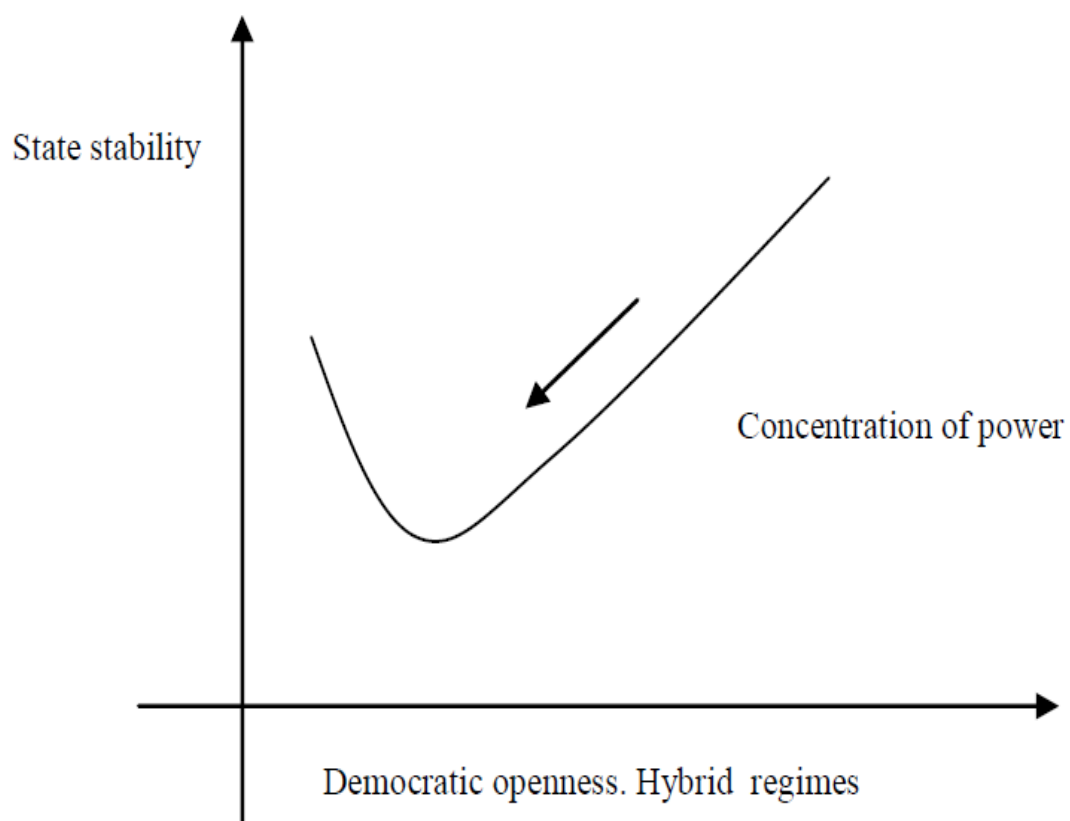
In the semi-presidential model:●

- With regard to the legislative power, the President should get only reactive skills, such as the suspensive veto can not be rejected by a majority in parliament or legislative initiative and the right to conduct business in the Constitutional Court. The power to issue decrees or implement the referendum is unacceptable in this logic of division of power.

- As for the power of appointment and resignation, the President can not resign the government or parliament, unless the latter is unable to take responsibility for the operation of government. No power given to the President can serve as a weapon to fight against the parliamentary majority. In accordance with the separation of powers, only parliament can decide on its own dissolution.

- It is necessary to protect against the risk of parliaments domination or hegemony of a political force. This is why we must ensure that parliamentary and presidential elections take place at the same time or just too time intervals. In addition, a balance avoiding overwhelming in power and the principle of incompatibility prove desirable for better functioning majorities.

