President-Prime Minister Relations, Party Systems, and Democratic Stability in Semipresidential Regimes: Comparing the French and Russian Models

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Countries around the world are demanding change: new leaders, new realities, and new systems of government. Most of these nations intend to shift toward more democratic forms of government, having lived in the shadows of authoritarian leaders. However, the sustainability of new democratic fervor directly depends on which system is chosen to replace a now defunct authoritarian model and how a chosen system allocates power between major players. This Note argues that new democracies should develop and maintain a premier-presidential system of government for three interrelated reasons. First, premier-presidentialism creates a flexible, but powerful, political check against the president’s strong and numerous executive and legislative powers. Second, this check against the president’s power requires the president to resort to democratic processes to resolve political conflict, rather than rule as an autocrat. Third, and finally, the balance of power between the president, prime minister, and parliament is strengthened by and also encourages strong party coalitions, which are necessary to safeguard democratic preferences. This conclusion follows from an exploration of both the Russian and French models of semipresidentialism and an analysis of how the distribution of executive power, coupled with the strength or weakness of the nation’s party system, affects each nation’s democratic stability.

Part I of this Note briefly discusses the most common government systems chosen by new democracies. It then explores the dimensions and two variations of semipresidentialism, explaining both premier-parliamentarism and premier-presidentialism. Part I also briefly explores why scholars are wary of semipresidentialism and why they tend to favor presidentialism or parliamentarism. Part II of this Note first examines constitutional formation in post-Fourth Republic France. It then analyzes the powers granted by the French constitution to the president and prime minister. Finally, to evaluate the effectiveness of the French model of semipresidentialism, the regime is analyzed in light of the country’s practical experience in issue resolution. Part III of this Article examines Russian constitutional formation and its model of semipresidentialism in the same manner. In Parts II and III, each country’s respective model is analyzed by exploring a president-prime minister relationship experienced in the infancy of the semipresidential regime, rather than more recent president-prime minister relationships. These examples were chosen because the tension arose during each country’s period of democratic consolidation, a process having a large, if not dispositive, impact on sustainable democratic stability. More recent examples simply do not illustrate the effect the choice of system has on extremely fragile new systems. Indeed, the chosen examples are those best suited to illustrate this Note’s conclusion: the chosen system has a direct impact on developing democratic stability in new regimes. Part IV concludes by determining which of these models is best suited to support democratic consolidation and stability in a new democracy and why, along with recommendations of how new nations can ensure greater democratic stability.
I. DEMOCRATIC SYSTEMS

A. Introductions, Strengths, and Weaknesses

Three distinct democratic systems exist: presidentialism, parliamentarism, and semipresidentialism. Whether a fledgling democratic nation chooses presidentialism, parliamentarism, or semipresidentialism impacts democratic consolidation and subsequent democratic stability. Each regime type differs from the other structurally, dictating the way each branch functions and interacts with the rest of the system, which directly affects the efficiency and stability of the system as a whole. In a parliamentary system, “elements of the legislature form the government, the prime minister exercises considerable executive power and answers to the legislature, and there is either no president at all or a largely ceremonial one.” Presidentialism, on the other hand, is a system in which a directly elected president appoints the government, which remains answerable to the president. Semipresidentialism, as a general matter, refers to a regime in which there is “both a directly elected president and a prime minister who is responsible to the legislature.” Thus, what system should a nation choose to adopt?

The debate continues as to which regime type is most capable of sustaining a stable democratic nation. Some scholars argue “the vast majority of the stable democracies in the world today are parliamentary regimes” and “on balance, [parliamentarism] is more conducive to stable democracy than [presidentialism].” In contrast, others maintain presidentialism ensures a more stable democracy because “the presence of two entities (the presidency and the legislature), each with its own

1. As developed by Juan J. Linz and Alfred Stepan, the concept of democratic consolidation refers to the democratic development process a nation begins once it has undergone a democratic transition. Christopher J. Walker, Toward Democratic Consolidation? The Argentine Supreme Court, Judicial Independence, and the Rule of Law, 18 FLA. J. INT’L L. 745, 754 (2006); see also JUAN J. LINZ & ALFRED STEPAN, PROBLEMS OF DEMOCRATIC TRANSITION AND CONSOLIDATION: SOUTHERN EUROPE, SOUTH AMERICA, AND POST-COMMUNIST EUROPE 5–6 (1996) (describing the tripartite developmental process constituting “democratic consolidation”). Under the Linz and Stepan model of democratic consolidation, “this process involves three separate but interrelated developments—behavioral, attitudinal, and constitutional consolidation.” Walker, supra, at 754–55. These development phases look for the presence, or lack thereof, of anti-democratic movements, public support for a democratic system, and a system of laws, procedures, and institutions necessary for a democratic nation. Id. at 755.
2. Steven D. Roper, Are All Semipresidential Regimes the Same? A Comparison of Premier-Presidential Regimes, 34 COMP. POL. 253, 253 (2002).
4. In this Note, the terms “government” and “cabinet” will be used interchangeably to refer to the same institution, namely the institution accompanying the executive branch.
5. Fish, supra note 3, at 6.
7. Juan J. Linz, The Perils of Presidentialism, 1 J. DEMOCRACY 51, 51–52 (1999). See also Fish, supra note 3, at 5 (arguing a powerful legislature is critical to the success of new democracies, as indicated by the Fish-Kroenig legislative powers survey).
source of electoral legitimacy, reduces the danger of radical missteps." Little academic support may be found for semipresidentialism, however. Indeed, semipresidentialism is subject to more criticism than praise. Critics most often question the propriety of a dual executive, regardless of whether the president and the prime minister are of the same party, because it strains government stability and efficiency, which directly compromises democratic consolidation and future stability. In spite of this, however, many countries swept within a recent wave of democratization have chosen semipresidentialism.

B. Semipresidentialism and Its Variations

Semipresidentialism refers to a system combining aspects of presidential and parliamentary institutions. The classification was introduced by Maurice Duverger, who defined the system by three general characteristics: “popular election of the president, presidential constitutional powers, and the separate office of a prime minister.” Within this system, the institutional stability of the prime minister and its cabinet is dependent, at minimum, upon parliamentary approval. Matthew Shugart and John Carey expanded the concept of semipresidentialism into more specific classifications to account for variations among different countries. According to Shugart and Carey, a semipresidential regime may be classified as either “premier-presidential” or “president-parliamentary.”

Premier-presidentialism describes the French model of semipresidentialism. In premier-presidentialism, the “prime minister . . . is head of government and subject to the vote of no-confidence of the parliament.” The president, on the other hand, is head of state and generally has constitutionally conferred powers of appointment and veto. Most importantly, however, the prime minister and government are exclusively accountable to the parliamentary majority as the president has no

8. Fish, supra note 3, at 6.
9. See Elgie & McMenamin, supra note 6 (“There is a general and long-standing academic consensus against the adoption of semi-presidentialism.”).
10. See, e.g., id. (describing the problems that a dual executive poses to efficient and effective policy making).
12. Roper, supra note 2, at 253.
13. Id. at 254.
14. See Maurice Duverger, A New Political System Model: Semipresidential Government, 8 EUR. J. POL. RES. 165, 166 (1980) (explaining that “a prime minister and ministers . . . can stay in office only if the parliament does not show its opposition to them”).
16. Id.
18. Id.
constitutional power to dismiss the prime minister. Distinguishing premier-presidentialism from president-parliamentarism is the fact of to whom the prime minister and government are accountable. Where in “premier-presidentialism, the prime minister and government are exclusively accountable to the parliamentary majority . . . under president-parliamentarism, the prime minister and government are dually accountable to the president and parliamentary majority,” both of whom may dismiss the prime minister. This difference, as well as the strength of the country’s party system, directly affects successful consolidation and future democratic stability.

Because of the dual nature of the executive, the difference in powers held by the president and prime minister are critical to the overall division of power in and the stable functioning of the system. The specific powers held by the president and prime minister in a semipresidential regime depend upon the country’s constitutional design. Presidential powers may be described as legislative or non-legislative in nature. Legislative powers may include veto power, decree power, and the power to propose referenda to the legislature. Non-legislative powers may include cabinet appointment, formation, and dismissal, as well as the ability to dissolve parliament. While the strength of each of these presidential powers varies among regimes according to constitutional design, the strength of the presidency ultimately seems dependent upon and a function of non-legislative appointment and dismissal powers as well as the strength of the party system, as discussed below. Prime ministerial powers, on the other hand, tend to be less well defined, as prime ministers are broadly tasked with administration of the government, rather than conferred distinct and strong powers.

The strength of the party system in semipresidential countries also affects democratic stability. In premier-presidential systems, because the prime minister and government are accountable solely to the parliamentary majority, the parliamentary majority tends to dictate who is nominated as prime minister. Thus, the parliamentary majority determines whether “the prime minister is subordinate to the president,” as happens when each are of the same party, “or whether the president cohabits with an opposing prime minister.” In instances of cohabitation—a circumstance rife with political tension and conflict—the strength of the party system and its ability to sustain party coalitions dictates whether conflict

20. Id.
21. Roper, supra note 2, at 256.
22. Id. at 257.
23. Id. at 258.
24. Id. at 259. But see Clark & Larson, supra note 17, at 3 (arguing the veto-player theory indicates a president may have powerful influence in premier-presidential systems due to powers of legislative initiative and veto).
25. See O’Malley, supra note 3, at 8 (discussing the challenges of evaluating and comparing prime ministerial power in areas such as policy making).
26. See Elgie & McMenamin, supra note 6 (explaining that because of the accountability of the prime minister to the legislative majority, “if the legislature selects as prime minister someone who is opposed to the president then the president has to accept the appointment”).
27. Id.
28. More specifically, cohabitation occurs when the president and prime minister are members of opposing political parties. Elgie & McMenamin, supra note 6.
will be resolved democratically or through less legitimate means. In presidential-parliamentary systems, the strength of the party system is even more relevant given the president’s power to dismiss the prime minister. A strong party system increases the transaction costs of dismissing a cohabitating prime minister; a weak party system allows the president to take advantage of the lack of opposition coalitions and rule almost exclusively from the executive branch.

Critics of semipresidentialism, whether focused on premier-presidentialism or president-parliamentarism, advance two arguments, both of which are directed against the dual executive. First, critics argue the dual executive imposes an unnecessary competitive element on the government, which tends to result in “politicicking,” “delay[ed] decision making,” and “contradictory policies.” This competitive element also foreshadows dangerous constitutional ambiguities as to the proper subordination of powerful actors, such as the military, to others within the regime. If different actors are able to compete in an attempt to achieve ends beneficial only to each individually, the resulting lack of clarity as to who is subordinate to whom makes for an unstable balance of power threatening democratic stability. Notably, the concern regarding the competitive nature of the executive exists regardless of whether the president and prime minister are of the same party affiliation. Second, critics argue cohabitation leads to conflict within the executive with unpredictable consequences. For example, the military or the president could assume power improperly and without the authority to do so.

Underlying both of these criticisms is a concern about the inherent fragility and instability of semipresidential systems, due in large part to the dual nature of the executive and the balance of power between the president and prime minister.

Regardless of these criticisms, and of the dearth of scholarly support for semipresidentialism in either of its forms, this regime type has been adopted by former French and Portuguese colonies, by former communist countries, as well as in parts of Asia. Thus, it is all the more imperative to determine how these systems function and to what extent they support stable democracies. Because France is the well-known model for semipresidentialism or, more specifically, premier-

30. See Elgie & McMenamin, supra note 6 (“Under presidential-parliamentarism . . . the president retains the possibility of dismissing the prime minister and cabinet.”).
31. See Moser, supra note 29, at 70 (noting that “[p]residential-parliamentary systems raise the likelihood of interbranch conflict” and describing the ways in which such conflicts may arise).
32. Juan J. Linz, Presidential or Parliamentary Democracy: Does It Make a Difference?, in THE FAILURE OF PRESIDENTIAL DEMOCRACY 3, 55 (Juan J. Linz & Arturo Valenzuela eds., 1994); see also Elgie & McMenamin, supra note 6 (summarizing scholars’ criticisms related to the dual executive aspect of semipresidential systems).
33. Linz, supra note 32, at 59.
34. Elgie & McMenamin, supra note 6.
35. Id.
36. Id.
37. See id. (noting that even ardent semipresidentialism supporter Giovanni Sartori admitted that “semi-presidentialism is a somewhat fragile system”).
38. Elgie & McMenamin, supra note 6. See also Elgie, supra note 11, at 250 (discussing the evolution and adoption of semipresidentialism after its creation in the French Fifth Republic).
39. Elgie, supra note 11, at 248.
presidentialism, it will serve as the point of comparison against Russia, which has adopted a president-parliamentary system.

II. FRANCE: AN ANALYSIS OF A PREMIER-PRESIDENTIAL SYSTEM

A. Constitutional Formation in Post-French Fourth Republic

The current French government, the French Fifth Republic, is a direct result of the political instability of the French Fourth Republic and of the Algerian hostilities of the 1950s.\textsuperscript{40} Intending to facilitate more consistent political stability and a more authoritative government, General Charles de Gaulle was invited by President René Coty, upon the resignation of Prime Minister Pierre Pflimlin, to form a new French government.\textsuperscript{41} According to public opinion, “[i]f weak governments were responsible for the decay of the Fourth Republic, then special constitutional provisions were required to prevent that incapacity in the Fifth Republic.”\textsuperscript{42} Thus, upon his ascension to power in France, General de Gaulle intended to create a regime with institutions designed “to restore national unity, to reestablish order in the State, and to give Governments the authority necessary for them to fulfil their functions.”\textsuperscript{43} In doing so, a constitution was created establishing neither an authoritarian regime nor an extreme democracy.\textsuperscript{44} Rather, General de Gaulle championed a hybrid regime in which a strong executive was combined with a government accountable solely to parliament.\textsuperscript{45} As a result, the Fifth Republic avoided the persistent vacillations France had experienced under previous republics, which had risen and fallen with the aid of extreme regimes of the left and of the right.\textsuperscript{46} These constitutional and regime changes resulted in failed governments caused by “a residue of hostility which would

\textsuperscript{40} Robert J. Jackson et al., Constitutional Conflict in France: Deputies’ Attitudes Toward Executive-Legislative Relations, 9 COMP. POL. 399, 401 (1977). According to most scholars, the demise of the French Fourth Republic began well in advance of the Algerian hostilities. In General Charles de Gaulle’s view, the Fourth Republic “fell because the French were . . . ‘a profoundly divided people living in a terribly dangerous universe.’” D. M. P., After the Fourth Republic? Problems Facing General de Gaulle, 14 WORLD TODAY 286, 287 (1958). Other, more concrete problems perceived to have plagued the Fourth Republic and to have contributed to its demise include failed financial reforms, reform of parliamentary procedures, local government reforms, and constitutional revisions. Id. Furthermore, the party system of the parliament had proven inefficient and incapable of agreement, “even when there was no conservative opposition to speak of.” Id. at 288.

\textsuperscript{41} Martin A. Rogoff, A Comparison of Constitutionalism in France and the United States, 49 ME. L. REV. 21, 63 (1997) [hereinafter Rogoff, A Comparison of Constitutionalism].

\textsuperscript{42} Jackson, et al., supra note 40, at 401.

\textsuperscript{43} D. M. P., supra note 40, at 290.


\textsuperscript{45} Id.

\textsuperscript{46} See Jackson, et al., supra note 40, at 400 (stating that prior French constitutions may be easily categorized as “those which enshrine the principles of representation and a powerful assembly and those which belong to a plebiscitarian and powerful executive tradition”); see also Rogoff, A Comparison of Constitutionalism, supra note 41, at 60 (describing France’s eight different constitutions between 1791 and 1815 as ranging from absolute monarchy, to constitutional monarchy, to radical republic, to moderate reaction, and finally, to dictatorship).
erupt in the next crisis and cause a further constitutional battle.”47 Through a blending of the previous Republican and Bonapartist traditions, however, the constitution of the French Fifth Republic has thus far succeeded in creating a more stable system capable of continued governance.46

In stark comparison to the issues faced by the Russian Constitutional Commission and Yeltsin’s Constitutional Assembly, as well as the time lag in drafting the Russian constitution,49 the Constitution of the French Fifth Republic was drafted and approved with little difficulty or delay. The National Assembly enacted a law authorizing the drafting of a new constitution on June 3, 1958; the new constitution was approved by the French people through a referendum vote on September 28, 1958; and the constitution was promulgated on October 4, 1958.50 Indeed, where Russian politicians failed to take advantage of exigent crises to create a legitimate constitution built on compromise, the French seem to have capitalized on the nature of the political process and the powerful crises to create a constitution that continues to meet the needs of France half a century later.

B. Constitutional Analysis

1. Presidential Powers and Parliamentary “Checks”

Despite the different background within which the Constitution of the French Fifth Republic was drafted, as compared to the Russian constitution, both create a strong office of the presidency.51 The French president has the power to: (1) “appoint the Prime Minister . . . [and] terminate[] his functions when the latter tenders the resignation of the Government;”52 (2) “declare the dissolution of the National Assembly” upon consultation with the prime minister;53 (3) “appoint[] and dismiss[] the other members of the Government” upon proposal of the prime minister;54 (4) “sign[] ordinances and decrees decided upon in the Council of Ministers;”55 and (5) “put into a referendum any Government bill dealing with” enumerated topics.56

Cabinet formation power is an exceptional executive power.57 Under the French constitution, the president has “supreme power in this regard, as the appointment power is not subject to parliamentary confirmation.”58 Without being

47. Jackson, et al., supra note 40, at 400.
49. See infra Part III.A (discussing the development of the current Russian constitution).
50. Rogoff, A Comparison of Constitutionalism, supra note 41, at 63.
52. 1958 CONST. 8 (Fr.) (emphasis added).
53. Id. art. 12.
54. Id. art. 8.
55. Id. art. 13.
56. Id. art. 11.
57. See Roper, supra note 2, at 256, 258 (rating the power of cabinet formation as a “3 if the president names the entire cabinet subject to parliament’s confirmation,” which is one unit less than a so-called “supreme” presidential power).
58. Id.; 1958 CONST. 8 (Fr.).
subject to parliamentary confirmation, the French president has no direct incentive to appoint a prime minister of any particular party to satisfy parliamentary majority preferences, save perhaps the incentive to appoint a prime minister of the president’s own party. Indirectly, however, the French president must be cognizant of the possibility of forced resignation of the prime minister by parliament. Should parliament pass a motion of censure or otherwise reject the prime minister’s program or policies, “the Prime Minister must tender to the President of the Republic the resignation of the Government.” Thus, the French president tends to appoint prime ministers of the same party as the parliamentary majority, which may or may not coincide with his own.

Despite the “supreme” nature of the president’s appointment power, such power is mildly tempered by the remaining powers regarding government formation, similar to the approach taken by the Russian constitution. Without approval by the parliament, but only on proposal of the prime minister, the French president has the power to appoint and dismiss members of the government. As with the indirect limitation placed on the president’s prime minister appointment power, the president’s cabinet formation power is only slightly and indirectly limited by parliament’s ability to force the resignation of the government. However, and as in the case of the Russian constitution, parliament has little incentive to force the resignation of the government without good reason in light of the president’s power to dissolve the National Assembly. Thus, even with the parliamentary check of the threat of the forced resignation of the government, the president’s appointment and cabinet formation powers render it capable of shaping the tenor of government policy and reform.

Finally, the French constitution grants the president important legislative powers, shifting substantial control of policy and reform to the executive. Articles 11 and 13 allow the president to initiate legislation and to declare law unilaterally. Besides the topics enumerated in Article 11, the president’s referendum and decree powers are seemingly unlimited by the French constitution. Such powers enable the president to be less encumbered by parliament, allowing for the pursuit of policy goals perhaps not embraced or prioritized by parliament. By shifting some

59. 1958 Const. 50 (Fr.).
60. See Martin A. Rogoff, One, Two, Three, Four, Five, and Counting: A Sixth French Republic?, 10 Colum. J. Eur. L. 157, 170 (2003) (reviewing Paul Allies, Pourquoi et Comment Une VI République (2002) and Olivier Duhamel, Vive la VI République! (2002)) (noting the repeated practice of cohabitation). If the parliamentary majority is of a different party than the president, then the president and prime minister will “cohabit.” Jenny S. Martinez, Inherent Executive Power: A Comparative Perspective, 115 Yale L.J. 2480, 2488 (2006). The tension created through cohabitation, this Note argues, is what renders the French model of semipresidentialism better able to safeguard and facilitate democratic consolidation and stability.
61. See Конституция Российской Федерации [Конст. РФ] [Constitution] art. 83, cl. e (listing the powers and duties of the president of the Russian Federation).
62. 1958 Const. 8 (Fr.).
63. Id. art. 49.
64. Id. art. 12.
65. See id. art. 11 (allowing the president to “put to a referendum any Government bill dealing with” a variety of enumerated topics); see also id. art. 13 (allowing the president to sign “ordinances and decrees decided upon in the Council of Ministers”).
66. See 1958 Const. tit. II (Fr.) (enumerating the powers and duties of the president).
67. See Ludwikowski, supra note 51, at 34 (noting the ways that the French model strengthened the
legislative power from parliament to the executive, the French constitution continues to support and facilitate a strong executive.

As regards executive power, the French and Russian constitutions are similar in scope and the amount of power afforded the executive branch.\(^\text{68}\) The French president may appoint the prime minister and members of the government, subject only to the indirect threat of a vote of no-confidence or forced resignation of the government.\(^\text{69}\) Further, the president has the power to dismiss members of the government, tempered only by the requirement of the prime minister’s proposal of the same action.\(^\text{70}\) Regardless of the threat of forced resignations, the president also possesses the power to dissolve the National Assembly, seemingly without limitation.\(^\text{71}\) Finally, the president is also given significant legislative powers in the form of referendums and decrees, which are only slightly restricted, if at all.\(^\text{72}\) Thus, the true difference between the French and Russian concepts of semipresidentialism is to be found in the powers of the prime minister and to whom the prime minister is responsible.

2. Prime Ministerial Powers

Under the French constitution, the prime minister holds a subordinate position, albeit not to the extent of the Russian prime minister. The scope of the prime minister’s power is cast in ambiguous and vague language.\(^\text{73}\) For example, Article 20 states that the government, of which the prime minister is the head, “shall decide on and conduct national policy.”\(^\text{74}\) What “national policy” consists of is left undefined. As to the conducting of such “national policy,” the prime minister is given responsibility for “direct[ing] the activities of the Government,” which is equally undefined.\(^\text{75}\)

While the affirmative responsibilities and lawful activities of the government are left vague and open-ended, the prime minister and members of its cabinet are specifically prohibited from participating in “the exercise of any parliamentary mandate, . . . the holding of any office at national level in business, commercial or professional organizations, and with any public office or professional activity.”\(^\text{76}\)

\(^{68}\) See discussion infra Parts III.A–III.B.1 (discussing the extent of executive power under Russian constitution).

\(^{69}\) 1958 CONST. 8 (Fr.).

\(^{70}\) Id.

\(^{71}\) Id. art. 12.

\(^{72}\) Id. art. 11.

\(^{73}\) See id. arts. 20–23 (articulating the scope of the prime minister’s power).

\(^{74}\) Id. art. 20.

\(^{75}\) 1958 CONST. 21 (Fr.). It is interesting, although perhaps not dispositive or particularly persuasive in any meaningful way, to note the number of articles dedicated to the office of the President as compared with the number of articles dedicated to the Government. The President is governed directly by fifteen articles in the constitution, id. tit. II, while the Government is governed directly by four, id. tit. III. As another point of comparison, Parliament is governed directly by ten articles. Id. tit. IV. However, eighteen articles are devoted to the relationship between Parliament and the Government. Id. tit. V. This last observation is indicative of the nature of the French semipresidential system in which the Prime Minister and Government are accountable solely to Parliament, rather than to both Parliament and the President.

\(^{76}\) Id.
Perhaps the reasoning behind this prohibition is the interest of neutrality, as the government must work with parliament to “conduct national policy.” Indeed, the prime minister is given few legislative powers, save for the “power to make regulations.” The legislative powers accorded to the prime minister consist solely of “the right to introduce legislation,” in tandem with parliament, to further national policy. Such legislative power is not unilateral, however, as “government bills shall be discussed in the Council of Ministers after consultation with the Council of State.”

Importantly, the French constitution explicitly provides that the prime minister “shall be responsible to Parliament” pursuant to Articles 49 and 50. Thus, should parliament disagree with the policies of the government, parliament is capable of forcing its resignation. Moreover, and in contrast to the Russian model, the French constitution does not require the prime minister to be accountable to the president. Indeed, the president holds no formal dismissal power over the prime minister, nor does the president control retention or relinquishment of prime ministerial power, as does the Russian president. Put succinctly, the French prime minister is accountable exclusively to the parliamentary majority. Thus, the prime minister is

77. Id. art. 20.
78. Id. art. 21. Article 13 describes the president’s appointment power for civil and military posts. Id. art. 13. Under Article 13, the Council of Ministers appoints “Councillors of State, the Grand Chancellor of the Legion of Honour, ambassadors and envoys-extraordinary, Master Councillors of the Court of Auditors, prefects, representatives of the Government in Overseas Territories, general officers, rectors of academies, and heads of central government departments.” Id. art. 13. Thus, the prime minister’s appointment power in this regard is limited to those civil and military posts not specifically enumerated in Article 13.
79. Id. art. 39.
80. 1958 Const. 39 (Fr). Notably, this requirement is tempered by the influence and power of the president, who is the chair of the Council of Ministers, constituting an important check on the prime minister’s legislative powers. Id. art. 9.
81. Id. art. 20.
82. Id. arts. 49–50.
83. See id. art. 8 (“The President of the Republic appoints the Prime Minister. He terminates his functions when the latter tenders the resignation of the Government.”).
84. See Dorothy Pickles, The Constitution of the Fifth French Republic, 22 Mod. L. Rev. 1, 8 (1959) (“Henceforth, a Government can be compelled to resign in only three ways: first, if defeated by a simple majority on a request for the Assembly’s approval of its programme or its general policy; second, on a Bill or part of a Bill which the Government has made an issue of confidence; and third, on a motion of censure on the Government’s general policy, signed by at least a tenth of the Deputies of the Assembly.”); see generally 1958 Const. 20 (Fr.) (stating the government “shall be responsible to Parliament”); id. arts. 5–19 (enumerating the French president’s powers and indicating the French president is not conferred the power to dismiss the prime minister, as opposed to members of the cabinet, under any circumstances). However, it is important to distinguish between constitutionally compelled resignation and politically compelled resignation. While the French president formally cannot require the prime minister to resign, the president can politically pressure the prime minister to resign. See Pickles, supra, at 9 (“The constitution deals only with issues on which the Government is obliged to resign. But experience has shown that most French Governments resign, not because their position is constitutionally untenable, but because it is politically untenable.”).
85. See KONST. RF arts. 116–17 (Russ.) (explaining the procedure by which the government may offer a resignation of its powers and the instances in which it must resign its powers).
86. According to Shugart and Carey, this distinction renders the French Fifth Republic model a premier-presidential system, as “the prime minister and cabinet are exclusively accountable to the parliamentary majority, while under president-parliamentarism, the prime minister and cabinet are dually accountable to the president and the parliamentary majority.” Elgie & McMenamin, supra note 6
independent from the president in the exercise of its responsibilities under the constitution, allowing it to navigate political hurdles by compromising with party coalitions, lest it be subject to a motion to censure or forced resignation.

3. Parliamentary-Prime Ministerial Relations

Because the prime minister is accountable solely to parliament under the French constitution, it is important to explore the contours of the two bodies’ working relationship as governed by Title V of the constitution. In order for the prime minister to “conduct national policy” pursuant to Article 20, it “may ask Parliament to authorize it, for a limited period, to take by means of ordinance measures which fall normally within the domain of legislation.” However, the continued enforceability of such ordinances requires a ratification bill, the absence of which causes the ordinance to lapse. Additionally, the prime minister and government have the power to determine the agenda of parliament, giving the government direct power to control the output of parliament.

Severely restricting unfettered use of these powers by the prime minister is the parliament’s capacity to force the resignation of the government. Article 49 outlines the method by which the National Assembly questions the confidence in the government and may force its resignation. The National Assembly may pass a motion of censure or simply reject the government’s program or policy statement. A censure motion must be adopted “by a majority of all members comprising the Assembly.” Finally, upon passage of a censure motion, the prime minister must tender its resignation to the president.

Because a censure motion requires a majority vote of the National Assembly, such motions are most successful when the parliamentary majority is a party distinct from that of the prime minister, save in exceptional circumstances. Where the prime minister and parliamentary majority are of the same party, it is unlikely the parliamentary majority will be so opposed to the prime minister as to require the

(quoted Matthew S. Shugart, Comparing Executive-Legislative Relations, in THE OXFORD HANDBOOK OF POLITICAL INSTITUTIONS 344, 357 (Sarah A. Binder & Bert A. Rockman eds., Oxford University Press 2006)).

87. 1958 CONST. 34–51 (Fr.).
88. Id. art. 20.
89. Id. art. 38.
90. Id.
91. See id. art. 48 (granting the government the power to control the content and order of the parliament’s agenda).
92. See id. arts. 49–50 (dictating a procedural mechanism for obtaining resignation of the government).
93. 1958 CONST. 49 (Fr.).
94. Id. (Fr.).
95. Id. art. 49.
96. Id. art. 50.
97. See John D. Huber, The Vote of Confidence in Parliamentary Democracies, 90 AM. POL. SCI. REV. 269, 275 (1996) (“[A] parliamentary majority can remove a prime minister from office at any time by submitting and voting a motion of censure. Thus, the existence of any government in power suggests that, other things equal, a majority places a nonnegative value on keeping that government in place. The costs of bringing down the government are equally straightforward. Throwing the prime minister out of office may lead to a government that implements undesirable policies in the future, may entail a loss of access to governmental sources of patronage, and may lead to loss of one’s seat if an election ensues.”).
government’s resignation and risk appointment of a new government of a different, and perhaps adversary, party.

C. Practical Application of Premier-Presidentialism in France

Because the French prime minister is accountable solely to parliament, the strength of the party system and party affiliation directly affects the balance of power between the prime minister and the president. If the prime minister and president are cohabitating, which occurs when the president is of a different party than the parliamentary majority, the prime minister’s power tends to increase. During periods of cohabitation, prime ministers tend to wield more power given the support of the parliamentary majority, a relationship which fosters tense conflict between the president, on one side, and the prime minister and parliament on the other. Conversely, when the prime minister and president are not cohabitating, the president has little need to subordinate to the prerogatives of the prime minister and parliament as the prerogatives of the three tend to align. Despite the inherent capacity for destabilizing tension during these periods, cohabitation, paired with the president’s formal inability to dismiss the prime minister, actually fosters greater democratic stability within the system, as conflict necessarily is resolved according to majoritarian rule.

President François Mitterrand’s nomination of Jacques Chirac on March 20, 1986, marked the beginning of the first period of cohabitation in the French Fifth Republic. Chirac was appointed as prime minister to satisfy the parliamentary majority, rather than as a complement to Mitterrand’s own party. Conventional thought in France tended to interpret the 1958 constitution as “requir[ing] the president to resign or appeal to the electorate if he were confronted by a contrary majority. If the prime minister disagreed with the president who still had the support of the parliamentary majority, logic again required the premier to resign.” However, beginning in the mid-1970s, the appeal of cohabitation had become more popular among top French politicians and thus, the Mitterrand-Chirac cohabitation arrangement was not challenged. From the beginning of their relationship,

98. See Martinez, supra note 60, at 2488 (noting that the prime minister’s powers have increased during periods of cohabitation).
99. See Petra Schleiter & Edward Morgan-Jones, Citizens, Presidents and Assemblies: The Study of Semi-Presidentialism Beyond Duverger and Linz, 39 BRIT. J. POL. SCI. 871, 876–77 (2009) (indicating fusion of prime minister and parliamentary legislative control facilitates more efficient negotiation of legislation in premier-presidential regimes, while cohabitation in president-parliamentary systems requires more intense and protracted negotiation); see also Elgie & McMenamin, supra note 6 (quoting Matthew Søberg Shugart, Semi-presidential Systems: Dual Executive and Mixed Authority Patterns, 3 FRENCH POLITICS 323, 328) (explaining that when the president and prime minister “have independent sources of authority,” such as during cohabitation, they must “cooperate to accomplish some task”).
102. Id. Because presidential and legislative elections are held at different times in France, it is not entirely unlikely for the electorate to elect a president of one party, only for electoral sentiments to change prior to the legislative election. Id. at 255.
103. Id. at 252.
104. Id. at 255–56.
however, Mitterrand “made it clear that he would not cooperate on certain issues. Specifically he said that he would not sign *ordonnances* (decrees) dealing with social policies that did not present progress in relation to what was already in place.”¹⁰⁵ By stonewalling Chirac on issues particularly subject to inter-party conflict, Mitterrand was requiring these issues be sent to parliament for resolution, as Chirac was without any other recourse to advance his policies.¹⁰⁶ Indeed, without the aid of a parliamentary majority and without powerful recourse to dismiss Chirac,¹⁰⁷ Mitterrand had no other option but to submit to the risk of losing on these issues by relying on the democratic process.

Although Mitterrand’s stubbornness may seem simply contrarian and an attempt to plant a seed of doubt in the legitimacy of Chirac’s power, such political maneuvering by the French president did not negatively affect democratic stability. Faced with the formal incapacity to dismiss the prime minister, Mitterrand was forced to submit to compromise and the democratic process to resolve conflict, thereby safeguarding democracy.¹⁰⁸ Thus, issues at the core of disagreements between the political parties were sent to parliament for resolution,¹⁰⁹ which was more likely to ensure that the interests of the electorate controlled the outcome. Interestingly, according to polls taken in 1986, “the French tended toward an acceptance of cohabitation” despite prior conventional wisdom regarding cohabitation, perhaps indicating appreciation of the vindication of democracy.¹¹⁰

The Mitterrand-Chirac period of cohabitation demonstrates the need for a strong party system in semipresidential regimes to ensure democratic stability. The strong party system allows for majority coalitions, which may stand in opposition to or in solidarity with the president. In either circumstance, conflict is resolved between the legislative and executive branches, rather than through a single branch coup. However, the efficacy of cohabitation in ensuring democratic stability depends on insulation of the prime minister from dismissal by the president.¹¹¹ If the president

¹⁰⁵. *Id.* at 257.
¹⁰⁶. *Id.* at 259 (illustrating that when faced with the reprivatization of the French banking system, Mitterrand followed through on his promise to not sign any ordinances that did not progress those already in place, forcing Chirac to send the ordinances to parliament.).
¹⁰⁸. *Id.* at 259.
¹⁰⁹. *Id.* at 260.
¹¹⁰. *Id.* at 262.
¹¹¹. While the French president formally does not have the power to dismiss the prime minister, the constitution does not prevent the president from pressuring the prime minister to tender resignation of the government. *See* Anne Stevens, *The Government and Politics of France* 96 (1st ed. 1992) (explaining “in practice prime ministers have been dismissed” despite the French president having no formal right to dismiss the prime minister); Elaine Scioli no, *French Leader Fires Premier in Response to E.U. Rejection*, N.Y. TIMES (May 31, 2005), http://www.nytimes.com/2005/05/31/international/europe/31end-france.html (reporting that Jean-Pierre Raffarin “resigned in the wake of [a] no-confidence vote”); Ben Hall, *Sarkozy Reappoints Fillon in French Reshuffle*, FIN. TIMES (Nov. 14, 2010), http://www.ft.com/cms/s/0/6d89aa24-e6d2-11df-88df-00144feab49a.html (reporting that Jean-Louis Borloo “resigned from the government,” to be replaced by François Fillon). The president’s capacity to do this, however, is tempered by prevailing assembly opinion: the president is unlikely to pressure the prime minister to resign if the prime minister enjoys parliamentary approval. *See* John C. Reitz, *Political Economy and Separation of Powers*, 15 TRANSNAT’L L. & CONTEMP. PROBS. 579, 606 (2006) (“During periods of cohabitation, the increase in the power of the person who comes into the office of Prime Minister by virtue of his strong popular and legislative support clearly limits the authority of the President, as a matter of political fact.”). If the president were to do so, the president would risk loss of electoral support and of support within his own party. *See id.* (explaining that the French president’s dismissal of a
had the formal power to dismiss the prime minister during periods of cohabitation, as distinct from the political power to pressure the prime minister to resign, the president could pool power in the executive and rule accordingly, resolving conflict outside of the democratic process. However, the French model does not allow for such presidential fiat; any conflict arising within a cohabitation relationship must be resolved through compromise and submission to democratic institutions. Because the French system is supported by a strong party system with defined coalitions and because the French president (1) cannot formally dismiss the prime minister and (2) is disincentivized from pressuring resignation during periods of cohabitation, democratic legitimacy and stability are less likely to become victims of political conflict.

III. RUSSIA: AN ANALYSIS OF A PRESIDENT-PARLIAMENTARY SYSTEM

A. Constitutional Formation in Post-U.S.S.R.

Prior to the 1990s, the Russian government did not have a president. In an effort to realize economic programs more successfully through a stronger executive, however, the government underwent a series of political reforms under Mikhail Gorbachev. To this end, Gorbachev elected to supplement the parliamentary system with a directly elected presidency. In choosing a presidential model, Gorbachev evaluated the American model of presidential government, as well as the French Fifth Republic’s model of semipresidentialism. Central to the discussion cohabitating prime minister may “provok[e] such a crisis of government that he might have to resign”). Thus, when the president and prime minister are cohabitating, the president is disincentivized from pressuring resignation, as the president likely does not enjoy the support of a parliamentary majority and would have a difficult time reconstituting a government with which he is in agreement on political issues. See id. at 604 (noting the usual ability of French presidents to dominate the government, including a power of dismissal). Because the president is in alignment with popular political sentiment and enjoys cooperation with the parliamentary majority in this case, the president would have little difficulty in reconstituting a more agreeable government.

112. See Pickles, supra note 84, at 8 (describing the political mechanisms necessary for dismissal of the prime minister).

113. See Poulard, supra note 101, at 267 (“Cohabitation has shown that it was a workable political arrangement under the 1958 Constitution and that it led neither to deadlock and immobility nor to a dire constitutional crisis.”).

114. Eugene D. Mazo, Constitutional Roulette: The Russian Parliament’s Battles with the President over Appointing a Prime Minister, 41 STAN. J. INT’L L. 123, 138 (2005). Historically, however, the Russian political system has tended to favor “[a] strong executive, with power concentrated in a small governing elite . . . .” John P. Willerton & Aleksei A. Shulus, Constructing a New Political Process: The Hegemonic Presidency and the Legislature, 28 J. MARSHALL L. REV. 787, 790 (1995). From the Tsarist regime through the Soviet system, the Russian government was marked by a strong central executive, which would ignore, dissolve, or otherwise control any state bureaucratic entities. Id. at 791.


117. Id. at 133, 139.
were the issues of the requisite amount of executive power necessary to execute reforms and the responsibilities attendant of a president as opposed to a prime minister. In contrast, Georgy Shakhnazarov, a Gorbachev advisor, argued that a system based on the French model would remove Gorbachev from more detailed and mundane decision making more appropriate for a prime minister, allowing him to focus on broader policy initiatives and reforms. Shakhnazarov also argued that Russia’s political and economic instability demonstrated the impracticality of a presidential system based on the American model.

Gorbachev ultimately chose “a hybrid, somewhat closer to the French than to the American model” for the Russian presidency.

Prior to the collapse of the Soviet Union in December of 1991, Russia was governed by the Constitution of 1978, itself modeled on the 1977 Soviet Constitution. After the collapse, Russia had a unique and fleeting opportunity to write and ratify a new constitution quickly. However, because of the national exigencies facing Yeltsin and persistent irreconcilable differences between him and the Duma, a new constitution was not agreed upon and ratified for quite some time. In the interim and during the proceedings of the Constitutional Commission, Russia remained beholden to the 1978 constitution, amendments to which formed the basis of the semipresidentialism adopted in the 1993 constitution.
In drafting the new constitution, two dominant approaches emerged within the Constitutional Commission. Valery Zorkin proposed a system in which a strong president would be the head of the government and head of state. Zorkin’s model did not include a prime minister and thus, the president had the power to nominate the government, the approval of which was subject only to parliamentary approval. The second approach, proposed by Viktor Sheinis, Leonid Volkov, and Revolt Pimenov, more closely resembled a semipresidential system. Under the proposed system, the president would present a prime minister candidate for confirmation by the Duma. The lower house of the Duma would also be able to render a vote of no-confidence, forcing dissolution of the government. Despite their distinct differences, each approach constituted a variation of semipresidentialism because each required parliamentary approval of the prime minister or government.

Yeltsin, however, favored a system with a stronger presidency than those proposed by the Commission and therefore drafted the Presidential Draft Constitution of Russia. The Presidential Draft provided for a “presidential prerogative to control the executive branch, the right of the president to veto parliamentary laws, and the right to be elected in nationwide elections for a six-year term.” To prevent Yeltsin from submitting his draft to a referendum, the Commission prepared a draft “that fell somewhere between the Commission’s original draft and the new presidential draft.” The Commission’s draft, however, proved insufficient as Yeltsin desired a constitution granting the president two distinct powers. First, Yeltsin wanted the president to be the head of government with an absolute right to nominate the government. Second, Yeltsin wanted the president to have the power to dissolve parliament. Disappointed with the work of the Commission, Yeltsin created and vested constitutional drafting authority with the Constitutional Conference. The Constitutional Conference worked from both the

127. Id. at 143.
128. Id.
129. Id. Although Zorkin “was a stalwart proponent of presidentialism who disliked parliamentary and semipresidential models of government,” the requirement of parliamentary approval of the cabinet in his constitutional draft indicates the proposed system to be of a more semipresidential nature, rather than presidential. Id. at 143–44.
130. Mazo, supra note 114, at 143–44.
131. Id. at 144.
132. Id.
133. Id. at 144. In fact, “most of the drafts that were being considered during these constitutional debates were semipresidential in form. . . . The real question concerned what kind of semipresidential regime would be set in place.” Id. at 148. See also McFAUL, supra note 115, at 168–69 (stating the first and second drafts of the Commission recommended the creation of weak and strong semipresidential systems, respectively); Duverger, supra note 14, at 166 (stating that a regime is semipresidential if, among other things, “a prime minister and ministers . . . possess executive and governmental power and can stay in office only if the parliament does not show its opposition to them”).
134. Mazo, supra note 114, at 144.
135. Id. See also McFAUL, supra note 115, at 168 (stating Yeltsin and his allies supported the creation of a presidency in order to increase executive autonomy from parliament).
136. Mazo, supra note 114, at 144.
137. Id. at 145.
138. Id.
139. Id.
140. McFAUL, supra note 115, at 192.
Presidential Draft and the Constitutional Commission’s draft, culminating in its own draft by September 1, 1993.\textsuperscript{141}

In an attempt to subvert Yeltsin’s dubiously appointed Constitutional Conference, the Duma began drafting amendments to the then-applicable constitution with the intent of eliminating the presidency.\textsuperscript{142} Before succeeding, however, Yeltsin issued Presidential Decree No. 1400 on September 21, 1993, dissolving the Duma and calling for popular ratification of a new constitution and elections for a new parliament.\textsuperscript{143} After forcefully removing opposition parties, Yeltsin reconvened a portion of the Constitutional Conference and “wrote the constitution to his specifications.”\textsuperscript{144} By November 10, Yeltsin had a final draft of the new Russian constitution, which was presented for a nationwide vote and approved by 54.8% of the electorate on December 12.\textsuperscript{145} Despite the conflicts between Yeltsin and the Duma over the appropriate amount of power to be shared within the executive, the 1993 constitution created a semipresidential form of government with both a president and a prime minister.\textsuperscript{146}

B. Constitutional Analysis

1. Presidential Powers and Parliamentary “Checks”

As penned by Yeltsin, the new Russian constitution calls for an exceedingly strong presidential office. Most importantly, the president has the power to: (1) appoint and dismiss the prime minister;\textsuperscript{147} (2) “dissolve[] the State Duma;”\textsuperscript{148} (3) “appoint[] and remove[] from office the deputy chairs of the Government;”\textsuperscript{149} and (4) “issue[] edicts and decrees.”\textsuperscript{150} The strength and scope of these powers directly affects the strength of the Russian presidency, as well as the president’s capacity to affect policy change.

The powers to appoint and dismiss the prime minister constitute an exceptional amount of presidential power.\textsuperscript{151} Furthermore, such “super-presidential” powers are

\begin{itemize}
\item \textsuperscript{141} Mazo, supra note 114, at 146–47.
\item \textsuperscript{142} McFaul, supra note 115, at 194.
\item \textsuperscript{143} Mazo, supra note 114, at 147.
\item \textsuperscript{144} Id. In fact, merely two days before the final draft of the 1993 constitution was complete, Yeltsin “sat down at 3:15 p.m. . . . and, without consulting his advisors, made changes to it in his own hand. These changes were simply adopted and written into the text without any further discussion.” Id. at 149.
\item \textsuperscript{145} Id. at 147.
\item \textsuperscript{146} Generally speaking, the 1993 constitution (1) retains popular election of the president; (2) grants the president a great deal of executive power; and (3) grants confirmation power of the prime minister to the Duma. See Konst. RF art. 81, § 1 (stating the president “shall be elected . . . by citizens of the Russian Federation . . . in a secret ballot”); id. art. 103, cl. a (stating the Duma shall give “consent to the President . . . for the appointment of the” prime minister); see also Duverger, supra note 14, at 166 (stating the elements of a semipresidential system are: “(1) the president of the republic is elected by universal suffrage; (2) he possesses quite considerable powers; [and] (3) he has opposite him . . . the prime minister and ministers who possess executive and governmental power and can stay in office only if the parliament does not show its opposition to them”).
\item \textsuperscript{147} Konst. RF art. 83, cls. a, c.
\item \textsuperscript{148} Id. art. 84, cl. b.
\item \textsuperscript{149} Id. art. 83, cl. c.
\item \textsuperscript{150} Id. art. 90, § 1.
\item \textsuperscript{151} See Roper, supra note 2, at 256, 258 (rating the power of cabinet formation subject only to
only moderately limited by the Russian constitution. The foremost of these
limitations is the required consent of the Duma, without which the president must
appoint an alternate candidate for prime minister. \footnote{Konst. RF art. 111, §§ 1, 3.} Through its consent power, the
Duma seemingly has the capacity to force the president to appoint a politically
agreeable prime minister, which, theoretically, tempers the appointment power of
the president. \footnote{As discussed in further detail below, however, the weak party system in Russia renders this
capacity of the Duma largely a theoretical one.} However, should the Duma fail to consent to the president’s
appointed prime minister three consecutive times, “the President of the Russian
Federation shall appoint a [prime minister], dissolve the State Duma and call new
elections.” \footnote{Konst. RF art. 111, § 4.} Although the Duma may exercise a modicum of control over
government formation, it must exercise those powers strategically to avoid
dissolution or to prevent the president from resorting to more authoritarian rule. \footnote{Moser, supra note 29, at 84–85.}
The president also has the power to dismiss the prime minister, regardless of
parliamentary approval. \footnote{Konst. RF art. 83, cl. e.} This power has proven to become a powerful tool for the
president in controlling the Duma and prime minister, although at the cost of some
democratic legitimacy. \footnote{Mos, supra note 29, at 84 (“The members of the cabinet are appointed jointly by the
president and prime minister without legislative approval.”).}

In tandem with the power to appoint and dismiss the prime minister is the
president’s power to appoint and dismiss members of the government. \footnote{Id. at 150.} In fact, the
president’s power to appoint and dismiss cabinet members, upon proposal by the
prime minister, is unilateral and does not require Duma consent. \footnote{Konst. RF art. 111, §§ 1, 3.} Again, this
presidential power is only marginally limited by the Duma’s capacity to vote no-
confidence in the formed government. \footnote{Konst. RF art. 117, § 4.} By the text of the constitution, therefore,
the Duma seems to possess an important power to influence the political character of
the government. However, two votes of no-confidence require either the dismissal of
the government or the dissolution of the Duma. \footnote{Id. at 117, § 3.} Paired with dissolution power, the
Duma’s rejection of the appointed prime minister three times over grants the
Russian president an extraordinary amount of power over the creation and stability
of the government. \footnote{Id. at 109, § 3; (2) once a charge for impeachment has been laid
against him, id. art. 109, § 4; and (3) within six months of the end of the president’s term in office, id. art.
109, § 5. However, the conditions precedent for these provisions have yet to manifest and thus, the
practical application of the tension-ridden provisions as regards president-parliament relations has yet to
be determined. Mazo, supra note 114, at 151.}

\footnote{Konst. RF art. 111, §§ 1, 3.}

\footnote{Mazo, supra note 114, at 151 (stating that most scholars have described the Russian president’s
cabinet formation powers as “super-presidential”). Bolstering the strength of this appointment power,
consent requires a mere simple majority of the Duma. Id. at 150.}

\footnote{Moser, supra note 29, at 84.}

\footnote{Konst. RF art. 83, cl. c.}

\footnote{Moser, supra note 29, at 84–85.}

\footnote{Konst. RF art. 83, cl. e.}

\footnote{See Moser, supra note 29, at 85 (“The members of the cabinet are appointed jointly by the
president and prime minister without legislative approval.”).}

\footnote{Id. art. 117, § 3.}

\footnote{Id. at 117, § 3.}
Finally, the president has a number of legislative powers, such as the power to “issue[] edicts and decrees,” which merely “must not contravene the constitution of the Russian Federation and federal laws.” Article 90 proposes no other restrictions, temporal, topical, or otherwise, on the president’s decree power, conferring upon the president an unencumbered capacity to enforce executive policies in lieu of legislative action or approval. Reinforcing the president’s decree power is the presidential veto and the votes required to overcome it: “[I]f a war of laws versus presidential decrees were to break out, the president would have the upper hand, for he could veto contrarian legislation, and force the legislature to come up with super-majorities to override.”

Thus, under the Russian constitution, the president is given an exceptional amount of control over both the parliament and the prime minister. The capacity, and sometimes the constitutional requirement, of the president to dissolve parliament tempers the Duma’s use of its own constitutionally conferred control mechanisms, namely the consent-rejection power and no-confidence votes. Additionally, the president retains supreme control over the appointment and dismissal of the government. Finally, the president’s power to issue decrees and edicts, paired with the veto power, renders the president a legislative force in the executive office.

2. Prime Ministerial Powers

In stark contrast to the affirmative powers conferred upon the president, the prime ministerial powers are subordinate, deferential, and more constricted. For example, the prime minister plays a mere advisory role in the formation of the government, of which it is the head: “The chair of the government of the Russian Federation shall propose to the President of the Russian Federation candidacies for the posts of deputy chairs . . . .” As discussed above, however, the president has the unilateral discretion to approve of and dismiss any candidate proposed by the prime minister.

Second, where the president’s decree power is limited only by the constitution and federal laws, the prime minister’s decree power is severely limited: prime ministerial decrees and edicts must be issued “[o]n the basis of and in implementation of the constitution . . . , federal laws and normative edicts of the President . . . .” Article 115, clause 3 further restricts the prime minister’s decree

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163. Konst. RF art. 90, § 1.
164. Id. art. 90, § 3.
165. See id. art. 90 (imposing no restrictions on the president’s legislative powers).
166. Id. art. 107, § 3.
167. Moser, supra note 29, at 86.
168. Konst. RF art. 117, § 3; id. art. 111, § 4.; see also Moser, supra note 29, at 85 (describing the reduced power of the Duma as a result of the president’s dissolution powers).
169. Konst. RF art. 83, cl. c.; Moser, supra note 29, at 85–86.
170. Konst. RF art. 90, §§ 1, 3, art. 107; Moser, supra note 29, at 85–86.
171. Konst. RF art. 110, § 2, art. 112.
172. Id. art. 112.
173. Id. art. 83, cl. c.
174. Id. art. 90, § 3.
175. Id. art. 115, § 1 (emphasis added).
power: “In the event of conflict with the constitution . . . , with federal laws, or with edicts of the President . . . , decrees and directives of the [Prime Minister] may be abrogated by the President.”

Thus, the prime minister’s independent legislative powers are not independent at all, as they are constitutionally required to submit to presidential preference should conflict arise.

Finally, the president also directly controls retention or surrender of prime ministerial power. Article 116 requires relinquishment of authority to newly elected presidents. Even if the prime minister and government voluntarily resign or surrender their power, “on the instructions of the President” the government “shall continue to act until the formation of the new government . . . .” Further, and as discussed above, the president has the power to dismiss the prime minister.

Also important to note is a parliamentary constraint on the prime minister: although the president has the power to dismiss the prime minister, the authority to consent to a prime minister rests solely with the Duma. Furthermore, the Duma may also enter a vote of no-confidence in the government, which requires “a majority of votes of the total number of deputies of the State Duma.” Thus, to avoid conflict, the prime minister must be agreeable both to the parliament and the president; indeed, the prime minister is dually accountable to each.

C. Practical Application of President-Parliamentarism in Russia

As discussed above, the choice of regime and constitutional framework directly affects a country’s process of democratic consolidation and subsequent democratic stability. In Russia, the particular balance of power between the president and prime minister, as well as the politicking of the Duma, seem to have “hinder[ed] Russia’s democratic consolidation and derail[ed] its economic transition.” Equally relevant to the democratic stability of Russia is the party system, or lack thereof. Without a strong party system, the lack of party opposition in the Duma, coupled with the president’s dismissal power over the prime minister, allows power to concentrate with the president. When the Duma is incapable of producing a strong majority agreeable to the president to pass legislation, the president may be forced to rule by decree. Similarly, a lack of stable opposition allows the president to rule unilaterally. Thus, even if the prime minister and the president were to cohabit, resulting party tension would be a hollow check against the president’s capacity for authoritarian ruling because, without party opposition in the Duma and with the

176. Id. art. 115, § 3.
177. KONST. RF art. 116.
178. Id. art. 117, § 5.
179. Id. art. 83, cl. c.
180. Id.
181. Id. art. 103, § 1, cl. a.
182. Id. art. 117, § 3.
183. Because the Russian prime minister is dually accountable to both the president and the Duma, Russia’s model is termed a president-parliamentary system. Elgie & McMenamin, supra note 6.
184. Mazo, supra note 114, at 124.
185. Moser, supra 29, at 72–73.
186. Id. at 73.
187. Id. at 72–73.
power to dismiss the prime minister, any conflict within the system invariably would be resolved in the president’s favor.\textsuperscript{188} When the president rules on the basis of such concentrated and unchecked power, the system becomes unstable and suffers in democratic legitimacy.\textsuperscript{189} Particularly demonstrative of this resultant democratic instability is Yeltsin’s presidency, which was characterized by a fractionalized Duma and a continually changing prime minister.\textsuperscript{190}

Due to a weak party system, Yeltsin was forced to rule exclusively through his decree power in the early years of his presidency, as the democratic process in the Duma was ineffective without a stable majority coalition.\textsuperscript{191} During this period, Yeltsin used his “sweeping decree-making authority to undertake radical economic reform.”\textsuperscript{192} Although attempting to reassert its authority in response to the hyperinflation produced by Yeltsin’s economic reform, the then-Congress of People’s Deputies, plagued by fractionalization, succeeded only in creating “a constitutional crisis over distribution of power in the system.”\textsuperscript{193} The resulting ideological divide between the legislature and the president rendered it impossible for the two branches to create a working relationship, without which Yeltsin was forced to circumvent the legislature entirely and rule on the basis of his own legislative powers.\textsuperscript{194}

Exacerbating this concentration of power in the presidency was Yeltsin’s zealous use of his dismissal power over the prime minister, which ultimately resulted in his downfall. Yeltsin had five different prime ministers during his presidency.\textsuperscript{195}

\begin{footnotesize}
188. See Moser, supra note 29, at 86 (explaining the fractionalized party system paired with the president’s legislative and executive powers would tend to render the president the victor in “a war of laws”).
189. See supra Part III.B.
190. See Moser, supra note 29, at 72–73 (noting that the weak and fractionalized party system resulted in Yeltsin being pushed to rule by decree); infra note 195 (describing the frequent turnover of prime ministers).
191. Moser, supra note 29, at 72–73. Ironically, the necessity for Yeltsin to concentrate legislative power in the presidency because of the weak legislature simply exacerbated the problem of the weak party system in Russia, resulting in a cyclic pattern of presidentially decreed legislation, which undermined the necessity of strengthened parties. \textit{Id.} at 73. “When the legislature plays a marginal role in the composition or maintenance of the government and can easily be circumvented by the executive in the policy-making process, parties have fewer reasons to institutionalize.” \textit{Id.}
192. \textit{Id.} at 78.
193. \textit{Id.}
194. \textit{Id.} at 81. As Moser explains, “Not needing a majority to sustain executive power, it was natural to neglect the difficult, time-consuming, and compromise-ridden process of coalition building that would have been necessary to promote a working relationship with the legislature in favor of ruling by decree, especially when the issues were viewed in such dichotomous, black-and-white terms.” \textit{Id.} This coalition building, however, is at the root of every stable and reliable democracy; without it, the Russian system has lost democratic legitimacy.
195. Mazo, supra note 114, at 159. Yeltsin’s first prime minister, Viktor Chernomyrdin, was dismissed after his popularity began to strengthen and rumors he would run for the Russian presidency began circulating. \textit{Id.} at 159–60. Sergei Kiriyenko replaced Chernomyrdin, but was dismissed within five months of his appointment. \textit{Id.} at 164–65. Kiriyenko’s dismissal was directly related to rising wage debts, an increasing budget deficit, dropping oil prices, and a significant devaluation of the Russian ruble, as Yeltsin attempted to localize responsibility for the crises away from the presidency and with the prime minister and government to save his own legitimacy. \textit{Id.} at 164. Strangely, Yeltsin attempted to replace Kiriyenko with his predecessor, Chernomyrdin; however, the Duma twice voted against his re-appointment. \textit{Id.} at 165–69. Again attempting to retain legitimacy, and rather than being compelled to dissolve the Duma after a third failed vote, Yeltsin appointed Yevgeny Primakov, who was confirmed. \textit{Id.} at 168. Primakov was dismissed after he “made it publicly known that he harbored ambitions to ascend to...
Once Yeltsin perceived a prime minister to be vying for too much power, or even for a future presidential term, he would dismiss the prime minister and replace him with a seemingly more innocuous candidate. Additionally, and more systemically relevant, Yeltsin would also use prime ministers as scapegoats, dismissing them in order to shift blame for failing policies and reforms away from the presidency.

One reshuffling of the government during the economic crisis was particularly traumatic for the legitimacy of the Russian presidency and for the stability of the democratic system. Shortly after Viktor Chernomyrdin was replaced as prime minister, Sergei Kiriyenko’s government was faced with an economic crisis and collapse caused by a combination of factors. With the economic crisis worsening, Yeltsin dismissed Kiriyenko. It was Yeltsin’s choice for a replacement, however, that precipitated the dramatic instability and loss of legitimacy in the Russian system: Yeltsin attempted to replace Kiriyenko with his predecessor, Chernomyrdin. The “zig-zag from Chernomyrdin to Kirienko was taken as further evidence of erratic, bankrupt leadership,” especially as Yeltsin attempted to pander to the Duma, offering myriad concessions in exchange for the Duma’s consent for Chernomyrdin. When the Duma declined the arrangement, Yeltsin had lost his advantage and was forced to concede to a compromise candidate, Yevgeny Primakov, in order to sustain a semblance of authority and legitimacy.

Emboldened by his unilateral dismissal power and pooled legislative power, which resulted from an ineffective and fractionalized Duma, Yeltsin had embarked on aggressive reforms and initiatives outside the legitimizing democratic process. Compounding this power, the lack of a majority party in the Duma to check the president through control of the prime minister allowed Yeltsin to rule as he saw fit. Yeltsin was not obligated or incentivized to nominate a prime minister on the basis of the parliamentary majority because such a majority did not exist. Without such obligation or incentive, Yeltsin was able to replace his prime ministers relatively without fear of diminished executive power. The abuse of this advantage, however, crippled the efficiency of the government and dealt a heavy blow to democratic
stability by highlighting an inherent illegitimacy in the system: concentrated executive power with no parliamentary constraint.207

As Yeltsin’s presidency demonstrates, any conflict arising between the Duma and the executive is resolved in favor of the president due to the extent of the president’s powers and the lack of a majority coalition in the Duma. If a majority coalition in the Duma did exist, however, the president may be incentivized to nominate a prime minister of the coalition’s party in order to gain Duma consent. Further, majority coalitions in the Duma could facilitate two circumstances with the capacity to safeguard and stabilize democracy in the Russian system: (1) the president and prime minister might be forced to cohabit and (2) conflicts between the legislature and executive would not necessarily be resolved in favor of the president. If the president and the prime minister were forced to cohabit, the president would be less able to dismiss the prime minister fearlessly, as he would be required to face the majority coalition in the Duma upon appointing a replacement prime minister. Indeed, the transaction costs of such a shuffle might be too high to justify the change. Without being able to dismiss the prime minister as easily, the president would be forced to resort to compromises and similar tactics to resolve conflict. Conflict resolution, therefore, would be more legitimate, as resolution would follow in a more democratic manner. However, the lack of a majority opposition coalition in the Duma or a strong party system, paired with the president’s dismissal power renders this nearly impossible. Unless and until a stronger party system emerges in Russia, democratic legitimacy and stability are at the mercy of the president.208

IV. ANALYSIS AND RECOMMENDATIONS

As the above models and analyses suggest, the Russian model of semipresidentialism, president-parliamentarism, is the least capable of fostering and sustaining a democratic nation. The balance of executive power strongly favors the president, allowing the Russian president to operate as an autocrat, with little to no

207. This inherent illegitimacy showed itself recently as tensions between President Dmitri Medvedev and Prime Minister Vladimir Putin grew in the time leading up to the 2012 presidential election. Ellen Barry, Bulldogs Under the Rug? Signs of a Putin-Medvedev Rift, N.Y. TIMES (May 8, 2011), http://www.nytimes.com/2011/05/09/world/europe/09kremlin.html. Interestingly, however, it seems factors other than those political in nature have allowed Putin to subvert the constitutionally created “balance” of power between the president and prime minister. See Seth Mydans, Russians See Shift in Power as Business as Usual, N.Y. TIMES (Sept. 24, 2011), http://www.nytimes.com/2011/09/25/world/europe/russians-see-shift-in-power-as-business-as-usual.html (“Mr. Putin has clearly been the paramount member of the tandem, remaining the country’s prime mover even in a job with nominally less power than the presidency.”). To speculate on the nature of these non-political factors would be to delve into topics outside the scope of this Note. Seemingly due to these undefined factors, Medvedev has refrained from utilizing his constitutionally conferred power to dismiss Putin as prime minister, despite any polarization arising from anticipated shifts in the tandem. Ellen Barry, In Russian Leadership Battle, Medvedev Hints He Lacks Fire, N.Y. TIMES (Sept. 11, 2011), http://www.nytimes.com/2011/09/12/world/europe/12medvedev.html. But see Michael Schwirtz, Russian President Fires Finance Minister for Insubordination (Sept. 26, 2011), http://www.nytimes.com/2011/09/27/world/europe/dmitri-medvedev-fires-aleksei-kudrin-russian-finance-minister.html (indicating political factors may have more influence than cynicism may indicate, with Aleksei Makarkin, political analyst in Moscow, explaining that any resultant tension “is not a split, but . . . is a test of the system’s strength” as any ensuing fighting will result in “a crisis situation of a political nature”).

208. See supra notes 203–207 and accompanying text (discussing crux of systemic problem in executive allowing for lost democratic stability and legitimacy).
input or opposition from the prime minister or the Duma. In contrast, the French model of semipresidentialism, premier-presidentialism, is a flexible system capable of balancing strong presidential powers against a force of opposition in the office of the prime minister and in parliament. Because the French president constitutionally is incapable of dismissing the prime minister,209 the president is often politically pressured to resort to more democratic means of conflict resolution, instead of running the country solely from the office of the president. The French system has ensured a stable democratic nation with much greater resilience than previous French Republics.210 Furthermore, France enjoys much greater democratic stability than its semipresidential counterpart of Russia.211 Such is the case for three reasons. First, premier-presidentialism has inherent within the system a powerful check against the president’s power through an accountability mechanism unavailable in president-parliamentarism, namely the inability of the president to dismiss the prime minister. Second, this lack of power forces the president in a premier-presidential system to avail himself or herself of democratic processes, such as compromise and coalition building, to resolve political conflict and reach a consensus on a given issue. Finally, such conflict fosters and encourages a strong party system, which is necessary for the system to continue to function with its inherent check against the president’s strong powers.

From this, the following recommendations naturally flow. Assuming a new democratic nation adopts a semipresidential system of government, two conditions must be met to ensure the system flourishes and remains democratically stable. Given the cyclical nature of democratic stability, one condition need not predate the other; indeed, the two conditions tend to facilitate one another and require the other’s existence for their own vitality.

A. Foster and Sustain a Strong Party System

The nation must foster the development of strong party coalitions capable of working with the prime minister in times of cohabitation in order to effectively mount opposition to the office of the president when necessary. Weak coalitions are incapable of coalescing to create the necessary opposition and are insufficient to ensure an appropriate balance of power between the legislative and executive power or opposition from the prime minister or the Duma. In contrast, the French model of semipresidentialism, premier-presidentialism, is a flexible system capable of balancing strong presidential powers against a force of opposition in the office of the prime minister and in parliament. Because the French president constitutionally is incapable of dismissing the prime minister,209 the president is often politically pressured to resort to more democratic means of conflict resolution, instead of running the country solely from the office of the president. The French system has ensured a stable democratic nation with much greater resilience than previous French Republics.210 Furthermore, France enjoys much greater democratic stability than its semipresidential counterpart of Russia.211 Such is the case for three reasons. First, premier-presidentialism has inherent within the system a powerful check against the president’s power through an accountability mechanism unavailable in president-parliamentarism, namely the inability of the president to dismiss the prime minister. Second, this lack of power forces the president in a premier-presidential system to avail himself or herself of democratic processes, such as compromise and coalition building, to resolve political conflict and reach a consensus on a given issue. Finally, such conflict fosters and encourages a strong party system, which is necessary for the system to continue to function with its inherent check against the president’s strong powers.

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209. 1958 Const. 8 (Fr.) (“The President of the Republic shall appoint the Prime Minister. He shall terminate the appointment of the Prime Minister when the latter tendered the resignation of the Government.”).

210. See Poulard, supra note 101, at 244 (“In comparison with the Fourth Republic, the constitution of the Fifth did indeed establish stability and more efficacy at the government level.”).

211. William A. Clark, Presidential Power and Democratic Stability Under the Russian Constitution: A Comparative Analysis, 28 Presidential Stud. Q. 620, 632–33 (1998). In evaluating the French model, Clark recognizes the inherent expectation of instability in periods of French cohabitation, but points out that “French politics has survived rather well, even in this essentially confused mode.” Id. at 632. In the case of the Russian model, however, Clark argues it is the “ability for the Russian president to bludgeon and ignore parliament that makes the hybrid presidential-parliamentarian Russian system so confused” and therefore, less stable a democracy. Id. at 633. In fact, Clark highlights Shugart and Carey’s suggestion as to the adoption of a presidential-parliamentary system: they “suggest that it is a type best avoided.” Id. (quoting Matthew Soberg Shugart & John M. Carey, Presidents and Assemblies: Constitutional Design and Electoral Dynamics 161 (1992)). For discussion of recent political experiences in each regime, see discussion supra notes 101–110 and 190–206 (discussing recent developments in France and Russia, respectively).
branches. Strong party coalitions, whether aligned with the office of the presidency or not, are necessary to safeguard the requisite democratic processes for a stable democracy and representative government as they function as a forceful check against the super-presidential powers characteristic of semipresidential systems.

As illustrated by the Russian model, the weak and nearly nonexistent party system functioned as fuel for the fire of the president’s power and capacity to govern directly and solely from the executive. First, there were zero opposition parties capable of coalescing with enough strength to oppose any of Yeltsin’s supporters. Second, due to the nature of the Russian system, Yeltsin was not beholden to the wishes of the Duma as he could force its dissolution and was able to cycle through prime ministers, the executive-legislative liaison, at will.

In contrast, where Mitterand and Chirac disagreed, the strength of the party system in France was found to function as a democratic force. Because Mitterand could not dismiss Chirac under the constitution, Mitterand was required to take an accounting of his political capital. In the case of a political conflict, Mitterand was faced either with submitting to Chirac or with sending the issue to the parliament for resolution. By sending issues to the parliament for resolution, Mitterand understood that the parliament consisted of powerful party coalitions and thereby intended to allow the parties to battle through them, perhaps resulting in a Mitterand victory. In periods of cohabitation, this strong party system is a mechanism for a powerful, yet restrained, president to attempt his or her hand at a favorable resolution of a political issue without risking the democratic stability of the nation as a whole.

B. Develop a Premier-Presidential System

A nation is more likely to sustain greater democratic stability under a premier-presidential system, as opposed to a president-parliamentary system. Without a strong party system, a president in a president-parliamentary system is capable of functioning as an authoritarian leader solely from the executive branch because of the capacity to dismiss the prime minister unilaterally without expending much political capital. Therefore, to ensure democratic stability is safeguarded with a strong balance between the branches and check against a powerful president, nations should develop a premier-presidential system.

The Russian model is an apt illustration of this phenomenon. In addition to his capacity to dismiss a prime minister at will and with little or no reason whatsoever, Yeltsin also held substantial legislative powers. This enabled him to circumvent the Duma completely and run the country solely from the office of the president. Thus, when the Duma was entirely hostile to Yeltsin’s stance on a given issue, such reality became irrelevant considering Yeltsin’s supreme powers. Without a neutral and

212. See Moser, supra note 29, at 72–73 (explaining that the weakness of the Russian parties led Yeltsin to circumvent the legislature, thereby weakening the party system even further).
213. See discussion supra notes 83–86 (discussing the inability of the French president to dismiss the prime minister under the constitution, but suggesting alternative methods for doing so).
214. See Poulard, supra note 101, at 257–60 (explaining that in the face of presidential obstructions, the prime minister repeatedly turned to the National Assembly for resolution of the issues).
215. Id. at 260.
fairly independent bridge between the Duma and the executive, the Russian system fails to ensure the country will not digress to an authoritarian regime.

France’s premier-presidentialism, on the other hand, evenly distributes power between the legislative and executive branches through the proxy of the prime minister, who cannot be dismissed by the president. Thus, the president is forced to compromise and resort to more democratic means of governing in order to advance policies and executive prerogatives. The functioning of the check on the president is most clearly demonstrated during periods of cohabitation, when the president and the prime minister are of different political parties. When Mitterand and Chirac disagreed on a given political issue, Mitterand had two choices: submit or play the game of politics. Being unable to dismiss his prime minister, Mitterand worked within a system designed to force political players to foster democratic processes and accountability, rather than do away with conflict through the decision of one of those players, the president.

CONCLUSION

In Russia’s model of semipresidentialism, president-parliamentarism, the prime minister is accountable to both the president and the parliamentary majority. Under the Russian constitution, the president can dismiss the prime minister at will. Paired with “a weak and fractionalized party system,” this super-presidential power enables the Russian president to rule essentially as an authoritarian leader, drawing on constitutionally conferred legislative powers. If the party system were stronger, however, the president may encounter higher transaction costs in dismissing prime ministers if he faced an antagonistic majority in the Duma. Without such a system, however, democratic stability remains at the mercy of the Russian president. President-parliamentary systems, by allowing for dismissal of the prime minister by the president, do not inherently require democratic resolution of conflict without a strong party system, and are thus the least capable of sustaining democratic stability in new democracies.

France’s model of semipresidentialism, premier-presidentialism, requires the prime minister be accountable solely to parliament. Under this model, only the National Assembly can formally and constitutionally force resignation of the government. Paired with a strong party system and the disincentive for the president to pressure the prime minister’s resignation during periods of cohabitation, this restriction of the president’s power requires that conflict be solved according to democratic means. Without support of a majority coalition in parliament, the president has no other choice. Therefore, because premier-presidentialism forces democratic resolution of conflict in light of both the strong party system and the president’s lack of formal dismissal power over the prime minister, it is better suited for sustainment of democratic stability in new democracies.

Although many scholars are skeptical of the wisdom of a new democracy choosing semipresidentialism because of its inherent tension and unpredictability, it is clear the French model of semipresidentialism, premier-presidentialism, has the capacity to remain flexible enough to grapple with political conflict caused by a restrained presidency and a strong party system. President-parliamentarism, on the
other hand, seems to create too powerful of a president who can pool power as a result of a weak party system and the power to dismiss the prime minister. From the French example, new democracies can glean the following lessons: first, foster strong party coalitions powerful enough to function as an obstacle to authoritarian rule by the president and, second, draft a constitution creating a premier-presidential form of semipresidentialism.