

# Semipresidentialism in Ukraine: Institutionalist Centrism in Rampant Clan Politics<sup>1</sup>

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**Abstract:** This essay argues that Ukraine chose semipresidentialism because it has much in common with the previous communist system of government which divided state functions into political and managerial. Moreover, semipresidentialism fits the clientelistic characteristics of post-Soviet politics since the president can use his prerogative to appoint and dismiss prime ministers to manipulate between various clans. On the other hand, harsh struggles between clans in Ukrainian politics often create a vacuum of initiatives, in which centrists motivated by the logic of institutions and relatively independent from clans' interests play an important role. This is the reason why Ukrainian politics have overcome repeated attempts to shift to a more authoritarian regime, be it pure presidentialism or parliamentary oligarchy.

**Key words:** clientelism, constitution, Leonid Kuchma, semipresidentialism, Ukraine

The collapse of communist regimes provoked scholarly interest in semipresidentialism. Among almost thirty countries emerging from the former socialist camp, only five (the new Czech Republic, Hungary, Slovakia, Latvia, and Estonia) chose parliamentary systems, while the other countries chose semipresidential systems.<sup>2</sup> Remarkably, none of the former socialist countries has developed a pure presidential system, unless we count the unrecognized state of Pridnestr.

Semipresidentialism is a system in which the president is elected through popular vote, directly or indirectly, but does not form executive organs personally; instead he appoints the prime minister with the confirmation of the parliament. Maurice Duverger proposed the concept of semipresidentialism in 1970, but it took

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more than ten years for it to be widely accepted as a category of political regimes. There were influential arguments opposing this concept. First, scholars often regarded semipresidentialism as an eclectic form of government between parliamentarism and pure presidentialism, rather than as an independent category of political regimes. Second, semipresidentialism seemed to be an excessively overreaching category covering strong presidential regimes, such as the French Fifth Republic at its beginning and regimes such as the Austrian and recent Finnish, in which presidents only play symbolic roles. This conceptual ambiguity has become even more extreme because of the “expansion” of semipresidentialism to postsocialist countries. Is a concept functional at all if it covers political regimes from Austria to Belarus to Kazakhstan?

Political scientists tried to respond to this problem in two diametrically different ways. A group of political scientists, represented by Robert Elgie, “purified” the concept of semipresidentialism to indicate the procedure to form the government (or appoint the prime minister), irrespective of the strength of the president (Elgie 1999). In contrast, Matthew S. Shugart and John M. Carey paid attention to the distribution of power between the president, prime minister, and parliament, and classified the political regimes that had been named “semipresidential” into two groups: president-parliamentary<sup>3</sup> and premier-presidential. In the president-parliamentary regimes, the president has decisive power to form the government, whereas in the premier-presidential regimes this power belongs to the parliament (Shugart and Carey 1992).

In my view, the concepts of president-parliamentary and premier-presidential regimes are subcategories of semipresidentialism, rather than ones to replace it. Although there are constitutional differences between presidentialism, parliamentarism, and semipresidentialism, the border between the president-parliamentary and premier-presidential regimes is quite crossable. A regime can alternate between president-parliamentary and premier-presidential through political practices, without any constitutional change. This implies that the overreaching characteristics of the concept of semipresidentialism, covering various political regimes from symbolic to super-presidentialism, can be regarded as its merit. In other words, semipresidentialism is able to change its characteristics through constitutional implementation (without revising the constitution), in accordance with political environments. The French Fifth Republic was a strong presidential system (president-parliamentary) at its beginning, but the advantage shifted to parliamentarism (and it became a premier-presidential regime) after experiencing *cohabitation*, in which the president and the prime minister belonged to different political camps. Similar developments took place in postcommunist Poland and Lithuania. Moreover, the overreaching characteristics of semipresidentialism make the concept dynamic and therefore useful for comparative political studies. This concept enables us to analyze the diversification of political regimes, which were similar at their beginning, as well as observe the metamorphoses of typically semipresidential systems toward pure presidentialism or parliamentarism. This article is part of a larger project to analyze these diversifications and conversions of semipresidential systems widely accepted among the postcommunist countries.

There seem to be two reasons for the diversification of semipresidential systems in postcommunist countries. One is the level of mutual checks between the branches of power. For example, according to the Ukrainian constitution, the president practically does not have the power to dissolve the parliament, but on the other hand has broad competences (in particular, in the appointment of higher officials and judges) that he can realize personally (*odnoosobovo, edinolichno*). The Lithuanian president has the power to dissolve the parliament. He has significant competences, but most of them are to be realized only with the approval of the parliament or government. A comparison of these two countries testifies that the Lithuanian system worked more favorably for constitutionalism.

Another reason for the diversification of semipresidential regimes is the possibility of *cohabitation*. In these countries, there have been three types of constitutions in regard to *cohabitation*. The first group of constitutions (such as the Bulgarian and Romanian ones) obliges the president to consult with the parliamentary majority or the largest party when he nominates a candidate for prime minister. With this provision, the *cohabitation* almost automatically takes place when the party (or coalition) opposing the president becomes dominant in the parliament. The second group of constitutions (such as the Polish, Lithuanian, Ukrainian, and Armenian ones) does not include provisions to resolve disagreements between the president and the parliament regarding the candidacy of the prime minister. The third group of constitutions (such as the Russian, Belarusian, and Kazakhstani ones) institutionally excludes the possibility of *cohabitation* by authorizing the president to disband the parliament if the latter rejects the presidential candidacy for the prime minister three times (or twice in the case of Kazakhstan). We witnessed how effective this threat of disbanding worked when Yeltsin forced the Russian State Duma to agree with the candidacy of Sergei Kirienko in his third trial to gain the deputies' support for this man in the spring of 1998.

What is more striking is the implementation of these constitutional provisions. As mentioned above, the Polish, Lithuanian, and Ukrainian constitutions do not have any constitutional provision to resolve disagreements between the president and the parliament regarding the nomination of the prime minister. However, although the Polish and Lithuanian parliaments exploited this indefiniteness for their own advantage, making the president appoint the candidacy of the parliamentary majority to the post of the prime minister, this did not happen in Ukraine. Until the formation of the pro-Yushchenko parliamentary majority, Ukraine's parliamentary opposition consisted of two parts, right-nationalist and communist-socialist, unable to coalesce with each other for the sake of parliamentarism. As mentioned above, most CIS countries constitutionally excluded the possibility of *cohabitation*. Occasionally, however, extreme events have created a situation similar to *cohabitation*. For example, after the financial crisis in August 1998, Yeltsin had no alternative but to appoint his potential rival, Evgeny Primakov, as the prime minister. In CIS countries these pseudo-*cohabitations* ended with the president's rollback and the dismissal of the oppositional prime ministers after the extreme crises ended. Overall, we observe here the polarization of the western and eastern postcommunist countries. In the Western postcommunist countries,

semipresidentialism metamorphosed to the advantage of parliamentarism, irrespective of whether the constitution obliges the president to consult with the parliamentary majority when he nominates the candidacy of the prime minister. In the eastern postcommunist countries, the parliamentary oppositions are neither able to realize *cohabitation* irrespective of the constitutional possibility nor exploit pseudo-*cohabitation* for the parliament's advantage.<sup>4</sup>

### **Reasons for the Semipresidential Choice in Postcommunist Countries**

It is a conventional wisdom to attribute the “popularity” of semipresidentialism among postcommunist countries to the communist tradition to divide the functioning of the state into strategic and managerial (in other words, political and socioeconomic) managements.<sup>5</sup> Under communist regimes, the central committee of the Communist Party was responsible for strategic tasks, such as cadre, regional, and national policies, while the government was in charge of daily works, such as education, medicine, and social welfare. For example, in the USSR the department of foreign relations of the CPSU Central Committee negotiated with the United States, while the USSR ministry of foreign affairs ran diplomacy with ordinary countries. It is possible to call “strategic tasks” the tasks necessary to reproduce authority (power), since the communist regimes did not premise changes of government. After the collapse of the communist regimes, the strategic tasks were passed to the presidential administrations of these countries, while the governments continue to be involved in daily tasks. It was Duverger himself that remarked that semipresidentialism was somewhat similar to Soviet administrative law (1993, 115). By the same token, Taiwan chose semipresidentialism after abolishing the Kuomintang's (Chinese Nationalist Party's) one-party regime (Wakabayashi 2001).

CIS countries had another reason for their preference for semipresidentialism. Semipresidentialism fitted the clientist characteristics of these countries' politics. In these countries, the presidential clans (such as Yeltsin's, Kuchma's, and Nazarbaev's) have been relatively small, but instead manipulated influential clans by nominating a representative of one or another clan as the candidate of the prime minister. For example, Ukrainian president Leonid Kuchma exploited the traditional rivalry between the Donetsk and Dnipropetrovsk clans for his own interest, appointing Pavlo Lazarenko (1996–97) and Viktor Yanukovych (2002–04) to the post of prime minister. Moreover, by exploiting the prerogative to appoint and dismiss the prime minister, the president prevents his potential rivals from becoming too influential and, at the same time, throws the blame for unsuccessful policies on the prime minister.

### **Constitutional Process in Ukraine and Semipresidentialism (1990–1996)**

The USSR presidency introduced by Mikhail Gorbachev in 1989 was a parasite on the parliamentary soviet system, since the president was not popularly elected but nominated by the Congress of People's Deputies. Gorbachev intended to transform the dual structure of the CPSU Central Committee and the USSR government into the dual structure of the USSR presidency and the USSR govern-

ment. Nevertheless, a crucial element of the future semipresidentialism was embedded then; the USSR president was obliged to gain the confirmation of his candidacy for the prime minister and other important ministers by the USSR Supreme Soviet. This consolidated the democratic practice to confirm executives by the national or local legislatures, widespread during the late *perestroika*.

Remarkably, not only CPSU leaders but even radical democrats at that time premised the existence of a more or less “neutral” sphere of public administration, for which the government (*pravitelstvo, uryad*) was responsible. The parliamentary and public debates on the redistribution of authority to democratize the society bore in mind only three subjects of political authority: the CPSU, the soviet (parliament), and the newly introduced presidency. The government was supposed to be out of this political struggle, and if the government was criticized then, the criticism, as a rule, targeted its ineffectiveness.

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The semipresidential choice at the union level was almost automatically passed to union republics. In Ukraine after the declaration of its sovereignty in August 1990, the Supreme Rada organized a constitutional commission on October 24, 1990. The Supreme Rada chairman Leonid Kravchuk chaired this commission (Yuz'kov 1995, 9). On June 19, 1991, the Supreme Rada confirmed a document drafted by the commission under the title of “The Concept of the New Constitution of Ukraine.” Today, Ukrainian jurists and political scientists recall that this document was the closest to pure presidentialism among the constitutional documents and drafts published on the way to the 1996 constitution,<sup>6</sup> if we do not count the Constitutional Agreement of June 10, 1996. The former judge of the Ukrainian constitutional court, Petro Martinenko, provides an interesting interpretation that the Ukrainian constitution of 1996 could not “reach” complete semipresidentialism, with a full-fledged mechanism of mutual checks and balances between the legislative and executive organs of power, because the Ukrainian constitutional process started from this “almost pure presidential” idea described in “the Concept.” Actually, the Concept defined Ukraine as a presidential republic and emphasized the separation of power. For example, the Concept requested the president to guide the activities of the cabinet of ministers directly (in other words, the president was supposed to be the chief executive, rather than the head of the state), and at the same time ruled out the presidential power to dissolve the Supreme Rada. Nevertheless, even this document included the provision that the president proposes to the Supreme Rada his candidates for prime minister and ministers to gain its confirmation (*Konstytutsiya nezalezhnoi Ukrainy . . . kniga persha . . .*, 74).

The introduction of the presidency on the eve of Ukraine’s independence (December 1991) demonstrated that Ukraine made a semipresidential choice.

The presidential office began to take shape independently from the government inherited from the socialist period. The first president, Kravchuk, appointed the incumbent prime minister, Vitol'd Fokin, as such, asking the Supreme Rada to confirm this decision.

The preparation of the constitution of independent Ukraine proved to be painful and ineffective. Both of the constitutional drafts, adopted by the Supreme Rada on July 1, 1992, and October 26, 1993, were cumbersome and awkward from the judicial and textual points of view.<sup>7</sup> This is partially attributed to the dominance of the leftist opposition in the Supreme Rada from 1990–94. However, these drafts concretized mechanisms of mutual checks and balances between the legislature and the presidency (presidential vetoes, impeachment of the president, the disbanding of the parliament in cases of unsuccessful impeachment, and the appointment and dismissal of the prime minister). If the Concept of the constitution in 1991 was semipresidential only by the fact that it requested parliamentary confirmation of the presidential candidacy of the prime minister, the drafts in 1992 and 1993 provided a typically semipresidential model.

In 1995, Ukraine had remained as the only post-Soviet country without a constitution—a fact making the viability of the Ukrainian state questionable. The protracted confrontation between the president and the Supreme Rada devastated the country's social and economic situation. Threatening the Supreme Rada by his proposal for referendum, Kuchma concluded the constitutional agreement with the Supreme Rada on June 10, 1995. This document swung back the Ukrainian constitutional process to pure presidentialism by qualifying the president not only as the head of the state but also as the head of the executive power. If this agreement had been realized completely, the prime minister would have lost his independent status. At the same time, the agreement minimized the participation of the Supreme Rada in the formation of the government. According to the agreement, the Supreme Rada was authorized to express its non-confidence not to the candidacy of the prime minister but to the program that the cabinet of ministers submits within two months after its formation.

However, the tendency toward pure presidentialism in the constitutional agreement was unrealizable. First, this agreement contradicted the existing semipresidential characteristics of state administration that had consolidated during 1992–95, and therefore the cost of the transition to another constitutional regime would have been enormous. Second, during the period when the agreement was effective (June 1995–June 1996), the prime minister's post continued to be occupied by such figures as Evhen Marchuk and Pavlo Lazarenko, independent, to an extent, from Leonid Kuchma. Third, legal effectiveness of the agreement was questionable since this document did not gain the support of the constitutional majority (three hundred deputies) of the Supreme Rada. Fourth, Ukraine had been incorporated in the Council of Europe and other European structures unsympathetic to pure presidentialism.

An important merit of the constitutional agreement was that it set a deadline for the adoption of the Ukrainian constitution ("within a year after the signature

of the constitutional agreement”). To keep this deadline, a new constitutional commission chaired by President Kuchma and the Supreme Rada Chair, Oleksandr Moroz, jointly was established. Moreover, Kuchma and Moroz introduced a “working group” composed of ten specialists—jurists to elaborate the text of the constitution. This working group proved to be more competent and professional than the parliamentary constitutional commission functioning in 1992–94. Although it was officially declared that the constitutional draft of October 26, 1993, would become the basis of the final draft, the working group elaborated the new text of the constitution almost independently from it, considering, instead, a number of non-governmental drafts. A crucial task was to resume the semipresidential characteristics of the constitution violated by the constitutional agreement of June 10, 1995.

The working group researched European constitutional experiences and came to the conclusion that semipresidentialism (according to the then-dominant terminology, presidential-parliamentary system) was the most acceptable form of government for Ukraine. Ukraine lacked the conditions for parliamentary regimes, such as a developed party system and a democratic tradition. On the other hand, there is no pure presidential system in Europe. Semipresidentialism was a good compromise, since its implementation can change according to the objective conditions. For example, if the Ukrainian party system develops in the future, it will be possible to run its semipresidential system in the spirit of parliamentarism.<sup>8</sup> However, the most important fact for the advantage of semipresidentialism was that the semipresidential system had already functioned in Ukraine for four years (Kozyubra 1997, 12).

The constitutional draft prepared by the working group was published on November 15, 1995,<sup>9</sup> and, after coordination within the constitutional commission, passed to the deliberation of the Supreme Rada on March 11, 1996.<sup>10</sup> The fate of the constitution was unpredictable. Socialists (the Supreme Rada chair Moroz in particular) and communists continued to adhere to their ideological conviction that parliamentary systems were better than any presidentialist systems. Kuchma was dissatisfied with the fact that the final draft curtailed the presidential prerogatives once secured in the Constitutional Agreement of 1995. Pavlo Lazarenko (the prime minister after May 1996) was discontent with the insignificant power and weak independence of the prime minister granted in the final draft. On the other hand, however, all of these influential actors brilliantly understood that any revision convenient for themselves would be blocked by the other actors. A decisive difference from the stalemate in 1992–94 was that, this time, the deadline of the adoption of the constitution had been set. Under this peculiar political situation (which I would call a vacuum of initiatives and responsibilities), a small parliamentary group guided by Mykhailo Syrota took the initiative for the further parliamentary revision of the draft.

Comparison of the four constitutional drafts produced at the last stage of the constitutional process: the working group’s draft (November 1995), the draft confirmed by the constitutional commission and proposed to the parliament (March 1996), the draft deliberated by Syrota’s “special commission” (*Verkhovna Rada*

*Ukrainy*, May 17, 1996), and the constitution adopted on June 28, 1996, reveals the features of Syrota's tactics. His group even strengthened the presidential prerogatives, in particular, concerning cadre policies. The president obtained the power to appoint a number of important officials (which were not included in the drafts of November 1995 and March 1996) according to his own consideration, namely, without any consultation with or approval by the other organs of power.<sup>11</sup> On the other hand, Syrota's group practically deprived the president of the prerogative to dissolve the parliament, which was necessary to gain the parliamentary majority's support.<sup>12</sup> In this way, Syrota's revision made the compromise between the president and the parliament possible, but instead the constitution lost the mechanism of mutual checks and balances between the president, parliament, and prime minister. This was not only a result of parliamentary maneuvers, but also the confirmation of the Ukrainian semipresidentialism that had already been functioning.

Because of the compromise, the Ukrainian constitution became a significant exception among the constitutions of CIS countries that, as a rule, request automatic dissolution of the parliament in the case of the parliament's repeated rejection of the presidential candidacy of the prime minister. In other words, the Ukrainian constitution does not exclude the possibility of *cohabitation* institutionally. However, this was one of the symptoms of the lack of the mechanism of mutual checks and balances in the Ukrainian constitution—an ominous characteristic that would provide good pretexts for politically motivated proposals for constitutional amendments in the future. The most significant examples of these proposals were the "referendum" in April 2000 and the attempt to introduce a premier-presidential system from the end of 2003 to the spring of 2004.

In March–June 1996, the leftist parliamentarians had no alternative but to support Syrota's initiative, since if Syrota's revision was not adopted by the deadline, the parliament would be forced to adopt the constitutional draft prepared by the working group, which included the provision on the presidential prerogative to dissolve the parliament (Pogorelova 1996, 1). This was the reason why the Supreme Rada agreed to Syrota's revision as the long-awaited Ukrainian constitution.

### **The Rugged Path of Ukraine's Semipresidentialism (1996–2004)**

During the eight years after the constitution was promulgated on June 28, 1996, semipresidentialism in Ukraine suffered not only from politically motivated interpretations of the constitution but also from underdeveloped judicial culture in the country. The lack of constitutional provision determining the procedure of the dismissal of the prime minister was used to justify Kuchma's politically motivated dismissals of the prime ministers. The system of countersignature on presidential decrees by the ministers responsible for the issue degenerated to something like clerical certification of the document. Political usage of tax inspections by the pro-presidential factions for the purpose of repressing oppositional parliamentarians and businessmen has become a daily occurrence. It is fresh in our memory that the legal principle to deny the retroactivity of law was used to justify the third term of Kuchma's presidency, although the purpose of this princi-



ple is the defense of human rights.<sup>13</sup> In fairness, one should notice that this judicial distortion has been widely used in the Eastern postcommunist countries to justify third or even more numerous terms of presidencies or governorships.

The Supreme Rada has not been able to exploit the lack of the provision of presidential power to dissolve the parliament in the case of its repeated refusal of the president's candidacy of the prime minister to realize *cohabitation*—a decisive device to parliamentarize semipresidential systems. A reason for this incompetence was that, as mentioned above, the Ukrainian parliamentary opposition has been split into right-nationalists and leftists and unable to create a parliamentary majority opposing the president. A second reason was the weakness of prime ministers vis-à-vis President Kuchma. A peculiarity of Ukrainian semipresidentialism is that Kuchma appoints prime ministers alternately between “outstanding” (having charisma, one's own clan, and a certain level of independence from the president) and “gray” (simply obedient to the president) candidates. Pavlo Lazarenko (1996–97), Viktor Yushchenko (2000–01), and Viktor Yanukovich (2002–04) belonged to the “outstanding” group, while Valery Pustovoitenko (1997–99) and Anatoly Kinakh (2001–02) belonged to the “gray” group. Even the “outstanding” prime ministers were unable to change the constitutional practice for their own and parliament's interests. After losing Kuchma's favor, Lazarenko requested, in vain, the parliament's agreement in the case of the dismissal by the president of the prime minister.<sup>14</sup>

Perhaps the most successful prime minister to change the constitutional practice for the advantage of semipresidentialism was Viktor Yushchenko. After Kuchma's reelection, Ukraine stood before an unprecedented crisis. On December 14, 1999, the Supreme Rada rejected Kuchma's candidate for prime minister, V. Pustovoitenko, by extreme absenteeism. Kuchma expressed his hatred against semipresidentialism, but compromised easily. Kuchma proposed for the post the president of the National Bank, “Mister Grivna,” Viktor Yushchenko, whose candidacy was confirmed by the Supreme Rada on December 22, 1999.

Kuchma's compromise had objective reasons. “Having lived amorally for nine years” (Yushchenko 2000, 4), Ukrainians were facing a large amount of foreign debt that needed to be liquidated or restructured in 2000–01. To win foreign creditors' trust, a strict policy of retrenchment was needed. Kuchma allowed Yushchenko to select several (mainly managerial) ministers independently (*Zerkalo nedeli*, January 15–21, 2000, 2), the most outstanding example of which was the minister of energy, Yuliya Tymoshenko. At the end of 1999, eleven right and centrist parties with about two hundred and forty deputies (such as the United Social Democrats, the People's Democrats, Labor Ukraine, Rebirth, Fatherland, and both wings of Rukh) agreed to create a pro-government majority. On January 24, 2000, this majority split the Supreme Rada to outcast its chairman Oleksandr Tkachenko and other leftist leaders and supported Yushchenko's government. Viktor Medvedchuk called this action the Velvet Revolution (*Zerkalo nedeli*, January 29–February 4, 2000, 1).

At that time, foreign observers overlooked the latent confrontation between Kuchma and Yushchenko supported by the right and centrist parliamentarians. The

two different initiatives, Kuchma's referendum to revise the constitution and the parliamentary majority to support Yushchenko's reformism, happened simultaneously in the aftermath of Kuchma's extraordinarily dirty victory in the 1999 presidential elections. It was not a surprise that the observers interpreted both movements as two sides of the same coin aimed at strengthening Kuchma's position. As a matter of fact, Kuchma resisted the formation of the parliamentary majority that was aimed at supporting Yushchenko's government,<sup>15</sup> while the parliamentarians, including a significant part of the right-centrist majority, criticized Kuchma's referendum.

On February 16, 2000, the leftist minority rejoined the parliament under the right-centrist leadership. Two days later, for the first time in the parliamentary history of independent Ukraine, the reunited Supreme Rada adopted the annual budget without deficit.

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Thus, however paradoxical it seems, the political crisis in Ukraine at the beginning of 2000 facilitated semipresidentialism. Prime Minister Yushchenko enjoyed a certain independence from the president, who understood that uncompromising retrenchment

was necessary to overcome the financial crisis. There was a pro-Yushchenko parliamentary majority that was critical to Kuchma's attempt to change the constitution by the referendum unrecognized by the international community. This peculiar situation, advantageous for semipresidentialism, continued for about a year. During this period, legislative activities of the parliament were impressive, and the institutional bases for the recovery of the Ukrainian economy, which continues today, took shape.

This situation ended because of Kuchma's cassette scandal.<sup>16</sup> Facing domestic and international criticism, Kuchma needed a more obedient prime minister. Moreover, having restructured foreign debts, Kuchma did not need the reformer Yushchenko any more. Kuchma was ready to sacrifice Yushchenko to prevent the communists from participating in the social movement requesting Kuchma's resignation. In April 2001, the parliamentary majority collapsed. The two political camps damaged by Yushchenko's reform—the communists and clientistic centrist parties (such as Labor Ukraine, the United Social Democrats, the Democratic Union, and the People's Democrats)—unified and won the parliamentary resolution of nonconfidence against Yushchenko on April 26. Thus, the latent *cohabitation* in Ukraine ended.

In summer 2002, Kuchma reversed his earlier position and began to propose a constitutional reform to strengthen the prime minister's power at the cost of the president's. Observers attributed this change of position to the prevailing expectations that Yushchenko, now the leader of Our Ukraine and opposing Kuchma, would win the 2004 presidential election (Protsyk 2003, 1087).

The appointment of Yanukovich, the Donetsk governor, to the post of prime minister on October 21, 2002, was an ambiguous phenomenon. It was a victory of the Donetsk clan, but, on the other hand, Yanukovich realized this appointment because of his contribution to the pro-Kuchma forces in the parliamentary elections in 2002. Thus, although indirectly, parliamentary elections affected the appointment of the prime minister—a decisive condition for semipresidentialism.

In the second half of 2003, a number of opinion polls convinced the pro-presidential forces of the improbability of the victory of Kuchma's successor (perhaps Yanukovich) over Yushchenko in the 2004 presidential election. Therefore, the pro-presidential parties (such as Regions of Ukraine, Labor Ukraine, the United Social Democrats, the People's Democrats, the Agrarian Party, and others) strove to realize the constitutional reform suggested by Kuchma in 2002. First, they proposed that the Supreme Rada nominate the prime minister and the cabinet of ministries instead of the president. Second, the Supreme Rada will be obliged to form a parliamentary majority; otherwise it will be dissolved. Thus, the formation of parliamentary coalitions was shifted from the sphere of politics to administrative law. Third, although at present parliamentarians do not have the right to become ministers, this prohibition will be abolished. This means that parliamentary oligarchs, such as Volodymyr Medvedchuk and Volodymyr Lytvyn, will perhaps become ministers and control "their" parliamentarians. Fourth, a system of imperative mandate will be introduced. Parliamentarians expelled from their parties will automatically lose their deputy mandate.<sup>17</sup> Thus, the president will lose his power to control the cabinet of ministers, and instead the parliamentary oligarchs will form the cabinet of ministers and control parliamentarians. This extreme oligarchic regime was devised to secure the influence of Kuchma's successors, even though Yushchenko won the presidential election in 2004.

Most of the Ukrainian parliamentarians, jurists, and political scientists whom I interviewed in March 2004 criticized this attempt at constitutional reform. Mykola Kozyubra, an architect of the 1996 constitution, expressed his misgivings that the fundamental amendments of the constitution adopted only eight years ago might discredit constitutionalism in general in the eyes of the Ukrainian public. He added that Moldova had not become more democratic after it returned to parliamentarism. Mykhailo Syrota remarked that only fourteen to nineteen out of the forty-nine constitutional laws (necessary for the concretization of constitutional provisions) had been adopted during the eight years after the adoption of the 1996 constitution. Fundamental amendment of the constitution under such a situation will create additional legal chaos. Many jurists and political scientists remarked the danger to change the constitution in haste on the eve of the presidential elections. The only supporter of the constitutional reform was Petro Martynenko, a former judge of the constitutional court. He argued that the reform was a step forward, since it would transform the present incomplete semipresidential system into a pure semipresidential one.

The overtly political motivation behind the constitutional reform provoked furious protests by Our Ukraine and Yuriya Tymoshenko's bloc. The Council of

Europe echoed this domestic criticism. However, unexpected allies of the constitutional reform emerged. Since the pro-presidential parties alone could not secure the constitutional majority of deputies (three hundred), they unified with socialists and communists. The pro-presidential parties proposed that these leftist parties change the present mixed parliamentary electoral system to a pure proportional system, although this deal dissatisfied many members of pro-presidential parties, in particular the Regions of Ukraine, composed mainly of parliamentarians elected in single-mandate electoral districts. On March 25, the Supreme Rada adopted the new proportional electoral law,<sup>18</sup> and socialists and communists kept their word to support the constitutional reform. An unexpected challenge came from within the pro-presidential parties. On April 8, 2004, the bill of constitutional reform was put to the vote of the Supreme Rada after the second reading. Two oppositional factions, Our Ukraine and Yuliya Tymoshenko's bloc, left the floor. The support for the constitutional reform ran short by six votes to achieve the constitutional majority (three hundred deputies). Absence or abstention of six deputies from the Regions of Ukraine faction, and similarly, five deputies from the Labor Ukraine faction decided the fate of the bill.<sup>19</sup> Moreover, many of these dissidents from the pro-presidential parties rallied around a new deputy group called Center and began to occupy a pivotal place in parliamentary politics.

### Conclusion

Ukraine's case confirms that a main reason for the "popularity" of semipresidentialism in postcommunist countries is that it has much in common with the former one-party system. The main aspect of this similarity is that under the one-party system, state administration was divided into two parts, strategic and ordinary. When a presidential system was introduced in Ukraine in December 1991, Ukrainian society chose semipresidentialism almost unconsciously. The government continued its work under socialism, while the president succeeded the political function played by the Party Central Committee. The theoretical research and debate in the Ukrainian constitutional process in 1992–96 only justified this existing system.

On the other hand, the Ukrainian constitutional process vacillated between almost pure presidentialism ("The Concept of the New Constitution" of 1991 and the Constitutional Agreement of 1995) and typical, integrated semipresidentialism (the constitutional drafts in 1992, 1993, and 1996). The Supreme Rada's distrust of Kuchma resulted in the 1996 constitution, based on a semipresidentialism almost without a mechanism of mutual checks and balances between the president, government, and parliament. The constitutional weakness provided a good pretext for politically motivated attempts at constitutional reforms.

However, in Ukrainian politics one may observe a peculiar centrism that emerged almost periodically under constitutional crises. This centrist group was institutionally motivated and relatively independent from the context of struggles between clans, that is, the mainstream of Ukrainian politics. Examples of this phenomenon were the "working group" of the constitutional committee in 1995, Syrota's parliamentary group in 1996, the pro-Yushchenko parliamentary majority in 2000–01, and the dropout of a number of parliamentarians of pro-presidential fac-

tions from the attempt at the constitutional reform in 2004, which resulted in the creation of a new parliamentary group called Center. Commonly for these cases, when major political forces canceled out (or were expected to cancel out) each other's influence, a small number of parliamentarians<sup>20</sup> occupied a pivotal place. This periodical emergence of institutionalist centrism made it possible to adopt the semipresidential constitution in 1996 and has facilitated its development.

## NOTES

1. This article is a product of the ongoing research project "Making of New Regions in Eastern Europe and Impact of EU Enlargement" (2002–05) and the twenty-first century program on "Making a Discipline of Slavic Eurasian Studies: Meso-Areas and Globalization" (2003–08). These projects are financed by the Japanese Ministry of Education, Culture, Sports, Sciences, and Technology.

2. Recently, Moldova returned to a parliamentary system, but Slovakia shifted from a parliamentary system to semipresidentialism.

3. As an example to analyze the Russian political regime, exploiting the concept of "president-parliamentary regime," see Morgan-Jones and Schleiter 2004.

4. In my view, the main reason for this diversification is the difference in organizational basis of the politics: in the western postcommunist countries, programmatic parties play this role, while in the eastern postcommunist countries, politics is based on clientist relations. See Matsuzato, "A Populist Island," 235–39.

5. Among the Ukrainian policymakers I interviewed, Rostislav Pavlenko (March 5, 2004, Kiev), Petro Martinenko (March 9, 2004, Kiev), and Yurii Klyuchkovs'kyi (March 11, 2004, Kiev) remarked on the continuity between the "dual executives" under the communist one-party systems and the postcommunist semipresidentialism. Oleh Protsyk attributes the technocratic (nonparty) nature of the Ukrainian cabinets to "the underdeveloped character of the party system" (Protsyk 2003, 1079) but ignores the fact that the government was technocratic already under the communist regime.

6. Interviews with Rostislav Pavlenko and Petro Martinenko.

7. The 1992 and 1993 constitutional drafts were published in *Golos Ukrainy* on July 17, 1992, and *Holos Ukrainy* on October 30, 1993, respectively. The 1992 and 1993 drafts consisted of 258 and 211 articles, respectively. There were many repetitions of the same idea in the text.

8. Kozyubra, "Proekt konstitutsii Ukrainy," 10–13; and interviews with Mykola Kozyubra (March 3, 2004, Kiev), and Ihor Koliushko (March 3, 2004, Kiev).

9. The text of this draft can be found in *Konstytutsiya nezalezhnoi Ukrainy*, 1–19.

10. *Golos Ukrainy*, March 12, 1996, 1. The text of this draft can be found in *Konstytutsiya nezalezhnoi Ukrainy*, 99–141.

11. For example, the Constitution authorized the president to appoint the chairmen of the Antimonopoly Committee, the Fund of State Properties, and the State Committee of Television and Radio, and half of the members of the Council of the National Bank and National Council of the Affairs of Television and Radio according to his own will. Another reason for the significant widening of the sphere of the presidential one-man appointment was the abandonment of the attempt to introduce the upper chamber of parliament. The "special commission" draft abandoned bicameralism, which had been pursued in the previous two drafts. Abandoning bicameralism, the draft vested a number of the presidential powers, which had required the senate's approval in the first two drafts, to the president only. For example, according to the first two drafts, the senate was to confirm the president's appointments of Ukrainian ambassadors, but the draft of the special commission did not pass this competence to the Supreme Rada, and the appointment of diplomatic cadres was completely trusted to the president's will.

12. According to the working group's draft, the president was authorized to dissolve

the parliament if the latter did not approve the presidential candidate for the prime minister for three months after the proposal and if it did not approve the government program of action for sixty days (art. 89). The draft by the constitutional committee limited the possibility of dissolution to the second one (art. 90). The final draft proposed by the “special commission” excluded even this possibility and added a meaningless clause that the president has power to disband the parliament in the case of the parliament failing to convene for a session within thirty days after the election. The only purpose of this clause was to prevent a boycott by parliamentarians of the left. Interview with Mykola Kozyubra.

13. According to Protsyk, “the president repeatedly used his power of cabinet nomination to construct a situational majority around his choice of prime minister. In this sense, the parliamentarians tended to rely on the president in solving their problem of collective action in regard to cabinet formation” (Protsyk 2003, 1079).

14. On the eve of his dismissal, Lazarenko even requested that the prime minister be nominated by the parliament, not by the president (*Zerkalo nedeli*, May 8, 1997, 4).

15. Interview with Mykhailo Syrota (March 5, 2004, Kiev).

16. Kuchma was accused of a contract kidnapping (and possibly killing) of an oppositional journalist.

17. Kovryzhenko and Zamnius, “Konstytutsiina reforma” and interview with Yurii Klyuchkovs’kyi.

18. *Zakon Ukrainy vid 25.03.2004*, no. 1665-IV, “Pro vybory narodnykh deputativ Ukrainy.” See art. 18.

19. [http://www.parlament.org.ua/index.php?action=news&id=12&ar\\_id=483&as=0](http://www.parlament.org.ua/index.php?action=news&id=12&ar_id=483&as=0).

20. Even with regard to the parliamentary majority in 2000–01, its initiators were a handful of deputies, such as M. Syrota, Yu. Tymoshenko, Yu. Kostenko, and L. Kravchuk.

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