APPENDIX I: "J curve"



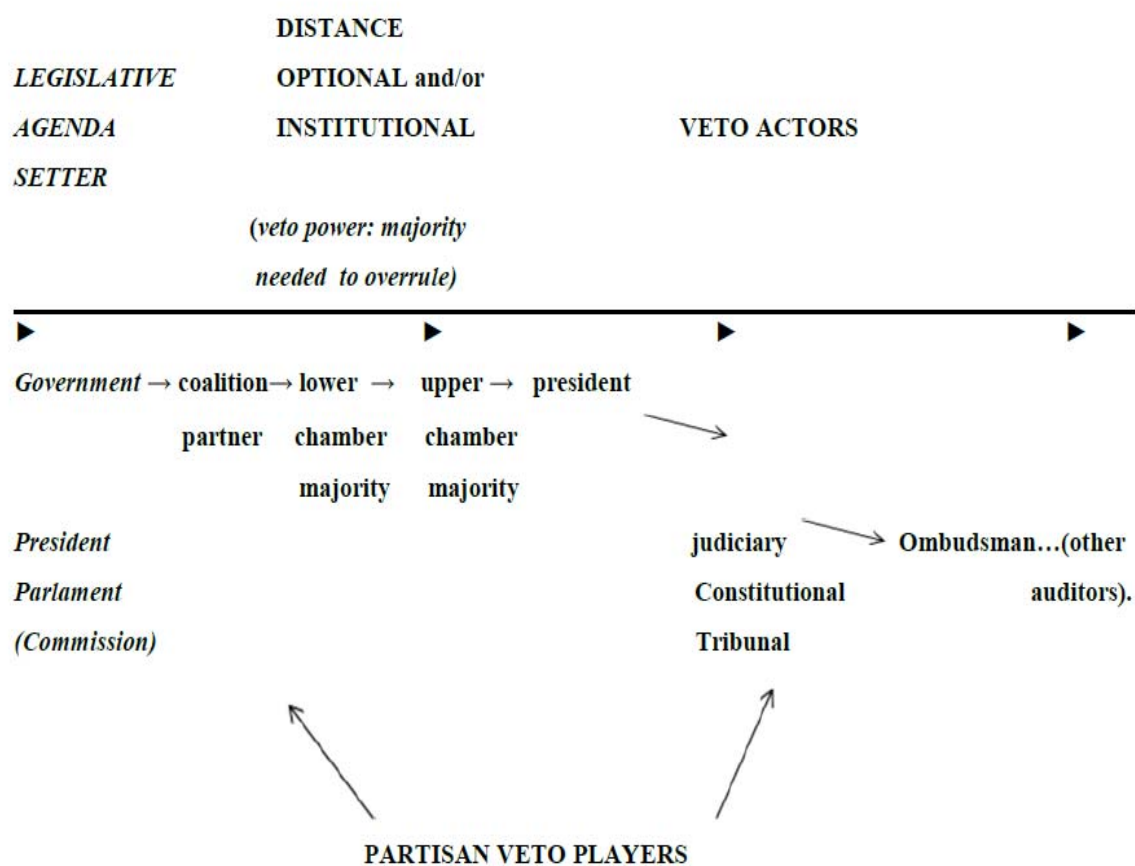
ANNEX II: Democratic Consolidation: presidential and non-presidential models:

Probability of democratic consolidation in %.												
GNP p.c. [USD]	Presidential regimes (years)						Non-presidential regimes (years)					
	0	10	20	30	40	50	0	10	20	30	40	50
1000	0	0	0	0	0	0	8	9	12	16	21	27
2000	0	0	0	0	0	0	42	45	52	61	69	75
3000	0	0	0	0	0	0	86	87	90	93	95	96
4000	0	0	0	0	0	0	98	98	99	99	99	100
5000	1	1	1	1	1	1	100	100	100	100	100	100
6000	10	10	12	16	21	27	100	100	100	100	100	100

7000	42	45	52	61	69	75	100	100	100	100	100	100
8000	86	87	90	93	95	96	100	100	100	100	100	100
9000	98	98	99	99	99	100	100	100	100	100	100	100

M. Svolik, op. cit., table 4.

ANNEX III: Configuration of veto players



ANNEX IV: Democracy in the transactional model and the economic effects:

